

1999 SENATE JUDICIARY

SB 2183

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2183

Senate Judiciary Committee

Conference Committee

Hearing Date January 12, 1999

Tape Number	Side A	Side B	Meter #
1	x		3130 - 6130
1		x	00 - 854
Committee Clerk Signature <i>Jackie Follman</i>			

Minutes:

SB2183 relates to special statewide elections being conducted by mail, agents receiving mail ballots on behalf of electors, and casting ballots by mail.

SENATOR STENEHJEM opened the hearing on SB2183 at 10:00 A.M.

All were present.

CORY FONG testified in support of SB2183. Testimony attached.

SENATOR NELSON asked if there is a bill dealing with a special precinct for absentee ballots.

CORY FONG stated that there is a bill introduced on the House side that provides for absentee ballots. We already have absentee ballot precincts. The bill changes the law to have an absentee ballot precinct for the entire county. The absentee ballots could be processed efficiently without having to go out to the polls on election day.

SENATOR TRAYNOR asked if the county adopts mail voting, will they still have voting polls.

CORY FONG Yes, if the county adopts mail voting, they may authorize one voting poll.

SENATOR LYSON asked why we would make such a radical change with mail voting.

CORY FONG stated this is not so radical. Voting by mail allows it to be done more efficiently.

SENATOR LYSON stated he feels this is a radical change and takes away our personal voting privilege.

KEVIN GLATT, Burleigh County Auditor, testified in support of SB2183. Testimony attached.

SENATOR STENEHJEM asked how other county auditors feel about mail voting.

KEVIN GLATT stated that most of the auditors feel the same. The dual system is what we need to correct.

TERRY TRAYNOR, Assistant Director of the Association of County Commissioners, testified in support of SB2183. The county could use this and it could be very cost-effective.

JOHN RISCH, Legislative Director for the United Transportation Union, representing Railroad Workers across North Dakota. We would like to go on record in favor of SB2183. Often times our members are out of town on election day and this would make things easier with the mail ballot.

Tape 1, Side B.

SENATOR STENEHJEM stated that we probably already do have vote by mail with the liberalized absent voters process that we have. One thing this bill does though is goes a step further and has the county auditors to actually mail the application out to the people whereas with the absent voters have to find the ballot themselves.

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Senate Judiciary Committee
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AL JAEGER, Secretary of State, testified in support of SB2183. With the testimony presented, it is a county option. With this option, the county and its constituents could choose and it could be very cost-effective. They would like the option to do this in both elections.

SENATOR STENEHJEM CLOSED the hearing on SB2183.

SENATOR WATNE made a motion for DO PASS on SB2183. SENATOR BERCIER seconded.

SENATOR WATNE will carry the bill.

5 - 1 - 0

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: SB 2183 Amendment to: _____

Requested by Legislative Council Date of Request: December 30, 1998

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: This bill would allow counties, at their option, to hold primary, general, and special elections by mail ballot. It would provide an alternative for the counties as they consider the cost of conducting an election.

Second, the bill would allow the state to conduct a statewide special election by mail ballot. The last statewide special election under current election law cost approximately \$400,000 in 1992. That figure most likely would now be higher. Based on the experience of conducting the presidential primary contest in 1996, it is believed a statewide special election utilizing a mail ballot would cost approximately \$200,000 to \$250,000.

- State fiscal effect in dollar amounts:


	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	None	None	None	None	None	None
Expenditures	None	None	None	None	None	None

- What, if any, is the effect of this measure on the budget for your agency or department:

- For rest of 1997-99 biennium: None
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- For the 1999-2001 biennium: None
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- For the 2001-03 biennium: None

- County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
Unknown	None	None	Unknown	None	None	Unknown	None	None

Signed: 
 Typed Name: Alvin A. Jaeger
 Department: Secretary of State
 Phone Number: 328-2900
 Date Prepared: January 11, 1999

Date: 1-12-99
Roll Call Vote #: _____

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2183

Senate Judiciary _____ Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Watne Seconded By Bercier

Senators	Yes	No	Senators	Yes	No
Senator Wayne Stenehjem	X				
Senator Darlene Watne	X				
Senator Stanley Lyson		X			
Senator John Traynor	X				
Senator Dennis Bercier	X				
Senator Caroloyne Nelson	X				

Total (Yes) 5 No 1

Absent _____

Floor Assignment Senator Watne

REPORT OF STANDING COMMITTEE (410)
January 12, 1999 3:11 p.m.

