

2011 HOUSE POLITICAL SUBDIVISIONS


HB 1311

2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

HB 1311
January 27, 2011
Job #13586

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

Relating to contribution and expenditure statements filed by persons sponsoring the circulation of initiated measure petitions.

Minutes:

Testimony #1, #2

Chairman Johnson: Opened the hearing on HB 1311.

Rep. Shirley Meyer: This bill simply because of what happened last year on Measure 2 of the ballot which was about high fence hunting. Many people believed that this measure about prohibiting high fence hunting was being driven by sportsmen. They were being sponsored by the Humane Society. There were several gentlemen that had just come from a Farm Bureau meeting and down the hall they went into a PETA meeting. These guys went in there and what they heard scared them. They came in and visited with me. Their concerns were the topic at that meeting that they were not invited to and we ease dropping on were having a discussion on targeting states that had initiated measure processed. ND was mentioned as one of those states to do a test run on how it would go to put in initiated measure banning all something. It was targeted toward animal care, PMU lines and caged layers and swine facilities. The thought that was going on there was if these measures were tried and could pass in the state without people knowing who passed them then maybe that is something we should try. They asked if I would put in a bill maybe looking at truth and disclosure if you will have initiated measures. We do have that now, but with this it is a tightening up. Whoever is filing those statements, it would be a nice disclosure to know where that money is coming from. Currently we have that but we don't get that until the 12th day prior to the election. With early voting an election can be lost or won by the 12th day before the election; with absent balloting even more. This is just a step in saying we would like to know where the money is coming from and disclosure.

Julie Ellingson: (See attached testimony #1).

Rep. Klemin: On page 2, line 11 this is a provision which is a little different than all the other provisions in that it requires the chairman of the sponsoring committee rather than the sponsoring committee to do something. All the rest of the changes require the sponsoring committee to do something? Is there a particular reason it is not consistent with the rest of the changes?

Julie Ellingson: Not to my knowledge. I think it could be the entire committee so there is continuity thought the bill.

Rep. Koppelman: What if the Humane Society would come to ND and form an organization and call it the ND Association for Better Sportsmanship or something like that. Does this bill do anything to try to prevent that kind of hiding behind another entity? Does it go far enough to make this clear?

Julie Ellingson: You make a good point. We have the first amendment and we have the ability to explain what our different positions are on issues and that why we love living in America. We do think what it can accomplish is those that are imitating those measure will have to have a greater level of transparency. There are many examples where those challenges will remain. This is one area where we think we can zone in on and increase that transparency and help the voters at the same time.

Rep. Zaiser: Do you think we could make a statement somewhere in there to the affect where the description of the organization clearly correlates to the objective that they are trying to accomplish. Maybe we should do an amendment?

Julie Ellingson: Yes I think that would be very helpful. Our board of directors had discussed this issue at length at a recent board of directors meeting wanting to increase the level of truth and transparency and struggled with what the right language might be.

Rep. Shirley Meyer: It was my understanding up at the Minot State Fair the people circulating the petition for Measure 2 were misinforming the people on where the sponsorship and the money was coming from.

Julie Ellingson: Many of our members did indicate that and there were some concerns and that is why this bill came about. We want to lay everything on the table so ND voters can judge everything on face value.

Opposition:

Al Jaeger, Secretary of State: (See testimony #2).

Rep. Shirley Meyer: Listening to the intent and what we are trying to get to do you have any suggestions that would make it work so we know in an open disclosure that is behind the money. On these partitions many times we don't know who is behind it.

Al Jaeger: You need to realize that there already exist in the law reporting requirements as different people that do have to file a report. We have had measures on the ballot before where a corporation of some not in ND on their own bought an ad to promote or defeat something. The only thing I can suggest is that if you institute a different type of reporting requirement this files in to what candidates have to file so do you want a measures committee to file a report 30 or 60 days before it is on the ballot. Do you want to tie it in because to be on the ballot it has to be in my office 90 days prior to the election? With the hunting one when they were circulating a question had come up, had they received any

contributions? The sponsors themselves out of their own pockets were paying for their gas so they weren't really accepting contributions. You made a comment when the petitions were being circulated at the ND State Fair that people weren't representing the petition correctly. It happens a lot. They use very quick sound bites on what the petition is and I suspect it will happen forever.

