

2009 HOUSE JUDICIARY

HB 1180

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1180

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/19/09

Recorder Job Number: 7206, 7230

Committee Clerk Signature



Minutes:

V-Chair Klemin: We will open the hearing on HB 1180.

Rep. Duane DeKrey: This is a pretty simple bill. It does two things, first of all it says that you cannot have an early voting precinct in a building that is also used for a political rally and the second thing it does it says that counties who have to conduct the regular general election, can still use the mail in ballot, for a strictly mail-in election, have one precinct open during a primary or any other election, general election that they would have to hold a normal election. The reason I bring this forward is that I had a tremendous amount of complaints from Sheridan and Kidder County which are two very rural counties. It caught a lot of people by surprise, because some counties did a better job than other counties in publishing the fact that the General Election was going to be a mail-in ballot only with only the county seat open on Election Day. There were a lot of people caught up short on Election Day. I think the statistics will show that they still went and voted; they had to drive a lot further but they still voted. They felt that their vote should be just as convenient and just as important as their urban brethren and that the counties should have to conduct a normal election on election day. That's what this bill does.

Rep. Kretschmar: I had lots of complaints in my county and a couple of counties in my district about the very same things. My solution would be to allow the county commission to have

more than one precinct open on Election Day for the people to vote, we'd also like to continue to use the mail-in ballot. We've got a good system for rural counties set out in section 2.

Rep. DeKrey: When I put the bill in, I had the counties tell me what they have to do, quite frankly the county commissioners are elected just like we are, and I'm not sure why the complaints were directed to legislators more so than they should have been directed towards county commissioners. I think your suggestion is a good one and when we have committee discussion on it, I am open to amendments.

Rep. Klemin: Thank you. Further testimony in support of HB 1180.

Al Jaeger, Secretary of State: Support section 1 and oppose section 2 (attachment).

Rep. Boehning: You mentioned that 21 or 22 counties that voted by mail. Of those counties, how many had one polling place open on Election Day.

Al Jaeger: They all did, except two had more than one polling place.

Rep. Boehning: Of the two counties that had more than one poll place, the rest had one polling place.

Al Jaeger: That was a decision they made based on their established criteria in the county.

Rep. Griffin: What was the voter turnout difference, was there a greater turnout in the counties that did the vote by mail, than there was in the previous election.

Al Jaeger: I think Danette would be able to answer that more accurately. Generally, the turnout was not greater; about the same. We think that was due to the fact that those counties did a good job of marketing the information.

Rep. Delmore: I think all counties do a good job of informing their citizenry. Do you think there was a portion of the population that was disenfranchised by this movement to vote by mail.

Al Jaeger: No. If people want to participate in voting, they are given every opportunity to do so, whether it is absentee, early voting, voting on the day of the election; nobody was disenfranchised. People can choose to vote or not vote. Anybody in this state that really wants to vote, and can't find a way to do it, I'm sorry but there isn't anything we can do about it.

Rep. Delmore: Could people cast their ballot by mail on the day of election.

Al Jaeger: It has to be postmarked the day prior to the election.

Rep. Delmore: If I went to vote that day, and realized that I could only mail it in, I couldn't vote.

Al Jaeger: If you went to vote on that day, you could vote at the polling location.

Rep. Vig: For all the ballots requested and submitted to the voter, were all the ballots returned to the polling place; because now we are relying on the postal service now to get them back to the polling location. Are all the ballots being returned.

Al Jaeger: Yes, all those put in the mail were returned. We checked the central voter file. In fact you as the voter can go on the system and it would show you that the ballot was mailed to you, when you returned it and the date it was received by the County. There is a specific tracking. Not everybody that requested a ballot, returned it. Apparently they made a decision not to do that. They were tracked. We worked very closely with the postal service. Again, I think you need to keep in mind that voting by mail and absentee voting are considered different. If the political parties are going to send out absentee voting applications as they have, that same thing that you just said could happen, it may. Our systems are in place to insure that everything gets handled and gets counted. Absentee voting has continually increased in percentage, and it's because the political parties push it. The process, and checks and balances are still there for all the voting forms.

Rep. Koppelman: It is my understanding of the absentee ballot voting procedure that the county sends out the application, is any of this done by a third party as well.

Al Jaeger: I don't know.

Rep. Koppelman: Let's say the American Cancer Society in LaMoure County said we have a mailing list of 100 people in LaMoure County that supports us. Is it possible that if a ballot is sent out by them, they are more apt to fill it out.

Al Jaeger: We don't mail out the ballot without an application. Applications can be sent out by everyone, and I suspect there are organizations outside the political parties that have sent out application forms.

Rep. Koppelman: If that happens, in a county the person might receive 4 or 5 applications and you send them all back, now what happens.

Al Jaeger: The first application comes in and that is acted on and the ballot goes out. They can send in as many applications as they want, it's not going to make any difference. They will only receive one ballot. The system tracks it.

