

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

2197

2001 SENATE POLITICAL SUBDIVISIONS

SB 2197

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2197

Senate Political Subdivisions Committee

Conference Committee

Hearing Date January 25, 2001

Tape Number	Side A	Side B	Meter #
1	X		0.0-4.3
Committee Clerk Signature <i>Mary Jo Wackin</i>			

Minutes:

The committee was called to order. All was in attendance.

The hearing was called on SB2197 relating to the terms of office of members of the board of county commissioners.

SENATOR LEE: This bill was introduced in order to rectify a problem in which Cass is not the only county, I believe it affected, but we ended up having too many county commissioners for a few days because of the way the bill was drafted and we were trying to adjust the days and all that, so we ended up with an overlap. We were able to figure out a way in how to handle it, and the staff, they just didn't do a lot of serious, major controversial business during that 20 day or so stretch. That's the purpose of this to clarify the language to make sure that we have county commissioner terms ending and the new term starting again without the problem that had been generated in the last election.

TERRY TRAYNOR: See written testimony. The reason that we did the change was primarily to reduce the lame duck period and also because the agenda of the commission meeting in January is so full, with implementing the budget and all the appointments. It was felt by the county commissioners that a December start date gave those freshmen commissioners a little better chance to get oriented on the board. That was the reason. But we did miss something when we passed that bill, two sessions ago, and that was a section of the law that this bill addresses in the 11:07:04, which deals with redistricting after a census, just like the legislature redistricts the state law requires the county commissioners review their districts or if they aren't in districts re-examine whether they should be in districts and establish those within the 10% of the population variance and the section that refers to special elections because someone got moved in their district where the district boundary changes still references the January date for taking office. Rather than run into the same problem we had before with different terms starting at different times, this bill makes it systematic to the rest of the century code and make that section regarding special elections also starting in December. I urge you to do pass. SENATOR COOK, closed the hearing on SB2197.

SENATOR WATNE moved a Do Pass on SB2197. SENATOR D. MATHERN 2nd.

8 yes, 0 no 0 Absent

Carrier: Senator Polovitz

Date: January 25, 01  
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. S.B. 2197

Senate Political Subdivisions Committee

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

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

Action Taken No Pass

Motion Made By Sen. Watne Seconded By Sen. Mathern

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

Total (Yes) 8 No 0

Absent 0

Floor Assignment Sen. Polovitz

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

**REPORT OF STANDING COMMITTEE (410)**  
January 25, 2001 2:23 p.m.

**Module No: SR-13-1640**  
**Carrier: Polovitz**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2197: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2197 was placed on the Eleventh order on the calendar.**

2001 HOUSE POLITICAL SUBDIVISIONS

SB 2197

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2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2197

House Political Subdivisions Committee

Conference Committee

Hearing Date 3-2-01

Tape Number	Side A	Side B	Meter #
1	xx		5200--end
1		xx	1--150
1		xx	3000--3500
Committee Clerk Signature <i>[Signature]</i>			

Minutes: Chair Froseth opened the hearing on SB2197 relating to the terms of office of members of the board of county commissioners.

Wade Williams, ND Assoc. of Counties : here in support of SB2197. Presented testimony prepared by Terry Traynor, who was called away. (SEE ATTACHED TESTIMONY)

**end of Tape 1, side A, begin side B**

Sen. Darlene Watne : I have an amendment I'd like the committee to look at. I got an e-mail from a state's attorney five minutes before this committee started concerning this bill. Under the Tool Chest legislation, some counties combined the county treasure and auditor position, so without this change, there will be a problem. There are so many combined positions, now. I see no problem with adding this amendment. I apologize for not talking to you, Mr. Chairman, but I did not have time. I wanted to stop a possible problem before you took action, so that's why I'm here.

Rep. Delmore : How often is this known to happen?