Rep. Shirley Meyer: What is the disclosure for the sponsoring committee?

Al Jaeger: None. The Sponsoring Committee is 25 electors who put their name on the front page of the petition. Once they are there they are there. If the sponsoring committee hires circulators they do have to report that to us, but that is a separate report.

Rep. Kretschmar: Under this statute does the sponsoring committee for an initiated measure include a sponsoring committee for a proposed constitutional amendment?

Al Jaeger: The Constitution identifies a sponsoring committee for anything that is put on by the elector, not by the legislature. Electors can initiate and constitutional amendment, a statutory amendment, and a referral. That state law now covers what you are asking.

Rep. Kretschmar: It is on a much nearer window.

Al Jaeger: The petition has 90 days after the time it is signed into the law by the governor.

Rep. Kretschmar: Could you and Rep. Shirley Meyer get together and prepare some amendments?

Al Jaeger: I don't have a problem with it. A Measures Committee exists if they accept contributions and expend money they have to register. We are always willing to discuss this.

Rep. Maragos: Is there any penalty now for the sponsoring committee now to take money and not report it?

Al Jaeger: Yes

Neutral: None

Hearing closed.

2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

HB 1311
February 4, 2011
Job # 14012

Conference Committee

Committee Clerk Signature 

Minutes:

Proposed amendment #1

Chairman Johnson: reopened the hearing on HB 1311.

Rep. Shirley Meyer: (See proposed amendment #1). Went over the amendment. This was an attempt to inform the public where the money was behind the initiated measure. Secretary Jaeger had problems with the timing and the terminology so this is hoghouse amendment. Basically what it does is at the time the sponsoring committee for initiated measures submits petitions to the Secretary of State they also are going to be required to submit a statement disclosing the total amount of contributions received by the committee to aid the committee in drafting and circulating the petition so this happens before. What we are trying to get at is who paid these people, if they paid these people, did they and how much. It is simply a disclosure statement when they come in and submit the petition to the Secretary of State. It will be a one line form that says how much money you received toward this effort.

Rep. Shirley Meyer made a motion to move the amendment 11.0482.01001; Seconded by Rep. Kilichowski.

Discussion:

Rep. Klemin: I think I see what you are trying to do. I think you can easily get around it even under your amendment just by having some type of pass through entity is the one contributing the funds for this.

Rep. Shirley Meyer: You are absolutely right. This is just a step toward disclosure before they start accepting donations and become a measures committee.

Chairman Johnson: When it says mailing address of each person. This person could be any entity.

Rep. Devlin: I see you used \$100 instead of \$200 that we have for legislative races and I wondered why you dropped it down to \$100.

Rep. Shirley Meyer: That could certainly be changed. I was surprised that was in there.

Rep. Kretschmar: Would it be just one time that they would have to report this when they start the process?

Rep. Shirley Meyer: Yes that is correct when they come in with a sponsoring committee with their petition.

Rep. Kretschmar: Then it has nothing to do with the measures committee.

Rep. Shirley Meyer: No then you become a measures committee after the fact and that is where the glitch was where the sponsoring committees would come together and if you had an out of state PETA, if you will, giving Rep. Koppelman \$10,000 to organize this effort. We had no way of knowing that. That is the intent.

Rep. Koppelman: Does this only apply to statewide measures or is it any initiated measure.

Rep. Shirley Meyer: It was just a statewide initiated measure. It is the same committee; it is the measures committee when the money transfers.

Rep. Koppelman: So if the bill were to pass it would require the sponsoring committee, when it brings the measure to the Secretary of State for his approval to disclose this. The measures committee's work is going out then and soliciting the funds and that is currently covered in law.

