

2017 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2212

2017 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2212
1/24/2017
Job Number-27260

- Subcommittee
 Conference Committee

Committee Clerk Signature

Era Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to residency requirements of bank directors

Minutes:

Attachments 1

Chairman Klein: Called the committee to order.

Senator Casper: Introduced the bill. This is a bill that came to him from a group out of Fargo that asked him to sponsor the bill. He said he worked with both banking groups from the state on it. Essentially right now under the code, a bank can have no less than three individuals on their board and at least two of those three need to be residents of the State of North Dakota, this bill would allow some flexibility for that. It would allow them to live within fifty miles of North Dakota, thinking of situations in border communities, that is where this comes to me from. Particularly there are some banks in the Fargo area where they are facing that situation where they have directors and board members that are living across the river. Very simple bill. The issue before the committee with discussion will surround are need and the legislatures intent with regard to requiring that citizenship and that North Dakota residency for the folks that are on our boards in our banks. (:25-1:44)

Rick Clayburgh, President and CEO of the North Dakota Bankers Association: In support on behalf of the organization. He thanked Senator Casper for introducing the bill on behalf of one of their members in Fargo who came to them just after the legislative session started but after the legislative committee had met with this issue. We helped them define what they were looking for and worked with Senator Casper and also members to sign on as co-sponsors for the legislation. It wasn't until their NDBA committee met that they took a full position on the bill and NDBA is in support of the legislation on behalf of its members. The bill is originally targeted at fifty miles by the member bank. The fifty miles is based on what Minnesota statute is and they thought they would make it reciprocal to Minnesota. When the bank members met they asked the question of why it was only fifty miles. The thought is that banks are across borders and they would like to have representatives from varying trade areas that they are involved in and represented on their board as well. As I talked to a few legislators who are also involved in bank leadership, one who summers in the Detroit Lake area and may make that his permanent home and part of that area is outside of the fifty miles. The question is why fifty miles. Some states have used a hundred miles and South Dakota

doesn't have a mileage requirement, you just need to be a United States citizen. They are asking that the legislature take a look at this. They would support removing that requirement and making it a United State citizen. If nothing else, we do feel fifty miles is a little too narrow in terms of the eastern part of North Dakota when you start talking about the trade area of our eastern banks. (2:38-5:54)

Senator Casper: What we would be doing in this instance is for state chartered banks you would be required to live within fifty miles of the state of North Dakota or if we amended it you would only be required to be a United States citizen. If we amended it, we could have people coming from South Dakota to charter a bank in North Dakota even though they all reside in Sioux Falls?

Rick Clayburgh: Yes, and we look at North Dakota institutions that have established operations down in Arizona. A number of our banks have operations in Arizona and you could have some of those folks involved in that moving their residency from North Dakota down to Arizona but still have ties and connections to North Dakota.

Chairman Klein: Asked what was the history of why we would require members to be residence of the state.

Rick Clayburgh: I don't have the specific answer but in terms of if the statute had been amended at a time previous to say that two-thirds, they were saying a percentage could be outside of the state. I don't know what the old reasoning would have been. It probably goes back to pre-interstate and branch banking.

Senator Poolman: Said just to clarify when you gave the Arizona example, you can still have one-third who don't have to be residence of North Dakota and your board can still have a minority of members who can be from somewhere else currently, correct?

Rick Clayburgh: That is correct and our member bank would like to change that to make it comparable to our surrounding states, the reason the bill is here to allow more flexibility for them.

Barry Haugen, President of the Independent Community Banks of North Dakota: While this request did not come from a member our members do support the expansion of the mileage. We don't have strong feelings about a magical number we do support the fifty miles and if it was something greater than that we would support that as well but generally we support this bill.

Chairman Klein: How about just a resident of the United States, would that cause you to think this over some more?

Barry Haugen: I think that would cause me to at least circle back with our legislative committee on that. We didn't specifically discuss that.

Robert J. Entringer, Commissioner of the Department of Financial Institutions: Written testimony, see attachment #1. In support. (12:15-14:30)

Chairman Klein: Would the South Dakota law cause trouble with you or are you looking for miles?

Robert J. Entringer: Not really, South Dakota has had that as part of their statute and it works fine for them.

