

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2146

2001 SENATE POLITICAL SUBDIVISIONS

SB 2146

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2146

Senate Political Subdivisions Committee

Conference Committee

Hearing Date JANUARY 11, 2001

| Tape Number                                     | Side A | Side B | Meter # |
|---|--------|--------|---------|
| 1   | X      |        | 0-43    |
|   |        |        |         |
|   |        |        |         |
| Committee Clerk Signature <i>Mary Jo Welden</i> |        |        |         |

Minutes: Roll call was taken through introductions of each member. Senator Cook, Senator Lyson, Senator Christenson, Senator Flakoll, Senator Lee, Senator Mathern, Senator Polovitz, Senator Watne.

Senator Cook opened the hearing for SB2146.

Al Jaeger, Secretary of State introduced the bill. See attached testimony.

Senator Cook asked for any other testimony in favor of this bill.

Jerry Hjelmsted, ND League of Cities, would like to go on record in support of this change. It does bring consistency to the filing requirements for the original charter and the amendments to the charter that will be filed with the Secretary of States office and the City Auditor.

There was no further testimony. The hearing was closed.

Senator Lee moved a Do Pass on SB2146, seconded by Senator D. Mathern

Roll call vote carried. 8-0.

Senator Lee carrier.

Date: 1-11-01  
Roll Call Vote #: SB2146

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

Senate Political Subdivisions Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

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

Action Taken No Pass

Motion Made By Senator Lee Seconded By Senator D. Mathern

| Senators        | Yes | No | Senators            | Yes | No |
|-----------------|-----|----|---------------------|-----|----|
| Senator Cook    | ✓   |    | Senator Christenson | ✓   |    |
| Senator Lyson   | ✓   |    | Senator Mathern     | ✓   |    |
| Senator Flakoll | ✓   |    | Senator Polovitz    | ✓   |    |
| Senator Lee     | ✓   |    |                     |     |    |
| Senator Watne   | ✓   |    |                     |     |    |
|                 |     |    |                     |     |    |
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|                 |     |    |                     |     |    |

Total (Yes) 8 No 0

Absent 0

Floor Assignment Senator Lee

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

**REPORT OF STANDING COMMITTEE (410)**  
January 11, 2001 11:28 a.m.

**Module No: SR-03-0888**  
**Carrier: Lee**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2146: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2146 was placed on the Eleventh order on the calendar.**

2001 HOUSE POLITICAL SUBDIVISIONS

SB 2146

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2146

House Political Subdivisions Committee

Conference Committee

Hearing Date 3-1-01

| Tape Number                                | Side A | Side B | Meter #  |
|--|--------|--------|----------|
| 1  | xx     |        | 670--965 |
|  |        |        |          |
|  |        |        |          |
| Committee Clerk Signature <i>Pam Dever</i> |        |        |          |

Minutes: Chair Froseth opened the hearing on SB2146 relating to the places to file home rule charter; and to declare an emergency.

Clara Jenkins, Sec. of State Office : testified in support of SB2146. (SEE ATTACHED) This bill is to correct an inconsistency between two sections in law that was passed last session.

Vice-Chair Severson : What is the vote that the emergency clause carried in the senate?

Clara : I'm not sure.

Chair Froseth : Any further testimony? Hearing none, we're closed. What do you wish?

Rep. N. Johnson : I move a DO PASS.

Vice-Chair Severson : I second.

