

**2023 SENATE JUDICIARY**

**SB 2138**

# 2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee  
Peace Garden Room, State Capitol

**SB 2138**  
1/17/2023

A bill relating to municipal judges.

**8:58 AM Madam Chair Larson** called the hearing to order.

**Madam Chair Larson, Senators, Paulson, Sickler, Braunberger Estenson, Luick and Myrdal** were present.

### Discussion Topics:

- Criminal procedure
- Sunday court
- Committee action

**8:59 AM Senator Dean Rummel** introduced the bill and proposed amendment. #13519  
#13806

**9.01 AM Trent Barkus-West Fargo Judge, Municipal Judge's Association** testified.  
#13701

**9.07 AM Stephanie Dassinger Engebretson, North Dakota League of Cities,**  
verbally testified in favor.

**9:08 AM Senator Myrdal** moved amendment LC 23.0486.01001.

**9:09 AM Senator Luick** seconded the motion.

Roll call taken.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passed 7-0-0.

**9:09 AM Senator Myrdal** moved **DO PASS** as amended on **SB 2138**

**9:09 AM Senator Luick** seconded.

Roll call taken.

<b>Senators</b>	<b>Vote</b>
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passed. 7-0-0

**Senator Myrdal** will carry the bill.

**9:10 AM Madam Chair Larson** adjourned the hearing.

*Patricia Wilkens, Committee Clerk*

January 9, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2138

Page 1, line 8, remove the overstrike over "~~persons~~"

Page 1, line 8, remove "individuals"

Page 1, line 8, replace "who" with "which"

Renumber accordingly

AG  
1-17-23  
(1-1)

**REPORT OF STANDING COMMITTEE**

**SB 2138: Judiciary Committee (Sen. Larson, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2138 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 8, remove the overstrike over "~~persøns~~"

Page 1, line 8, remove "individuals"

Page 1, line 8, replace "who" with "which"

Renumber accordingly

**2023 HOUSE JUDICIARY**

**SB 2138**

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Room JW327B, State Capitol

SB 2138  
3/6/2023

Relating to municipal judges.
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10:30 AM Chairman Klemin opened the hearing. Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, and Rep. Vetter.

## Discussion Topics:

- Sunday blue laws.
- Local city decision.

Senator Rummel: Introduced the bill. Testimony #22017

Stephanie Dassinger Engebretson: ND League of Cities: No written testimony.

Judge Brent Burkus: Testimony #22192

The hearing closed at 10:46 AM.

Rep. Olson moved a Do Pass;  
Seconded by Rep. Shannon Roers Jones

<b>Representatives</b>	<b>Vote</b>
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	Y
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y

Roll call vote: 13 Yes 0 No 0 Absent; Motion carried.

House Judiciary Committee

SB 2138

March 6, 2023

Page 2

Carrier: Rep. Shannon Roers Jones

Meeting closed at 10:48 AM

Delores Shimek, Committee Clerk



**REPORT OF STANDING COMMITTEE**

**SB 2138, as engrossed: Judiciary Committee (Rep. Klemin, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2138 was placed on the Fourteenth order on the calendar.

**TESTIMONY**

**SB 2138**

## Testimony on SB 2138

Thank you Madame Chairman Larson and members of the Senate Judiciary Committee.

My name is Senator Dean Rummel from District 37.

This bill addresses an issue that Municipal Judges have with being able to perform an official act on Sunday. It also allows for local control by letting the city determine when the municipal judge's court shall be open. The removal of the last sentence on line 11 and 12 will give a municipal judge the ability to perform an official act on Sunday. This is important because if they were to perform an official act such as a wedding on Sunday, we certainly would want those marriages to be valid.

Madame Chairman if I could continue, there is an amendment to SB 2138. On line 8, the amendment changes the word INDIVIDUALS back to PERSONS. The significance is that not all defendant's are individuals. Business entities, corporations, non-profits are not INDIVIDUALS but they are PERSONS and can be charged with crimes.