Chairman Klein: You are still regulating the banks and the directors from wherever have to make sure the bank is complying to regulation.

Robert J. Entringer: Absolutely, that is correct.

Chairman Klein: Closed the hearing.

Discussion on if they should be adding miles or changing it to United State citizen. There will be an amendment drafted by Senator Casper and Senator Poolman. (16:00-21:05)

2017 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2212
1/25/2017
Job Number 27353

- Subcommittee
 Conference Committee

Committee Clerk Signature

Era Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to residency requirements of bank directors

Minutes:

Attachment 1

Chairman Klein: Opened the meeting.

Senator Casper: Said that after the discussion yesterday and the testimony, he spoke to both of the groups and most people felt at this stage they should just go from 50 to 100. We are changing the amount of miles allowed to go outside of North Dakota. We thought going nationwide would open up a number of other issues that weren't originally contemplated in the drafting of this legislation and the representatives of the bankers said it is something they will continue to look at. When this goes over to the other side and if they feel it's prudent and want to do that, they can press that on the other side and we can come together at the end. If it isn't something that happens this session it could be something we bring in next session Amendment, see attachment #1.

Rick Clayburgh, President and CEO of the North Dakota Bankers Association: Under the bill as amended, two thirds of the directors need to be a state resident or live within 100 miles. Somebody who is 110 miles could fall into the one third provision, so there is flexibility for that.

Senator Casper moved to adopt the draft proposed amendment.

Senator Burckhard seconded the motion.

Roll Call Vote: Yes-7 No-0 Absent-0

Senator Casper made a motion for a do pass as amended.

Senator Burckhard seconded the motion.

Roll Call Vote: Yes-7 No-0 Absent-0

Senate Industry, Business and Labor Committee

SB 2212

1/25/2017

Page 2

Senator Klein will carry the bill.

January 25, 2017

OK
1/25/17

PROPOSED AMENDMENTS TO SENATE BILL NO. 2212

Page 1, line 10, replace "fifty" with "one hundred"

Page 1, line 20, replace "fifty" with "one hundred"

Page 2, line 5, replace "fifty" with "one hundred"

Renumber accordingly

**2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2212**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: Senator Casper's Amendment - 17.0812.01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Senator Casper Seconded By Senator Burckhard

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Marcellais	x	
Vice Chairman Campbell	x				
Senator Roers	x				
Senator Burckhard	x				
Senator Casper	x				
Senator Poolman	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: *See attachment #1
 Senator Casper's amendment*

**2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2212**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: Senator Casper's Amendment - 17.0812.01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Senator Casper Seconded By Senator Burckhard

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Marcellais	x	
Vice Chairman Campbell	x				
Senator Roers	x				
Senator Burckhard	x				
Senator Casper	x				
Senator Poolman	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Klein

If the vote is on an amendment, briefly indicate intent: *See attachment #1
Senator Casper's amendment*

REPORT OF STANDING COMMITTEE

SB 2212: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2212 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "fifty" with "one hundred"

Page 1, line 20, replace "fifty" with "one hundred"

Page 2, line 5, replace "fifty" with "one hundred"

Renumber accordingly

2017 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2212

2017 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2212
3/6/2017
28700

- Subcommittee
 Conference Committee

Ellen Litang

Explanation or reason for introduction of bill/resolution:

Residency requirements of bank directors.

Minutes:

Attachment 1

Chairman Keiser: Opens the hearing of SB 2212.

Senator Casper ~ District 27-Fargo: Right now, members of the bank board of ND, you can have only so many that are from outside of the state. This would allow the one that need to reside within the state or a 100 miles from the location of where the bank is chartered. The debate was how far from the bank & we came to a conclusion that 100 miles was good enough & reasonable.

2:50

Rep Ruby: Do you know the reason why the restriction in the first place?

Sen Casper: I don't know.

Rep Becker: Can the main office be anywhere in the US or is it just within the section of code that further delineates that the main office must be in ND?

Sen Casper: It needs to be a ND charter bank, so it would be in ND.

