

**2013 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1361**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee  
Fort Union Room, State Capitol

HB 1361  
February 1, 2013  
18179

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to election precincts and voting places.

## Minutes:

You may make reference to "attached testimony."

**Chairman Jim Kasper** opened the hearing on HB 1361.

**Rep. Klemin** appeared in support of the bill. I introduced this bill at the request of Steve Vogelpohl.

**Steven Vogelpohl, Bismarck attorney and resident** appeared in support. **Attachment 1** testimony was presented. (End 9:50)

**Rep. Karen Karls** What prompted you to go over this with such fine detail?

**Steven Vogelpohl** In the work that I do as a bond attorney, the election process can be part of the process of issuing bonds. I am an elector and have voted in one election where there have been multiple polling places for the precinct. Between the two interests as bonds can be issued by school districts, counties, and cities with these elections, it prompted me to study the statues and to get here today.

**Rep. Karen Karls** What this situation in North Dakota where you voted where there were more? In Bismarck each precinct has one polling place, and in the rural areas there you would have more where the precincts are bigger.

**Steven Vogelpohl** In September we voted for bonds in Bismarck and there was one precinct, the school district, and a number of polling places. In Bismarck a couple years ago and I didn't vote in this election, there was an election that pertained to the smoking ban, and the city was one precinct and I think more than one polling place.

**Rep. Gail Mooney** What is the intent of all these changes?

**Steven Vogelpohl** I am trying to get clarity in the law. We have statues which I pointed out that require that the election board officers be appointed for a precinct. If you have more than one polling poll for each precinct and you appoint two judges and two clerks for the

precinct, you have one election board but you have multiple polling places so you need to have multiple boards to man those polling places. What I am doing here is amending the sections where these references are to appointing the board or these election officials for the precinct to be appointed instead for each polling place to avoid an argument that the intent of the law is that there be just one polling place for each precinct.

**Rep. Gail Mooney** Rep. Karen Karls was under the impression, though, that is currently the way it is, isn't it? On my side of North Dakota I am not aware of any multiple boards in a precinct.

**Steven Vogelpohl** I am aware. My object here is let us fix the law before we have the fight.

**Chairman Jim Kasper** As an example, let's say we have precinct A and we have two polling places open in precinct A. The way the current statute reads you could have one polling place say we are the head of this precinct and the second polling place say, no, we are the head. You could have an argument between the two of what really should occur, and your bill says each precinct polling place is going to have its own official status, and they are going to handle the vote on that precinct polling place. Is that what you are doing here?

**Steven Vogelpohl** Each polling place has the requisite election board, be it the inspector, two election judges, two clerks so that each is manned. Not that this wouldn't be done right now because common sense tells you that if you have two polling places, you have to have people there to take care of them. The purpose of this is to make it clear by appointing the officials for a polling place you take away the argument that you can only have one polling place per precinct.

**Chairman Jim Kasper** In your capacity as a bond attorney, have you seen in the past or do you foresee in the future that because the statute is not clear, there could be any problem with bonding in our state?

**Steven Vogelpohl** It could. These types of provisions, if there is going to be a challenge, if someone wants to be successful it is likely best brought before the election occurs. After the election has occurred, that litigation, of course, can ensue and it could impact the bonding.

**Chairman Jim Kasper** Have you had a problem in the past?

**Steven Vogelpohl** I have not had an occasion to be involved.

No opposition.

Hearing closed.

**Chairman Jim Kasper** It seems to me when we have our election officials in the room and particularly our Secretary of State and he does not object to this bill, number one we know

how carefully he scrutinizes new legislation as well as our current law and he has not raised any objection to it, I think that is a good sign.

**Vice Chair Randy Boehning** moves a Do Pass.

**Rep. Marie Strinden** seconds the motion.

A roll call vote was taken and resulted in **DO PASS, 11-1, 2 ABSENT.** **Rep. Ben Koppelman** will be the carrier since Rep. Gail Mooney voted no.

