

1999 SENATE POLITICAL SUBDIVISIONS

SB 2198


1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2198

Senate Political Subdivisions Committee

Conference Committee

Hearing Date January 14, 1999

Tape Number	Side A	Side B	Meter #
1		x	6,000 to 6245
2	x		0 to 1703
Committee Clerk Signature 			

Minutes:

Senator Lee: Opens SB2198 for discussion

Clerk: Reads 2198 relating to home rule charts

Senator Lee: Sponsors are Senator Cook and Wardner whom are unable to be here.

Clara Jenkins: Secretary of States Office, we can administer this bill if it passes.

Senator Nelson: Where did we get fowled up?

Clara Jenkins: Motivation behind bill, Senator Cook and amendments to bill. Secretary of State will have to file charter in order to keep records straight. Don't know why they introduced bill.

End of side Tape 1

Garbled tape

Clara Jenkins: Generally request copy from the city auditor

Senator Nelson: Fiscal note to 2198 and cost of copies.

Senator Lee: Wait till tomorrow to act on bill, question is whether the election passed but what the amendments where.

Clara Jenkins: Consistent language for filing with the original home rule charter. We drafted it with the language on the original home rule charter

Senator Lyson: After voting on home rule charter, can city commission vote on this?

Senator Flakoll: General intent of bill is to know where home rule charter is located.

Senator Lee: City hall having home rule charter

Connie Spryuczynatyk: League of cities, curious as to why the bill is present. Over 60 cities with home rule charters. process used to amend home rule charter is the same as process used to initiate home rule charter. Easier for city halls to have home rule charters and amendments to home rule charters. Legal jurisdiction of home rule charters.

Senator Lee: Bill not necessary

Connie Spryuczynatyk: filing of home rule charters and the amendments to the home rule charter.

Senator Lyson: Have sponsors come in and help with bill

Senator Lee: They need to come in, wouldn't city halls have a copy of home rule charters?

Connie: State law says that you must have a home rule charter and how to amend the charter it would also exist in official city records in city hall

Senator Lee: right:

Connie: open record laws

Motion: Senator Lee to ask sponsors to come in tomorrow.

Motion: Meeting adjourned

Political Subdivisions reconvene on SB2198

Senator Cook: Bill Number and introduction to SB2198, questions regarding restrictions to spending sales tax money. Original home rule charter given to Mr. Cook by Secretary of States office. Language of adapting a home rule charter but nothing on how to file amendments. State requirements on filing home rule charters and their amendments.

Senator Watne: Remove "clerk of district court language from the bill"

Senator Cook: would not object

Senator Nelson: Last sentence, why should the court take judicial notice

Senator Cook: We are just trying to follow the original bill so that people know where the home rule charter is filed

Senator Lee: city be logical place to file a home rule charter. Why would we need to have it any other place?

Senator Cook: Should be a city hall and Secretary of State, in future will have e-mail to search for home rule charter

Senator Flakoll: Dealing with other people from outside the city whom want to look at the home rule charter

Senator Cook: Correct

Senator Lyson: Move on amendment excluding “clerk of district court in the county in which the city is located.

Motion to amend: Senator Lyson

Motion: Seconded by Senator Nelson

Senator Lee: Strike the courts shall take judicial notice of the amendment or repeal

Senator Lyson: Not sure

Senator Nelson: courts are full now

Senator Lyson: Have to take judicial notice now or used for the purpose

Senator Lee: You think that is good?

Senator Nelson: Then copy has to be taken to the court

Senator Lyson: Copy from city hall or the state.

Senator Nelson: is this going to be which court? Local magistrate

Senator Lee: deleting the one sentence and keeping the last one

Senator Lyson: Court can order their own copy to take judicial notice, I guess that's why these things are there.

Senator Lee: Just informational, unless the court needs to be notified

Senator Flakoll: “Upon proper filing with the courts”

Senator Nelson: Filed with court cost \$80 and there is no reason why the courts need to see this

Senator Lee: Amendment moved and seconded, any discussion

Motion: Clerk to call roll on amendment

clerk: SB2198 amendment

Motion: 6 yeas, 0 neas, 0 absent

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Senate Political Subdivisions Committee

Bill/Resolution Number 2198

Hearing Date January 14, 1999

Senator Lee: Check with Secretary of State or the Attorney Generals office to see delete or include the final sentence.

