

April 20, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1447

That the Senate recede from its amendments as printed on pages 1330 and 1331 of the House Journal and page 1098 of the Senate Journal and that Engrossed House Bill No. 1447 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 16.1-05 of the North Dakota Century Code, relating to the appointment of poll checkers; to amend and reenact sections 16.1-02-05, 16.1-05-04, 16.1-05-07, 16.1-10-06.1, and 58-04-09 of the North Dakota Century Code, relating to verification of eligibility of voters; to repeal section 16.1-05-06 of the North Dakota Century Code, relating to challenging the right to vote; to provide for a legislative management study; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-05. Entry of new voters into the central voter file - Query of the central voter file for double voting - ~~Challenges~~ - Postelection verification.

1. Within forty-five days following an election, the county auditor shall enter the name and required information of each individual who voted at the last election who is not already contained in the central voter file and update any required information requested and obtained at the last election for any individual contained in the central voter file.
2. The secretary of state, with the assistance of the county auditors, within eighty-five days following an election, shall query the central voter file to determine if any individual voted more than once during the preceding election. The secretary of state shall immediately notify the county auditor and state's attorney in each affected county for further investigation.
3. Upon return of any nonforwardable mail from an election official, the county auditor shall ascertain the name and address of that individual. If the individual is no longer at the address recorded in the central voter file, the county auditor shall transfer the voter to the correct precinct in the central voter file or notify the county of the voter's new residence so the voter record can be transferred to the correct county. If a notice mailed at least sixty days after the return of the first nonforwardable mail is also returned by the postal service, the county auditor shall designate the individual as "inactive" in the central voter file.
4. ~~Within forty five days after an election, the county auditor shall send a notice to each individual who was challenged on election day according to section 16.1-05-06. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not receive or obtain satisfactory proof of an individual's~~

~~eligibility to vote shall notify immediately the state's attorney to conduct an investigation of the individual's eligibility to vote in that election.~~

SECTION 2. AMENDMENT. Section 16.1-05-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-05-04. Duties of the members of the election board during polling hours.

1. The election inspector shall supervise the conduct of the election to ensure all election officials are properly performing their duties at the polling place. The election inspector shall assign duties so as to equally and fairly include both parties represented on the election board.
2. The election inspector shall assign ministerial duties to poll clerks, who shall carry out the ministerial duties assigned by the election inspector.
3. The election inspector shall assign the poll clerks to perform the function of maintaining the pollbook. The designated poll clerks shall maintain the pollbook. The pollbook must contain the name and address of each individual voting at the precinct and must be arranged in the form and manner prescribed by the secretary of state.
4. ~~The members of the election board shall challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector by requiring the elector to complete and sign a voter's affidavit.~~
5. Each member of the election board shall remain on the premises of the polling place during the time the polls are open to prevent the occurrence of fraud, deceit, or other irregularity in the conduct of the election.
- ~~6.5.~~ All members of the election board shall distribute ballots and other election materials to electors. An election judge from each party represented on the election board shall give any assistance requested by electors in marking ballots or operating electronic voting system devices.
- ~~7.6.~~ Each member of the election board shall maintain order in the polling place.

SECTION 3. AMENDMENT. Section 16.1-05-07 of the North Dakota Century Code is amended and reenacted as follows:

16.1-05-07. Poll clerks to check identification and verify eligibility - Poll clerks to request, correct, and update incorrect information contained in the pollbook - Penalty.

1. ~~Before delivering a~~ member of an election board delivers a ballot to an individual according to section 16.1-13-22, the poll clerks shall request the individual to show identification, which includes the individual's residential address and date of birth. ~~The~~ An approved form of identification may include includes:
 - a. An official form of identification issued by the state;
 - b. An official form of identification issued by a tribal government;

- c. A form of identification prescribed by the secretary of state; or
 - d. A combination of any of the forms of identification under subdivisions a through c.
2. ~~If an individual offering to vote does not have or refuses to show an appropriate form of~~without identification or identification that does not list the current residential address of the individual, the individual may be allowed to vote ~~without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and if a member of the election board or a poll clerk knows the individual and can personally vouch that the individual is a qualified elector of the~~precinct administered by the polling place. The individual shall provide the individual's date of birth to the poll clerk entering the voter in the pollbook.
3. a. ~~If an individual offering to vote does not meet either of the options set forth in subsection 1 or 2, the election board shall challenge the individual's right to vote and the individual may not vote unless the individual executes a voter's affidavit, as provided in section 16.1-05-06.~~without identification or identification that does not list the current residential address of the individual, the individual may be allowed to vote if a qualified elector of the jurisdiction covered by the election appears with the voter and can personally vouch that the individual is a qualified elector of a precinct administered by the polling place. The vouching elector must verify the vouching elector's qualification as an elector by showing to a poll worker an approved form of identification set forth in subsection 1. The secretary of state shall prescribe the form to be used for an elector to vouch for the qualifications of an individual offering to vote. The elector verification form must include:
- (1) For the vouching elector, the following information:
 - (a) Full name;
 - (b) Complete residential and mailing address, if different;
 - (c) Contact telephone number;
 - (d) Date of birth;
 - (e) State-issued identification, if available;
 - (f) Signature; and
 - (g) A statement indicating the penalty for falsely vouching for another individual's qualification as an elector; and
 - (2) For the individual offering to vote without identification or identification that does not list the current residential address of the individual, the following information:
 - (a) Full name;
 - (b) Complete residential and mailing address, if different;
 - (c) Contact telephone number;
 - (d) Date of birth;

