

2021 HOUSE POLITICAL SUBDIVISIONS

HB 1170

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

HB1170
1/21/2021 AM
House Political Subdivisions

Relating to removal of township officers

Chairman Dockter: (9:00) Opened the hearing. Roll call all present.

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	P
Representative Marvin E. Nelson	P
Representative Luke Simons	P
Representative Nathan Toman	P

Discussion Topics:

- Removing township officers
- Making it simpler to replace officers

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

Larry Syverson: (9:04) Testimony #2101, in favor.

Al Jaeger, Secretary of State: (9:15) In favor, testimony #1991.

Chairman Dockter: Closed the hearing (9:32).

Carmen Hickle, Committee Clerk



2101

North Dakota Township Officers Association

Promoting basic Grassroots Government!

Larry A Syverson, Executive Secretary
465-150th Ave NE
Mayville ND 58257-9011
(701)430-1735
larry.ndtoa@gmail.com

January 21, 2021

House Political Subdivisions Committee

In support of HB 1170

Good morning Chairman Dockter and members of the House Political Subdivisions Committee. I am Larry Syverson, the Executive Secretary of the North Dakota Township Officers Association. NDTOA represents the nearly 6,000 Township Officers that serve 1,317 organized ND Townships.

I wish to thank Representatives Nehring and Hagert for introducing HB 1170 on our behalf.

This bill is not about excusing township officers from being recalled, it is about making it simpler to replace them.

One does not have to file a petition to get on the ballot for a township election. Our elections are simple, at the annual township meeting nominations are made and then there is a ballot, that's it.

If the citizens are unhappy with the job being done by an officer they should be able to replace that officer in a similar manor. It should not require input from the Secretary of State and the Attorney General.

HB 1170 would provide that simple way for the citizens to replace their township officers if they wish. Please give it your favorable consideration.

Thank you Chairman Dockter and committee members; that concludes my prepared statement; I will try to answer any questions you may have.

ALVIN A. JAEGER
SECRETARY OF STATE
WEBSITE sos.nd.gov



PHONE (701) 328-2900
EMAIL sos@nd.gov

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

January 21, 2021

TO: Chairman Dockter and Members of the House Political Subdivisions Committee

FR: Al Jaeger, Secretary of State

RE: HB 1170 – Removal of Township Officers

Attached to this testimony is N.D.C.C. § 44-08-21, which governs the recall of elected officials of political subdivisions. The process for a recall is clearly stated and it follows all timelines related to conducting a “normal” election.

However, while a Township is a political subdivision, the election of its officers is an entirely different process compared to other political subdivisions. It is done during a meeting held annually on the third Thursday of March.

Nevertheless, in April 2019, my office received a request from a sponsoring committee to recall township officials according to the provisions of N.D.C.C. § 44-09-21(2). Even though Township elections have a different protocol, my office had no choice but to accept the recall petitions for review because the law does not provide an exception for a Township.

Consequently, my office was placed in an administrative position it had never encountered before with a recall. The best way to explain it might be an analogy. We took an apple (normal election timelines) and a cucumber (the Township election process) and blended them together to create a smoothie (a Township recall election) albeit with a strange taste.

It definitely was a challenge, and the assistance of the Township Officers Association was invaluable. We all agreed afterwards that a legislative change was needed to prevent a future recurrence and yet provide township residents with a viable option for removing a Township officer.

Therefore, I definitely support the change in Section 1, line 8, by which a township official is exempted from the recall provisions of N.D.C.C. § 44-08-21.

Then, in Section 2, I believe the Township Officers Association has provided a practical process for the removal of a Township officer if the residents of the Township are so inclined to initiate such an action. It also matches the traditional governance guidelines unique to Townships.

44-08-21. Recall of elected officials of political subdivisions.

