2021 SENATE POLITICAL SUBDIVISIONS

SB 2254

2021 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Sakakawea, State Capitol

SB 2254
2/4/2021

A BILL for an Act to amend and reenact subsection 1 of section 40-51.2-05 and section 40-51.2-07 of the North Dakota Century Code, relating to notice requirements for annexation and exclusion.

Chairman Burckhard opened the hearing on SB 2254 at 10:31 a.m.
Senators present: Burckhard, Anderson, Lee, Larson, Kannianen, Oban, Heitkamp.

Discussion Topics:

- 15-day timeframe prior to presentation
- Media requirement
- Publish and certified mail notice

[10:32] Senator Jim Roers, District 46 - Introduced SB 2254

[10:35] Robert Challey, Fargo Citizen - Provided testimony #5239 – testified - in favor

[10:46] Blake Crosby, Executive Director, North Dakota League of Cities. Provided oral testimony - in favor

Senator Lee moves **DO PASS.**
Senator Heitkamp seconded

Senators	Vote
Senator Randy A. Burckhard	Y
Senator Howard C. Anderson, Jr.	Y
Senator Jason G. Heitkamp	Y
Senator Jordan Kannianen	Y
Senator Diane Larson	Y
Senator Judy Lee	Y
Senator Erin Oban	Y

The motion passed 7-0-0

Senator Anderson will carry SB 2254

Additional written testimony: N/A

Chairman Burckhard closed the hearing on SB 2254 at 11:03 a.m.

Patricia Lahr, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2254: Political Subdivisions Committee (Sen. Burckhard, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2254 was placed on the Eleventh order on the calendar.

Thank you Mr. Chairman:

Thank you for this opportunity to address you about an important issue.

My name is Robert Challey. I am North Dakota native currently residing in Danville, California. In addition to our family farm, which I wish to speak to you about today, I own interests in several large apartment properties in Fargo, an interest in the downtown development effort in Fargo, and a single family home in South Fargo. For over 35 years I've been a trustee of the North Dakota State University Foundation and am currently serving as co-chair of its 400 million national capital campaign known as "In Our Hands".

My cousin Mary Gravender in Minneapolis and I own two quarter sections in Reed Township bordering the very small city known as Reiles Acres. This farm has been in our family for over 140 years and originally included the land now owned by Reile's which was lost during The Great Depression.

Last April year Reile's Acres decided, in secret, to attempt to annex properties on its North, West, and South borders. This included our family farm. They attempted the same thing about 15 years ago and were rebuffed by those being annexed.

Unknown to us or any of the owners around us, Reile's Acres passed a resolution in their city to annex their neighbors knowing, I believe, that this effort would again be rebuffed if adequate notice and time were given to those being annexed.

Reile's Acres took advantage of a major loophole in North Dakota's annexation law. Basically, North Dakota law as it now stands says that a city shall adopt a resolution describing the property being annexed. Next the governing body shall publish the resolution and a notice of the time and place of a meeting to be held to determine whether there are any protests against the proposed annexation. The publishing shall be done in the "official newspaper" once each week for two weeks. The governing body shall then mail seven days before the meeting a notice to each person being annexed noting the requirement that protests must be filed in writing. The owners of the real property have 30 days from the first publication of the resolution to file a protest.

Now if the annexing body decides that the meeting to review written protests will be scheduled more than 30 days after the first publication then it will be impossible for those being annexed to receive notice of the action before the protest meeting is held. Clearly a violation of the intent of North Dakota Law.

Put another way: North Dakota law allows for the possibility that the timing of the meetings and the notice can be set up such that those annexed will first hear about the process after the response deadline has expired. Those annexed are therefor denied their right to protest in a timely manner.

The solution, as presented in the amended statute before you, is to require that within seven days of the adoption of a resolution the governing body shall notify those to be annexed and at least 15 days before the protest meeting those being annexed must again be notified in writing. This guarantees those whose property is about to be annexed an opportunity to protest in a timely manner.
In our experience with Reile's Acres we sued them and ultimately prevailed even though Reile's Acres went ahead and filed their final annexations with the county without hearing from us. It's only fair that North Dakota property owners be given an opportunity to experience due process in a situation such as this; I strongly urge this committee and the North Dakota legislature to add the suggested language to the existing statute so that all property owners going forward are given an opportunity to voice their wishes and protect their interests.

2021 HOUSE POLITICAL SUBDIVISIONS

SB 2254

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Room JW327B, State Capitol

SB 2254
3/4/2021

Relating to notice requirements for annexation and exclusion

Chairman Dockter: (9:34). Opened the hearing.

Representatives	
Representative Jason Dockter	P
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Mary Johnson	P
Representative Lawrence R. Klemin	P
Representative Donald Longmuir	P
Representative Dave Nehring	P
Representative Marvin E. Nelson	P
Representative Luke Simons	P
Representative Nathan Toman	P

Discussion Topics:

- Annexing Property

Sen. J. Roers: Introduced the bill.

Blake Crosby, ND League of Cities: Testimony #7073.

Rep. Adams: Moved a do pass motion.

Rep. Ertelt: Second the motion.

Representatives	Vote
Representative Jason Dockter	Y
Representative Brandy Pyle	Y
Representative Mary Adams	Y
Representative Claire Cory	Y
Representative Sebastian Ertelt	Y
Representative Clayton Fegley	Y
Representative Patrick Hatlestad	Y

Representative Mary Johnson	Y
Representative Lawrence R. Klemin	Y
Representative Donald Longmuir	Y
Representative Dave Nehring	Y
Representative Marvin E. Nelson	Y
Representative Luke Simons	Y
Representative Nathan Toman	Y

14-0-0 carried

Rep. Adams Will carry the bill.

Additional written testimony:

#7361

Chairman Dockter: (9:44). Closed the hearing.

Carmen Hickle, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2254: Political Subdivisions Committee (Rep. Dockter, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2254 was placed on the Fourteenth order on the calendar.

March 4, 2021
House Political Subdivisions
Rep. Dockter, Chairman
SB 2254

Chairman Dockter and members of the Committee. For the record, Blake Crosby, Executive Director, North Dakota League of Cities.

I want to thank the bill sponsor for coming to me, explaining the situation and asking for our input before submitting the bill for numbering. We reviewed the bill with a number of cities and what you have before you is acceptable. The situation was really a "one-off" but the time frame needed to be changed irrespective.

Cities on the grow need to annex property and those property owners need to have a bit more time to be notified and allowed to respond. This bill accomplishes both those ends.

I respectfully ask for a DO-PASS on SB 2254. Thank you for your time and consideration. I will try to answer any questions.

Thank you Mr. Chairman:

Thank you for this opportunity to address you about an important issue.

My name is Robert Challey. I am North Dakota native currently residing in Danville, California. In addition to our family farm, which I wish to speak to you about today, I own interests in several large apartment properties in Fargo, an interest in the downtown development effort in Fargo, and a single family home in South Fargo. For over 35 years I've been a trustee of the North Dakota State University Foundation and am currently serving as co-chair of its 400 million national capital campaign known as "In Our Hands".

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