

HOUSE BILL NO. 1361

Introduced by

Representatives Klemin, Kretschmar, Maragos, Muscha

Senators Hogue, Triplett

1 A BILL for an Act to amend and reenact sections 15.1-09-13, 16.1-04-02, 16.1-07-09,
2 16.1-07-10, 16.1-07-11, 16.1-07-12, and 21-03-11, subsection 4 of section 40-21-02, and
3 section 40-21-16 of the North Dakota Century Code, relating to election precincts and voting
4 places.

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

6 **SECTION 1. AMENDMENT.** Section 15.1-09-13 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **15.1-09-13. Election precincts - Polling places - Election officials.**

- 9 1. At least thirty-five days prior to the annual election, the board of each school district
10 shall designate one or more precincts for the election. The board shall arrange the
11 precincts in a way that divides the electors of the district as equally as possible.
- 12 2. At least thirty-five days prior to the annual election, the board of each school district
13 shall designate one or more polling places for ~~the election~~each precinct. The board
14 shall locate the polling places as conveniently as possible for the voters in the
15 precinct. Once established by the board, a polling place must remain ~~the~~a polling
16 place for a precinct until it is changed by subsequent action of the board.
- 17 3. For school board elections not held in conjunction with county elections, the board
18 shall appoint two election judges and two election clerks for each ~~precinct~~polling place.
19 Before opening the polls, the judges and clerks shall take an affirmation or oath to
20 perform their duties according to law and to the best of their ability. The affirmation or
21 oath may be administered by any officer authorized to administer oaths or by any of
22 the judges or clerks.

- 1 4. For school board elections held in conjunction with county elections, the county
2 election boards shall administer the election in the same manner as the county or
3 state election.

4 **SECTION 2. AMENDMENT.** Section 16.1-04-02 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **16.1-04-02. Voting places - Duties and responsibilities of the board of county**
7 **commissioners or the governing body of the city.**

8 The board of county commissioners of each county:

- 9 1. Shall designate ~~aone or more~~ one or more voting ~~place~~places for each precinct and may alter the
10 voting places when there is a good and sufficient reason. However, the voting places
11 for precincts located within the boundaries of any incorporated city must be
12 designated, and altered if required, by the governing body of the city.
- 13 2. Shall provide that all voting places are accessible to the elderly and the physically
14 disabled.
- 15 3. May utilize vote centers that contain all of the precincts in a county so that any
16 qualified elector of the county may choose to cast a ballot in that polling location.
17 Qualified electors may vote early at early voting precincts, by absentee ballot, at ~~thea~~
18 polling location of their residential precinct, or at a county vote center. Vote center
19 polling places must serve as ~~thea~~ designated polling place for at least one precinct in
20 the county in addition to serving as the site where any county voter may cast a ballot.
21 An individual voting or attempting to vote more than once in any single election is
22 guilty of a class A misdemeanor.

23 **SECTION 3. AMENDMENT.** Section 16.1-07-09 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **16.1-07-09. Canvassing of mailed absent voter's ballots received late.**

26 In the case of congressional, state, county, city, or school district elections, if an envelope
27 postmarked or otherwise officially marked by the United States postal service or other mail
28 delivery system before the date of election and containing an absent voter's ballot is received by
29 the officer too late to be forwarded to a polling place of the proper voting precinct in time to be
30 tabulated, the ballot must be tallied by the canvassing board of the county, the governing body
31 of the city, or the school board of the school district, as the case may be, at the time the returns

1 are canvassed. Any envelope without a postmark or other official marking by the United States
2 postal service or other mail delivery system or with an illegible postmark or other official marking
3 and containing an absentee voter's ballot must be received by mail by the proper officer prior to
4 the meeting of the canvassing board. An absent voter may personally deliver the absent voter's
5 ballot to the appropriate officer's office at any time before five p.m. on the day before the
6 election. Any envelope containing an absent voter's ballot with a postmark or official date stamp
7 on the day of election or thereafter may not be tallied with the ballots timely submitted for the
8 election. Before forwarding any ballot to a canvassing board pursuant to this section, the officer
9 forwarding the ballot shall print the date of receipt on the envelope. Upon receipt, the
10 canvassing board shall determine that the elector was qualified to vote in that precinct, that the
11 elector did not previously vote in that precinct on the date of the election, and that the
12 signatures on the absentee ballot application and the voter's affidavit were signed by the same
13 person before allowing the ballot to be tallied.

14 **SECTION 4. AMENDMENT.** Section 16.1-07-10 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **16.1-07-10. Care and custody of ballot.**

17 Upon receipt of an envelope containing the absent voter's ballot, the proper officer
18 immediately shall attach the application of the absent voter and file the ballot with other
19 absentee ballots from the same precinct. Before delivering the absentee ballots to a polling
20 place of the proper precinct, the proper officer shall package the ballots in a manner so the
21 ballots are sealed securely. The package must be endorsed with the name of the proper voting
22 precinct, the name and official title of the officer, and the words "This package contains an
23 absent voter's ballot and must be opened only according to the processing provisions of section
24 16.1-07-12." The officer shall keep the package safely in the officer's office until it is delivered by
25 the officer as provided in this chapter.

