

2013 SENATE JUDICIARY

SB 2183

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2183
1/22/2013
Job #17501

☐ Conference Committee

Committee Clerk Signature	
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Minutes:

<i>Attached testimony</i>

Relating to qualifications of individuals circulating initiated or referred measure & recall petitions

Senator Hogue - Chairman

Senator Sitte - Vice-Chair - Opens the hearing on 2183

Senator Hogue - District 38 - Introduces the bill - See written testimony.

Senator Grabinger - Asks about the constitutionality for 18 year olds who have not voted in two previous elections.

Senator Hogue - Responds that it doesn't and says we have different requirements for service in this legislature, he goes on to explain they are many examples in the law where you reach the age of majority at 18 but still are denied certain rights that others of a more advanced have. In his view there are not constitutional issues.

Senator Grabinger - Said he understands why this is coming up but asks if we aren't satisfied with the current penalties we have in place.

Senator Hogue - Believes the penalties for the 11 men who plead guilty were not adequate at all. He explains the seriousness of that crime. He said this measure seeks to make those that are going to participate in the process are actively engaged bona fied ND residents. He said most ND's want is to make sure these people have the best interest of ND in mind when they circulate petitions.

Senator Nelson - Asks if this is only for the circulators and others who qualify for the 30 day resident can still sign

Senator Hogue - Replies that is correct. He said the professionals that do this do hire people to move into the state, to take up residency for 31 days. He said this is not the type of grass roots that was intended through the initiated measure process.

Senator Berry - Asks if there is a way to enforce this.

Senator Hogue - Responds that is why they included the voting requirement.

Andy Peterson - Greater ND Chamber Commerce - He comments on their being involved in many petitions and measures and supports this bill. He relates being approached by paid signature takers. Some signatures are worth \$3.00 each. He believes in volunteer signature takers.

Senator Grabinger - He is concerned about the 18 year olds who want to participate in the process.

Peterson - Relates they support this but maybe there should be an amendment but that they should still be true ND residents in some form or fashion.

Jon Godfreed - Greater ND Chamber of Commerce - He says nothing in this law does address the pay for signatures or pay for signature gathering. This is just one more check for ND residents.

Julie Ellingson - ND Stockman's Association - In support - They feel strongly that the initiated measure process should be preserved as a tool for ND grass root citizens not for outside interests to circumvent our legislative process.

Opposition - 0

Neutral - 0

Sec. of State Al Jaeger - See written testimony and hand out. His concern is the residency requirement. He explains the approval process. He said the only thing he would have to go by for a 3 year residency is that the circulator would need to sign an affidavit so stating.

This affidavit would have to state they were a qualified elector prior to the first signature obtained. He goes on to explain reviewing petitions.

Close the hearing on 2183

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2183
2/13/2013
Job #18914

☐ Conference Committee

Committee Clerk Signature



Minutes:

Attachment

Senator Hogue - Chairman

Committee work

Senator Hogue proposes amendment. (1) He goes on to explain that this preserves the integrity of our process. He says the bill makes a policy decision that you must be engaged in ND governance at some minimum level. Committee discusses whether circulators should have some contact to ND. Senator Grabinger disagrees with the amendment. He states at 18 years old you can vote and go to war but you can't circulate a petition. Senator Armstrong said he is not comfortable with the restrictions in the bill and the amendment. Senator Hogue says that ballot fraud has been from people out of the state and becoming a target for out of state interests. He says that this bill addresses that. The committee decides to hold this bill over for further discussion.

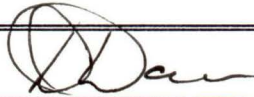
2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee Fort Lincoln Room, State Capitol

SB2183
2/18/2013
Job #19090

☐ Conference Committee

Committee Clerk Signature



Minutes:

attachment

Senator David Hogue - Chairman

Committee work

Senator Hogue proposes a new amendment and explains what it does. He said it removes the voting requirement and reduces the time they need to be a resident from 3 years to two years. Senator Grabinger thinks this takes away the ability to become involved in the process. Senator Armstrong would like to see North Dakotans doing ND initiated measures. Senator Sitte suggests they amend to prohibit people from being paid. She is also concerned that this will place an undue burden on the Secretary of State. Senator Hogue said this has been amended as requested by the Secretary of State. He says we have to make laws for all of ND and he points out as recent as last fall some individuals tried to put something on the ballot that would have exposed the State of ND to over a hundred million dollars in spending a year. He said we don't understand the gravity of that. He continues that it is a small price to pay to require that people live here a couple years before they put things on the ballot. Senator Nelson explains measure committees and sponsoring committees. The committee discusses more on voting and the passing of petitions.

