

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1321
(Representatives Wrangham, DeKrey, J. Kelsh, Nottestad)
(Senator Freborg)

AN ACT to amend and reenact sections 61-06-09, 61-06-10, 61-06-11, 61-06-13, 61-06-14, 61-06-15, and 61-06-16 of the North Dakota Century Code, relating to allowing the board of directors of an irrigation district to hold mail ballot elections.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-06-09 of the North Dakota Century Code is amended and reenacted as follows:

61-06-09. Regular election of irrigation districts - Mail ballot elections. The regular election of irrigation districts ~~shall~~ must be held on the second Tuesday in February in each even-numbered year. The board of directors of an irrigation district may hold a regular or special election by mail ballot. If the board determines to hold an election by mail ballot, the board shall notify the electors of the district that the election will be held by mail ballot and that no polling places will be open for the election.

SECTION 2. AMENDMENT. Section 61-06-10 of the North Dakota Century Code is amended and reenacted as follows:

61-06-10. Notice of election after district is organized - Contents - Form. Within thirty-five days of, but at least twenty-five days ~~prior to~~ before, any regular or special election held in an irrigation district, the secretary of the board of directors shall publish a notice of the election in the newspaper or newspapers of general circulation where the district is located and in the official newspaper of each county in which the district is located. The notice must specify the matters to be voted upon; and if the election is to be held by mail ballot. If the election is not held by mail ballot, the notice must specify the location of the polling place or places; and the time of their opening and closing of the polling places. The notice must be in substantially the following form:

Notice is given that on _____, _____, an election will be held at _____ (~~here designate the polling place~~) for the purpose of electing _____ members of the board of directors and for the purpose of voting upon the questions submitted by the directors of the district. (The election will be held by mail ballot.) or (The election will be held at _____: Polls will be opened at one p.m. and will be closed at five p.m. of that day.) Notice is further given that any elector desiring to have the elector's name appear on the ballot must file a request in writing with the secretary of the district not less than twenty days before the election.

SECTION 3. AMENDMENT. Section 61-06-11 of the North Dakota Century Code is amended and reenacted as follows:

61-06-11. Board of election of irrigation district - Failure of member of election board to be present. ~~Prior to~~ Before the date of the regular election, the board shall appoint from the electors of the district one clerk and two judges who shall constitute the board of election. If the board ~~shall fail~~ fails to appoint ~~such a~~ a board of election, or if the members appointed do not attend at the opening of the mail ballots or the opening of the polls on the day of election, the electors of the district present at that hour may appoint the members of the election board or fill the place of an absent member ~~thereof~~. The board of directors, in its order or resolution appointing the members of the board of election, shall designate the time and place where the mail ballots will be opened or where the election shall will be held.

SECTION 4. AMENDMENT. Section 61-06-13 of the North Dakota Century Code is amended and reenacted as follows:

61-06-13. Ballot at irrigation district elections - Contents - Mail ballots.

1. At least fifteen days before an election in an irrigation district, the secretary shall prepare and have typewritten, mimeographed, or printed an official ballot containing the names of all candidates which have been filed with the secretary. The ballot ~~shall~~ must:
 1. a. Be headed "Official Ballot";
 2. b. Contain all names thus filed;
 3. c. Show the name of the district;
 4. d. State the number of ~~persons~~ individuals to be voted for;
 5. e. Have blank spaces below for writing in other names; and
 6. f. State any question or resolution submitted to the electors by the board of directors.
2. The provisions of this chapter ~~shall~~ do not prevent ~~any person~~ an individual desiring to be a candidate at ~~such~~ the election and who has failed to file as provided in this chapter, from furnishing stickers to be attached to the ballot by the electors. ~~Such~~ The stickers ~~shall~~ may not be over one-half inch [1.27 centimeters] in width and ~~shall~~ must have printed thereon one name only. ~~Any~~
3. If the election is not held by mail ballot any elector who will be absent from the irrigation district on the day of the election may vote an absent voter's ballot at that election. The secretary shall provide the official ballot to any elector who ~~makes application~~ applies for an absent voter's ballot, and the absent voter ~~must~~ shall submit the absent voter's ballot to the secretary of the district, along with an affidavit that the ballot submitted represents the elector's vote at the election, on or before the day of the election. An absent voter's ballot must be the official ballot, and the ballot and affidavit must be actually delivered to the secretary or the election board before the polls close on election day. The secretary shall submit any absent voters' ballots to the election board on the day of the district election.
4. If the board of directors of the irrigation district determines to hold the election by mail ballot, the secretary of the board of directors shall mail an official mail ballot with a return identification envelope and instructions sufficient to describe the voting process to each elector on the fifteenth day before the election. The voting instructions must contain a statement informing the elector that the elector is entitled to complete the mail ballot in secrecy. The secretary shall mail the ballot by first-class mail, addressed to the address of the elector and placed in an envelope that is prominently marked "Do Not Forward". The return identification envelope must include an affidavit for the elector to certify that the ballot submitted represents the elector's vote. An elector entitled to cast more than one vote must be provided separate ballots for each vote to which the elector is entitled, and a return envelope with instructions sufficient to keep the ballots secret. An elector may obtain a replacement ballot if a mail ballot is destroyed, spoiled, lost, or not received by the elector by signing a sworn statement that the ballot was destroyed, spoiled, lost, or not received and delivering the statement to the secretary of the district no later than four p.m. on the day before the election. An elector voting by mail ballot shall either deliver the mail ballot to the secretary of the district before five p.m. on the day of the election or mail the ballot, which must be postmarked no later than the day before the election.

SECTION 5. AMENDMENT. Section 61-06-14 of the North Dakota Century Code is amended and reenacted as follows:

61-06-14. Oath required of members of election board - Chairman of election board to administer. Before opening the polls at an irrigation district election or opening mail ballots, each member of the election board shall take and subscribe the following oath or affirmation:

I do solemnly swear (or affirm) that I will perform my duties as judge or clerk (as the case may be) according to law and to the best of my ability.

~~Such~~ The oath or affirmation may be administered by any director of the district or any officer authorized to administer oaths. The board of directors shall designate one of the judges as chairman of the election board and the chairman of the election board ~~shall have the authority to~~ may administer and certify all oaths or affirmations taken by other members of the election board and shall administer and certify all oaths or affirmations required during the progress of the election.

SECTION 6. AMENDMENT. Section 61-06-15 of the North Dakota Century Code is amended and reenacted as follows:

61-06-15. Opening and closing hours of polls at irrigation district elections. ~~The~~ If the election is not held by mail ballot, the polls shall ~~shall~~ must be open at one p.m. of the election day and ~~shall~~ must be kept open until five p.m. of the same day.

SECTION 7. AMENDMENT. Section 61-06-16 of the North Dakota Century Code is amended and reenacted as follows:

61-06-16. Canvass of ballots after closing polls - Delivery of materials to directors. Immediately after ~~the polls are closed five p.m. on the day of the election~~, the election board publicly shall open and ~~proceed to~~ canvass the ballots cast and shall declare the result of ~~such the~~ canvass. A mail ballot may be counted only if the ballot is returned in the return identification envelope and is signed by the elector. The chairman shall wrap securely all lists, tally sheets, oaths and affirmations, and other documents relating to the progress of the election and shall deliver the same to the secretary of the board of directors of the district.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1321.

House Vote: Yeas 92 Nays 0 Absent 2

Senate Vote: Yeas 46 Nays 1 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State