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2001 SENATE POLITICAL SUBDIVISIONS

SB 2277

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2277

Senate Political Subdivisions Committee

Conference Committee

Hearing Date February 1, 2001

Tape Number	Side A	Side B	Meter #
1	x		19.3-53.7
		x	0.0-0.3
Committee Clerk Signature <i>Mary Jo Wocken</i>			

Minutes:

The hearing was opened on SB2277, relating to the polls.

SENATOR URLACHER : Sponsor and presenter of this bill. The big concern, we see the majority of the votes within state probably in the eastern 1/3 of the state and when projections are coming early in our rural areas in the west it affected the number of voters that turned out because they had already determined what happened. I would hope to bring about some uniformity in resolving those reports. So that we do have more fairness and a better turnout for our state elections. As far as the timing of the opening and closing of polls, needs to be addressed but I think the thrust of this bill and the concerns are within the reports of the election returns.

SENATOR COOK: Of course, besides, the restrictions on election results you are making a change in the time you indicated that, how sensitive are you to that? Your adding two hours to the required time the polls would be open and you say in the central time zone. SENATOR

URLACHER: I think if this does create some dispute then there is a more workable time brought

forward I think that is acceptable. SENATOR FLAKOLL: Would this prevent at all though, the passing of a local t.v. station passed to an affiliate, like a national affiliate like say the winner of a Governors race or a U.S. Senate race to prevent national media from reporting those, is that ever a concern? SENATOR URLACHER: I guess I haven't got a true answer, I don't think we can have any control outside of the state. To funnel outside and back in, I would hope to be recognized within the media what's trying to be accomplished here, and not happen. But I guess that's not a very good answer for you. More of a legal question than I can respond to. SENATOR COOK: Senator Urlacher, I would assume before were done somebody is going to speak towards the constitutionality of this bill. SENATOR URLACHER: Very likely. Very likely. Its not been tested of course and I think the media's response will recognize what we are trying to do here and work with us. I would hope it would be on the basis and the wishes of the people and the fairness that goes into there that would govern the reaction. SENATOR CHRISTENSON: Are there any studies that substantiate the fact that people don't vote because of the election has been projected or announced? SENATOR URLACHER: Not officially, but through concerns over time. Its kind of a natural need to drive 15 or 20 miles to the polling place and hear results of some magnitude, that you just loose their input. Our percentages are way down and I think its more rural people that probably don't respond, because of the distance. Those polling places are spread out quite a large area. I think that has a direct affect. SENATOR FLAKOLL: Don't we have somewhat a similar problem which could be addressed by this bill or any other ones, in that with the ever increasing number of polls that are taken throughout the state, we look at the governors race in particular this last year where there was constant polls that were released to see if there is a large disparity in some year, would that maybe discourage some people from voting on either side, when there is a single office concern? I'm just looking from not only the

campaign standpoint but also the media standpoint? There really doing a lot more of these polls, some of them scientific in nature, others of course not very much so. We cannot really adjust those, and those are sometimes taken within days or hours. SENATOR URLACHER: I don't think that we can probably stop those early polls. But, my primary concerns are about the ending results, at the closing of the polls. MR. AL JAEGER: Secretary of State, See written testimony. As Secretary of State we're not concerned with Section 2 of the bill, because that doesn't involve my office. Section 1 would be a concern to my office and the county auditors. I would suspect the concern on the part of the counties would be to stay open for an extra hour in terms of wages, also know that those of you have worked at polls, that if a poll opens at 7am our poll workers are required by law to stay there all day. Lunch comes in etc., it gets to be a long day and that is a concern. I don't have the problem with the concept of and I understand the intent of the bill in terms of having the polls close at the same time. I understand that, I don't know if that should be 7am to 6pm, does that become unfair, should it be 7:30am and 6:30, I don't know what it should be. Even until 8pm closing time would require 40 counties to stay open an hour longer than under current law. From an elections official standpoint, how do we make it workable?

SENATOR COOK: Mr. Jaeger, elections results, do we have a single county or polling district where they can actually have election results before the poll closes? There isn't any counting that goes on until after the polls close, is that not correct? AL JAEGER: I'm not quite sure if I follow your question Senator Cook. SENATOR COOK: There is a difference between exit polls and election results. AL JAEGER: Right, and nobody and no county can have election results prior to the polls closing because the system is such that the counting doesn't start until after the polls close. SENATOR COOK: Thank you Al, that was my point. SENATOR WATNE: Since were looking at this section of the law, I see a part in here where it says," the precincts in which 75

or fewer votes were cast", could elect to open at noon. Out of curiosity and because of declining population in some of these areas do you know of any counties that had 75 or less votes in them, as far as precincts? AL JAEGER: I don't know if there is any, I guess Foster County has a couple of them. Just as a historical reference, in the early 1950's North Dakota had about 2200 precincts, and I'm sure it was even a little higher, the last election we had a little under 700. Consolidation of precincts that's happening, but there are a few areas. Polling locations in elections gets to be kind of an interesting thing, it get to be very emotional for people as to where they vote. They want to vote in the township because they don't want to drive to town, but they'll go to the township and then drive to town to have coffee. The point is where they vote. Voting gets to be a very emotional situation. Some of those smaller precincts, that is a county decision. SENATOR URLACHER: If or when you consider changing the timing of the polls, I hope that you would look at the employees and business closes and accommodate that timing with their opportunity to vote. KEVIN GLATT: Burleigh County Auditor, here in Bismarck. We are in opposition to the section to change that requires polling places to be open until 9 pm. election worker and poll workers in Burleigh County for many years, many elections have requested that polling places in the city of Bismarck close at 7 pm instead of 8 pm. See written testimony. Based on the sample I don't think its necessary in Burleigh County to keep the polls open another hour. I also have great concern for the election workers who put in a long day the way it is. Its getting harder and harder to find election workers and keeping the polling places another hour, I think is going to compound that. I understand the need to provide access to the polls, but basically with the recent law change two sessions ago, authorizing a vote by mail, basically anybody can vote early, just so they don't to often. JACK MCDONALD: North Dakota Newspaper Association and the North Dakota Broadcasters Association, strongly oppose this bill as it is proposed. Adopt our