Senator Berry moves the amendment 13.0323.01002

Senator Armstrong seconded

Vote - 7 yes, 0 no

Motion passes

Senator Armstrong moves a do pass as amended

Senator Berry seconded

Vote 4 yes, 3 no

Motion passes

Senator Armstrong will carry

73
2-18-13
1 of 3

PROPOSED AMENDMENTS TO SENATE BILL NO. 2183

Page 1, line 1, replace the first "subsection" with "subsections 3 and"

Page 1, line 1, replace the second "subsection" with "subsections 3 and"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Subsection 3 of section 16.1-01-09 of the North Dakota Century Code is amended and reenacted as follows:

3. Each copy of any petition provided for in this section, before being filed, must have attached an affidavit executed by the circulator in substantially the following form:

State of North Dakota)
) ss.

County of _____)
(county where signed)

I, _____, being sworn, say that I am a qualified elector
(circulator)

and have been a resident of the state for at least two years; that I
reside at _____;
(address)

that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

(signature of circulator)

Subscribed and sworn to before me on _____, _____, at _____

_____, North Dakota.
(city)

(Notary Seal) _____
(signature of notary)

Notary Public

My commission expires _____"

2043

Page 1, line 11, replace "three" with "two"

Page 1, line 11, remove "and who, according to the"

Page 1, remove line 12

Page 1, line 13, remove "not including any special election"

Page 1, after line 15, insert:

"SECTION 3. AMENDMENT. Subsection 3 of section 16.1-01-09.1 of the North Dakota Century Code is amended and reenacted as follows:

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) ss.

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that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

(signature of circulator)

Subscribed and sworn to before me on _____, _____, at
_____, North Dakota.
(city)

(Notary Seal) _____
(signature of notary)
Notary Public
My commission expires _____"

Page 1, line 22, replace "three" with "two"

Page 1, line 22, remove "and who."

3 of 3

Page 1, remove line 23

Page 2, line 1, remove "statewide elections, not including any special election"

Renumber accordingly

Date: 2/13/13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2183

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.0323.01002 -

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By S. Berry Seconded By S. Armstrong

Senators	Yes	No	Senator	Yes	No
Chariman David Hogue	X		Senator Carolyn Nelson	X	
Vice Chairman Margaret Sitte	X		Senator John Grabinger	X	
Senator Stanley Lyson	X				
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 7 No 0

Absent _____

Floor Assignment S. motion passes

If the vote is on an amendment, briefly indicate intent:

Date: 2/
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2183

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By S. Armstrong Seconded By S. Berry

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue	<input checked="" type="checkbox"/>		Senator Carolyn Nelson		<input checked="" type="checkbox"/>
Vice Chairman Margaret Sitte		<input checked="" type="checkbox"/>	Senator John Grabinger		<input checked="" type="checkbox"/>
Senator Stanley Lyson	<input checked="" type="checkbox"/>				
Senator Spencer Berry	<input checked="" type="checkbox"/>				
Senator Kelly Armstrong	<input checked="" type="checkbox"/>				

Total (Yes) 4 No 3

Absent _____

Floor Assignment S. Armstrong

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2183: Judiciary Committee (Sen. Hogue, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2183 was placed on the Sixth order on the calendar.

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(circulator)

and have been a resident of the state for at least two years; that I

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(address)

that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

(signature of circulator)

Subscribed and sworn to before me on _____, _____, at

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(city)

(Notary Seal) _____

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Notary Public

My commission expires _____"

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Renumber accordingly

2013 HOUSE POLITICAL SUBDIVISIONS

SB 2183

2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee

Prairie Room, State Capitol

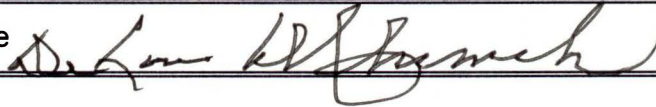
SB 2183

March 15, 2013

Job #20000

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to qualifications of individuals circulating initiated or referred measure and recall petitions; and to provide for application.

