

2021 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1171

2021 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1171
1/21/2021

Relating to requiring a physical polling place for mail ballot elections
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Vice Chair B. Koppelman opened the hearing at 9:02 a.m.

Representatives	Roll Call
Representative Jim Kasper	P
Representative Ben Koppelman	P
Representative Pamela Anderson	P
Representative Jeff A. Hoverson	P
Representative Karen Karls	P
Representative Scott Louser	P
Representative Jeffery J. Magrum	P
Representative Mitch Ostlie	P
Representative Karen M. Rohr	P
Representative Austen Schauer	P
Representative Mary Schneider	P
Representative Vicky Steiner	P
Representative Greg Stemen	P
Representative Steve Vetter	P

Discussion Topics:

- Legislative enactment
- Exercising right to cast a vote
- Vote centers

Rep. Kempenich testified in favor.

Jim Silrum, Deputy Secretary of State, testified in opposition with #2035.

Donnell Preskey, ND Association of Counties, testified in opposition with #1976.

Additional written testimony: Bea Streifel, NDCWPAC, #2069

Vice Chair B. Koppelman closed the hearing at 10:05 a.m.

Carmen Hart, Committee Clerk

ALVIN A. JAEGER
SECRETARY OF STATE

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STATE OF NORTH DAKOTA
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January 21, 2021

TO: Chairman Kasper and Members of the House Government and Veterans Affairs Committee

FR: Jim Silrum, Deputy Secretary of State on behalf of Secretary of State Al Jaeger

RE: HB 1171 – No suspension of polling place requirement allowed

Currently, NDCC § 16.1-11.1-01 requires at least one polling place per county be open on election day. The amendment proposed by this bill provides that this requirement may not be suspended unless done so by legislative enactment.

This added wording could have unintended consequences preventing qualified electors in North Dakota from exercising their right to cast a ballot. During a declared disaster, it would prohibit a governor from making any adjustments to elections that would ensure voters would still be able to vote.

Disasters can be caused by tornados, blizzards, floods, fires, and many other unforeseen events such as a pandemic. Any disaster just before an election could require temporary measures to be put in place to administer the election and allow electors to vote. Disasters occurring in another state could also cause our skilled tradespeople, doctors, nurses, and others to be away from the state to help those impacted. Adding the language in this bill to law would take away the right of these individuals to vote.

It has been suggested that a special session of the legislature could be called to address any changes that might be necessary after a disaster. However, if the disaster brings down some of the state's critical infrastructure of internet, power, and cell signals, a virtual session would be impossible and gathering all legislators in person may not be feasible due to the timing of the disaster.

On behalf of the Secretary of State and his election team, I urge the committee to give this bill a do not pass recommendation.

Testimony Prepared for the
House Government & Veterans Affairs
 January 21, 2021
 Donnell Preskey, NDACo



RE: HB 1171 & 1198 Relating to Polling Locations

Mr. Chair and committee members, I'm Donnell Preskey Hushka with the North Dakota Association of Counties. In my role at NDACo, I serve as executive director of the North Dakota County Auditors Association. We stand in opposition to this bill only because, in critical emergency situations, someone needs to have the authority to respond.

My testimony today is to provide you some background on why this bill is here. There are three bills heard this week that get to the same issue, restricting the Governor's authority relating to polling locations. This stems from executive orders made during the COVID-19 pandemic related to elections. The North Dakota County Auditors Association was in communication with the Governor's office and made requests for the Governor to use his emergency powers prior to the June election and prior to the general election.

It's important to understand the election timeline in relation to when COVID-19 pandemic hit to help explain the reasons for the county Auditors' requests.

March 13th – Governor Burgum declares state of emergency for COVID-19.

March 24th – ND County Auditors sent letter to Governor requesting the following:

- Waive requirements for 1 physical polling location for June election.
- 2020 Primary be mail ballot only.
- Increase time to process mail/absentee ballots from 2 to 5 days.

