

**Fifty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1335  
(Representatives Bellew, DeKrey, Eckre, Haas)  
(Senators Dever, Freborg)

AN ACT to amend and reenact sections 15.1-09-14, 15.1-09-15, 15.1-09-24, 15.1-09-25, 40-09-04, 40-21-02, 40-21-07, and 40-21-12 of the North Dakota Century Code, relating to canvassing school district election results, members of school boards taking oaths of office and failing to qualify for office, terms of city commissioners, withdrawal of city nominating petitions, and canvassing city election results.

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

**SECTION 1. AMENDMENT.** Section 15.1-09-14 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-14. School district election - Vote tally.** Upon the closing of the polls, the judges shall count and canvass the votes for each office. Within forty-eight hours after the closing of the polls, the judges and clerks of the election shall sign the returns and file them with the business manager of the school district. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement.

**SECTION 2. AMENDMENT.** Section 15.1-09-15 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-15. School district election - Declaration of winner.** The school board shall canvass all election returns and shall declare the result of an election within three days of the election and, in the case of a tie, within three days from the determination of a winner. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement. The individual receiving the highest number of votes for an office must be declared elected. The board shall record the result of the election.

**SECTION 3. AMENDMENT.** Section 15.1-09-24 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-24. School boards - Sharing of election expenses.** If a school district election is held in conjunction with a primary election, the board of the school district may agree with the governing body of the county or counties in which the district is located to share election costs and responsibilities, including those associated with a canvassing board, election personnel, the printing of election materials, the publishing of legal notices, and the use of poll books. Each board of a school district that enters into an agreement with the county must notify the county auditor, in writing, at least fifty-five days before the election of the offices to be filled at the election and any measures to appear on the ballot.

**SECTION 4. AMENDMENT.** Section 15.1-09-25 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-25. School board members - Affirmation or oath of office.** An individual elected as a member of or appointed to a school board shall take and file with the school district business manager an affirmation or oath of office ~~before commencing duties~~ within ten days after notice of the individual's election or appointment. Refusal to take and file an affirmation or oath of office, as required by this section, must also be deemed a refusal to serve and, therefore, a failure to qualify for the office pursuant to section 44-02-01.

**SECTION 5. AMENDMENT.** Section 40-09-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**40-09-04. Commissioners - Terms - Resignations.** Each commissioner and the president of the board of city commissioners shall hold office for four years ~~after the date of election~~ commencing on the fourth Tuesday in June of the year in which the officer was elected and until a successor has been duly elected and qualified. The commission shall establish by ordinance a procedure whereby one-half of all commissioners, as nearly as practicable, are elected biennially. The president or any other member of the board may resign from office by filing a written resignation with the city auditor, who shall submit the resignation to the board of city commissioners at its next regular meeting or at a special meeting called for consideration of the resignation. The resignation is effective upon its acceptance by the board.

**SECTION 6. AMENDMENT.** Section 40-21-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**40-21-02. City elections - When held - Notice - Polls - Agreements with counties - Judges and inspectors.** Biennial municipal elections must be held on the second Tuesday in June in each even-numbered year. Ten days' notice of the time and place of the election and of the offices to be filled at the election must be given by the city auditor by publication in the official newspaper of the city as provided by section 40-01-09. The governing body of a city shall enter into an agreement with the governing body of the county or counties in which the city lies concerning the use of a single canvassing board, the sharing of election personnel, the printing of election materials, the publishing of legal notices, and the apportioning of election expenses. For city elections that are not held under an agreement with any county, the governing body of the city shall appoint one inspector and two judges of election for each precinct in the city at least ten days before the election is held and the polls must be opened and closed as provided for the opening and closing of polls at statewide elections. In voting precincts in which over three hundred votes are cast in any previous election, two election clerks may be appointed by the governing body. For a city election that is not held under an agreement with any county in a precinct in which seventy-five or fewer votes were cast in the last city election, the governing body of the city may appoint one inspector and one judge. When a city enters into an agreement with the county to hold the city election in conjunction with the county election, the deadline for giving notice of the city election along with the offices to be filled at the election may be adjusted in order to meet the publishing requirements of the county. Each city governing body that enters into an agreement with the county must notify the county auditor, in writing, at least fifty-five days before the election of the offices to be filled at the election and any measures to appear on the ballot.

**SECTION 7. AMENDMENT.** Section 40-21-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**40-21-07. Petition for nomination of elective official in cities - Signatures required - Withdrawal of petition - Contents.** A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, at least sixty days and before four p.m. on the sixtieth day before the holding of the election, a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last city election. If multiple candidates were elected to the office at the preceding city election at which the office was voted upon, the number of signatures must equal at least ten percent of the total votes cast for all candidates divided by the number of candidates that were to be elected to that office at that election. Qualified electors who sign a petition must reside within the ward or precinct in and for which that officer is to be elected, if the election is by wards, or within the corporate limits of the city if the officer is elected at large. In cities operating under the commission system of government the required petition may be signed by the qualified electors at large residing within the city. If a petition is mailed, it must be in the possession of the city auditor before four p.m. on the sixtieth day prior to the holding of the election. However, no more than three hundred signatures may be required and the signatures may be on separate sheets of paper. Petitions must meet the specifications of nominating petitions pursuant to section 16.1-11-16. If a city election is not combined with a state or county election according to section 40-21-02, a candidate may be nominated by filing the required petition with the city auditor at least thirty-three days and before four p.m. on the thirty-third day before the holding of the election. A candidate may withdraw the candidate's nominating petition at any time before the applicable deadlines for filing nominating

petitions provided for in this section. Nominating petitions required by this section may not be circulated or signed more than ninety days before the date when nominating petitions must be filed pursuant to this section. Any signatures to a nominating petition obtained more than ninety days before that date may not be counted.

**SECTION 8. AMENDMENT.** Section 40-21-12 of the North Dakota Century Code is amended and reenacted as follows:

**40-21-12. Counting ballots - Returns - Canvass of returns by governing body of municipality.** The ballots cast in a municipal election shall be counted and the returns of the election prepared by the election board immediately after the closing of the polls. The ballots and the returns of the election shall be returned to the city auditor under seal within two days and before four p.m. on the second day after the election. Thereafter, the governing body of the municipality shall canvass the returns and declare the result of the election and cause a statement thereof to be entered in its books of minutes. However, if the election is held under an agreement with a county or counties pursuant to section 40-21-02, the returns must be canvassed as set out in the agreement.

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Speaker of the House

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President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1335.

House Vote:      Yeas    97      Nays    0      Absent    1

Senate Vote:    Yeas    47      Nays    0      Absent    2

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2001.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2001.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2001,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State