Minutes:

Chairman N. Johnson opened the hearing on SB 2183.

Senator Hogue: Introduced bill to aid in the petition process and secure its integrity. In the case of one large grassroots agricultural organization they circulated petitions using 271 circulators and not a single one of them would have been disqualified by this bill. On the other hand we had certain individuals on the eastern part of the state who were members of the NDSU football team circulating petitions as well and I think there were seven of them that would have been disqualified by this bill. When you are circulating petitions you are sort of acting as a legislator. You are rounding up support to get something on the ballot to make it law. Whereas if you are just casting a single ballot your ability to alter the outcome of an election through fraud is just limited to your ballot that you cast. I think there should be a more vigorous standard for those who wish to circulate petitions then for simply voting. As we amended the bill in the Senate I found out the following; how can we increase the integrity of our process? I think there should be a more rigorous standard for those circulating the petitions. The Secretary of State testified on the Senate side said you are right; we don't really have a residency requirement. It is asking them to affirm that they have been a resident of the state for two years.

Rep. A. Maragos: You said seven of the football players would have been disqualified. How many of them would have been disqualified. We have another bill coming through that would forbid the paying for signatures; the hiring of petition circulators. Had we had that in law do you think that fraud would have taken place?

Senator Hogue: That is an excellent question. Probably not. I do know that they were paid and then they were likely motivated to do this work by economic gain I think it probably would have.

Rep. A. Maragos: If there were two or three of those ten students. Three of those students could have gotten together the other seven together and perpetrated the seven together and did the same fraud for the purposed of the quid pro quo.

Senator Hogue: Yes it is possible if I am a resident of this state for more than two years I can go out and get individuals to participate in the petition fraud. The last time we had a petition fraud it did also involve individuals from outside the state.

Rep. Hatlestad: This bill doesn't apply to the Fargo football situation. They did not circulate a petition; they just signed people's names. Is that correct?

Senator Hogue: If you possess the petition and you are signing someone else's name other than your own you are still circulating a petition. If the person you are signing is not real then I would say you are still circulating a petition. I think they made up some fictitious names.

Rep. Koppelman: The original bill appears to have some standards set forth. What was the penalty under the original bill if people did not meet these requirements? I see in the engrossed bill you have created affidavits instead so I assume the penalty here would be perjury or something similar for falsifying information. How does that differ from the penalty in the first bill?

Senator Hogue: I don't know whether that would be an infraction or not. Most of our testimony was whether the defendants in the case in Fargo got sufficient criminal sanctions imposed based on the gravity of the matter that they were circulating. I didn't focus on the penalty. I was interested in lending a little more credibility to the process without unduly infringing on people's rights to circulate petitions.

Rep. Koppelman: We passed a bill out of this committee that would make it a felony if someone signed more than two people's names on a petition other than their own. What about out of state entities hiring people; is there anything in this bill that get at these out of state entities that come in with an agenda?

Senator Hogue: I would have preferred they be engaged in our process and that means you are voting. If you are voting it tells me you are informed on the issues and you are responsible.

Rep. Ben Hanson: So the two year requirement for residency for circulating petitions would not apply to anything else in election law in the two year term?

Senator Hogue: There was a concern in the Senate we not preclude the new voters or high school student that turns 19 that has been doing to school in North Dakota for two years. They would certainly be eligible to circulate petitions.

Rep. A. Maragos: You stated that in your opinion that a petition circulator is almost acting like a legislator by going out and marshaling support for a valid measure. What is the minimum restriction for someone running for the legislature?

Senator Hogue: You have to have been a resident of that district for 30 days before you on onto the ballot. The other qualifications are that have been vetted in the primary election; if you are a member of a political party, which all of us are and you have been vetted by local political party; they know who you are and what your views are.

Rep. A. Maragos: Say I lived in the state for 20 years and I came back in 30 days I could accomplish it, but I could not circulate a petition unless I was here for two years.

Senator Hogue: I was not able to bring the bill. I am not sure it is two years before the date on which the measure would go on the ballot or not. That is probably a good idea, if you have been gone. It would not affect the snowbirds or any of those other folks who never surrender their ND residency.

