

2013 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1418

2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee Fort Union Room, State Capitol

HB 1418
February 8, 2013
Job #18626

Conference Committee

Committee Clerk Signature

Mary Brucher

Explanation or reason for introduction of bill/resolution:

Relating to the appointment of poll checkers; verification of eligibility of voters; relating to challenging the right to vote.

Minutes:

Attached testimony #1, 2

Chairman Jim Kasper opened the hearing on HB 1418.

Rep. Kim Koppelman appeared in support and as a sponsor of this bill. This bill is an attempt to ensure the integrity of the growing production process in North Dakota. We are the only state in the nation without voter registration. I'm not proposing voter registration I voted against the measures for voter registration. I like doing things the way we've always done them in North Dakota. One thing we all want to make certain of is that elections are secure, the ballot box has integrity, and voters' rights are ensured. All of our citizens should vote, vote once, and every vote should be counted once. This bill was passed last session by the House of Representatives but narrowly failed the Senate. When it got to the Senate it was heavily amended. This is not a magic formula and it's not necessarily the only approach or the best approach but it is one approach. Right now without voter registration when you come to the polls you are asked for identification, that's part of the governmental role. In North Dakota the easiest way to do that is with voter photo identification and if you don't have that there are other options. It has to demonstrate that you are eligible to vote here which shows you have lived here for 30 days, your address, and what precinct you're voting in. The problem becomes when you don't have that identification. Currently when someone comes to the polls and they don't have identification they are asked for one of the other forms of identification but if they have neither they are asked to sign an affidavit which is a sworn statement stating they are who they say they are, they live where they say they live, and they lived there for at least 30 days then are qualified to vote. They can lie on that statement but that would be a criminal violation. After voting all the affidavits go to the state's attorney who then verifies these by sending out a postcard and if the postcard doesn't come back they assume they were ineligible to vote. There are some problems with the mail system. State's attorneys could go out and verify in other ways and try to prosecute violators but it just doesn't happen. I think there's been one prosecution in North Dakota. In the 2008 election in Cass County there were over 450 affidavits filed and statewide over the last election I was told there were over 10,000. Even if the process worked where they could prosecute the people who

violated the voting system you might have a criminal penalty but then the ballot still went in the ballot box. This bill proposes to create something called provisional ballots which would tweak our process, it wouldn't change it radically. It would be the same process that is currently in place with the exception that when you sign that affidavit and when you vote your ballot would go into a provisional ballot envelope to be set aside pending the verification process. If you forgot your identification your ballot would be put in the provisional ballot envelope and if you come back that day with proper verification they would pull your ballot out of the provisional envelope and you could vote then drop in the regular ballot box. If you can't come back that same day then you could have up until the time the canvassing vote meets to verify who the voter is. They do the same thing in the county auditor's office; say you voted two days ago but didn't have your identification and now they have it the vote could then be counted. It's just a matter of verifying the voter. I've asked for an amendment to the bill to offer an alternative which is voter identification. One way or another we need to have some system in North Dakota to verify the integrity of the ballot box. It's not to keep people from voting, it's just the opposite. It's to ensure that when you vote your vote is held in high esteem and is secured and not cancelled out by someone else who is not qualified to vote. The one thing the voter identification might do that I don't think the provisional ballot would is to get at the absentee process.

Rep. Scott Louser: In this process where somebody signs an affidavit and a postcard is sent but the postcard comes back indicating that person didn't live there anymore how do you prosecute someone who lied on their affidavit if they aren't who they are or they aren't where they live?

Rep. Kim Koppelman: I think that would involve some investigative work and I would submit that a lot of state's attorneys are not going to spend a lot of time and put our resources into that.

Rep. Steven Zaiser: I think there is a disenfranchisement of couple different groups; people who live in nursing homes or similar facilities where they don't have an address or may forget the address and the other group are the homeless who we don't always see and who don't have an address or can't submit identification. I'm wondering how your legislation fits into these groups of people?

Rep. Kim Koppelman: I don't think we would address them any differently than we do now. For someone at a nursing home they would have to show their identification and I would assume the nursing home would have some verification for them. The homeless is a little more difficult issue and our law states that you have to live somewhere and have a voting residency for 30 days or more and I don't know how they would even prove that now.

Rep. Steven Zaiser: That wouldn't be legitimate under the law to have them say this person lives here; you have to have a polling person vouch for you.

Chairman Jim Kasper: Let's have Mr. Sirum answer that after Representative Koppelman is done.

Rep. Gail Mooney: You said something about an incremental step to absentee ballots; can you elaborate a little more on that?

Rep. Kim Koppelman: One of the critiques of the bill before you with the approach of the provisional ballots is that the absentee vote really doesn't come into play unless you were at the polls. The bill is silent on that issue. The voter identification would be verified when you request your absentee ballot just as it would at the polls.