Rep. Koppelman: I'm not questioning the integrity of the system. I'm just asking if this causes any confusion.

Al Jaeger: The system tracks it.

Rep. Koppelman: In a small county, they had the option of having only one polling place, as found in section 2 of the bill. If that occurs, for someone who really doesn't understand the change that's occurred, they might have gotten the application from the county saying to vote by mail, and they might have disregarded it, saying I don't have to do that, I can vote in my polling place where I have voted for the past 40 years. I know where it is, I know where it is, they know me, and I know them. I like going out to vote. Then comes Election Day, they go to their normal polling place, wherever it might be, and no one is there. Now, they either go

home, or ask around and find out where the one polling place is, and find out that it is at the county seat, which might be 50 miles away. That's the kind of confusion that I am talking about. Is that a problem that you're aware of?

Al Jaeger: It could happen. The thing is as a citizen of this country, you are to be informed. Every attempt is made to notify people that the voting procedures have changed. You can educate, educate and educate and still have people who don't pay attention. Our responsibility as a citizenship in this country is also to take this seriously. The counties didn't take this responsibility lightly, they spent time and resources informing their residents on the new procedures. In some counties, the vote by mail was used in the June primary election, but not in the general election, and they were very upset, because they wanted the same system to be used in the general election. Each election cycle is every two years, so if changes need to be made, they can be made. Change happens. We used to have 2,000 polling places, now we have less. People have adapted.

Rep. Koppelman: You said that people were frustrated by the fact that they used this in the primary election and couldn't in the general election. Why couldn't they use the same system in the general election. Why the change from the primary to the general.

Al Jaeger: Under the vote by mail system, the application comes out to the voter and they don't have to take any initiative to request one. There could be somebody out there that isn't identified with any political party or with any organization and liked the fact that it came in the mail and all they had to do was send it back in.

Rep. Koppelman: One point the sponsor of the bill made was that legislators are called all the time about property taxes. The school board levies the property taxes. People don't always understand who they should talk to. So if the legislature is in session, they call their legislator. We need to help people understand how the voting procedure works in their county.

Al Jaeger: I'm not quite sure how to answer that. I don't know how to educate anybody in terms of who they should contact. There are people coming to testify that liked it really well. Are there people out there that didn't like it, of course. The counties really liked it.

Rep. Wolf: Can you download the application off the website.

Al Jaeger: Yes.

Rep. Wolf: When somebody for a primary election receives that application or ballot, can't they check a box that they want the primary and the general.

Al Jaeger: Yes, we did make a change to the form, to include a box that said "all elections". We have specifically made that change. They can check for one or both. The idea is once they have applied and their signature is on record, that they would automatically be sent the ballot for the general election.

Rep. Wolf: So basically this bill says you can do it either way.

Al Jaeger: No they can't follow the same process. How you count the votes and how that is handled is the same, but in one case the application is sent out. There has been confusion. Basically if you don't go back and remove this, you're going to go back to polling locations and counties have over the years have reduced those. We have counties that are going to have to have a polling location. The county should be in charge of where the polling location should be and how they want to handle the procedure. They are in the best position to determine what their voters want. To undo this, I think we're going to be backwards. There is a process in place now to go forward in the way that was done last year, it really did work very well.

Rep. Kingsbury: There was a line on the ballot that you had to put extra postage on the envelope. What happened if they didn't put the proper amount of postage on the envelope.

Al Jaeger: We worked with the postal service and all election mail was delivered. The county paid the extra amount due.

Rep. Kingsbury: The post office said you didn't need extra postage.

Al Jaeger: I can't give you a firsthand answer to that. All I know is that everything was covered. In the June election, sometimes there would be an extra ballot that might cause an overage.

Rep. Vig: Can information be put on the 211 phone system where people can find out election voting information.

Al Jaeger: I don't know about the 211 number but you can go to our website and put in your address and track where you vote, you can see the ballot that you are going to be voting on, everything goes through your address. That you can do now. Of course, our office and each county auditor's office are always available to answer your questions.

Rep. Vig: My grandparents just got the internet last month. So the internet is still a new thing for them, but 211 can be a one-stop shop for Medicaid information, etc.

Al Jaeger: That's something beyond my capabilities to do that.

Rep. Delmore: In legislative districts, where we have multiple counties, what was the rule on what had to be kept open there.

Al Jaeger: The law requires one voting location per county, not necessarily in the county seat. When a person applies for a ballot, they are going to receive the ballot specific for their address. This is in place, even before we had the Central Voter File. There has to be one polling location per county. You want to be a little careful in mandating where some of the counties put their polling location.

Rep. Delmore: In Grand Forks, with the early voting, we had all four districts in one location. There is more than one district in a county. I should be able to go to a location in that county and choose which legislative district that I vote in and vote for them.

Al Jaeger: We know that. You get the ballot that corresponds to the district that your address is in. The auditors have that all covered.

Rep. Delmore: So that was the way it was set up.

