

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1244

2001 HOUSE POLITICAL SUBDIVISIONS

HB 1244

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1244

House Political Subdivisions Committee

Conference Committee

Hearing Date 2-8-01

Type Number	Side A	Side B	Meter #
1	xx		100--1975
1		xx	2300--2700
Committee Clerk Signature <i>Alan Dever</i>			

Minutes: Chair Froese opened the hearing on HB1244 relating to qualified electors in a rural fire protection district.

Rep. Jim Boehm, Dist 31, Mandan : testified in support of HB1244. Basic bill.

Rep. Herbel : (195) Will any voting rights change?

Rep. Boehm : No, everything stays the same there.

Rep. N.Johnson : What do the board members do?

Rep. Boehm : They can raise the mill levy, vote to buy trucks, etc.

Rep. Dennis Renner, Dist. 31 : here in support of bill.

Sen. Steve Tomac, Dist 31 : testified in support of HB1244. In some townships it's hard to find people willing to serve. Some townships are so small they may have only one person living there and they may not want to serve. What do you do. This bill gives flexibility so we can fill fire protection boards. This allows landowners who have moved off the land they own, but still live nearby, the ability to serve and represent the township on the fire protection board.

House Political Subdivisions Committee
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Rep. Delmore : Will this bill effect the present mill levy?

Sen. Tomac : No.

Leon Samuel, New Salem Fire Protection Dist : testified in support. (SEE ATTACHED)

Rep. N. Johnson : (930) What are the duties of the board members?

Leon : The fire protection board is much like a park board. We have to stay within the budget we prepare. We ask for money to run the fire protection district. We buy equipment, etc.

Rep. Delmore : Is this a state wide problem?

Leon : It's more of a problem in the less populated areas of ND. There are 18 townships in our fire district and we have 17 board members. The one township has no representation because no one will serve.

Rep. Delmore : Can we change the township borders?

Leon : Not that I'm aware of.

Chair Froseth : Do you know what the maximum mills are fir fire district.

Leon : We try to keep our max at 5 mills.

Rep. N. Johnson : (1330) Do the board members run for office?

Leon : Most of the time you are railroaded in. There is an election, but you may be the only name.

Rep. Herbel : How many townships in your district make up your fire district?

Leon : We have 18 full or part. Some don't follow county lines. We could have 18 people.

Lois Hartman, Exec. Director, ND Firefighter's Assoc : here in support of HB1244. (SEE ATTACHED TESTIMONY) This bill gives needed flexibility. Our population is shifting. Fire districts have by-laws that govern their fire districts. Their laws can be more restrictive but not less than state law.

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Chairman Froese : (1820) Can you be on two boards if you own property in two districts?

Lois : Yes.

Vice-Chair Severson : The mill levy is 13. You can levy up to 5 mills without a vote of the people.

Rep. Delmore : How many fire districts are there?

Lois : 388 and 4 carrier departments and 12 combinations.

Chair Froese : Any more testimony? Hearing none, HB1244 is closed.

Tape 1, side B (2300-2700) Chairman Froese : Let's look at HB1244.

Rep. Maragos : I move a DO PASS.

Rep. Delmore : I second.

VOTE: 14 YES and 0 NO with 1 absent. PASSED. Rep. Tiegan will carry.

Date: 2-8-01
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1244

House POLITICAL SUBDIVISIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Maragos Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman Glen Froseth	/		Rep. Wayne W. Tieman	/	
Vice-Chair Dale C. Severson	/				
Rep. Lois Delmore	/				
Rep. Rachael Disrud	/				
Rep. Bruce Eckre	/				
Rep. Mary Ekstrom	/				
Rep. April Fairfield	AB				
Rep. Michael Grosz	/				
Rep. Jane Gunter	/				
Rep. Gil Herbel	/				
Rep. Nancy Johnson	/				
Rep. William E. Kretschmar	/				
Rep. Carol A. Niemeier	/				
Rep. Andrew G. Maragos	/				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep. Tieman

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

REPORT OF STANDING COMMITTEE (410)
February 8, 2001 11:28 a.m.