March 26th - Governor signed Executive Order which:

- Strongly encouraged county commissions to:
 - o Approve and authorize voting by mail ballot "absentee ballot".
 - o Establish secure mail ballot drop box locations.
- The Executive Order also:
 - o Suspended the requirement for counties to have one polling location; allowing county commissions to utilize all vote by mail ballots.
 - o Suspended requirement to establish polling places no later than 64th day before the election.
 - o Allow for processing absentee ballots 5 days prior to election.
 - o Required applications for ballots to be sent to all voters in state's central voter file.
 - o Provide an assistive ballot marking device 40 days prior to election through election day.

Auditors have deadlines to follow in election preparations, which was the reason for the urgency in making the request to move to all vote by mail in June.

April 6th (64 days before election) – deadline for setting polling locations.

April 6th - filing deadline for candidates.

April 6th – deadline to upload ballot information for election programming.

April 20-30th – Applications for ballots need to be mailed.

County commissioners in all 53 counties passed resolutions to go all vote by mail due to the pandemic.

To summarize, when the COVID-19 emergency was declared in North Dakota, the state shut down – schools closed, workplaces adjusted by having employees work from home if able, businesses and most county courthouses were restricted or closed. County auditors had to make quick decisions on how to plan for the June election during this time of great uncertainty. Election deadlines were quickly approaching, and auditors were faced with venues typically used as polling locations being closed, gatherings were restricted, and poll workers were impossible to hire. In addition, personal protection equipment was almost impossible to find. Imagine, faced with all that, planning and holding an in-person election.

We recognize that the situation improved about 3 weeks prior to the June election when we saw businesses start to re-open. However, that was not enough time for counties to make a switch to offer an in-person voting location.

We have never experienced an emergency that has affected the entire state like this. If the legislature wants to restrict the Governor's authority to respond in dire emergency situations, then the power needs to lie with our local elected officials, in this case our county commissioners. In an emergency, in the most urgent situation, someone needs to have the power to make the necessary adjustments.

For the November Election, every county had at least one voting location open. Auditors had the time to prepare for holding an election during a pandemic and were able to purchase PPE to provide a safe voting environment for citizens who wanted to vote in person.

Under incredibly difficult circumstance, the State and Counties worked to ensure citizens' constitutional right to vote was honored in a secure and safe manner.

HB 1171

The constitution requires a polling place be open during a mail in ballot. I support this stand.

2021 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1171
2/4/2021

Relating to requiring a physical polling place for mail ballot elections
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Chairman Kasper opened the committee work meeting at 4:41 p.m.

Representatives	Roll Call
Representative Jim Kasper	P
Representative Ben Koppelman	P
Representative Pamela Anderson	P
Representative Jeff A. Hoverson	A
Representative Karen Karls	P
Representative Scott Louser	P
Representative Jeffery J. Magrum	P
Representative Mitch Ostlie	P
Representative Karen M. Rohr	P
Representative Austen Schauer	P
Representative Mary Schneider	P
Representative Vicky Steiner	P
Representative Greg Stemen	P
Representative Steve Vetter	P

Discussion Topics:

- Redundant bill

Rep. Schneider moved a **Do Not Pass**. **Rep. Stemen** seconded the motion.

Representatives	Vote
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Pamela Anderson	Y
Representative Jeff A. Hoverson	A
Representative Karen Karls	Y
Representative Scott Louser	Y
Representative Jeffery J. Magrum	Y
Representative Mitch Ostlie	Y
Representative Karen M. Rohr	Y
Representative Austen Schauer	Y
Representative Mary Schneider	Y
Representative Vicky Steiner	N
Representative Greg Stemen	Y
Representative Steve Vetter	Y

Motion passes. 12-1-1. **Rep. Magrum** is the carrier.

Chairman Kasper closed the meeting at 4:44 p.m.

Carmen Hart, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1171: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **DO NOT PASS** (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB
1171 was placed on the Eleventh order on the calendar.