Al Jaeger: Yes. We even have polling locations that haven't necessarily been in individual districts. In other words, with our central voter file, everything is address specific. We know exactly how to tie your ballot back into your location. You could have pulled up your ballot on the internet and that would be specific to your address. The auditors know all of that.

Chairman DeKrey: Thank you. Further testimony in support.

Danette Odenbach, ND Association of Counties: We support section 1 and ask that you delete section 2 (attachments). One of the questions asked dealt with postage. All additional postage due was paid for by the county. Election mail has to be delivered to the county office.

A person can track their ballot on line, with the postal service. Education is important, and took place in the counties; it was a challenge. The auditors put the questions out into the counties through newspaper, radio, etc. Through the feedback received by the county auditors, they determined what the best way to proceed in their county was. I am attaching a handout that shows some percentages of county voter numbers.

Rep. Klemin: In the existing language it talks about "posting", on lines 21-22; the county auditor shall place a notice at all polling places that the county used at the last statewide election... Now if the only place used in the last statewide election is the one place that's open, the only place that they have to post it is at the one place that is open. It kind of defeats the purpose of giving notice, if the only place that it's posted, is the only place they can go to vote. You think that section there needs some policing also.

Danette Odenbach: I'm not sure. The polling location was usually the same in the general as it was in the primary election.

Rep. Klemin: I can see that the county auditors try to be very careful in following the statute exactly, otherwise they find there are problems down the road. So at least in 19 counties, that the only place you have to post this notice is at the place that is actually open.

Chairman DeKrey: In the city of Pettibone, they would have posted that on the community center. Unless there is a funeral, wedding or something, nobody would have had any reason to go to the community center.

Rep. Koppelman: I know the county tries to keep the costs down. With the statute as it is today, are you aware of costs. Are the concerns for cost savings or what?

Danette Odenbach: I could not answer that whether the counties saved money on the cost of the election, in some cases it actually went up. This is looked at as an impact minimizer. We received complaints and those were weighed against those who liked it.

Rep. Koppelman: You said some people really liked this and some didn't. There isn't anything prohibiting them from having the vote by mail. The only substantive changes are that 1) they have to get a ballot and 2) that their polling place may or may not be open. As you weigh those two things, is it really a detriment to not have vote by mail in the general election, if those voters that really love it, can still vote absentee.

Danette Odenbach: I believe it is the responsibility of the county commission to conform to what their voters are telling them. Even though a person can still vote absentee if the county didn't hold the vote by mail, polling places are expensive to open and staff. That probably shouldn't be the deciding factor, the deciding factor should be what to the people want.

Rep. Koppelman: I know costs are important, but ultimately we have to consider what the voters want. They can vote by absentee ballot or go to the polling place. The voters are having to change their way of thinking, whether they are resistant to other options.

Danette Odenbach: It goes back to the matter of priorities. Based on what we used in the primary election, the counties have to consider what the people want and how much is it going to cost.

Chairman DeKrey: In very rural areas, what determines where a polling place is set up is where the poll workers are willing to go and are the facilities ADA accessible.

Rep. Zaiser: If you don't have options, you may end up with an incorrect ballot. I know of an example where the voters received the wrong ballot, it was a ballot for another district.

Danette Odenbach: Sometimes human errors do occur, I'm not going to say it doesn't happen. But they try to keep errors to a minimum.

Rep. Zaiser: Is the information cross-checked anywhere.

Danette Odenbach: Yes.

Rep. Griffin: Is it cheaper to have the vote by mail, did the county save money by having the vote by mail.

Danette Odenbach: I can't say that they did. I haven't heard from all counties. The average for the vote by mail ballot was approx. \$1.01 and for a walk-up vote was approx. \$1.17.

Rep. Kingsbury: The mailing costs, did the vote by mail save money.

Danette Odenbach: There were postal rate increases that impacted the counties, that weren't budgeted for.

Rep. Wolf: Do you know the percentage of people who received the ballot and returned it.

Danette Odenbach: I don't have that with me, but I can get it for you.

Rep. Boehning: Would it be feasible to move the election machine from one polling place to another.

Danette Odenbach: That isn't done here, but other states have tried it. The problem is the voters may not be able to get to the mobile polling location during whatever the hours may be, so would have the same problem. That would present even more challenges.

Reinhard Hauck, Dunn County Auditor: (attached).

Rep. Zaiser: Is there a great possibility of fraud with the vote by mail.

Mr. Hauck: No, the current system we have in place is probably less opportunity for fraud to happen. Is this a lot of work to conduct the vote by mail elections? It's tough on my office and tough on my staff, but we want the chance to decide what works best for our county.

Chairman DeKrey: Thank you. Further testimony on HB 1180. We will close the hearing.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1180

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/3/09

Recorder Job Number: 8493

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will take a look at HB 1180. What are the committee's wishes.

Rep. Koppelman: I move that we amend out Section 2.

Rep. Griffin: Second.