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

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1361**

House Government and Veterans Affairs 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 Boehning Seconded By Strinden

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman		
Vice Chairman Randy Boehning	X		Rep. Gail Mooney		X
Rep. Jason Dockter	X		Rep. Marie Strinden	X	
Rep. Karen Karls	X		Rep. Steven Zaiser		
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Gary Paur	X				
Rep. Karen Rohr	X				
Rep. Vicky Steiner	X				

Total (Yes) 11 No 1

Absent 2

Floor Assignment ~~Ammer~~ Koppelman

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

**REPORT OF STANDING COMMITTEE**

**HB 1361: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)**  
recommends **DO PASS** (11 YEAS, 1 NAYS, 2 ABSENT AND NOT VOTING).  
HB 1361 was placed on the Eleventh order on the calendar.

**2013 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1361**

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee  
Missouri River Room, State Capitol

HB 1361  
03/21/2013  
Job Number 20282

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to election precincts and voting places.

## Minutes:

**Chairman Dever:** Opened the hearing on HB 1361.

**Representative Klemin, District 47:** Testified as sponsor and in support of the bill.

**(2:29) Steven Vogelpohl, Bismarck Resident:** See Attachment #1 for testimony in support of the bill.

**(10:40) Chairman Dever:** It appears you included sufficient detail in your testimony to prevent any questions.

(No further testimony was present.)

**Chairman Dever:** Closed the hearing on HB 1361.



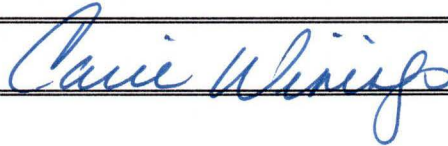
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee  
Missouri River Room, State Capitol

HB 1361  
03/29/2013  
Job Number 20691

Conference Committee

Committee Clerk Signature



## Minutes:

**Chairman Dever:** Opened HB 1361 for committee discussion.

**Senator Nelson:** This talks about changing the word election to each precinct. Then when you are designating polling places, that the designation is not for a particular election but for each precinct. And there may be one or more polling places in a precinct and all the way through it is talking about polling places. I know up where we are sometimes there are several precincts that vote in the same polling place and other places where there are several polling places within a precinct. I think this just clarifies in all those various sections what they are talking about; whether it is the precinct or the polling place.

**Senator Nelson: Moved a Do Pass.**

**Senator Poolman: Seconded.**

**A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent.**

**Senator Nelson: Carrier.**

Date: 3/29

Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1361

Senate Government and Veterans Affairs 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 Senator Nelson Seconded By Senator Poolman

Senators	Yes	No	Senator	Yes	No
Chairman Dick Dever	✓		Senator Carolyn Nelson	✓	
Vice Chairman Spencer Berry	✓		Senator Richard Marcellais	✓	
Senator Dwight Cook	✓				
Senator Donald Schaible	✓				
Senator Nicole Poolman	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Nelson

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

**REPORT OF STANDING COMMITTEE**

**HB 1361: Government and Veterans Affairs Committee (Sen. Dever, Chairman)**  
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
HB 1361 was placed on the Fourteenth order on the calendar.

**2013 TESTIMONY**

**HB 1361**

Attachment  
1

**HOUSE BILL NO. 1361**

House Government and Veterans Affairs Committee Hearing  
February 1, 2013

Testimony of Steven L. Vogelpohl

Mr. Chairman and Members of the Committee, my name is Steve Vogelpohl and I appear here today in support of House Bill No. 1361. I am a Bismarck resident. I am also an attorney. I do wish to advise, however, that I do not appear here today in any representative capacity. Over the course of the years that I have been a lawyer, I have been an assistant state's attorney and also a city attorney. Since 1980, my law practice has been concentrated in municipal bond counsel services. As such, I have a professional interest in the statutes involved in this Bill. I am also, of course, an elector.

The passage of House Bill No. 1361 will improve and clarify certain statutes relevant to the designation of more than one polling place for a voting precinct in school district, county and city elections.

The statutory language changes made by the Bill are brief and straightforward.