Rep. J. Kelsh: I share Rep. A. Maragos disconnect on qualifying for running for legislature, but I think there is a large disconnect with folks going out collecting signatures to possibly put something on the ballot for all the people for the state of North Dakota to vote on. That is two different issues. This is making it harder to get people to circulate petitions. They don't have to vote for it if they hadn't discovered it was fragrant what these football players were doing. That is where I see the big disconnect. You are saying having somebody circulate the petition is the big deal. It is not the big deal. It is putting an option to the folks in the state of North Dakota. Is that right?

Senator Hogue: I disagree with the philosophy. If we use the two examples you sited; in one of those petitions they are going to expose the state of North Dakota to spending \$100 million a year forever. To me that is important and to give that kind of power to me it should be harder. The initiated measure process is a powerful process that we have in our constitution and I am grateful we have it. On the other measure they were circulating petitions to legalize marijuana and that may be coming again.

Rep. J. Kelsh: If the people didn't want the \$100 million to go to the heritage foundation for conservation purposes they would have turned it down. The people have the right to vote or initiate measures.

Rep. Hatlestad: Was there any discussion about the potential of legal challenges? Your infringements on my rights as a citizen by putting this additional restriction?

Senator Hogue: There was a forum that I was able to participate in with a large farm organization and there is a provision in the constitution that if the legislature tries to make it too hard it can be struck down. They knew there would be this tension between the people and the legislature. I think a two year residency requirement is not unreasonable.

Rep. A. Maragos: Do you support the idea that petition circulators should not be allowed to be paid to circulate petitions.

Senator Hogue: I don't think I do. It takes away from the grass roots, but yet it is difficult to gather the amount of signatures that we need to amend our constitution. If individuals want to pay someone I am OK with that.

House Political Subdivisions Committee

SB 2183

March 15, 2013

Page 4

Rep. Muscha: The original bill you had three years and now you have two?

Senator Hogue: Political compromise.

Opposition: None

Neutral: None

Hearing closed.

2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

SB 2183
March 21, 2013
Job # 20300

☐ Conference Committee

Committee Clerk Signature



Minutes:

Chairman N. Johnson: opened the meeting on SB 2183. This was on petitions and you would have to have lived in the state for two years prior to being able to circulate a petition. I have a little bit of concern with this one that you can live in the state for 30 days and you can vote; but you would have to have lived here two years to circulate a petition.

Rep. J. Kelsh: I have a lot of concern with that also. People have a choice whether to sign that petition or not. We have to depend on the other electors in the state to be somewhat knowledgeable of what they are doing. If it does get on the ballot they have another opportunity for the people to say yes or no so I don't think gathering those petitions and having someone that is an elector in the state is a problem.

Rep. Klemin: I think the primary sponsor gave some good reasons why we should consider this. The effect of fraud can alter the outcome of an election and change the law considerably. It is more of a vigorous standard to do these things for these circulators than it is to just vote on the thing that is being circulated. We have had previous fraud and it has always been by nonresident petition circulators. If we are concerned about the two years we could change that and say you have to be a resident at least.

Chairman N. Johnson: It already requires them to be a qualified elector. You must be 18 years of age or older and a resident of the state and reside in the precinct at least 30 days prior to the election. I did get some additional information from the Secretary of State. The sponsoring committee, the 25 people who have to live in the state for 30 days could be considered qualified electors and be the signers required for the sponsoring committee for a petition. According to this bill unless you lived here two years they could not circulate a petition so there is a lapse in the area too.

Rep. Klemin: The result of the fraud in the past by petition circulators has been with people who were not here very long. They have no real connection to the state so the point of this was to have a strict standard than simply voting to better assure that we do have people that have some connection to the state.

Rep. A. Maragos: The definition of a qualified elector; what if the person is a resident of the state and has been a resident for two years, but hasn't lived in the particular precinct that he is in for 30 days. One has to do with voting and the other one has to do with being a qualified elector, I believe. Does that make any sense?

Rep. Ben Hanson: In order to be a qualified elector in the sense you are talking about you would have to live in the state for 30 days. When we are talking about signature gathering for a particular precinct, correct?

Rep. A. Maragos: A qualified elector said and be living in your precinct for 30 days.

Rep. Klemin: You are a qualified elector somewhere. In my district there were a number of people that moved into my district who lived there for 30 days or more for the purpose of attending our district convention to elect delegates to the state convention so they could get elected to the national convention to get their man nominated for president. After the state convention was over they moved out.

