

**1999 HOUSE POLITICAL SUBDIVISIONS**

**HB 1354**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1354

House Political Subdivisions Committee

Conference Committee

Hearing Date 1-28-99

Tape Number	Side A	Side B	Meter #
2	x		.9-14.1
3	x		26.9-51.6
Committee Clerk Signature <i>Pam Dever</i>			

Minutes: BILL SUMMARY: Relating to the salaries of county officials. Chairman Froseth called the hearing to order with all committee members present except Rep. N. Johnson.

Rep. Rod Froelich, Dist. 35 : 1.1 testified in support and passed out information to help explain bill. We have had a problem with people who loose an election and don't show up for work to complete their term. They still get paid, so we need to address this.

Arlin Thompson : 3.7 testified in support of 1354. I just don't think this bill does what the supporters intended. It has no teeth to enforce it.

Mark Johnson, N.D. Assoc. of Counties :4.4 testified in support. We felt some provision like this is needed. The language is not perfect. What does "performing duties" mean, one question. Please take some time to work with it to make it fly.

Rep. Delmore : How prevalent are these types of problems. How much do you see.

Mark : It hasn't happened a lot.

Lonnie Olson, Pres. N.D. States Attorney Assoc. Devils Lake : 6.6 We are neutral, but we have some concerns. In section 5; there already is in place a process to remove someone from office.

Does this involve county commissioners. Mr. Johnson said it is.

Vice Chair Maragos : 7.7 Outside of over turning an election, what suggestion do you have, as a states attorney, to address this problem when someone doesn't show up to do his duly constituted work of his office?

Lonnie : There is a process in there when proper notice is given. What does proper notice mean?

Does it mean we give you a letter today and you will not get the check tomorrow. We need something in there for a hearing process to be heard.

Rep. Koppelman : 9.3 11-10-10, sub.4; how often has this been exercised in N.D.?

Lonnie : There was a sheriff in Grand Forks County and one in Grafton that were removed.

Vice Chair Maragos : Are you of the opinion that we probably protected the law as much as we can without creating more problems than we solve?

Lonnie : That is a tough question to answer. This bill makes it a lot quicker.

Rep. Delmore : Elected officials supervising other elected officials is a very difficult thing to do.

Doug Mattson, Ward County States Attorney : 11.9 As written, I am opposed to the bill. Having local county governments can be sued, as in the bill, is very dangerous. Maybe we should strengthen the power of the governor to remove people from office who neglect duty.

Section of the code was checked.

Rep. Froelich : 13.8 It's almost impossible for the governor to remove someone. I've been down that road.

Page 3  
House Political Subdivisions Committee  
Bill/Resolution Number HB1354  
Hearing Date 1-28-99

Hearing no further testimony, Chairman Froseth closed the hearing. After some discussion by committee, it was felt this bill might create more problems than it would solve.

ACTION: Vice Chair Maragos made a motion of DO NOT PASS and Rep. Wikenheiser seconded the motion. VOTE: 10 YES, 4 NO and 1 ABSENT. Rep. Koppelman will carry bill.

Please type or use black pen to complete

Date 1-28-99

Roll call vote # 1

### 1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1354

House POLITICAL SUBDIVISIONS Committee

- Subcommittee on \_\_\_\_\_
- Conference Committee

} Identify or check where appropriate

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do NOT Pass

Motion Made By Rep. Maragos Seconded By Rep. Wikenheiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Froseth	/		Rep. Wikenheiser	/	
Vice Chair Maragos	/				
Rep. Delmore		/			
Rep. Disrud		/			
Rep. Eckre	/				
Rep. Ekstrom	/				
Rep. Glassheim	/				
Rep. Gunter	/				
Rep. Johnson, N					
Rep. Koppelman	/				
Rep. Niemeier		/			
Rep. Rose	/				
Rep. Severson		/			
Rep. Thoreson, B	/				

Total 10 4  
(Yes) (No)

Absent 1

Floor Assignment Rep. Koppelman

If the vote is on an amendment, briefly indicate intent:

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE (410)  
January 28, 1999 4:53 p.m.

Module No: HR-18-1411  
Carrier: Koppelman  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1354: Political Subdivisions Committee (Rep. Froseth, Chairman)** recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1354 was placed on the Eleventh order on the calendar.

**1999 TESTIMONY**

**HB 1354**

CHAPTER 44-02  
VACANCIES IN OFFICE

*from  
Rep. Hoelich  
HB 1354*

**44-02-01. Vacancies - Causes thereof.** An office becomes vacant if the incumbent shall:

1. Die in office;
2. Be adjudged mentally ill;
3. Resign from office;
4. Be removed from office;
5. Fail to discharge the duties of his office, when such failure has continued for sixty consecutive days, except when prevented from discharging such duties by reason of his service in the armed forces of the United States, by sickness, or by other unavoidable cause; provided, however, that as to any office which under the law the vacancy must be filled by the governor, the governor for good cause shown may extend the period, which the incumbent may be absent, for an additional period of sixty days. No remuneration on account of such office may be paid to an absentee officeholder during his absence, and such office in all cases becomes vacant upon the termination of the term for which he was elected or appointed;
6. Fail to qualify as provided by law;
7. Cease to be a resident of the state, district, county, or township in which the duties of the office are to be discharged, or for which he may have been elected;
8. Be convicted of a felony or any offense involving moral turpitude or a violation of his official oath;
9. Cease to possess any of the qualifications of office prescribed by law; or
10. Have his election or appointment declared void by a competent tribunal.

**44-02-02. Resignations of officers - To whom made.** The resignation of an officer must be in writing and must be made as follows:

1. The governor and lieutenant governor, to the legislative assembly, if it is in session, and if not, to the secretary of state.
2. Any other state or district officer, to the governor.
3. A member of the legislative assembly, to the presiding officer of the branch of which he is a member, when in session, and when not in session, to the governor. When made to the presiding officer, he at once shall notify the governor thereof.
4. An officer of the legislative assembly, to the branch of which he is an officer.
5. An elective county officer, by filing or depositing such resignation in the office of the county auditor, except that the resignation of the county auditor must be filed or deposited with the board of county commissioners. Any such resignation, unless a different time is fixed therein, takes effect upon such filing or deposit.
6. An officer of a civil township, to the board of supervisors of the township, except that a member of such board shall submit his resignation to the township clerk, and the