

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1271
(Representatives Wieland, J. Kelsh, Kilichowski)
(Senators Bowman, Nodland, Triplett)

AN ACT to amend and reenact sections 11-07-01, 11-07-02, 11-07-03, and 11-11-02 of the North Dakota Century Code, relating to county commissioner redistricting; and to repeal section 11-07-03.1 of the North Dakota Century Code, relating to county commissioner redistricting.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-07-01 of the North Dakota Century Code is amended and reenacted as follows:

11-07-01. County redistricting board - Membership - Powers. The redistricting board shall be composed of the following members:

1. The chairman of the board of county commissioners, who shall act as chairman of the redistricting board.
2. The state's attorney.
3. A citizen or member of the governing body selected by the governing body of the city having the largest population, according to the most recent federal decennial census, in the county.
4. A township supervisor selected by the township supervisors at a meeting called by the county auditor, if more than one-half of the townships are organized, whose service upon the board shall be contingent upon that person's service in office as a township supervisor, or a citizen member at large appointed by the county commission if less than one-half of the townships are organized.
5. A citizen at large selected by representatives of each of the cities of the county, excluding the largest city, if there is a total of at least three incorporated cities in such county. Such representatives shall consist of one member of and selected by the governing body of each of the cities in the county, other than the largest city. The selection of the member of the redistricting board shall be made at a meeting called by the county auditor for such purpose. In the event there is not a total of three cities in the county, or that the selection is not made at the meeting called by the county auditor, such citizen at large shall be selected by the redistricting board at its first meeting. Such citizen at large shall serve until the time of the next decennial redistricting.
6. The county auditor, or such other county official responsible for conducting elections within the county, as an ex officio, nonvoting member for the purpose of advising the redistricting board on other existing election districts and precinct boundaries.

Vacancies upon the board shall be filled in the same manner as in the case of original selection. Such board may change the boundaries of the commissioners' districts of the county in accordance with the provisions of this chapter.

SECTION 2. AMENDMENT. Section 11-07-02 of the North Dakota Century Code is amended and reenacted as follows:

11-07-02. When districts must be changed - Additional meeting - Public hearing - Notice.

Each redistricting board shall, within three months after official publication of each federal decennial census, meet at the call of the chairman to organize as provided in this chapter and to consider redistricting, unless the county commissioners are currently elected at large pursuant to subsection 3 of section 11-07-03 and neither a resolution of the board of county commissioners nor a citizen petition pursuant to this section has called for such meeting. A redistricting board may additionally meet during a census interim if a resolution calling for a meeting is passed by the board of county commissioners or a petition calling for a meeting signed by ten percent of the qualified electors of the county as determined by the number of votes cast for governor in the last gubernatorial election is presented to the board of county commissioners. If any one district in the county varies more than ten percent from the average population per commissioner in such county determined by dividing the total population of the county at the last federal decennial census by the number of commissioners' districts in such county, or if county commissioners are elected at large, the redistricting board shall redistrict the county, as provided in this chapter. If redistricting of a county is required, the chairman of the redistricting board shall, ~~within not less than thirty days after the date of the above meeting~~ before the filing of the plan pursuant to section 11-07-03, call a meeting for the purpose of conducting a public hearing to review alternative plans for such redistricting. Notice of such meeting shall be published or caused to be published by the chairman in the official county newspaper at least ten days prior to the date of such hearing.

SECTION 3. AMENDMENT. Section 11-07-03 of the North Dakota Century Code is amended and reenacted as follows:

11-07-03. Method of redistricting - Election of commissioners at large if redistricting not accomplished by time certain. The redistricting board shall provide for the election of county commissioners as follows:

1. In redistricting a county, the redistricting board shall first attempt to make the districts contiguous following township lines where practicable, as regular and compact in form as practicable, and as substantially equal in population as possible. ~~In no event shall every district be formed in such a manner that the population of cities located within every district exceeds the population of the district area outside the cities in every district.~~ In no event shall any commissioner's district vary in population more than ten percent from the average population per commissioner as determined in section 11-07-02, and any variance from the average population shall be justified in the statement filed pursuant to this section.

~~The geographical boundaries of new districts created by the redistricting board shall be agreed upon by a majority of such board. Redistricting shall be completed by the filing, by the chairman of the redistricting board, of an accurate description of the approved geographical boundaries and a statement of the population of the new districts, including an explanation of any variances, with the county auditor by April first of an even-numbered year to be effective for that year's elections.~~

2. If the redistricting board determines that redistricting pursuant to subsection 1 is impossible or would create illogical or impracticable districts, the redistricting board shall attempt to make districts of as nearly equal populations as is practicable, but such districts, when created wholly within the boundaries of a city, may coincide with the geographical boundaries of election wards. All of the candidates seeking the office of county commissioner in a county redistricted pursuant to this section must be voted upon by the qualified electors of the entire county, but one of the commissioners to be elected must reside in each of the districts created pursuant to this section. The official ballot must designate the commissioner district of each candidate by having printed thereon the words "of commissioner district" and the designation of that district in close proximity to the candidate's name. When an individual is seeking nomination as a candidate for the office of county commissioner at a primary election, the two candidates from each of the commissioner districts receiving the highest number of votes are deemed nominated. If only one candidate is seeking nomination from a particular commissioner district, that candidate will be deemed nominated. Following redistricting pursuant to this subsection,

the board of county commissioners may combine two or more of the districts so created by resolution passed by a majority of the total membership of the board. In the event that two or more commissioner districts are combined, the number of commissioners elected who must reside in the combined district is equal to the number of districts combined. In the event that a county commissioner changes the place of residence within the county after election from a particular district, the commissioner must be allowed to complete the remainder of that term of office. A candidate elected as county commissioner on a staggered basis as provided in section 11-07-04 must be elected at large, but must reside in the same district the commissioner represented whom the candidate is to succeed in office.

3. In the event that redistricting is required but not completed in the manner prescribed in ~~this chapter subsection 1 or 2~~, all commissioners' districts in such county shall be abolished and, notwithstanding the provisions of section 11-11-02, thereafter county commissioners for such county shall be elected at large without regard to district representation in the manner and at the time provided in this title and shall continue to be elected at large until a proper redistricting plan is filed as required by this chapter. ~~Notwithstanding the provisions of this section, the redistricting board shall redistrict in the manner provided in section 11-07-03.1 if so directed by the board of county commissioners acting pursuant to that section.~~

The geographical boundaries of new districts created by the redistricting board must be agreed upon by a majority of the board. Redistricting must be completed by the filing, by the chairman of the redistricting board, of an accurate description of the redistricting method employed and the approved geographical boundaries and a statement of the population of the new districts, including an explanation of any variances, with the county auditor by January first of an even-numbered year to be effective for that year's elections.

SECTION 4. AMENDMENT. Section 11-11-02 of the North Dakota Century Code is amended and reenacted as follows:

11-11-02. Commissioner must be resident of district - Exceptions. Each county commissioner shall be chosen by the qualified electors of the district of which the commissioner is a resident, except as otherwise provided in section 11-07-03 ~~or 11-07-03.1~~.

SECTION 5. REPEAL. Section 11-07-03.1 of the North Dakota Century Code is repealed.

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-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1271.

House Vote: Yeas 91 Nays 1 Absent 2

Senate Vote: Yeas 40 Nays 1 Absent 6

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State