Rep. Marie Strinden: The issue I have with this bill is the two step voting process so I wish there was a way to solve this problem without making it an extra hassle for the military, students, or people who can't get back to vote.

Rep. Kim Koppelman: If there are solutions to help the military vote we would certainly look at that. Another issue came up with the college students that are living away from home. It would be very easy for the colleges to provide an identification that shows the students are eligible to vote or have something on line that they could print out to bring to the polls or mail in.

Rep. Bill Amerman: Years ago you went and voted, there was no mailings. Now in my county you either mail in or go to the courthouse. Our actions are why these bills are here. Are we doing something wrong here or maybe we should have just well enough alone?

Rep. Kim Koppelman: We live in a different world now. Things like absentee voting have escalated in recent years. This bill doesn't address all the issues. I have an amendment that I will provide as soon as it is done.

Opposition:

Matthew Larson, University of Mary student, appeared in opposition. Attachment 1
(End 23:50)

Rep. Karen Karls: So you're saying the most of the college students don't have a driver's license or college identification or something like that to prove residence?

Matt Larson, University of Mary student: Currently at the University of Mary our identifications do not have the addresses listed so with this process would cause it to be very difficult for us to go into the polls and cast our ballots after living on campus for 30 days. The current process we have is the campus would send letters to the county auditor giving the names of all the students who live on campus but with this bill that won't be allowed and it would make it a lot more difficult for us to cast our votes.

Rep. Ben Koppelman: My understanding is that the current law will allow them to verify residency, name, date of birth, and address but it can be based on multiple identifications. When you come to the polls you could use both your driver's license and your college identification so what would be the problem with that?

Matt Larson: If that was the case that would be appropriate I guess. The issue would be for the students who don't have their form of identification on them at the time. It is difficult for college students to get back to campus and get all that information then come back

again. It would be ideal if they would have all that with them but the fact of the matter is a lot of college students don't carry both identifications with them.

Rep. Ben Koppelman: We appreciate you coming in and we are definitely interested in getting students to vote but I would argue that when I went out after school I always had my identification with me so I don't think it's unreasonable to have that same expectation of the college students now. Does that seem reasonable?

Matt Larson: It seems reasonable. I just don't think it's that cut and dry. It's just my opinion that it doesn't always happen and we have to find a way to provide for them and for college students who don't have their residency listed on their college identification it becomes very difficult with this. If we had a letter from the college stating who was a resident that should be allowed.

Rep. Karen Rohr: Does the student body or organization provide any voter education to the student body during election years?

Matt Larson: We had education for first time voters and we had buses take them to the polls but that polling place is several miles outside the University of Mary. Education is key and I am a real proponent of educating ahead of time to inform the students of the process of voting and what they are voting for. The problem comes back with students who don't bring their identification along and for those students to get the affidavits approved can also be quite difficult.

Vice Chair Randy Boehning: Would you feel uncomfortable if your student identification had your address and date of birth on it?

Matt Larson: Personally I would not feel uncomfortable with that. Our student identifications at the University of Mary provide our names and student number. I think it would make it a lot easier in situations like this.

Rep. Bill Amerman: Can the university put that information on your college identification?

Matt Larson: I am not sure about the legalities of that.

Chairman Jim Kasper: What is the typical load per day now that a full time college student has?

Matt Larson: It really depends on the student. I know some students are in classes all day long but as a freshman I have a bit more free time. The workload now is rather difficult, especially students who work.

Chairman Jim Kasper: How many miles is the University of Mary from downtown Bismarck?

Matt Larson: Our voting place is at the United Tribes which is about 4-5 miles away from school.

Chairman Jim Kasper: How would you feel if the state of North Dakota would issue State voter identification free to solve some of these issues?

Matt Larson: I don't necessarily know enough about that to form a very valid opinion but I would agree that the process of Representative Koppelman's could use some polishing.

Chairman Jim Kasper: The most important part of the formal government we have is for the right of people to vote number one and then that legal voters vote and not illegal voters vote.

Matt Larson: We need to maintain the integrity of our elections.

Rep. Steven Zaiser: If the state were to issue state identifications do you think it would be a problem to determine what would be required to get that or do you think there would be some problems in getting that identification?

Matt Larson: I think there would definitely be some problems with getting that identification. Issues arise with those students who have a residence on campus and want to vote in the districts where they live out of school. Also students who may have missed the deadline for absentee voting then they have three days before election and are trying to figure out a way to vote it wouldn't be possible with that. We need to make sure that it is as easy as possible for college students to be able to cast our votes and have our votes be heard and counted so we can voice our opinions in the state and the nation.