Chairman DeKrey: Voice vote. Motion carried. We now have HB 1180 before us as amended. What are the committee's wishes.

Rep. Koppelman: I move a Do Pass as amended.

Rep. Boehning: Second.

10 YES 1 NO 2 ABSENT DO PASS AS AMENDED CARRIER: Rep. Koppelman

VR
2/3/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1180

Page 1, line 1, remove the second "and"

Page 1, line 2, remove "section 16.1-11.1-01" and replace "and" with a period

Page 1, remove line 3

Page 1, remove lines 13 through 23

Page 2, remove lines 1 and 2

Renumber accordingly

Date: 2/3/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1180

HOUSE JUDICIARY COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP DNP DP AS AMEND DNP AS AMEND

Motion Made By Rep. Koppelman Seconded By Rep. Boehning

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------|-----|----|-----------------|-----|----|
| Ch. DeKrey | ✓ | | Rep. Delmore | ✓ | |
| Rep. Klemin | ✓ | | Rep. Griffin | ✓ | |
| Rep. Boehning | ✓ | | Rep. Vig | | ✓ |
| Rep. Dahl | | | Rep. Wolf | | |
| Rep. Hatlestad | | | Rep. Zaiser | ✓ | |
| Rep. Kingsbury | ✓ | | | | |
| Rep. Koppelman | ✓ | | | | |
| Rep. Kretschmar | ✓ | | | | |
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Total (Yes) 10 No 1

Absent 2

Floor Carrier: Rep. Koppelman

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

REPORT OF STANDING COMMITTEE

HB 1180: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (10 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). HB 1180 was placed on the Sixth order on the calendar.

Page 1, line 1, remove the second "and"

Page 1, line 2, remove "section 16.1-11.1-01" and replace "and" with a period

Page 1, remove line 3

Page 1, remove lines 13 through 23

Page 2, remove lines 1 and 2

Renumber accordingly

2009 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1180

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1180

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 03/19/09

Recorder Job Number: 11299

Committee Clerk Signature

Kate Oliver

Minutes:

Chairman Dever called the committee to order, roll was taken, and all were present.

Al Jager: Secretary of State. See attached testimony #1.

Senator Nelson: Has this been a problem somewhere?

Al Jager: I have heard it was.

Senator Nelson: Do you know where?

Al Jager: Grand Forks, I believe.

Senator Dever: A few years ago I think that the College Republicans held a rally outside the Cass County Courthouse. Would this prevent that?

Al Jager: If there was early voting then the same restrictions would apply as on Election Day.

This would just be the combination of 2 things happening at the same time.

Senator Nelson: The bill says public facility; a church and hotel have been used for early voting and they are privately owned.

Al Jager: I think that they are considered public.

Senator Nelson: There is early voting going on at the courthouse constantly; I would say that would be illegal.

Senator Dever: Rally's would be illegal in the courthouse anyway

Al Jager: There is a distance requirement, I believe of 100 feet.

Senator Nelson: Is that what they used in Grand Forks, saying it was 100 feet difference between?

Al Jager: No, it was in the same building, so it was not the fact that it was outside. The consideration was that the building, albeit part of the building, was being used as an early voting center.

Senator Nelson: So the Canad Inn would be not allowed either, which is attached to the Alerus Center? Or is it separate entities?

Al Jager: In that case I would think that they would be separate entities because that is identified differently. The bill as introduced on the House side had another provision that was amended out; it would have done away with vote by mail.

Senator Cook: Would this mean that all the employees who may attend this place for work would they not be able to wear buttons for their candidate?

Al Jager: I believe so.

Senator Nelson: These other 2 sections of the code that you reference, both talk about the day of the election and Election Day, what consists of Election Day?

Al Jager: That will be addressed in the next bill.

Senator Cook: Morton County Courthouse is used for early voting; during that time a person cannot walk in with an election button, what is the penalty if they do?

Al Jager: Class A misdemeanor.

Senator Horne: If I am a citizen doing business in the Ward County Courthouse I would be guilty of a misdemeanor.

Senator Nelson: The county courthouse is in my district and I have to walk by it when I am campaigning; I don't want to get in trouble for campaigning in my district.

Al Jager: Political purpose during the time the facility is being used as an early voting precinct. It is the early voting precinct, it doesn't necessarily have to do with them going to the courthouse and voting absentee.

Senator Horne: Common sense is a good guide; I am not sure if it would be appropriate to have campaign materials displayed in the courthouse.

Senator Nelson: Our early voting in Fargo is the Doublewood in. How do you police that?

Al Jager: It does say political event. The thing is I understand all the points but I think that this is designed to get a bigger picture.

Dannette Odenbach: North Dakota Association of Counties, we support the bill as engrossed.

Senator Nelson: I want a definition of political purpose.

