

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

2236

2007 SENATE POLITICAL SUBDIVISIONS

SB 2236

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2236**

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: **January 26, 2007**

Recorder Job Number: **2051**

Committee Clerk Signature

*Shirley Borg*

Minutes:

**Chairman Cook** opened the hearing on SB 2236 relating to municipal elections. All members (5) present.

**Chairman Cook** opened the hearing on SB 2236

**Al Jaeger**, Secretary of State, explained SB 2236. (See attached testimony #1)

No further testimony in support, opposed or neutral on SB 2236.

**Chairman Cook** closed the hearing.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2236**

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: January 26, 2007

Recorder Job Number: 2053

Committee Clerk Signature

*Shirley Borg*

Minutes:

**Chairman Cook** called the committee to order. All members (5) present.

**Chairman Cook** asked for action on SB 2236.

**Senator Anderson** motioned a Do Pass on SB 2236.

**Senator Olafson** seconded the motion.

Discussion

Roll call vote Yes 5 No 0 Absent 0

Carrier: **Senator Anderson**

Date: 1-26-07  
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2236

Senate Political Subdivisions Committee

Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Sen Anderson Seconded By Sen Olafson

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X		Senator Arden C. Anderson	X	
Senator Curtis Olafson, ViceChair	X		Senator John M. Warner	X	
Senator Nicholas P. Hacker	X				

Total Yes 5 No 0

Absent 0

Floor Assignment Senator Anderson

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

**REPORT OF STANDING COMMITTEE (410)**  
January 26, 2007 1:51 p.m.

**Module No: SR-18-1367**  
**Carrier: Anderson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2236: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2236 was placed on the Eleventh order on the calendar.**

2007 HOUSE POLITICAL SUBDIVISIONS

SB 2236

# 2007 HOUSE STANDING COMMITTEE MINUTES

## Bill No. SB 2236

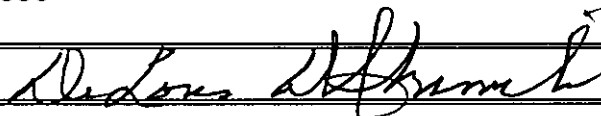
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 22, 2007

Recorder Job Number: 3635

Committee Clerk Signature



Minutes:

**Chairman Herbel** opened the hearing on SB 2236.

**Senator Dever:** In support of SB 2236.

**Rep. Lawrence Klemin:** Why is the president of the city commission often referred to as the mayor?

**LeeAnn Oliver: Secretary of State's office:** (see testimony #1)

**Rep. Lee Kaldor:** The distinction between the commission form and the council form is in the commission form they are elected president. Is that president elected by the commission or by the commission itself?

**LeeAnn Oliver:** You run for the president of the commission. When you fill out papers you run for that position.

**Rep. Kim Koppelman:** Is there anything in law where one person runs for a city commission seat and where they can't serve both?

**LeeAnn Oliver:** We don't know what would prohibit them, but you have quorum. Common sense should be that you can't serve on both. Sometimes people run for two and then have to decide which one they serve on.



**Rep. Donald Dietrich:** The question I have is you know your testimony of not both at the same time. I think that is on the back page of line 11 and on the back page on line 17 in my mind it is not clear. But not both at the same time.

**LeeAnn Oliver:** I will check with Al Jeager and see how we should change this and put it in as an amendment.

Opposition: None

Hearing closed.

# 2007 HOUSE STANDING COMMITTEE MINUTES

## Bill No. SB 2236

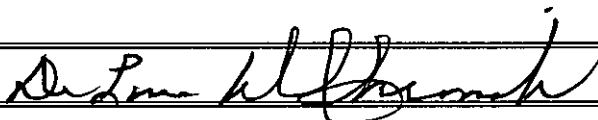
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 23, 2007

Recorder Job Number: 2386

Committee Clerk Signature



Minutes:

**Chairman Herbel** reopened the hearing on SB 2236. Went over the proposed amendment.

**Rep. Lawrence Klemin** said instead of the word at as proposed it should be the word in is more correct.

**Chairman Herbel** as long as we are amending it we can change this too.

**Rep. Nancy Johnson:** In sounds more better to me.

**Rep. Pat Hatlestad** made a motion to move the amendment. **Seconded by Rep. Chris Griffin**

Discussion:

Voice vote carried.