Rep. Klemin: I can see where the \$100 came from. Everywhere else in this bill where it refers to the measure it is \$100.

Rep. Shirley Meyer: You are correct just to make it consistent.

Voice vote carried.

Do Pass As Amended Made by Rep. Maragos: Seconded by Rep. Shirley Meyer:

Vote: 12 Yes 0 No 2 Absent Carrier: Rep.Devlin:

Hearing closed.

VR
2/4/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1311

Page 1, line 9, after "1." insert "At the time the sponsoring committee for an initiated measure petition submits signed petitions to the secretary of state, the committee also shall submit a statement disclosing the total amount of contributions received by the committee to aid the committee in drafting and circulating the petition, the name and mailing address of each person that contributed more than one hundred dollars in the aggregate to the sponsoring committee, the date each such contribution was received, and the total amount of expenditures made by the committee to aid in the drafting and circulation of the petition.

2."

Page 1, line 9, remove the overstrike over "Any"

Page 1, line 9, remove "The sponsoring committee for an initiated measure petition and any"

Page 1, line 22, overstrike "2." and insert immediately thereafter "3."

Page 1, line 22, remove the overstrike over "A"

Page 1, line 22, remove "The sponsoring committee for an initiated measure petition and any"

Page 2, line 11, remove "chairman of the sponsoring committee of an initiated measure"

Page 2, line 12, remove "petition and"

Page 2, line 15, overstrike "1" and insert immediately thereafter "2"

Page 2, line 16, overstrike "3." and insert immediately thereafter "4."

Page 2, line 16, remove "The sponsoring committee of an initiated measure petition shall file quarterly"

Page 2, remove lines 17 and 18

Page 2, line 19, remove "quarter during which the petition is being circulated."

Page 2, line 20, overstrike "1" and insert immediately thereafter "2"

Page 2, line 25, replace "this section" with "subsections 2 and 3"

Page 2, line 29, overstrike "this section" and insert immediately thereafter "subsections 2 and 3"

Renumber accordingly

Date: 2-4-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1311

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number 11.0482.0101

Action Taken Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep. Meyer Seconded By Rep. Mock

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:

*Vote
Vote
carried!*

Date: 2-4-11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1311

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. Maragos Seconded By Rep. Meyer

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) 12 No 0

Absent 2

Floor Assignment Rep. Devlin

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

REPORT OF STANDING COMMITTEE

HB 1311: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1311 was placed on the Sixth order on the calendar.

Page 1, line 9, after "1." insert "At the time the sponsoring committee for an initiated measure petition submits signed petitions to the secretary of state, the committee also shall submit a statement disclosing the total amount of contributions received by the committee to aid the committee in drafting and circulating the petition, the name and mailing address of each person that contributed more than one hundred dollars in the aggregate to the sponsoring committee, the date each such contribution was received, and the total amount of expenditures made by the committee to aid in the drafting and circulation of the petition.

2."

Page 1, line 9, remove the overstrike over "Any"

Page 1, line 9, remove "The sponsoring committee for an initiated measure petition and any"

Page 1, line 22, overstrike "2." and insert immediately thereafter "3."

Page 1, line 22, remove the overstrike over "A"

Page 1, line 22, remove "The sponsoring committee for an initiated measure petition and any"

Page 2, line 11, remove "chairman of the sponsoring committee of an initiated measure"

Page 2, line 12, remove "petition and"

Page 2, line 15, overstrike "1" and insert immediately thereafter "2"

Page 2, line 16, overstrike "3." and insert immediately thereafter "4."

Page 2, line 16, remove "The sponsoring committee of an initiated measure petition shall file quarterly"

Page 2, remove lines 17 and 18

Page 2, line 19, remove "quarter during which the petition is being circulated."