1. An elected official of a political subdivision, except an official subject to recall under section 10 of article III of the Constitution of North Dakota, is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the official sought to be recalled was on the ballot, not including other recall elections. An official who was appointed to fill a vacancy is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the office of the official sought to be recalled was on the ballot, not including other recall elections. The provisions of section 16.1-01-09.1, as they relate to signing and circulating recall petitions, apply to petitions under this section.
2. A recall petition must include a stated reason for the recall and be approved as to form before circulation by the secretary of state. The secretary of state shall complete the review of the form of a recall petition in not less than five, nor more than seven, business days, excluding Saturdays. To be effective, a recall petition must be submitted to the appropriate filing officer within ninety days after the date the recall petition is approved for circulation by the secretary of state.
3. Once circulated, the recall petition must be filed with the filing officer with whom a petition for nomination to the office in question is filed unless that filing officer is the individual subject to recall, in which case the petition must be filed with the secretary of state. The filing officer with whom the petition is filed shall pass on the sufficiency of a petition pursuant to section 16.1-01-09.1. Except as otherwise provided in this section, the filing officer shall call a special election to be held not sooner than ninety-five days nor later than one hundred five days following the date the filing officer certifies the petition valid and sufficient. No special election may be called if that date would be within ninety-five days of the next scheduled election. An elector's name may not be removed from a recall petition that has been submitted to and received by the appropriate filing officer.
4. The name of the official to be recalled must be placed on the ballot unless the official resigns within ten days after the filing officer certifies the petition is valid and sufficient. Other candidates for the office may be nominated in a manner provided by law and shall file nominating papers with the appropriate filing officer by the sixty-fourth day before the scheduled recall election. If the official resigns, the appropriate political subdivision governing body may call a special election or appoint an individual to complete the unexpired term of the office. When the election results have been officially declared, the candidate receiving the highest number of votes is elected for the remainder of the term. No official is subject to recall twice during the term for which the official was elected. An official whose office is on the ballot at a regularly scheduled election occurring within one year is not subject to recall if the recall special election would occur within one year of the next regularly scheduled election in which the official could be re-elected.

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

HB 1170
1/21/2021

Relating to removal of township officers

Chairman Dockter: (2:48pm) Opens the hearing.

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:

- Electing township officers

Rep. Longmuir (2:48pm) motion do pass

Rep. Nehring (2:48pm) second the motion

Representatives	Vote
Representative Jason Dockter	Y
Representative Brandy Pyle	Y
Representative Mary Adams	Y
Representative Claire Cory	Y
Representative Sebastian Ertelt	N
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	Y
Representative Luke Simons	N
Representative Nathan Toman	N

House Political Subdivisions Committee
HB 1170
1/21/2021
Page 2

Motion passed 11-3-0
Floor assignment **Rep. Nehring**

Chairman Dockter: (3:05pm) Hearing closed.

Carmen Hickle, Committee Clerk by Anna Fiest

REPORT OF STANDING COMMITTEE

HB 1170: Political Subdivisions Committee (Rep. Dockter, Chairman) recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1170 was placed on the Eleventh order on the calendar.

2021 SENATE POLITICAL SUBDIVISIONS

HB 1170

2021 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Sakakawea, State Capitol

HB 1170
3/4/2021

A BILL for an Act to create and enact section 58-04-02.2 of the North Dakota Century Code, relating to the removal of township officers; and to amend and reenact subsection 1 of section 44-08-21 and section 58-04-02 of the North Dakota Century Code, relating to the removal of township officers.

Chairman Burckhard opened the hearing on HB 1170 at 10:30 a.m. Members present: Burckhard, Anderson, Lee, Larson, Kannianen, Oban, Heitkamp.

Discussion Topics:

- Recall processes on township elections

[10:30] Representative Dave Nehring, District 8. Introduced HB 1170.

[10:32] Al Jaeger, Secretary of State. Provided testimony #7274 in favor.

[10:44] Larry Syverson, Executive Secretary, ND Township Officers Association. Provided testimony #7385 in favor.

Senator Anderson moves **DO PASS**.

Senator Kannianen seconded.

Senators	Vote
Senator Randy A. Burckhard	Y
Senator Howard C. Anderson, Jr.	Y
Senator Jason G. Heitkamp	Y
Senator Jordan Kannianen	Y
Senator Diane Larson	Y
Senator Judy Lee	Y
Senator Erin Oban	Y

The motion passed 7-0-0

Senator Kannianen will carry HB 1170.

Additional written testimony: N/A

Chairman Burckhard closed the hearing on HB 1170 at 10:46 a.m.

Patricia Lahr, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1170: Political Subdivisions Committee (Sen. Burckhard, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1170 was placed on the Fourteenth order on the calendar.

ALVIN A. JAEGER
SECRETARY OF STATE

WEBSITE sos.nd.gov



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

PHONE (701) 328-2900
EMAIL sos@nd.gov

March 4, 2021

TO: Chairman Burckhard and Members of the Senate Political Subdivisions Committee

FR: Al Jaeger, Secretary of State

RE: HB 1170 – Removal of Township Officers

Attached to this testimony is N.D.C.C. § 44-08-21, which governs the recall of elected officials of political subdivisions. The process for a recall is clearly stated and it follows all timelines related to conducting a "normal" election.

However, while a Township is a political subdivision, the election of its officers is an entirely different process compared to other political subdivisions. They are elected during a meeting held annually on the third Thursday of March and is based in part on Roberts Rules of Order.

