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ROLL NUMBER

DESCRIPTION

2230

2001 SENATE JUDICIARY

SB 2230

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2230

Senate Judiciary Committee

Conference Committee

Hearing Date 1-22-01

Tape Number	Side A	Side B	Meter #
1	X		0.0- End
2	X		7.5-32.1
Committee Clerk Signature			

Senator Traynor opened the hearing on SB 2230: A BILL FOR AN ACT TO AMEND AND REENACT SECTIONS 16.1-13-10 AND 44-02-02 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO FILLING A VACANCY IN A LEGISLATIVE OFFICE AND RESIGNATION OF A MEMBER OF THE LEGISLATIVE ASSEMBLY; TO REPEAL SECTION 16.1-13-11 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO THE DUTY OF THE GOVERNOR WHEN A VACANCY OCCURS IN THE LEGISLATIVE ASSEMBLY; AND TO DECLARE AN EMERGENCY.

Senator Ken Solberg: (District 7; Supports) Explains proposed bill. States that the governor currently names replacements and it takes 60-90 days to get replacements . Gives example of Rep. Martin passing away and no one was named in his place to represent his district, so they were left out.

Senator Traynor: So affect of bill would be no special election, it would be a general election?

Also, what is significance of the "460 days"?

Senator Solberg: Yes sir (regarding elections) and I am not sure about 460 day significance question.

Senator Watne: Looking at page 2,#5... A lot of times we have people running for state offices and legislative offices. So take for example Wayne Stenehjem, he won Attorney General and resigned his Senate seat, then what?

Senator Solberg: This is a perfect example of how this bill would take care of those kinds of situations. Tells how bill process works again.

Senator Traynor: So this bill would provide a replacement within ten days and it keeps process within the legislative branch?

Senator Solberg: Yes, if time period runs over the ten days, the authority of legislative council has authority to choose a person.

Senator Bercler: Ten days in rural areas is not enough.

Senator Solberg: Ten days is plenty of time. Gives example of Colorado incident where proposed bill comes into play.

Senator Trenbeath: I have a concern surrounding the "resignation" area of bill.

Senator Solberg: I thought of that. There's the possibility of the abuse of law. It's tough to legislate morality. Hopefully there's enough common sense and morality.

Senator Dever: I know I would have a hard time finding a candidate in 10 days.

Senator Bercler: Let the record show that I believe this is a good bill in spirit, but throw this bill back into hands of district. I'm not comfortable with this bill.

Senator Solberg: This belongs in the legislative branch, not the executive branch. This does not disenfranchise, quite the contrary. This will keep your district party alive and viable because they won't know when they are going to be needed.

Senator Traynor: Let the record show that all three pages of the bill has been received by all committee members.

Senator Traynor: Should this bill pass, there would be no expense of special elections.

Senator Solberg: This is a good bill. I am not saying it's perfect, it may need a little work.

Corey Fong: (Represents Sec. Of State Office; Neutral) Clarifies questions involving significance of 460 days and also question asked earlier about running for multiple offices. For the record, all political party statutes involve 16.1-03.

Senator Traynor: From your experience, what is the time frame needed?

Cory Fong: Typically, you have to be looking out 14-16 days in advance in order to provide a ten day notice.

Senator Trenbeath: So 30 days would be better.

Senator Trenbeath: There seems to be a concern about "districting", it would be easy to exclude this out.

Corey Fong: I think that is covered somewhere.

Vern Thompson: (Executive Director for state Democratic party; Opposition) States the 10 day process is troubling because of the rural areas. Also says that we want to be sensitive to idea of chairman to the legislative council picking a replacement because he is not elected by citizens. The governor should be the one to pick. Regarding the emergency clause, until you know when the last redistricting is done- the clause should wait so that there will be no conflict. Also says that if you do not have special elections, it takes away from citizen's rights.

Senator Traynor: We are going to need some more information on this bill. We will reconvene this afternoon. Hearing closed.

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Senate Judiciary Committee

Bill/Resolution Number SB 2230

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Cory Fong: Clarifies questions regarding the bill. In the area of who makes the decision to pick the vacancy, the legislature or the Governor. Mentions the current century code regarding this process as it stands now. New language takes out the governor, however, this doesn't mean that the legislature couldn't include the governor. Regarding public notices, he stated that there is a 20 day requirement notice and a 10 day published notice for odd years. On even years there is no 10 day published notice requirement. A district meeting is held within 15 days.

Senator Traynor: Doesn't it seem odd that the legislature is giving power to a party?

Cory Fong: This raises a good point. There will be changes state wide with political parties.

Senator Traynor closed the hearing on SB 2230.

Discussion followed.

SENATOR TRENBEATH MOVED TO DO PASS. SECONDED BY SENATOR WATNE.

VOTE INDICATED 5 YEAS, 2 NAYS, AND 0 ABSENT AND NOT VOTING.

