



Phone: 701.237.6983  
218 NP Avenue | Fargo, ND 58102  
PO Box 1389 | Fargo, ND 58107-1389  
Fax: 701.476.7676  
tnorgard@vogellaw.com

February 12, 2025

Senate Energy and Natural Resources Committee

**Re: Opposition to SB2299**

Dear Chairman Patten and Senate Energy and Natural Resources Committee,

I provide legal services to multiple water districts in North Dakota and provide this testimony in opposition to SB2299. SB2299 is simply unnecessary legislation. There is no problem being fixed. The legislature should not waste its limited time this session entertaining and debating unnecessary changes in the law.

SB2299 appears to be pursued by a few select people that want to change how audits and elections are conducted. I'll address each in turn.

With regard to audits, I am unaware of any water districts that have no state or federal loans. Bond covenants generally require audits. Federal loans require annual audits. While SB2299 seeks the ability for the State Auditor to audit a water district, there are no circumstances identified whereby a water district has gone without an audit for any appreciable time. As such, while 'water districts' are not otherwise included in the list of entities that the State Auditor can audit, there are no situations raised where a water district has gone unaudited to member's detriment. There isn't a problem here, so it really doesn't make sense to pass legislation in order to fix something that isn't broken. It simply makes work. Similarly, SB2299 would allow 10% of the water district's voters to trigger an audit is unnecessary, since an audit is already done yearly.

SB2299 seeks to have the State micromanage how local water districts run their election of water district managers, which is completely contrary to the concept of local control. State law outlines the parameters for elections in NDCC 61-35. It identifies what offices need to be filled by a water district, but does not mandate the particular election procedure.

The bill interferes with a water district's right to choose how to run an election. Many water districts have a nominating committee review any petitions or applications by candidates who want to run for a director position. The nominating committee makes sure the candidate meets the qualifications; That they live in the district; That they are a member of the water system; That they are in good standing, etc. Those things needed to be vetted by a nominating committee at a publicly noticed meeting before a candidate should be added to the printed ballot.

February 12, 2025

Page 2

SB2299 allows the notification of an intent of a candidate to run within 5 days of the election, with three signatures on a petition. That would take away the nominating committee's ability to vet candidates. A candidate should announce their candidacy 30-60 days before the election so the water district can:

1. Notice a public meeting of the nominating committee sufficiently in advance of a meeting to consider the candidates' qualifications
2. Verify their qualifications to run for the position
3. Verify that the signatures on the petition are from appropriate parties
4. Notify the electorate of the candidates so they can decide whether they are interested in attending the annual meeting or meeting with candidates
5. Print the final ballots

It would be impossible for all the processes noted above to be completed with only 5 days between the submission of a petition for a candidate and the election. It dictates a process that would be too condensed for a water district to carry out its obligations to vet its candidates for election. The timing does not work for water districts that have nominating committees. The Legislature should not dictate the election procedure for each water district to make nominating committees obsolete.

The proposal to allow members of the public to 'engage' in review of the ballot tallying process is different than the rights of 'election observers' pursuant to the Secretary of State's parameters. Water districts have their own election processes, including appointing three Election monitors to oversee the collection and counting of votes. Again, it is simply unnecessary to micromanage the election process to allow an election objector to insert themselves into the process and "engage" in the ballot counting. Chaos will reign.

In short, SB2299 is simply unnecessary. There are already election processes in place in each water district that candidates can follow. There is no need to micromanage the process and take away local control of their elections. Water districts already have appropriate authority governing election processes and they all submit to annual audits. I urge the committee to issue a DO NOT PASS resolution on this SB2299.

Sincerely,

Tami Norgard