Rick Clayburgh ~ President & CEO of the ND Bankers Association: We are in support of SB 2212. This is for the banks that are chartered in Minnesota to have board members that live in the 50-mile radius that we copied. We had the discussion on the senate side & our own legislative committee of ND bankers, looks at us & said "why 50 miles, why not 51 or 53". In South Dakota just required US residency with one member being a South Dakota resident. The senate committee felt that was a little too far. We felt that 100 miles was reasonable to address most concerns that we have.

Going to Rep Becker comment, we are dealing with our ND chartered banks, there are banks that have charters in other states that are authorized to do business in ND. These are banks

that are chartered in ND & the part we are mostly looking at is the valley. This allows a bank that expanded their market footprint into Minnesota & they want to have representation of folks from within that footprint.

We ask that you support the bill.

Rep Becker: The phrase, any number of natural persons, is that the portion that would prohibit Canadians from owning a bank charter in ND?

Clayburgh: A natural means a living individual being, not a corporation.

Rep Becker: This would allow a ND charter bank be wholly owned by Canadian citizens.

Clayburgh: We are not changing anything; we are just changing the 100 miles within that. In terms of the Canadian border, it's a market issue.

Rep Becker: Prior to this bill it was 2/3's would have to be ND residents. With this bill, none have to be, right?

Clayburgh: That's correct. We are not changing; we are saying or with that 100 miles.

Rep Becker: Technically, no organizing board members don't have to be in ND residence?

Clayburgh: I would probably agree with that.

Rep Ruby: The term natural persons, wouldn't they normally use the word individuals? The term persons would be corporations or people of any variety. Wouldn't that clear it up using individuals?

Clayburgh: That's current law & hasn't been an issue for years.

Chairman Keiser: I will ask Jennifer Clark & get a clarification. What problem is this correcting? It says that 2/3's has to be residents.

Clayburgh: That other portion, the 1/3 could be anyone that lives anywhere. This issue is the institution in Fargo area market, they have an active footprint in the area. The 100 miles solves the issue.

Rep Ruby: The way the bill looks, it an expansion to allow people from a certain distance, but in reality, it could be a limiter.

Clayburgh: The 100 radius is for the 2/3's of ND residence, the remaining 1/3 could be anywhere.

Rep Louser: How large is the board?

Clayburgh: This is not limiting it; this would be any institution that has corporate charter within that 100 miles.

Chairman Keiser: The point he is trying to make is they have the authority to increase the number on their board. Right?

Clayburgh: Yes, they could do that within that limit. In the grand scheme of things, this looks at the ownership of the bank & how that expanded market place can be represented on that board.

Rep Becker: The market, why not open it up entirely?

Clayburgh: The motion was to open it up amongst the banker committee, the Senate was not comfortable, they felt that 50 was a little too restrictive. They made the decision to make it 100 miles.

Robert Entringer ~ Commissioner: Attachment 1.

20:30

Rep Kasper: Page 2, lines 7-9, I thought we are talking about a bank, nowhere in there is it talking about annuities & insurance products. Can you explain what that means?

Entringer: The emphasis on there is trust company & we do have 4 independent trust companies. We are expanding that for trust companies. As far as annuities & safety deposit, we don't have companies that just engage in offering that.

Rep Kasper: This is old law?

Entringer: Correct.

Rep Kasper: However, what would be the implications be if a bank wanted to start a company transacting in an annuity? Why is it needed in the banking statute?

Entringer: We do have the authority to offering insurance products.

Rep Kasper: That's not developing them, it's selling.

Entringer: That's true.

Rep Kasper: Does this give them the right to develop an annuity & sell it?

Entringer: I honestly don't know the answer to that question.

Rep Kasper: I would like clarification on that.

Entringer: I think that the powers section 605, it pretty detailed as far as what the activities that they can engage. I think that would limit it.

Rep Kasper: This say, may form a corporation for the purpose of transaction business as an annuity. Can you provide specifically the annuity?

Chairman Keiser: We will hear this on Wednesday morning so you can take care of that.

Barry Haugen ~ President of the Independent Community Banks of ND: We support SB 2212; it gives the flexibility. We would not be averse to the South Dakota scenario of a bill.

Rep Kasper: The possibility exists that the bank could be located in Bismarck. I know a lot of people that have lake cabins in Minnesota. That more than 100 miles from the office, does that create a problem with how the language is written.

