Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

HOUSE BILL NO. 1239
(Representatives Kempenich, Brabandt, Hanson, Laning, Rohr, Thoreson)
(Senators Armstrong, Schaible)

AN ACT to amend and reenact sections 4-22-17, 12.1-14-02, 16.1-07-10, 16.1-10-06.1, subsection 2 of section 16.1-11-11, and sections 16.1-11.1-05, 16.1-12-02.2, 16.1-13-23, 16.1-13-32, 61-24-03.1, and 61-24.5-07 of the North Dakota Century Code, relating to election administration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-22-17 of the North Dakota Century Code is amended and reenacted as follows:

4-22-17. Nominating petitions - Petitions required - Final filing date.

Any person running for the office of supervisor shall present to the county auditor of the county in which the district lies a petition giving that person's name and mailing address and the title and term of the office, and containing the signatures of not less than twenty-five nor more than three hundred qualified electors of the district. When a district lies in more than one county, the petition must be filed with the county auditor of the county where the candidate resides, and such county auditor shall certify to the county auditors of the other counties in which such district lies the name and mailing address of the candidate filing such petition. At the same time, the county auditor, or auditors in the case of multicounty districts, shall also certify to the secretary of state the name and mailing address of each person filing a nominating petition according to this section. No person may participate directly or indirectly in the nomination for more than one person for each office to be filled. The final filing date for nominating petitions is no later than ~~sixty~~sixty-four days before the day of the election and not later than four p.m. of such day.

Upon receipt of the petition or the certification as provided in this section, the county auditor shall without fee place the name of the candidate so nominated on the no-party ballot at the ensuing general election.

SECTION 2. AMENDMENT. Section 12.1-14-02 of the North Dakota Century Code is amended and reenacted as follows:

12.1-14-02. Interference with elections.

A person is guilty of a class A misdemeanor if, whether or not acting under color of law, ~~he~~the person, by force or threat of force or by economic coercion, intentionally:

1. Injures, intimidates, or interferes with another because ~~he~~the other individual is or has been voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as ~~a poll watcher or other~~an election official or an election observer, in any primary, special, or general election.

2. Injures, intimidates, or interferes with another in order to prevent ~~him~~that individual or any other ~~person~~individual from voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as ~~a poll watcher or other~~an election official or an election observer, in any primary, special, or general election.

SECTION 3. AMENDMENT. Section 16.1-07-10 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-10. Care and custody of ballot - Submitted ballot may not be returned.

Upon receipt of an envelope containing the absent voter's ballot, the proper officer immediately shall attach the application of the absent voter and file the ballot with other absentee ballots from the same precinct. After submission to the appropriate election officer, a marked absent voter's ballot may not be returned to the voter for any reason other than to complete any missing information required on the affidavit on the back of the return envelope. Before delivering the absentee ballots to a polling place of the proper precinct, the proper officer shall package the ballots in a manner so the ballots are sealed securely. The package must be endorsed with the name of the proper voting precinct, the name and official title of the officer, and the words "This package contains an absent voter's ballot and must be opened only according to the processing provisions of section 16.1-07-12." The officer shall keep the package safely in the officer's office until it is delivered by the officer as provided in this chapter.

SECTION 4. AMENDMENT. Section 16.1-10-06.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-10-06.1. Paying for certain election-related activities prohibited.

No person may pay ~~another person~~any individual for:

1. Any loss or damage due to attendance at the polls;
2. Registering;
3. The expense of transportation to or from the polls; or
4. Personal services to be performed on the day of a caucus, primary election, or any election which tend in any way, directly or indirectly, to affect the result of such caucus or election.

~~The provisions of this section do not apply to the hiring of a person whose sole duty it is to act as a challenger and to watch the count of official ballots.~~

SECTION 5. AMENDMENT. Subsection 2 of section 16.1-11-11 of the North Dakota Century Code is amended and reenacted as follows:

2. The signatures of qualified electors, the number of which must be determined as follows:
   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.
   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.
   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.
   d. In no case may more than three hundred signatures be required.

SECTION 6. AMENDMENT. Section 16.1-11.1-05 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11.1-05. Replacement ballots.