Al Jager: Any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office, includes using vote for, oppose or any other similar support or opposition language in any advertisement weather the activity is undertaken by a candidate, political committee, a political party, or any person in the period 30 days before a primary election and 60 days before a special or general election. May also mean any activity in which a candidate's name, office, district, or any term meaning the same as incumbent or challenger is used in support of or in opposition to the election of or nomination of a candidate to public office.

Senator Oehlke: is there any responsibility on counties to have precincts set up to have it somewhere it wouldn't be a problem.

Al Jager: I think that the auditor in Cass County found the best location that he could. Cass has presented us with some challenges because you can't poll at schools. The county auditor has an obligation to find a secure area and one that is accessible to all people.

Senator Oehlke: Those are places that have lots of activities going on. It seems that we are exacerbating the problem with this.

Al Jager: That is a lot different from individual instances that could happen. The next bill attempts to address the concern.

Senator Oehlke: If they county auditor calls the Fargodome and says that they are going to have a precinct there, does the host have a choice?

Al Jager: The Fargo school districts were successful saying that they don't want to have it there.

There was no more testimony on HB1180 and Chairman Dever closed the public hearing.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No.1180

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 03/19/09

Recorder Job Number: 11654

Committee Clerk Signature

Katrina Oliver

Minutes:

Senator Dever: I don't recall there being any amendments.

Senator Nelson: 1:06I have a problem with this bill. If it is a public place, there is going to be other events in that place 15 days prior to the election that they can't rent out space to anybody. We are leasing 1 section of the hotel, but to tell the employees that they cannot wear Obama or McCain shirt in the hotel, it hard to police.

Senator Cook: I guess I had the same feelings about the bill. Before I vote on this it would have to be amended.

Senator Nelson made a motion for a do not pass with a second by Senator Oehlke.

Senator Dever: We could consider an amendment if you like.

Senator Cook: Before I vote for it, it would have to be amended.

Senator Nelson withdrew her motion and Senator Oehlke withdrew his second. The Chairman closed the committee work on HB1180 and decided to come back to it once the amendments have been prepared.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No.1180

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 03/19/09

Recorder Job Number: 11657

Committee Clerk Signature

Kate O'Leary

Minutes:

Senator Cook made a motion to move the amendments with a second by Senator Oehlke.

Senator Horne: I see that it should be 'an' instead of 'a'.

Senator Dever: What establishments would this apply to then? Not to the courthouse?

Senator Oehlke: The amendment to me looks like we are keeping people from getting into trouble when they have no control over the situation anyway.

Senator Nelson: It covers all places for open polling.

Senator Horne: I can't think of what it would affect. This is almost a hog house amendment, would they be able to prevent buttons and such.

Senator Dever I think that the amendments are an improvement on the bill, though

A vote was taken and the amendments were adopted 5-0

Senator Oehlke made a motion for a do pass as amended with a second by Senator Horne.

There was no further discussion and the motion failed 2-3. Senator Nelson made a motion for a do not pass as amended with a second by Senator Horne. There was no discussion and the motion passed 3-2 with Senator Horne carrying the bill to the floor.

Date: 4-2-09
Roll Call Vote # 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1180

Senate Government and Veteran's Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS

Motion Made By Nelson Seconded By Oehlke

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------|-----|----|-----------------|-----|----|
| Dick Dever | | | Dwight Cook | | |
| Dave Oehlke | | | Carolyn Nelson | | |
| Robert M. Horne | | | | | |
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Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

Withdrawn

90407.0301
Title.0400

Adopted by the Government and Veterans
Affairs Committee
April 2, 2009

JB
4-2-9

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1180

Page 1, line 9, replace "The" with "Unless a location established as an early voting precinct is an establishment open to routine activity attended by the public for purposes other than voting, the"

Renumber accordingly

Date: 4-2-09
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House _____ Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Move Amendments

Motion Made By Cook Seconded By Oehlke

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------|-----|----|-----------------|-----|----|
| Dick Dever | X | | Dwight Cook | X | |
| Dave Oehlke | X | | Carolyn Nelson | X | |
| Robert M. Horne | X | | | | |
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Total Yes 5 No 0

Absent _____

Floor Assignment _____

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

Date: 4-2-09
 Roll Call Vote #: 23

failed

**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO.**

House _____ Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Oehlke Seconded By Horne

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------|-----|----|-----------------|-----|----|
| Dick Dever | | X | Dwight Cook | X | |
| Dave Oehlke | X | | Carolyn Nelson | | X |
| Robert M. Horne | | X | | | |
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Total Yes 2 No 3

Absent _____

Floor Assignment _____

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

Date: 4-2-09
Roll Call Vote #: 274

Carried
Home

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1180

Senate Government and Veteran's Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Nelson Seconded By Home

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------|-----|----|-----------------|-----|----|
| Dick Dever | | | Dwight Cook | | |
| Dave Oehike | | X | Carolyn Nelson | X | |
| Robert M. Horne | 6 | X | | | |
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Total Yes 3 No 2

Absent _____

Floor Assignment _____

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

REPORT OF STANDING COMMITTEE

HB 1180, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (3 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1180 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "The" with "Unless a location established as an early voting precinct is an establishment open to routine activity attended by the public for purposes other than voting, the"

Renumber accordingly

2009 TESTIMONY

HB 1180

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 19, 2009

TO: Rep DeKrey, Chairman, and Members of the House Judiciary Committee

FR: Al Jaeger, Secretary of State

RE: HB 1180 – Early Voting Precinct/Political Purpose and Balloting by Mail

As the state's chief election official, I agree with the intent of Section 1 of this bill.

