

HOUSE BILL NO. 1363
with Senate Amendments
HOUSE BILL NO. 1363

Sixty-fifth
Legislative Assembly
of North Dakota

Introduced by

Representatives Dockter, Steiner

1 A BILL for an Act to create and enact subsection 3 of section 16.1-04-01 of the North Dakota
2 Century Code, relating to election precincts; to amend and reenact section 1-08-09,
3 subsections 2 and 5 of section 16.1-01-01, sections 16.1-04-02 and 16.1-05-01, subsection 3 of
4 16.1-05-07, section 16.1-05-08, subsection 2 of 16.1-06-16, and sections 16.1-07-15,
5 16.1-10-06, 16.1-11-20, 40-02-10, 44-02-05, 44-02-07, and 44-02-08 of the North Dakota
6 Century Code, relating to election polling places and filling vacancies in elective offices; to
7 repeal section 16.1-04-03 of the North Dakota Century Code, relating to election administration;
8 and to provide a penalty.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1. AMENDMENT.** Section 1-08-09 of the North Dakota Century Code is amended
11 and reenacted as follows:

12 **1-08-09. Service of civil process within boundary of an open polling locationplace.**

13 During any primary, general, or special election held in this state, or in any district, county,
14 city, or precinct, civil process may not be served on any person entitled to vote at the election
15 within one hundred feet [30.48 meters] from the outermost entrance leading into the building or
16 facility in which a polling place is located and open for voting.

17 **SECTION 2. AMENDMENT.** Subsection 2 of section 16.1-01-01 of the North Dakota
18 Century Code is amended and reenacted as follows:

19 2. In addition to other duties provided elsewhere by law, the secretary of state shall:

20 a. Develop and implement uniform training programs for all election officials in the
21 state.

22 b. Prepare information for voters on voting procedures.

23 c. Publish and distribute an election calendar, a manual on election procedures, and
24 a map of all legislative districts.

- 1 d. Convene a state election conference of county auditors at the beginning of each
- 2 election year and whenever deemed necessary by the secretary of state to
- 3 discuss uniform implementation of state election policies.
- 4 e. Prescribe the form of all ballots and the form and wording of ballots on state
- 5 referendum questions, issues, and constitutional amendments.
- 6 f. Investigate or cause to be investigated the nonperformance of duties or violations
- 7 of election laws by election officers.
- 8 g. Require such reports from county auditors on election matters as deemed
- 9 necessary.
- 10 h. Certify results of statewide elections.
- 11 i. Prepare and publish reports whenever deemed necessary on the conduct and
- 12 costs of voting in the state, including a tabulation of election returns and such
- 13 other information and statistics as deemed appropriate.
- 14 j. Establish standards for voting precincts and polling ~~locations~~places, numbering
- 15 precincts, precinct maps, maintaining and updating pollbooks, and forms and
- 16 supplies, including but not limited to, ballots, pollbooks, and reports.
- 17 k. Prescribe the order in which each political subdivision will appear on an election
- 18 ballot.
- 19 l. Develop and conduct a test election for the state's voting system prior to each
- 20 statewide election utilizing the votes cast within each county according to the
- 21 logic and accuracy testing required in section 16.1-06-15.

22 **SECTION 3. AMENDMENT.** Subsection 5 of section 16.1-01-01 of the North Dakota
23 Century Code is amended and reenacted as follows:

- 24 5. In addition to other statutory duties, the county auditor shall:
 - 25 a. Procure and distribute supplies required for voting in the county.
 - 26 b. Prepare and disseminate voter information as prescribed by the secretary of
 - 27 state.
 - 28 c. Fully comply with the test election required of this section.
 - 29 d. Carry out uniform training programs for all county and precinct election officials
 - 30 as prescribed by the secretary of state.

- 1 e. Provide completed reports on election matters as required by the secretary of
2 state.
- 3 f. Attend, or send a designee to attend, state election conferences convened by the
4 secretary of state.
- 5 g. Comply with the form of the ballot as prescribed by state law and the secretary of
6 state.
- 7 h. Comply with the standards for voting precincts and polling locations, numbering
8 precincts, precinct maps, maintaining and updating pollbooks, and forms and
9 supplies, including ballots, pollbooks, and reports as established by the secretary
10 of state.
- 11 i. Assist with investigations initiated by the secretary of state under this section.
- 12 j. Receive and handle complaints referred to the county auditor by any voter or
13 precinct official involving circulation of petitions, challenges to voters, actions of
14 election officials, or irregularities of any kind in voting. The county auditor shall
15 refer complaints to the secretary of state or the proper prosecuting authority, as
16 the county auditor deems appropriate.

17 Upon completion of the duties required by this subsection, the county auditor shall
18 certify to the secretary of state, in the manner prescribed by the secretary of state, that
19 the duties have been completed. A knowing violation of this subsection is an offense
20 under section 12.1-11-06.

