

Senate Bill 2277
House Judiciary Committee
Testimony Presented by Sara Behrens
January 23, 2022

Good morning Chair Larson, members of the committee. My name is Sara Behrens and I am a staff attorney with the State Court Administrator's Office. I am here today in support of Senate Bill 2277. SB 2277 completes the court unification that began in 1976 when a unified court system was mandated. Over the past nearly 50 years, the court system has been moving toward a completely unified state court system. In 1997, the Legislature included the intent in SB 2002 that the clerks ultimately be state-funded. In the interim, a compromise was reached resulting in HB 1275 which was introduced in the 1999 Legislative Session. HB 1275 created the current structure in which the smaller counties can choose whether to become state clerks of court or remain county clerks of court. This bill completes the clerk transfer process into the unified court system.

Sections 1 through 6 and 8 through 10 remove references to clerks and ex officio clerks within title 11 of the North Dakota Century Code pertaining to counties.

Section 7 removes the filing of documents maintained by the clerk and recorder to be done in a single location. This legislation would separate those offices.

Section 11 removes references to county clerks and state clerks within section 12.1-32-08.

Section 12 removes the language regarding state-funded clerks and equipment belonging to the district court because it is obsolete.

Section 13 removes reference to county commissions because the funding of the clerks of court will now be the state's responsibility.

Section 14 provides the meat of the bill. Section 14 removes references to the county clerks and county involvement with the salaries of clerks as funding will now be the responsibility of the state. It also requires that there be at least one individual located in each county to perform clerk of court services. Loss of services in rural counties is a big concern of the counties so the bill requires that there always be an employee physically located in the county. This will prevent future relocation of all staff out of any county. All of the language about county versus state clerks and agreements between the county and the state to provide clerk services is removed. It is replaced with a transition schedule for transitioning clerks from county positions to state positions and provides provisions for handling those clerks in elected positions when the transition begins. This same type of transition has been done previously when some counties became state offices following the 1999 legislation. In those positions where the clerk is serving both the clerk role and another role, the employee will be given the option to remain a county employee or to be transitioned into state employment as a clerk of court.

Section 15 removes the requirement to track clerk time to be billed to the state will no longer be needed because they will be state employees.

Section 16 repeals section 27-05.2-07 regarding an ex officio clerk violating the clerk's oath or neglecting or refusing to perform duties because ex officio clerks will no longer exist.

Section 17 is an appropriation of \$12,267,050 and 63 FTEs to effectuate the transfer.