However, in that same role, I must request you remove Section 2 from the bill. The change in Section 2, while only a few words, is significant in that it would reverse action taken by the 2007 Legislative Assembly to allow balloting by mail in all elections. If Section 2 is allowed to remain in the bill, it would again restrict balloting by mail to the June primary election.

Balloting by mail was first adopted by the 1993 Legislative Assembly with the passage of HB 1253. The prime sponsor of the bill was Rep. Kretschmar. Co-sponsors currently serving in the legislature are Senators Holmberg, Dotzenrod, and O'Connell. Since then, balloting by mail has been a county decision.

However, balloting by mail was not often used. The reason for this is because of the switching of the method of voting between the June and November election and the resulting voter confusion. For example, when Bowman County used balloting by mail in the June election, the voters liked it and were then disappointed when it wasn't also used in the November election. However, because of the switching back and forth between elections, Bowman County stopped using it.

In 2007, SB 2230 was adopted, which allowed balloting by mail in all elections. It was used by 21 counties in the November 2008 election. As you will hear in testimony to follow, these counties actively encouraged and received input from the public before making the decision to use balloting by mail.

The law requires at least one polling location to be open on election day. It also allows additional polling locations, as was the situation in two counties, i.e., LaMoure and Ramsey.

All indications are that balloting by mail was a success and well received by a vast majority of the voters. Nevertheless, there were lessons learned by all state and county election officials and I am confident it will work even better in 2010. This has been substantiated by a joint study conducted between my office and the North Dakota Association of Counties. Based on the study and feedback received from the counties, a bill being introduced in the Senate includes "tweaks" to improve the process.

(more on the reverse side)

Page two

Whether it is called absentee voting, voting by mail, balloting by mail, etc., I also think it is important for the committee to be aware of the fact that this method of voting through the mail has gained significantly in popularity since 1997. That is the year, the legislature voted to remove the requirement for having a reason for requesting an absentee ballot. Since then, political parties have aggressively promoted and encourage their supporters to vote early.

Except for one thing, whether voting by mail or absentee voting, the processing of the ballot is handled the same. The only difference is that with absentee voting, the voter requests an application or uses a form provided by the political parties, or others, to request a ballot. In the voting by mail process, an application form for a ballot is mailed to the voter by the county. Either way, information about how to obtain a ballot is extensively communicated to the public through local county media, civic presentations, etc.

In 2008, elections in North Dakota were well run. The process of voting was not the news. The news was about the results, as it should be. Because of this, please remove Section 2 and allow the counties and the voters in those respective counties to make the decision about balloting by mail.

Finally, I am providing you with a copy of a letter I mailed to a Boy Scout last November about changes in the voting process to enable voters options in exercising one of their most important rights as citizens.

ALVIN A. JAEGER
SECRETARY OF STATE

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SECRETARY OF STATE
STATE OF NORTH DAKOTA
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BISMARCK ND 58505-0500

November 14, 2008

Philip B Woff
412 4th Avenue SW
Beulah ND 58523-6721

Dear Philip,

I commend you for being a member of the Boy Scouts and for pursuing a Citizenship in the Community merit badge. According to the requirements for this merit badge that I found listed on the Boy Scout Trail website, you have undertaken a significant project. Therefore, I am pleased to assist in your earning that merit badge by responding to your letter.

In your letter you asked about the changes that have occurred in the voting process. The most significant first change in the voting process occurred during the 1997 legislative session. Prior to that time, voting was confined to election day or by a voter casting a vote by using an absentee ballot. To obtain an absentee ballot, the voter had to provide a reason for requesting one. In 1997, the Legislative Assembly eliminated that requirement, i.e., having to provide a reason. The change was intended to make it easier for a voter to cast a vote. It has become more popular with each succeeding election.

Although voting by mail has been authorized since 1993, it was only authorized for use in the June election. That restriction was removed by the 2007 Legislative Assembly. Again, the intent was to make it easier for voters to cast a vote and to provide another option for voters and counties. In the general election held on November 4, 21 counties (including Mercer County) used the voting by mail option.

During this past election, six counties used an early voting precinct. This is an option that was authorized by the 2003 Legislative Assembly. This option appears to have been very popular with voters in those counties based on the number of voters that took advantage of it. Again, the purpose was to make it easier for a voter to cast a vote and to be able to do it on a day other than election day.