**VOTE: 14 YES and 0 NO with 1 absent. PASSED. Rep. Eckre will carry the bill.**

Date: 3-1-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2146

House POLITICAL SUBDIVISIONS Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

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

Action Taken DO PASS

Motion Made By Rep. N. Johnson Seconded By Vice-Chair Severson

| Representatives             | Yes | No | Representatives      | Yes | No |
|-----------------------------|-----|----|----------------------|-----|----|
| Chairman Glen Froseth       | /   |    | Rep. Wayne W. Tieman | /   |    |
| Vice-Chair Dale C. Severson | /   |    |                      |     |    |
| Rep. Lois Delmore           | /   |    |                      |     |    |
| Rep. Rachael Disrud         | /   |    |                      |     |    |
| Rep. Bruce Eckre            | /   |    |                      |     |    |
| Rep. Mary Ekstrom           | /   |    |                      |     |    |
| Rep. April Fairfield        | AB  |    |                      |     |    |
| Rep. Michael Grosz          | /   |    |                      |     |    |
| Rep. Jane Gunter            | /   |    |                      |     |    |
| Rep. Gil Herbel             | /   |    |                      |     |    |
| Rep. Nancy Johnson          | /   |    |                      |     |    |
| Rep. William E. Kretschmar  | /   |    |                      |     |    |
| Rep. Carol A. Niemeier      | /   |    |                      |     |    |
| Rep. Andrew G. Maragos      | /   |    |                      |     |    |

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep. Eckre

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



**REPORT OF STANDING COMMITTEE (410)**  
March 1, 2001 11:21 a.m.

**Module No: HR-35-4582**  
**Carrier: Eckre**  
**Insert LC: . Title: .**

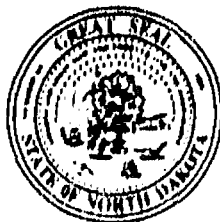
**REPORT OF STANDING COMMITTEE**

**SB 2146: Political Subdivisions Committee (Rep. Froseth, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2146 was placed on the Fourteenth order on the calendar.**

2001 TESTIMONY

SB 2146

ALVIN A. JAEGER  
SECRETARY OF STATE



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

January 11, 2001

TO: Senator Cook and Members – Senate Political Subdivisions Committee

FR: Al Jaeger, Secretary of State

RE: SB 2146 – Filing of Documents related to Home Rule Cities

The sole purpose of this bill is to restore the provisions of Section 40-05.1-05 of the North Dakota Century Code to that which was in effect from August 1, 1999, through December 31, 2000. The 1999 Legislative Assembly unanimously adopted the law in effect during that period of time with the passage of SB 2198. The bill was filed with the Secretary of State on March 11, 1999.

During the same session, Section 66 (one of 83 sections) of HB 1275 (a/k/a the clerk of courts bill) amended the same section of law. The Legislative Assembly also adopted that bill and it was filed with the Secretary of State on April 2, 1999.

Although SB 2198 eliminated the office of the Register of Deeds as a filing location for certain city home rule documents, the amendment in HB 1275 inadvertently retained the register of deeds as a filing office for these particular documents. That happened because HB 1275 was passed after SB 2198 and, as a result, it effectively negated the elimination of the office of Register of Deeds as a filing location.

In addition, as of January 1, 2001 (when the amendment in HB 1275 became law), there now exists an inconsistency between the provisions of Sections 40-05.1-05 and 40-05.1-07 as to filing locations for city home rule documents.

The passage of this bill will restore the provisions of Section 40-05.1-05 as was originally intended by the 1999 Legislative Assembly when it passed SB 2198 (and, as intended by Senator Cook, who was the prime sponsor of the bill).

Normally, this bill would become law on August 1, 2001. However, in an effort to restore the law and eliminate the current inconsistency as quickly as possible, Section two of the subject bill contains an emergency clause. If adopted by two-thirds of the members in each chamber, the provisions in the bill before you would become law as soon as it is filed with the Secretary of State.

Attached is a copy of the respective sections of the North Dakota Century Code referred to in this testimony.

**40-05.1-05. (Effective through December 31, 2000) 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 vote in favor of the home rule charter, the charter is ratified and is the organic law of the city, and extends to all its local and city matters. The charter and the ordinances made pursuant to the charter in such matters supersede within the territorial limits and other jurisdiction of the city any law of the state in conflict with the charter and ordinances, and must be liberally construed for such purposes. One copy of the charter ratified and approved must be filed with the secretary of state 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.