Module No: HR-23-2713
Carrier: Tieman
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1244: Political Subdivisions Committee (Rep. Froseth, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1244 was placed on the Eleventh order on the calendar.

2001 SENATE POLITICAL SUBDIVISIONS

HB 1244

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1244

Senate Political Subdivisions Committee

Conference Committee

Hearing Date March 2, 2001

Tape Number	Side A	Side B	Meter #
1		X	14.9-31.0
March 8, 2001 2	X		16.8- 17.6
March 22, 2001 1	X		8.0-10.1
Committee Clerk Signature <i>Mary Jo Wocken</i>			

Minutes:

The hearing was opened on HB 1244 which relates to qualified electors in a rural fire protection district.

All senators were present except for Senator Flakoll.

REPRESENTATIVE BOEHM: Introduced HB1244 in addition to a sponsor of the bill. It changes the qualified electors in fire districts. We have a problem in some of the rural districts where people are moving off the land and they are not residing in these districts. In order to be on the board this bill would change that you could live in town, yet own the land and still be on the fire board. SENATOR LYSON: When I read this it could be somebody, a doctor or whoever professional person came out here and bought a quarter of land to hunt on and he can sit on this board. REPRESENTATIVE BOEHM: Probably so. Yes. He probably wouldn't want to because he is probably most likely enough other work that he wouldn't want to sit on a local fire board. Not likely, but possible. SENATOR WATNE: Are these people elected, appointed or what, I

haven't read. REPRESENTATIVE BOEHM: They are elected. SENATOR WATNE: They are all elected. SENATOR TOMAC: Cosponsor of this bill. Senator Lyson and I think that Rep. Boehm gave a brief description that is accurate. Senator Lyson, its an excellent question and actually Chairman Cook and members of the committee, I apologized as I received a memo, an e-mail from the Attorney General's office who raised the constitutional question about an out of state, a non resident that could actually own land and be part of that. I believe that it is Article 2, of our Constitution prohibits that. So I was unable, there was some kind of technology error in my computer so it couldn't be printed it for the committee, as soon as the Legislative Council gets the computer glitch fixed I will supply that to the committee. With a memo from John Fox of the Attorney General's office who under a normal review of the bill indicates that it may be unconstitutional. I think it is easily fixed within the bill, by just limiting that to state residents. But Rep. Boehm explained the Morton County and some of our more rural counties, we do have a problem finding people interested in serving on fire districts. I believe the current law allows one member from each township to serve. In rural Mandan, rural Morton County, the fire district that serves me, I think out of the twenty-two or twenty-three possible directors we've only got 12, 13, or 14. The counties, the areas are getting that desolate of people that are interested in serving on that. This will allow the fire district to handle that. That's my brief understanding of the problem, I think there are people here who have a better understanding of the problem. I will supply you with the copy of that memo when I am able to get it printed out. LEON SAMUEL: Member of the New Salem Fire Protection District. See written attached testimony. I urge passage of this legislation. The question raised with Senator Tomac, we would have no problem in amending it to basically North Dakota residents for whatever, but, that is the situation I guess that all you would need to do is be a free hold interest within that township and could reside

possible in the city or the neighboring township or in the neighboring city that would not be in that fire district. If there would be a problem with an out of state resident we would have no problem with amending the bill to state. SENATOR LYSON: If we look at this in a different respect, we're talking about freelance landholders and I understand what your saying. If we would look at this in a different light even if, say I lived in township D and there was nobody in township C that was interested, and nobody in township E and so on, could a person in under the law now, allow that person in that has township D an interest from all be able to sit on that board for all those townships? LEON SAMUEL: My understanding now is that in what we tried to do in our fire district in New Salem is basically have someone from each district that resides in, these are landowners be elected from that area to sit on that board. Now what your basically saying if I understand right, that, if an individual lives out there and owns land in three different townships, that.. SENATOR LYSON: Not even if he owns land. But he is interested there, he is living in one township but he is interested in them all, but he don't have land in those townships. Why couldn't one person represent three or four townships if that was the case of the electors? LEON SAMUEL: Cause I think right now that the code does state that they have to be a pre hold landowner. I mean there would have to be some change in the code in order to allow that. So as of right now he could not, according to code. SENATOR LYSON: That's what we're looking at a changing the code right now. So would we be, would it bother the towns or the firefighters organizations if an amendment like this would go in to allow somebody that wasn't a landowner but did have property and live in one of the townships around there to represent more than one township if that's what the electors wanted? LEON SAMUEL: It is kind of hard to say. You might get to the situation where someone within the fire district because they were not a free hold land owner within any township. You might end up having all of them from the city of New