An elector may obtain a replacement ballot if a mail ballot is destroyed, spoiled, lost, or not received by the elector. The elector seeking a replacement ballot shall make the elector's request of the county auditor or appropriate election officer no later than four p.m. on the day before the election. After submission to the appropriate election officer, a voter's marked mail ballot may not be returned to the voter for any reason other than to complete any missing information required on the affidavit on the back of the return envelope.

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

16.1-12-02.2. Counting of write-in votes - Certificate of candidacy by write-in candidates.

1. An election board or canvassing board may not count or be required to officially report any write-in vote for any:

   a. Individual who is required to file a certificate of write-in candidacy under this section but who has not filed a certificate of candidacy and been certified as a write-in candidate.

   b. Fictitious person or individual clearly not eligible to qualify for the office for which the vote was cast.

   c. Statement concerning the candidates.

   d. Name written or printed by the voter for an office that did not also include the darkening of the oval next to the write-in line, except that a write-in candidate for a nonfederal office may make a timely written demand to a county canvassing board to identify and preserve any write-in vote cast for the office sought by the write-in candidate for canvass by the board. The candidate shall deliver the demand to the county auditor and a copy to the county recorder no later than thirty-six hours before the time the county canvassing board is scheduled to meet. A demand only may be made if the unofficial election results maintained by the county auditor demonstrate that the write-in candidate's known vote total is within the pertinent percentage limits provided in subsection 1 or 2 of section 16.1-16-01 and a statement to that effect is included in the demand. After delivery of the ballots as provided by section 16.1-15-08, the canvassing board shall review the ballots to identify any ballot that contains a write-in vote. The county canvassing board shall tally and canvass any write-in vote in the same manner as lawful or qualifying write-in votes if the canvassing board is able to clearly ascertain the intent of the voter from examining the ballot because the write-in candidate's name has been written on the ballot opposite the office to be voted for or because of any other cogent evidence of intent.

   e. Write-in votes which constitute five percent or less of the votes cast by the voters for the candidate receiving the most votes for that office, except in the case of a primary election in which enough votes were cast as write-in votes to qualify a name for the general election ballot. This percentage is to be calculated based on the total number of write-in votes tabulated by the voting equipment in the precincts of the county in which that office was on the ballot.

   f. Candidate receiving fewer than three write-in votes unless the number of votes received qualifies the candidate to be nominated or elected.

2. Write-in votes that do not need to be individually canvassed based on the requirements of ~~this~~ subsection 1 must be listed on the official canvass report as "scattered write-ins".

~~2.~~3. An individual who intends to be a write-in candidate for president of the United States or for statewide or judicial district office at any election shall file a certificate of write-in candidacy with the secretary of state by four p.m. on the twenty-first day before the election. The

certificate must contain the name and address of the candidate and be signed by the candidate. Before the thirteenth day before the election, the secretary of state shall certify the names of the candidates to each county auditor as write-in candidates.

~~3.~~4. An individual who intends to be a write-in candidate at the general election for president of the United States shall file a certificate of write-in candidacy with the secretary of state by four p.m. on the twenty-first day before the general election. The certificate must contain the names and addresses of the candidates for presidential electors for that presidential candidate and a certification of acceptance signed by each candidate for elector. The candidate shall sign the certificate. The certificate may also include the name and address of a candidate for vice president of the United States and a certification of acceptance signed by that candidate. The secretary of state shall prescribe the form of the certificate of write-in candidacy and the certification of acceptance. Before the thirteenth day before the election, the secretary of state shall certify the names of the presidential candidates and the presidential electors to each county auditor as write-in candidates.

~~4.~~5. 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 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.

~~5.~~6. A certificate under this section is not required when:

a. No names will appear on the ballot for an office;

b. The number of candidates appearing on the ballot for an office is less than the number to be elected; or

c. The number of candidates appearing on the ballot for a party office is less than the number of nominations a party is entitled to make.

~~6.~~7. An individual required to file a certificate of write-in candidacy may not seek more than one office appearing on the primary and general election ballots.

SECTION 8. AMENDMENT. Section 16.1-13-23 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-23. Preparation of ballot by elector - Depositing - Second-chance voting.

