

# MICROFILM DIVIDER

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ROLL NUMBER

DESCRIPTION

1145

2007 HOUSE JUDICIARY

HB 1145

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1145

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/15/07

Recorder Job Number: 1041, 1044

Committee Clerk Signature

*Daun Penrose*

Minutes:

**Chairman DeKrey:** We will open the hearing on HB 1145.

**Rep. Todd Porter:** I am the sponsor. This particular bill deals with when the term of the sheriff begins. As you are all aware, the term of county commission begins on December 1<sup>st</sup> about three weeks after the election. Recently, in Burleigh County, we had a rather contentious sheriff's election take place. In that particular gathering, there were individuals working for the sheriff and individuals that were employed with the sheriff's department that were working for the candidate. As things started to unfold, after the incumbent lost, there was a period from November until January that there was the ability to have a little retribution. There were employee evaluations that were changed. There were things that happened inside of the professional law enforcement agency, that shouldn't be allowed to happen. I think one of the problems was that the fact that there was too much time between the date of the election and the date of taking office. Legislative Council provided me with an amendment similar to what was done when we switched the county commission from a January schedule to a December schedule and that's basically what this bill also does. It just takes over the next two election cycles, it takes when the sheriff has been elected, that moves the dates.

**Rep. Kretschmar:** I'm a little confused about your amendment. What would be the difference if this law went into effect on August 1, 2007 as most laws do.

**Rep. Todd Porter:** That would be a really good question for Legislative Council. Mr. Bjornson drafted the amendments, and really what I asked him to do, was to make sure that part was in the law would meet the constitutional muster of the way that it is a four year term inside of the constitution. Short of that, you would have to ask them.

**Rep. Kretschmar:** To my knowledge at least, all of the sheriffs in North Dakota were elected in November 2006, and they won't stand for election again until November 2010. It seems to me that if this law took effect in 2009 it would be okay. Maybe there is something I can't see here.

**Rep. Meyer:** Would you repeat what you just said.

**Rep. Kretschmar:** I don't understand why they have July 1, 2007 in here, because to my knowledge, at least, the sheriff in every county was elected in 2006. They won't have another regular election for sheriff until November 2010. So if this all goes into effect next year sometime, it will be in effect.

**Rep. Koppelman:** If this is a constitutional issue, I don't see how the amendment would change it. If the constitution says it is a 4 year term, and if Rep. Kretschmar is correct, those who were elected in November that have a 4 year term, but if that were cut short in effect by a month by this bill. Have we done that before with constitutional officers.

**Rep. Todd Porter:** That was the issue at hand with the amendment. The Legislative Council, in researching what had happened with the county commissioners, they put the same language and it held up.

**John Bjornson, LC Staff:** The amendment would delay the effective date of the bill to, as I recall, to any term of office that began after the effective date of the act. If the sheriff were

elected in the next general election, in 2008, they would start a term that would be 3 years, 11 months or thereabouts to effectuate this change to the December 1<sup>st</sup> taking of office. I think as Rep. Porter has been discussing when I walked in, this issue came up a few years ago in 1998, when there was a change in the term of office of county commissioners, has come up with redistricting, in the last couple of cycles. We've had to cut short Senators' time, even though they were elected to a four year term of office, as well, to implement the redistricting process. Once the district lines changed, and you had two Senators in the same district, you couldn't have two people, so their term was cut short. Some people were given two year terms to get back onto the proper cycle. We addressed this in 1998 when they requested the constitutionality of shortening the term and as I recall, the memo basically states that there is a difference between the term of office and a person's tenure. The bottom line is, that a ND Supreme Court case back when there was a dispute when the governor should take office. One of the governor's was going to make some appointments and the incoming governor wanted to make these appointments. It ultimately went to the state supreme court and the court determined that because the previous governor had taken office say January 6<sup>th</sup>, that didn't entitle him to sit until January 6<sup>th</sup> four years later. The governor was entitled to take office as of December 15<sup>th</sup>, because of the language in the new law. That was an important case that we relied upon in concluding that this could be done and it wouldn't violate the constitution. Basically, if you literally read the constitution, you could never do anything like this. You could never make a change in the term of office because it would always have to give every person four years. That's just absurd. You would think that you would tie the hands. Our state Supreme Court basically has said, "No, that's going a little too far" and the memorandum addressed that. There was an AG's opinion that has been relied upon that did

consider that ND Supreme Court case. I think the legislature agreed in 1998 that maybe that was a known case that they recalled and the change was made then for the commissioners.