Salem, they all would live within the city of New Salem, all the people themselves, now would that really be representing all of the interests of everyone within the fire district. I don't know.

SENATOR LYSON: I think that it may if that what your electorate wants. LEON SAMUEL: If

that is what the electors wanted. Yes, that could happen. That is not saying that its good or that's

bad, I am just saying, that there is a possibility that you would have rural land owners out there

saying, well we're not being represented because everybody you know is living in the city of

New Salem instead of being in the rural area. SENATOR LYSON: It may just spark some people

to get off their duffs and say I'll run. SENATOR MATHERN: I am thinking back to my home

area of Edgeley and I saw a lot of people move to town and maybe either leased their land to

someone or the son took over the farm. So this would allow Dad who lives in town now to serve

on that board, since he still owns the land. Okay? LEON SAMUEL: Yes, that's what would

happen. That is kind of what is happening now and in other words the father has been on the fire

district board for a number of years, he basically has turned it over to the child and is probably

still the owner of the land but has moved to town. He would like to stay on the fire district board

but, by statute is not allowed at this time. ALAN KLEIN: Secretary of the North Dakota

Firefighters Association Executive Board. Spoke in support of this bill. See written attached

testimony. SENATOR WATNE: Help me understand a little ..it about this association group.

How large are they? How many are on this board or whatever for the district? How is that

organized? ALAN KLEIN: Are you referring to the fire district boards? SENATOR WATNE:

yes. ALAN KLEIN: I think, I am not a real expert on the law but I think the law allows for a

minimum of five members and it can be as many as one from each township represented. But I

think they have the authority to set that number themselves through the board. SENATOR

POLOVITZ: Why do they have to own the land in order to be on that board? ALAN KLEIN: It

has to do with these people are the folks that raise taxes. I think it has to something to do with the old taxation without representation. If I am not a property owner, my personal situation I am on the Mandan Rural Fire Department. I live in the city limits of Mandan and so I am not eligible to be on the Mandan Rural Fire Board. I am not sure why that was placed in law, but I have a hunch that it has to do with the fact they are able to raise the taxes. SENATOR POLOVITZ: This looks like a law that is specific towards your particular area or Senator Tomac's area. Have you looked at the possibility at what it does to other areas? Cause this law as I understand it would be for the whole state right? SENATOR COOK: For the whole state. SENATOR POLOVITZ: And the question I have is what does it do in other areas that might be more populated? Is it good or bad? Would there be an objection from those other areas? ALAN KLEIN: That is a very good question. I can't answer that because I haven't visited with any fire districts that are beyond our immediate areas here, like with our district, New Salem and Glen Ullin and some of those areas. I just can't answer that. I don't know if that would be a problem for them or not. SENATOR MATHERN: I just want to respond to that and think that it is a rural population and its universal except for around the large cities. It is for every county that is facing what your area is facing. SENATOR WATNE: Do you know how many fire districts there are in the state of North Dakota? ALAN KLEIN: In North Dakota we have approximately 389 fire departments, of those 389 there are guessing about 250 fire districts. A district can either be a rural area, in some cases the city and the rural area have combined to make a district. There are areas where, I used to live in McClusky, that was an area where we had a fire district in the rural and a city fire department. We both shared the same fire hall, they had different funding than we had. It was an interesting experience. SENATOR COOK: Should the director be required to live in the district? ALAN KLEIN: I believe that , no, to answer your question is no, without going into why I think that.