Haugen: It could. We would not necessarily be averse to & more lenient to structure to South Dakota.

Rep Becker: Could you call up Senator Campbell.

Senator Campbell: This is about governance for the word natural person.

Rep Becker: You made it a case for why it's not necessary to have it restrictive with 2/3 being ND residence & opening it up. It seems though that based on that case made it a bit odd to simply have a carve out. Are you opposed to a stance, is there a reason not to model it after South Dakota's law?

Sen Campbell: I'm not opposed to it. I would the discussion in the committee, the other chamber, involved mostly how big of a change we are making & what we are opening up to.

Chairman Keiser: Anyone else here to testify in support, opposition, neutral position?
Closes the hearing.

2017 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2212
3/8/2017
28888

- Subcommittee
 Conference Committee

Ellen Letang

Explanation or reason for introduction of bill/resolution:

Residency requirements of bank directors.

Minutes:

Attachment 1

Chairman Keiser: Opens the hearing of SB 2212.

Rick Claybough ~ ND Banker's Association: Attachment 1. Goes over the handout.

When LC drafted this bill they picked up code, they picked up 3 section & it should be 4 sections.

Section 1: on the bill, deals who may form a banking formation, there is no need to change that. Signing must be 2/3. So these amendments strike section 1 of the bill.

Section 3: Does the same thing on forming a corporate trust company in ND & it's who may. The amendments strike section 3 of the bill.

Rep Ruby: Do other states have that limitation to starts one now or do we have a requirement that is unique?

Claybough: Two parts to that, this is not unusual to require citizens of the state to be involved in the formation. Once it's form it, then you govern it through a board of directors. That the direction that we wanted to talk about, the governance not the formation.

Chairman Keiser: Whether it formation or governance, do other states have the same proportional requirements?

Claybough: It depends, states vary. It's becoming a less of an issue, a marketing issue.

Claybough: Continues testimony.

Section 2 deals with the board makeup would become section 1. Then there would be a new section 2. That is the part that was inadvertently left out & we didn't catch it until we started this discussion. That is the same concept who directs a bank & who directs a trust company.

In the end, the bill will only address the board of directors of a bank & trust company.

Rep Kasper: On the third line of your amendment, 2/3 of the directors must be citizens of the US. Does this amendment & the other statute that is there, does this now say no director must be a citizen of the state of ND?

Claybourgh: That what this does that the way it was discussion with the committee when talked about potentially, as Minnesota does, with the 50 mile, they potentially have all the directors within that 50-mile radius but not in the state of Minnesota. Our bankers who are involved in our legislative committee, are saying, it's who is running the bank & it should be the decision of who's running the bank.

Rep Ruby: With 2/3 must be US citizens, that assumes that 1/3 could be Canada?

Clayboardugh: It's not common but not uncommon, but they could have a member from Canada.

Rep Boschee: Are there concerns or opportunities to opening it up for more regional representation. Is this an opportunity or a challenge that we should be concerned about?

Claybourgh: In talking with the commissioner, we don't see any hidden concerns. I don't see it as a windfall or opportunity in attracting a bank or business. I see it eliminating some frustrations that banks might have in working with their leadership.

Rep Becker: You used the term owners & I was corrected on Monday that this wasn't about ownership. Now we have a situation where you have brought in term owners, we have the board of directors, with the proposed amendment only deals with the board of directors. Then we have the organizing members. Those people that decide to form & charter a bank. My understanding on Monday we clearly wanted to apply that geographic rule of 100 miles to the people that form the bank. Now, we are not touching it & only applying the new rule of being a citizen of the US to the board of directors.

Claybourgh: That's my use an interchangeable use of terminology. An owner can be director but a director isn't necessarily an owner. In talking with the commissioner it was felt that current section 1 on the formation for both a bank & a trust company, really isn't needed. If you want to add to the bill, but it's not necessary what we were trying to address is the directorship of an institution. When I used owner, there can be family owned banks that have a board of directors that are made up of family members.

Rep Becker: What we are looking at people who are going to charter a bank in ND?

