

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

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ROLL NUMBER

DESCRIPTION

104/88

2001 HOUSE JUDICIARY

HB 1048

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1048

House Judiciary Committee

Conference Committee

Hearing Date 01-16-01

Tape Number	Side A	Side B	Meter #
Tape II	x		38 to 4108
Committee Clerk Signature <i>Jean Diers</i>			

Minutes: Chr DeKrey opened the hearing on HB 1048. Relating to challenging the right of a person to vote.

Yonette Riehter: See page 284 under Challenged Voters of the Report of the North Dakota Legislative Council.

Cory Fong: representing the Secretary of States Office (see attached testimony).

Rep Delmore: Going back to the 10% verification, why is there no statistics, why is nothing to show that the system is broken.

Mr Fong: You want to know how many affidavits, that can translate into a percentage of people that have been challenged. Would a number from the 2000 general election give you that information.

Rep Delmore: I am more interested in how many were a problem.

Rep Eckre: Your testimony answered some of the questions that I had.

Rep Grande: If one person comes in and signs an affidavit, and it is found that this person is not a valid voter, but their ballot is put and was counted. Is it not important that we put this bill into law.

Mr Fong: I think this is why this is an important bill.

Rep Grande: What is the job description of the County Auditor? Is the County Auditor the final authority and is he required to review, then yes.

Rep Maragos: Looking at the affidavit, is there a penalty, not sure, are we changing concept?

Mr Fong: Auditors support the concept, but are concerned about some of the logistics.

Rep Maragos: Never felt that our voter registration was a problem. To your knowledge has anyone ever been prosecuted for signing a false affidavit?

Mr Fong: No, but I could research that and give the follow up.

Rep Grande: Has there not been numerous elections that have been won or lost by one vote.

Rep Onstad: Is this something that was introduced because of a prior election or they are seeing something down the road.

Mr Fong: It has to do with greater focus on the election process.

Rep Fairfield: The County Auditor makes a recommendation to the County Canvassing Board, does the Board then not have to accept that recommendation?

Mr Fong: I think that if this goes forth, that is something that has to be placed in this bill. Who will be the final arbiter when a vote is challenged. Is there an appeal process?

Rep Fairfield: How is it decided, how this is filled out? Do we have current law or Federal law, I am thinking about people who don't speak English, or have a disability.

Mr Fong: That is already provided by North Dakota law.

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Rep Fairfield: If it is not filled out properly, it could be rejected.

Mr Fong: We just tell County Auditors that it has to be completed and signed.

Rep Maragos: How does one get on the roll or poll book?

Mr Fong: You are placed in the poll book by voting in an election.

Rep Maragos: How is a person taken off the list.

Mr Fong: When we have notification of death, we pass that on to the County Auditor. Otherwise they will purge the list bases on what they know.

Rep Maragos: If someone is not on the list, they are considered new?

Mr Fong: Not necessarily, it could be a name change.

Rep Maragos: If that is the case, they have to file an affidavit of residence.

Mr Fong: Not always.

Rep Maragos: Is there some discretion by the poll worker. Are the poll watchers obligated to fill out an affidavit if the person is unknown.

Mr Fong: Part of the reason in '99 was strengthen to look at the key indicators to determine to see when to challenge a voter.

Rep Maragos: Can a person go to a County Auditor prior to the election and ask for their name to be placed on the poll book?

Mr Fong: That might be a better question for one of the County Auditors.

Rep Maragos: So basically, in North Dakota the only way to get into a poll book is by a previous vote.

Mr Fong: That is true.

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Rep Onstad: If two people book come in and are not on the poll book, one is challenged , and signs an affidavit and one is not, are we opening up grounds for a law suit.

Mr Fong: If you are asked for an ID and you cannot provide one , then the next step is the affidavit. Someone could raise the question about being singled out.

Rep Maragos: One thing that concerns me is no uniformity, no standardization.

Mr Fong: You are right.