Madame Chairman and members of the committee  
I would ask for your support of SB 2138 and I would  
stand for any questions.

**TESTIMONY OF  
JUDGE TRENT N. BARKUS  
BEFORE THE 68<sup>th</sup> LEGISLATIVE  
SESSION SENATE JUDICIARY  
COMMITTEE JANUARY 9, 2023  
IN SUPPORT OF S.B. 2138**

Chairwoman Larson, members of the Senate judiciary committee, my name is Trent Barkus, I'm the Municipal Judge in West Fargo and a Board Member of the Municipal Judge's Association. I am here today to testify in support of Senate Bill 2138.

The proposed change will allow for more local control and flexibility for our municipal courts. As currently written, municipal courts are not allowed to be "open" on Sundays which prohibits municipal judges from performing judicial functions (i.e. signing of warrants) or marriage ceremonies. The bill would also clear some contradictions with Rule 56 of the North Dakota Rules of Criminal Procedure (NDRCrP). This references that the Courts are always open for filing, etc. It says this applies to all court subject to the rules. We are subject to the rules.

I ask for your favorable support of the executive recommendation and am pleased to stand for any questions you may have. Thank you.

23.0486.01001

Sixty-eighth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2138**

Introduced by

Senators Rummel, Sickler

Representatives Lefor, Steiner

1 A BILL for an Act to amend and reenact section 40-18-05 of the North Dakota Century Code,  
2 relating to municipal judges.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 40-18-05 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **40-18-05. Municipal judge is conservator of the peace ~~Powers on Sunday restricted.~~**

7 The municipal judge within the judge's city shall be a conservator of the peace and shall  
8 have power to bring ~~persons~~individuals before the municipal judge ~~forthwith for trial~~who  
9 are charged with violations of municipal ordinances. The municipal judge's court shall be open  
10 ~~every day except Sunday~~as determined by the city to hear and determine cases cognizable  
11 before the municipal judge. ~~The municipal judge shall perform no official act on Sunday but may~~  
12 ~~receive complaints, issue process, take bail, and receive verdicts.~~

23.0486.01001  
Title.

Prepared by the Legislative Council staff for  
Senator Rummel  
January 9, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2138

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Renumber accordingly

## Testimony on SB 2138

Thank you, Chairman Klemin and members of the House Judiciary Committee.

My name is Dean Rummel, Senator from District 37 out of Dickinson.

Senate Bill 2138 addresses an issue that Municipal Judges have with being able to perform an official act on Sunday. It also allows for local control by letting the city determine when the municipal judge's court shall be open. The removal of the last sentence on line 11 and 12 will give a municipal judge the ability to perform an official act on Sunday. This is important because if they were to perform an official act such as a wedding on Sunday, we certainly would want those marriages to be valid.

Chairman Klemin and members of the committee I would ask for your support of SB 2138 and I would stand for any questions.



**TESTIMONY OF  
JUDGE TRENT N. BARKUS  
BEFORE THE 68<sup>th</sup>  
LEGISLATIVE SESSION HOUSE  
JUDICIARY COMMITTEE  
MARCH 5, 2023  
IN SUPPORT OF S.B. 2138**

Chairman Klemin, members of the House Judiciary Committee, my name is Trent Barkus, I'm the Municipal Judge in West Fargo and a Board Member of the Municipal Judge's Association. I am here today to testify in support of Senate Bill 2138.

The proposed change will allow for more local control and flexibility for our 87 municipal courts throughout the state. As currently written, municipal courts are not allowed to be "open" on Sundays which prohibits municipal judges from performing judicial functions (i.e. signing of warrants) or marriage ceremonies. The bill would also clear some contradictions with Rule 56 of the North Dakota Rules of Criminal Procedure (NDRCrP). This references that the Courts are always open for filing, etc. It says this applies to all court subject to the rules. We are subject to the rules.

I ask for your favorable support of the bill and am pleased to stand for any questions you may have. Thank you.