Meeting adjourned on Sb 2198

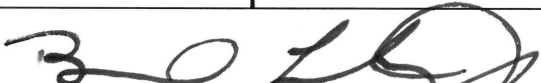
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2198

Senate Political Subdivisions Committee

Conference Committee

Hearing Date January 21, 1999

Tape Number	Side A	Side B	Meter #
1	x		4305 to 5231
Committee Clerk Signature 			

Minutes:

AMENDMENT TO 2198 BY SENATOR LYSON

INTRODUCED AS AN AMENDMENT BY SENATOR LYSON

SENATOR LYSON: Struck the last sentence of SB2198

SENATOR NELSON: WHY

SENATOR LYSON: if it goes to court anyone can complain that the Bond was filed and the

Judicial Notice was served

SENATOR LEE: it would end up in the house as being amended

SENATOR NELSON: But we can still delete the clerk of courts in the bill

SENATOR LYSON: YES

SENATOR NELSON: Reconsider the action to amend and DO PASS SB2198

SENATOR LEE: ASK FOR RECONSIDERATION OF SB2198 BY THE COMMITTEE

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Senate Political Subdivisions Committee

Bill/Resolution Number SB2198 AS AMENDED

Hearing Date January 21, 1999

SENATOR LYSON: SO MOVED

SENATOR LEE: ANYONE TO SECOND

MOTION: RECONSIDERATION OF SB2198 BY COMMITTEE

MOTION: SECONDED BY SENATOR WATNE

SENATOR LEE: FURTHER DISCUSSION

MOTION TO REAM MEND SB2198 AND HAVE THE FINAL SENTENCE IN THE BILL

WOULD THERE BE A MOTION TO REINSTATE THE LINE

MOTION: MOVE TO AMEND TO DELETE THE PREVIOUS AMENDMENT

POINT OF ORDER: SENATOR FLAKOLL, VOTE TO RECONSIDER

SENATOR LEE: VOTE TO RECONSIDER

MOTION: RECONSIDERATION OF SB2198 PASSAGE 6-0

SENATOR FLAKOLL: RECONSIDER ARE ACTIONS RELATIVE TO THE

AMENDMENTS IN SB2198 AND LC NUMBER WHICH INCLUDED THE DELETION OF

THE LAST LINE 17 AND 18

SENATOR NELSON: VOTE TO DELETE THE LAST LINE

MOTION TO DELETE LAST AMENDMENT

MOTION MADE BY SENATOR FLAKOLL

MOTION: SECONDED BY SENATOR NELSON

ROLL CALL TO DELETE PREVIOUS AMENDMENT 6 YEAS, 0 NEAS

SENATOR NELSON: MOVE TO AMEND BY USING THE ORIGINAL LC NUMBER AND

SENATOR WATNE: SECONDED THE MOTION TO AMEND

SENATOR LYSON: VOTE BY ABSENTEE, AND VOTES YES

Page 3
Senate Political Subdivisions Committee
Bill/Resolution Number SB2198 AS AMENDED
Hearing Date January 21, 1999

ROLL CALL ON AMENDMENT FOR 2198

6 YEAS 0 NEAS

SENATOR LEE: MOTION TO APPROVE THE AMENDED BILL

MOTION: SENATOR WATNE

MOTION: SECONDED BY SENATOR FLAKOLL

SENATOR LEE: ANY FURTHER DISCUSSION

CLERK CALL ROLL ON DO PASS AS AMENDED SB2198

6 YEAS 0 NEAS 0 ABSENT

SENATOR LEE: LEAVE THE VOTE OPEN FOR SENATOR LYSON;

RECONFIRMED ON JANUARY 21, 1999 AT 2:50 PM THAT SENATOR LYSON WILL

VOTE YES ON THIS BILL AS AMENDED

MOTION: DO PASS AS AMENDED

January 14, 1999

JB
1/15/99
-or County

PROPOSED AMENDMENTS TO SENATE BILL NO. 2198

SENATE AMENDMENTS TO SB 2198

POL. SUBS. 1/15/99

Page 1, line 15, remove "one with" *City or County*

Page 1, line 16, remove "the clerk of the district court for the county in which the city is located,"

Page 1, line 17, remove "Upon proper filing of the amendment or repeal, the courts shall take judicial notice of"

Page 1, remove line 18

Renumber accordingly

Keep

2

Date: 6-14-99
Roll Call Vote #: SB 2198 Amend

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate Political Subdivisions Committee Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number 9099.0201

