

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

SENATE BILL NO. 2318
(Senators Unruh, Cook, Dever, Heckaman)
(Representatives Heller, Rohr)

AN ACT to amend and reenact sections 16.1-11-06, 16.1-11-10, 16.1-11-11, and 16.1-11-16, subsection 5 of section 16.1-11-18, section 16.1-12-02.1, subsection 4 of section 16.1-12-02.2, subsection 2 of section 16.1-12-04, and sections 16.1-12-06 and 44-05-04 of the North Dakota Century Code, relating to candidate filing papers; and to repeal section 16.1-11-13 of the North Dakota Century Code, relating to legislative candidate filings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-11-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-06. State candidate's petition or political party certificate of endorsement required to get name on ballot - Contents - Filing.

1. Every candidate for United States senator, United States representative, a state office ~~except~~, including the office of state senator or state representative, and judges of the supreme and district courts shall present to the secretary of state, between the first date candidates may begin circulating nominating petitions according to this chapter and before four p.m. of the sixtieth day before any primary election, either:
 - a. The certificate of endorsement signed by the state chairman of any legally recognized political party containing the candidate's name, post-office address, and telephone number, the title of the office to which the candidate aspires, and the party which the candidate represents; or
 - b. The nominating petition containing the following:
 - (1) The candidate's name, post-office address, and telephone number, and the title of the office to which the candidate aspires, the appropriate district judgeship number if applicable, and whether the petition is intended for nomination for an unexpired term of office if applicable.
 - (2) The name of the party the candidate represents if the petition is for an office under party designation.
 - (3) The signatures of qualified electors, the number of which must be determined as follows:
 - (a) If the office is under party designation, the signatures of three percent of the total vote cast for the candidates of the party with which the candidate affiliates for the same position at the last general election. However, no more than three hundred signatures may be required.
 - (b) If there was no candidate of a party for a position at the preceding general election, at least three hundred signatures.
 - (c) If the office is under the no-party designation, at least three hundred signatures.

(d) If the office is a legislative office, the signatures of at least one percent of the total resident population of the legislative district as determined by the most recent federal decennial census.

(4) The mailing address and the date of signing for each signer.

2. If the petition or certificate of endorsement is for the office of governor ~~or~~and lieutenant governor, the petition or certificate must contain the names and other information required of candidates for both those offices. If the petition or certificate of endorsement is mailed, it must be in the possession of the secretary of state before four p.m. of the sixtieth day before the primary election.

SECTION 2. AMENDMENT. Section 16.1-11-10 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-10. Applicant's name placed upon ballot - Affidavit to accompany petition.

Upon receipt by the secretary of state of the petition or certificate of endorsement provided for in section 16.1-11-06 accompanied by the following affidavit, the secretary of state shall place the applicant's name upon the primary election ballot in the columns of the applicant's party as hereinafter provided. The affidavit must be substantially as follows:

State of North Dakota)

) ss.

County of _____)

I, _____, being sworn, say that I reside at _____, in the city of _____, in the county of _____ and state of North Dakota; and zip code of _____; that I am a candidate for nomination to the office of _____ to be chosen at the primary election to be held on _____, _____, and I request that my name be printed upon the primary election ballot as provided by law, as a candidate of the _____ party for said office. I am requesting that my name be listed on the ballot as I have identified my ballot name below. I understand that nicknames are allowed as part of my ballot name, but titles and campaign slogans are not permissible. I have reviewed the requirements to hold office and I certify that I am qualified to serve if elected.

Ballot name requested

Candidate's signature

Subscribed and sworn to before me on _____, _____.

Notary Public

NOTARY SEAL

My Commission Expires _____

SECTION 3. AMENDMENT. Section 16.1-11-11 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-11. County and legislative district candidates' petitions - Filing - Contents.

