

2023-2025

**SPECIAL ELECTION GUIDE FOR
POLITICAL SUBDIVISIONS**

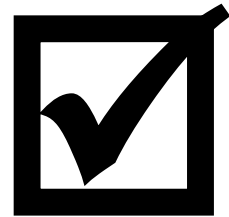
North Dakota



**✓ votes
2024**



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Alternate formats for persons with disabilities are available upon request.

FOREWORD

This pamphlet is a compilation of laws found in the North Dakota Century Code relating to the special election process in the state of North Dakota. It is a reference source for state and local election officials, candidates, the public and the media. If you have questions regarding this pamphlet, please contact the Elections Unit of the Secretary of State's office by calling 701-328-4146, sending an email to soselect@nd.gov, or writing to Secretary of State, Elections Unit, 600 East Boulevard Avenue Dept 108, Bismarck ND 58505-0500.

DISCLAIMER

The following excerpts of North Dakota law are from the North Dakota Century Code (NDCC) and pertain to elections, election procedures, and the special election process. Although every attempt has been made for accuracy, the reprint of these laws does not carry the same authority as the actual NDCC and should not be equated with the official NDCC. This compilation is only intended as a helpful resource and reference for consolidated election related laws. For official and legal purposes, the official NDCC should be used.

In addition, the following excerpts of North Dakota law do not contain the material found in the legal notes following the various sections contained in the NDCC. These notes found in the NDCC may contain temporary provisions and effective dates along with valuable summaries of applicable court rulings.

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INTRODUCTION

These Special Election Guidelines are offered to election officials of this state to assist in conducting special elections. The Guidelines are based on the understanding of the law pertaining to special elections, other provisions of election law, and North Dakota Century Code. In the event of a conflict between any of these Guidelines and the express provisions of any statute, state law would govern. This pamphlet is designed to familiarize you with the laws and procedures associated with the special election process.

GETTING STARTED

REVIEW THE LAWS – North Dakota Constitution and the North Dakota Century Code: You will find it helpful to familiarize yourself with the sections of law that apply to the special election process. North Dakota Century Code (NDCC) has many chapters (11, 15.1, 16.1, and 40) for statewide and local special elections. This guide covers general provisions and an overview when a special election is allowed or needed for local political subdivisions.

GENERAL PROVISIONS

Applicability of Provisions of Title NDCC § 16.1-01-02: The provisions of this title govern all primary, general, and special statewide and legislative elections, and all other elections, unless otherwise provided by law.

- Polling locations for a special election must be opened at 9:00 a.m. or earlier, but not earlier than 7:00 a.m. NDCC § 16.1-01-03.
- Precincts must be established not later than seventy days before a special election. NDCC 16.1-04-01
- Each polling place must have an election board in attendance. NDCC § 16.1-05-01
 - If party races are involved, the district party chair shall notify the county auditor of the appointment of the election judges at least forty days before the special election.
 - For special elections involving only no-party offices, the election official responsible for the administration of the election, with the approval of the majority of the members of the applicable governing body, shall appoint the election judges for each polling place.
- Deadline for placing a measure on a special election ballot is 4:00 p.m. the sixty-fourth day before a special election. NDCC § 16.1-11-11.1
- Deadline for a candidate to submit candidacy filing documents is 4:00 p.m. the sixty-fourth day before a special election. NDCC § 16.1-12-02.1
 - Candidates can begin circulating a nomination petition thirty days before the special election filing deadline (94 days before the special election). NDCC § 16.1-11-15
 - Prior to the thirty-first day before a special election, a candidate must file a campaign contribution statement that includes all contributions received from January 1st through the fortieth day before the special election. NDCC § 16.1-08.1-02.3
 - City candidates only need to file if they have a population greater than 5000.
 - School candidates only need to file if they have annual school enrollment greater than 1000.
- The notice of a special election and sample ballot must be issued and published in the official newspaper once each week for two consecutive weeks before the election. NDCC § 16.1-12-12, 16.1-13-05.
- Votes cast at a special election must be canvassed 13 days following the date of the special election. NDCC § 16.1-13-13

SCHOOL DISTRICT SPECIAL ELECTIONS

School Board Special Elections NDCC § 15.1-09-23

In addition to the annual election, a special election may be held at any time and for any lawful purpose, if approved by the school board.

