

SB 2277 Judiciary Committee Testimony- February 1, 2023

Submitted by Karin Boom- LaMoure County former Clerk of Court and current Deputy Clerk

Dear Chairwoman Larson and Committee members:

I have a deep and long involvement in the evolving structure of the Clerk of Court's Office and the Court system in North Dakota. In 1987 I interviewed for my position with the Clerk of Court and County Judge Gary Neuharth. Our District Court judge was located in Wahpeton and usually assigned cases to our County Judge. This is simply to say that there have been a lot of changes since that time.

The changes have come in increments, but with the underlying foundation of keeping a local court in every county and ongoing local involvement in the process. The current hybridized system of County and State employed Clerks was very carefully crafted over two legislative sessions, two interim sessions and a trip through a Consensus Council process jointly funded by State Court, Legislature and Association of Counties. The State Court at that time was integral in the process, contrary to the understanding of Sally Holewa presented in her testimony. Staff Attorney Jim Ganje was either present or consulted frequently as to the structure and implementation of this system. **This was not intended as an interim step to be a place holder anticipating this bill in the future, but as a carefully crafted solution to address the diverse court composition in North Dakota.** Fargo and Bowman will never function exactly the same. Everyone at that time felt we had a Solomonic task and with our most treasured positions and possessions laid bare on the table, treated with respect, and in the best interest of our cherished institution, we knew would continue with all interested parties preserved.

So, we have proceeded with that structure consisting of State Clerk of Courts in larger counties and some mid-sized counties electing to be State and others electing to remain County- contract and the smallest counties all as contract offices. Under this structure **in 2010** we made the largest transition in the history of our Court to a paperless electronic filing and court management system called Odyssey. **This system has unified the operation of courts under all the established categories. Every filing is controlled by the parameters established by law, court rule and administration under the Odyssey system.** Everything involving a filing- from the parties to the fees to the calendar to who has custody of the file at the moment and whether items are due for review or disposition are controlled in a uniform way across the state. Any of our clerks from any county could step into another county and work a case in that county. The differences between counties are more along the lines of how the cases are run through the calendar and brought before judges. We need that ability to be flexible within the uniformity to best serve our individual counties according to caseloads and pragmatic needs.

You have heard Chief Justice Jensen and Ms. Holewa stating that there are clerks who are not performing their duties properly or having divided loyalties. This was not presented as an overall issue, but as outliers with individual examples given. I would like to remind you that each of these situations involves a Clerk in a county with a contract with the State Court. **At no point have I heard that the contract was raised as a disciplinary mode.**

I can personally attest to a situation involving myself as Clerk in a contract county and an issue of non-compliance. My Unit Court Administrator Rodney Olsen called me to set up a meeting involving

serious docket currency problems in my county. Each case has little clocks in the process and they alert us to items that need attention. We run a 'Time Standards Report' daily to track these. I could see that those cases had overdue items and agreed to address those issues. I also contacted my Commissioners to let them know this issue had been raised there would probably be a contract problem with the State Court and went over all the documents presented to me to be resolved, and to keep them updated. This issue seemed to persist and I met with Olsen again and at that meeting we discovered that the report I had on my system was not enabled to pick up a set of time standards. When that was resolved by them, the entire report arrived at my desk and I was able to take care of the problems. I then met again with my Commissioners and apprised them of how it had been resolved. **The contract is the means by which contract Clerks are brought under the authority of Court Administration.**

Another new development at the administrative level is the implementation of online training tools and it was mentioned that there has been a move away from Zoom-style training. This is another means of facilitating compliance by all Clerks. At this time there have been sessions that are mandatory and when completed the transcript is reported to administration. It is a wonderful tool for Clerks and for administration. Clerks can attend at the time best available to them and take good notes and have a solid reference for future questions. The technology available at this point actually facilitates the current structure best.

The ability to assign work across County and even District lines should be a non-issue. During my time as Clerk of Court in LaMoure I was able multiple times to travel to Stutsman County when there were health issues and staffing shortages there and helped maintain work in that office. There was no exchange of funds- I lived an equal distance from each office and was happy to assist. Again, with the technology already in place, that work could easily be accessed by another person in another county without commuting. Assigning a certain case type, for example Small Claims cases, from one county to another is simply enabling that access. **The contracts say duties of the Court will be performed under the contract as determined by the Court. If the contracts need clarification that is also a simple matter.**

In smaller counties under the contracts there is a very efficient system of workload distribution. The Court caseload may not involve even 1 FTE, but multiple staff may be available to cover the office and the caseload. Those staff are cross-trained to be able to even out absences, busy court days and times when the Clerk is at conference or training. **The reimbursement to the Counties mentioned in earlier testimony is based on the FTE by caseload and therefore is not covering the entire cost of funding the office in those counties,** but the work is being taken care of very efficiently. Many of these offices have Clerks and staff that have decades in that position and are well able to serve there. They are dedicated to the Court **and** the County **and** the residents- not divided loyalty, but servants to all and facilitators of all. If those loyalties are skewed, that could also be brought to attention under the contract. **Extricating the physical office and staff from the County in these counties is going to prove very difficult to the County and will represent a significant loss of staff and facility-space and equipment to them. This would explain why non-judicial functions are listed as a loss to the County in their resolutions- because those responsibilities have been performed by the office and staff they would be losing.**

The proposed benefits listed in our Court Administrator's testimony are worthy goals and every office in our State would agree that higher levels of training, competence, compliance, seamless workload coverage during absences and flexibility of workload is an aspiration that could be fulfilled under the current structure.

The capacity to add new services likewise could be facilitated under the current structure. The capabilities of the electronic system allows each of those duties and services to be assigned, and new positions in Court Administration for administrative functions could be funded at a much lower cost than the proposal under this bill.

Ms. Holewa quoted a passage from Matthew in her testimony, and I would like to share a passage from Colossians 3 which I see as a far greater testament to the Clerks I have known. Colossians 3:23 Whatever you do, work at it with all your heart. Most Clerks see their work as a calling and a noble career, not a job.

The semantic gymnastics of this debate need to be carefully scrutinized and you are encouraged to discuss your questions with Court Administration and your local Clerk of Court equally to get the balanced information you need before you make a decision that could completely eliminate local input in this system. **Contracts between State and local entities are common** and provide the balance needed for the best service to all concerned. Simply putting a State employee at a desk in the County is not the answer as the salary flowing into the County is only a small part of the equation.

I would be happy to discuss any of the issues raised in my testimony. My phone number is 701-830-9599.