Claybourgh: Laws have changed significantly over the years. This is for section 1 & 3, but section 1 are for the creation of a state chartered bank in ND. There are other institutions that are authorized to do business in ND, to go through the proper process of being approved

through the state banking board whose charters are not in ND. That is the reason we don't need section 1 because to create a state chartered bank in ND. To maintain the 2/3's residence, if you want to make it just US citizens, that fine, or keep the current law, that's fine also. That is not our issue. Our issue is the membership of directors.

Rep Becker: It seems to me in looking at the laws, what makes sense? Do we need to restrict it to North Dakotans or both the directors & organization association members? It sounded on Monday, that we did. Now today, it sounds like, we are just going to focus on a particular situation that must exist where we want to have directors who live in the Detroit Lakes area.

Claybough: About the idea of the formation of trust companies & annuities, as we left the room, the commissioners said that we don't need section 1 or 3 because we trying to address is the directorship. Where section 1 & 3 came into the bill was through working with legislative council in drafting the bill. We were not involved in drafting the bill. If was put in by one of our member banks by Senator Casper.

Chairman Keiser: This is a technical issue, on page 1, line 18-21, when we turn to the new section, why do we want to restate, the second sentence, why do we want it in this section when it's already accounted for in the previous section?

Claybough: That is the section that deals with the directorship of a bank. This section on the amendment side, that a new section for the trust side than the banking side.

Chairman Keiser: Further discussion? What are the wishes of the committee?

Rep Ruby: Moves the amendment.

Rep Laning: Second.

Chairman Keiser: Further discussion on the amendment?

Voice vote ~ Motion carried.

Chairman Keiser: What are the wishes of the committee?

Rep Kasper: Moves a Do Pass as Amended.

Rep Ruby: Second.

Chairman Keiser: Further discussion?

Roll call was taken for a Do Pass as Amended on SB 2212 with 13 yes, 0 no, 1 absent & the carrier is Rep Dobervich.

3/6/17 DP

March 8, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2212

- Page 1, line 1, remove "section 6-02-02,"
- Page 1, line 1, remove the second comma
- Page 1, line 2, replace "6-05-01" with "6-05-06"
- Page 1, remove lines 5 through 15
- Page 1, line 19, overstrike "a majority" and insert immediately thereafter "at least two-thirds"
- Page 1, line 19, overstrike "residents" and insert immediately thereafter "citizens"
- Page 1, line 20, overstrike "state of North Dakota"
- Page 1, line 20, remove "or reside within one hundred miles of the main office of the"
- Page 1, line 21, replace "association's banking facility" with "United States"
- Page 2, remove lines 3 through 31
- Page 3, replace lines 1 through 9 with:

"SECTION 2. AMENDMENT. Section 6-05-06 of the North Dakota Century Code is amended and reenacted as follows:

6-05-06. Directors - Qualifications - Terms - Vacancies.

All the corporate powers of such a corporation must be exercised by a board of directors of not less than three nor more than twenty-five in number, and such officers and agents as it elects or appoints. ~~A majority~~ At least two-thirds of the directors must be citizens of ~~this state~~ the United States. Any director who becomes in any manner disqualified shall vacate that director's office thereupon. Every director, when elected or appointed, shall take the oath specified in section 6-03-04. Such oath, subscribed by the director making it and certified by the officer before whom it was taken, must be transmitted at once to the commissioner to be filed in the commissioner's office. The articles of incorporation must state the names and residences of the first board of directors, of whom the first named one-third shall serve for a period of three years, the second one-third named for a period of two years, and the balance thereof shall serve for a period of one year from the date fixed for the commencement of such corporation. In case any of the persons so named shall fail or refuse to qualify from any cause, the directors who qualify must elect qualified persons to fill such vacancies, and thereafter, at each annual meeting of the stockholders, directors must be elected to serve three years in place of those whose terms then expire."