Rep Kingsbury: Do election workers set with old poll books.

Mr Fong: County Auditors do take measures to purge the poll books.

Rep Kingsbury: They still live there, they have just not voted for the past several years.

Mr Fong: They remain on the poll books. There are some counties that start fresh each year with new poll books.

Rep Maragos: Then they are not concerned, they are using knowledge of the people in the district.

Mr Fong: It is based on good faith.

Rep Disrud: Who officially tracks obituaries?

Mr Fong: What we have done, through the past 2 election cycles, is to get the death notices from vital records and forward them on to the County Auditors.

Kevin Glott: Burleigh County Auditor: Poll books are tools for election workers. What is printed in the books is who voted in the previous election. If a person has not voted in the last 4 elections, they are dropped from the books.

Rep Maragos: Did the per centage of your affidavits increase or decrease in this election?

Mr Glott: It stayed the same. The number completed was .2 of 1%. There have been no prosecutions.

Rep Delmore: It is easier for voters to vote absentee ballot. How closely do you question someone who comes in for an absentee ballot?

Glott: I'm not the right one to ask. We had 1107 absentee ballots the day before the election in Burleigh County. We could not have questioned all the people who came in to vote that day, or to have them all sign an affidavit. We have become a state that is voting by mail

Rep Maragos: Is that good or bad?

Mr Glott: For an election official that is good, for a County Auditor that is not so good .

Rep Kretschmar: We have a number of absentee voters, what about the percentage of mail in voters?

Mr Glott: About 75% of the ballots came in through the mail.

Rep Eckre: Are you open on Saturday before the election?

Mr Glott: We were open three Saturdays before the election, that is the standard in Burleigh County for general elections.

Chr DeKrey: Thank you for appearing before the committee. Does anyone else have testimony on HB 1048?

Brian Holme: North Dakota Township Officers Association The purpose of this bill does pose problems for the townships. We vote for people and also on issues such as budgets.

Ch DeKrey: Are there any questions,? Is there anyone else wishing to testify? We will close the hearing on HB 1048.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1048A

House Judiciary Committee

Conference Committee

Hearing Date 01-24-01

Tape Number	Side A	Side B	Meter #
TAPE II		x	990 to 1539
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey, we will take up HB 1048, does someone care to make a motion?

Rep Grande: I move a DO PASS

Rep Klemin: I second the motion.

Chairman DeKrey: We have a motion and a second, the bill is open for discussion

A discussion was then held on the merits of the bill. It was decided that the bill needed to have some amendments so the DO PASS motion was withdrawn by Rep Grande and Rep Klemin withdrew his second, so that the bill could have amendments worked on.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1048b

House Judiciary Committee

Conference Committee

Hearing Date 02-12-01

Tape Number	Side A	Side B	Meter #
TAPE II	X		1005 to 3846
Committee Clerk Signature <i>Juan Diers</i>			

Minutes: Chairman DeKrey called the committee to order and took up HB 1048. Cory Fong Secretary of States Office came in to explain the amendments.

DISCUSSION

COMMITTEE ACTION

Chairman DeKrey asked the committee wishes. Rep Wrangham moved the amendments, seconded by Rep Grande. A voice vote was taken, the amendments pass. What are the wishes of the committee. Rep Onstad moved a DO NOT PASS as amend, seconded by Vice Chr Kretschmar. The motion passes by a vote of 7 YES, 6 NO and 2 ABSENT. Carrier is Vice Chr Kretschmar.

