

2021 HOUSE POLITICAL SUBDIVISIONS

HB 1331

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

HB 1331
2/4/2021

Relating to the number of members a city governing body; relating to initiating and referring a municipal ordinance
--

Chairman Dockter: (9:30). Opened the hearing.

Representatives	
Representative Jason Dockter	P
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Mary Johnson	P
Representative Lawrence R. Klemin	P
Representative Donald Longmuir	P
Representative Dave Nehring	A
Representative Marvin E. Nelson	P
Representative Luke Simons	P
Representative Nathan Toman	P

Discussion Topics:

- Veto powers

Rep. Porter:(9:02). Introduced the bill.

Roger Hummel: In favor. No written testimony.

Stephanie Dassinger: Dept. Director and Attorney for League of Cities: (9:53)
Testimony #5521

Chairman Dockter:(10:03)

Carmen Hickle, Committee Clerk by Anna Fiest

February 4, 2021

House Political Subdivisions Committee

HB 1331

Rep. Jason Dockter, Chair

For the record, I am Stephanie Dassinger. I am appearing on behalf of the North Dakota League of Cities. I am the deputy director and attorney for the League.

The North Dakota League of Cities appears in opposition to HB 1331.

This bill relates to initiating and referring ordinances. Initiating an ordinance is creating a new ordinance through a petition and a public vote and referring an ordinance is requiring a public vote on an existing ordinance. Section 2 of HB 1331 repeals section 40-12-01 of the North Dakota Century Code. That section of code provides that only cities operating under the commission or the modern council form of government may use the procedures under NDCC ch. 40-12 on the initiating or referring an ordinance. In North Dakota, cities can operate under the commission, modern council and council forms of government. Thus, NDCC ch. 40-12 on initiating and referring ordinances is not effective in cities operating under the council form of government.

However, NDCC ch. 40-12 is not the only place where the right to refer or initiate an ordinance arises from. Every home rule charter I have reviewed includes the right to initiate or refer an ordinance. On my last review of cities that have enacted home rule charters, out of the 357 cities in North Dakota, 145 cities' citizens have passed a home rule charter. To break that down further, based on the 2010 Census numbers, all cities with a population over 1,000 have enacted home rule charters. 42 cities out of the 45 with a population between 500-999 have enacted home rule charters, 26 cities out of 40 with a population of 250-499 have enacted home rule charters and 28 cities out of 223 with a population under 250 have enacted home rule charters. So, really, this bill only really affects the small cities. At the end of my testimony, I've included a list of the council cities that have not adopted a home rule charter and included their population as counted in the 2010 Census so that you know which cities this bill would impact.

Under NDCC § 40-12-02, a new ordinance can be initiated in a city by a petition signed by a number equal to 15% of the qualified electors who voted for all candidates for executive officer at the last regular city election. In order to understand what this means, I'm going to use a large sized non-home rule city, a medium sized non-home rule city and a small sized non-home rule city to demonstrate how many signatures are needed.

City	Population	Votes	Signatures to Initiate
Hebron	747	87 (2018 Election)	13
Frontier	214	17 (2018 Election)	2

Alice	40	13 (2020 Election)	1
-------	----	--------------------	---

Under NDCC § 40-12-08, an ordinance passed by a city governing body may be referred for a vote by filing a petition with signatures from electors equal to ten percent of all the votes cast for candidates for executive officer. Using the same cities, here is how many signatures would be required.

City	Population	Votes	Signatures to Refer
Hebron	747	87 (2018 Election)	8
Frontier	214	17 (2018 Election)	1
Alice	40	13 (2020 Election)	1

When looking at the number of signatures required to initiate or refer an ordinance, it becomes clear that with only a household or a few households in the city, every ordinance the city has, passes, or has not considered could be put to a vote at a city election.

Finally, all city residents have available a solution of recalling city elected officials if they are unhappy with the way a city is being governed. The signature threshold is higher at twenty five percent; however, those numbers are still not very high as demonstrated with the same cities below.

City	Population	Votes	Signatures to Recall Mayor
Hebron	747	87 (2018 Election)	21
Frontier	214	17 (2018 Election)	4
Alice	40	13 (2020 Election)	3

Citizens of small cities already can recall elected officials and adding the ability to initiate and recall city ordinances has the potential to allow a very small contingent of electors to force a city to conduct and pay for an election on an ordinance. Please vote for a Do Not Pass recommendation on HB 1331 and preserve the ability for our small cities to conduct business.