Renumber accordingly

Date: Mar 8, 2017

Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE

ROLL CALL VOTES

BILL/RESOLUTION NO. HB 2212

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or Description:

17.0812.02001

Recommendation

- Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar

Other Actions

- Reconsider
- _____

Motion Made By Rep Ruby Seconded By Rep Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Rep Laning		
Vice Chairman Sukut			Rep Lefor		
Rep Beadle			Rep Louser		
Rep R Becker			Rep O'Brien		
Rep Bosch			Rep Ruby		
Rep C Johnson			Rep Boschee		
Rep Kasper			Rep Dobervich		

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____ Voice vote ~ Motion carried

Date: Mar 8, 2017

Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 2212

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or
Description: _____

Recommendation

- Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions

Reconsider

Motion Made By Rep Kasper

Seconded By Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep Laning	X	
Vice Chairman Sukut	X		Rep Lefor	X	
Rep Beadle	X		Rep Louser	<u>Ab</u>	
Rep R Becker	X		Rep O'Brien	X	
Rep Bosch	X		Rep Ruby	X	
Rep C Johnson	X		Rep Boschee	X	
Rep Kasper	X		Rep Dobervich	X	

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep Dobervich

REPORT OF STANDING COMMITTEE

SB 2212, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2212 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "section 6-02-02,"

Page 1, line 1, remove the second comma

Page 1, line 2, replace "6-05-01" with "6-05-06"

Page 1, remove lines 5 through 15

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Re-number accordingly

2017 TESTIMONY

SB 2212



State of North Dakota

**DEPARTMENT
of FINANCIAL
INSTITUTIONS**Robert J. Entringer
*Commissioner*Aaron K. Webb
*Assistant Commissioner*I. Lise Kruse
*Chief Examiner - Banks*Corey J. Krebs
*Chief Examiner - Credit Unions*CSBS ACCREDITED 1993
NASCUS ACCREDITED 2000
CSBS/AARMR MORTGAGE ACCREDITED 2015**MEMORANDUM**

DATE: January 24, 2017

TO: Senate Industry, Business and Labor Committee

FROM: Robert J. Entringer, Commissioner 

SUBJECT: Testimony in Support of Senate Bill No. 2212

Chairman Klein and members of the Senate Industry, Business and Labor Committee, thank you for the opportunity to testify in support of Senate Bill No. 2212

Mr. Chairman and members of the Committee, Senate Bill No. 2212 includes amendments to Chapters 6-02, 6-03 and 6-05 of the North Dakota Century Code relating to residency requirements for directors of banks and trust companies. Currently a majority of the directorate must be residents of the state, a requirement which dates back many years. While having citizens from the local community on the boards of banks and trust companies is a good thing there is certainly no compelling reason for it to be a requirement. Nothing in federal law would indicate this is mandated, surrounding states have varying requirements and this bill is patterned after Minnesota's statute.

Mr. Chairman, I would urge the committee's favorable consideration. Thank you for the opportunity to provide this testimony, and I would be happy to answer any questions the Committee may have.

January 24, 2017

DRAFT PROPOSED AMENDMENTS TO SENATE BILL NO. 2212

Page 1, line 10, replace "fifty" with "one hundred"

Page 1, line 20, replace "fifty" with "one hundred"

Page 2, line 5, replace "fifty" with "one hundred"

Renumber accordingly



State of North Dakota

DEPARTMENT
of FINANCIAL
INSTITUTIONS

Robert J. Entringer
Commissioner

Aaron K. Webb
Assistant Commissioner

I. Lise Kruse
Chief Examiner - Banks

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CSBS ACCREDITED 1993
NASCUS ACCREDITED 2000
CSBS/AARMR MORTGAGE ACCREDITED 2015

MEMORANDUM

DATE: March 6, 2017
TO: House Industry, Business and Labor Committee
FROM: Robert J. Entringer, Commissioner
SUBJECT: Testimony in Support of Engrossed Senate Bill No. 2212

Chairman Keiser and members of the House Industry, Business and Labor Committee, thank you for the opportunity to testify in support of Engrossed Senate Bill No. 2212

Mr. Chairman and members of the Committee, Engrossed Senate Bill No. 2212 includes amendments to Chapters 6-02, 6-03 and 6-05 of the North Dakota Century Code relating to residency requirements for directors of banks and trust companies. Currently a majority of the directorate must be residents of the state, a requirement which dates back to, at least, the revised code of 1943. While having citizens from the local community on the boards of banks and trust companies is a good thing, there is certainly no compelling reason for the requirement that you must be a resident of the state of North Dakota particularly given the advent of interstate banking and branching laws. Further, nothing in federal law would indicate a mandate that a majority of directors be a resident of a particular state and it appears that surrounding states have varying requirements.