Specifically, in your letter you asked, "the reason why the voting was changed?" All of these changes have taken place to provide voters with several options for casting a ballot. In other words, if a person wants to vote, they cannot say they didn't have the opportunity because they certainly do as is indicated on the enclosed listing of voting options.

You have my best wishes for a successful completion of the requirements to earn this merit badge.

Sincerely,

Al Jaeger
Secretary of State

**TESTIMONY TO THE
HOUSE JUDICIARY COMMITTEE**

Prepared January 19, 2009 by

Danette Odenbach

North Dakota Association of Counties

REGARDING HOUSE BILL 1180

Chairman DeKrey and members of the House Judiciary Committee:

The North Dakota Association of Counties (NDACo) submits this testimony in support of House Bill 1180, with the removal of Section two of the bill.

Section one of House Bill 1180 amends section 16.1-07-15 of the North Dakota Century Code by prohibiting the use of a public facility for political events or purposes while it is being used as an early voting site. The counties support this change as it strengthens the ability of the county auditors and county state's attorneys to provide early voters with the same protections from political influence at the poll site as those who cast their ballots on Election Day.

Section two of House Bill 1180 amends section 16.1-11.1-01 of the North Dakota Century Code by eliminating the option for counties to conduct an election, other than a primary election, by mail. The counties oppose this change as it removes an optional method of election administration used successfully by 22 counties during the 2008 election cycle.

Over the past 10 years counties have experienced a significant increase in the number of absentee voters. The increase is attributable in large part to the introduction of no-reason absentee voting in 1997 and a growing number of voters with an extended work commute (particularly in the rural areas). By continuing to allow the option to conduct elections through the mail, the state is allowing counties the ability to effectively respond to the lifestyle changes and preferred voting methods of the electorate. All counties conducting an election through the mail, by law, have at least one polling site open for walk-in voters on the day of election.

The North Dakota Association of Counties appreciates your consideration, requesting the removal of Section two and subsequent Do Pass recommendation on House Bill 1180.

ELECTIONS STATISTICS REPORT
DUNN COUNTY
MANNING ND

2000 Census Population ----- 3600

Estimated Voting Population for 2008 ----- 2895

Legislative Districts ----- 2
(Districts 4 and 36)

Current number of precincts ----- 11
(5 District 4 Precincts and 6 District 36 Precincts)

Polling Locations ----- 8

Distance between Polling Locations North to South – 83 miles

Distance between Polling Locations West to East ---- 42 miles

General Election Statistics

| Year | Number of Votes Cast | Number of Absentee or Mail Ballots Cast | Total Election Cost | Cost Per Vote |
|------|----------------------|---|---------------------|---------------|
| 2000 | 1759 | 191 | \$11,698.30 | \$6.65 |
| 2002 | 1503 | 161 | \$12,592.23 | \$8.38 |
| 2004 | 1797 | 309 | \$11,726.83 | \$6.53 |
| 2006 | 1452 | 207 | \$11,041.13 | \$7.60 |
| 2008 | 1689 | 1207 | \$ 9,422.00 | \$5.58 |

Difficulty finding polling locations for all eleven precincts in the physical boundaries of the precinct that are ADA compliant.

County has combined polling locations from 11 to 8 locating several rural polling locations into the cities making people drive further to vote. With Vote by Mail the county needs only one polling location.

Eleven precincts means at least 55 election officials that need to be found, trained and paid. With the Vote By Mail the county used nine.

Logistics and accuracy testing of 8 program cards, 8 back-up program cards, 8 ballot scanners, and 8 AutoMarks takes no less then a weeks worth of time for one person. With Vote By Mail 2 program cards, two back-up program cards and one AutoMark takes one day.

Delivering, setting up polling locations, precinct testing, and returning, one ballot scanner and one AutoMark for 8 polling locations takes several days time for two people. There is no delivery time or time needed to remove machines and deliver back to the county once the election is over with Vote By Mail since the open precinct is in the Courthouse.

Convenience for voters is enhanced with vote by mail. They need only drive to their mail box to vote and use a 59 cent stamp. They do not have to drive to a polling location that may be from 5 to 20 miles from their home. They can vote in the comfort of their home and have about 40 days to vote rather than just one specific day.

Vote By Mail will not work for larger counties simply because of the volume of ballots and mail that would have to be processed by a limited number of individuals. But it does work for small population rural counties, such as Dunn.

The counties need to have a choice and the Board of County Commissioners needs to have the final decision on how they want their voters to cast their vote.

