

## **CHAPTER 71-01-02 ELECTION RULES**

Section	
71-01-02-01	Election Committee
71-01-02-02	Eligible Voters
71-01-02-03	Candidate Eligibility
71-01-02-04	Election Notification
71-01-02-05	Petition Format
71-01-02-06	Procedure for Completing and Filing Petitions
71-01-02-07	Election Ballots
71-01-02-08	Election
71-01-02-09	Canvassing Rules
71-01-02-10	Notification of Election Results
71-01-02-11	Special Elections
71-01-02-12	Penalties

### **71-01-02-01. Election committee.**

1. The retirement board must appoint a committee of three, one of whom will be designated as chair, from its membership to oversee elections to the board.
2. Committee members, or their authorized representatives, are responsible for reviewing the election rules for the retirement board membership of the North Dakota public employees retirement system, for counting ballots, and for reporting the election results to the board.
3. Committee members will be appointed at the February meeting of the North Dakota public employees retirement system board to serve until the retirement board meeting for the following February.

**History:** Effective April 1, 1992.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-03

### **71-01-02-02. Eligible voters.**

1. All active employees, eligible to serve as elected members of the board in accordance with subsection 4 of North Dakota Century Code section 54-52-03, are eligible to cast one vote for each active member vacancy on the retirement board.
2. All persons receiving retirement benefits or who are eligible to receive deferred vested retirement benefits are eligible to cast one vote for a retiree member vacancy on the retirement board.

3. Persons participating in the health insurance program but not in the retirement system are ineligible to cast votes in retirement board elections.

**History:** Effective April 1, 1992; amended effective July 1, 1994; April 1, 2008.

**General Authority:** NDCC 54-52-04, 54-52-17(5)

**Law Implemented:** NDCC 54-52-03

#### **71-01-02-03. Candidate eligibility.**

1. Any active participating member, members of the defined contribution retirement plan, the highway patrol retirement system, and the job service retirement plan are eligible to serve as an elected member of the board in accordance with subsection 4 of North Dakota Century Code section 54-52-03, may become a candidate for election to the board. A department or political subdivision may not be represented by more than one elected member. Employees who have terminated their employment for whatever reason are not eligible to serve as an active elected member of the board.
2. Any person, as of April fifteenth of the election year, who has accepted a retirement allowance or who is eligible to receive deferred vested retirement benefits, may become a candidate for the retiree member to the board.

**History:** Effective April 1, 1992; amended effective July 1, 1994; July 1, 2000; April 1, 2008; July 1, 2010.

**General Authority:** NDCC 54-52-04, 54-52-17(5)

**Law Implemented:** NDCC 54-52-03

#### **71-01-02-04. Election notification.**

1. The director of the North Dakota public employees retirement system shall ensure that notification of an active member vacancy and the election is given to all employees through publication of a notice in the North Dakota public employees retirement system newsletter and any other method of communication as deemed appropriate by the director at least three weeks in advance of a filing date for nomination petitions. The director shall ensure that notification of the vacancy of a retiree member and the election is given to all persons who have accepted a retirement allowance or who are eligible to receive deferred vested retirement benefits through publication of a notice in the North Dakota public employees retirement system newsletter and any other method of communication as deemed appropriate by the director at least three weeks in advance of a filing date for nomination petitions.

2. The notice must include a statement of voter and candidate eligibility, the candidate nomination requirements, the date of election, and where to obtain the nomination petitions for filing.

**History:** Effective April 1, 1992; amended effective July 1, 2000; April 1, 2008.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-03

#### **71-01-02-05. Petition format.**

1. The nomination petition for an active member on the board must include the signatures of at least one hundred active eligible voters. The nomination petition for the retiree member on the board must include the signature of at least twenty-five persons receiving a retirement allowance or who are eligible to receive a deferred vested retirement allowance.
2. The nomination petition must include the following statement: "We, the petitioners, who are members of the North Dakota Public Employees Retirement System, nominate \_\_\_\_\_ for election to the North Dakota Public Employees Retirement System board."
3. The nomination petition must include a certification by the candidate, as follows: "I accept the nomination and if elected will fulfill the responsibilities as a member of the North Dakota Public Employees Retirement System board."
4. If there is not room for the required signatures on a single nomination petition, additional petitions may be used. Candidates may reproduce, at their own expense, blank nomination petitions that meet the format requirements without requesting additional petitions from the North Dakota public employees retirement system. All nomination petitions used must be certified and signed by the nominee when submitted to the North Dakota public employees retirement system office.

**History:** Effective April 1, 1992; amended effective May 1, 2004; April 1, 2008.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-03

#### **71-01-02-06. Procedure for completing and filing petitions.**

1. No period of time, on which an employee is entitled to receive wages or salary from the state of North Dakota or a political subdivision, may be used by the candidates to promote their election except as permitted by the employing agency. In addition, no public funds may be used for the purpose of promoting an election unless permitted by the employing agency.

2. Nomination petitions must be filed with the North Dakota public employees retirement system no later than four p.m. on the first Friday of May and must be validated by the election committee or their representatives following the filing deadline and prior to ballots being distributed.
3. Nomination petitions not furnished by the North Dakota public employees retirement system will be accepted provided they are submitted in the prescribed form.
4. A candidate may withdraw that candidate's nomination petition up until one week prior to the date the ballots are printed. The notice must be in writing and duly witnessed.
5. Nomination petitions may be accompanied by a three-inch [76.20-millimeter] by five-inch [127.00-millimeter] photograph of the candidate and a narrative not to exceed two hundred words. The absence of a photo or narrative will not invalidate the candidate's eligibility, but only the candidate's name will then appear with the other candidates' information that accompanies the ballots.
6. The retirement board or its representative reserves the right to edit lengthy narratives to the two hundred word limit.
7. The board or its representative shall inform all candidates of the validation of their candidacy.

