

2011 HOUSE POLITICAL SUBDIVISIONS

HB 1114

2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

HB 1114
January 6, 2011
Job #12619

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to city elections.

Minutes:

Chairman Nancy Johnson: Opened the hearing on the bill.

Al Jaeger, Sec. of State: Explained the two types of elections that we have in each election cycle. One is the general election, which is usually the November election and then there is an election in June and often that election is referred to as the primary election. The June election is made up of several parts; it is a primary election for counties; legislative districts, state wide judicial districts; it is a primary for them or we could have a measure on the ballot, which is not a primary vote, it is the vote. Then under ND law cities are required to have their election combined in that June election along with the county. For the cities it is not a primary election that is their general election. There is on city that has home rule charter and can hold it other than on that June date. (See handout #1) We are only adding one word and that is to call it the city general election because there are some calculations that have to be made and the word is based on the general election so sometimes there is a problem with which general election we are talking about. In section 3 at the request of the League of Cities we inserted into this particular bill the language that would remove the requirement for a bond. The bond requirement is covered under other sections of state law and so it is not necessary to have it in this Chapter. Section 5 is our major addition because it adds the canvassing board when an election is held. Currently it does not list the composition of the county canvassing board. We attached to the testimony a proposed amendment is for any city election held in conjunction with a county election.

Rep.Devlin: At the very end of the bill we use the canvassing board and they meet and approve it and then if there is a recount or whatever that is under established law. I don't recall that a canvassing board can keep meeting at the request of the majority of the members want to and I want to know why that is put in there.

Al Jaeger, Sec. of State: We meet and we canvassed all the votes and there was a determination made that there were recounts. We have to reconvene to handle this request. After this the canvassing board work is considered finished.

Rep.Devlin: What it says essentially is that they can re canvass for any reason in the world that the request of the majority of the members.

Jim Silrum, Deputy Secretary of State: We simply took the statues in 16.1-15 relating to the canvassing boards and copied the pertinent language over so if we were to change it here we would be really asked to changing it in the 16.1-15 as well. We tried to make it as consistent as possible.

Al Jaeger, Sec. of State: Once the business of the canvassing is done it is done. It is not like they can really continue on.

Chairman Nancy Johnson: Is there a definite set of duties for the canvassing board so they can't go beyond that?

Al Jaeger, Sec. of State: No there really isn't. The duties are to canvass the results and certify them and once they have done that they are done.

Rep. Koppelman: The section that talked about conflict of interest on page 3 section 6; it appears that wagering is the most severe. Is that something from current law?

Al Jaeger, Sec. of State: We are trying to be very consistent with the language throughout.

Rep. Klemin: I am surprised that you say there is nothing in statue stating what the canvassing duties are.

Al Jaeger, Sec. of State: There is in 16.1 to certify the results of the election. I believe it does cover that there.

Jim Silrum: There is a statue in the municipal elections that says simply that city elections should be administered as closely as possible as to the way described in 16.1 so there is a statue in 16.1 that determines what the duties are for the canvassing board so in that situation it would fall back to this. We are asking you to add this to Title 40; Chapter 21 simply because there has never been a composition described for a city canvassing board when it is held not in conjunction with the county election. Phone calls we receive from city auditors say we are having a special election and we can't determine who should be on our canvassing board so in terms of the other statues that would fall to the administration of the election 16.1 is the primary title under which all elections are administered. Special circumstances are addressed when there are special circumstances for city elections such as canvassing board just like there are in school board elections.

Al Jaeger, Sec. of State: This is a good reminder that we refer back to 16.1 because that is what governs.

Rep. Zaiser: My question is do you have an alternate should the need come up?

Al Jaeger, Sec. of State: Section 6 talks about the composition and if there is something that would come up that would take care of it. The auditor would take care of the composition of the meeting when it is necessary.

Rep. Koppelman: There is a qualification for those serving on the canvassing board are there any requirement for who those folks are?

Al Jaeger, Sec. of State: What you are concerned about is Chapter 40-21-13 and the language there is the manner of conducting voting and canvassing votes in municipals elections and the results of the elections is governed as nearly as possible and except as otherwise divided in this chapter by the laws in this state applicable to elections and contests in case of county offices absent voters ballots must be available in municipal elections according to 16.21;so if it isn't covered here it is covered in 16.1; so basically it says if it isn't covered here it is covered under laws that govern county elections.

