Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019

SENATE BILL NO. 2307

(Senators Meyer, K. Roers)

(Representatives Beadle, Grueneich, C. Johnson, Sanford)

AN ACT to create and enact a new section to chapter 16.1-02 of the North Dakota Century Code, relating to use of voter lists; and to amend and reenact sections 16.1-01-03, 16.1-02-12, and 16.1-16-01 of the North Dakota Century Code, relating to hours of polling places, information in the central voter file, and election recounts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-01-03 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-03. Opening and closing of the polls.

The polls at all primary, general, and special elections must be opened at nine a.m. or ~~at such~~ earlier ~~hour~~, but not earlier than seven a.m., ~~that may be~~as designated for any precinct by resolution of the governing body of the city or county in which ~~such~~the precinct is located ~~except that in precincts in which seventy-five or fewer votes were cast in the last general election, the governing body may direct that the polls be opened at twelve noon. They~~The polls must remain open continuously until seven p.m. or such later hour, not later than nine p.m., as may be designated for a precinct by resolution of the governing body of the city or county in which the precinct is located. All electors standing in line to vote at the time the polls are set to close must be allowed to vote, but electors arriving after closing time may not be allowed to vote. The election officers present are responsible for determining who arrived in time to vote, and ~~they~~the election officers shall establish appropriate procedures for making that determination. All determinations required to be made pursuant to this section relating to polling hours must be made, and the county auditor notified of them, no later than thirty days prior to an election.

SECTION 2. AMENDMENT. Section 16.1-02-12 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-12. Information contained and maintained in the central voter file.

The central voter file must contain the following information for each individual included in the file:

1. The complete legal name of the individual.

2. The complete residential address of the individual.

3. The complete mailing address of the individual, if different from the individual's residential address.

4. The unique identifier generated and assigned to the individual.

5. A status designation ~~showing whether~~of the individual's ~~ability~~eligibility to vote in a precinct ~~has been inactivated as a result of death or because the individual is no longer a resident of the precinct according to section 16.1-01-04~~.

6. The county, legislative district, city or township, school district, county commissioner district, if applicable, precinct name, and precinct number in which the individual resides.

7. Beginning in 2008, four years of an individual's voting history, if applicable.

8. Date of birth.

9. The individual's driver's license or nondriver identification card number issued by the department of transportation, or the unique identifier from an official form of identification issued by a tribal government to a tribal member residing in this state.

10. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper administration of the central voter file.

SECTION 3. A new section to chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Voter lists and reports - Availability for voter list maintenance.

The secretary of state may generate a voter list or a report generated from the central voter file to be transmitted to other states, or a consortium of states, for maintaining the integrity of elections.

SECTION 4. AMENDMENT. Section 16.1-16-01 of the North Dakota Century Code is amended and reenacted as follows:

16.1-16-01. Election recounts.

A recount of any primary, special, or general election for nomination or election to a congressional, state, district, legislative, county, or city office, or for the approval or disapproval of any measure, question, or bond issue submitted to the qualified electors of this state or one of its political subdivisions must be conducted according to guidelines established by the secretary of state and as follows:

1. A recount must be conducted when:

    a. Any individual failed to be nominated by the individual's party or to a no-party office in a primary election by one percent or less of the highest vote cast for a candidate seeking nomination from the political party for the office sought or for a candidate for the no-party office sought.

    b. Any individual failed to be elected in a general or special election by one-half of one percent or less of the highest vote cast for a candidate for that office.

    c. A question, measure, or bond issue submitted to the qualified electors has been decided by a margin not exceeding one-fourth of one percent of the total vote cast for and against the question at any election.

2. A demand for a recount may be made by any of the following:

    a. Any individual who failed to be nominated by the individual's party or to a no-party office in a primary election by more than one percent and less than two percent of the highest vote cast for a candidate seeking nomination from the political party for the office sought or for a candidate for the no-party office sought.

    b. Any individual who failed to be elected in a general or special election by more than one-half of one percent and less than two percent of the highest vote cast for a candidate for that office.

3. A demand for a recount must be made within three days after the canvass of the votes by the county canvassing board in the case of county elections and city elections that are combined with the county and by the state canvassing board in the case of presidential, congressional, state, judicial district, multicounty district, or legislative elections. The demand must be in writing, must recite one of the conditions in subsection 2 as a basis for the recount, must contain a bond in an amount previously established by the auditor or auditors doing the recount sufficient to pay the cost of the recount, and must be filed with:

    a.   The secretary of state when the recount is for a congressional, state, district, or legislative office.

    b.   The county auditor when the recount is for a county office or city office when a city election is combined with the county.

4.   Within four days after the canvass of the votes by the state canvassing board in the case of presidential, congressional, state, judicial district, multicounty district, or legislative elections, the secretary of state shall notify all the county auditors to conduct recounts as required by subsection 1 and, when a timely recount demand is received and it is in proper form, as required by subsection 2. The secretary of state shall fix the date or dates of the recounts of legislative contests to be held within seven days after giving notice to the affected auditors that recounts must be conducted. The secretary of state shall fix the date or dates of the recounts of statewide races to be held within fourteen days after giving notice to the auditors that recounts must be conducted. Within four days after the canvass of votes by the county canvassing board or other political subdivision canvassing board, the county auditor or other political subdivision election official shall fix the date for recounts limited to the county, those cities within the county which combined the election with the county, or other political subdivision. The date must be within eight days after the canvass. In all recount proceedings, the county auditor or other election official, as appropriate, shall send notice of the date, place, and time of the recount to all candidates and petitioners involved by certified mail.