Page 2, line 20, overstrike "1" and insert immediately thereafter "2"

Page 2, line 25, replace "this section" with "subsections 2 and 3"

Page 2, line 29, overstrike "this section" and insert immediately thereafter "subsections 2 and 3"

Renumber accordingly

2011 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1311

2011 SENATE STANDING COMMITTEE MINUTES

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

HB 1311
March 3, 2011
14880

Conference Committee

Committee Clerk Signature

Katie Dwyer

Explanation or reason for introduction of bill/resolution:

Relating to contribution and expenditure statements filed by person sponsoring the circulation of initiated measure options.

Minutes:

Testimony Attached

Senator Shirley Meyer: District 36. Basically the bill is trying to address a concern that was raised on measure 2 as you may recall is the hunting measure that was on the ballot. There were many people that believe that it was being sponsored by sportsmen's groups but it was sponsored by the humane society. North Dakota has been targeted for our open initiated measure process to be a test state by organizations like PETA. They want to make a point on what they believe is the best thing for the livestock industry while we may not agree. Another thing that wouldn't get through the measure process but that is what we are trying to do. What the bill does is when someone comes into the Secretary of State office they need to disclose if they have received financial support up until that point. That is basically what we are trying to do with HB 1311.

Chairman Dever: It appears to me that section 1 subsection 1 is the meat of the bill.

Senator S. Meyer: That is correct. The rest is language cleanup and that type of thing.

Senator Berry: Is our process similar to other states?

Senator S. Meyer: I do not know what other states do. The antidotal stories that I have heard is that we have been target because we have an initiated process.

Senator Nelson: Can someone come in and say that no one is behind this measure but there will be money coming in after the fact. Do we have something to counter act that.

Senator S. Meyer: I do not know. This was hoping that if there is money that passed hands we would know about it. Right now this would have to be disclosed before the election. It was more a wakeup call.

Chairman Dever: By pure confidence I was on the Secretary of State website reading the contribution statements particularly this one and the opposition to this measure had \$53,000. What is this asking to be included that is not included now?

Senator S. Meyer: We had heard that people had given sizeable donations to bring a measure. They don't become a measure committee until they get dollars. All of us would go in to the Secretary of State office. That would have happened before we became a sponsoring committee...under this legislation we would have to disclose that when we go into the Secretary of State. This bill has changes over the course of hearing it in the House. Trying to follow the money as it were.

Julie Ellingson: North Dakota Stockman's Association. See attached testimony #1.

Chairman Dever: I think about the pharmacy initiative. During the last session they had lobbyist all over. The chairman of the sponsoring committee was also in charge of marketing during the initiative process. Would this bill require that they receive be disclosed as part of that support?

Julie Ellingson: I can't speak to that but the heart of the bill as it stands is to disclose and provide more information and allowing the people to make informed decisions.

Senator Cook: The wording 'received by the committee', does that mean the committee as a whole? I am curious if sponsoring committees of initiated measures even do much fundraising. How about contributions that are made to members of the committee as individuals, they would not be required to report them, the way it is written.

Julie Ellingson: That could be a possible amendment. About fundraising, there probably isn't a lot being done on these and hopefully this would look to address that.

Senator Nelson: If indeed the humane society brought this forth and their attorney did something. Attorneys are not cheap, would they have to disclose their information to the sponsoring committee.

Julie Ellingson: I am afraid that the language as it is written wouldn't satisfy that.

Al Jager: Secretary of State. See attached testimony #2.

Senator Cook: If someone is a member of PETA and they contribute \$1,000 a year and they have their attorneys deal with the model legislation. If the PETA member submits the legislation they won't know that it was based in PETA.

Al Jager: Yes, I agree.

Senator Cook: Has PETA ever had a reason to file a disclosure with your office?

Al Jager: The only thing that I could think of is if they pass themselves off as a 501c3 organization.

Senator Cook: But it's an open record if they have

Al Jager: If they collect charitable contributions then they have a registration and reporting requirement.

Senator Cook: Wal-Mart and the pharmacy bill. What contributions did Wal-Mart make that were reported to your office?