Bill Wolken, City Administrator, City of Bismarck: I am in support of HB 1114. Since we will probably be having a special election coming up so I would appreciate the amendments.

Rep. Koppelman: In your experience with elections have you had to have alternates either on the ballot or a relative or something, have you had that happen.

Bill Wolken: I have not had that experience.

Rep. Koppelman: If we have requirements that are stringent on who is on a canvassing board and they say go find an alternate and there are no provisions for what kind of an individual the alternate needs to be or what kind of experience?

Bill Wolken: It tends to help us with that process, but it is nice to have that written.

Rep. Zaiser: What are your thoughts if you are going to automatically know at the time you appoint the alternates it would seem sometime just a relative or in laws clearly don't have the same name in these small town so you might not know if they are related. What are your thoughts on that?

Bill Wolken: I don't think there would be a problem with that.

Rep. Zaiser: Given the special election you have coming up do you seen a need for an emergency clause so we can put this into action sooner than it would normally be?

Bill Wolken: Since the city of Bismarck has an election coming up in June that would probably be a good idea.

Al Jaeger, Sec. of State: All we have done is carried forward from existing laws so if you go to 16.1-15-16 it has the identical language of the composition of the canvassing board and my deputy just informed me that this was added at the Attorney General that we might have it a little more expansive and I think Rep. Zaiser has made an excellent point, we need an emergency clause because this election will be needed by May.

Jerry Hjelmstad, Legislative Council: We would not be opposed to someone offering an amendment to deleted Section 3 totally. There are only about 30 cities that would take this oath of city commissioners has this form of government. The major counsel form is about; about 330 they do not take this oath as specified here for city commissioners.

City commissioners are also required to take the general oath of office that is in Section 40.13.03 so we feel this is duplication. That section has been in effect since 1943 without change. So if anyone wants to change that I would support it.

Chairman Nancy Johnson: There has been a request to delete that Section.

Jerry Hjelmstad: Section 40.09-07 of the code would be repealed it would be that only city commissioners are required to take and they are also required to take the regular oath of office so it is duplication.

Opposition: None

Hearing closed.

Hearing reopened by Chairman Johnson.

Chairman Nancy Johnson: Al Jaeger, Sec. of State brought in an amendment do we wish to attach the amendment?

Rep. Koppelman: I have no objection to the amendment but there are several things that we discussed in testimony that I think we should look into.

Chairman Nancy Johnson: No we are not ready to vote. There was an issued about an emergency clause and about a repeater so if any of you think those are appropriate you can add them.

Rep. Koppelman: For the new members this bill seemed to be pretty basic bill that simply clarifies how city elections are conducted and what canvassing boards are made up and mirrors current law, but sometimes this is the thing that calls our attention to current law that we might want to law does this need to be changed and how. The makeup of the canvassing board was interesting. We might need to generate a bill that seems to be a housekeeping bill and yet there might be public policy implications that we as legislatures might want to explore.

Rep. Zaiser: I see a number of things in the bill simply because we are exposed to it. I think this bill needs a lot of work.

Rep. Shirley Meyer: Is Section 3 and identical oath that we are considering changing?

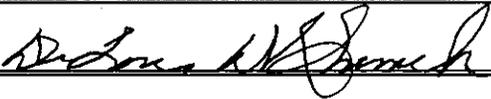
Meeting adjourned.

2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

HB1114
January 13, 2011
Job # 12895

Conference Committee

Committee Clerk Signature 

Minutes:

Proposed Amendment #1, 2, 3

Chairman Johnson: Reopened the hearing on HB 1114. Passed out proposed amendment #1 which was allowing for city elections when they are not part of a big city election.

Rep. Hatelstad: I have an amendment to offer. The Association League of Cities, Jerry Hjelmstad talked about the elimination of the special oath that only the city commissioners took that nobody else did. They want to eliminate 40-09-07.

Rep. Shirley Meyer: This is a different oath than that one. It is not the same oath.