Module No: SR-06-0513
Carrier: Watne
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2183 Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **DO PASS**
(5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2183 was placed on the
Eleventh order on the calendar.

1999 TESTIMONY

SB 2183



SECRETARY OF STATE

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

January 12, 1999

TO: Senator Stenehjem and Members of the Senate Judiciary Committee

FR: Al Jaeger, Secretary of State

RE: HB 2183 - Voting by Mail

The 1991 Legislative Assembly first authorized voting by mail. As a result, Renville County became the first test county to use voting by mail procedures during the 1992 election cycle. In 1993, the Legislative Assembly made the legislation permanent. It was used statewide for the first time during the 1996 presidential primary contest.

With Senate Bill 2183, the Secretary of State's office is asking the legislature to consider adopting several changes to the existing laws governing "voting by mail" and to provide options for voting by mail that do not currently exist.

Section 1

This section gives counties the option of using voting by mail in primary, general, and special elections. Current law only allows counties to choose voting by mail in the June primary election. During the 1996 June primary election, four counties (Adams, Billings, Sheridan, and Towner) used voting by mail. While it worked fairly well, voters were confused and county auditors frustrated because one method of voting had to be used for the June primary election and a different method had to be used for the November general election. This was the same reaction from voters in 1993 when Adams County was the only county that used voting by mail.

Because voting by mail is currently only an option in the June primary, several counties have refrained from giving it a try because of having to use two different voting methods in the same election year. They believe switching back and forth would be costly and would cause voter confusion. By giving them the option, as provided in section 1, counties can decide for themselves which method of voting works best in their county, which is the most cost efficient, and most importantly, which is the most acceptable or preferred method of voting.

Section 1 also requires the County Auditor to maintain a record of each mail ballot provided to and returned by qualified electors and to provide that list to the election board on Election Day. This will make for better ballot security and integrity at the polling place.

Section 2

This section allows special statewide elections to be conducted according to the voting by mail provisions in state law. It would also give the Secretary of State the needed flexibility

for conducting the election. For example, the Secretary of State could adopt rules to provide for the reduction of poll workers, poll hours, number of precincts, etc.

Typically, special elections address one issue, or just a few issues. Therefore, based on the experiences gained from the February 1996 presidential primary contest, I believe special elections are particularly well suited to voting by mail. Unfortunately, the presidential primary contest was not the best test for voting by mail. This was due to the partisan debate that surrounded it and the very uniqueness of the presidential primary itself. Without these two elements present, I'm convinced voting by mail in a special election would be well accepted, cost efficient, and may increase voter turnout.

The last statewide special election was held in November of 1992 at a cost to the state's counties of approximately \$400,000. Legislation passed by the 1993 Legislative Assembly now requires the state to reimburse counties for the cost of special statewide elections. Although \$275,000 was appropriated by the 1995 Legislative Assembly to cover the cost of the presidential primary, the final cost to the state was just over \$200,000. Therefore, I project that voting by mail, in special statewide elections, would save \$150,000 to \$200,000 when compared to the cost of using traditional polling methods.

Section 3

This section clarifies current law by allowing the county auditor to mail an application form for a mail ballot to each person listed in the county's pollbooks from the most recent statewide general election versus the last regular statewide election. Or as another option, section 3 also allows the county auditor to use other more reliable, comprehensive, and nonpartisan listings of qualified county voters as a basis for mailing applications for mail ballots. The county auditor is also required to take precautions to ensure that applications are mailed to the most current addresses of those eligible county voters being mailed an application and may use private vendors to achieve this. Section 3 also allows the county auditor to mail additional applications to qualified persons not listed in the pollbooks or in the other reliable sources chosen. All of these changes are intended to give county auditors the necessary flexibility to ensure applications for mail ballots reach a comprehensive range of eligible county electors.