Page 2  
House Political Subdivisions Committee  
Bill/Resolution Number SB2197  
Hearing Date 3-2-01

Sen. Watne: I believe it is quite rare. But if it does happen, they need to know how to deal with it.

Rep. Delmore : How do they determine which elective officer to be called in?

Sen. Watne : It would be the remaining members with the judge and the sheriff. This seemed to be the most logical for the L.C. to come up with. (end of Tape 1, side A, begin side B)

Vice-Chair Severson : Have you had time to talk with the sponsor?

Sen. Watne : No, I have not. It was 5 minutes before committee. Had no time.

Chair Froseth : Any more testimony for or against? Hearing none, we are closed.

(3000-3500) Discussion:

Rep. Delmore : I think we should ask Terry and the counties if this is O.K. with them.

Vice-Chair Severson : I can do that. **I move this amendment.**

Rep. Delmore : **I second.**

**VOICE VOTE: ALL YES. PASSED.**

Vice-Chair Severson : **I move a DO PASS AS AMENDED.**

Rep. Herbel : **I second.**

**VOTE: 10 YES and 0 NO with 5 absent. PASSED. Vice-Chair Severson will carry.**

March 1, 2001

VR  
3/5/01

**HOUSE AMENDMENTS to SB 2197**      **HOUSE POL. SUBSW 3-5-01**  
Page 1, line 1, after "11-07-04" insert "and section 44-02-05"

Page 1, line 2, after "commissioners" insert "and vacancies in boards of county commissioners"

Page 1, after line 20, insert:

**"SECTION 2. AMENDMENT.** Section 44-02-05 of the North Dakota Century Code is amended and reenacted as follows:

**44-02-05. Vacancy in board of county commissioners - How filled.** When a vacancy occurs in the board of county commissioners, the remaining members of the board, with the district judge ~~being~~ selected by the remaining county commissioners and ~~and~~ the sheriff, immediately shall appoint some suitable person to fill the vacancy from the district in which the vacancy occurred. If a majority of the officers fails to agree upon a person to fill the vacancy, the county treasurer ~~shall or, if the county does not have an elected treasurer, another elective county officer must be called in~~ and shall act as an additional member of the board to fill the vacancy. The appointee holds office until the appointee's successor is elected at the next general election and qualified."

Renumber accordingly

Date:  
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2197

House POLITICAL SUBDIVISIONS Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number 10461.0101 .0200

Action Taken Do Pass As Amended

Motion Made By Vice-Chair Severson Seconded By Rep. Herbel

Representatives	Yes	No	Representatives	Yes	No
Chairman Glen Froseth	/		Rep. Wayne W. Tieman	AB	
Vice-Chair Dale C. Severson	/				
Rep. Lois Delmore	/				
Rep. Rachael Disrud	AD				
Rep. Bruce Eckre	/				
Rep. Mary Ekstrom	AB				
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	AD				

Total (Yes) 10 No 0

Absent 5 AB

Floor Assignment Vice-Chair Severson

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

**REPORT OF STANDING COMMITTEE**

**SB 2197: Political Subdivisions Committee (Rep. Froseth, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 0 NAYS, 5 ABSENT AND NOT VOTING). SB 2197 was placed on the Sixth order on the calendar.

Page 1, line 1, after "11-07-04" insert "and section 44-02-05"

Page 1, line 2, after "commissioners" insert "and vacancies in boards of county commissioners"

Page 1, after line 20, insert:

**"SECTION 2. AMENDMENT.** Section 44-02-05 of the North Dakota Century Code is amended and reenacted as follows:

**44-02-05. Vacancy in board of county commissioners - How filled.** When a vacancy occurs in the board of county commissioners, the remaining members of the board, with the district judge ~~being~~ selected by the remaining county commissioners and auditor or the sheriff, immediately shall appoint some suitable person to fill the vacancy from the district in which the vacancy occurred. If a majority of the officers fails to agree upon a person to fill the vacancy, the county treasurer ~~shall~~, if the county does not have an elected treasurer, another elective county officer must be called in and shall act as an additional member of the board to fill the vacancy. The appointee holds office until the appointee's successor is elected at the next general election and qualified."