Al Jager: There is provision in law that if a business took out a full page add they would have a reporting requirement.

Chairman Dever: Any contributions in support of the measure? Or just to aid in the drafting and circulating of the petition

Al Jager: Anything upfront of walking into our office, any contributions that they have received must be reported when they come in. As I was presenting my testimony in opposition I thought Representative Meyer figured out that the language was not good and she asked us to assist her and we did.

Vice Chairman Sorvaag: Sponsoring committees are not registered with you at all, correct?

Al Jager: What the constitution of North Dakota says that 25 electors has to be part of it and then it becomes a committee. What happens after that is that they start collecting money and if they spend money to pass or defeat a measure they have a requirement with our office

Vice Chairman Sorvaag: When is the sponsoring committee beginning?

Al Jager: That is why I raised the questions here because when does it start. It's a good thing; if we put language in here anything in the 6 months prior to them walking into our office has to be reported. On the 6th month, 2nd day prior to that they would do everything that they needed to do and wait for 6 months before they walk into our office. Sponsoring committees do things differently. Some write a letter, some call, some show up with the media. Regardless of when it happens we go out with the release and the press sees who is on the list the information gets posted in the website. Until they come in I do not know who the sponsoring committee is.

2011 SENATE STANDING COMMITTEE MINUTES

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

HB 1311
March 3, 2011
14904

Conference Committee

Committee Clerk Signature *Kate Oliver*

Explanation or reason for introduction of bill/resolution:

Relating to contribution and expenditure statements filed by persons sponsoring the circulation of initiated measure options.

Minutes:

No testimony attached.

Chairman Dever: I think that I agree with the intent of the sponsors, I'm not sure that you can do this without creating a lot of complications.

Vice Chairman Sorvaag: The intent is great and I agree with it and I am just concerned that we are going to make it difficult on North Dakota citizens that want to start an initiated measure.

Senator Cook: What if we were to completely eliminate all the new language that we see on lines 9-16 on page 1 and go to page 2 line 24 or 25 where it talks about the only reporting requirement is the 12th day prior to the election and put something else in that requires them to put in other things when they are submitting to the Secretary of State?

Vice Chairman Sorvaag: If we go by what Secretary of State it deals with the measuring committee it's the sponsoring committee that they are talking about. You still wouldn't get who paid to bring the measure forward.

Senator Cook: Representative Meyer wants is a report earlier in the process.

Chairman Dever: And delete subsection 1?

Senator Cook: I don't think that it is going to get all of the information that they want.

Chairman Dever: It occurs to me that when the sponsoring committee files to circulate the petitions they have a year to gather the signatures. So if they did that now the report that they are looking for would be filed this calendar year and money or support opposed wouldn't come out until next year

Senator Cook: If someone is going to run they can get contributions before they have turned in their petitions.

Chairman Dever: My understanding is that sponsoring committees have to report cash on hand at the beginning and the end.

Vice Chairman Sorvaag: The confusion is that the candidate is always the same person and this bill talks about sponsoring and measuring committee; it should follow the same trail.

Chairman Dever: If you go to the Secretary of State website you find 2 measuring committees, one for and one against.

Senator Nelson: Somewhere they need to define what a sponsoring committee is.

Senator Berry: Can we make that clear in the amendment?

Chairman Dever: We have in code a definition of candidate, I wonder if we have one on sponsoring committee. If you review those contributions the opponents raised a lot of money out of state

Vice Chairman Sorvaag: I think that it is reported now but make it reported sooner. The measure committee should have to report 2 or 3 times.

Senator Nelson: If it's more than 12 days before then why not before that?

Vice Chairman Sorvaag: Elections have changed a lot of people are voting early.

Chairman Dever: One of the mistakes that the pharmacy petition made is they held the petition until the deadline.

Senator Cook: Does the Code definition of sponsoring committee include contributions given to people before the sponsor files the paperwork. How would you change the definition so it does?