**Rep. Koppelman:** If the bill as amended as requested, were to pass, just on the reading of it, it would appear to me that the term of sheriffs, a four year term, would expire in November of that year and when the election came up, they would take office, according to this, on December 1<sup>st</sup> instead of January 1<sup>st</sup>. I think what I heard you say was that it wouldn't apply until the next general election for that office.

**John Bjornson:** The intent was to provide that the people who are in office right now, would continue to sit until their "four years" was up. Anybody elected subsequent to whatever date you put in there, would serve a term that would be essentially 3 years 11 months. They would serve until November 30, to the end of their term. So they wouldn't have quite four years. That's when we would get them to the December 1<sup>st</sup> date.

**Rep. Koppelman:** If that's true, I'm still a little confused then, because 1) what's the point of doing it that way; and 2) I'm not sure that the way the bill is written says that, unless I'm missing something.

**John Bjornson:** The point is, I don't believe it is necessary. But it's giving the people in office now, notice that they will be one month short in the future, until we get this back to December 1<sup>st</sup> change in place.

**Rep. Koppelman:** If, for example, you are talking about legislature as an example, and we had some redistricting. If you're elected in 1990 or the year 2000 for a four year term, you recognize that redistricting is going to happen and there is a potential that the term is cut short, even though you are elected to that four year term when you run. You might end up serving two years, or three years. I don't see how this is different from that.

**John Bjornson:** The sheriff might not have that expectation, if you're going to come in and change their term. This is probably unnecessary, but it provides a little bit of transition.

**Rep. Koppelman:** I guess my final question is, explain why the change in the effective date is necessary to accomplish what you were describing. Rep. Kretschmar mentioned previously, that most statutes take effect on August 1.

**John Bjornson:** It might have been a typo there. I think we could change that. The point of it was that it provides that any term that takes effect in the future. We're not talking about taking effect until after the next general election. I'm not sure what happened with that. Anything that is in effect now, isn't going to be affected. Anything that takes effect after the next general election will be. We just chose a date that would point out to people in office now won't be affected.

**Rep. Kretschmar:** Do you believe the legislature would have the authority to apply this law to sheriffs who were elected last year.

**John Bjornson:** I believe in reading the Supreme Court precedent, that yes, you could. I think that the research we did suggests that there is a distinction and there is the ability to cut the term short. Probably not take off a whole year, but a few days or a month, isn't that big of an issue and to accomplish this, I believe yes it can.

**Chairman DeKrey:** Thank you. Further testimony in support of HB 1145.

**Al Jaeger, Secretary of State:** We are neutral. We want to point out something to the members of the committee. Just a couple of things in the conversation I overheard, if I understood Mr. Bjornson correctly, currently the sheriffs will be elected in 2010. It would be at that time, as I understood his explanation, that the sheriff elected at that time would have a term that would be cut short. It does go out quite a ways. The other thing that was done a couple of sessions ago with county commissioners, and then also county auditors has a term

that starts in the middle of April. There are some changes in that. I am here specifically for, in the bill, it says on line 8, where it says "within 10 days thereafter". We had, after the last election, been asked when the sheriff vacates the office. We went to the law and it says January 1<sup>st</sup> or 10 days thereafter. We didn't know what to say, we didn't know what that meant. We checked with the Association of Counties, it's been in the law forever and the rest of us have a term that starts on a specific date. So we actually have a bill drafted, HB 1381, which takes out those words, and here is a bill that's keeping it in there. Our recommendation would be that to make our bill, HB 1381, where we're taking out this language, I believe the way the law reads now, it's the first Monday in January, when they office, or 10 days thereafter. You all take office on December 1, whether it's a Sunday, that's when their term starts; mine starts January 1. That's when it starts. So I don't know what the "or 10 days thereafter", from the standpoint of our office, we would appreciate it if you would eliminate that so it coincides with HB 1381. If you don't, we have it twice.

