

LP

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ROLL NUMBER

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DESCRIPTION

1246

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La Costa Rickford  
Operator's Signature

10/3/03  
Date

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2003 HOUSE POLITICAL SUBDIVISIONS

HB 1246

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1246

House Political Subdivisions Committee

Conference Committee

Hearing Date: January 23, 2003

Tape Number	Side A	Side B	Meter #
1		X	15.9-38.1

Committee Clerk Signature *Micki Schmidt* 1-29-03

Minutes: (15.9) TAPE 1, SIDE B:

(16.0) REP. GLEN FROSETH: We will open the hearing on HB 1246.

(16.5) REP. ALON WIELAND: Testimony in support of HB 1246. (See attachment #1)

(18.3) BIRCH BURDICK: STATE'S ATTORNEY: Testimony in support of HB 1246. (See attachment #2)

(26.5) REP. GIL HERBEL: What are animals running at large? Would cattle getting out of someone's pasture be animals running at large?

(26.6) BIRCH BURDICK: Yes.

(26.8) REP. GIL HERBEL: So if someone's cattle got out and went on to a neighbors field, presently under current law, they can't do anything about it?

(27.0) BIRCH BURDICK: There is a state law that deals with animals.

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operator's signature

10/3/03  
date

Page 2  
House Political Subdivisions Committee  
Bill/Resolution Number HB 1246  
Hearing Date January 23, 2003

**(28.2) REP. DALE SEYERSON:** How come counties can enforce the state law? Why is it that the counties want special exceptions? It would appear to me that they're trying to become a state within a state.

**(28.9) BIRCH BURDICK:** The state statute which exists dealing with animals right now is vague enough to try to enforce. The kind of authority that you are suggesting, the Home Rule Charter is the authority that the cities have right now and exercise everyday throughout the state. There are some provisions under the law that say that home rule charter states and counties cannot pass laws or ordinances which would in fact violate with state laws.

**(30.9) REP. DALE SEYERSON:** The only comparative difference is the cities. The exception to the rule is a housing development outside the city limits.

**31.7) REP. NANCY JOHNSON:** In the amendment, rather than going back to a vote, to allow for the criminal and civil penalties that you can get and that we just let legislative authority say that you don't have to go back and do a vote again?

**(32.1) BIRCH BURDICK:** What I'm suggesting is it would take some period of time before we could in fact enact it. In our Sheriff's office, a full 10% of their calls are animal calls. It's a daily issue for the Sheriff's Dept. When the Legislature passed this law back in 1985, granting general powers to home rule counties and included the provision for penalties. I didn't see anything in the Legislative history that specifically believe in civil penalties and criminal penalties. It's my sense that the Legislature had civil and criminal in mind when it passed the word penalty. The Attorney General says it needs to be more clear.

**(34.0) REP. NANCY JOHNSON:** I didn't know that we had to go back and vote on it to allow it as a different county.

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10/3/03  
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House Political Subdivisions Committee  
Bill/Resolution Number HB 1246  
Hearing Date January 23, 2003

**(34.2) BIRCH BURDICK:** We may be required to go back and specifically amend our home rule charter to include this specific language.

**(34.6) REP. GIL HERBEL:** You said that the Sheriff's Dept.'s 10 % of their calls are animal related. If the Sheriff has no authority to do anything, what can they do to eliminate that amount of calls about animals?

**(34.9) BIRCH BURDICK:** Right now they go out and attempt to find the owner of the animal and if they can't, if no one's there, or not willing to take the animal back, they take the animal into custody. The animal, if not claimed by the owner may be in fact destroyed or adopted.

**(37.6) TERRY TRAYNOR, ASSIST. DIRECTOR OF ND ASSOCIATION OF COUNTIES:** Testified in support of HB 1246. We would be willing to work as a go between, between your committee, the sponsors, council and the State's Attorney to communicate on any amendments if that's your desire.

**(38.1) REP. GLEN FROSETH:** I think before the committee takes action on this, I'll ask the Association of Counties, the Bill sponsor and Rep.'s Eckre and Herbel, Maragos and Wieland to draft amendments. We will close the hearing on HB 1246.

*Jo Costa Rickford*  
Operator's Signature

10/3/03  
Date

EP

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1246

House Political Subdivisions Committee

Conference Committee

Hearing Date: January 30, 2003

Tape Number	Side A	Side B	Meter #
2	X		14.5-20.7
Committee Clerk Signature <i>Micki Schmidt</i>			2-11-03

Minutes:

**(TAPE 2: SIDE A)**

**(14.5) REP. GLEN FROSETH:** We will open the hearing on HB 1246. I have some amendments prepared by the Association of Counties with Rep. Wieland.