Nevertheless, in April 2019, my office received a request from a sponsoring committee to recall township officials according to the provisions of N.D.C.C. § 44-09-21(2). Even though Township elections have a different protocol, my office had no choice but to accept the recall petitions for review because the law did not provide an exception for a Township.

Consequently, my office was placed in an administrative position with a recall that it had never encountered. The best way to explain it might be an analogy. We took an apple (normal election timelines) and a cucumber (the Township election process) and blended them together to create a smoothie (a Township recall election) albeit with a very strange taste.

It definitely was a challenge, and the assistance of the Township Officers Association was invaluable. We all agreed afterwards that a legislative change was needed to prevent a future recurrence and yet provide township residents with a viable option for removing a Township officer.

Therefore, I definitely support the change in Section 1, line 8, by which a township official is exempted from the recall provisions of N.D.C.C. § 44-08-21.

Then in Section 2, the Township Officers Association has provided a practical process for the removal of a Township officer if the residents of the Township are so inclined to initiate such an action. It also matches the traditional governance and election guidelines unique to Townships.

Please give this bill a favorable Do Pass recommendation.

44-08-21. Recall of elected officials of political subdivisions.

1. An elected official of a political subdivision, except an official subject to recall under section 10 of article III of the Constitution of North Dakota, is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the official sought to be recalled was on the ballot, not including other recall elections. An official who was appointed to fill a vacancy is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the office of the official sought to be recalled was on the ballot, not including other recall elections. The provisions of section 16.1-01-09.1, as they relate to signing and circulating recall petitions, apply to petitions under this section.
2. A recall petition must include a stated reason for the recall and be approved as to form before circulation by the secretary of state. The secretary of state shall complete the review of the form of a recall petition in not less than five, nor more than seven, business days, excluding Saturdays. To be effective, a recall petition must be submitted to the appropriate filing officer within ninety days after the date the recall petition is approved for circulation by the secretary of state.
3. Once circulated, the recall petition must be filed with the filing officer with whom a petition for nomination to the office in question is filed unless that filing officer is the individual subject to recall, in which case the petition must be filed with the secretary of state. The filing officer with whom the petition is filed shall pass on the sufficiency of a petition pursuant to section 16.1-01-09.1. Except as otherwise provided in this section, the filing officer shall call a special election to be held not sooner than ninety-five days nor later than one hundred five days following the date the filing officer certifies the petition valid and sufficient. No special election may be called if that date would be within ninety-five days of the next scheduled election. An elector's name may not be removed from a recall petition that has been submitted to and received by the appropriate filing officer.
4. The name of the official to be recalled must be placed on the ballot unless the official resigns within ten days after the filing officer certifies the petition is valid and sufficient. Other candidates for the office may be nominated in a manner provided by law and shall file nominating papers with the appropriate filing officer by the sixty-fourth day before the scheduled recall election. If the official resigns, the appropriate political subdivision governing body may call a special election or appoint an individual to complete the unexpired term of the office. When the election results have been officially declared, the candidate receiving the highest number of votes is elected for the remainder of the term. No official is subject to recall twice during the term for which the official was elected. An official whose office is on the ballot at a regularly scheduled election occurring within one year is not subject to recall if the recall special election would occur within one year of the next regularly scheduled election in which the official could be re-elected.



North Dakota Township Officers Association

Promoting basic Grassroots Government!

Larry A Syverson, Executive Secretary
 465-150th Ave NE
 Mayville ND 58257-9011
 (701)430-1735
larry.ndtoa@gmail.com

March 4, 2021

Senate Political Subdivisions Committee

In support of HB 1170

Good morning Chairman Burckhard and members of the Senate Political Subdivisions Committee. I am Larry Syverson, the Executive Secretary of the North Dakota Township Officers Association. NDTOA represents the nearly 6,000 Township Officers that serve 1,317 organized ND Townships.

I wish to thank the Secretary of State and his staff for all the work they did on this issue and Representatives Nehring and Hagert for introducing HB 1170 on our behalf.

This bill is not about excusing township officers from being recalled, it is about making it simpler to replace them.

One does not have to file a petition to get on the ballot for a township election. Our elections are simple, at the annual township meeting nominations are made and then there is a ballot, that's it.

If the citizens are unhappy with the job being done by an officer they should be able to replace that officer in a similar manor. It should not require input from the Secretary of State and the Attorney General.

HB 1170 would provide that simple way for the citizens to replace their township officers if they wish. Please give it your favorable consideration.

Thank you Chairman Burckhard and committee members; that concludes my prepared statement; I will try to answer any questions you may have.