Rep. Ben Hanson: Couldn't you change your district rules in the party?

Rep. J. Kelsh: If you wanted to change the residency to 90 or 120 days that is the only way you are going to fix that situation. I don't think we want to get into discussing the residency to be able to vote.

Rep. A. Maragos: I think if the state rule is totally different than going to the poles in November. If we wanted to avoid that then we change our district rules and our state rules and that would solve that problem.

Do Not Pass Motion Made by Rep. J. Kelsh: Seconded by Rep. Toman:

Chairman N. Johnson: I have article 3 powers reserved to the people from our state constitution and the last line of section 1 says: Laws may be enacted to facilitate and safe guard, but not to hamper, restrict or impair these powers.

Rep. A. Maragos: (inaudible)

Rep. M. Klein: I won't support the do not pass. Everyone knows who has problems. This is an attempt to try and fix some of them after what went on a year ago or so.

Chairman N. Johnson: It is powers reserved to the people: When the legislative powers of the state shall be vested in the legislative assembly consisting of the Senate and House of Representatives. The people reserve the power to propose and enact laws by the initiative including the call for a constitutional convention to approve or reject legislative acts or parts thereof by the referendum to propose and adopt the constitutional amendments by the initiative and to recall certain elected officials. The article is self-executing and all of its provisions are mandatory. Laws may be enacted to facilitate and safe guard, but not to hamper, restrict, or impair these powers.

Rep. Klemin: I would say this bill is to enact a law to safe guard and is not to hamper.

Vote: 11 Yes 4 No 0 Absent Carrier: Rep. J. Kelsh:

Closed.

Date: 3-21-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2123

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. J. Kelsh Seconded By Rep. N. Toman

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Ben Hanson	✓	
Vice Chairman Patrick Hatlestad		✓	Rep. Kathy Hogan	✓	
Rep. Thomas Beadle	✓		Rep. Jerry Kelsh	✓	
Rep. Matthew Klein		✓	Rep. Naomi Muscha	✓	
Rep. Lawrence Klemin		✓			
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Alex Looyzen	✓				
Rep. Andrew Maragos		✓			
Rep. Lisa Meier	✓				
Rep. Nathan Toman	✓				

Total (Yes) 11 No 4

Absent 0

Floor Assignment Rep. J. Kelsh

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2183, as engrossed: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **DO NOT PASS** (11 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2183 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2183

1 TESTIMONY OF DAVID HOGUE IN SUPPORT OF SB ²¹⁸³~~2083~~

2 SENATE JUDICIARY COMMITTEE

3 JANUARY 22, 2013

4 11:00 am

5
6
7 Good Morning Madam Vice-Chair Sitte and members of the Committee. My
8 name is David Hogue. I am a North Dakota state senator representing District 38,
9 which includes northwest Minot and the city of Burlington. I appear before your
10 committee to seek support for SB 2083.

11 Prior to last fall, I'm obliged to concede that I mostly chuckled at the voter fraud
12 that other states were experiencing at the ballot box in previous years. We heard about
13 "Acorn buses" that descended on polling places and voter intimidation at the polls that
14 was calculated to hold down the turnout at certain locations within a precinct. We've all
15 heard of voter fraud in third world democracies.

16 Although we do not require voter registration, I think we in North Dakota have
17 sometimes naively assumed that voter fraud was a distant problem that we need not
18 concern ourselves with. I think for many of us our mindset changed last fall when
19 eleven young men pled guilty to forging signatures on petitions for initiated measures
20 that would have legalized medicinal use of marijuana and established an environmental
21 policy board with a fund in excess of \$70 million. Our Secretary of State and our
22 Attorney General have reminded us that this was not the first time the process was
23 tainted by petition fraud. There have been others as well.

1 SB 2083 would raise the requirements for those who wish to serve democracy by
2 circulating petitions. It would require petition circulators be residents of the state of
3 North Dakota for a period of three years and it would require that they have actually
4 voted in one of the last two statewide elections.

5 Both of these requirements are offered to eliminate the "professional" petition
6 circulators who come to North Dakota for the sole purpose of circulating petitions. The
7 petition process is an industry. There are companies for hire that are willing to gather
8 signatures on behalf of a cause if they are paid their asking price. In my view, that's not
9 the "grass roots" democracy that our state constitutional founders envisioned when they
10 required that our state constitution make provision for the initiated and referral measure
11 process.