SECTION 1 of the Bill involves Section 15.1-09-13 and pertains to school board elections not held in conjunction with county elections. Subsection 1 of Section 15.1-09-13 requires the school board to designate "one or more precincts for the election" and subsection 2 of the Section requires the board to designate "one or more polling places for the election". Nothing about this language is restrictive as to the number of polling places that can be designated for a precinct. This lack of restriction is further supported by the second sentence of subsection 2 directing that the "polling places" be located as conveniently as possible for the voters "in the precinct". However, subsection 3 of the Section provides that the board shall appoint two judges and two clerks "for each precinct". Applied literally, this would result in the appointment of only one election board regardless of the number of polling places in the precinct, a consequence likely unintended by the drafters of the Section. However, an argument can nevertheless be made that due to the reference to "precinct" in subsection 3, the first two subsections of the Section should be construed to mean that only one polling place per precinct is intended by the law. So construed, all subsections of the Section could be observed. To avoid this argument and for purpose of clarification, subsection 3 is amended to provide that two judges and two clerks are to be appointed for each "polling place".

SECTION 2 of the Bill involves Section 16.1-04-02 and the duties of the board of county commissioners. The present language of the Section provides that the board of county commissioners shall designate "a voting place" for each precinct outside a city. Under the rule of statutory construction provided by N.D.C.C. Section 1-01-35, the singular can include the plural. Nonetheless, to avoid uncertainty and for purpose of clarification, Section 16.1-04-02 is amended to provide that the board of county commissioners shall designate "one or more voting places" for each such precinct.

SECTION 3 through SECTION 6 of the Bill involve Sections 16.1-07-09, 16.1-07-10, 16.1-07-11 and 16.1-07-12, which pertain to the handling of absentee ballots. The present language of Section 16.1-07-11 requires that absentee ballots be delivered "to the inspector of elections of the precinct in which such absent voter resides". In instances when there is more than one polling place for a precinct, there is an inspector for each polling place, not an "inspector of elections of the precinct". For purpose of clarification and to give direction, Section 16.1-07-11 is amended to require that absentee ballots be delivered "to the inspector of elections of a polling place of the precinct in which the absent voter resides". Similar conforming language amendments are also made to Sections 16.1-07-09, 16.1-07-10 and 16.1-07-12.

SECTION 7 of the Bill involves Section 21-03-11 pertaining to the election for issuance of bonds under Chapter 21-03. Section 21-03-11 requires the governing body of the municipality to appoint an inspector, two judges and two clerks of election for each polling place, and the present language further provides that in case of the absence of any such election official or the official's inability to act at the opening of the polls, "the remaining election officials for the precinct shall appoint a qualified elector to fill such vacancy". If, for example, a precinct had 3 polling places, the election officials for the precinct would total 15 individuals (3 inspectors, 6 judges and 6 clerks) and, continuing this example, if a judge was absent or unable to act at the opening of the polls, the 14 remaining election officials would need to make the appointment to fill the vacancy. To simplify the process and reduce the number of individuals involved, the Section is amended to provide that the remaining election officials for the "polling place" make the appointment. Thus, under the amended language and in the aforementioned example, the remaining judge, inspector and two clerks of the polling place having the vacancy would make the appointment.

SECTION 8 AND SECTION 9 of the Bill involve amendments, respectively, to Sections 40-21-02 and 40-21-16, which pertain to city elections. Similar to Section 15.1-09-13 as described in SECTION 1 of this Bill, the present language of subsection 4 of Section 40-21-02, regarding city elections not held under an agreement with a county, provides that the governing body of the city shall appoint one inspector and two judges of election "for each precinct". Due to this reference to these election officials as being appointed for the "precinct", argument can be made that only one polling place per precinct is intended in these elections. To avoid this argument, subsection 4 is amended to provide that the election officials as set forth in the subsection are to be appointed "for each polling place". For purpose of language consistency, a similar conforming language change is also made to Section 40-21-16.

I will attempt to answer any questions that the Committee may have.

Steven L. Vogelpohl  
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**HOUSE BILL NO. 1361**

Senate Government and Veterans Affairs Committee Hearing  
March 21, 2013

Testimony of Steven L. Vogelpohl

Mr. Chairman and Members of the Committee, my name is Steve Vogelpohl and I appear here today in support of House Bill No. 1361. I am a Bismarck resident. I am also an attorney. I do wish to advise, however, that I do not appear here today in any representative capacity. Over the course of the years that I have practiced law, I have been an assistant state's attorney and also a city attorney. Since 1980, my law practice has been concentrated in municipal bond counsel services. As such, I have a professional interest in the statutes involved in this Bill. I am also, of course, an elector.

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