In addition, section 3 changes the deadline the county auditor is required to mail out applications for mail ballots from the 45th day to the 40th day prior to the election. The 40th day coincides with the same deadline that requires absentee ballots be made available. Section 3 also gives the county auditor flexibility in mailing the applications for mail ballots on several days versus one specific date, as currently provided by law.

Lastly, section 3 clarifies and provides space on the ballot application for the voter's residential address as well as their mailing address in case the voter's mailing address is different from the voter's residential address.

Section 4

This section prohibits an elector from voting on Election Day if the voter has been recorded as having already returned a ballot. It would, however, allow an eligible person to vote on Election Day who received a mail ballot but had not been recorded as having returned it yet.

Section 5

This section allows the County Auditor to personally deliver a ballot to an applicant, or the applicant's agent, if the application form is received by 4:00 p.m. on the day before the election. It also defines an agent and what they can and can not do.

Section 6

This section provides that once an elector has cast a ballot by mail, the voted ballot may not be returned to the elector for any purpose and that an elector may not vote again after casting a ballot by mail.

Section 7

This section allows the election board to begin counting ballots cast prior to the day of the election at the same hour the polls open on the day of the election. It also requires the County Auditor to adopt procedures to ensure that election tallies during the day are not publicly disclosed until all the polls have closed in the county.

Section 8

This section allows the Secretary of State to adopt rules for conducting vote by mail elections without following the rule making procedures provided in section 28-32-01.

For these reasons, I encourage your support for Senate Bill 2183.

Testimony to the
Senate Judiciary Committee
prepared January 12, 1999
by Kevin J. Glatt
Burleigh County Auditor

Concerning SB2183

Chairman Stenehjem and members of the committee, I appear before you to express my support for SB2183. It is my opinion that this proposed legislation will serve to promote voter participation and decrease the cost of elections. The one experience that Burleigh County had with Vote by Mail was operationally very positive.

The reasons I support vote by mail is that I feel it will increase voter participation and reduce election costs. The reason for holding elections in a democracy is to determine the will of the people, so it is generally held that the greater the participation in elections, the more accurately the results will reflect the will of the electorate. I also feel that the public is concerned with the cost of government and expects us to find efficient ways of operating. Vote by mail is an efficient use of public funds. Vote by mail is also more convenient for many voters, who can mark their ballots at their convenience, without the worry of having to travel to an election precinct on a cold November day.

I think it is necessary that vote by mail be considered in connection with current law that does not require any reason for voting absentee and no longer requires voters to be absent from their precinct on election day. The current state law in fact has authorized voting by mail. The problem with current situation is that it requires counties to maintain two (2) separate election systems - a vote by mail system and a normal precinct system.

I am especially troubled that as electors become more aware of their ability to secure absent voter ballots without a reason they will increasingly exercise this option. In my 11-year tenure as Burleigh County Auditor I have seen an increase in the number of electors who wish to vote by mail. Historically Burleigh County absentee ballots account for between approximately 8% - 10% of the voter turnout. I anticipate this to dramatically increase in the future. I foresee that as society continues to put a premium on time and convenience, the desire to vote by absentee ballot (mail ballot) will also increase. On November 2, 1998, *The Bismarck Tribune* ran a front page story regarding the absentee balloting. That day the Burleigh County auditor's office processed 620+ absent voter ballots. This was more than 22 or our 40 precincts did on election day and more than two counties did in total. This will only increase as the electors become aware of their ability to secure absent voter's ballots.

Current law provides for no mechanism for auditors to estimate how many voters will vote absentee. Will 50% of the electors request absentee ballots? This requires auditors to order large supply of ballots for absentee voting and for voters at the polls. Counties will also need to incur the expense of staffing voting precincts and at the same time incur the expenses of a vote by mail system.

Should you have any questions, please feel free to contact me at anytime.

Kevin J. Glatt
Burleigh County Auditor
222-6718