Action Taken Do pass

Motion Made By Sen Flakoll Seconded By Sen. Nelson

Senators	Yes	No	Senators	Yes	No
Senator Lee (Chairman)	/				
Senator Lyson (Vice-Chaiman)	/				
Senator Flakoll	/				
Senator Watne	/				
Senator Kelsh	/				
Senator Nelson	/				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Senator Lyson

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

Subject to
Review of
Amendments

①

Date: 1-14-99
Roll Call Vote #: SB 2198

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate Political Subdivisions Committee Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass as amend

Motion Made By Sen Watne Seconded By Sen Flakoll

Senators	Yes	No	Senators	Yes	No
Senator Lee (Chairman)	/				
Senator Lyson (Vice-Chaiman)	/				
Senator Flakoll	/				
Senator Watne	/				
Senator Kelsh	/				
Senator Nelson	/				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Senator Flakoll Lyson

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

REPORT OF STANDING COMMITTEE

SB 2198: Political Subdivisions Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2198 was placed on the Sixth order on the calendar.

Page 1, line 15, remove "one with" *or county*

Page 1, line 16, remove "the clerk of the district court for the county in which the city is located."

Page 1, line 17, remove "Upon proper filing of the amendment or repeal, the courts shall take judicial notice of"

Page 1, remove line 18

Renumber accordingly

A handwritten signature in black ink, appearing to be "R. Lee", is written across the lower middle of the page.

Bill
Reconsider
by
Comm.

Date: 1-21-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2198 Amend.

Senate Political Subdivisions Committee Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass as amend

Motion Made By Watne ~~Lyson~~ Seconded By Flakoll ~~Watne~~

Senators	Yes	No	Senators	Yes	No
Senator Lee (Chairman)	✓				
Senator Lyson (Vice-Chaiman)	✓				
Senator Flakoll	✓				
Senator Watne	✓				
Senator Kelsh	✓				
Senator Nelson	✓				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Sen. Lyson

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

Date: 1-21-99
Roll Call Vote #:

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2198
Do pass on Amendment

Senate Political Subdivisions Committee Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass as amended

Motion Made By _____ Seconded By _____

Senators	Yes	No	Senators	Yes	No
Senator Lee (Chairman)	✓				
Senator Lyson (Vice-Chaiman)	✓		open		
Senator Flakoll	✓				
Senator Watne	✓				
Senator Kelsh	✓				
Senator Nelson	✓				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Sen. Lyson

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

REPORT OF STANDING COMMITTEE

SB 2198: Political Subdivisions Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2198 was placed on the Sixth order on the calendar.

Page 1, line 15, remove "one with"

Page 1, line 16, remove "the clerk of the district court for the county in which the city is located,"

Renumber accordingly

1999 HOUSE POLITICAL SUBDIVISIONS

SB 2198

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2198

House Political Subdivisions Committee

Conference Committee

Hearing Date 2-26-99

Tape Number	Side A	Side B	Meter #
1	x		0.3--6.2
Committee Clerk Signature <i>Pam Dever</i>			

Minutes: BILL SUMMARY: A bill for an Act to amend and reenact section 40-05.1-07 of the N.D. Century Code, relating to the amendment or repeal of city home rule charters.

Chairman Froseth called the hearing to order with all committee members present except Vice Chair Maragos.

Sen. Dwight Cook, Dist. 34, Mandan : .7 testified in support of SB 2198. I bring before you a simple bill. A year ago, I got a call from a constituent who had some questions about our city home rule charter. The questions were complicated and I couldn't answer them. I suggested she get a copy of the home rule charter. She went to the Sec. of State's Office and paid the \$7.00 to get the copy. She found what she got was a ten year old document, which was the original home rule charter. All the amendments that had been applied to it, were not required to be published. An apparent oversight and so this bill comes to you to add when amendments to home rule charter are made, that they be filed exactly in the same manner in which the original charter is. The language of the original bill was put together by the Sec. of the State Office and is meant to

follow the same language as the original charter. We have amendments that were passed out to you. The Senate Political Subdivisions decided to take out the clerk of district court. I have no problem with that, which leaves that it be filed with the Sec. of State and the city auditor. But to make this complete, we should also take out the language from section 1-05.

Chairman Froseth : 2.3 Was the Sec. of State Office the only location that the home rule charter had to be filed, previously?

Sen. Cook : The original charter had to be filed with the Sec. of State, the clerk of district court, and the city auditor. The amendments before you, now, say that it only be filed with the Sec. of State and the city auditor.

