

2013 HOUSE POLITICAL SUBDIVISIONS

HB 1391

2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

HB 1391
January 31, 2013
Job # 18050

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to qualifications of city council members.

Minutes:

Testimony #1

Chairman N. Johnson: Opened the hearing on HB 1391.

Rep. Brabandt: Introduced the bill. Office of the Secretary of State requested this bill. This is just clean up language in the bill. The word person is struck and the word individual was inserted in its place. The word person can mean a business, organization or even a corporation so the need is there to change the wording. I am in support of this bill.

Rep. Klemin: Unless you are in the lockup you are a qualified elector. The actual statute says convicted. You might be in the lockup pending trial and you haven't been convicted yet; are you a qualified elector then?

Jim Silrum, Deputy of Secretary of State: Our understanding is you have to be convicted first before you lose your rights. (See testimony #1)

Rep. Klemin: I am wondering why you want to take this out. Even if you have been convicted of some of these practices, that doesn't take away your right to vote later when you are not in prison or otherwise, does it?

Jim Silrum: The reason this is being asked to be taken out is because this is the only public official whereby these requirements are placed upon them. Legislators and statewide officials all can have served their time for a crime and then are able to have their rights restored so that they may hold public office, vote and other things. This has been in law since statehood but it is the only section of law and only public office that has these limitations so even a mayor in the same city doesn't have these same requirements placed on them.

Rep. Klemin: This is a policy question then. Not a technical correction thing. The alternative is either to leave this one in the law or put it in for everybody else too.

Jim Silrum: That is indeed a possibility; however we reached out to the League of Cities and asked their advice. They said they did not realize that it wasn't true for any other officer so they advised taking it out so that council members would be the same as everyone else. If the legislature so choses to put this into every other section pertaining to public officers that would your call obviously. We think it best just to take it out.

Rep. Klemin: This doesn't apply to cities that don't have a city commission type of government; only to city council and wards?

Jim Silrum: That is correct. There are separate sections and they do not have those restrictions.

Chairman N. Johnson: If I understand correctly the removal of this is in essence after somebody has been convicted and served their time; if they chose to run for a commission office that will not prevent them from running. Right now if they have been convicted of a crime they could not run for council members even if they have served their time.

Jim Silrum: That is correct. It is specifically listed for those particular crimes. It seems while anyone is serving sentence they would not be able to hold public office, but their rights are restored upon serving their time.

Connie Sprynczynatyk: ND League of Cities: We provide a lot of legal assistance to cities all 537 incorporated cities. I have worked for the league for 16 ½ years so it could have happened somewhere else in our 100 year history, but I don't know of a single situation where this has presented a problem nor do I know of a situation where we have been called and asked provide advice on this sort of situation. We support the bill. There are a lot of communicates that beg people to run for local office.

Rep. Koppelman: Do you know the history at all?

Connie Sprynczynatyk: We did celebrate the 100th and so we did get into the state archives and read some very interesting stuff. In the early days of this country there was a real strong reform movement going around the country.

Oppostion: None

Do Pass Motion Made by Rep. Koppelman: Seconded by Rep. Looysen:

Vote: 14 Yes 0 No 1 Absent Carrier: Rep. Maragos:

Hearing closed.

Date: 1-31-13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1391**

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. Koppelman Seconded By Rep. Looyson

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Ben Hanson	✓	
Vice Chairman Patrick Hatlestad	✓		Rep. Kathy Hogan	✓	
Rep. Thomas Beadle	✓		Rep. Jerry Kelsh	✓	
Rep. Matthew Klein	✓		Rep. Naomi Muscha	✓	
Rep. Lawrence Klemin	✓				
Rep Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Alex Looyson	✓				
Rep. Andrew Maragos	✓				
Rep. Lisa Meier	—				
Rep. Nathan Toman	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep. Maragos

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

REPORT OF STANDING COMMITTEE

HB 1391: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1391 was placed on the Eleventh order on the calendar.

2013 SENATE POLITICAL SUBDIVISIONS

HB 1391

2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee
Red River Room, State Capitol

HB 1391
March 14, 2013
19913

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the appointment of state's attorneys.

Minutes:

You may make reference to "attached testimony."

Chairman Andrist opened the hearing on HB 1371. All senators were present.

Al Jaeger, Secretary of State the first change is that because of drafting the word person is changed to individual all over. The second thing is the elimination of line 13. What my testimony basically says 'although this provision has been in state law since statehood, it only applies to city council members; it doesn't apply to city commission members. It doesn't apply to any other elected office anywhere. This question comes up in these cities that have city councils and have been convicted of malfeasance. I don't know when people have been convicted of malfeasance, bribery or other corrupt practices. But what goes on in my testimony which I was very proud of, I list the constitution that says the only time that you lose your rights as an elector is if you are incarcerated. **Written testimony #1.**

Candidates for all offices need to be qualified electors at the time of the election. So if you're not incarcerated you are a qualified elector. Just because you have had some conviction or had something whatever, this is the only office in the entire century code that has this provision. We ran it by the League of Cities first. They had a question and when I explained the history they came back and said well, the same provision doesn't exist for city commission members. This is something that should be taken out because it sets a different standard and raises too many questions in a situation where you have a city council form of government.

Senator Judy Lee Senator Anderson and I heard a bill this week about people who had been convicted of a drug offense and have felony conviction. They have been banned for life from getting TANIF food stamp benefits and they are the only ones that are, so after 7 years the bill will be on the floor soon. They would then be eligible as is the case in other circumstances; so there are some other strange places where there is one particular category that has been treated more harshly perhaps than others. This bill will be on the floor soon.

Al Jaeger replied this goes back really to statehood. Back in 1889 it apparently made

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sense, but today it doesn't. We ran this by them before-hand so we're not aware of any opposition.

Chairman Andrist committee we won't take final action of the bill and reopen this hearing at 10: 30.

Chairman Andrist closed the hearing on HB 1391.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee
Red River Room, State Capitol

HB 1391
March 15, 2013
19925

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to qualifications of city council members.

Minutes:

You may make reference to "attached testimony."

Chairman Andrist asked the committee to reopen and vote on HB 1391. All senators were present.

Senator John Grabinger move do pass
2nd Senator Ron Sorvaag
Role call vote 6 Yea, 0 No, 0 Absent
Carrier Senator Anderson

Date: 3-14-13
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1391**

Senate 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 Sen Grabinger Seconded By Senator Sorvaag

Senators	Yes	No	Senator	Yes	No
Chairman John Andrist	✓		Senator Jim Dotzenrod	✓	
Vice- Chairman Ronald Sorvaag	✓		Senator John Grabinger	✓	
Senator Judy Lee	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Mr. Anderson

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

REPORT OF STANDING COMMITTEE

HB 1391: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1391 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1391



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

January 31, 2013

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

FR: Jim Silrum, Deputy Secretary of State, on behalf of Al Jaeger, Secretary of State

RE: HB 1391 – Qualifications of Governing Body in Cities with City Council form of Government

Page 1, lines 7 through 11: All uses of the word “person” are changed to the word “individual”, which is the style standard adopted by the Legislative Council’s Code Revisor.

Page 1, line 13: Although these restrictions have been in this section of law since statehood, they only exist in current law for the governing body of cities with the city council form of government. For example, they do not exist for the governing body of cities with the commission form of government.

As it is, according to the state’s constitution and state law, an individual only loses their qualified elector status when they are in prison. See the following applicable sections of the Century Code (underscore for emphasis only)

12.1-33-01. Rights lost.

1. A person sentenced for a felony to a term of imprisonment, during the term of actual incarceration under such sentence, may not:
 - a. Vote in an election; or
 - b. Become a candidate for or hold public office.
2. A public office, other than an office held by one subject to impeachment, held at the time of sentence is forfeited as of the date of the sentence if the sentence is in this state, or, if the sentence is in another state or in a federal court, as of the date a certification of the sentence from the sentencing court is filed in the office of the secretary of state who shall receive and file it as a public document. An appeal or other proceeding taken to set aside or otherwise nullify the conviction or sentence does not affect the application of this section, but if the conviction is reversed, the defendant shall be restored to any public office forfeited under this section from the time of the reversal and shall be entitled to the emoluments thereof from the time of the forfeiture.

12.1-33-02. Rights retained by convicted person.

Except as otherwise provided by law, a person convicted of a crime does not suffer civil death or corruption of blood or sustain loss of civil rights or forfeiture of estate or property, but retains all of his rights, political, personal, civil, and otherwise, including the right to hold public office or employment; to vote; to hold, receive, and transfer property; to enter into contracts; to sue and be sued; and to hold offices of private trust in accordance with law.

We request your favorable consideration.

#1

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 14, 2013

TO: Senator Andrist, Chairman, and Members of the Senate Political Subdivision Committee

FR: Al Jaeger, Secretary of State

RE: HB 1391 – Qualifications of Governing Body in Cities with City Council form of Government

Page 1, lines 7 through 11: All references to the word "person" are changed to the word "individual", which is the style standard adopted by the Legislative Council's Code Revisor.

Page 1, line 13: Although the struck over restrictions on this line have been in this section of law since statehood, they only exist now in current state law for the governing body of cities with the city council form of government. For example, they do not exist for the governing body of cities with the commission form of government. This change would eliminate those restrictions and reconcile with other provisions of state law.

According to the state's constitution and state law, an individual only loses their "qualified elector" status when they are incarcerated. See the following applicable sections of the Century Code (underscore for emphasis only)

12.1-33-01. Rights lost.

1. A person sentenced for a felony to a term of imprisonment, during the term of actual incarceration under such sentence, may not:
 - a. Vote in an election; or
 - b. Become a candidate for or hold public office.
2. A public office, other than an office held by one subject to impeachment, held at the time of sentence is forfeited as of the date of the sentence if the sentence is in this state, or, if the sentence is in another state or in a federal court, as of the date a certification of the sentence from the sentencing court is filed in the office of the secretary of state who shall receive and file it as a public document. An appeal or other proceeding taken to set aside or otherwise nullify the conviction or sentence does not affect the application of this section, but if the conviction is reversed, the defendant shall be restored to any public office forfeited under this section from the time of the reversal and shall be entitled to the emoluments thereof from the time of the forfeiture.

12.1-33-02. Rights retained by convicted person.

Except as otherwise provided by law, a person convicted of a crime does not suffer civil death or corruption of blood or sustain loss of civil rights or forfeiture of estate or property, but retains all of his rights, political, personal, civil, and otherwise, including the right to hold public office or employment; to vote; to hold, receive, and transfer property; to enter into contracts; to sue and be sued; and to hold offices of private trust in accordance with law.

We request your favorable consideration.