**Rep. Klemin:** Who decides that about the "10 days thereafter", the person leaving the office, or the person coming into office.

**Al Jaeger:** That's why we are here. What does that phrase mean, either you start or you don't start. I can see a lot of discussion about that because you didn't want to leave. That's why we looked at this.

**Rep. Koppelman:** Is there any merit, we talked about these different offices being staggered and what we do with county commissioners and all that. Is there any merit in your mind, in having these offices, or are there other offices that ought to take office on December 1, do we have them staggered all over the place, and is that a problem. Is uniformity desirable.

**Al Jaeger:** That's been our call on this. That's a policy decision. There is some history as to why the auditor takes office in the middle of April. I do know, after this past election, we have

had some challenges where an auditor was seeking re-election and failed to be re-elected. So from November until the middle of April, he was still in office. That's created some challenges because we're working with election stuff and moving ahead and we should be training the new auditor. But I don't know the history of that. We're not here to comment on that. I just need the phrase "10 days thereafter" seems to be language that should be stricken.

**Rep. Koppelman:** Does your office have a list of when every office takes effect.

**Al Jaeger:** Yes, I believe we do. It's on our web site.

**Chairman DeKrey:** Thank you for appearing. Further testimony in support, testimony in opposition. We will close the hearing.

(Opened later in the same session).

**Chairman DeKrey:** We will take a look at HB 1145.

**Rep. Delmore:** We are going to have to rewrite the amendment on that. If we adopt the amendment from the Secretary of State, that would also need to be added.

**Chairman DeKrey:** So the proposed amendment we need to change the date from July 1 to August 1.

**Rep. Klemin:** We probably wouldn't need that because that is when it would go into effect anyway.

**Chairman DeKrey:** So we don't need the amendment.

**Rep. Klemin:** August 1, that's the way it is now.

**Rep. Kretschmar:** I think if we leave the amendment on, it won't apply to sheriffs that got elected last November.

**Chairman DeKrey:** That might be a problem if you did include them. When my term got cut short by two years, nobody felt sorry for me.

**Rep. Charging:** Didn't the Secretary of State offer the amendment that we should remove "or within 10 days thereafter".

**Chairman DeKrey:** Yes, but I want to figure out if we need the first amendment or not.

**Rep. Kretschmar:** Well it's a policy question, do we want it to apply to sheriffs that got elected in November or to sheriffs that are going to get elected in November 2010; if you want it for 2010, you need the amendment. If you want it for the sheriffs that were elected now, you don't need it.

**Rep. Klemin:** It just seems to me to have this same kind of problem that Rep. Porter was talking about, coming up in year 2010, it's a continuing issue. It would seem to me that it ought to apply to ones that were elected already.

**Chairman DeKrey:** I do remember the flap with the governors. It was Olson and Sinner. Olson didn't want to leave office and Sinner wanted to come into office and there was this big uproar about when they do they take office. If I remember right, Olson might have relented and left. I think the bill has merit.

**Rep. Klemin:** I guess what I'm saying is, the amendment is just going to prolong the agony.

**Chairman DeKrey:** Then let's talk about the Secretary of State's amendment.

**Rep. Koppelman:** I would move that we strike the language on page 1, line 8 "or within 10 days thereafter".

**Rep. Charging:** Second.

**Chairman DeKrey:** We have a motion to amend page 1, line 8, to remove "or within ten days thereafter". Any further discussion. We will take a voice vote. Motion carried.

**Chairman DeKrey:** We now have the bill before us as amended. What are the committee's wishes.

**Rep. Griffin:** I move a Do Pass as amended.

**Rep. Dahl:** Second.

**Chairman DeKrey:** Any further discussion on the bill.

**Rep. Kretschmar:** I am going to vote against a Do Pass. I really do not believe that this bill is necessary. I think the sheriff should take office on the 1<sup>st</sup> of January like most of the other state and county officials. When there is flak between an incumbent that loses and the new incoming candidate, I'm sure you can do as much damage between the election and December 1<sup>st</sup> as you can do between this additional month. I really don't think this is necessary. In most of our counties, the sheriffs are professional gentlemen, if they lose, they lose; and not take any revenge against others that may have been working for the other candidate. I don't think this bill is at all necessary.