- (e) State-issued identification that does not list the current residential address of the individual, if available;
 - (f) Signature; and
 - (g) A statement indicating the penalty for the individual making a false statement regarding the individual's qualification as an elector.
 - b. The elector verification form under subdivision a is not an open record, but the designation as such which is associated with the elector in the pollbook is an open record.
 - c. In any election, a qualified elector of the state may vouch, on separate elector verification forms, for the qualifications of no more than four individuals residing with the elector in the same household as defined in section 54-64-01 or one individual residing at a separate location within the boundaries of the jurisdiction covered by the election. However, a qualified elector may not vouch for an individual residing at a location within another county.
 - d. Within fourteen days after the election, the local official responsible for the overall administration of the election shall review each elector verification form executed by voters participating in the election. If there is any question about the completed form or the qualifications as an elector of that political subdivision, of the individual vouching for another, or the individual being vouched for, the election official shall forward the forms and any other available information to the state's attorney for further investigation. The state's attorney shall carefully review any information forwarded and initiate an investigation in all cases in which fraud is likely to exist. An elector knowingly vouching for an unqualified elector is guilty of a class A misdemeanor for each unqualified elector vouched for by the elector.
4. a. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update any incorrect or incomplete information about an individual required to be included in the pollbook generated from the central voter file.
- b. If the individual's name is contained in the pollbook generated from the central voter file, the poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.
- c. If the individual's name is not contained in the pollbook generated from the central voter file but the individual is determined eligible to vote, the poll clerks shall record the individual's name in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.
- d. An indication must be made in the pollbook for each individual allowed to vote via the execution of an elector verification form.
5. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.

6. An individual who fails or refuses to comply with the requirements of this section may not be allowed to vote.

SECTION 4. A new section to chapter 16.1-05 of the North Dakota Century Code is created and enacted as follows:

Poll checkers.

The district chairman of each political party represented on the election board may appoint up to three poll checkers per polling place. A poll checker may not interfere with the election process or with the members of the election board in the performance of the member's duties. A poll checker may not be a member of the election board. The district chairman shall notify the county auditor of each county contained in the legislative district one day before the day of the election of the name of any individual the district chairman has appointed to serve as a poll checker in the legislative district.

SECTION 5. AMENDMENT. Section 16.1-10-06.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-10-06.1. Paying for certain election-related activities prohibited.

~~No~~

1. ~~A person may not pay another person~~any individual for:
 1. ~~a.~~ a. Any loss or damage due to attendance at the polls;
 2. ~~b.~~ b. Registering;
 3. ~~c.~~ c. The expense of transportation to or from the polls; or
 4. ~~d.~~ d. Personal services to be performed on the day of a caucus, primary election, or any election which tend in any way, directly or indirectly, to affect the result of such caucus or election.

~~The provisions of this~~

2. ~~This section does not apply to the hiring of a person~~an individual whose ~~sole duty it is to act as a challenger~~duties are to observe the polls and to watch the count of official ballots.

SECTION 6. AMENDMENT. Section 58-04-09 of the North Dakota Century Code is amended and reenacted as follows:

~~58-04-09. Challenge to voter -- Duty of judges.~~

~~If any person~~individual offering to vote at any election or upon any question arising at a township meeting ~~is challenged as unqualified~~cannot verify the individual's qualifications as an elector using the criteria provided in section ~~16.1-05-06~~16.1-01-04 and chapter 16.1-05, the judges shall proceed in the manner in which judges at a general election are required to proceed, ~~adapting the affidavit described in section 16.1-05-06~~ to the circumstances of the township meeting.

SECTION 7. REPEAL. Section 16.1-05-06 of the North Dakota Century Code is repealed.

SECTION 8. LEGISLATIVE MANAGEMENT STUDY - VOTING RESIDENCY - CONSOLIDATION OF POLITICAL SUBDIVISION ELECTIONS. During the 2011-12 interim, the legislative management shall study residency as it relates to voting purposes, qualifications of electors, all forms of absentee voting including in-person absentee, traditional absentee, and voting by mail, and the further consolidation of political subdivision elections with regular statewide elections. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly