

**2013 HOUSE JUDICIARY**

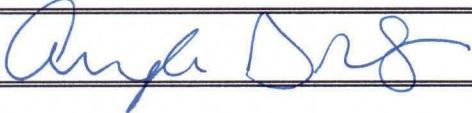
**HCR 3034**

# 2013 HOUSE STANDING COMMITTEE MINUTES

**House Judiciary Committee**  
Prairie Room, State Capitol

HCR 3034  
March 6, 2013  
Job 19508

☐ Conference Committee



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

Relating to petition requirements for initiated measures.

## **Minutes:**

Testimony 1, 2, 3

**Chairman Koppelman** opened the hearing.

**Jim Silrum, Deputy Secretary of State**, on behalf of Al Jaeger, Secretary of State, testified in support of the resolution (Testimony 1).

**Jeffrey Missling, Executive Vice President of the North Dakota Farm Bureau**, (05:32) testified in support of the resolution (Testimony 2).

**Chairman:** We have written testimony in opposition (Testimony 3). Closed the hearing.

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Judiciary Committee Prairie Room, State Capitol

HCR 3034  
March 13, 2013  
19839

☐ Conference Committee

Committee Clerk Signature

*Carmen Hart*

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

Relating to petition requirements for initiated measures.

### Minutes:

You may make reference to "attached testimony."

**Chairman Koppelman** opened the session on HCR 3034. This has to do with the number of days for correction of petitions.

**Rep. Klemin** One thing it does is it gives the Secretary of State more time to review petitions and less time for the people who submit it to make corrections. On Page 1, Line 16, it is extended from 90 to 120 days before the statewide election. On Page 2, Line 5, they reduce it from 20 to 10 days for making corrections after they are nullified. I am not quite sure why we are reducing the amount of time for corrections.

**Rep. Toman** How long do they have to gather? Do they have one year to gather?

**Rep. Klemin** It is shortening the amount of time they have to make corrections after they get it back from the Secretary of State.

**Chairman Koppelman** I think the testimony we have from the Secretary of State's office addresses their perceived need for this. Section 6 of Article 3 states that if the sufficiency of a petition is still being reviewed by the time the ballot is certified, the measure must be placed on the ballot. The proposed timeline would hopefully provide adequate time to prevent that from happening. For example, currently a petition must be submitted prior to midnight the 90<sup>th</sup> day before the election. By state law the Secretary of State has 35 days to determine the sufficiency of the petition. Then the constitution allows the sponsoring committee 20 days for corrections or amendments. Since the ballot must be certified 55 days before the election, no time might remain for the Supreme Court's review. I think that was the issue. They were trying to allow time for the Supreme Court to do their work. The testimony from the Farm Bureau supporting the resolution says their concern was the time to gather.

**Rep. Maragos** Even though you still have one year to get the signatures, increasing it to 120 days does have the practical effect of shortening the time to get it to a certain ballot. If you miss that, then you have to go to the next ballot, and it may have the effect of going

beyond the one year. Right now the 90<sup>th</sup> day is roughly August 5. Say you start your petition drive in November of the previous year and if you don't get those signatures in now, 120 days, July 5, then you don't get on the ballot in October. In July of the next year unless they can get it on to the primary, it would have the effect of them losing it because you have gone beyond the one year of gathering signatures.

**Chairman Koppelman** Doesn't that have to do with planning when you begin the signature gathering process?

**Rep. Maragos** When we got started, had we had the 120 days rather than the 90 days, we would have not been on the ballot. You are right. Prior planning prevents a lot of problems, but it still has the practical effect of reducing the amount of days by 30 that you really have to get to the ballot especially the general election.

**Chairman Koppelman** I just want to make sure that we understand, because I think the folks that brought this is an honest attempt to insure that a truncated step in the process, mainly the Supreme Court review, is allowed some time.

**Rep. Maragos** When would a Supreme Court review be required?

**Rep. Karls** The one ballot measure last year, I believe, went to the Supreme Court.

**Rep. Klemin** That was attesting to the validity of the gathering of signatures? What was the question that the Supreme Court had to answer? It was obvious that somebody challenged a decision of the Secretary of State and then the \_ Supreme Court.

**Chairman Koppelman** I think that is correct. I think what is happening under the current timetable is that almost becomes mute because the Secretary of State is saying because of the timeframe if somebody challenges it now, the court doesn't have time to render a decision and it has to go on the ballot regardless so we may as well as not have the Secretary of State's review.

**Rep. Klemin** I think this all relates to the fact that the ballot must be certified 55 days before the election. It is that 55 day period that is the stumbling block. It seems to me we are potentially altering a lot of bites here because of the printing time.

**Chairman Koppelman** I think the 55 days are there to get the ballot together and print it.

**Rep. Hogan** The 55 days comes from the federal law about military.

**Chairman Koppelman** I think you are right. Good point.

**Rep. Maragos** I would like to comment on the second aspect as one who has experience in this type of effort. I don't know if I would have been able to perfect all the problems in 10 days when I was given 20. I remember the blessing that we had when the Secretary of State told the committee that we had to make these corrections and perfect these particular petitions. Most of the problematic petitions were in Fargo. We had a midwestern legislative conference coincidental to that, and I spent the three days going around and

talking to every petitioner and notary to get all those corrections made. Ours was a unique situation because we had no group per say. The committee was in Bismarck, and all of the 25 members practically were from Bismarck on the sponsoring committee. I didn't hear what the rationale was for reducing the amount of time that is currently in place to perfect mistakes.

**Chairman Koppelman** It seems to me the problem is this issue of the Supreme Court's review. The way this resolution seeks to solve the problem is by shortening the days for correction. If the goal is to allow the Supreme Court the time, the committee could certainly amend the resolution to maybe take some of that time from the Secretary of State, maybe all of it, versus from the time of correction.

**Rep. Maragos** The perfection of the questionable petitions is I think is separate from whatever issue goes before the Supreme Court. Perfection of the petitions that the Secretary of State has indicated were problems are decisions of form and substance that the Secretary of State says has to be followed.

**Rep. Klemin** I am looking at the testimony of ND Farm Bureau. I think they did it backwards here. Amending the filing deadline from 90 to 120 days gives the Secretary of State more time to review it. You read the fourth paragraph. Actually what you are doing is reducing the filing deadline by 30 days. You are not extending it. You are saying the committee has one year to gather signatures except that you don't. You only have eight months to do it and the last four months are devoted to review and other things. Maybe the answer is to extend the amount of time backwards so that you have one year and 30 days to gather signatures. That way everything would stay even.

**Chairman Koppelman** Does this not do that by doing the 120 days?

**Rep. Klemin** It needs more. It needs to go back to the one year provision that says they have one year after it is approved.

**Chairman Koppelman** Is that part of this section? I know this is constitutional.

**Rep. Kretschmar** I am not absolutely certain. I really kind of think \_ resolution is reducing the corrective time. I think it would be better to take the time off of the Supreme Court. They could do it in ten days if they would get to work.

**Chairman Koppelman** The other piece of this is on Lines 11-13 of Page 2 where it says and the proceedings must be filed with the Supreme Court no later than 75 days before the date of the statewide election at which the measure is to be voted upon. You are saying the 10 could be there and leave the 20 on the review.

**Rep. Maragos** Was there a period after attacking it? I am looking at 10-13 where the underline is. Where is it?

**Chairman Koppelman** At the end of Line 13.



**Rep. Maragos** They moved the period there? They didn't overstrike a period then did they?

**Chairman Koppelman** No they just moved it. They just added language before the end of the sentence.

**Rep. Maragos** If the petitions are turned in say 120 days before the election, how much time does the Secretary of State have to say everything is good and it is going on the ballot? Is it 30 days or 60 days? The answer was 30. The minimum is 55 days. This proceeding has to start 75 days before the date if something is filed that must go before the Supreme Court. We need to know all of the particular deadlines that are required.

**Chairman Koppelman** According to Mr. Silrum's testimony, the Secretary of State has 35 days to determine the sufficiency of the petition.

**Rep. Maragos** The Secretary of State has 35 days. 55 from 120 is 65. Here it says the proceedings must be filed with the Supreme Court no later than 75 days before the date of the statewide election. How can you meet that criteria when you have 65 days left to reach all the other satisfactions?

**Chairman Koppelman** We need to have a timeline here. I would like Rep. Kretschmar and Rep. Maragos to visit with the Secretary of State's office to get us a timeline so we can sort this out.

**Rep. Toman** Could we get that put up on the screen when we get it?

**Chairman Koppelman** Either on paper or on the screen.

The session was closed.

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

HCR 3034  
March 18, 2013  
20104

☐ Conference Committee



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

Relating to petition requirements for initiated measures.

## Minutes:

**Chairman Koppelman** opened HCR 3034 for committee work. This has to do with the number of days for correction of petitions.

**Rep. Bill Kretschmar:** In the original bill submitted page 2 line 5 allowed 10 days instead of 20 for correction to be made in petitions. We are proposing an amendment to put it back to 20 days. If you start with 120 days the Secretary of State has 35 days to check it over. We are down to 85 days before the election. Petitioners have 20 days for corrections and that takes us to 65 days. The Secretary of State wanted 20 days if it was going to go to the Supreme Court. Ballots need to be printed 55 days before the election.

**Rep. Bill Kretschmar:** Made a motion for the amendment. On line 5 delete the overstrike on the word twenty and delete the underscore word ten.

**Rep. Diane Larson:** Second the motion.

Voice vote carried.

**Chairman Kim Koppelman:** There was some concern about not having time to circulate petitions at the State Fair. As I see it this moves the time table back so it doesn't effect that does it?

**Rep. Bill Kretschmar:** We are still going to have the one year. Under current law petitions needs to be filed by the 8<sup>th</sup> of August and under this proposal it would back it up to the 8<sup>th</sup> of July.

**Chairman Kim Koppelman:** So they would have to do it the year before but it would still allow them a State Fair to circulate.

**Rep. Bill Kretschmar:** Yes.

**Chairman Kim Koppelman:** My understanding of the intent of the resolution is to allow for the Supreme Court to review any legal challenges that are filed with respect to petitions before the ballots are printed. Right now is they can file an objection to something in a petition but before it can be reviewed and moved on by the Supreme Court the trigger date happens and the ballots have to be printed so it is conceivable that the court could throw something out and it would still be on the ballot because the ballots would be printed. Is that correct?

**Rep. Bill Kretschmar:** That is correct. We mentioned to the Secretary of State that if went back to the 20 days to get the correction made. I thought the Supreme Court in 10 days they could work but Chief Justice VandeWalle thought they needed the 20 days. So we left that in there to use the 10 days overlap.

**Rep. Vicky Steiner:** What the burning problem, is there a terrible issue because every time we go in and you change initiated measures the public wonders why? Is there something terrible wrong with our system that it has to be corrected and if we left it in place what would be the terrible activity that would go on at the Secretary of States office?

**Rep. Bill Kretschmar:** What the Secretary of State explained to us with the 90 days current law and the 55 day limit to get the ballots printed. He has 35 days to look it over, then the petitioners have 20 days to make the corrections, there is no time for the Supreme Court. The extra 40 days that is given to file the petition gives enough time to do all of these things before the 55 day limit.

**Chairman Kim Koppelman:** How might the Supreme Court be involved in one of these?

**Rep. Bill Kretschmar:** If there is some legal issue that the petitioners claim was done or done wrong they could take that. It would be a ruling by the Secretary of State that they could take to Supreme Court. Supreme Court has original jurisdiction for that and they make a ruling and they should make the ruling before the ballots are printed. Under current law if the Supreme Court has not yet ruled it goes on the ballot anyway. So far no one has taken things to the Supreme Court. Last fall petition were thrown out because the Secretary of State determined that some of the petitions were fraudulent or not correct. Neither side went any further on that.

**Vice Chairman Larry Klemin:** I think there are two things going on, one is the amount of time to correct the petition and the other is the amount of time to request the Supreme Court to review a decision by the Secretary of State on the petition. Those are not necessarily related because the Secretary of State may be making a decision on the efficiency based on something other than being corrected. Because we have 75 days part is in both the Section 2 and in Section 3.

**Rep. Andy Maragos:** Made a motion for a do pass as amended.

**Rep. Lois Delmore:** Second the motion.

**Rep. Vicky Steiner:** I still don't understand if we haven't had a problem, have we had a problem?



**Rep. Bill Kretschmar:** We haven't had a problem because no issue has been taken to the Supreme Court yet to my knowledge. The ruling of the Secretary of State wasn't been challenged in court.

**Rep. Karen Karls:** There has been an issue of using public money to support or defeat an initiated measure that case went to the Supreme Court?

**Rep. Bill Kretschmar:** That was in the primary on measure two and that went to the Supreme Court.

**Rep. Nathan Toman:** So they have one year minus the four months for the 120 days or do they have one year before the 120 days?

**Rep. Bill Kretschmar:** They have one year from the date the Secretary of State approves their petition.

**Vice Chairman Larry Klemin:** They can't take more than one year though.

**Rep. Bill Kretschmar:** That's right. When the Secretary of State approves the petition for circulation from that date is one year to get the signatures and have them filed.

Vote 10-3-1

**Rep. Andy Maragos:** Will carry the bill.

**Ends at minute 20:44 on recording 20104**

March 18, 2013

V.  
3/18/13

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3034

Page 2, line 5, remove the overstrike over "~~twenty~~"

Page 2, line 5, remove "ten"

Renumber accordingly

Date: 3-18-13  
Roll Call Vote #: \_\_\_\_\_

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HCR 3034

House Judiciary 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. Kretschmar Seconded By Rep. Larson

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman			Rep. Lois Delmore		
Vice Chairman Lawrence Klemin			Rep. Ben Hanson		
Rep. Randy Boehning			Rep. Kathy Hogan		
Rep. Roger Brabandt					
Rep. Karen Karls					
Rep. William Kretschmar					
Rep. Diane Larson					
Rep. Andrew Maragos					
Rep. Gary Paur					
Rep. Vicky Steiner					
Rep. Nathan Toman					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

VOICE VOTE CARRIED  
Page 2 5<sup>th</sup> line - change 10 back  
to 20.

Date: 3-18-13  
Roll Call Vote #: \_\_\_\_\_

**2013 HOUSE STANDING COMMITTEE**

**ROLL CALL VOTES**

**BILL/RESOLUTION NO.** HCR 3034

House Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13, 3095.01001

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Maragos Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore	/	
Vice Chairman Lawrence Klemin	/		Rep. Ben Hanson	/	
Rep. Randy Boehning			Rep. Kathy Hogan	/	
Rep. Roger Brabandt		/			
Rep. Karen Karls	/				
Rep. William Kretschmar	/				
Rep. Diane Larson	/				
Rep. Andrew Maragos	/				
Rep. Gary Paur	/				
Rep. Vicky Steiner		/			
Rep. Nathan Toman		/			

Total (Yes) 10 No 3

Absent 1

Floor Assignment Rep. Maragos

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

**REPORT OF STANDING COMMITTEE**

**HCR 3034: Judiciary Committee (Rep. K. Koppelman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HCR 3034 was placed on the Sixth order on the calendar.

Page 2, line 5, remove the overstrike over "~~twenty~~"

Page 2, line 5, remove "ten"

Renumber accordingly



**2013 SENATE JUDICIARY**

**HCR 3034**

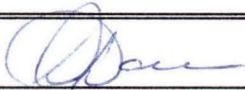
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

HCR3034  
4/1/2013  
Job #20718

☐ Conference Committee

Committee Clerk Signature



**Minutes:**

**Relating to petition requirements for initiated measures**

**Senator David Hogue - Chairman**

Al Jaeger - Secretary of State - See written testimony. **(1)** The committee asks for a timeline of a petition and wonders if this will take away from getting signatures at the State fair. Secretary Jaeger explains the many ways to obtain signatures and how the extra 30 days is well merited. Secretary Jaeger speaks of a lawsuit and the Supreme Court acting quickly on it and they had time to get it done but if someone files suit right before the deadline to the Supreme Court, the Supreme Court would have no time to render a decision and something may go on the ballot that was obviously fraudulent. The committee asks him how long it takes his office to act on petitions on an average to which he responds they have 35 days but sometimes it does not take the whole 35 days.

Opposition - none  
Neutral - none

Close the hearing

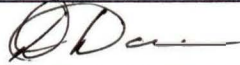
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

HCR3034  
4/2/2013  
Job #20834

☐ Conference Committee

Committee Clerk Signature



**Minutes:**

**Senator David Hogue - Chairman**

Committee work

Senator Hogue explains the bill to the committee.

Senator Lyson moves a do pass  
Senator Sitte seconded

Discussion

Senator Grabinger says he does not understand why it would take another 35 days to review a measure. Senator Hogue describes the process of checking all the signatures to see if they are legitimate. Senator Sitte said she could compromise and add another 10 days. Senator Grabinger still disagrees. Senator Hogue says he doesn't doubt for a minute that when there is the volume of signatures they are trying to audit it does takes a lot of work from a lot of people. Senator Armstrong questions the time for the Supreme Court and he sees no down side to adding more days. He says there is a very short window and the Supreme Courts caseload is not small either. Senator Hogue gives the example of the abortion bills that will be referred and the committee agrees that this won't touch referrals; he says these petitions are a surge in workload. Senator Sitte says there is getting to be too many things on the ballot. The committee discusses the date when this would go into effect. Senator Lyson and Senator Sitte agree to withdraw their motion.

Motion withdrawn

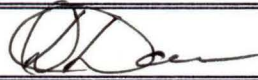
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

HCR3034  
4/8/2013  
Job #20978

☐ Conference Committee

Committee Clerk Signature



**Minutes:**

Vote

**Senator David Hogue - Chairman**

Committee work

Senator Armstrong proposes an amendment to add, effective 1/1/2015.  
Senator Sitte seconded

Verbal vote - all yes

Discussion

Senator Sitte proposes 100 days instead of 120 days to allow for people to gather signatures at the State Fair a year before the ballot initiative. She believes an extra 10 days for the Sec. of State and the Supreme Court should be sufficient.

Senator Sitte moves to change 120 days to 100 days  
Senator Grabinger seconded

Discussion

Senator Armstrong says you still have a year to do it. Senator Grabinger says it still puts the fair right before it has to be turned in which he believes is a big help. Senator Berry said by leaving it they still have a year. Senator Hogue mentions there are many gatherings to obtain signatures.

Vote - 2 yes, 5 no  
Motion fails

Senator Armstrong moves a do pass as amended  
Senator Berry seconded


Vote - 5 ye, 2 no  
Motion passes

Senator Armstrong will carry

13.3095.02001  
Title.03000

Adopted by the Judiciary Committee

April 8, 2013

Handwritten signature and date "4-8-13".

PROPOSED AMENDMENTS TO ENGROSSED HOUSE CONCURRENT RESOLUTION NO.  
3034

Page 1, line 2, after "measures" insert "; and to provide an effective date"

Page 2, after line 22, insert:

**"SECTION 4. EFFECTIVE DATE.** If approved by the electors, this measure  
becomes effective on January 1, 2015."

Renumber accordingly



Date: 4-2-13  
Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE**  
**ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 3034**

Senate JUDICIARY 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 S. Lyson Seconded By S. Sitte

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue			Senator Carolyn Nelson		
Vice Chairman Margaret Sitte			Senator John Grabinger		
Senator Stanley Lyson					
Senator Spencer Berry					
Senator Kelly Armstrong					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment Motion withdrawn

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

Date: 4-8-13  
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 3034

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Add effective 1/1/2015

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By S. Armstrong Seconded By S. Sitte

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue			Senator Carolyn Nelson		
Vice Chairman Margaret Sitte			Senator John Grabinger		
Senator Stanley Lyson					
Senator Spencer Berry					
Senator Kelly Armstrong					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment Verbal all yes

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

Date: 4-8-13  
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 3034

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number proposes 100 days instead of 120

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By S Sitte Seconded By S Grabinger

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue		X	Senator Carolyn Nelson		X
Vice Chairman Margaret Sitte	X		Senator John Grabinger	X	
Senator Stanley Lyson		X			
Senator Spencer Berry		X			
Senator Kelly Armstrong		X			

Total (Yes) 2 No 5

Absent \_\_\_\_\_

Floor Assignment fail

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

Date: 4-8-13  
Roll Call Vote #: 3

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 3034

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.3095.02001

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By S. Armstrong Seconded By S. Berry

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue	X		Senator Carolyn Nelson		X
Vice Chairman Margaret Sitte	X		Senator John Grabinger		X
Senator Stanley Lyson	X				
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 5 No 2

Absent \_\_\_\_\_

Floor Assignment S. Armstrong

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

**REPORT OF STANDING COMMITTEE**

**HCR 3034, as engrossed: Judiciary Committee (Sen. Hogue, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3034 was placed on the Sixth order on the calendar.**

Page 1, line 2, after "measures" insert "; and to provide an effective date"

Page 2, after line 22, insert:

**"SECTION 4. EFFECTIVE DATE.** If approved by the electors, this measure becomes effective on January 1, 2015."

Renumber accordingly



**2013 CONFERENCE COMMITTEE**

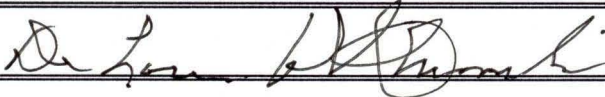
**HCR 3034**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

HCR 3034  
JOB # 21258  
Date April 18, 2013

☒ Conference Committee



Explanation or reason for introduction of bill/resolution:

Relating to petition requirements for initiated measures and to provide an effective date.

**Members:** Rep. A. Maragos, Chairman, Rep. Karls, Rep. Delmore; Senator Hogue, Senator Armstrong, Senator Nelson.

**Rep. Maragos:** Opened Conference Committee on HCR 3034. Why did you amend the bill the way you did?

**Sen. Hogue:** Explained the Senate changes, we thought the effective date should not be before this measure would affect initiated measures that wanted to go on to this November, 2014 ballot.

**Rep. Maragos:** We are getting an explanation of why the Senate amended the resolution.

**Sen. Hogue:** It was just arithmetic. If this measure goes on the ballot on the June primary election becomes effective it would become effective 30 days after the vote. We thought we could mess up folks that were circulating petitions for the November 2014.

**Secretary to State Al Jaeger:** Yes I agree with it.

**Rep. Karen Karls:** Moved house accede to Senate amendments. Seconded by Rep. Lois Delmore

**Discussion:** None

**Vote:**            6    Yes    0    No    0    Absent

Closed.

## 2013 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Judiciary

Bill/Resolution No. HCR 3034 as (re) engrossed

Date: April 18, 2013

Roll Call Vote #: 1

- Action Taken**
- ☒ HOUSE accede to Senate amendments
  - ☐ HOUSE accede to Senate amendments and further amend
  - ☐ SENATE recede from Senate amendments
  - ☐ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) 1234 --

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) 13.3098.02001 was placed on the Seventh order of business on the calendar

Motion Made by: Rep. Karls Seconded by: Rep. Delmore

Representatives	478		Yes	No		Senators	478		Yes	No
Rep. Maragos	X		X			Sen. Hogue	X		X	
Rep. Karls	X		X			Sen. Armstrong	X		X	
Rep. Delmore	X		X			Sen. Nelson	X		X	

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. Maragos Senate Carrier Sen. Hogue

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**HCR 3034, as engrossed:** Your conference committee (Sens. Hogue, Armstrong, Nelson and Reps. Maragos, Karls, Delmore) recommends that the **HOUSE ACCEDE** to the Senate amendments as printed on HJ page 1234 and place HCR 3034 on the Seventh order.

Engrossed HCR 3034 was placed on the Seventh order of business on the calendar.

**2013 TESTIMONY**

**HCR 3034**



ALVIN A. JAEGER  
SECRETARY OF STATE

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March 6, 2013

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

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

RE: HCR 3034 – Initiated Measures – Constitutional Amendment – 120 day filing deadline

The Secretary of State thanks Rep. Kretschmar for his sponsorship for he has been a long-time observer of the initiative process. During the 1977 Legislative Assembly, he was the lead sponsor of HCR 3088 to create Article III of the state's Constitution related to the initiative, referendum and recall process. That resolution was an update of language drafted in 1919.

HCR 3088 was ultimately approved by the voters in the general election held on November 7, 1978 by a vote of 102,182 to 75,413 (58% to 42%). Article III is titled, "Powers Reserved to the People."

The Secretary of State believes Article III contains two rights. On one hand, it is the right of the people to pursue the initiative, referendum and recall process. On the other, it is the right of the people to know that the initiative, referendum, or recall process was followed in a lawful manner.

The intent of HCR 3034 is to place a Constitutional amendment on an election ballot in 2014 that, if passed by the voters, it would allow adequate time for:

1. the Secretary of State's review of submitted petitions,
2. the Sponsoring Committee to challenge decisions of the Secretary of State,
3. the Supreme Court to decide the merits of any challenge, and
4. to certify the ballot before the fifty-fifth day prior to an election.

Section 6 of Article III states that if the sufficiency of a petition is still being reviewed by the time the ballot is certified, the measure must be placed on the ballot. The proposed timeline would hopefully provide adequate time to prevent that from happening.

For example, currently a petition must be submitted prior to midnight the 90th day before the election. By state law, the Secretary of State has 35 days to determine the sufficiency of the petition. Then, the Constitution allows the sponsoring committee 20 days for corrections or amendments. Since the ballot must be certified 55 days before the election, no time might remain for the Supreme Court's review.

If this resolution is approved for placement on the ballot by the legislature and ultimately approved by the voters, it would allow 35 days for review by the Secretary of State, 10 days for the sponsoring committee to challenge any decisions made by the Secretary of State, and provide the Supreme Court 20 days in which to render a decision prior to the 55th day before an election.

Section 1, page 1, line 16: changes the filing deadline from 90 days to 120 days

Section 2, page 2, line 5: changes the 20 days for correction to 10 days

Section 2, page 2, lines 11 through 13: amends Section 6 of Article III that all challenges must be filed with the Supreme Court no later than 75 days before an election

Section 3, page 2, lines 17 through 19: amends Section 7 of Article III that all challenges must be filed with the Supreme Court no later than 75 days before an election



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**North Dakota Constitution  
Article III**

Section 1. While the legislative power of this state shall be vested in a legislative assembly consisting of a senate and a house of representatives, the people reserve the power to propose and enact laws by the initiative, including the call for a constitutional convention; to approve or reject legislative Acts, or parts thereof, by the referendum; to propose and adopt constitutional amendments by the initiative; and to recall certain elected officials. This article is self-executing and all of its provisions are mandatory. Laws may be enacted to facilitate and safeguard, but not to hamper, restrict, or impair these powers.

Section 5. An initiative petition shall be submitted not less than ninety days before the statewide election at which the measure is to be voted upon. A referendum petition may be submitted only within ninety days after the filing of the measure with the secretary of state. The submission of a petition shall suspend the operation of any measure enacted by the legislative assembly except emergency measures and appropriation measures for the support and maintenance of state departments and institutions. The submission of a petition against one or more items or parts of any measure shall not prevent the remainder from going into effect. A referred measure may be voted upon at a statewide election or at a special election called by the governor.

Section 6. The secretary of state shall pass upon each petition, and if he finds it insufficient, he shall notify the "committee for the petitioners" and allow twenty days for correction or amendment. All decisions of the secretary of state in regard to any such petition shall be subject to review by the supreme court. But if the sufficiency of such petition is being reviewed at the time the ballot is prepared, the secretary of state shall place the measure on the ballot and no subsequent decision shall invalidate such measure if it is at such election approved by a majority of the votes cast thereon. If proceedings are brought against any petition upon any ground, the burden of proof shall be upon the party attacking it.

Section 7. All decisions of the secretary of state in the petition process are subject to review by the supreme court in the exercise of original jurisdiction. If his decision is being reviewed at the time the ballot is prepared, he shall place the measure on the ballot and no court action shall invalidate the measure if it is approved at the election by a majority of the votes cast thereon.

**North Dakota Century Code**

16.1-01-10. Secretary of state to pass upon sufficiency of petitions – Method – Time limit.

The secretary of state shall have a reasonable period, not to exceed thirty-five days, in which to pass upon the sufficiency of any petition mentioned in section 16.1-01-09. The secretary of state shall conduct a representative random sampling of the signatures contained in the petitions by the use of questionnaires, postcards, telephone calls, personal interviews, or other accepted information gathering techniques, or any combinations thereof, to determine the validity of the signatures. Signatures determined by the secretary of state to be invalid may not be counted and all violations of law discovered by the secretary of state must be reported to the attorney general for prosecution.



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**House Judiciary Committee**

*March 6, 2013*

**Testimony of North Dakota Farm Bureau on HCR No. 3034**

*Presented by Jeffrey Missling, Executive Vice President*

Good morning Mr. Chair and committee members. For the record my name is Jeffrey Missling, and I am the Executive Vice President of the North Dakota Farm Bureau. I am here today representing the members of North Dakota Farm Bureau and their policies.

North Dakota Farm Bureau stands in support of House Concurrent Resolution No. 3034.

Given the increase in the number of ballot measures in our state over the past few election cycles, our organization sees no problem in amending the filing deadlines for the submission of initiated measure petitions from ninety days to one hundred twenty days before a statewide election.

Provided that a sponsoring committee is still allowed one year to gather its signatures after the Secretary of State has approved the petition for circulation, we believe extending the filing deadline by 30 days would provide additional time for the Secretary of State's office to properly review such petitions. This is tedious work, and it seems very appropriate to allow for this additional time.

Mr. Chair, I stand ready to answer any questions you or your committee members may have.

3-6-13

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## TESTIMONY IN OPPOSITION TO HCR 3034

Good morning ladies and gentlemen. My name is Ralph Muecke from Gladstone ND and I am here to testify in opposition to House Concurrent Resolution 3034.

Never have I seen such a deliberate and blatant effort to restrict and cripple the initiative and referral process here in ND. The right that was established and guaranteed to us by our forefathers who authored our states constitution.

If our states founders knew what goes on in our state legislative sessions today, particularly this 63<sup>rd</sup> session, they would be spinning in their graves. Especially this ballot clutter.

This resolution, if it becomes law, would change the filing deadline from 90 days to 120 days before an election. If an initiated measure is to be placed on the general election ballot, it would change the filing deadline from the first days of August to the first days of July. First of all, you would be shooting yourselves in the foot because we could not have a booth at the state fair to gather signatures from a good cross section of the state which the supporters of all of the other bills and resolutions seem to want so badly. Secondly, there are a lot of state fairs and fourth of July celebrations that take place in July which are also good places to obtain signatures from all across the state that we won't be able to use because of this lame effort.

Also if some of the other resolutions that want to mandate more signatures were to pass, there would be 30 days less time to collect the needed signatures to place a measure on that ballot. If this isn't a deliberate crippling of the I & R process I don't know what is.

This resolution along with all of the others that have been proposed if passed will mean that a bunch of heads are going to roll come the next election. They are nothing but monkey wrenches thrown into the gears of the I&R process to silence the voice of the people and to eliminate accountability. It's revenge or retaliation against the people that proposed Measure 2. For your own good and the good of the people of ND, I ask you to vote a unanimous "DO NOT PASS".

Thank you

3034 U

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**SECRETARY OF STATE**  
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April 1, 2013

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

FR: Al Jaeger, Secretary of State

RE: HCR 3034 – Initiated Measures – Constitutional Amendment – 120 day filing deadline

I appreciate Rep. Kretschmar's sponsorship of this resolution because he has been a long-time observer of the initiative process. During the 1977 Legislative Assembly, he was the lead sponsor of HCR 3088 to create Article III of the state's Constitution related to the initiative, referendum and recall process. That resolution was an update of language drafted in 1919.

HCR 3088 was ultimately approved by the voters in the general election held on November 7, 1978 by a vote of 102,182 to 75,413 (58% to 42%). Article III is titled, "Powers Reserved to the People."

I believe Article III contains two rights. On one hand, it is the right of the people to pursue the initiative, referendum and recall process. On the other, it is the right of the people to know that the initiative, referendum, or recall process was followed in a lawful manner.

The intent of HCR 3034 is to place a Constitutional amendment on the June 2014 election ballot that, if passed by the voters, it would allow adequate time,

1. for the Secretary of State's review of submitted petitions,
2. for the Sponsoring Committee to challenge in court any decisions made by the Secretary of State,
3. for the Supreme Court to decide the merits of any challenge, and
4. for the Secretary of State's certification of the ballot before the fifty-fifth day prior to an election.

Section 6 of Article III states that if the sufficiency of a petition is still being reviewed by the time the ballot is certified, the measure must be placed on the ballot. The proposed timeline would hopefully provide adequate time to prevent that from happening.

For example, currently a petition must be submitted prior to midnight the 90th day before the election. By state law, the Secretary of State has 35 days to determine the sufficiency of the petition. Since the ballot must be certified 55 days before the election, no time might remain for the Supreme Court's review.

If this resolution is approved for placement on the ballot by the legislature and ultimately approved by the voters, it would allow 35 days for review by the Secretary of State, 10 days for the sponsoring committee to file with the Supreme Court a challenge regarding any decisions made by the Secretary of State related to the petition and its placement on the ballot, and provide the Supreme Court 20 days in which to render a decision prior to the 55th day before an election.

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Section 7. All decisions of the secretary of state in the petition process are subject to review by the supreme court in the exercise of original jurisdiction. If his decision is being reviewed at the time the ballot is prepared, he shall place the measure on the ballot and no court action shall invalidate the measure if it is approved at the election by a majority of the votes cast thereon.

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