**Rep. Nancy Johnson** brought up another issue; can you give the city commissioner and your term limit a different election as the present city commission might be? Can you be a defeated member and run for another seat? Secretary Jaeger and he suggested there is a provision in law that if you do that.

**Chairman Herbel** we now have the amended bill.

Discussion:

**Rep. Dwight Wrangham:** On the bill itself on page 2 where we are changing the period of time that a candidate has to have his petition in before the election. Lines 8 & 9, if we read the entire sentence beginning on line 6 if the city election is not combined with the state and county election according to section 40-21-02 a candidate may nominate by prior required petitions with the city auditor at least 60 days. If the election is going to be combined with the city election or county election where there are going to be requirements for turning out the ballot so many days ahead of time in order to get it all done. The law already says that you have to have your petition 60 days ahead of time. If it is only a city election than the requirement is that you have to have your petitions in by the 33<sup>rd</sup> day before hand.

**Chairman Herbel** What about the change of 60 day period?

**Rep. Dwight Wrangham** Why is the 60 day period in there? If it is a special election it is giving people a chance to get their petitions in. A special city election is rare.

**Rep. Lawrence Klemin:** I don't think a special city election is all that rare. Especially in these small towns. Why do we need to run it out that long?

**Rep. Lee Kaldor:** I think Rep. Dwight Wrangham is right on. I think we should shorten the time. I think 33<sup>rd</sup> day is OK.

**Rep. Kari Conrad** I think we end up with allot of write in campaigns because of the timing of them.

**Rep. Lee Kaldor** moved to removed the stricken language on lines 8 and 9; replace the 60 with the original 33 and do the same on line 9. Rep. Kari Conrad Seconded.

Discussion: None

Voice vote carried.

Discussion: None

**Do Pass As Amended Motion Made By Rep. Nancy Johnson Seconded By Rep. Pat  
Hatlestad**

**Vote:            12    Yes   0    No   2    Absent            Carrier: Rep. Pat Hatlestad**

Hearing closed.

February 23, 2007

VR  
2/23/07

PROPOSED AMENDMENTS TO SENATE BILL NO. 2236

Page 1, line 11, after "both" insert "in the same election"

Page 2, line 8, remove the overstrike over "~~thirty-three~~" and remove "sixty"

Page 2, line 9, remove the overstrike over "~~thirty-three~~" and remove "sixtieth"

Page 2, line 15, after "both" insert "in the same election"

Page 2, line 17, after "both" insert "in the same election"

Renumber accordingly

Date: 2-23-07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2236

House Political Subdivisions Committee

Check here for Conference Committee

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

Action Taken Do Pass As Amended #3

Motion Made By Rep. Johnson Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Rep. Gil Herbel-Chairman	✓		Rep. Kari Conrad	✓	
Rep. Dwight Wrangham-V. Chair	✓		Rep. Chris Griffin	✓	
Rep. Donald Dietrich	✓		Rep. Lee Kaldor	✓	
Rep. Patrick Hatlestad	✓		Rep. Louis Pinkerton	✓	
Rep. Nancy Johnson	✓		Rep. Steve Zaiser	—	
Rep. Lawrence Klemin	✓				
Rep. Kim Koppelman	—	—			
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Hatlestad

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

**REPORT OF STANDING COMMITTEE**

**SB 2236: Political Subdivisions Committee (Rep. Herbel, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2236 was placed on the Sixth order on the calendar.

Page 1, line 11, after "both" insert "in the same election"

Page 2, line 8, remove the overstrike over "~~thirty-three~~" and remove "sixty"

Page 2, line 9, remove the overstrike over "~~thirty-third~~" and remove "sixtieth"

Page 2, line 15, after "both" insert "in the same election"

Page 2, line 17, after "both" insert "in the same election"

Renumber accordingly

2007 SENATE POLITICAL SUBDIVISIONS

CONFERENCE COMMITTEE

SB 2236



## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2236**

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: **March 29, 2007**

Recorder Job Number: **5610**

Committee Clerk Signature

*Shirley Borg*

Minutes:

**Chairman Olafson** called the Conference Committee on SB 2236 to order. Senators Olafson, Hacker and Anderson and Representatives Hatlestad, Kaldor and Klemin present.