Prepared By:
Reinhard Hauck
Dunn County Auditor
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Manning, ND 58642
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| County | Ballots Issued | Ballots Returned | Difference |
|---------------|----------------|------------------|------------|
| Adams | 717 | 667 | 50 |
| Barnes | 1505 | 1406 | 99 |
| Benson | 382 | 371 | 11 |
| Billings | 117 | 114 | 3 |
| Bottineau | 690 | 690 | 0 |
| Bowman | 254 | 250 | 4 |
| Burke | 784 | 741 | 43 |
| Burleigh | 7575 | 7171 | 404 |
| Cass | 9843 | 8835 | 1008 |
| Cavalier | 543 | 526 | 17 |
| Dickey | 530 | 497 | 33 |
| Divide | 321 | 309 | 12 |
| Dunn | 1289 | 1194 | 95 |
| Eddy | 242 | 242 | 0 |
| Emmons | 1396 | 1317 | 79 |
| Foster | 234 | 188 | 46 |
| Golden Valley | 236 | 229 | 7 |
| Grand Forks | 5377 | 4550 | 827 |
| Grant | 1205 | 1144 | 61 |
| Griggs | 874 | 822 | 52 |
| Hettinger | 243 | 227 | 16 |
| Kidder | 839 | 738 | 101 |
| LaMoure | 1315 | 1247 | 68 |
| Logan | 1643 | 760 | 883 |
| McHenry | 2244 | 2096 | 148 |
| McIntosh | 1286 | 1212 | 74 |
| McKenzie | 916 | 770 | 146 |
| McLean | 921 | 895 | 26 |
| Mercer | 3886 | 3734 | 152 |
| Morton | 3455 | 3317 | 138 |
| Mountrail | 442 | 426 | 16 |
| Nelson | 1511 | 1431 | 80 |
| Oliver | 291 | 284 | 7 |
| Pembina | 2895 | 2744 | 151 |
| Pierce | 541 | 530 | 11 |
| Ramsey | 2765 | 2629 | 136 |
| Ransom | 1584 | 1497 | 87 |
| Renville | 326 | 311 | 15 |
| Richland | 1212 | 1143 | 69 |
| Rolette | 404 | 376 | 28 |
| Sargent | 1489 | 1410 | 79 |
| Sheridan | 516 | 473 | 43 |
| Sioux | 215 | 178 | 37 |
| Slope | 137 | 132 | 5 |
| Stark | 1619 | 1556 | 63 |
| Steele | 801 | 748 | 53 |
| Stutsman | 1943 | 1827 | 116 |
| Towner | 752 | 715 | 37 |
| Traill | 638 | 573 | 65 |
| Walsh | 3832 | 3542 | 290 |
| Ward | 4428 | 4226 | 202 |
| Wells | 585 | 560 | 25 |
| Williams | 3503 | 3387 | 116 |
| TOTAL | 83291 | 76957 | 6334 |

7.6%

| County | Ballots Issued | Ballots Returned | Difference |
|----------|----------------|------------------|------------|
| Adams | 717 | 667 | 50 |
| Burke | 784 | 741 | 43 |
| Dunn | 1289 | 1194 | 95 |
| Emmons | 1396 | 1317 | 79 |
| Grant | 1205 | 1144 | 61 |
| Griggs | 874 | 822 | 52 |
| Kidder | 839 | 738 | 101 |
| LaMoure | 1315 | 1247 | 68 |
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| Mercer | 3886 | 3734 | 152 |
| Nelson | 1511 | 1431 | 80 |
| Pembina | 2895 | 2744 | 151 |
| Ramsey | 2765 | 2629 | 136 |
| Ransom | 1584 | 1497 | 87 |
| Sargent | 1489 | 1410 | 79 |
| Sheridan | 516 | 473 | 43 |
| Steele | 801 | 748 | 53 |
| Towner | 752 | 715 | 37 |
| Walsh | 3832 | 3542 | 290 |
| TOTAL | 33623 | 30861 | 2762 |

8.2%

Reasons for not returning a ballot may include but are not limited to: opting to vote in person, forgetting, disinterest in the outcome, emergency, death, or problems with postal service.

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

March 19, 2009

TO: Senator Dever, Chairman, and Members of the Senate Judiciary Committee

FR: Al Jaeger, Secretary of State

RE: HB 1180 – Early Voting Precinct/Political Purpose

As the state's chief election official, I agree with the change proposed in the First Engrossment of HB 1180. It is consistent with the other provisions of Chapter 16.1-10, especially the following two sections of law.

16.1-10-03. Political badge, button, or insignia at elections.

On the day of an election, no person may buy, sell, give, or provide any political badge, button, or any insignia to be worn at or about the polls on that day. No such political badge, button, or insignia may be worn at or about the polls on any election day.

16.1-10-06.2. Sale or distribution at polling place.

A person may not approach a person attempting to enter a polling place, or who is in a polling place, for the purpose of selling, soliciting for sale, advertising for sale, or distributing any merchandise, product, literature, or service. A person may not approach a person attempting to enter a polling place, who is in a polling place, or who is leaving a polling place for the purpose of gathering signatures for any reason. These prohibitions apply in any polling place or within one hundred feet [30.48 meters] from any entrance leading into a polling place on election day.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1180

Page 1, line 11, after “precinct.” Insert “This section does not apply if the location established as a early voting precinct is an establishment open to routine activity attended by the public for purposes other than voting.”

Renumber accordingly