Upon receipt of a ballot within the provided secrecy sleeve, the elector, forthwith and without leaving the polling place, shall retire alone to one of the voting booths or compartments to prepare the elector's ballot by darkening the oval opposite the name of each ~~person~~individual for whom the elector wishes to vote. In the case of a ballot containing a constitutional amendment, an initiated or referred measure, or any other question to be submitted to a vote of the people, the elector shall darken the oval opposite the word or words expressing the elector's wish. After preparing the ballot, the elector shall place the ballot back in the provided secrecy sleeve so it is concealed and so the endorsement of the inspector or election judge may be seen. The elector then shall deposit the ballot in the optical scanning device and wait to determine if the ballot is deposited into the ballot box or if the optical scanning device has indicated a possibility for a second-chance voting condition. If a second-chance voting condition is indicated, a voter may spoil and receive up to two additional ballots. The voter's third ballot must be cast as is and may not be returned to the voter even if errors exist causing certain votes not to be counted.

SECTION 9. AMENDMENT. Section 16.1-13-32 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-32. Securing new ballot upon spoiling of others.

If any elector spoils a ballot before casting the ballot in the ballot box, the elector may obtain others successively, one at a time, not exceeding three in all, upon returning each spoiled ballot. Each paper ballot returned must be canceled immediately and, together with those not distributed to the electors, must be preserved and secured in sealed packages and returned to the county recorder.

SECTION 10. AMENDMENT. Section 61-24-03.1 of the North Dakota Century Code is amended and reenacted as follows:

61-24-03.1. Filling vacancy of director on general election ballot.

Whenever a vacancy exists on a general election no-party ballot for any directorship of the Garrison Diversion Conservancy District, the vacancy may be filled by filing with the county auditor at least ~~sixty days prior to the general election~~sixty-four days before the day of the election and not later than four p.m. of that day a petition substantially in the form provided in section 61-24-03, stating that the petitioner desires to become a candidate for election to the office of director. This petition must contain the signatures of not less than fifty qualified electors of the county, unless there were at least fifty write-in or sticker votes for the petitioner cast in the no-party primary election for the office.

A vacancy in the no-party ballot is deemed to exist when no candidate is nominated at the primary election or when a candidate nominated at the primary dies, resigns, or otherwise becomes disqualified to have that person's name printed on the ballot at the general election.

SECTION 11. AMENDMENT. Section 61-24.5-07 of the North Dakota Century Code is amended and reenacted as follows:

61-24.5-07. Election of city directors of the southwest water authority.

Any person who is a resident and qualified elector of the city of Dickinson or Mandan who aspires to the office of director of the southwest water authority shall, ~~at least sixty days and~~ before ~~five~~four p.m. on the sixty-fourth day before the election, file with the city auditor 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, except that the petition for the first election must be signed by not less than two hundred qualified electors. Signers of a petition must reside within the corporate limits of the city, and each signer of the petition shall include with the signer's name the signer's mailing address. The petition must include the candidate's name, post-office address, and the title of the office of the southwest water authority for which the candidate is seeking election.

The petition must be accompanied by an affidavit substantially as follows:

State of North Dakota)

) ss.

City of _____)

I _____, being sworn, say that I reside in the city of _____ and State of North Dakota; that I am a qualified elector therein; that I am a candidate for the office of director of the Southwest Water Authority to be elected at the municipal election to be held on _____, _____, and I request that my name be printed upon the election ballot as provided by law, as a candidate for the office.

_____

Subscribed and sworn to before me on _____, _____.

_____

Notary Public

Upon receipt of the petition, the city auditor shall without fee place the name of the aspirant on the election ballot as a candidate for the office of director. The candidate or candidates, depending on whether one or two directors are being elected, receiving the highest number of votes are elected. The provisions of chapter 40-21 govern the election of directors from the city of Dickinson or Mandan for the southwest water authority.

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-fourth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1239.

House Vote:	Yeas 91	Nays 0	Absent 3
Senate Vote:	Yeas 47	Nays 0	Absent 0

Chief Clerk of the House

Received by the Governor at 10:30 A M. on March 13, 2015.

Approved at 2:30 P M. on March 16, 2015.

Governor

Filed in this office this 16th day of March, 2015,

at 3:27 o'clock P M.

Secretary of State