Rep. Koppelman: I actually discussed with him and he pointed out that there are different oaths in different sections and if we are trying to clean that up maybe we should look at all of them. He did not want to go so far as to do that because he did not want to upset the apple cart with the Secretary of State, but I think it is our duty if we are looking at oaths and if they are going to be standardized we should look at a boarder view so I would be happy to look at that on behalf of the committee later.

Rep. Hatelstad: I did run this pass the Secretary of State and said they would have no problem with that. The City Commissioners were the only ones that had to do that double oath.

Rep. Devlin: I too did have some conversations with the Secretary of State. I have an amendment but I would like to have him or someone from his office explain what we are trying to do. What it essentially does is eliminate everything from page 3 from line 12 down; everything from page 4, except we would put back in the emergency measure. They were talking about is establishing a canvassing board when they have a special election of some type and everything else is in code so I think we could eliminate most of this bill where some of us had some serious concerns. I would like to have the Secretary of State discuss this further.

Chairman Johnson: Rep. Shirley Meyer did you see the difference on the oath.

Rep. Shirley Meyer: Our intern looked up the oath and this is different. It is pertinent to city commissioners; that is why they take it.

Rep. Klemin: Bismarck City Commission has scheduled a special election in April on an issue that is going to be voted on relating to smoking here. It would be nice if we could get this thing done with an emergency clause.

Meeting adjourned.

Chairman Johnson: Reopened the hearing on HB 1114.

Rep.Devlin: The canvassing board was set up for special elections. With the primary elections it is taken care of by the other canvassing board which is covered under other parts of the code so there was some concern about the section 40-21-16.2. I think they were mostly answered and not necessary being in there. I had some problem about how many times they could meet and Secretary Jaeger had some concerns an emergency clause needed to be added... So my language strips language out and puts back in the emergency clause. Motion Made by Rep.Devlin: Seconded by Rep. Zaiser:

Discussion:

Chairman Johnson: We have asked Secretary Jaeger to meet with us. The questions are about removing the canvassing board information.

Al Jaeger: Secretary of State: (See Handout #2). Really Section 6 & 7 was the identical wording that already exists in the chapter. So I am removing it and just referring back to the other chapter. The two important areas are that the city general election and it established an election board specific to the city. Rep. Zaiser had mentioned the emergency clause that is necessary so the city of Bismarck would be the first city in the state to use the new election board and I think that would be very helpful.

Rep. Klemin: Jerry Hjelmstad from the League of Cities asked us to repeal Section 40-09-07 which is the subject of Section 3 of this bill on the grounds that the city commission has to two oaths. Do you have any position on their request?

Al Jaeger: We are fine with that amendment. We did not realize there was a difference between the council and commission form and that there was two different standards. I have long held we should be consistent. I would encourage you to do that because then it boils down the bill to city general election and establishes the city canvassing board and that is the bill nice and clean.

Chairman Johnson: This amendment is before us. This amendment will only deal with two things; the emergency clause and then removing Section 6 & 7. I think actually we have three different sets of amendments. First we are working on the most recent one that was just presented to us.

Voice Vote Carried.

Motion Made By Rep. Maragos: Rep. Devlin: To approve the amendment on Page 3, Line 7 removing the and putting in for any city election not held in conjunction with the county election.

Voice Vote Carried.

Chairman Johnson: We have third of amendments from Rep. Hatelstad from the League of Cities. This basically would eliminate Section 3: Motion Made by Rep. Hatelstad to adopt this amendment: Seconded by Rep. Maragos. Voice Vote Carried.

Do Pass As Amended Motion Made By Rep. Mock: Seconded By Rep. Heilman

Vote: 14 Yes 0 No 0 Absent Carried Carrier: Rep. Hatelstad:

Hearing closed.

1

PROPOSED AMENDMENTS TO HOUSE BILL 1114

Page 1, line 1, replace "sections 40-21-16.1, 40-21-16.2, and 40-21-16.3" with "section 40-21-16.1"

Page 1, line 4, replace "elections." with "elections and to declare an emergency."