There was no further discussion and Chairman Dever closed the committee.

2011 SENATE STANDING COMMITTEE MINUTES

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

HB 1311
March 31, 2011
16218

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

Relating to contribution and expenditure statements filed by persons sponsoring the circulation of initiated measure options

Minutes:

No testimony attached.

A motion for a do pass was made for a do pass made by Senator Cook with a second by Vice Chairman Sorvaag, there was no further discussion, roll was taken, the motion passed 7-0 and Senator Berry carrying the bill to the floor.

Date: 3/31/11
Roll Call Vote #

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1311

Senate _____ 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 Cool Seconded By Sorvaag

Senators	Yes	No	Senators	Yes	No
Chairman Dever	X		Senator Marcellais	X	
Vice Chairman Sorvaag	X		Senator Nelson	X	
Senator Barry	X				
Senator Cook	X				
Senator Schaible	X				

Total (Yes) 7 No 0

Absent _____

Floor Assignment Benny

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

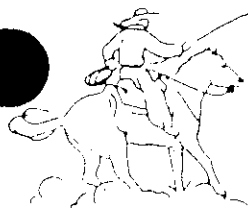
REPORT OF STANDING COMMITTEE

HB 1311, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1311 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HB 1311

North Dakota



STOCKMEN'S ASSOCIATION

407 SOUTH SECOND STREET
BISMARCK, NORTH DAKOTA 58504

Ph: (701) 223-2522

Fax: (701) 223-2587

e-mail: ndsa@ndstockmen.org


www.ndstockmen.org

#1

- In Florida, by ballot initiative, Floridians voted to stop the “crating” of mother pigs under the deceitful guise that it was “cruel and inhumane” to crate pigs. However, mother pigs are crated so they do not roll over and kill their piglets. Farmers could no longer afford to raise pigs and have relocated.



Of course, ballot initiatives are not all bad. They provide citizens an additional opportunity to have a voice in government and help shape the direction of the state, pillars in a democracy. But a democracy also requires openness and honesty about the issues at hand, so voters can determine who is involved in what issues and what their motives might be before they have to make a decision in the voting booth.

The more frequent reporting requirement outlined in this bill will help in providing this information to voters in a more timely manner, so they have what they need to know plenty in advance to make an informed decision, even if they opt to vote absentee long before Election Day. Right now, reporting only needs to be done 12 days before the election, and many citizens have voted long before then.



This bill is not designed to stifle discourse in the political arena, but rather to provide the best possible information to voters about an initiated measure so they can make a thoughtful decision about how to proceed.

For these reasons, we ask for your favorable consideration of this proactive bill and will stand for any questions you may have.



2

PHONE (701) 328-2900

FAX (701) 328-2992

E-MAIL sos@nd.gov



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

January 27, 2011

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

FR: Al Jaeger, Secretary of State

RE: HB 1311 – Relating to Measure Committee Disclosure Reports

Under current law, a sponsoring committee and a measures committee are not the same.

A sponsoring committee of 25 qualified electors is required by the state's constitution in order to submit a petition to the Secretary of State for approval of the petition's format in order to circulate that petition for obtaining signatures to place a measure on the ballot. The committee has one year in which to obtain the signatures.

A measures committee exists to promote the passage or defeat of an initiated or referred measure. In addition, it can exist "for the purpose of aiding or opposing the circulation" of a petition. Regardless of the reason for its existence, a measures committee must register with the Secretary of State's office as soon as that committee accepts a contribution or makes an expenditure for one of these purposes. The reporting deadlines for a measures committee are the same as they are for candidates for public office and coincide with the election the measure would be on the ballot.

As we understand this bill, it would require the petition's sponsoring committee to file a quarterly report with the Secretary of State during the time it is circulating their petition. In doing so, it eliminates the distinction between a sponsoring committee and a measures committee and makes them the same even though they exist for two different purposes and may or may not have the same members.