Clara Jenkins, Sec. of State Office : 3.0 testified in support of the bill on behalf of Al Jaeger, Sec. of State. This bill will clear up unnecessary confusion for filers and the public. (See attached testimony)

Rep. Koppelman : 3.8 When a home rule charter is filed with your office, and if this bill is passed and an amendment is filed; and let's say a charter has many amendments during the years. Then a person comes in and wants a copy. Do you give them the original charter and copies of all the amendments as a separate document, or do you create an engrossed charter.

Clara : 4.3 They would get a copy of the entire file. The amendments would be considered part of the charter. They will see the original and see how the amendments changed it.

Rep. Eckre : 4.5 A \$7.00 fee was mentioned. Is this standard or it is for so many copies?

Clara : There is a \$5.00 search of records fee, plus \$1.00 per four pages copied.

Hearing no additional testimony for or against SB 2198, the hearing was closed.

Chairman Froseth : What does the committee wish.

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House Political Subdivisions Committee
Bill/Resolution Number SB 2198
Hearing Date 2-26-99

ACTION:

Rep. Severson made a motion to DO PASS the amendments and Rep. Delmore seconded the motion. VOICE VOTE was held with all YES. Passed.

Rep. Severson made a motion to DO PASS AS AMENDED and Rep. N. Johnson seconded the motion.

ROLL CALL VOTE: 14 YES and 0 NO with 1 ABSENT. PASSED. Rep. Glasheim will carry the bill.

February 26, 1999

VR
2/26/99

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2198 3-1-99 PS

Page 1, line 1, replace "section" with "sections 40-05.1-05 and"

Page 1, line 2, after "the" insert "filing of copies of a new home rule charter and"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Section 40-05.1-05 of the North Dakota Century Code is amended and reenacted as follows:

40-05.1-05. Ratification by majority vote - Supersession of existing charter and state laws in conflict therewith - Filing of copies of new charter. If a majority of the qualified voters voting on the charter at the election ~~shall~~ vote in favor of the home rule charter ~~it shall be deemed to be, the charter is~~ ratified and ~~shall become~~ is the organic law of ~~such~~ the city, and ~~extend~~ extends to all its local and city matters. ~~Such~~ The charter and the ordinances made pursuant ~~thereto~~ to the charter in such matters ~~shall~~ supersede within the territorial limits and other jurisdiction of the city any law of the state in conflict ~~therewith~~ with the charter and ordinances, and ~~shall~~ must be liberally construed for such purposes. One copy of the charter ~~so~~ ratified and approved ~~shall~~ must be filed with the secretary of state, ~~one with the clerk of district court for the county in which the city is located,~~ and one with the auditor of the city to remain as a part of its permanent records. Thereupon the courts shall take judicial notice of the new charter."

Renumber accordingly

Please type or use black pen to complete

Date 2-26-99
Roll call vote # 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2198

House POLITICAL SUBDIVISIONS Committee _____

- Subcommittee on _____
 - Conference Committee
- } Identify or check where appropriate

Legislative Council Amendment Number 90099,0401 title 0500

Action Taken Do Pass As Amended

Motion Made By Rep. Severson Seconded By Rep. No Johnson

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

Total 14 0
(Yes) (No)

Absent 1

Floor Assignment Rep. Glasheim

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

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE

SB 2198, as engrossed: Political Subdivisions Committee (Rep. Froseth, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2198 was placed on the Sixth order on the calendar.

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Renumber accordingly

1999 TESTIMONY

SB 2198

SECRETARY OF STATE
ALVIN A. JAEGER

HOME PAGE <http://www.state.nd.us/sec>



PHONE (701) 328-2900
FAX (701) 328-2992

E-MAIL sos@state.nd.us

SECRETARY OF STATE

STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

February 26, 1999

TO: Rep. Froseth and Members - House Political Subdivisions Committee

FR: Al Jaeger, Secretary of State

RE: **SB 2198 – Filing of Home Rule Documents**

Section 1 of the Engrossed bill amends current law (N.D.C.C. § 40-05.1-07) as it pertains to the filing location for amendments made to home rule charters.

For consistency purposes, it is important that similar changes be made to N.D.C.C. § 40-05.1-05, which is the section of law that pertains to the filing location for newly ratified home rule charters.

If the amendments offered by Senator Cook are not adopted, it will result in these two sections of law, both pertaining to home rule charters, having conflicting filing locations depending on whether it's a new charter that is being filed or amendments to a charter that are being filed.

Therefore, to avoid unnecessary confusion for filers and the public, the Office of Secretary of State encourages the adoption of the amendments to Engrossed SB 2198 that have been provided by Senator Cook.