**Chairman Olafson** opened the Conference Committee and asked someone from the house to explain the amendments.

**Representative Hatlestad:** I think basically there were two things that we wanted in the case for running for the city commission or the chairman of the city commission. The first amendment is we want it set up so they can not run for both positions in the same election and the second amendment was to reduce the sixty days back to thirty three since it involved only a local election and did not involve the state. We didn't think the time frame was necessary.

**Representative Klemin:** I would like to add to that we are talking about municipal elections and I can understand the desire for consistence across the board for deadline dates that the secretary of state has. In this particular case the reason we didn't go that route was because we are talking about a municipal election that is not taking place with some other state or county election. It is only a municipal election and it is only in a situation when we are talking

about special elections, so how far out do we want to put things? The deadline on the existing law is thirty three days before you have to get your nominations filed. Another requirement is that you have to publish a notice in the newspaper thirty days before that so you are already sixty three days out for this special election. How long do we want to wait to have that special election? We are having a municipal special election for a reason and that is because someone died, we have a recall or fill a spot? The problem is we changed another bill to sixty three days (SB 2194) in another bill SB which has already passed both houses. Now we are done it to our self. So this is both my reasoning for leaving it at thirty three days and the reason we can't do it anymore.

**Senator Hacker:** I believe any time there is a change to a section of the code specifically the wording the last thing to be signed by the governor is the active bill.

**Chairman Olafson:** Unless there is some reason for objection, the Secretary of State is here and I will ask him to come to the podium and address the issue.

**Al Jaeger,** Secretary of State, appeared to answer some questions. If there are two bills that amend the same section of law the last one past is the one that prevails. There were five bills with this change made in the bill. The other four bills that had the changes made have passed now. The thing that we are concerned about particularly in all elections is that we have a requirement that the absentee ballots be available forty days prior to an election so if you have a filing deadline of thirty three days you can't do that. We have had situations were people have been disenfranchise because things weren't the same. School elections work on a sixty day time line. There is another portion of the voting population that we need to keep in mind and that is the military because we do have people over seas and they have every right to vote in every election. It takes us on a sixty day deadline, I certify the ballot fifty five days out and we have all we can do to get the ballots ready in fifteen days to meet the forty days. It takes all

that just to get the ballots out and back particularly with the military. So the idea was to get it across the board for every election to cover all the elections.

**Representative Kaldor:** What do you suppose the thought was behind the thirty three day time frame in the statute as it currently is?

**Al Jaegar:** It is something that has been in the law for a long period of time, and goes back many years. Our situations over the years have changed in terms of elections, absentee voting and things on that order. I found it interesting that it was thirty three days. What we found last year was in one of the recall bill, the City of Mandan had to consider that a special election and they were ready to put it on the ballot and they couldn't. There was a lot of confusion in the City of Mandan as to when the filing deadlines were. There were people who had already voted with an absentee ballot. I guess that is why we were thinking if we are across the board on every election measures, candidates and everyone works on the same time table. The public has sixty days to get to know the candidates and the measures in the larger cities.

**Representative Klemin:** It seems to me we have to change the thirty three days to sixty day but there were two amendments to this bill. The other one we added in to make clear that we are talking about that you can not run for the same office in the same election. I have not heard any objections to that amendment.

**Al Jaeger:** The other part about running in the same election is definitely a good idea. It was in the original bill but I think this is clarifying language.

**Chairman Olafson:** I think that amendment just clarifies.

**Representative Klemin:** Moved the House Recede from its amendments and that SB 2236 be amended as follows, page 1, line 11, after "both" insert "in the same election" Also on page 2 lines 15 and 17.

Page 4  
Senate Political Subdivisions Committee  
Bill/Resolution No. **SB 2236 Conference Committee**  
Hearing Date: March 29 2007  
**Representative Kaldor** seconded the motion.

Discussion: None

Roll call vote: Yes 6 No 0 Absent 0

The motion carries.