Page 3, remove lines 12 through 31

Page 4, replace lines 1 through 4 with:

"SECTION 6. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 1-13-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1114

House Political Subdivisions Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider _____

Motion Made By Rep. Hartman Seconded By Rep. Zaiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Kilichowski		
Vice Chairman Hatelstad			Rep. Shirley Meyer		
Rep. Beadle			Rep. Mock		
Rep. Devlin			Rep. Zaiser		
Rep. Heilman					
Rep. Klemin					
Rep. Koppelman					
Rep. Kretschmar					
Rep. Maragos					
Rep. Pietsch					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Section 6+7
Voice Vote - Carried!*

PROPOSED AMENDMENTS TO HOUSE BILL 1114

Page 3, line 7, replace "The" with "For any city election not held in conjunction with a county election, the"

Renumber accordingly

Date: 1-13-11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1114

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Kilichowski		
Vice Chairman Hatelstad			Rep. Shirley Meyer		
Rep. Beadle			Rep. Mock		
Rep. Devlin			Rep. Zaiser		
Rep. Heilman					
Rep. Klemin					
Rep. Koppelman					
Rep. Kretschmar					
Rep. Maragos					
Rep. Pietsch					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Pg 3, line 7
Voice Vote Carried!*

#3

To: House Political Subdivisions Committee
From: Jerry Hjelmstad, North Dakota League of Cities
Date: January 12, 2011
Re: House Bill No. 1114

Note: All city elected and appointed officials take the oath of office under NDCC section 40-13-03.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1114

Page 1, line 2, delete "and"

Page 1, line 3, remove "40-09-07,"

Page 1, line 4, after "elections" insert "and to repeal section 40-09-07 of the North Dakota Century Code relating to the bond and oath of a city commissioner"

Page 2, remove lines 13 through 23

Page 4. line 5, insert:

"SECTION 8. REPEAL. Section 40-09-07 of the North Dakota Century Code is repealed."

Renumber accordingly

Date: 1-13-11
Roll Call Vote #: 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1114

House Political Subdivisions Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider _____

Motion Made By Rep. Hatelstad Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Kilichowski		
Vice Chairman Hatelstad			Rep. Shirley Meyer		
Rep. Beadle			Rep. Mock		
Rep. Devlin			Rep. Zaiser		
Rep. Heilman					
Rep. Klemin					
Rep. Koppelman					
Rep. Kretschmar					
Rep. Maragos					
Rep. Pietsch					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*See attach. #3
Voice Vote - Carried!*

January 17, 2011

VK
1/18/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1114

Page 1, line 1, replace "sections" with "section"

Page 1, line 1, remove ", 40-21-16.2, and 40-21-16.3"

Page 1, line 2, remove the first "and"

Page 1, line 3, remove ", 40-09-07"

Page 1, line 4, after "elections" insert "; to repeal section 40-09-07 of the North Dakota Century Code, relating to the bond and oath of a city commissioner; and to declare an emergency"

Page 2, remove lines 13 through 23

Page 3, line 7, replace "The" with "For any city election not held in conjunction with a county election, the"

Page 3, remove lines 12 through 31

Page 4, replace lines 1 through 4 with:

"SECTION 5. REPEAL. Section 40-09-07 of the North Dakota Century Code is repealed.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 1-13-11
Roll Call Vote #: 4

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1114

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep. Mock Seconded By Rep. Heilman

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Kilichowski	✓	
Vice Chairman Hatelstad	✓		Rep. Shirley Meyer	✓	
Rep. Beadle	✓		Rep. Mock	✓	
Rep. Devlin	✓		Rep. Zaiser	✓	
Rep. Heilman	✓				
Rep. Klemin	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Pietsch	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Hatelstad

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

REPORT OF STANDING COMMITTEE

HB 1114: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1114 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "sections" with "section"

Page 1, line 1, remove ", 40-21-16.2, and 40-21-16.3"

Page 1, line 2, remove the first "and"

Page 1, line 3, remove ", 40-09-07"

Page 1, line 4, after "elections" insert "; to repeal section 40-09-07 of the North Dakota Century Code, relating to the bond and oath of a city commissioner; and to declare an emergency"

Page 2, remove lines 13 through 23

Page 3, line 7, replace "The" with "For any city election not held in conjunction with a county election, the"

Page 3, remove lines 12 through 31

Page 4, replace lines 1 through 4 with:

SECTION 5. REPEAL. Section 40-09-07 of the North Dakota Century Code is repealed.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2011 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1114

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

HB 1114
March 3, 2011
14888

Conference Committee

Committee Clerk Signature

Kate Olise

Explanation or reason for introduction of bill/resolution:

Relating to the bond and oath of city commissioner; and to declare an emergency

Minutes:

Testimony Attached

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

Senator Cook: How long does it take to get something from the governor's desk to your desk and filed?