SENATOR TRAYNOR VOLUNTEERED TO CARRY THE BILL.

REPORT OF STANDING COMMITTEE (410)
January 23, 2001 1:10 p.m.

Module No: SR-11-1430
Carrier: Traynor
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2230: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS
(5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2230 was placed on the
Eleventh order on the calendar.

2001 HOUSE JUDICIARY

SB 2230

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2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2230

House Judiciary Committee

Conference Committee

Hearing Date 02-12-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		301 to 6170
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey opened the hearing on SB 2230. Relating to filling a vacancy in a legislative office and resignation of a member of the legislative assembly; relating to the duty of the governor when a vacancy occurs in the legislative assembly and to declare an emergency.

Sen Ken Solberg: District 7 Rugby, introduced the bill. This bill allows for a procedure to fill a vacancy, this is explained in section one, lines 9 thru 24 page one and lines one thru 10 on page two of the engrossed bill.

Rep Grande: The amendments that were put on in the Senate, going from 10 to 21 days, could you explain that.

Sen Solbert: Rural people thought it might not be long enough time period, so the 21 days was a compromise.

Vice Chr Kretschmar: What would be the issue if the person was an independent?

Sen Solberg: The chairman of the Legislative council notifies the party, if there was none, then the chairman of the Legislative council would name the replacement.

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House Judiciary Committee

Bill/Resolution Number SB 2230

Hearing Date 02-12-01

Rep Eckre: Asks for further clarification for an independent candidate.

Sen Solberg: If there is an independent party it would go to them, yes.

Rep Eckre: If there is not a district committee for independents set up then it follows the course set up in here?

Sen Solberg: Yes.

Chairman DeKrey: If there are no further questions, thank you for appearing before the committee.

Sen Traynor: District 15, Devils Lake. As cosponsor of the bill, gives further explanations as to the bill.(also attached a letter for explanation)

Chairman DeKrey: What is to prevent a party from doing something to keep their party in power through resignation.

Sen Traynor: This bill would only fill out the term until the next election.

Chairman DeKrey: So when the election comes, someone would still be elected at the next election.

Sen Traynor: The letter explains about the vacancy.

Rep Klemin: What if there is less than 828 days remaining in the term.

Sen Traynor: Still goes to the appointment process and then only until the next general election.

Rep Klemin: Isn't that if there are more than 828 days?

Sen Traynor: Yes, that is right.

Rep Klemin: So if it is less, what happens then.

Sen Traynor: there is no special election, only a general election.

Rep Klemin: The appoint serves for the remainder of the term.

Sen Traynor: The answer is in one, two, three of the letter.

Rep Klemin: In the case of an independent candidate, you would go to the committee, I don't see that in the bill.

Sen Traynor: The language on page one applies.

Rep Klemin: Why would we want to mention that on line 4 on page 2.

Sen Traynor: When there is no executive committee of the independent party, that authority is limited, the chairman only acts if there is a default. This is especially important to the minority party.

Rep Delmore: North Dakota people like to elect, are we following the wishes of the people, if we appoint, I am not sure this is a popular bill for the voters of North Dakota.

Sen Traynor: I think the people appreciate being represented during the session.

Rep Delmore: Why not set up a special election as soon as we can.

Sen Traynor: You can amend.

Rep Mahoney: I agree with Rep Delmore, why is the governor being taken out of the loop?

Sen Traynor: There was a measure adopted by the people that says it is up to the legislature to find a procedure to fill a vacancy. The people already have decided to take the governor out of the picture.

Rep Mahoney: That measure doesn't say to remove the governor from the loop.

Sen Traynor: It was discussed at the Senate Judiciary Committee. It was decided that it was a legislative problem not an executive problem.

Rep Mahoney: If I had a vacancy in my district, the governor would be more answerable state wide.

Sen Traynor: On the other hand, the executive committee would be more sensitive to replacement.

Rep Klemin: Asked for clarification if a person is running for re-election and dies before the election, but before the 68 days, what happens then.

Sen Traynor: You just follow the bill.

Rep Klemin: The appointment would only fill out the term.

Sen Traynor: Yes.

Rep Klemin: Asked for further clarification on appointing.

Sen Traynor: The case in point happened in Missouri.

Rep Klemin: What happens then.

Sen Traynor: That person was appointed for two years.

Rep Klemin: If it is only for two years, then it gets that house out of whack.

Sen Traynor: The person would be elected for two years.

Rep Klemin: The balance of the term is for four years. Who do we vote for?

Sen Traynor: I don't know.

Rep Kingsbury: Asked for clarification when she gave an example, is this considered a special election or would it be put on a general election ballot.

Rep Delmore: Says a general election.

Sen Traynor: If time permits it would be a special election, because it would be a mid term election.

Rep Delmore: If this happens during the legislative session, when would they come in.

Sen Traynor: It says they have up to 21 days, but it could be sooner.