Jim Silman, Deputy Secretary of State: Appeared and delivered testimony from Michael Montplaisir, Cass County Auditor. Attachment 2. Answered the question of nursing home, college students, or others verification and voting and also the homeless issue. Under current law and as this law puts it forward, the institution that they are a part of can provide a form of identification to that individual stating they are a resident or a student at that facility. The law requires that the individual must bring that identification with them. The institution cannot provide blanket coverage for all students or all residents of the facility. We have tried to have colleges and universities provide an identification but wasn't a complete success across the state. An affidavit is only used when that person cannot provide anything. They either provide the identification up front or they provide it on the back end. If the person can't provide identification at all, whether up front or at the end, their ballot would not be counted. This bill doesn't change the way it is currently it just changes when that identification must be received before the ballot can be counted.

Rep. Gail Mooney: There is statute that provides institutional letter that would verify for an individual?

Jim Silman: The law specifically states that a form of identification prescribed by the secretary of state. A person may use student identification along with their driver's license or use a utility bill or a letter from the facility where they attend. It's strictly for the purpose of tying that particular individual to an address within the precinct in which they want to vote.

Rep. Vicky Steiner: I have a daughter who doesn't drive but she got a letter from the department of transportation and she uses that to vote. That is something that's available to homeless people as well. I'm wondering if we couldn't have the homeless shelter be the address for that person just to get through the address portion. I think there are ways to make sure people have identification in order to vote rather than go through all these other things we do.

Jim Silman: We've tried to do that under current law and we've tried to make it so everyone can provide identification prior to voting. There are many available options open to them.

Rep. Bill Amerman: All these bills are similar so are we making a mountain out of a mole hill? Are these necessary?

Jim Silman: There are over 25 election bills submitted to the House. Those that we offered we to address military overseas voters and that sort of thing. Back in the year 2000 there was an issue in Florida To Help America Vote Act and it was to change the way voting was run forever until that act is repealed or changed. To implement that act the government said they were going to appropriate \$3 billion to do that which they've never quite done. North Dakota received some money but there wasn't enough for the machines and the way voting was done because every polling station is required to have a minimum of \$12,000 worth of equipment in order to count the vote and reject the ballot or to warn the voter that they have cross voted or over voted or something like that. There is also equipment there for people with disabilities so they can mark the ballot. The cost of elections has gone up tremendously, well over \$2 million just to run elections. With all these identification possibilities are available to them it poses a potential for a problem with is trying to be addressed in this bill. I am in a neutral position in regard to this bill.

Rep. Karen Rohr: Could you review the process of preventing a student from voting twice, their home or their college campus?

Jim Silman: We attempt to catch this with the central voter file where anytime somebody who votes has a voting record. We struggle with the situation where a Joe Smith has a voter file in Bismarck and a Joe Smith appears in the polls in another location using a form of identification other than their driver's license tying them to that individual back in Bismarck suddenly we don't know whether that Joe Smith and that Joe Smith are the same person or a different person. You can see that we need to have some sort of identification or idea that we have one voter with one record.

Rep. Gail Mooney: The more ideal situation is that people come to the poll with their identification and if they don't have it they come back.

Jim Silman: As it currently stands, this is what this bill does. It seems to me that the best situation is to have the law say what 98% of the people already do and that is appear at the polls and if they appear at the polls bring some sort of identification that establishes them at that precinct.

Rep. Gail Mooney: And forego the affidavit process?

Jim Silman: Yes.

Rep. Gary Paur: With the suggestion of a statewide voter identification, is that heading down the road of voter registration?

Jim Silman: I hesitate to say this on the record but you caught me in a situation where I don't know how I can escape it any other way but whether we in North Dakota like to admit it or not there are some who would say that our current system is not really a system without voter registration. Our system is a system of universal registration because you are a resident of legal age and you haven't had the court take away your right to vote you are automatically a voter, therefore you are a qualified elector. This is a voter identification bill at the very core.

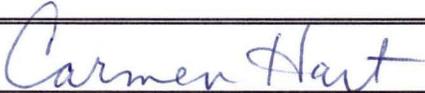
Representative Kasper: Closed hearing.

2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

HB 1418
February 21, 2013
19342

Conference Committee

Committee Clerk Signature	
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Explanation or reason for introduction of bill/resolution:

Relating to the appointment of poll checkers; verification of eligibility of voters; relating to challenging the right to vote.

Minutes:

You may make reference to "attached testimony."

Chairman Jim Kasper 1418 is a provisional ballot and it has to do with the voter affidavit. 1332 and 1275 are very similar to 1418. We seem to be going in the direction of the voter affidavit going away. If the voter affidavit goes away and we have the voter ID card for citizens who do not have the appropriate identification, 1418 would be sort of a duplicative, probably not needed, bill.