Calling the Election

Special elections called for ballot measures need to be scheduled no earlier than sixty-five days from the date the election is called because the deadline for placing a measure on a special election ballot is 4:00 p.m. the sixty-fourth day before a special election.

Special elections called related to candidacy need to be scheduled no earlier than ninety-five days from the date the election is called because candidates can begin circulating petitions thirty days before the special election filing deadline. The special election filing deadline is 4:00 p.m. the sixty-fourth day before the election.

School Board Membership Size and Adjustments NDCC § 15.1-09-01

The membership of the school board can be increased or decreased to five, seven, or nine members.

- A petition is signed by one-third of the qualified electors of the district of those who voted at the most recent annual school district election.
- The change is approved by a majority of the qualified electors at a special election called for that purpose.

Vacancies on School Board NDCC § 15.1-09-05

The business manager of a school district shall notify the county superintendent that a vacancy exists on the school board.

- The vacancy can be filled by appointment or special election.
- The individual appointed or elected at the special election serves on the board until the next annual election.

If the school board fails to fill a vacancy by appointment or fails to call a special election, the county superintendent shall call a special election to fill the vacancy. The special election must be conducted in the same manner as the annual school district election.

CITY SPECIAL ELECTIONS

Special Elections Conducted in Same Manner as General Elections NDCC § 40-21-16

Special municipal elections to fill vacancies or for any other purpose must be held and conducted by the inspectors and judges of election in the same manner and the returns must be made in the same form and manner as at regular municipal elections.

- The governing body of the city may designate precincts and polling locations for the special election by resolution. NDCC § 40-21-03.1
- Each member of the election board for a special election shall receive compensation. NDCC § 40-21-05
 - Funds shall be paid from the municipality holding the election.
 - If a special municipal election is held in conjunction with a regularly scheduled statewide, districtwide or countywide election, and if the same election officials perform services for both elections, the city is not required to pay the election officials unless extra officials are needed for the special municipal election.

Calling the Election

Special elections called for ballot measures need to be scheduled no earlier than sixty-five days from the date the election is called because the deadline for placing a measure on a special election ballot is 4:00 p.m. the sixty-fourth day before a special election.

Special elections called related to candidacy need to be scheduled no earlier than ninety-five days from the date the election is called because candidates can begin circulating petitions thirty days before the special election filing deadline. The special election filing deadline is 4:00 p.m. the sixty-fourth day before the election.

Vacancies on Council NDCC § 40-08-08

If there is a vacancy of councilman, the city may:

- Call a special election to fill the vacancy until the next city election, or,
- Appoint a member to fill the vacancy after 15 days from the date of the vacancy.
- The council shall call a special election if:
 - A petition, containing five percent of the qualified electors as determined by the total number of votes cast in the last city general election, is filed before 4:00 p.m. on the fifteenth day of the date of vacancy or of the vacancy being filled by appointment.
 - If the petition is mailed it must be in the possession of the council or its representative by 4:00 p.m. on the fifteenth day after the vacancy or after the vacancy was filled by appointment.
 - The council shall call a special election to fill the vacancy occurring more than six months before the next city election.

Vacancy in Office of Mayor NDCC § 40-08-16

If there is a vacancy in the office of mayor, the council may:

- Call a special election to fill the vacancy, or,
- Elect one of its members to act as mayor after 15 days from the date of the vacancy.
 - The member shall possess all the rights and powers of the mayor until the next election when a mayor is elected.
- The council shall call a special election if:
 - A petition, containing five percent of the qualified electors as determined by the total number of votes cast in the last city general election, to fill a vacancy occurring more than six months prior to the next city election, is submitted within fifteen days of the date of the vacancy.
 - The president of the city council shall be the acting mayor between the date of the vacancy and the election of the successor.

Vacancies on Board NDCC § 40-09-10

If a vacancy occurs in the office of city commissioner or president of the board of city commissioners, the board may:

- Call a special election to fill the vacancy for the unexpired term, or,
- Appoint a member to fill the vacancy after 15 days from the date of the vacancy.
- The commission shall call a special election if:
 - A petition, containing five percent of the qualified electors as determined by the total number of votes cast in the last city general election, to fill a vacancy occurring more than six months prior to the next city election, is submitted within fifteen days of the date of the vacancy.

