

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1065
(Political Subdivisions Committee)
(At the request of the Supreme Court)

AN ACT to amend and reenact subsection 2 of section 11-07-04, subsection 5 of section 11-10.2-03, subsection 3 of section 11-10.3-02, and sections 11-12-05, 11-16-10, 11-16-13, 40-02-16, and 44-02-05 of the North Dakota Century Code, relating to district judge involvement in determining county commissioner terms of office, appointing individuals to fill county commission vacancies, receiving written documents consenting to county reorganization plans, approving state's attorneys expenses, and appointing arbitrators for disputes between a township and a newly organized municipality; and to repeal sections 11-16-11 and 11-16-12 of the North Dakota Century Code, relating to state's attorney submission of a statement of expenses to a district judge.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 11-07-04 of the North Dakota Century Code is amended and reenacted as follows:

2. If the county previously elected county commissioners at large and the county has been divided into districts, those elected in districts designated by even numbers constitute one class and those elected in districts designated by odd numbers constitute the other class. If election of commissioners at large is necessary and the county previously was districted, classes of such commissioners must be determined by assigning a number to their respective offices according to the numerical total of the votes cast for them at the general election at which they were elected. The commissioners of one class elected in the first election held following a redistricting pursuant to this chapter hold office for two years and those of the other class hold office for four years. The determination of the two classes must be by lot so that one-half of the commissioners, as nearly as practicable, may be elected biennially. ~~A district judge serving the county~~ An individual mutually agreed upon by the two classes of commissioners shall perform the lot in the presence of all of the newly elected commissioners affected by this subsection within thirty days after the date of the first general election following redistricting or election of commissioners at large, if required, and shall certify in writing the results of such lot to the county auditor within five days after its completion.

SECTION 2. AMENDMENT. Subsection 5 of section 11-10.2-03 of the North Dakota Century Code is amended and reenacted as follows:

5. A proposed plan may not diminish the future term of office, or redesignate an elected office as appointed, with respect to any person who, on August 1, 1993, holds an elected county office and continues to hold that specific office for future terms on an uninterrupted basis. This subsection does not apply after January 1, 2002, or if the person holding the affected office consents in writing to the proposed plan and ~~submits files~~ submits files that written document prior to the scheduled implementation of the plan ~~to a with the district judge serving the judicial district in which court for the county is located.~~

SECTION 3. AMENDMENT. Subsection 3 of section 11-10.3-02 of the North Dakota Century Code is amended and reenacted as follows:

3. A proposed plan may not diminish the future term of office, or redesignate an elected office as appointed, with respect to any person who, on August 1, 1993, holds an elected county office and continues to hold that specific office for future terms on an uninterrupted basis. This subsection does not apply after January 1, 2002, or if the person holding the affected office

consents in writing to the proposed plan, and ~~submits files~~ that written document prior to the scheduled implementation of the plan ~~to a with the district judge serving the judicial district in which the court for each county is located.~~

SECTION 4. AMENDMENT. Section 11-12-05 of the North Dakota Century Code is amended and reenacted as follows:

11-12-05. Commissioners for new districts appointed.

The members of the board of county commissioners, ~~a district judge serving the county,~~ and the county auditor shall meet immediately after the county has been redistricted and shall appoint one commissioner for each of the new districts. The commissioners hold office until their successors are elected and qualified.

SECTION 5. AMENDMENT. Section 11-16-10 of the North Dakota Century Code is amended and reenacted as follows:

11-16-10. Use of state's attorney's contingent fund.

The state's attorney, ~~with the consent and approval of a district judge in and for the state's attorney's county,~~ may incur expenses in securing evidence and investigating criminal cases, so far as is necessary, to the amount annually appropriated by the board of county commissioners to the state's attorney's contingent fund.

SECTION 6. AMENDMENT. Section 11-16-13 of the North Dakota Century Code is amended and reenacted as follows:

11-16-13. Warrants on state's attorney's contingent fund.

All disbursements from the state's attorney's contingent fund ~~shall~~must be made in the usual manner by the county treasurer upon the warrant of the county auditor. The auditor's warrant ~~shall~~must be executed and delivered in the amount and to the person designated by the order of the state's attorney, ~~and shall be countersigned by a judge of the district court for that county.~~

SECTION 7. AMENDMENT. Section 40-02-16 of the North Dakota Century Code is amended and reenacted as follows:

40-02-16. Arbitration of differences between township and newly organized municipality upon division of property and indebtedness.

If the officers of a township and of a municipality which has been organized from territory situated therein cannot agree upon the valuation of any real estate, or of any indivisible property which is held jointly, or upon the just apportionment of the joint indebtedness, the officers of the township or municipality, upon five days' notice of the time and place, may apply to the ~~district court serving the county in which the township or municipality is located~~director of the office of administrative hearings for arbitration of such differences. Thereupon, the ~~district judge~~director shall appoint three ~~freeholders~~residents of the county, not residents or taxpayers of the municipality or township involved, to act as arbitrators. After being duly sworn to perform the duties imposed upon them, the arbitrators shall view and appraise the property and fix the valuation thereof for the purpose of making the division. If the property to be divided is personal property and no satisfactory arrangement can be made otherwise, it must be sold at public auction to the highest bidder, and the municipality and township may bid at the sale. The township and municipality involved in the arbitration shall share equally in the costs and expenses of the arbitration. The director of the office of administrative hearings shall request payment from the township and municipality and the township and municipality shall pay to the office of administrative hearings both the costs and expenses of the arbitration proceedings and the cost of the services provided by the arbitrators and the director of the office of administrative hearings.

SECTION 8. AMENDMENT. Section 44-02-05 of the North Dakota Century Code is amended and reenacted as follows:

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

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

SECTION 9. REPEAL. Sections 11-16-11 and 11-16-12 of the North Dakota Century Code are repealed.

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-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1065.

House Vote: Yeas 93 Nays 0 Absent 1

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State