Al Jager: Things are brought over daily, they get signed and then they become law.

Senator Cook: Does the Secretary of State have the freedom to wait 2 weeks?

Al Jager: I'm not sure. I don't see how I would be able to do it, once it is brought over then it's signed and becomes law.

Senator Nelson: Most city general elections are held in June in conjunction with county elections.

Al Jager: Yes, except for the city of Kenmare.

Jerry Hjelmstad: See attached testimony #2.

Vice Chairman Sorvaag: Do they use commission president?

Jerry Hjelmstad: In the code it uses the term commission president

Bill Woken: City Administrator for Bismarck. Endorse the amendment and the bill itself; also we would be appreciative to keep the emergency clause.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

HB 1114
March 3, 2011
14897

Conference Committee

Committee Clerk Signature

Kate Owe

Explanation or reason for introduction of bill/resolution:

Relating to the bond and oath of city commissioner; and to declare an emergency

Minutes:

No testimony

A motion was made to adopt the amendments provided by Jerry Hjelmstad by Senator Nelson with a second by Senator Schaible there was no further discussion, roll was taken and the motion was adopted. A motion was then made by Senator Cook with a second by Vice Chairman Sorvaag, there was no further discussion, roll was taken and the motion passed 7-0 with Vice Chairman Sorvaag carrying the bill to the floor.

To: Senate Government and Veterans Affairs Committee
From: North Dakota League of Cities
Date: March 3, 2011
Re: House Bill 1114

ENGROSSED

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1114

Page 2, line 28, remove "or appointed replacement"

Page 2, line 29, replace the first "council" with "commission" and after the second "council" insert ", or appointed replacements for any of these officials"

Re-number accordingly

So the sentence would read ...

"For any city election not held in conjunction with a county election, the city canvassing board must be composed of the city auditor, city attorney, mayor or commission president, and two members of the city commission or council, or appointed replacements for any of these officials."

Date: 3/3/11
Roll Call Vote #: 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1114

Senate Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Move Amendment

Motion Made By Nelson Seconded By Schabale

Senator	Yes	No	Senator	Yes	No
Dewch	X		Marcellas	X	
Sullivan	X		Nelson	X	
Benny	X				
Cook	X				
Schabale	X				

Total Yes 7 No 0

Absent _____

Floor Assignment _____

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

11.8094.02001
Title.03000

Adopted by the Government and Veterans
Affairs Committee

March 7, 2011



3-7-11

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1114

Page 2, line 28, remove "or appointed replacement"

Page 2, line 29, replace the first "council" with "commission"

Page 2, line 29, after the second "council" insert ", or appointed replacements for any of these officials"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1114, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1114 was placed on the Sixth order on the calendar.

Page 2, line 28, remove "or appointed replacement"

Page 2, line 29, replace the first "council" with "commission"

Page 2, line 29, after the second "council" insert ", or appointed replacements for any of these officials"

Renumber accordingly

2011 TESTIMONY

HB 1114



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

January 6, 2011

TO: Rep Johnson, Chairman, and Members of the House Political Subdivision Committee

FR: Al Jaeger, Secretary of State

RE: HB 1114 – Relating to City Elections

Section 1, page 1, line 15: The insertion of the word "city" makes it clear that the reference in that section is to the city's general election and not to the state's general election.

Section 2, page 2, line 8: The insertion of the word "city" makes it clear that the reference in that section is to the city's general election and not to the state's general election.

Section 3, page 2, lines 16 through 19: The requirement for a bond is removed because that requirement is covered under other sections of state law and is obsolete, as it appears in this section.

Section 4, page 3, line 1: The insertion of the word "city" makes it clear that the reference in that section is to the city's general election and not to the state's general election.

