

2021 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1198

2021 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1198
1/21/2021

Relating to the governor's authority regarding polling places during a declared state of disaster or emergency

Vice Chair B. Koppelman opened the hearing at 10:06 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:

- Physical polling location minimums
- Election law

Rep. Vetter testified in favor with testimony #2130.

Jim Silrum, Deputy Secretary of State, testified in opposition with testimony #2036.

Additional written testimony: #1977, #2071-Bea Streifel, ND CWPAC

Vice Chair B. Koppelman closed the hearing at 10:33 a.m.

Carmen Hart, Committee Clerk

Vetter, Steve M.

From: Vetter, Steve M.
Sent: Thursday, January 21, 2021 8:16 AM
To: Vetter, Steve M.

Hi my name is Representative Steve Vetter

I represent District 18 which encompasses part of North Grand Forks, a part of South Grand Forks, the airbase and a small rural area. I stand here in support of House Bill 1198.

Chairman Koppelman and GVA committee,

HB 1198 guarantees every ND county will have at minimum 1 physical polling location. This is already the law but what this bill does is not allow this law to change by executive order. Tell story.

In the last primary election, there was no physical polling locations to vote on election day in several counties. And this is after the legislature spent millions on new voting machines. I heard from several people that they were not able to vote on Election Day. This shouldn't happen. HB 1198 needs to pass so this doesn't happen or worse in a general election.

Voting on Election Day has been a long tradition since our founding. There is a reason it is the law to require at least one physical polling location in each county.

This bill is in no way an attempt to attack on our governor. It has to do with the office of Governor. The office of a single person should not be able to wield the power of elections. Because Election law is so crucial to the integrity of our government, it should only be changed by a vote of the legislature and the governor.

If an emergency should arise where election law truly needs to be changed, then a special session could be called by the Governor and the law could be changed.

HB 1198 is critical bill to protect our elections. I hope you will join me and support HB 1198 with a Do Pass recommendation. Thank you

ALVIN A. JAEGER
SECRETARY OF STATE

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

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 1198 – No suspension of polling place requirement allowed

Currently, NDCC § 37-17.1-05 does not mention elections. The proposed amendment in this bill would prevent the Governor from suspending the polling place requirement in Chapter 16.1-11.1 of the NDCC by executive order.

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 are able to vote.

Disasters can be caused by tornados, blizzards, floods, fires, and many other unforeseen events. Any of these 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.

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.

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.

HB 1198

YES YES YES I am 100% in support of this bill and recommend a do pass!!

What the Governor did during the Primary 2020 Election was ILLEGAL! This can never happen again!

Thank you for your work on this bill – please pass

2021 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1198
2/4/2021

Relating to the governor's authority regarding polling places during a declared state of disaster or emergency

Chairman Kasper opened the committee work meeting at 4:44 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:

- Election changes by executive order

Rep. Vetter moved a **Do Pass**. **Rep. Steiner** seconded the motion.

Representatives	Vote
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Pamela Anderson	N
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	N
Representative Vicky Steiner	Y
Representative Greg Stemen	Y
Representative Steve Vetter	Y

Motion passes. 11-2-1. **Rep. Vetter** is the carrier.

Chairman Kasper closed the meeting at 4:49 p.m.

House Government and Veterans Affairs Committee

HB 1198

2/4/2021

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Carmen Hart, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1198: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB
1198 was placed on the Eleventh order on the calendar.

2021 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1198

2021 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Room JW216, State Capitol

HB 1198
3/5/2021

A BILL relating to the governor's authority regarding polling places during a declared state of disaster or emergency.

Chair Vedaa opened the hearing at 11:00 AM with Sen Vedaa, Meyer, Elkin, K Roers, Weber, Wobbema, and Marsellais present.

Discussion Topics:

- Preparation time to open polls
- Available Personal Protective Equipment (PPE)
- Poll worker availability

Rep. Vetter - District 18 - introduced the bill #7555

Donnell Presky, ND Assoc of Acounties - testified opposed #7468

Jim Silrum, Deputy Sec of State – testified neutral

Additional written testimony:

Renee Kuntz – in support #7377

Adjourned at 11:30 AM

Pam Dever, Committee Clerk

Good Morning Chairman Vedaa and GVA Senators.

Introduction

HB 1198 guarantees every county will have a physical polling location on the Election. If you look at the century code, you will find it already states there must be one physical polling location per county. However, this law guarantees it.

For example, last election cycle, primary election was mail-in only and did not allow for people to vote on Election Day which is contrary to tradition.

If an election needs to be mail-in only election because of an emergency then a special session could be called and the issue settled quickly. Especially with the new approved technologies available because it could be done remotely. In last year's primary there was plenty of time to call a special remote session.

If you decide to pass this bill, you won't need to beg your county official to please allow you to vote in person. This bill provides the current minimum standard to not change.

This bill is in no way an attack on the Governor. This is about limiting the office to have the ability to limit the people's ability to vote in person for the Elections.

Elections are too important to be in the control of one person. If a significant change like not having one physical polling location per county

needs to be changed because an emergency then the decision should be made by a consensus of the legislature.

This is a simple but very important election integrity bill. I would ask that you give HB 1198 a favorable Do Pass recommendation. Thank you and I will stand for questions.

Testimony Prepared for the
Senate Government & Veterans Affairs
 March 5, 2021
 Donnell Preskey, NDACo



RE: OPPOSITION TO HB 1198

Mr. Chair and committee members, I'm Donnell Preskey 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 to restrict the Governor's authority relating to polling locations is before you today. 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 in March and requested 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.

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

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.

I support HB 1198. I believe it's in the best interest of ND that our governor not have executive power effecting voting during a state of emergency. Our current governor has overstepped his bounds and needs to be reined in. May God guide you and bless you all!

2021 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Room JW216, State Capitol

HB 1198
3/12/2021

Relating to the governor's authority regarding polling places during a declared state of disaster or emergency.
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Chair Vedaa called to order at 11:38 AM with Sen Vedaa, Meyer, Elkin, K Roers, Weber, Wobbema, and Marcellais present

Discussion Topics:

- Committee Work

Committee decided to wait

Adjourned at 11:47 AM

Pam Dever, Committee Clerk

2021 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Room JW216, State Capitol

HB 1198
3/18/2021

Relating to the governor's authority regarding polling places during a declared state of emergency or emergency.

Chair Vedaa called to order at 11:27 AM with Sen Vedaa, Meyer, Elkin, K Roers, Weber, Wobbema, and Marcellais present.

Discussion Topics:

- Committee Work

Sen K Roers moves a **Do Not Pass**

Sen Elkin seconded

Roll Call Vote: 5 -- YES 2 -- NO -0-ab Motion Passed

Senators	Vote
Senator Shawn Vedaa	N
Senator Scott Meyer	N
Senator Jay R. Elkin	Y
Senator Richard Marcellais	Y
Senator Kristin Roers	Y
Senator Mark F. Webber	Y
Senator Michael A. Wobbema	Y

Sen K Roers will carry the bill.

Adjourned at 11:33 AM

Pam Dever, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1198: Government and Veterans Affairs Committee (Sen. Vedaa, Chairman)
recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB
1198 was placed on the Fourteenth order on the calendar.