Rep. Ben Koppelman We didn't have any amendments proposed on this?

Chairman Jim Kasper There were some amendments, but the amendments pertained to the voter affidavit.

Rep. Gail Mooney I would make a motion to Do not pass on 1418.

Rep. Vernon Laning seconded.

A roll call vote was taken and resulted in **DO NOT PASS, 11-2, 1 ABSENT.** **Rep. Vicky Steiner** is the carrier.

Date: 2-21-13
 Roll Call Vote #: _____

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1418**

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Mooney Seconded By Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman		X
Vice Chairman Randy Boehning	X		Rep. Gail Mooney	X	
Rep. Jason Dockter	X		Rep. Marie Strinden		
Rep. Karen Karls	X		Rep. Steven Zaiser		X
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Gary Paur	X				
Rep. Karen Rohr	X				
Rep. Vicky Steiner	X				

Total (Yes) 11 No 2

Absent 1

Floor Assignment Steiner

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

REPORT OF STANDING COMMITTEE

HB 1418: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **DO NOT PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING).
HB 1418 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

HB 1418

Good morning. My name is Matt Larson. I am a student at the University of Mary and I am here today to talk about House Bill 1418. and the effect it will have on college students throughout the State of North Dakota.

Section 3, Subsection 1 states that *“the poll Clerks shall request the individual to show identification, which includes the individual’s residential address and date of birth”*. Approved forms of identification are

- a) An official form of identification issued by the state
- b) An official form of identification issued by a tribal government
- c) A form of identification prescribed by the secretary of state; or
- d) A combination of any of the forms of identification under subdivisions A through C.

This can in turn be problematic for college students since the majority of students who live on campus will not have any of the above listed items. thus making it harder for them to exercise their right to vote. Section 3, subsection 2 states that *“If the individual offering to vote does not have or refuses to show an appropriate form of identification, the individual may be allowed to vote if a member of the election board or a poll clerk can vouch for the individual as a qualified elector”*. This then brings us to Section 3. Subsection 4, which states, *“If an individual offering to vote does not meet either of the options set forth in subsection 1 or 2, the election board shall offer the individual the opportunity to execute a voter’s affidavit acknowledged before an election board member.”* The individual wishing to vote shall then *“return with approved identification to the polling place before the polls close or verify the affiant’s identity with the office of the appropriate election official before the meeting of the canvassing board.”*

#102

As Representatives of the people of North Dakota, it is your duty to make sure that all those who wish to vote, and are eligible voters, may exercise their right to vote as easily as possible. This includes college students such as myself.

I have been informed that college students wishing to vote may provide the poll clerk with a letter signed by a university official stating their residency on campus. This letter must include the student's name, place of residency, as well as date of birth. If the letter does not have their date of birth on it, a driver's license is to be accepted along with the letter.

It is of utmost importance that no bill hampers the ability for a college student to vote and the process I stated above will do just that.

(The State of North Dakota does allow absentee voting, however this is a timely process and many college students miss the deadline and are thus denied their right to vote.)

Members of the Committee, today I ask you one thing, on behalf of college students all across the State of North Dakota. Please do not make it harder for us to cast our ballots. We have enough things to stress about already; our ability to vote should not be one of them.

Thank you.

**Written Testimony To
THE HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
Friday, February 8, 2013 by
Michael Montplaisir, Cass County Auditor, Cass County Government**

REGARDING HOUSE BILL 1418

Chairman Kasper and committee members my name is Michael Montplaisir and I am the County Auditor in Cass County. I am unable to appear in person but wanted to give you some thoughts on House Bill 1418.

Just as in Section 3 of House Bill 1275, House Bill 1418 establishes a requirement for a provisional ballot in North Dakota elections. It requires a voter who completes an affidavit to return either to the polling place or to the elections office to provide identification before the ballot can be counted. Without any changes, this would affect a lot of people in Cass County. As mentioned in the testimony for House Bill 1275, 4,589 people voted by affidavit in Cass County for the 2012 General Election. Of these, one has been referred to the States Attorney so far for review because it appears he was not a resident of the precinct in which he voted, although he appears to be a Cass County resident.

About half of the affidavits are completed because the voter does not have their current address on their driver's license, although they have changed the data with the Department of Motor Vehicle. Most of the remaining are students who are here from other areas of North Dakota and still have their parents' address on their identification.

From our experience there does not seem to be a big problem with affidavits, however, if we are going to require identification before counting a ballot that requirement should come before they are given a ballot. Putting the identification requirement up front ensures that when a voter is given a ballot, that ballot is going to be counted.

We do have segments of our population that, in some cases, may not have current forms of identification. People who don't drive, people who live in nursing homes and people who are homeless are groups that may not have a current form of identification.