Section 5, page 3, lines 7 through 11: This new section establishes the composition of a canvassing board when a city election is held. Currently, in Chapter 40-21 which governs municipal elections, the law does not specifically list a canvassing board for a city election.

For city elections in the past, the composition of the county canvassing board in N.D.C.C. § 16.1-15-15 has been used and it includes representatives of county government and political parties. The members under this proposed section are at the city governing level and without political party representation since city officials are elected on a no-party ballot.

To make it clear that this canvassing board is for a city election not held in conjunction with a county election, I request the adoption of the attached amendment for the beginning of line 7. The county canvassing board will still function for the combined county/city elections held in June, as mandated by state law in Title 16.1 (the election title) or if a city special election is held in conjunction with a general election in November.

Section 6, page 3, lines 16 through 25: This new section establishes the qualifications of the members of the city election canvassing board and when they must recuse themselves or be removed from the board.

Section 7, page 3, lines 30 through 31 and page 4, lines 1 through 4: This new section establishes the timeline after the election when the city election canvassing board must meet and under what circumstances it can be reconvened.

#2

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

January 13, 2011

TO: Rep Johnson, Chairman, and Members of the House Political Subdivision Committee

FR: Al Jaeger, Secretary of State

RE: HB 1114 – Relating to City Elections

Under the provisions of N.D.C.C. § 40-21-13, city elections must be conducted in the same manner as an election conducted by the county. This means the canvassing of votes in a city election is governed by the same laws that already exist in Chapter 16.1-15, which pertains to the canvassing of votes. Since the text in Sections 6 and 7 already exist with the identical wording in that chapter, these two sections would be redundant. Therefore, the amendment removes those two sections from the bill.

The addition of the Emergency Clause will allow the city canvassing board established in Section 5 to be used by the City of Bismarck for their special election that was scheduled a few days ago for April 19.

ALVIN A. JAEGER
SECRETARY OF STATE

HOME PAGE www.nd.gov/sos



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

March 3, 2011

TO: Senator Dever, Chairman, and Members of the Senate Government & Veterans Affairs Committee

FR: Al Jaeger, Secretary of State

RE: HB 1114 – Relating to City Elections

Section 1, page 1, line 16: The insertion of the word "city" makes it clear that the reference in that section is to the city's general election and not to the state's general election.

Section 2, page 2, line 8: The insertion of the word "city" makes it clear that the reference in that section is to the city's general election and not to the state's general election.

Section 3, page 2, line 21: The insertion of the word "city" makes it clear that the reference in that section is to the city's general election and not to the state's general election.

Section 4, page 3, lines 26 through 30 and page 4, lines 1 and 2: This new section establishes the composition of a canvassing board when a city election is held. Currently, in Chapter 40-21 which governs municipal elections, the law does not specifically list a canvassing board for a city election.

For previous city elections, the composition of the county canvassing board in N.D.C.C. § 16.1-15-15 has been used and it includes representatives of county government and from political parties. The members of the canvassing board under this new proposed section of law are at the city governing level and without political party representation because city officials are elected on a no-party ballot.

Section 5, page 3, line 3: The following section in Chapter 40-09 (in existence and not amended since at least 1943) is repealed because it is obsolete, is redundant with other existing sections of law, and only applies to cities that use the commission form of government. No similar requirements exist in Chapter 40-08 for cities that use the council form of government.

40-09-07. Bond and oath of commissioner. Each commissioner, before entering upon the duties of office, shall furnish a bond in the penal sum of three thousand dollars conforming to the provisions of law applicable to the bonds of state officers. In addition to the oath prescribed by the Constitution of North Dakota, each commissioner shall take an oath that the commissioner is not under any direct or indirect obligation to appoint or elect any person to the office of police officer, firefighter, or any other office, position, or employment under the city government. Each commissioner elected shall qualify under the provisions of this section within ten days after the receipt of the commissioner's certificate of election.

Section 6, page 3, line 4: The Emergency Clause will allow this law to become effective immediately upon the filing of the bill with the Secretary of State and for the new "city" canvassing board to be used in upcoming city special elections scheduled for Bismarck on April 19 and Grand Forks on May 3.