21 **SECTION 4.** Subsection 3 to section 16.1-04-01 of the North Dakota Century Code is
22 created and enacted as follows:

- 23 3. The precincts may not be established later than December thirty-first of the year
24 immediately preceding an election cycle and not later than seventy days before a
25 special election.

26 **SECTION 5. AMENDMENT.** Section 16.1-04-02 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **16.1-04-02. ~~Voting~~ Polling places - Duties and responsibilities of the board of county**
29 **commissioners or the governing body of the city.**

30 The board of county commissioners of each county:

- 1 1. Shall designate one or more ~~voting~~polling places for each precinct and ~~may alter the~~
2 ~~voting places when there is a good and sufficient reason.~~ However, the ~~voting~~polling
3 places for precincts located within the boundaries of any incorporated city must be
4 designated, and altered if required, by the governing body of the city. Polling places
5 may not be designated later than the sixty-fourth day before an election.
- 6 2. Shall provide that all ~~voting~~polling places are accessible to the elderly and the
7 physically disabled.
- 8 3. May utilize vote centers that contain all of the precincts in a county so that any
9 qualified elector of the county may choose to cast a ballot in that polling ~~location~~place.
10 Qualified electors may vote early at early voting precincts, by absentee ballot, at a
11 polling ~~location~~place of their residential precinct, or at a county vote center. Vote
12 center polling places must serve as a designated polling place for at least one precinct
13 in the county in addition to serving as the site where any county voter may cast a
14 ballot. ~~An individual voting or attempting to vote more than once in any single election~~
15 ~~is guilty of a class A misdemeanor.~~
- 16 4. May change the location of a polling place previously established by the sixty-fourth
17 day immediately preceding an election when there is good and sufficient reason.
18 When a polling place is changed under this provision, the name and location of the
19 new polling place must be prominently posted on or near the main entrance of the
20 prior polling place on the date of the first election held following the change.

21 **SECTION 6. AMENDMENT.** Section 16.1-05-01 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **16.1-05-01. Election officers.**

24 At each primary, general, and special statewide or legislative district election, and at county
25 elections, each polling place must have an election board in attendance. The election board
26 must consist of an election inspector and at least two election judges. Counties utilizing polling
27 places containing more than one precinct may choose to use one election board to supervise all
28 precincts even if the precincts are within different legislative districts so long as each district
29 chairman of each qualified political party is given the opportunity to have representation on the
30 election board if desired.

- 31 1. The election inspector must be selected in the following manner:

- 1 a. Except as provided in subdivision b, in all precincts established by the governing
2 body of an incorporated city pursuant to chapter 16.1-04, the governing body
3 shall appoint the election inspectors for those precincts and fill all vacancies
4 occurring in those offices.
- 5 b. In all multiprecinct polling ~~locations~~places containing both rural and city precincts,
6 the county auditor, with the approval of the majority of the board of county
7 commissioners, shall appoint the election inspectors and fill all vacancies
8 occurring in those offices. The selection must be made on the basis of the
9 inspector's knowledge of the election procedure.
- 10 c. The election inspector shall serve until a successor is named. If an inspector fails
11 to appear for any training session without excuse, the office is deemed vacant
12 and the auditor shall appoint an individual to fill the vacancy.

13 All appointments required to be made under this section must be made at least forty
14 days preceding an election.

15 2. The election judges must be appointed in the following manner:

16 a. Except as provided in subdivision b:

- 17 (1) The election judges for each polling place must be appointed in writing by
18 the district chairs representing the two parties that cast the largest number
19 of votes in the state at the last general election. In polling places in which
20 over one thousand votes are cast in any election, the county auditor may
21 request each district party chair to appoint an additional election judge.
- 22 (2) The district party chair shall notify the county auditor of the counties in which
23 the precincts are located of the appointment of the election judges at least
24 forty days before the primary, general, or special election. If this notice is not
25 received within the time specified in this section, the county auditor shall
26 appoint the judges. If the county auditor has exhausted all practicable
27 means to select judges from within the boundaries of the precincts within
28 the polling place and vacancies still remain, the county auditor may select
29 election judges who reside outside of the voting precinct but who reside
30 within the polling place's legislative districts. If vacancies still remain, the

1 county auditor may select election judges who reside outside of the
2 legislative districts but who reside within the county.

3 b. For special elections involving only no-party offices, the election official
4 responsible for the administration of the election with the approval of the majority
5 of the members of the applicable governing body shall appoint the election
6 judges for each polling ~~location~~place.