**Chairman Olafson** closed the Conference Committee on SB 2236

*RB*  
3-29-07

PROPOSED AMENDMENTS TO SENATE BILL NO. 2236

That the House recede from its amendments as printed on page 667 of the Senate Journal and page 793 of the House Journal and that Senate Bill No. 2236 be amended as follows:

Page 1, line 11, after "both" insert "in the same election"

Page 2, line 15, after "both" insert "in the same election"

Page 2, line 17, after "both" insert "in the same election"

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number SB 2236 (, as (re)engrossed):

Date: 3-29-07  
10:00 AM

Your Conference Committee Senate Political Subdivisions

**For the Senate:**

**For the House:**

	Attend	Vote		Attend	Vote
Sen. Olafson	P	y		Rep Hatlestad	P y
Sen. Hacker	P	y		Rep Kaldor	P y
Sen. Anderson	P	y		Rep Klemm	P y

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 667 -- \_\_\_\_\_

and place 2236 on the Seventh order.

\_\_\_\_\_, adopt (further) amendments as follows, and place \_\_\_\_\_ on the Seventh order:

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

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

DATE: 3-29-07

HOUSE CARRIER: Rep. Hatlestad SENATE CARRIER: Senator Olafson

LC NO. <u>78221.0101</u> of amendment
LC NO. _____ of engrossment
Emergency clause added or deleted
Statement of purpose of amendment

MOTION MADE BY: Rep. Klemm  
 SECONDED BY: Rep. Kaldor  
 VOTE COUNT: 5 YES 0 NO 0 ABSENT

**REPORT OF CONFERENCE COMMITTEE**

**SB 2236:** Your conference committee (Sens. Olafson, Hacker, Anderson and Reps. Hatlestad, Kaldor, Klemin) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 667, adopt amendments as follows, and place SB 2236 on the Seventh order:

That the House recede from its amendments as printed on page 667 of the Senate Journal and page 793 of the House Journal and that Senate Bill No. 2236 be amended as follows:

Page 1, line 11, after "both" insert "in the same election"

Page 2, line 15, after "both" insert "in the same election"

Page 2, line 17, after "both" insert "in the same election"

Renumber accordingly

SB 2236 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

SB 2236



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 26, 2007

TO: Senator Cook, Chairman,  
and Members of the Senate Political Subdivisions Committee

FR: Al Jaeger, Secretary of State

RE: SB 2236 – Municipal Elections

Section 1, page 1, lines 10 and 11: Makes it clear that a person cannot run for both a city commissioner position and for president of the board of city commissioners in the same election.

Section 2, page 2, line 8: Changes the 33 day candidate filing deadline to 60.

Section 2, page 2, lines 14-17: Makes it clear that a person cannot run for both a city council position and for mayor in the same election

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

February 22, 2007

TO: Rep. Herbel, Chairman, and Members of the House Political Subdivisions Committee

FR: Lee Ann Oliver, Election Specialist on behalf of Al Jaeger, Secretary of State

RE: SB 2236 – Municipal Elections

In Chapter 40-04.1, titled the Modern Council Form of City Government, the provision in the following section of law has been in effect since 1965.

40-04.1-01. City council - Membership - Terms. ... .. Candidates for the council shall run for either mayor or council member but not both at the same time ... ..

However, the same provision does not appear in Chapter 40-09 pertaining to the commission form of city government. Therefore, Section 1, page 1, lines 10 and 11, of this bill makes it clear that candidates for the city commission may run for either the office of city commissioner or the office of president of the board of city commissioner but not both at the same time.

In addition, in Chapter 40-21 titled municipal elections, Section 2, page 2, lines 14-17, of this bill makes it clear that candidates for city council may run for either the office of mayor or council member but not both at the same time. In addition, it is made clear that candidates for city commission may run for either the office of city commissioner or the office of president of the board of city commissioners but not both at the same time.

As a part of a larger effort to make all candidate filing deadlines uniform throughout the Century Code, Section 2, page 2, lines 8 and 9, of the bill changes the candidate filing deadline from 33 days to 60 days in any city election not held in conjunction with a county or state election.