**History:** Effective April 1, 1992; amended effective July 1, 2000; April 1, 2008.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-03

#### **71-01-02-07. Election ballots.**

1. Ballots must be prepared by the North Dakota public employees retirement system staff in accordance with the election rules.
2. Ballots must be printed on postcards with return postage supplied and will be mailed to all eligible voters with a narrative on candidates who have provided that information.
3. Ballots must first be arranged with the names of each candidate on the ballot. In printing the ballots, the position of the names must be changed as many times as there are candidates' names on the ballot. The change must be accomplished by taking the name at the head of the ballot and placing it at the bottom and moving the name that was second before the change to the head of the names on the ballot. The same number of ballots must be printed after each change of position so as to result in an equal number of ballots with each candidate's name

at the head of the ballot. The ballot must provide a space for write-in candidates.

4. If there is only one candidate for an election, the election will nonetheless be conducted in compliance with the provisions of this chapter.
5. If there is no candidate, the board shall solicit at least two persons from the eligible pool of candidates to run for election to the board. The election will then be conducted in compliance with the provisions of this chapter.

**History:** Effective April 1, 1992; amended effective July 1, 2000; April 1, 2008.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-03

#### **71-01-02-08. Election.**

1. Ballots must be mailed by first-class United States mail to the home address of all eligible active voters for an election of an active board member, or all eligible retired voters for an election of a retired board member, as determined by the North Dakota public employees retirement system's membership roles as of April fifteenth in the year of the election.
2. North Dakota public employees retirement system members who become eligible to vote after April fifteenth, but before the deadline for the receipt of ballots, may be issued a special election ballot by making their request for such ballot in writing to the North Dakota public employees retirement system office no later than the second Monday in June.
3. Ballots must be returned to the North Dakota public employees retirement system office no later than the close of business on the Friday immediately preceding the third Monday in June.
4. The candidate receiving the highest number of votes must be considered elected. When there is more than one active member board vacancy to be filled, the candidate with the second highest number of votes must be considered elected. If there are three active member board vacancies to be filled, the person with the third highest number of votes must be considered elected.

**History:** Effective April 1, 1992; amended effective April 1, 2008.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-03

### **71-01-02-09. Canvassing rules.**

1. Ballot counting by election committee members or their authorized representatives will commence at nine a.m. on the third Monday of June and will continue until complete.
2. Each candidate may have one overseer present at the canvassing who may examine each ballot as to its sufficiency after the canvassers have completed the canvassing of all ballots. No overseer may possess a pen, pencil, or other device which could be considered capable of altering a ballot in any manner.
3. A candidate may act as his or her overseer. If a candidate wishes to designate a representative to act as his or her overseer, that candidate must provide a written authorization, duly witnessed, to the election committee at the canvassing. An overseer may act on behalf of more than one candidate; however, each person must show the required authorization from each candidate represented.
4. The overseer may question the decision of the canvassers regarding a ballot after completion of the canvassing. If questioned, the comments of an overseer will be heard. The canvassers will then vote regarding the acceptability of the ballot with the majority vote ruling.
5. A ballot is not valid where the number of votes on the ballot exceeds the number of vacancies in the election. A ballot that does not, in the opinion of a majority of the canvassers, show a clear indication of the voter's intention, may not be counted.
6. If the percentage of votes received by the candidate receiving the highest number of votes is less than one percent more than the votes received by the candidate receiving the next highest number of votes, the board shall order a recount.
7. Tie votes will be determined by a coin toss. If this procedure is necessary, the election committee will establish and notify the tied candidates of the procedure and location for resolving the tie.
8. If the committee should determine that the outcome of the election has been compromised for any reason, the committee may determine the election to be invalid. If the election is determined to be invalid, the committee shall call for a new election with a new election schedule.

**History:** Effective April 1, 1992; amended effective April 1, 2008; July 1, 2010.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-03

**71-01-02-10. Notification of election results.**

1. Election results must be presented to the retirement board following the canvassing of votes. Such report must include an itemization of the number of ballots returned, votes cast for each candidate, votes invalidated, and votes not counted due to late receipt.
2. All candidates will be notified of the election results no later than the business day following the June meeting of the retirement board.
3. Departments and agencies participating in the North Dakota public employees retirement system will be notified of the election results. In addition, a report of the election results will be included in the North Dakota public employees retirement system newsletter.

**History:** Effective April 1, 1992; amended effective April 1, 2008.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-03

**71-01-02-11. Special elections.**

1. A special election will be called for by the retirement board in the event of a vacancy resulting from the death, resignation, or termination of North Dakota public employees retirement system membership by any elected board members.
2. Special elections must be conducted in accordance with the regular elections rules, except that the board will determine a new election schedule.
3. In the case of a special election, the term to be filled is the unexpired portion of the vacant board position.

**History:** Effective April 1, 1992.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-03

**71-01-02-12. Penalties.** A violation of any provision under this chapter may result in one or more of the following penalties, as determined by the board:

1. A candidate's petitions may be declared void.
2. A candidate's nomination may be declared void.
3. A candidate's election may be declared void.

4. Within thirty days of beginning an elected member's term in office, the elected member may be removed.

**History:** Effective July 1, 2000.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-03