VR
2/13/01
1082

HOUSE AMENDMENTS TO HB 1048 HOUSE JUDICIARY 02-14-01

Page 1, line 13, overstrike "The members" and Insert immediately thereafter "Any member" and overstrike "and poll challengers"

Page 1, line 14, overstrike "anyone" and insert immediately thereafter "an individual"

Page 1, line 15, after "elector" Insert "of the precinct", overstrike "Members" and insert immediately thereafter "A poll challenger may request members", overstrike "or poll challengers may" and insert immediately thereafter "to", and overstrike "a voter if" and insert immediately thereafter "the right of an individual to vote whom"

Page 1, line 16, after "believe" insert "is not a qualified elector of the precinct. A challenge may be based upon" and after "any" insert "one"

Page 1, line 17, overstrike "person" and insert immediately thereafter "individual"

Page 1, line 19, overstrike "person" and insert immediately thereafter "name of the individual", overstrike "has never voted in the precinct before" and insert immediately thereafter "does not appear in the pollbook", and after "and" insert "the individual"

Page 1, line 21, overstrike "person" and insert immediately thereafter "individual"

Page 1, line 23, overstrike "person" and insert immediately thereafter "individual"

HOUSE AMENDMENTS TO HB 1048 HOUSE JUDICIARY 02-14-01

Page 2, line 1, overstrike "person" and insert immediately thereafter "individual" and overstrike "poll challenger or by a"

Page 2, line 2, overstrike "person" and insert immediately thereafter "individual"

Page 2, line 3, overstrike "person" and insert immediately thereafter "individual"

Page 2, line 4, overstrike "person" and insert immediately thereafter "individual"

Page 2, after line 16, insert:

"f. A space to insert the page number of the pollbook on which the challenged voter's name appears along with the statement of the reason for the challenge."

Page 2, line 18, replace "person" with "individual" and remove "poll challenger or"

Page 2, line 19, replace "shall write on" with "mark" and after the third "envelope" insert "with"

Page 2, line 20, remove "and a statement of the reason for the challenge" and remove "poll challenger"

Page 2, line 21, remove "or"

Page 2, line 22, replace "envelope" with "affidavit" and after "the" insert "page"

Page 2, replace lines 23 through 31 with "on which the voter's name appears in the pollbook and must also include a statement of the reason for the challenge. The provisional"

voter's name must also be marked in the pollbook as a provisional voter. A challenged individual who has completed an affidavit and whose ballot has been designated as provisional according to this subsection has until the closing of the polls in the precinct to offer any additional information or proof to the election inspector supporting the challenged individual's qualifications to vote in the precinct. At any time before the closing of the polls in a precinct, if presented with sufficient information or proof to confirm a challenged individual's qualifications to vote in the precinct, an election inspector may withdraw the challenge and order the election board to open the provisional envelope containing the challenged individual's ballot and deposit the challenged individual's ballot into the ballot box. Before the meeting of the county canvassing board, the county auditor, with the assistance and advice of the state's attorney, shall review each completed affidavit along with the corresponding statement of the reason for the challenge and shall make a recommendation based upon the qualifications of electors in section 16.1-01-04 and the rules for determining residence in section 54-01-26 to the county canvassing board as to whether the challenged voter is qualified to vote in the precinct and whether the challenged voter's provisional ballot should be accepted and counted and canvassed by the county canvassing board or rejected. The county canvassing board shall review each recommendation made by the county auditor, and may consider each completed affidavit including the statement of the reason for the challenge, and accept or reject each provisional ballot based upon the qualifications of electors in section 16.1-01-04 and the rules for determining residence in section 54-01-26. The county canvassing board shall count those provisional ballots deemed acceptable by the board. Provisional ballots rejected by the county canvassing board must be preserved and retained with all corresponding materials for further review and consideration in case of a recount or an election contest. The decision of the county canvassing board, as it pertains to the counting of provisional ballots, is final, subject only to the recount and contesting provisions of chapter 16.1-16. An election board or county canvassing board shall take precautions to ensure that secrecy is maintained when opening and counting provisional ballots and shall proceed in the same manner as prescribed for opening and counting absent voter's ballots in section 16.1-07-12. An otherwise properly completed provisional ballot may not be rejected because an election official failed to comply with any of the procedures required by this section. The county auditor shall report all known or suspected violations to the state's attorney for investigation and possible prosecution."

Renumber accordingly