**Rep. Onstad:** Maybe we should move them all to December 1, instead of January. The point was that there was an election and now you are hanging around until they take office.

**Rep. Boehning:** The bill as we have it ready to go, we do not have the Porter amendment on it, is that correct.

**Chairman DeKrey:** Correct.

**Rep. Kretschmar:** You make a valid point, Rep. Onstad, but you know under current law, if we get into situations where there are recounts, it may take a little time, then you could get into court battles too. You may not have those things settled by January anyway.

**Rep. Klemin:** The references made to legislators taking office on December 1, we're required to have an organizational session the first week of December. So there is a logical reason for that, whereas there is no similar requirement for sheriffs.

**Rep. Meyer:** In this transitional period, what does happen. If the incumbent hunkers down, is there any provision, when is the training time for the new staff and new sheriff. What happens now.

**Rep. Kretschmar:** In one of the counties in my district, Emmons, the sheriff retired and the Chief Deputy was elected sheriff. He had done it a long time, so the transition was very well done. The retiring sheriff had a party and everybody was happy. But I can see where, in cases where there was a very hot, contested election, sometimes people won't be happy.

**Rep. Meyer:** When would that all have occur, the first day they take office, like the incumbent's in there, and it was a horrible race, and he couldn't take office until January 1<sup>st</sup>. The first day he goes to work would be the day he would have to reorganize everything.

**Rep. Kretschmar:** Well to start that. The Burleigh County Sheriff was quoted as saying that he was taking several days to meet with the staff and assess what needs to be done in the changeover. I'm sure that it takes some time.

**Rep. Koppelman:** I know the Secretary of State mentioned the April 1 start date for county auditors.

**Chairman DeKrey:** Further discussion, the clerk will call the roll for HB 1145 on the Do Pass motion as amended.

**6 YES 8 NO 0 ABSENT DO PASS AS AMENDED MOTION FAILS**

**Rep. Kretschmar:** I move a Do Not Pass as amended.

**Rep. Boehning:** Second.

**8 YES 6 NO 0 ABSENT DO NOT PASS AS AMENDED CARRIER: Rep. Kretschmar**

PROPOSED AMENDMENTS TO HOUSE BILL NO. <sup>1145</sup>~~1045~~

Page 1, line 2, after "begins" insert "; and to provide an effective date"

Page 1, after line 8, insert:

**"SECTION 2. EFFECTIVE DATE.** This Act is effective for any full term of office  
of a sheriff beginning after July 1, 2007."

Renumber accordingly

70383.0102  
Title.0200

Adopted by the Judiciary Committee  
January 16, 2007

**House Amendments to HB 1145 (70383.0102) - Judiciary Committee 01/16/2007**

Page 1, line 8, remove "or within ten days thereafter"

Renumber accordingly

Date: 1-15-07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DP as Amended

Motion Made By Rep. Griffin Seconded By Rep. Dahl

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey		✓	Rep. Delmore	✓	
Rep. Klemin		✓	Rep. Griffin	✓	
Rep. Boehning		✓	Rep. Meyer	✓	
Rep. Charging		✓	Rep. Onstad	✓	
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Heller		✓			
Rep. Kingsbury		✓			
Rep. Koppelman		✓			
Rep. Kretschmar		✓			

Total (Yes) 6 No 8

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*Fails*

Date: 1-15-07  
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass as Amended

Motion Made By Rep. Kretschmar Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore		✓
Rep. Klemin	✓		Rep. Griffin		✓
Rep. Boehning	✓		Rep. Meyer		✓
Rep. Charging	✓		Rep. Onstad		✓
Rep. Dahl		✓	Rep. Wolf		✓
Rep. Heller	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 8 No 6

Absent 0

Floor Assignment Rep. Kretschmar

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1145: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1145 was placed on the Sixth order on the calendar.

Page 1, line 8, remove "or within ten days thereafter"

Renumber accordingly

2007 TESTIMONY

HB 1145



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## Qualifications and Terms of Office for all Elected Positions in North Dakota

July 2005

### President and Vice President of the United States

Only natural born citizens shall be eligible to the offices of President and Vice President of the United States who are at least 35 years of age and have resided within the United States for at least 14 years. No person constitutionally ineligible to hold the office of President shall be eligible to hold the office of Vice President of the United States (United States Constitution, Article 2, Section 1, and Amendment 12).