Every candidate for a county or legislative district office shall present, between the first date candidates may begin circulating nominating petitions according to this chapter and before four p.m. of the sixtieth day before any primary election, to the county auditor of the county in which the candidate resides either:

1. ~~A certificate of endorsement signed by the district chairman of any legally recognized political party containing the candidate's name, post-office address, and telephone number, the title of the office to which the candidate aspires, and the party that the candidate represents; or~~
2. A petition containing the following:
 - a.1. The candidate's name, post-office address, and telephone number, the title of the office to which the candidate aspires, the appropriate district number if applicable, and whether the petition is intended for nomination for an unexpired term of office if applicable.
 - b.2. ~~The name of the party the candidate represents, only if it is a petition for an office that is under party designation.~~
 - e. The signatures of qualified electors, the number of which must be determined as follows:
 - (1)a. If the office is a county office, the signatures of not less than two percent and not more than five percent of the total vote cast for the office at the most recent general election at which the office was voted upon.
 - (2)b. If the office is a county office and multiple candidates were elected to the office at the preceding general election at which the office was voted upon, the signatures of not less than two percent and not more than five percent of the votes cast for all candidates divided by the number of candidates that were to be elected to that office.
 - (3)c. If the office is a county office and no candidate was elected or no votes were cast for the office at any general election, the number of signers equal to the percentage as provided in paragraph 1 applied to the total average vote cast for the offices of sheriff and county auditor at the most recent general election at which those officers were elected in the petitioner's county. This average must be determined by dividing by two the total vote cast for those offices.
 - (4)d. ~~If the office is a legislative office, the signatures of at least one percent of the total resident population of the legislative district as determined by the most recent federal decennial census.~~
 - (5) In no case may more than three hundred signatures be required.
 - d.3. The residential address, mailing address (if different from residential address), and date of signing for each signer. A post office box does not qualify as a residential address. In those areas of the state where street addresses are not available, a description of where the residential address is located shall be used.

If the petition or certificate of endorsement is mailed, it must be in the possession of the county auditor before four p.m. on the sixtieth day before the primary election.

SECTION 4. AMENDMENT. Section 16.1-11-16 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-16. Form of nominating petitions.

1. Each nominating petition circulated by candidates for any state, district, county, or other political subdivision office must include or have attached the following information, which must be made available to each signer at the time of signing:
 - a. The candidate's name, address, and telephone number and the title of the office to which the candidate aspires, including the appropriate district number if applicable, or whether the petition is intended for an unexpired term of office if applicable.
 - b. The name of the party the candidate represents if the petition is for an office under party designation.
 - c. The date of the election at which the candidate is seeking nomination or election.
2. Only qualified electors of the state, district, county, or other political subdivision, as the case may be, may sign nominating petitions. In addition to signing the person's name, petition signers shall include the following information:
 - a. The date of signing.
 - b. Their complete residential address, rural route, or general delivery. A post office box does not qualify as a residential address. In those areas of the state where street addresses are not available, a description of where the residential address is located shall be used.
 - c. Complete mailing address if different from residential address.
3. Incomplete signatures or accompanying information of petition signers which do not meet the requirements of this section invalidate such signatures. The use of ditto marks to indicate that the information contained on the previous signature line carries over does not invalidate a signature. Signatures that are not accompanied by a complete date are not invalid if the signatures are preceded and followed by a signature that is accompanied by a complete date.

SECTION 5. AMENDMENT. Subsection 5 of section 16.1-11-18 of the North Dakota Century Code is amended and reenacted as follows:

5. If a vacancy occurs in a slate of legislative candidates after the candidates have been nominated at the primary election, the proper district executive committee may fill the vacancy by filing a certificate of nomination with the ~~county auditor of the new nominee's county of residence~~secretary of state. The chairman and secretary of the committee shall make and file with the ~~county auditor of the new nominee's county of residence~~secretary of state a certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further information as may be required to be given in an original certificate of nomination. When the certificate is filed, the ~~county auditor of the new nominee's county of residence~~secretary of state shall certify the new nomination to the various county auditors affected by the change ~~and to the secretary of state~~ by forwarding to them the name of the person who has been nominated to fill the vacancy in place of the original nominee. The certification must include the name and address of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the person for whom the new nominee is substituting. Failure to publish the name of a new nominee does not invalidate the election.