Renumber accordingly

2001 SENATE POLITICAL SUBDIVISIONS

CONFERENCE COMMITTEE

SB 2197

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2197

Senate Political Subdivisions Committee

Conference Committee

Hearing Date March 23, 2001

Tape Number	Side A	Side B	Meter #
1	X		11.6-16.6

Committee Clerk Signature *Mary Jo Wocken*

Minutes:

Senator Lee opened the conference committee on SB2197 with all of the senators and representatives present.

SENATOR LEE: Senator Watne, I believe had carried the original amendment this goes, so I might ask for her review, I believe, that the reason we did not concur is because of the inclusion of the word "sheriff" in making this determination. I will ask Senator Watne if she will review this correction for us please. SEN. WATNE: I think all of you realize what happened. The state's attorney asked me to put this on to Judy's bill, and Judy was gone at the time. In order to have a method to fill a vacancy on the Board of County Commissioners. At the time it came up so quickly it was drafted very quickly and I only had it for about five minutes. We wanted to check with the county commissioners through Terry Traynor and also get back to my state's attorney who had requested to be it was what they wanted. Since then, those entities have discussed that they would like to have the sheriff taken out. So my motion will be that the Senate accede to the

Page 2

Senate Political Subdivisions Committee

Bill/Resolution Number Conference Committee on SB2197

Hearing Date March 23, 2001

House amendments and further amend to delete the words "the sheriff". SEN. MATHERN - 2nd.

Terry is that correct? SEN. LEE: Mr. Traynor would you like to comment on the bill please?

SEN. WATNE: To be sure I am doing what everybody wants. TERRY TRAYNOR: That

certainly the intent. I don't know if that. SEN. LEE: Would you like to come to the podium and

tell us. TERRY TRAYNOR: I am Terry Traynor, with the Association of Counties. Yes, that is

certainly is the intent of the County Commissioners. They feel that actually the situation has been

trouble some in the past and it has gotten worse now with the changes in the structures, loosing

the county auditors, the county treasurers and in different cases as elected officials. I know that

the State's Attorney put the sheriff in because that is one Constitutionally required elected office,

but because the county commissioners approve their budgets. all those elected officials, it has

always been uncomfortable for those officials and for the commissioners to have that person

electing their successor, or their commissioner. The idea of having just the remaining

commissioners and a district judge is the preferable. I don't know if we need those elected office

with the judge and the remaining commissioners. We'll always have an odd number, but if you

want to leave that language in their that would be just fine. REP. SEVERSON: Terry, the word

"end" before the over stricken auditor should probably go at that point? TERRY TRAYNOR: I

would agree. REP. SEVERSON: And you want nothing in there at all? You don't want a body or

another position in there? TERRY TRAYNOR: The position of the county commissioners' was,

I just as soon have the commissioners and the district judge or a district judge selected by them if

there is more than one. REP. SEVERSON: Okay, thank you.

SEN. LEE: So we would have to add in the language about the judge? TERRY TRAYNOR: Yes.

SEN. WATNE: No, that's in there. REP. SEVERSON: It is with the district judge. SEN.

WATNE: The only thing is to remove the words "and the sheriff".



Page 3

Senate Political Subdivisions Committee

Bill/Resolution Number Conference Committee on SB2197

Hearing Date March 23, 2001

SEN. LEE: Okay. And Senator Watne moved and Senator Mathern 2nd. So we are I do believe and the sheriff. REP. ECKRE: I was just going to ask Terry here. If their constitutionally offices. doesn't the county commissioner, however, have to provide funds to keep those offices going though too? TERRY TRAYNOR: They do. They have to provide a budget, but it conceivable would only have to be at the salary at the minimum level of the sheriff himself. REP. ECKRE: Okay. TERRY TRAYNOR: And it could be a great deal more. REP. ECKRE: Thank you. SEN. LEE: If not, you would be comfortable with deleting "and the sheriff" and leaving the rest as it is? Any further discussion on the amendments proposed by Senator Watne? No further discussion.