The 4-year terms of office for President and Vice President of the United States begin at noon on January 20 following the date of election.

The positions will next appear on the ballot in 2008 and every four years thereafter.

### United States Senator

A member of the United States Senate must be at least 30 years of age, a citizen of the United States for at least nine years, and an inhabitant of the state of North Dakota (United States Constitution, Article 1, Section 3).

The 6-year term for United States Senator begins at noon on January 3 following the date of election.

One of the two positions will be on the ballot in 2006. The other position will appear on the ballot in 2010.

### Representative in Congress

A member of the United States House of Representatives must be at least 25 years of age, a citizen of the United States for at least seven years, and an inhabitant of the state of North Dakota (United States Constitution, Article 1, Section 2).

The 2-year term for Representative in Congress begins at noon on January 3 following the date of election.

North Dakota's one congressional seat appears on the ballot every two years.

### Governor and Lt. Governor (partisan)

The Governor and Lieutenant Governor must be citizens of the United States, qualified North Dakota voters, at least 30 years of age, and have resided in North Dakota for the five years next preceding the election (North Dakota Constitution, Article V, Section 4).

The 4-year terms of office for Governor and Lieutenant Governor begin on December 15 following the date of election.

The two positions run as a team from the same party and will next appear on the ballot in 2008 and every four years thereafter.

### Other Constitutional Statewide Officers (partisan)

The remaining partisan constitutional statewide officers are the Secretary of State, State Auditor, State Treasurer, Attorney General, Commissioner of Insurance, Commissioner of Agriculture, Public Service Commissioner and Tax Commissioner. To qualify for one of these positions, the candidate must be at least 25 years of age, a qualified North Dakota voter, and have resided in North Dakota for the five years preceding the election. In addition, the Attorney General must be licensed to practice law in North Dakota (North Dakota Constitution, Article V, Section 4).

Except for the Public Service Commissioner, which has a 6-year term, each remaining position has a 4-year term of office. All terms begin on January 1 following the date of election.

There are three Public Service Commissioners, with one position appearing on the ballot every two years.

The positions of Secretary of State, Attorney General, Commissioner of Agriculture, and Tax Commissioner will appear on the ballot in 2006 and be elected to terms of four years and every four years thereafter. The remaining positions of State Auditor, State Treasurer and Commissioner of Insurance will appear on the ballot in the same four-year cycle as the Governor and President of the United States.

### Superintendent of Public Instruction (non-partisan)

The Superintendent of Public Instruction must be at least 25 years of age, a qualified North Dakota voter, and have resided in North Dakota for the five years next preceding the election. The Superintendent of Public Instruction must also hold a teacher's certificate of the highest grade issued in this state. (North Dakota Constitution, Article V, Section 4 and NDCC § 15.1-02-01).

The 4-year term of office for Superintendent of Public Instruction begins on January 1 following the date of election.

The position will appear on the ballot in 2008 and every four years thereafter.

### Justices of the Supreme Court

Justices of the Supreme Court shall be citizens of the United States and residents of North Dakota, shall be learned in the law, and shall possess any additional qualifications prescribed by law. No Justice of the Supreme Court shall engage in the practice of law, or hold any public office, elective or appointive, not judicial in nature. Justices of the Supreme Court must possess a certificate of admission to the bar of this state and an annual license from the state bar board (North Dakota Constitution, Article VI, Section 10 and NDCC §§ 27-11-01 and 27-11-22).

The 10-year terms of office for Justices of the Supreme Court begin on January 1 following the date of election.

One of five Justice positions appears on the ballot every two years.

### Judges of the District Courts

Judges of the District Court shall be citizens of the United States and residents of North Dakota, shall be learned in the law, and shall possess any additional qualifications prescribed by law. No Judge of the District Courts shall engage in the practice of law, or hold any public office, elective or appointive, not judicial in nature. Judges of the District Courts must possess a certificate of admission to the bar of this state and an annual license from the state bar board (North Dakota Constitution, Article VI, Section 10 and NDCC §§ 27-11-01 and 27-11-22).