SECTION 6. AMENDMENT. Section 16.1-12-02.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-02.1. Applicant's name placed upon ballot - Affidavit to accompany petition.

Upon receipt by the secretary of state of the certificate of nomination provided for in section 16.1-12-02 accompanied by the following affidavit, the secretary of state shall place the applicant's name upon the general election ballot. The affidavit must be substantially as follows:

State of North Dakota)
) ss.
County of _____)

I, _____, being sworn, say that I reside at _____, in the city of _____, in the county of _____, state of North Dakota; and zip code of _____; that I am a candidate for nomination to the office of _____ to be chosen at the general election to be held on _____, _____, and I request that my name be printed upon the general election ballot as provided by law, as a candidate of _____ party for said office. I am requesting that my name be listed on the ballot as I have identified my ballot name below. I understand that nicknames are allowed as part of my ballot name, but titles and campaign slogans are not permissible. I have reviewed the requirements to hold office and I certify that I am qualified to serve if elected.

Ballot name requested

Date _____

Candidate's signature

Subscribed and sworn to before me on _____, _____.

Notary Public

NOTARY SEAL My Commission Expires _____

SECTION 7. AMENDMENT. Subsection 4 of section 16.1-12-02.2 of the North Dakota Century Code is amended and reenacted as follows:

4. An individual who intends to be a write-in candidate for any legislative district office shall file a certificate of write-in candidacy with the election officer with whom the candidate would otherwise file to have the candidate's name placed on the ballot secretary of state. The certificate must contain the name, address, and signature of the candidate. Certificates must be filed by four p.m. on the fourth day before the election. When the candidate files a certificate, the candidate also shall file the contribution statement provided for under section 16.1-08.1-02 complete through the day of the filing of the certificate.

SECTION 8. AMENDMENT. Subsection 2 of section 16.1-12-04 of the North Dakota Century Code is amended and reenacted as follows:

2. Certificates of nomination for nominees for county offices and legislative offices must be filed with the county auditor of the county in which the candidate resides. The county auditor shall certify the names and addresses of legislative candidates filing certificates of nomination according to this chapter to the secretary of state. When a legislative district is composed of more than one county, the county auditor shall certify to the county auditors of the other counties comprising the legislative district the names and addresses of the candidates filing certificates of nomination.

SECTION 9. AMENDMENT. Section 16.1-12-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-06. Person nominated by more than one party - Column in which name placed.

When one person has been nominated for the same office by more than one body of electors qualified to make nominations for public office, the nominee shall file with the ~~proper officer designated in this chapter, or~~ secretary of state or before the last day fixed by law for filing certificates of nomination for the office, a signed statement designating the column on the official ballot in which the nominee desires the nominee's name to appear. The column so designated must be the column allotted to one of the bodies of electors by whom the person was nominated. In the absence of a timely written designation as provided by this section, the ~~appropriate officer~~ secretary of state shall place the person's name in the column allotted to the body of electors from which was first received notice of the person's nomination.

SECTION 10. AMENDMENT. Section 44-05-04 of the North Dakota Century Code is amended and reenacted as follows:

44-05-04. Place of filing oath of office.

Unless otherwise provided by law, any civil or public officer required by section 44-01-05 or any other provision of law to take an oath of office must file the original oath as follows:

1. If a state official or member of a state board, with the secretary of state.
2. If a county official or member of a county board, with the county auditor.
3. If a city official or member of a city board, with the city auditor.
4. If a member of a district or political subdivision that is larger than a county, with the secretary of state.

SECTION 11. REPEAL. Section 16.1-11-13 of the North Dakota Century Code is repealed.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2318.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 90 Nays 3 Absent 1

Secretary of the Senate

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