SENATOR COOK: Okay. CORY FONG: I think that visiting with Senator Tomac, I there are some amendments that have been suggested specifically dealing with Section 4 of the bill that I think would be important to consider. I don't think they have been proposed. We have not proposed them but I would seriously commit to at least consider those amendments. The concern in section four right now is that it may open it up to persons who are not residents of North Dakota. That would conflict with the Constitution of North Dakota because voters have to be residents in the state. I don't have the amendments but that is the conflict with section four and I will and I hope the committee will consider those.

Hearing Closed on HB1244.

March 8, 2001 (Tape 2, Side A, 16.6- 17.6)

Senator Cook asked the committee to come back for discussion on this bill.

Senator Lyson brought amendments from Senator Tomac. There was some confusion as to what amendment would be acceptable by the sponsors. As the discussion progressed, it was decided that Senator Lyson would confer with Senator Tomac's amendments before further action would be taken.

Senator Lyson moved a do pass on amendment .0201

Senator Flakoll- 2nd.

Since the committee couldn't decipher the amendments so both Senator Lyson and Senator Flakoll withdrew their motions.

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Senate Political Subdivisions Committee

Bill/Resolution Number HB1244

Hearing Date March 2, 2001

March 22, 2001 (Tape 1, Side A, Meter # 8.1-10.2)

Senator Cook asked the committee for discussion on this bill. Senator Lyson stated that he has done a lot of research on this and have talked to the gentlemen behind me that township organizations and fire districts. And with that there is a lot of sentiment right now saying to get rid of this thing and let us do our own thing. We may be back in two years.

Senator Lyson moved a Do Not Pass

Senator Lee- 2nd

The committee held a short discussion about this bill before voting.

Roll call vote: 8 Yeas, 0 No, 0 Abs.

Carrier: Senator Lyson

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1244

Page 3, line 19, remove the overstrike over "~~who are~~" and remove "and the"

Page 3, line 20, remove the overstrike over "~~and who are residing~~"

Page 3, line 21, remove the overstrike over "~~within the boundaries of the district~~"

Page 3, line 25, remove "or own a freehold interest in real property"

Re-number accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1244

Page 3, line 19, remove the overstrike over "~~who are~~" and remove "and the"

Page 3, line 20, remove the overstrike over "~~and who are residing~~"

Page 3, line 21, remove the overstrike over "~~within the boundaries of the district~~"

Page 3, line 25, overstrike "reside" and remove "or"

Renumber accordingly

REPORT OF STANDING COMMITTEE (410)
March 22, 2001 11:28 a.m.

Module No: SR-50-6392
Carrier: Lyson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1244: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO NOT PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1244 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1244

TESTIMONY TO THE
HOUSE POLITICAL SUBDIVISIONS COMMITTEE

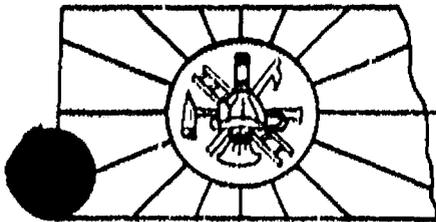
CONCERNING HOUSE BILL 1244

Mr. Chairman – Members of the Committee

My name is Leon Samuel and I am a member of the New Salem Fire Protection District. Our Fire District has asked Representative Jim Boehm to introduce House Bill 1244 and I am here in support and urge passage of this legislation. This bill would change the language of the present North Dakota Century Code, as related to Fire Districts, to state that an individual would be eligible to be a candidate for a directorship and could be elected as such if he or she owned a freehold interest in real property in a township which they wish to represent.

The bill would eliminate the requirement of having to reside in the respective township. The reason for this request for change is that it is becoming more difficult to find willing and qualified candidates for the positions that meet the requirements of having to own a freehold interest in real property and also reside within the township. The New Salem Fire Protection District was organized in 1972 and consists of 428 square miles and like many other districts, has one elected director from each township within the District. Although the present North Dakota Century Code was adequate at the time many Fire Districts were organized some 30 years ago, things and the way we do business have changed.

With that we support passage of House Bill 1244. Thank you Mr. Chairman and members of this committee for allowing me time to appear before you. I would try to answer any questions you may have.