Mr. Chairman, I would urge the committee's favorable consideration. Thank you for the opportunity to provide this testimony, and I would be happy to answer any questions the Committee may have.

Mar 8, 2017

Bill LC# 17.0812.02000

Prepared by Legislative Intern 8
March 6, 2017

PROPOSED AMENDMENT TO SENATE BILL NO. 2212

Page 1, line 1, remove "section 6-02-02,"

Page 1, line 1, remove the comma after "6-03-02"

Page 1, line 2, replace "6-05-01" with "6-05-06"

Page 1, remove lines 5 through 15

Page 1, line 16, replace "2" with "1"

Page 1, line 19, replace "a majority" with "at least two-thirds"

Page 1, line 19 replace "residents" with "citizens"

Page 1, remove line 20

Page 1, line 21, replace "association's banking facility" with "United States"

Page 2, remove lines 3 through 31

Page 3, remove lines 1 through 9

Page 3, after line 9, insert the following:

Section 2. Amendment. Section 6-05-06 of the North Dakota Century Code is amended and reenacted as follows:

6-05-06. Directors – Qualifications – Terms – Vacancies.

All the corporate powers of such a corporation must be exercised by a board of directors of not less than three nor more than twenty-five in number, and such officers and agents as it elects or appoints. A ~~majority~~ At least two-thirds of the directors must be citizens of ~~this state~~ the United States. Any director who becomes in any manner disqualified shall vacate that director's office thereupon. Every director, when elected or appointed, shall take the oath specified in section 6-03-04. Such oath, subscribed by the director making it and certified by the officer before whom it was taken, must be transmitted at once to the commissioner to be filed in the commissioner's office. The articles of incorporation must state the names and residences of the first board of directors, of whom the first named one-third shall serve for a period of three years, the second one-third named for a period of two years, and the balance thereof shall serve for a period of one year from the date fixed for the commencement of such corporation. In case any of the persons so named shall fail or refuse to qualify from any cause, the directors who qualify must elect qualified persons to fill such vacancies, and thereafter, at each annual meeting of the stockholders, directors must be elected to serve three years in place of those whose terms then expire.

Re-number accordingly

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2212

Introduced by

Senators Casper, Campbell, Kreun

Representatives Kasper, Sanford, P. Anderson

1 A BILL for an Act to amend and reenact ~~section 6-02-02~~, subsection 4 of section 6-03-02, and
2 section ~~6-05-01~~ ⁶⁻⁰⁵⁻⁰⁶ of the North Dakota Century Code, relating to residency requirements of bank
3 directors.

4 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

5 ~~SECTION 1. AMENDMENT.~~ Section ~~6-02-02~~ of the North Dakota Century Code is amended
6 and reenacted as follows:

7 ~~6-02-02. Banking corporations - Who may form.~~

8 ~~An association for carrying on the business of banking under this title may be formed by any~~
9 ~~number of natural persons, not less than three, at least two-thirds of whom must be residents of~~
10 ~~this state or reside within one hundred miles of the main office of the association's banking~~
11 ~~facility. They shall enter into articles of association which must specify in general terms the~~
12 ~~object for which the association is formed and which may contain any other provisions, not~~
13 ~~inconsistent with law, which the association may see fit to adopt for the regulation of its~~
14 ~~business and the conduct of its affairs. These articles must be signed and acknowledged by the~~
15 ~~persons uniting to form the association and must be filed in the office of the secretary of state.~~

16 ~~SECTION 2. AMENDMENT.~~ Subsection 4 of section 6-03-02 of the North Dakota Century
17 Code is amended and reenacted as follows:

18 4. Elect or appoint directors, such board to consist of any number of members, not less
19 than three nor more than twenty-five, ~~a majority~~ ^{at least two-thirds} of whom must be ~~residents~~ ^{citizens} of
20 ~~state of North Dakota or reside within one hundred miles of the main office of the~~
21 ~~association's banking facility~~ ^{United States} and, by such board of directors, to appoint a president,
22 who must be a member of said board, and such other employees as may be required,
23 to define their duties, to require bonds of them and fix the penalty thereof, and to

1 dismiss such officers and employees, or any of them, and appoint others to fill their
2 places.