This bill also raises the question as to when the petition is being circulated. For example, in 2010, nine petitions were circulating to obtain signatures. As of today, seven of those petitions are still within the one year period in which they are allowed to obtain signatures. However, are they still being circulated?

Although a quarterly report is being required, it is not clear if that is a calendar quarter or the end of the first quarter after the petition was approved for circulation. For example, one of the petitions last year was approved for circulation on March 18. Under this proposed law and assuming it is a calendar quarter, the sponsoring committee would be required to file their first report 12 days after March 31?

Because of the concerns previously expressed, the Secretary of State's office does not recommend the passage of the bill as it is proposed.

N. A. JAEGER
SECRETARY OF STATE

HOME PAGE www.nd.gov/sos



PHONE (701) 328-2900
FAX (701) 328-2992

E-MAIL sos@nd.gov

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 1311 – Relating to Measure Committee Disclosure Reports

As it was originally drafted and introduced, I testified in opposition to this bill. Afterwards, the primary sponsor of this bill requested our assistance in preparing an amendment that would accurately reflect her intent, which was not in the bill as originally introduced. Therefore, we provided an amendment that (as I understand it) reflected the sponsor's intent.

That is, at the time a petition is submitted to the Secretary of State for a petition title and approval to circulate, the Sponsoring Committee would have to submit a statement disclosing the individual contributions received and expenditures made that were in excess of \$100 and any aggregated gross amounts. This would be information related to the "drafting and circulation of the petition" prior to it being submitted to the Secretary of State.

It would not be related to the political committee registration and campaign finance reporting requirements that now exist in state law for aiding or opposing the circulation or passage of a statewide initiative or referendum after the petition has been approved for circulation.

While we prepared the amendment at the sponsor's request, I also prepared a cover letter addressed to the sponsor that stated the following and I offer it as well for the committee's consideration.

"As you requested, we have prepared an amendment, which we believe may accomplish some of the objectives you shared with us after the hearing last week. You're welcomed to use it.

However, we offer it not knowing if it is constitutional (because we do not have the authority to give such an opinion) under Section 1 of Article III, i.e., "Laws may be enacted to facilitate and safeguard, but not to hamper, restrict, or impair these powers." This type of report has never been requested and we don't know if it crosses that line. Plus, there may be challenges raised related to first amendment rights."

HB 1311

Good morning, Chairman and committee members. For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association.

The Stockmen's Association is proud to support HB 1311, which is designed to increase the openness and transparency of the ballot initiative process and to provide voters with the best information possible so they can make informed decisions when they head into the ballot box. It aims to accomplish that by requiring the sponsoring committee for an initiated measure to disclose its sources of contributions of \$100 or more so citizens know who is behind them. We believe this bill will help ensure the integrity of the state's ballot initiative process.

Why is this a priority for beef producers? The reason is that animal-agriculture adversaries have made the initiated measure their vehicle of choice to advance their agendas and put family farmers and ranchers out of business.

We can cite many examples of how such groups have used ballot measures to change agriculture as we know it. In fact, between 1990 and 2008, animal rights organizations pushed more than 40 ballot campaigns across the United States, strategically implementing extreme policies in order to impede animal agriculture.

The most prominent examples come from California, where, in 2008, Proposition 2 handicapped the egg and veal industries, forcing producers out of businesses and driving up egg prices for consumers by 60 percent, and from Florida, where, in 2002, the ballot initiative banning the use of gestation crates for swine shut down the entire hog industry in that state.

Of course, ballot initiatives are not all bad. They provide citizens an additional opportunity to have a voice in and help shape the direction of government. But a democracy also requires openness and honesty about the issues at hand, so voters can determine who is involved in what issues and what their motives might be before they have to make a decision in the voting booth.

This bill is not designed to stifle discourse in the political arena, but rather to provide the best possible information to voters about an initiated measure so they can make a thoughtful decision about how to proceed.

For these reasons, we ask for your favorable consideration of this proactive bill and will stand for any questions you may have.