

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1352

2001 HOUSE POLITICAL SUBDIVISIONS

HB 1352

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1352

House Political Subdivisions Committee

Conference Committee

Hearing Date 2-1-01

Tape Number	Side A	Side B	Meter #
1		xx	1640--end
2	xx		1--236
2	xx		5509--end
2		xx	1--900
Committee Clerk Signature <i>Pam Owen</i>			

Minutes: Chair Froseth opened the hearing on HB1352 relating to recall petitions and referendum petitions and recall petitions of political subdivision officials. Chair handed the gavel to Vice-Chair Severson.

Rep. N. Johnson, Dist. 37, Dickinson : I bring this bill before you on behalf of the Sec. of State and am in support of HB1352. This bill is intended to take some of the emotion out of the recall process. I was recalled once, unsuccessfully, so I know a bit about this. This bill doesn't change the number of signatures required nor does it make it more difficult to recall. This bill will give a format for the petition and lets the Sec. State's Office approve the petition for validity.

Rep. Grosz : Is there only one person who can take the petition around, looking at the bill?

Rep. Johnson : You can have many people carrying around a petition. What it means is you can't just lay it on a table and not be there. You need to carry it around if you are the carrier.

Cory Fong, Sec. State's Office : (1990) This bill is intended to clarify and strengthen the procedures for recall elected official at the local level. Also, intended to take out some of the emotion. (SEE ATTACHED TESTIMONY)

Vice-Chair Severson : It says that a recall petition may be circulated for one year from the date approved. It doesn't say it has to be turned in. Is that what you mean?

Cory : That's right. Turned in. I also have an amendment with me that changes the wording about concerning address process. We want to clarify all areas like rural routes, general delivery, etc. That will make it clear what needs to be put on petitions.

Rep. Delmore : (3105) I want to go back to the beginning language; *in the presence of that person*. Will that fix the problem of petitions laying around by having this statute?

Cory : Currently, the statute that governs recall already provides that language. In section 2 of the bill, it is already found in line, 8, 9, and 10 on page 5. What this requires is that every single petition be circulated by the individual who is circulated and not just laying it on the counter. That is prohibited. We still may have the problem, but this gives us ammunition to follow-up on complaints. When we survey signers of petitions, we ask them, "Did you sign in front of the person circulating the petition?" Some say, No. Some say, Yes.

Rep. N. Johnson : I think it is good for the Sec. State to take over approving. They are a neutral party. In previous law, was there date set before for circulating petitions? What if the 9th Tues. is a holiday? What do we do?

Cory : Part of the problem is there was no beginning date. This will require one. There will now be a window. The other question is good. We are trying to take out any kind of latitude that the business manager might have, which would cause him to be criticized. The problem with

setting the day, is it could fall on a Saturday or Sunday or holiday. Let me work something up to address this.

Rep. Kretschmar : Is the recall part in section 1 to be for state recall.

Cory : It's for all areas, state and local. The last section deals with local recalls.

Rep. Kretschmar : On page 1, lines 9 and 10, maybe we should have a qualifier on the jurisdiction.

Cory : I will try to amend that to address your concern.

Vice-Chair Severson : In the stated reason for the recall, will that be stated on the petition as well and can it be multiple?

Cory : Yes. Those signing can see the reasons. I can change it to *reason or reasons*.

Al Jaeger, Sec. of State : I urge your favorable consideration on this bill. We filter lots of questions on recalls. We have a pamphlet on how to recall. It will not give our office any more work to approve first. We will have two distinct sections dealing with two completely different things. That will help a great deal. We will work with the holiday question.

Rep. Niemeier : (4520) There isn't a list of allowable reasons for recall?

Al Jaeger : I don't know what they could be. The ones that were in law were so bad.

Rep. Niemeier : (4775) Will this be in the judgment of your office?

Al Jaeger : We won't edit the reason. What they put down is what we will put down. We are worried about format only.

Barbara Norby, ND School Board Assoc. : (5000) We support this bill. We think it is good for the Sec. State's Office to review this before rather than after the fact. We think the reason listed is a good thing and made public. This is only fair.

Jerry Hjelmsted, ND League of Cities : We would like a few things changed on the bill. We think the recall petition should be submitted by a certain time, also. Can 1 year be shortened? On page 9, the 9th Tuesday, could that be more flexible?

Rep. N. Johnson : What is your time frame?

Jerry : 90 days. I could submit an amendment that relates to subdivisions and not state officials.

Vice-Chair Froseth : If we put in "submitted" after one year from date, would that work for?

Jerry : Yes.

Nancy Sand, ND Education Assoc. : We support this bill.

Rep. Herbel : This is for Al Jaeger to answer, maybe. What is the average time it takes to start a recall until it is done?

Al Jaeger : Don't really have an average. It varies. Some people have a petition and never do anything with it. (end Tape 1, side B, begin Tape 2, side A) If you decide to change to a shorter time than one year, I'm afraid that may be too short of time for a state recall. A year may be inappropriate for a local recall. We will come back with amendments after talking to all the parties involved today.

Rep. Grosz : (100) Nancy, I'm having some problems with the stating of reasons. One person may feel one way and another person may feel totally different. Do you feel there will be confusion if reasons are stated?

Nancy : I would hope that the stated reasons would take care of that problem. It should and that is the intent. That will make the person circulating the petition more accountable. If there is no reason at all, the person subject to recall has nothing to go on to defend her/himself. The circulator should have the courage to put down the reasons.