12 Madam Vice-Chair Sitte, that is why I offer SB 2083. I'm happy to stand for
13 questions.

2183 (2)

ALVIN A. JAEGER
SECRETARY OF STATE

ME PAGE www.nd.gov/sos



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

January 22, 2013

TO: Sen. Hogue, Chairman, and Members of the Senate Judiciary Committee

FR: Al Jaeger, Secretary of State

RE: SB 2183 – Qualifications of Petition Circulators

On page 1, lines 11 through 13 and on page 1, lines 22 and 23 and on page 2, line 1, the bill specifies that a qualified elector for the purpose of circulating a petition is an individual, "who, according to the central voter file, has voted in at least one of the preceding two statewide elections, not including any special election."

Since the central voter file is a centralized poll book and record of who has voted, this requirement would be easy to determine.

However, the three-year residency requirement is not so easily determined. Under current law, N.D.C.C. § 16.1-01-09(3), a petition circulator must execute an affidavit. In the affidavit, the petition circulator provides his or her name and then swears that they are a qualified elector, residing at a specific address.

We believe this affidavit should be modified so that the circulator is on record that they have indeed been a "qualified elector" who has been a resident for at least three years at the time they begin to circulate the petition.

2

**16.1-01-09. Initiative or referendum petitions — Signature —
Form — Circulation.**

1. a. A request of the secretary of state for approval of a petition to initiate or refer a measure may be presented over the signatures of the sponsoring committee on individual signature forms that have been notarized. The secretary of state shall prepare a signature form that includes provisions for identification of the measure; the printed name, signature, and address of the committee member; and notarization of the signature. The filed signature forms must be originals.
- b. Upon receipt of a petition to initiate or refer a measure, the secretary of state shall draft a short and concise statement that fairly represents the measure. The statement must be submitted to the attorney general for approval or disapproval. An approved statement must be affixed to the petition before it is

- circulated for signatures, must be called the "petition title", and must be placed immediately before the full text of the measure.
- c. The secretary of state and the attorney general shall complete their review of a petition in not less than five, nor more than seven, business days, excluding Saturdays.
2. An individual may not sign any initiative or referendum petition circulated pursuant to article III of the Constitution of North Dakota unless the individual is a qualified elector. An individual may not sign any petition more than once, and each signer shall add the signer's complete residential address or rural route or general delivery address and the date of signing. Every qualified elector signing a petition shall do so in the presence of the individual circulating the petition. A referendum or initiative petition must be on a form prescribed by the secretary of state containing the following information:

REFERENDUM [INITIATIVE] PETITION
TO THE SECRETARY OF STATE,
STATE OF NORTH DAKOTA

We, the undersigned, being qualified electors request [House (Senate) Bill ____ passed by the ____ Legislative Assembly] [the following initiated law] be placed on the ballot as provided by law.

SPONSORING COMMITTEE

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Name	Address
_____(Chairman)	_____
_____	_____

PETITION TITLE

(To be drafted by the secretary of state, approved by the attorney general, and attached to the petition before circulation.)

FULL TEXT OF THE MEASURE

IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF MATERIAL IS NOT UNDERSCORED OR OVERSTRUCK, THE MATERIAL IS EXISTING LAW THAT IS NOT BEING CHANGED.

[The full text of the measure must be inserted here.]

INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers must add their complete residential address or rural route or general delivery address and the date of signing. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.

QUALIFIED ELECTORS

Month, Day, Year	Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State
------------------------	---------------------------------	--	----------------

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

The number of signature lines on each page of a printed petition may vary if necessary to accommodate other required textual matter. In this section for referral petitions "full text of the measure" means the bill as passed by the legislative assembly excluding the session and sponsor identification. In this section for initiative petitions "full text of the measure" means an enacting clause which must be: "BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA" and the body of the bill. If the measure amends the law, all new statutory material must be underscored and all statutory material to be deleted must be overstruck by dashes. When repealing portions of the law, the measure must contain a repealer clause and, in brackets, the text of the law being repealed.