5.   For recounts conducted by counties of federal, state, district, and county offices, measures, and questions, the county auditor must conduct the recount and may employ up to ~~fourt~~ten qualified electors of the county to assist in the recount. The county auditor shall review all ~~paper and electronic voting system~~properly cast ballots and associated records~~, whether the ballots were counted at the precinct or the county canvass, and all absentee ballots cast pursuant to section 16.1-07-09 to determine which ballots were cast and counted according to the law, including that the ballots were properly initialed and that the initials found on the ballots are verified as those of the precinct election board members~~. The county auditor shall check the precinct count and the count of the county canvassing board. If the county auditor is a candidate involved in the recount, the county auditor is disqualified from acting thereon, and the county recorder shall perform the duties required of the county auditor by this section. For recounts conducted by political subdivisions other than counties of local offices, measures, and questions, the election officer in a political subdivision shall administer a recount in the same manner as is required under this subsection for counties with respect to political subdivision offices, ballot measures, questions, or bond issues.

6.   a.   The individuals entitled to participate at the recount are:

        (1)   Each candidate involved in the recount, either personally or by a representative.

        (2)   A qualified elector favoring each side of a question if the recount involves a question or proposition submitted to a vote of the electorate.

    b.   The individuals allowed to participate may challenge the acceptance or exclusion of any ballot. The individual challenging a ballot must state the reason for the challenge based upon the law, and the county auditor or other political subdivision election official shall count the challenged ballot as the auditor or election official determines proper and then shall set the ballot aside with a notation that it was challenged and how it was counted.

7.   At the conclusion of the recount, the county auditor or other election official shall submit all challenged ballots to the recount board for decision. Except for political subdivision recounts other than counties, the recount board must be composed of the state's attorney of the county, the chairman of the board of county commissioners, and the county recorder. Unless otherwise specified by law, for a political subdivision other than a county, the governing body of the political subdivision shall appoint the recount board. An individual may not serve on the

recount board if the individual has anything of value bet or wagered on the result of the election, is a candidate for the office being recounted, or is the husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate involved in the recount. If any of the members of the recount board are disqualified or cannot serve for any other reason, the members of the board of county commissioners or other political subdivision governing body who would be qualified to serve on the board shall appoint disinterested qualified electors of the county or other political subdivision to serve as alternates. The recount board shall review all challenged ballots and on majority vote shall decide how those ballots are counted. ~~The recount board is authorized to initial all absentee ballots cast under section 16.1-07-09 that were not considered or counted at the various precincts in the county for the reasons provided in sections 16.1-07-11 and 16.1-07-12 or by the county canvassing boards as provided in section 16.1-15-19.~~ The decision of the recount board is final, subject to the right to contest the election as provided in this chapter. If during the recount a recess is called, the county auditor or other political subdivision election official shall take appropriate steps to safeguard the ballots.

8. The county auditor or other election official shall certify the results of the recount ~~no later than three days~~immediately after the recount. The recount result is the official result of the election in the county or other political subdivision. The county auditor or other election official shall prepare a corrected abstract of the votes. In a recount limited to the county, city, or other political subdivision, if the corrected abstract shows no change in the outcome of the election, no further action may be taken. If the corrected abstract changes the outcome of the election, the county auditor or other election official shall issue certificates of nomination or election accordingly and shall certify the new result of a question submitted to the qualified electors. In the case of a city election that is combined with a county election, the county auditor shall certify the new results of the election to the city auditor who is responsible for issuing new certificates of election if applicable.

9. In presidential, congressional, statewide, judicial district, multicounty district, or legislative recounts, the county auditor, ~~no later than three days~~immediately after the recount, shall ~~send by certified mail a certified copy of~~submit electronically the corrected abstract to the secretary of state according to the instructions provided by the secretary of state. The secretary of state immediately shall assemble the state canvassing board, who shall canvass the corrected abstracts and certify the election results. The secretary of state shall issue certificates of election or nomination or record the approval or disapproval of a question submitted to the qualified electors accordingly.

10. The expenses incurred in a recount of a county election must be paid by the county on a warrant by the county auditor. The expenses incurred in a recount of a political subdivision other than a county election must be paid by that political subdivision. The expenses incurred in a recount of a city election must be paid by the city on a warrant by the city auditor. The expenses incurred in a recount of a presidential, congressional, state, judicial district, multicounty district, or legislative election must be paid by the state from the general fund upon approval by the secretary of state of a statement of expenses received from the county auditors. The expenses incurred in a recount demanded under subsection 2 of section 16.1-16-01 must be paid by the secretary of state or county auditor from the bond submitted by the individual requesting the recount.

11. This section also applies to city elections that are not combined with the county except the city auditor, to the extent applicable, shall perform the duties of the county auditor.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2307.

Senate Vote: Yeas 45   Nays 0   Absent 2

House Vote: Yeas 92   Nays 0   Absent 2

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Secretary of the Senate

Received by the Governor at _____M. on _____, 2019.

Approved at _____M. on _____, 2019.

_____
Governor

Filed in this office this _____day of _____, 2019,

at _____ o'clock _____M.

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Secretary of State