Committee clerk will call the roll on a motion to accede to the House amendments and further amend to delete the words, " and the sheriff".

Roll Call Vote: 6 Yes, 0 No, 0 Absent

Carrier: Senator Lee

PROPOSED AMENDMENTS TO SENATE BILL NO. 2197

That the House recede from its amendments as printed on pages 739 and 740 of the Senate Journal and pages 814 and 815 of the House Journal and that Senate Bill No. 2197 be amended as follows:

Page 1, line 1, after "11-07-04" insert "and section 44-02-05"

Page 1, line 2, after "commissloners" insert "and vacancies in boards of county commissioners"

Page 1, after line 20, insert:

**"SECTION 2. AMENDMENT.** Section 44-02-05 of the North Dakota Century Code is amended and reenacted as follows:

**44-02-05. Vacancy in board of county commissioners - How filled.** When a vacancy occurs in the board of county commissioners, the remaining members of the board, with the district judge ~~being~~ selected by the remaining county commissioners and auditor, immediately shall appoint some suitable person to fill the vacancy from the district in which the vacancy occurred. If a majority of the officers fails to agree upon a person to fill the vacancy, the county treasurer shall or, if the county does not have an elected treasurer, another elective county officer must be called in and shall act as an additional member of the board to fill the vacancy. The appointee holds office until the appointee's successor is elected at the next general election and qualified."

Renumber accordingly

Date: 3/23/01

Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. S.B. 2197

Senate Political Subdivisions Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

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

Action Taken House recede from the House amendments and amendments as follows:

Motion Made By Sen. Watson Seconded By Sen. Matheson

Senators	Yes	No	Senators	Yes	No
<u>Senator Judy Lee</u>	✓				
<u>Senator Madeline Watne</u>	✓				
<u>Senator Bob Matheson</u>	✓				
<u>Representative Dale Stevenson</u>	✓				
<u>Representative Michael Long</u>	✓				
<u>Representative Bruce Leno</u>	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Lee

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

**REPORT OF CONFERENCE COMMITTEE**

**SB 2197:** Your conference committee (Sens. Lee, Watne, D. Mathern and Reps. Severson, Grosz, Eckre) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 739-740, adopt amendments as follows, and place SB 2197 on the Seventh order:

That the House recede from its amendments as printed on pages 739 and 740 of the Senate Journal and pages 814 and 815 of the House Journal and that Senate Bill No. 2197 be amended as follows:

Page 1, line 1, after "11-07-04" insert "and section 44-02-05"

Page 1, line 2, after "commissioners" insert "and vacancies in boards of county commissioners"

Page 1, after line 20, insert:

**"SECTION 2. AMENDMENT.** Section 44-02-05 of the North Dakota Century Code is amended and reenacted as follows:

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Renumber accordingly

SB 2197 was placed on the Seventh order of business on the calendar.

Bill Number) S.B. 2197 (, as (re)engrossed):

Your Conference Committee

For the Senate:

Sen. Lee  
Sen. Matheson  
Sen. Watson

For the House:

Rep. Severson  
Rep. Gray  
Rep. Eckre

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)  
723/724      725/726      8724/H726      8723/H725  
the (Senate/House) amendments on (SJ/HJ) page(s) 739-740 - 814-815

and place \_\_\_\_\_ on the Seventh order.  
727

, adopt (further) amendments as follows, and place  
S.B. 2197 on the Seventh order:

having been unable to agree, recommends that the committee be discharged  
and a new committee be appointed. 690/515

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the  
calendar.