North Dakota Firefighter's Association

113 S. 5th St.
P.O. Box 6127
Bismarck, ND 58506 6127

Phone: 701-222-2799
Fax: 701-222-2899

House Political Subdivisions Committee Testimony in favor of House Bill No. 1244 February 8, 2001

Good Morning Mr. Chairman and members of the House Political Subdivisions Committee. For the record, my name is Lois Hartman. I am the Executive Director of the North Dakota Firefighter's Association. I appear before you today in favor of House Bill No. 1244.

In many areas of rural North Dakota, people are moving off the farm and into town. This places a hardship on the rural fire protection districts because they are losing board members. The Century Code requires that members of the rural fire protection district boards reside in the township or district that they represent. This bill gives the flexibility for a person who is a freeholder, or landowner, to remain on the fire protection district board, even though he no longer lives on the land.

This change seems to be necessary in order for fire protection districts to continue to have adequate representation from their coverage area. I have visited with several fire chiefs and they have told me that this is a change that is needed. So, Mr. Chairman, I urge a do pass on House Bill 1244. Thank you.

TESTIMONY TO THE SENATE POLITICAL SUBDIVISIONS COMMITTEE

CONCERNING HOUSE BILL 1244

Mr. Chairman -- Members of the Committee

My name is Leon Samuel and I am a member of the New Salem Fire Protection District. Our Fire District has asked Representative Jim Boehm to introduce House Bill 1244 and I am here in support and urge passage of this legislation. This bill would change the language of the present North Dakota Century Code, as related to Fire Districts, to state that an individual would be eligible to be a candidate for a directorship and could be elected as such if he or she owned a freehold interest in real property in a township which they wish to represent.

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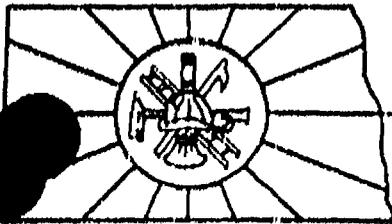


"Fox, John J."
<jfox@state.nd.us>

02/27/01 02:35 PM

To: "Tomac, Steven W." <stomac@state.nd.us>
cc:
Subject: HB 1244

Sen. Tomac: Sandi Tabor asked that I contact you about 1244. We have identified a constitutional problem with section 4 of the bill that could be easily remedied with some simple amendments. If you would like, I can draft the amendments for your consideration. The problem arises on page 3, lines 19-21 dealing with allowing real property owners to vote on organizing a rural fire protection district. Under the current version of the law such owners may vote but they have to be residents of the district. Section 4 of 1244 deletes the residency requirement. However, Article II, Section 1 of the N.D. Constitution requires that electors be residents of the state. As currently drafted, 1244 would permit non-residents of the state owning property in the district to vote, creating the constitutional question. Amendments requiring the property owners to be residents of the state would resolve the issue. Please contact me if you have any questions or would like proposed amendments.-- John Fox, Assistant Attorney General. 328-2215



North Dakota Firefighter's Association

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P.O. Box 6127
Bismarck, ND 58506-6127

Phone: 701-222-2799
Fax: 701-222-2899

Senate Political Subdivisions Committee Testimony in favor of House Bill No. 1244 March 2, 2001

Good Morning Mr. Chairman and members of the Senate Political Subdivisions Committee. For the record, my name is Alan Klein. I am the Executive Board Secretary of the North Dakota Firefighter's Association. I appear before you today in favor of House Bill No. 1244.

In many areas of rural North Dakota, people are moving off the farm and into town. This places a hardship on the rural fire protection districts because they are losing board members. The Century Code requires that members of the rural fire protection district boards reside in the township or district that they represent. This bill gives the flexibility for a person who is a freeholder, or landowner, to remain on the fire protection district board, even though he no longer lives on the land.

This change seems to be necessary in order for fire protection districts to continue to have adequate representation from their coverage area. I have visited with several fire chiefs and they have told me that this is a change that is needed. So, Mr. Chairman, I urge a do pass on House Bill 1244. Thank you.