Submission of Charter NDCC § 40-05.1-04

When a charter is submitted to the governing body of the city, the charter must be submitted to a vote of the people at least sixty days, but no more than two years, after the submission. The charter can be voted upon at a:

- Regularly scheduled city election
- Statewide election
- Special city election

If the original charter is voted upon but does not pass, the city may call a special election to resubmit the charter to a vote of the people. The city may amend the proposed charter before resubmission.

Petition for Proposed Ordinance NDCC § 40-12-06

When a city receives a petition for a proposed ordinance, the city shall:

- Pass the ordinance without alteration within twenty days after the auditor certifies the petition, or,
- Call a special election unless an election is scheduled within 90 days of receiving the petition and vote upon the proposed ordinance.

An ordinance voted upon and adopted by a vote of the people cannot be repealed or amended except by a vote of the people.

Petition to Refer Ordinance NDCC 40-12-08

An adopted ordinance can be referred to a vote of the people by a petition protesting against the ordinance. The petition must:

- Be signed by ten percent of the qualified electors of the vote cast for all candidates for executive officer of the municipality during the last regular election.
- Be presented to the city by 4:00 p.m. the tenth day after the ordinance in the petition became effective.

The adopted ordinance shall be suspended upon the filing of the petition unless the adopted ordinance being protested against was passed by a four-fifths vote of the members of the governing body for the preservation of public peace, health, and safety, and contains a statement of urgency.

Referred Measure Submission NDCC § 40-12-09

When a petition is filed to suspend an ordinance as outlined in NDCC § 40-12-08, the ordinance submitted to the city shall be reconsidered.

If the ordinance is not entirely repealed, the city shall submit the ordinance to the vote of the people at a:

- Regularly scheduled election, or,
- Special election called for that purpose.

The ordinance shall not go into effect unless a majority vote in favor of the ordinance. If the referred ordinance was not suspended, it no longer is effective if disapproved by a majority vote.

No Limitation on Number of Ordinances NDCC § 40-12-10

Any number of proposed ordinances may be voted upon at the same election. However, there shall not be more than one special election in any period of six months for such purpose.

COUNTY SPECIAL ELECTIONS

Calling the Election

Special elections called for ballot measures need to be scheduled no earlier than sixty-five days from the date the election is called because the deadline for placing a measure on a special election ballot is 4:00 p.m. the sixty-fourth day before a special election.

For any special county election when the election does not involve any legislative or statewide office, the county canvassing board must be composed of the county recorder, county auditor, and chairman of the board of county commissioners.

Submission of Charter NDCC § 11-09.1-03

At least sixty but no more than two years after a proposed charter is submitted to the Board of County Commissioners, the charter can be placed on a county primary or general election ballot.

The Board of County Commissioners can call a special election to resubmit the proposed charter to a vote of the people if the charter has been previously voted on. The special election must take place at least sixty days after the call for special election. The board may amend the proposed charter prior to its resubmission to a vote.

RECALL ELECTIONS

Review the *Recalling an Election Official of the State or a Political Subdivision* guide for more in-depth details for the recall process.

Calling the Election

The filing officer shall review the petition within thirty days from the date of submission. If the petition is deemed sufficient, the filing officer shall call a special election to be held not sooner than ninety-five nor later than one hundred and five days following the petition certification. No special election may be called if that date would be within ninety-five days of the next scheduled election.

Recall of Elected Officials of Political Subdivisions NDCC § 44-08-21

The recall petition must be filed with the appropriate filing officer unless the recall petition is for the filing officer, in which the petition should be filed with the Secretary of State. The filing officer shall review the petition within thirty days from the date of submission. If the petition is deemed sufficient, the filing officer shall call a special election to be held not sooner than ninety-five nor later than one hundred and five days following the petition certification. No special election may be called if that date would be within ninety-five days of the next scheduled election.

- The name of the official to be recalled must be placed on the ballot unless the official resigns within ten days after the filing officer determines the petition is valid and sufficient.
- Other candidates may file nominating petitions to be placed on the ballot if they file with the filing officer by 4:00 p.m. the sixty-fourth day before the election.
- If the officer to be recalled resigns the governing body may call a special election to fill the vacancy or appoint an individual to complete the term.
- No official is subject to recall twice within their term.
- An official may not be recalled if the recall election would occur within one year of the next regularly scheduled election where the official would be reelected.