DATE: 03 / 23 / 01

CARRIER: \_\_\_\_\_

LC NO. \_\_\_\_\_ of amendment

LC NO. \_\_\_\_\_ of engrossment

Emergency clause added or deleted \_\_\_\_\_

Statement of purpose of amendment \_\_\_\_\_

(1) LC (2) LC (3) DESK (4) COMM.

2001 TESTIMONY

SB 2197

**Testimony to the  
SENATE POLITICAL SUBDIVISIONS COMMITTEE  
Prepared January 25, 2001 by the  
North Dakota Association of Counties  
Terry Traynor, NDACo Assistant Director**

**REGARDING SENATE BILL 2197**

Chairman Cook and members of the committee, I appear before you to request your support of Senate Bill 2197. Our Association requested this bill, and in our view it is truly a housekeeping measure.

Several of you may recall that in 1997 our Association supported a bill that changed the starting date for county commissioner terms from January to December. The reasoning for that bill was to reduce the "lame duck" period and provide an opportunity for newly elected commissioners to have a short period of orientation before the very full agenda of their first January meeting.

While the transition after the past two election cycles was somewhat confusing in a few counties, we are now "over the hump" and all 221 county commissioners are serving terms that began in December.

Senate Bill 2197 simply ties up one loose end that was overlooked four years ago. The bill addresses a section found in the chapter of Century Code that addresses county commission redistricting after a dicennial census. 11:09:04

Like the Legislature, State Law directs each county to examine their county commissioner districts for equitable size. The section of code in the bill references the starting month for those commissioners that may possibly stand for election due to district boundary changes.

The only substantive change to the section is where the word "December" replaces the word "January". The rest of the changes address the style and uniformity of the code.

Mr. Chairman and Committee members, I urge a Do Pass recommendation of Senate Bill 2197.



"Doug L. Mattson"  
<dmattson@state.nd.  
us>

02/21/2001 08:36 AM

To: "Darlene Watne" <dwatne@state.nd.us>  
cc:  
Subject: Ward County Commisison Reqeust

2/21/01

Senator Watne:

The Ward County Commission yesterday asked if I would contact a senator from our area for assistance in amending the statute dealing with vacancies of NDCC 44-02-05 so that it reflects [1] some counties (under tool chest) have combined the county treasurer and auditor positions so the additional member called for should be the sheriff and [2] the district judge on the committee should be appointed by the county commission in order to have some contact with the county.

Would you be willing to assist on this matter?

If so, I will forward you a proposed amendment for the change.

I assume one needs to check with the Legislative Counsel for a legislative vehicle that meets the germaneness test.

Thank you. - Doug



**Testimony to the  
HOUSE POLITICAL SUBDIVISIONS COMMITTEE  
Prepared March 2, 2001 by the  
North Dakota Association of Counties  
Terry Traynor, NDACo Assistant Director**

*by W.A.L. Williams*

**REGARDING SENATE BILL 2197**

Chairman Froseth and members of the committee, I appear before you to request your support of Senate Bill 2197. Our Association requested this bill, and in our view it is truly a housekeeping measure.

Several of you may recall that in 1997 our Association supported a bill that changed the starting date for county commissioner terms from January to December. The reasoning for that bill was to reduce the "lame duck" period and provide an opportunity for newly elected commissioners to have a short period of orientation before the very full agenda of their first January meeting.

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Senate Bill 2197 simply ties up one loose end that was overlooked four years ago. The bill addresses a section found in the chapter of Century Code that addresses county commission redistricting after a dicennial census.

Like the Legislature, State Law directs each county to examine their county commissioner districts for equitable size. The section of code in the bill references the starting month for those commissioners that may possibly stand for election due to district boundary changes.

The only substantive change to the section is where the word "December" replaces the word "January". The rest of the changes address the style and uniformity of the code.

Mr. Chairman and Committee members, I urge a Do Pass recommendation of Senate Bill 2197.