Vice-Chair Severson : Any more testimony? Hearing none, hearing is closed. We will reconvene at 2:30 this afternoon.

Tape 2, Side A (5509-end) Chair Froseth : Let's look at HB1352. Here are the amendments.

Rep. Delmore : These are pretty much what we wanted Cory to change.

Vice-Chair Severson : Maybe we should call Cory down and have him explain. There are two sets of amendments.

Tape 2, Side B begin Cory : Section 1 of the bill 16.1-01-09 governs recall petitions at the state, legislative, and political subdivision level. The other provisions govern local recalls. The constitution sets up recall provisions for state, county, and legislative recall levels. The constitution does not provide for specifics for the recall of local officials. That's why 44-08-21 exists. You need to go back to 16.1-01-09 to get the process. We feel the recall process needs to have it's own section. On the amendments, page 1, line 10, we specify qualified to that subdivision. I also changed the address section. I changed *reason* to include *reasons*. (**SEE SECOND SET OF AMENDMENTS ATTACHED**)

Rep. N. Johnson : (496)I think you need to change it to say, *approved by the secretary of state for circulation*. The secretary of state is not going to circulate it.

Rep. Delmore : (539)Are we talking about state wide recall? I'm not sure when we are talking about which.

Cory : This particular change would impact state recalls as well.

Rep. Delmore : I don't think having 6 months for state recalls is enough time.

Cory : That is my concern as well. You will have to get 50,000 plus signatures for a state wide recall petition and that takes a lot of time. Maybe we need to qualify state and local recalls.

Page 6
House Political Subdivisions Committee
Bill/Resolution Number HB1352
Hearing Date 2-1-01

Vice-Chair Severson : Can we leave the language in at 16.01-01-09 and put the 6 months in 44-08-21?

Cory : That may be a good solution to the problem. We then may be able to shorten the time for local recalls, and that is what they would like anyway.

Chair Froseth : We will hold this until next week to give you time to make the changes.

Closed.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1352 b

House Political Subdivisions Committee

Conference Committee

Hearing Date 2-2-01

Tape Number	Side A	Side B	Meter #
2	xx		4399-4737
Committee Clerk Signature <i>Pam Deane</i>			

Minutes: Chair Froseth : Let's take a look at HB1352. We did not act on that yesterday.

We have to wait for amendments. We'll hold this.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1352 e

House Political Subdivisions Committee

Conference Committee

Hearing Date 2-08-01

Tape Number	Side A	Side B	Meter #
1		xx	1330-1836
Committee Clerk Signature <i>Pam Deane</i>			

Minutes: Chair Froseth : Let's look at HB1352 and the amendments brought by Rep. Johnson.

Rep. N. Johnson : Cory and I talked last week. In section 1, we wanted to include that a person needed to be a duly qualified electorate in that district. He asked us to be more specific in the mailing addresses Reason or reasons was added. Page 9, we put a time frame to deal with the holiday problem. Page 9, line 1, we changed the time to six months.

Rep. Delmore : Just for clarification. This just covers political subdivisions?

Rep. N. Johnson: Yes.

Rep. Delmore : I move a DO PASS ON AMENDMENTS. Rep. Severson : I second.

VOICE VOTE: ALL YES.

Rep. Delmore : I move a DO PASS AS AMENDED. Rep. Gunter : I second.

Rep. Eckre : Because of what is going on in my district, I need to vote no.

VOTE: 12 YES and 1 NO with 2 absent. PASSED. Rep. N. Johnson will carry.

February 8, 2001

VR
2/8/01

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1352

HOUSE AMENDMENTS to HB1352 HOUSE POL. SUBS 2-9-01
Page 1, line 10, after "Dakota" insert "or section 44-08-21" and after "elector" insert "of the political subdivision in which the official is being recalled"

Page 1, line 12, replace "mailing" with "residential, rural route, or general delivery"

Page 1, line 16, after "electors" insert "of the political subdivision in which the official is being recalled"

Page 1, line 19, after "reason" insert "or reasons"

HOUSE AMENDMENTS to HB1352 HOUSE POL. SUBS 2-9-01

Page 2, line 3, replace "Address" with "Complete Residential, Rural Route, or General Delivery Address"

Page 2, line 10, after "elector" insert "of the political subdivision in which the official is being recalled"

Page 2, line 11, after "Dakota" insert "and the political subdivision"

Page 2, line 13, replace "mailing" with "residential, rural route, or general delivery"

Page 2, line 17, replace "Mailing" with "Residential, Rural Route, or General Delivery"

HOUSE AMENDMENTS to HB1352 HOUSE POL. SUBS. 2-9-01

Page 3, line 29, after "Dakota" insert "or section 44-08-21"

HOUSE AMENDMENTS to HB1352 HOUSE POL. SUBS. 2-9-01
Page 9, line 1, replace "A recall petition may be circulated for one year from the date it is approved for" with "To be effective, a recall petition must be submitted to the appropriate filing officer within six months after the date the recall petition is approved for"

Page 9, line 10, replace "on the ninth Tuesday" with "not sooner than fifty days nor later than sixty days"

Renumber accordingly

hearing - 2-1-01
 Date: 2-8-01 vote.
 Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. AB 1352

House POLITICAL SUBDIVISIONS Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number 18304.0101 10200

Action Taken Do Pass As Amended

Motion Made By Rep. Delmore Seconded By Rep. Hunter

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	AB				

Total (Yes) 12 No 1

Absent 2 ab

Floor Assignment Rep. N. Johnson

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