3 ~~SECTION 3. AMENDMENT. Section 6-05-01 of the North Dakota Century Code is amended~~
4 ~~and reenacted as follows:~~

5 ~~6-05-01. Who may form - Corporation has perpetual existence.~~

6 ~~Any number of persons, not less than nine, at least three of whom must be residents of this~~
7 ~~state or reside within one hundred miles of the main office of the corporation, may associate~~
8 ~~themselves and form a corporation for the purpose of transacting business as an annuity, safe~~
9 ~~deposit, and trust company. Its existence shall be perpetual.~~

10 ~~At the time and place stated, and through any sources of information at its command, the~~
11 ~~board shall examine and consider all relevant factors, including whether the place where such~~
12 ~~company is proposed to be located is in need of a further annuity, safe deposit, and trust~~
13 ~~company, whether the proposed institution is adapted to the filling of such need, and whether~~
14 ~~the proposed incorporators are possessed of such character, integrity, reputation, and financial~~
15 ~~standing as shown by a detailed financial statement to be furnished by them, that their~~
16 ~~connection with the company will be beneficial to the public welfare of the community in which~~
17 ~~such company is proposed to be established. The board shall hear any reasons advanced by~~
18 ~~the applicants why they should be permitted to organize the proposed institution and any~~
19 ~~reasons advanced by any person why such institution should not be permitted to be organized.~~
20 ~~At the termination of such hearing, the board shall make a brief statement in writing of its~~
21 ~~conclusions, and if it finds that the proposed institution should not be permitted to organize, it~~
22 ~~shall state briefly the reasons why. A copy of such conclusions either shall be endorsed upon or~~
23 ~~attached to the organization certificate, together with the refusal or grant of permission to the~~
24 ~~proposed incorporators to present the said organization certificate to the secretary of state. A~~
25 ~~determination in favor of such organization must be joined in by a majority of the members of~~
26 ~~the board.~~

27 ~~Any banking association organized under chapter 6-02 may apply to the board for an order~~
28 ~~authorizing the applicant to exercise fiduciary powers. If the determination of the board is in~~
29 ~~favor of the applicant, the board shall make its order authorizing the applicant to engage in the~~
30 ~~business of a trust company upon its showing full compliance with sections 6-05-03, 6-05-04,~~
31 ~~and 6-05-05 except the capital stock of the banking association shall not be required to be~~

Sixty-fifth
Legislative Assembly

~~1 divided in shares of one hundred dollars each as provided by section 6-05-03. Sections 6-05-06
2 and 6-05-07 are not applicable to banking associations granted authority to engage in the
3 business of a trust company by the board. Thereafter, such banking association must be subject
4 to the jurisdiction of the board as to its trust company operations the same as trust companies
5 organized under chapter 6-05.
6 Any corporation organized and authorized to transact the business of fidelity insurance and
7 corporate suretyship prior to July 1, 1983, pursuant to the former sections 6-05-08 and 6-05-19
8 through 6-05-24 and sections 6-05-30 through 6-05-33 may continue to operate under the
9 provisions of those sections as they existed on June 30, 1983.~~

Section 2. Amendment. Section 6-05-06 of the North Dakota Century Code is amended and reenacted as follows:

6-05-06. Directors – Qualifications – Terms – Vacancies.

All the corporate powers of such a corporation must be exercised by a board of directors of not less than three nor more than twenty-five in number, and such officers and agents as it elects or appoints. ~~A majority~~ At least two-thirds of the directors must be citizens of ~~this state~~ the United States. Any director who becomes in any manner disqualified shall vacate that director's office thereupon. Every director, when elected or appointed, shall take the oath specified in section 6-03-04. Such oath, subscribed by the director making it and certified by the officer before whom it was taken, must be transmitted at once to the commissioner to be filed in the commissioner's office. The articles of incorporation must state the names and residences of the first board of directors, of whom the first named one-third shall serve for a period of three years, the second one-third named for a period of two years, and the balance thereof shall serve for a period of one year from the date fixed for the commencement of such corporation. In case any of the persons so named shall fail or refuse to qualify from any cause, the directors who qualify must elect qualified persons to fill such vacancies, and thereafter, at each annual meeting of the stockholders, directors must be elected to serve three years in place of those whose terms then expire.