*as passed in SB 2189 1999*

**(Effective January 1, 2001) 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 ratified and shall become the organic law of such city, and extend to all its local and city matters. Such charter and the ordinances made pursuant thereto in such matters shall supersede within the territorial limits and other jurisdiction of the city any law of the state in conflict there, and shall be liberally construed for such purposes.

One copy of the charter so ratified and approved shall be filed with the secretary of state; one with the register of deeds for the county in which the city is located, unless the board of county commissioners designates a different official; 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.

*wording inside brackets restored by HB 1275 because of it's later passage in session 1999*

Source: S.L. 1989, ch. 371, § 5; 1999, ch. 278, § 66; 1999, ch. 303, § 1.

**Effective Date.**

The 1989 amendment of this section by section 66 of chapter 278, S.L. 1999 becomes effective January 1, 2001.

The 1999 amendment of this section by section 1 of chapter 303, S.L. 1999 became effective August 1, 1999.

**Note.**

Section 40-05.1-05 was amended twice by the 1999 Legislative Assembly. Pursuant to section 1-02-09.1, the section is printed above to harmonize and give effect to the changes made in section 66 of chapter 278, S.L. 1999 and section 1 of chapter 303, S.L. 1999.

*Now in case of year as of 1-1-01*

**40-05.1-07. Amendment or repeal.** The home rule charter adopted by any city may be amended or repealed by proposals submitted to and ratified by the qualified electors of the city in the same general manner provided in section 40-05.1-02 and section 40-05.1-04 for the adoption of the charter. Amendments may be proposed by the governing body of the city or by petition of the number of electors provided in section 40-05.1-02 and submitted to the voters at the same election. The voters may at their option accept or reject any or all of the amendments by a majority vote of qualified electors voting on the question at the election. A proposal to repeal a home rule charter that has been adopted must likewise be submitted to the electors of the city as set forth in this section. One copy of a ratified amendment or a repeal of a home rule charter must be filed with the secretary of state and one with the city auditor. Upon proper filing of the amendment or repeal, the courts shall take judicial notice of the amendment or repeal.

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SECRETARY OF STATE

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

March 1, 2001

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

FR: Al Jaeger, Secretary of State (presented by Clara Jenkins, Director, Business Division)

RE: SB 2146 – Filing of Documents related to Home Rule Cities

The sole purpose of this bill is to restore the provisions of Section 40-05.1-05 of the North Dakota Century Code to that which was in effect from August 1, 1999, through December 31, 2000. The law in effect during that period of time was the result of the unanimous adoption of SB 2198 during the 1999 legislative session.

However, during the same 1999 session, Section 66 (one of 83 sections) of HB 1275 (a/k/a the clerk of courts bill) amended the same section of law.

Although SB 2198 eliminated the office of the Register of Deeds as a filing location for certain city home rule documents, the amendment in HB 1275 inadvertently retained the register of deeds as a filing office for these same home rule documents. That happened because HB 1275 was passed later in the legislature session and, as a result, it became the prevailing law and effectively negated the elimination of the office of Register of Deeds as a filing location as intended in SB 2198.

Because of this, as of January 1, 2001 (when Section 66 of HB 1275 became law), there now exists an inconsistency between the provisions of Sections 40-05.1-05 and 40-05.1-07 of the North Dakota Century Code as it pertains to the filing locations for city home rule documents.

The passage of the SB 2146 will restore the provisions of Section 40-05.1-05 as the Legislative Assembly originally intended when it passed SB 2198 in 1999.

Normally, the bill before you would become law on August 1, 2001. However, in an effort to restore the law as originally intended and to eliminate the current filing inconsistencies between these two sections of law as quickly as possible, Section two of the subject bill contains an emergency clause. If adopted by two-thirds of the members in each chamber, the provisions in SB 2146 would become law as soon as it is filed with the Secretary of State.

Attached is a copy of the respective sections of the North Dakota Century Code referred to in this testimony.