26 **SECTION 5. AMENDMENT.** Section 16.1-07-11 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **16.1-07-11. Submitting ballot to inspector of elections.**

29 If the envelope containing the absent voter's ballot is received by the county auditor, auditor
30 or clerk of the city, or business manager of the school district, as the case may be, prior to that
31 ~~person's~~individual's delivery of the sealed package containing the official ballots to the inspector

1 of elections of a polling place of the precinct in which ~~such~~the absent voter resides, ~~such~~the
2 ballot, after having been enclosed with the application in an envelope as required by section
3 16.1-07-10, must be enclosed in ~~such~~the package and delivered ~~therewith~~ to the inspector of
4 the ~~precinct~~polling place. If the official ballots for the precinct have been delivered to the election
5 inspector at the time of receipt by the proper officer of the absent voter's ballot, ~~then~~ the officer
6 or the officer's designee shall personally deliver it to the inspector prior to the close of the polls
7 on election day. Any absent voter's ballot sent to the wrong ~~precinct~~polling place by the official
8 whose duty it is to forward ~~such~~the ballots ~~to the precincts~~, or any absent voter's ballot received
9 by the inspector from the appropriate officer too late to be counted at the ~~precinct~~polling place,
10 must be returned to the official by the election inspector, and must be tallied by the county
11 canvassing board, the governing body of the city, or the school board, as the case may be, with
12 other absent voters' ballots received too late to be counted on election day.

13 **SECTION 6. AMENDMENT.** Section 16.1-07-12 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **16.1-07-12. Opening ballot - Voting or rejecting - Depositing in ballot box - Preserving.**

16 At any time beginning on the day before election day and the closing of the polls on election
17 day, the election clerks and board members of the relevant ~~precinct~~polling place first shall
18 compare the signature on the application for an absent voter's ballot with the signature on the
19 voter's affidavit provided for in section 16.1-07-08 to ensure the signatures correspond. If the
20 applicant is then a duly qualified elector of the precinct and has not voted at the election, they
21 shall open the absent voter's envelope in a manner as not to destroy the affidavit thereon. They
22 shall take out the secrecy envelope with the ballot or ballots contained therein without unfolding
23 the same, or permitting the same to be opened or examined and indicate in the pollbook of the
24 election that the elector has voted. The election board members not participating in the
25 comparing of signatures and entering voters into the pollbook shall remove the ballot or ballots
26 from the secrecy envelope, unfold and initial the same, and deposit in the proper ballot box for
27 tabulation. The votes from these cast ballots may not be tallied and the tabulation reports may
28 not be generated until the polls have closed on election day. If the affidavit on the outer
29 envelope of a returned absentee ballot is found to be insufficient, or that the signatures on the
30 application and affidavit do not correspond, or that the applicant is not then a duly qualified
31 elector of the precinct, the vote may not be allowed, but without opening the absent voter's

1 envelope, the election inspector or election judge shall mark across the face thereof "rejected
2 as defective" or "rejected as not an elector", as the case may be. These rejected ballots are
3 then turned over to the county canvassing board for final determination of eligibility. The
4 subsequent death of an absentee voter after having voted by absentee ballot does not
5 constitute grounds for rejecting the ballot.

6 **SECTION 7. AMENDMENT.** Section 21-03-11 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **21-03-11. Elections - When and how called and held.**

9 Upon or after the adoption of an initial resolution by the governing body, or at the first
10 meeting of the governing body held after the filing of a petition and proposed initial resolution by
11 the qualified electors as specified in subsection 2 of section 21-03-10, the governing body by
12 resolution shall provide for submitting to the qualified electors of the municipality the question
13 whether ~~such~~the initial resolution shall be approved. The date of ~~such~~the election must be not
14 less than twenty days after the passage of ~~such~~the initial resolution by the governing body or in
15 the filing of a sufficient petition therefor by the qualified electors. The governing body shall
16 designate the date of ~~such~~the election, the polling hours, and polling place ~~thereof~~, which must
17 be the same as for municipal elections therein, and shall appoint an inspector, two judges, and
18 two clerks of election for each polling place. In case of the absence of any ~~such~~election official
19 ~~of election~~, or the official's inability to act at the opening of the polls, the remaining election
20 officials for the ~~precinct~~polling place shall appoint a qualified elector to fill ~~such~~the vacancy.
21 ~~Such~~The election must be conducted and the returns thereof made and canvassed as in the
22 case of elections of members of the governing body of ~~such~~the municipality.

23 **SECTION 8. AMENDMENT.** Subsection 4 of section 40-21-02 of the North Dakota Century
24 Code is amended and reenacted as follows:

25 4. For city elections that are not held under an agreement with any county, the governing
26 body of the city shall appoint one inspector and two judges of election for each
27 ~~precinct~~polling place in the city at least ten days before the election is held and the
28 polls must be opened and closed as provided for the opening and closing of polls at
29 statewide elections. In voting precincts in which over three hundred votes are cast in
30 any previous election, the governing body may appoint two election clerks ~~may be~~
31 ~~appointed by the governing body for each polling place~~. For a city election that is not

1 held under an agreement with any county in a precinct in which seventy-five or fewer
2 votes were cast in the last city election, the governing body of the city may appoint one
3 inspector and one judge for each polling place.

4 **SECTION 9. AMENDMENT.** Section 40-21-16 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **40-21-16. Special elections conducted in same manner as general elections.**

7 Special municipal elections to fill vacancies or for any other purpose ~~shall~~must be held and
8 conducted by the inspectors and judges of election of the several ~~precincts~~polling places in the
9 same manner and the returns ~~shall~~must be made in the same form and manner as at regular
10 municipal elections.