amendments and we will then endorse the bill. See written testimony. I think people come to vote because of local issues. The exit polling if its done at all by the local stations again is not broadcast out here cause its done by the eastern stations. We would then respectfully request that you either kill the bill itself if that would be your wishes, or we take no position on the poll closing type of thing, to try to afford some uniformity, we would try to take that we would ask that you adopt our proposed amendment which drops Section 2 from the bill. SENATOR LYSON: Did I hear you say, or did you say that KFYZ, would still be able to broadcast NBC's of projected polling? JACK MCDONALD: I don't see how you can prevent the national broadcast and the national news if KFYZ has got it and Tom Brokaw breaks in on the national news. SENATOR LYSON: I hear what your saying, but if this law came into effect, wouldn't NBC be barred from cutting in to a station that is owned and operated in this state and not be able to say that? JACK MCDONALD: The broadcast rules are governed by the Federal Communication Commission, and they super cede state law, so we can't in North Dakota stop what is being broadcast on the national network on a air wave or air frequency given to them by the FCC. I don't think we could in North Dakota. SENATOR FLAKOLL: Last fall I heard the results of the governors race at about 8:06 pm. I think that the presidential and governors race and things like are the ones that really can draw the people out, that's proven out by the voters turnout. All of us in the legislature would like to think, that were the ones that inspire people to come to the polls, but the truth be when we look at the data from year to year, I think its different. Do you think there would be any, maybe we should look at having some perimeters that are similar to what we have for people that are up for election with respect to distances from the polls or something like that, just to slow the pace down and keep the polling place a more

private area? So that there isn't as much going in their and grabbing people right by the polling places and see who is doing those types of things? What are your thoughts on that? JACK

MCDONALD: I understand what your saying. I am not real wild about those provisions either and frankly they also do have several court cases on that very issue alone, of what you can or cannot prohibit within the certain distances of the poll. You can take action which you think is necessary to protect the integrity of the polling place, but, most of that court cases come up in the

electioneering issue of how close to a poll. I'm not a great one to advocate restricting people rights to talk to whomever they want to talk to, that's a 1st amendment right, but once you start going down that road, you have some of the same problems you have here, is a constitutional issue in state law. SENATOR LEE: It is hard to legislate common sense. I agree with Senator

Flakoll and I don't know how we fix it. JACK MCDONALD: I am a lawyer in my real life and pay attention to the media journals. The problems that arose in the last presidential election, everyone knows what they were, I think everyone involved in that from the media standpoint has been severely shaken with what happened as far as their accuracy and their mistakes and I think great efforts are being taken to avoid those types of things in the future. I am not here to apologize for the press, its just one of those things that happened. You'll never see a repeat of that again. I think this is more of a national problem than a state problem and all your going to be doing is causing the local media here some problems, and your not going to be solving the real

area. SENATOR MATHERN: Mr. Jaeger, you deal with, or have any statistics of the absentee balloting that is done? I know when we visited with the Cas County officials it has grown astronomically, the numbers. I know a a lot of people not wanting to stand in line, or not sure of the weather, or going to be out of town. Do you get those statistics? AL JAEGER: We probably are getting those, but I don't know off the top of my head. We do ask our auditors to provide us

with certain information. We may have it already. We are in the process of doing so much data entry I don't even think its been actually entered and determined what that percentage is. There is a lot of interest in it in this last election since the absentee balloting did not require a reason to use it. Voting by mail does get a little costly for the county. People like the fact of the flexibility to vote by coming in early and with the weather concerns or travel concerns. We will have this data available at a later date. JACK MCDONALD: Absentee balloting is very popular in Bismarek. Many offices have used the absentee ballot to encourage voting. I would certainly encourage you to keep that.

Hearing Closed on SB2277. SENATOR COOK: I would suggest you take to heart some words that Mr. McDonald said, one of the solutions is not to talk to the press. So that we can be assured they don't give any projections on how we might be voting on this maybe we should follow that suggestion.

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SENATOR COOK: Senator Flakoll in discussion brought up a unique idea. I thought about restricting, in so many feet of a poll, certain activity. Are there any of you interested in even pursuing to see it that is a. This as we may have it here I believe is unconstitutional. SENATOR WATNE: If, I, what we have already is unconstitutional. This is exactly the same as our election law right now, unenforceable, campaigning near a school. There is not penalty whatsoever, you tell them don't do, no way to enforce. That last section... SENATOR COOK: Do you want to try to address the concern of the bill that Senator Urlacher had and pursue a way of making this a better bill, or do you want to take action on it now? SENATOR POLOVITZ: I would like to take action on it now, and I would Move it to a Do Not Pass. SENATOR COOK: I could take a motion, ok. Is there a second to that?

