

**Sixtieth Legislative Assembly of North Dakota  
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2238  
(Senators J. Lee, Dever)  
(Representative L. Meier)

AN ACT to amend and reenact section 16.1-05-01, subsection 5 of section 16.1-05-02, subsections 3 and 4 of section 16.1-05-04, and subsections 4 and 5 of section 16.1-05-06 of the North Dakota Century Code, relating to election officers.

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

**SECTION 1. AMENDMENT.** Section 16.1-05-01 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-05-01. Election officers.** At each primary, general, and special statewide or legislative district election, and at county elections, each polling place must have an election board in attendance. The election board must consist of an election inspector and at least two election judges. Counties utilizing polling places containing more than one precinct may choose to use one election board to supervise all precincts even if the precincts are within different legislative districts so long as each district chairman of each qualified political party is given the opportunity to have representation on the election board if desired.

1. The election inspector must be selected in the following manner:
  - a. ~~Except as provided in subdivision b, in~~ all precincts established by the governing body of an incorporated city pursuant to chapter 16.1-04, the governing body shall appoint the election inspectors for those precincts and fill all vacancies occurring in those offices.
  - b. In all ~~other~~ multiprecinct polling locations containing both rural and city precincts, the county auditor, with the approval of the majority of the board of county commissioners, shall appoint the election inspectors and fill all vacancies occurring in those offices. The selection must be made on the basis of the inspector's knowledge of the election procedure.
  - c. The election inspector shall serve until a successor is named. If an inspector fails to appear for any training session without excuse, the office is deemed vacant and the auditor shall appoint an individual to fill the vacancy.

~~Except in the case of special elections, all~~ All appointments required to be made under this section must be made at least ~~twenty-one~~ forty days preceding an election.

2. The election judges ~~and poll clerks~~ for each polling place must be appointed in writing by the district chairs representing the two parties that cast the largest number of votes in the state at the last general election. In polling places in which over one thousand votes are cast in any election, the county auditor may request each district party chair to appoint an additional election judge. ~~In polling places in which over three hundred votes are cast in any election, each district party chair may appoint additional poll clerks as determined by the county auditor.~~
3. The district party chair shall notify the county auditor of the counties in which the precincts are located of the appointment of the election judges ~~and poll clerks~~ at least ~~twenty-one~~ forty days before the primary, general, or special election. If this notice is not received within the time specified in this section, the county auditor shall appoint the judges ~~and poll~~

~~clerks~~. If the county auditor has exhausted all practicable means to select judges ~~and clerks~~ from within the boundaries of the precincts within the polling place and vacancies still remain, the county auditor may select election judges ~~and clerks~~ who reside outside of the voting precinct but who reside within the polling place's legislative districts. If vacancies still remain, the county auditor may select election judges ~~and clerks~~ who reside outside of the legislative districts but who reside within the county.

4. If at any time before or during an election, it shall be made to appear to an election inspector, by the affidavit of two or more qualified electors of the precinct, that any election judge ~~or poll clerk~~ is disqualified under this chapter, the inspector shall remove that judge ~~or clerk~~ at once and shall fill the vacancy by appointing a qualified person of the same political party as that of the judge ~~or clerk~~ removed. If the disqualified judge ~~or clerk~~ had taken the oath of office as prescribed in this chapter, the inspector shall place the oath or affidavit before the state's attorney of the county.
5. With the approval of the majority of the board of county commissioners, the county auditor may appoint as many poll clerks as are necessary for the proper administration of a polling place. However, no fewer than two poll clerks must be appointed for each polling place. Poll clerks must be appointed based on their knowledge of election matters, attention to detail, and on any necessary technical knowledge.

**SECTION 2. AMENDMENT.** Subsection 5 of section 16.1-05-02 of the North Dakota Century Code is amended and reenacted as follows:

5. If any member of the election board fails to appear at the hour appointed for the opening of the polls, the remainder of the board shall select a person to serve in the absent person's place. In filling a vacancy in the office of election judge or clerk, the remainder of the board shall select a person of the absent person's political party if such a person is reasonably available. The office of election inspector may be filled by any qualified person without regard to political affiliation. If no members of the election board appear at the hour appointed for opening the polls, the qualified electors present shall call the county auditor, city auditor, or school business manager, as appropriate, for instructions and then orally elect a board as nearly as possible in conformity with the provisions of this section.

**SECTION 3. AMENDMENT.** Subsections 3 and 4 of section 16.1-05-04 of the North Dakota Century Code are amended and reenacted as follows:

3. The election inspector shall assign the poll clerks, an equal number from each political party represented on the election board, to perform the function of maintaining the ~~pollbooks~~ pollbook. The designated poll clerks shall maintain the ~~pollbooks~~ pollbook. ~~Each~~ The pollbook must contain the name and address of each person voting at the precinct and must be arranged in the form and manner prescribed by the secretary of state.
4. The members of the election board shall challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector by requiring the elector to complete and sign a voter's affidavit.

**SECTION 4. AMENDMENT.** Subsections 4 and 5 of section 16.1-05-06 of the North Dakota Century Code are amended and reenacted as follows:

4. The affidavit must include:
  - a. The name ~~and~~, present address, and any contact telephone number of the affiant and the address of the affiant at the time the affiant last voted.
  - b. The previous last name of the affiant if it was different when the affiant last voted.

- c. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and the rules for determining residence.
  - d. Notice of the penalty for making a false affidavit and that the county auditor may verify the affidavit.
  - e. A place for the affiant to sign and swear to the affiant's qualifications as a voter.
5. Written notice of the penalty for making a false affidavit and that the county auditor ~~may~~ shall verify the affidavits must also be prominently displayed at the polling place in a form prescribed by the secretary of state. An individual who falsely swears in order to vote is guilty of a class A misdemeanor and must be punished pursuant to chapter 16.1-01.

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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 Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2238.

Senate Vote:    Yeas    29        Nays    18        Absent    0

House Vote:    Yeas    77        Nays    12        Absent    5

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2007,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State