7 3. If at any time before or during an election, it appears to an election inspector, by the
8 affidavit of two or more qualified electors of the precinct, or precincts for a
9 multiprecinct polling place, that any election judge is disqualified under this chapter,
10 the inspector shall remove that judge at once and shall fill the vacancy by appointing a
11 qualified individual of the same political party as that of the judge removed. If the
12 disqualified judge had taken the oath of office as prescribed in this chapter, the
13 inspector shall place the oath or affidavit before the state's attorney of the county.

14 4. The election official responsible for the administration of the election, with the approval
15 of the majority of the members of the applicable governing body, shall appoint the poll
16 clerks for each polling place. However, no fewer than two poll clerks must be
17 appointed for each polling place. Poll clerks must be appointed based on their
18 knowledge of election matters, attention to detail, and on any necessary technical
19 knowledge.

20 **SECTION 7. AMENDMENT.** Subsection 3 of section 16.1-05-07 of the North Dakota
21 Century Code is amended and reenacted as follows:

22 3. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct
23 or who does not meet the thirty-day residency requirement to the proper precinct and
24 ~~voting location~~polling place.

25 **SECTION 8. AMENDMENT.** Section 16.1-05-08 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **16.1-05-08. County auditor to provide election board members with precinct maps or**
28 **precinct finder.**

29 The county auditor shall provide each precinct election board with an accurate precinct map
30 or precinct finder to assist the election board member in determining whether an address is

1 located in that precinct and for determining which precinct and polling location~~place~~ to which to
2 direct an individual who may be attempting to vote incorrectly in that precinct.

3 **SECTION 9. AMENDMENT.** Subsection 2 of section 16.1-06-16 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 2. Deliver to the inspector in each precinct or cause to be delivered in a secure manner
6 to the polling location~~place~~ no later than the day before the election the number of
7 ballots, pollbooks, ballot boxes, voting equipment, forms of oaths, and other election
8 supplies as the county auditor determines necessary.

9 **SECTION 10. AMENDMENT.** Section 16.1-07-15 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **16.1-07-15. Early voting precinct - Election board appointment - Closing and**
12 **canvassing.**

13 1. For any primary, general, or special statewide, district, or county election, the board of
14 county commissioners may, before the sixty-fourth day before the day of the election,
15 create a special precinct, known as an early voting precinct, to facilitate the conduct of
16 early voting in that county according to chapters 16.1-13 and 16.1-15. At the
17 determination of the county auditor, more than one ~~voting location~~polling place may be
18 utilized for the purposes of operating the early voting precinct. The election board of
19 the early voting precinct must be known as the early voting precinct election board.
20 The county auditor shall supply the board with all necessary election supplies as
21 provided in chapter 16.1-06.

22 2. If the board of county commissioners establishes an early voting precinct according to
23 this section, the following provisions apply:

24 a. Early voting must be authorized during the fifteen days immediately before the
25 day of the election. The county auditor shall designate the business days and
26 times during which the early voting election precinct will be open and publish
27 notice of the early voting center locations, dates, and times in the official county
28 newspaper once each week for three consecutive weeks immediately before the
29 day of the election.

30 b. The county auditor shall appoint the early voting precinct election board for each
31 early voting locationpolling place that consists of one independent representative

1 to act as the inspector and an equal number of representatives from each
2 political party represented on an election board in the county, as set out in section
3 16.1-05-01, to act as judges. Each official of the board shall take the oath
4 required by section 16.1-05-02 and must be compensated as provided in section
5 16.1-05-05.

6 c. The county auditor, with the consent of the board of county commissioners, shall
7 designate each early voting ~~location~~polling place in a public facility, accessible to
8 the elderly and the physically disabled as provided in section 16.1-04-02. With
9 respect to polling places at early voting precincts, "election day" as used in
10 sections 16.1-10-03 and 16.1-10-06.2 includes any time an early voting precinct
11 polling place is open.

12 d. At the close of each day of early voting, the inspector, along with a judge from
13 each political party represented on the board, shall secure all election-related
14 materials, including:

- 15 (1) The pollbooks and access to any electronically maintained pollbooks.
16 (2) The ballot boxes containing voted ballots.
17 (3) Any void, spoiled, and unvoted ballots.

18 e. Ballot boxes containing ballots cast at an early voting ~~location~~polling place may
19 not be opened until the day of the election except as may be necessary to clear a
20 ballot jam or to move voted ballots to a separate locked ballot box in order to
21 make room for additional ballots.

22 f. Each early voting ~~location~~polling place may be closed, as provided in chapter
23 16.1-15, at the end of the last day designated for early voting in the county.
24 Results from the early voting precinct may be counted, canvassed, or released
25 under chapter 16.1-15 as soon as any precinct within the county, city, or
26 legislative district closes its polls on the day of the election. The county auditor
27 shall designate a location for the closing, counting, and canvassing process
28 under chapter 16.1-15, which location must be open to any person for the
29 purpose of observing.

30 g. The early voting precinct election board shall comply with the requirements of
31 chapters 16.1-05, 16.1-13, and 16.1-15, as applicable.