3. Each copy of any petition provided for in this section, before being filed, must have attached an affidavit executed by the circulator in substantially the following form:

State of North Dakota)
)
 County of _____) ss.
 (county where signed)

I, _____, being sworn, say that I am a qualified elector;
 (circulator)
 that I reside at _____;
 (address)

that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

 (signature of circulator)

Subscribed and sworn to before me on _____, _____, at
 _____, North Dakota.
 (city)

(Notary Seal) _____
 (signature of notary)

Notary Public

My commission expires _____

4. No petition may be circulated under the authority of article III of the Constitution of North Dakota by an individual who is less than eighteen years of age, nor may the affidavit called for by subsection 3 be executed by an individual who is less than eighteen years of age at the time of signing. All petitions circulated under the authority of the constitution and of this section must be circulated in their entirety. A petition may not include a statement of intent or similar explanatory information.
5. When signed petitions are delivered to the secretary of state, the chairperson of the sponsoring committee shall submit to the secretary of state an affidavit stating that to the best of that individual's knowledge, the petitions contain at least the required number of signatures. An elector's name may not be removed by the elector from a petition that has been submitted to and received by the secretary of state.
6. An initiative or referendum petition may be submitted to the secretary of state until midnight of the day designated as the deadline for submitting the petition.
7. An initiative petition may be circulated for one year from the date it is approved for circulation by the secretary of state.

2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

- NOTE: The number of signature lines on each page of a petition may vary at the discretion of the sponsoring committee, however the Secretary of State encourages the space reserved for signatures to be at least as large as the example above.

STATE OF NORTH DAKOTA)
)ss
COUNTY OF _____)
(county where signed)

I, _____, being sworn, say that I am a qualified elector; that I reside at _____;
(circulator) (address)
that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

(signature of circulator)

Subscribed and sworn to before me on _____, 20____, at _____, North Dakota.
(city)

(NOTARY SEAL / STAMP)

(signature of notary)
Notary Public
My commission expires _____

2/13/13 ①

13.0323.01001
Title.

Prepared by the Legislative Council staff for
Senator Hogue
January 30, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2183

Page 1, line 1, replace the first "subsection" with "subsections 3 and"

Page 1, line 1, replace the second "subsection" with "subsections 3 and"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Subsection 3 of section 16.1-01-09 of the North Dakota Century Code is amended and reenacted as follows:

3. Each copy of any petition provided for in this section, before being filed, must have attached an affidavit executed by the circulator in substantially the following form:

State of North Dakota)
) ss.

County of _____)
(county where signed)

I, _____, being sworn, say that I am a qualified elector, have
(circulator)

been a resident of the state for at least two years, and have voted in at least
one of the preceding two regular statewide elections; that I
reside at _____;

(address)

that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

(signature of circulator)

Subscribed and sworn to before me on _____, _____, at

_____, North Dakota.

(city)

(Notary Seal)

(signature of notary)

2/13 ①

Page 1, line 11, replace "three" with "two"

"SECTION 3. AMENDMENT. Subsection 3 of section 16.1-01-09.1 of the North Dakota Century Code is amended and reenacted as follows:

- State of North Dakota)
) ss.
County of _____)
(county where signed)

been a resident of the state for at least two years, and have voted in at least
one of the preceding two regular statewide elections; that I
reside at _____;

that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

Subscribed and sworn to before me on _____, _____, at _____

(city)

My commission expires _____"

Page No. 2

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2183

Page 1, line 1, replace the first "subsection" with "subsections 3 and"

Page 1, line 1, replace the second "subsection" with "subsections 3 and"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Subsection 3 of section 16.1-01-09 of the North Dakota Century Code is amended and reenacted as follows:

3. Each copy of any petition provided for in this section, before being filed, must have attached an affidavit executed by the circulator in substantially the following form:

State of North Dakota)
) ss.

County of _____)
(county where signed)

I, _____, being sworn, say that I am a qualified elector and have
(circulator)

been a resident of the state for at least two years; that I
reside at _____;
(address)

that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

(signature of circulator)

Subscribed and sworn to before me on _____, _____, at _____

_____, North Dakota.
(city)

(Notary Seal) _____
(signature of notary)

Notary Public

Page 1, line 22, replace "three" with "two"

Page 1, line 22, remove "and who,"

Page 1, remove line 23

Page 2, line 1, remove "statewide elections, not including any special election"

Renumber accordingly