Council Cities that Have Not Adopted a Home Rule Charter in North Dakota

City	Population	City	Population	City	Population
Abercrombie	263	Dawson	61	Hurdsfield	84
Adams	127	Dazey	104	Inkster	50
Alamo	57	Deering	98	Jud	72
Alice	40	Des Lacs	204	Karlsruhe	82
Almont	122	Dickey	42	Kathryn	52
Alsen	35	Dodge	87	Kensal	163
Ambrose	26	Donnybrook	59	Kief	13
Amenia	94	Douglas	64	Knox	25
Amidon	20	Dunn Center	146	Kramer	29
Antler	27	Dwight	82	Landa	38
Ardoch	67	Edmore	182	Lankin	98
Argusville	475	Egeland	28	Lansford	245
Arnegard	115	Elliott	25	Lawton	30
Arthur	337	Emerado	414	Leal	20
Ayr	17	Epping	100	Lehr	80
Balfour	26	Esmond	100	Leith	16
Balta	65	Fairdale	38	Litchville	172
Bantry	14	Fingal	97	Loma	16
Barney	52	Flasher	232	Loraine	9
Bathgate	43	Flaxton	66	Ludden	23
Benedict	66	Forbes	53	Luverne	31
Bergen	7	Fordville	212	Makoti	154
Berlin	34	Forest River	125	Mantador	64
Bowbells	336	Fort Yates	184	Manvel	360
Bowdon	131	Fortuna	22	Marion	133
Braddock	21	Frontier	214	Marmarth	136
Briarwood	73	Fullerton	54	Martin	78
Brinsmade	35	Galesburg	108	Maxbass	84
Brocket	57	Gardena	29	McHenry	56
Buchanan	90	Gardner	74	Medina	308
Bucyrus	27	Gascoyne	16	Mercer	94
Butte	68	Gilby	237	Milton	58
Buxton	323	Gladstone	239	Monango	36
Calio	22	Glenfield	91	Montpelier	87
Calvin	20	Golden Valley	182	Mooreton	197
Canton City	45	Golva	61	Mountain	92
Cathay	43	Goodrich	98	Mylo	20
Cayuga	27	Grace City	63	Nekoma	50
Christine	150	Grandin	173	Newburg	110
Churchs Ferry	12	Grano	7	Niagara	53
Cleveland	83	Great Bend	60	Nome	62
Clifford	44	Hague	71	Noonan	121
Cogswell	99	Hamberg	21	North River	56
Coleharbor	79	Hamilton	61	Oberon	105
Colfax	121	Hampden	48	Oriska	118
Columbus	133	Hannah	15	Osnabrock	134
Conway	23	Hansboro	12	Overly	18
Courtenay	45	Havana	71	Palermo	74
Crary	142	Haynes	23	Parshall	903
Crystal	138	Hebron	747	Pekin	70
Davenport	252	Hunter	261	Perth	9

City	Population
Petersburg	192
Pettibone	70
Pick City	123
Pillsbury	12
Pingree	60
Pisek	106
Plaza	171
Portal	126
Prairie Rose	73
Regan	43
Reile's Acres	513
Reynolds	301
Rhame	169
Riverdale	205
Robinson	37
Rocklake	101
Rogers	46
Ross	97
Ruso	4

City	Population
Rutland	163
Ryder	85
Sanborn	192
Sarles	28
Sawyer	357
Selfridge	160
Sentinel Butte	56
Sharon	96
Sheldon	116
Sherwood	242
Sheyenne	204
Sibley	30
Solen	83
Souris	58
Spiritwood Lake	90
Springbrook	27
St. Thomas	331
Stanton	366
Starkweather	117
Sykeston	117

City	Population
Tappen	197
Taylor	148
Tolley	47
Tolna	166
Tuttle	80
Upham	130
Venturia	10
Verona	85
Voltaire	40
Walcott	235
Wales	31
Warwick	65
White Earth	80
Wildrose	110
Willow City	163
Wing	152
Wolford	36
York	23
Zap	237
Zeeland	86

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

HB 1331
2/5/2021

Relating to the number of members a city governing body; relating to initiating and referring a municipal ordinance

Chairman Dockter: (11:44). Opens for committee work.

Representatives	Attendance
Representative Jason Dockter	P
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Mary Johnson	P
Representative Lawrence R. Klemin	P
Representative Donald Longmuir	P
Representative Dave Nehring	P
Representative Marvin E. Nelson	P
Representative Luke Simons	P
Representative Nathan Toman	P

Discussion Topics:

- Ten or eleven member councils
- Increasing or decreasing members on councils

Rep. Toman: Made a do pass motion.

Rep. Nelson: Second the motion.

Representatives	Vote
Representative Jason Dockter	N
Representative Brandy Pyle	N
Representative Mary Adams	N
Representative Claire Cory	N
Representative Sebastian Ertelt	N
Representative Clayton Fegley	N
Representative Patrick Hatlestad	N
Representative Mary Johnson	N
Representative Lawrence R. Klemin	N
Representative Donald Longmuir	N

Representative Dave Nehring	N
Representative Marvin E. Nelson	Y
Representative Luke Simons	N
Representative Nathan Toman	Y

2-12-0

Motion failed.

Rep. Ertelt: Made a do not pass motion

Rep. Adams: Second the motion.

Representatives	Vote
Representative Jason Dockter	Y
Representative Brandy Pyle	Y
Representative Mary Adams	Y
Representative Claire Cory	Y
Representative Sebastian Ertelt	Y
Representative Clayton Fegley	Y
Representative Patrick Hatlestad	Y
Representative Mary Johnson	Y
Representative Lawrence R. Klemin	Y
Representative Donald Longmuir	Y
Representative Dave Nehring	Y
Representative Marvin E. Nelson	N
Representative Luke Simons	Y
Representative Nathan Toman	N

12-2-0

Rep. Johnson: Will carry the bill.

Chairman Dockter: (11:52). Closed committee work.

Carmen Hickle, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1331: Political Subdivisions Committee (Rep. Dockter, Chairman) recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1331 was placed on the Eleventh order on the calendar.