1 **SECTION 11. AMENDMENT.** Section 16.1-10-06 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **16.1-10-06. Electioneering within boundary of an open polling ~~location~~ place.**

- 4 1. An individual may not ask, solicit, or in any manner try to induce or persuade, any
5 voter within a polling place or within one hundred feet [30.48 meters] from the
6 entrance to the room containing a polling place while it is open for voting to vote or
7 refrain from voting for any candidate or the candidates or ticket of any political party or
8 organization, or any measure submitted to the people. The display upon motor
9 vehicles of adhesive signs which are not readily removable and which promote the
10 candidacy of any individual, any political party, or a vote upon any measure, and
11 political advertisements promoting the candidacy of any individual, political party, or a
12 vote upon any measure which are displayed on fixed permanent billboards, may not,
13 however, be deemed a violation of this section.
- 14 2. A vehicle or movable sign of any type containing a political message as described in
15 subsection 1 may be allowed to remain within the restricted area only for the period of
16 time necessary for the owner or operator of the vehicle or sign to complete the act of
17 voting.
- 18 3. Except as provided in subsection 1, a sign placed on private property which displays a
19 political message may not be restricted by a political subdivision, including a home
20 rule city or county, unless the political subdivision demonstrates a burden to the public
21 safety.

22 **SECTION 12. AMENDMENT.** Section 16.1-11-20 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **16.1-11-20. Certified list of nominees transmitted to county auditor by secretary of**
25 **state.**

26 At least fifty-five days before any primary election, the secretary of state shall electronically
27 transmit to each county auditor a certified list containing the names and ~~post office addresses~~ of
28 each person for whom nomination papers have been filed in the secretary of state's office and
29 who are entitled to be voted for at the primary election. A designation of the office for which
30 each is a candidate, and if applicable, the party or principle represented by each must be
31 included.

1 **SECTION 13. AMENDMENT.** Section 40-02-10 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **40-02-10. Election returns - To whom made - Duty of board of county commissioners.**

4 The election officials acting in each place in which votes are cast in an election held under
5 this chapter shall return to the board of county commissioners which ordered the election a
6 verified statement of the results of the election showing the number of votes cast for and
7 against incorporation at their ~~voting~~polling place. The returns shall be verified by the affidavit of
8 the election officials. The returns shall be canvassed by the board of county commissioners,
9 and the results of the canvass and of the election shall be entered upon the minutes of the
10 proceedings of such board. If a majority of the votes cast on the question at the election favored
11 incorporation, the board shall make an order declaring that the territory described in the petition
12 has been incorporated as a city under the council form of government or as a city under the
13 commission system of government, as the case may be, by the name described in the petition,
14 stating that name, and shall cause the order to be entered in the minutes of its proceedings. If
15 the territory is located in more than one county, a certified copy of such order shall be submitted
16 immediately to each of the other counties within which a portion of the territory described in the
17 order is situated. The auditor of each county to which a certified copy of the order is submitted
18 shall make a record ~~thereof~~of the order in the minutes of the board of county commissioners of
19 such county.

20 **SECTION 14. AMENDMENT.** Section 44-02-05 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **44-02-05. Vacancy in board of county commissioners - How filled.**

23 When a vacancy occurs in the board of county commissioners, the remaining members of
24 the board immediately shall appoint some suitable person to fill the vacancy from the district in
25 which the vacancy occurred. If a majority of the officers fails to agree upon a person to fill the
26 vacancy, the county treasurer or, if the county does not have an elected treasurer, another
27 elective county officer must be called in and shall act as an additional member of the board to fill
28 the vacancy. The appointee holds office until the appointee's successor is elected at the next
29 general election that occurs at least ~~sixty~~ninety-five days after the vacancy and the successor
30 has qualified.

1 **SECTION 15. AMENDMENT.** Section 44-02-07 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **44-02-07. Brief vacancy not to be filled - Exception.**

4 If a vacancy occurs within ~~sixty~~ninety-five days previous to an election at which it may be
5 filled, no appointment may be made unless it is necessary to carry out such election and the
6 canvass of the same according to law. In such case an appointment may be made at any time
7 previous to such election to hold until after such election or until the appointee's successor is
8 elected and qualified.

9 **SECTION 16. AMENDMENT.** Section 44-02-08 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **44-02-08. Appointment to be made in writing - Term.**

12 Any appointment to fill a vacancy under this chapter must be made in writing, and, except
13 as otherwise expressly provided by law, continues in force until the first general election that
14 occurs at least ~~sixty~~ninety-five days after the vacancy, when the vacancy will be filled by
15 election, and thereafter until the appointee's successor by election is qualified.

16 **SECTION 17. REPEAL.** Section 16.1-04-03 of the North Dakota Century Code is repealed.