The 6-year terms of office for Judges of the District Court begin on January 1 following the date of election.

There are seven District Courts in the state and a certain number of Judges in each district appear on the ballot in a rotating manner every two years.

## **Legislature - Senate or House of Representatives**

State Senators and Representatives must be, on the day of the election, qualified voters in the district from which they are chosen and have been a resident of the state for one year next preceding their election (North Dakota Constitution, Article IV, Section 4 and 10).

The 4-year terms of office for State Senators and Member of the House of Representatives begin in December 1 following the date of election.

State Senators and Representatives of the House of Representatives from odd numbered districts will be on the ballot in 2006.

## **County Officers**

County officers must be, at the time of election, a qualified elector in the jurisdiction in which the candidate is to serve. County commissioners must be qualified voters of the jurisdiction from which the commissioner is chosen at the time of the election. Depending on the form of county government, the office sought or other election alternatives employed by the county according to law, other residency requirements may apply. NDCC § 11-10-04

The 4-year terms of office for recorder, state's attorney, clerk of district court and sheriff begin on or before the first Monday in January following the date of election or within 10 days thereafter.

The 4-year term of office for county auditor begins on or before the first Monday of April next succeeding the auditor's election, or within ten days thereafter.

The 4-year term of office for county treasurer begins on or before the first Monday of May next succeeding the treasurer's election, or within ten days thereafter.

The 4-year terms of office for county commissioners begin on the first Monday in December following the date of election.

At least one commissioner's position appears on the ballot every two years. The remaining positions will next appear on the ballot in 2006 and every four years thereafter.

## **Southwest Water Authority - Director**

Directors of the Southwest Water Authority must be qualified voters of the county where the officer is chosen when nominating petitions are filed. (NDCC § 61-24.5-06).

Directors are elected at the primary election and do not advance to the general election.

The 4-year terms of office for Directors begin on the 1st Monday in July following the date of election.

At least one of the positions is on the ballot every two years.

## **Soil Conservation District - Supervisor**

Supervisors of the Soil Conservation District must be qualified voters residing in the district where the officer is chosen when nominating petitions are filed. (NDCC § 4-22-16).

Supervisors are not nominated at the primary election and are elected directly at the general election.

The 6-year terms of office for Supervisors begin on January 1 following the date of election.

The position appears on the ballot every two years.

## **Garrison Diversion Conservancy - Director**

Directors of the Garrison Diversion Conservancy District must be qualified voters of the county where the officer is chosen when nominating petitions are filed. (NDCC § 61-24-03).

The 4-year terms of office for Directors begin on January 1 following the date of election.

The position appears on the ballot every two years.

## **School Board Member**

Any person who is a qualified elector of this state is qualified to be a member of the school board in the district in which the person resides. (NDCC § 15.1-07-14)

Depending on the school district, the position may appear on the ballot every two years.

## **All City Officers**

No person shall be eligible to hold an elective city office unless he or she is a qualified voter of the city and unless he or she has been a resident of the city for at least 9 months preceding the election. No person shall be eligible to hold an appointive city office unless he or she is a citizen of the United States. No person in default to the city shall be eligible to any city office. (NDCC § 40-13-01)

## **Mayor**

The mayor must be a qualified voter within the city. (NDCC § 40-08-14)

The 4-year term of office for mayor lasts until a successor is duly elected and qualified.

## **Councilman**

A person is not eligible to the office of council member if the person: is not a qualified voter of and resident within the ward for which the person was elected [except that in cities where council members are elected at large and not required to be a resident of the ward for which the person is elected pursuant to NDCC § 40-08-04.2, the person must be a qualified voter of and a resident within the city]; or has been convicted of malfeasance, bribery, or other corrupt practice or crime. (NDCC § 40-08-05)

The 4-year term of office for a councilman lasts until a successor is duly elected and qualified.

## **Commissioner**

No person shall be eligible to the office of city commissioner unless he or she is a qualified voter of the city and unless he or she has been a resident of the city for at least 9 months preceding the election. (NDCC § 40-13-01).

The 4-year term of office for a commissioner lasts until a successor is duly elected and qualified.

Mayors, Councilmen, and Commissioners are subject to be on the ballot again in 2006, depending upon the city.