**(15.6) TERRY TRAYNOR, ASSISTANT DIRECTOR OF ASSOCIATION OF COUNTIES:** Explained the amendments to the committee. (See attachment #1)

**(17.3) REP. GLEN FROSETH:** Any questions from the committee?

**(17.6) REP. MARY EKSTROM:** I WOULD MOVE THE AMENDMENT.

**(17.7) REP. NANCY JOHNSON:** I SECOND IT.

**(17.8) REP. GLEN FROSETH:** Any discussion? Hearing none, I'll take a voice vote on it.

14-y; 0-n; **THE AMENDMENT CARRIES.** We have the amended Bill before us, what are the committee's wishes?

**(18.0) REP. MARY EKSTROM:** I MOVE A DO PASS AS AMENDED.

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Operator's Signature Date

Page 2  
House Political Subdivisions Committee  
Bill/Resolution Number HB 1246  
Hearing Date: January 30, 2003

**(18.2) REP. ANDREW MARAGOS: I SECOND IT.**

**(18.3) REP. GLEN FROSETH: Any committee discussion?**

**(18.3) REP. MIKE GROSZ: The enforcement of criminal penalties, is the word criminal appropriated?**

**(19.0) TERRY TRAYNOR: I know that a misdemeanor is a criminal act. Generally an infraction is not considered a criminal act. I think in this case it would be.**

**(19.6) REP. WILLIAM KRETSCHMAR: On line 18, it is appropriated.**

**(19.8) REP. GLEN FROSETH: We have a DO PASS AS AMENDED before us and I will have the clerk call the Roll Call Vote: 13-y; 1-n; 0-absent; Carrier: Rep. Ekstrom**

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10/2/03  
Date

30408.0101  
Title.0200

Adopted by the Political Subdivisions  
Committee  
January 30, 2003

VR  
1/31/03

HOUSE PROPOSED AMENDMENTS TO HOUSE BILL NO. 1246 FOR SUB 2-3-03

Page 1, line 3, after "11-09.1-05" insert "and section 27-05-06"

Page 1, line 4, after "county" insert "and the jurisdiction of the district court"

Page 1, line 16, replace "adopts" with "has adopted" and remove "and"

Page 1, line 17, remove "provides for the enforcement of criminal penalties in the charter"

Page 1, after line 20, insert:

**"SECTION 3. AMENDMENT.** Section 27-05-06 of the North Dakota Century Code is amended and reenacted as follows:

**27-05-06. Jurisdiction of district courts.** The district courts of this state have the general jurisdiction conferred upon them ~~the courts~~ by the constitution, and in the exercise of such ~~that~~ jurisdiction they ~~the courts~~ have power to issue all writs, process, and commissions provided therein or by law or which may be necessary for the due execution of the powers with which they ~~the courts~~ are vested. Such ~~the~~ courts have:

1. Common-law jurisdiction and authority within their respective judicial districts for the redress of all wrongs committed against the laws of this state affecting persons or property.
2. Power to hear and determine all civil actions and proceedings.
3. All the powers, according to the usages of courts of law and equity, necessary to the full and complete jurisdiction of the causes and parties and the full and complete administration of justice, and to carrying into effect ~~their~~ ~~the courts'~~ judgments, orders, and other determinations, subject to a reexamination by the supreme court as provided by law.
4. Jurisdiction of appeals from all final judgments of municipal judges and from the determinations of inferior officers, boards, or tribunals, in such ~~the~~ cases and pursuant to such ~~the~~ regulations as may be prescribed by law.
5. Disputed property line proceedings pursuant to section 11-20-14.1.
6. Power to hear and determine all actions and proceedings arising from ~~the~~ enforcement of home rule charter ordinances.

Renumber accordingly

Page No. 1

30408.0101

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10/3/03  
Date



Date: 9-30-03

Roll Call Vote #: 3

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1246

House \_\_\_\_\_ "POLITICAL SUBDIVISION" \_\_\_\_\_ Committee

Check here for Conference Committee

Legislative Council Amendment Number 30408.0101

Action Taken Do Pass

Motion Made By Rep. Ekstrom Seconded By Rep. Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman Glen Froese	✓				
Vice-Chairman Nancy Johnson	✓				
Mike Gross	✓				
Gil Herbel	✓				
Ron Iverson	✓				
William E. Kretschmar	✓				
Andrew Maragos	✓				
Dale Severson		✓			
Alon Wiehand	✓				
Bruce Eckre	✓				
Mary Ekstrom	✓				
Carol A. Niemeler	✓				
Sally M. Sandvig	✓				
Vonnie Pletsch	✓				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Ekstrom

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

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Jo Costa Rickford 10/2/03  
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)  
February 3, 2003 2:12 p.m.

Module No: HR-20-1681  
Carrier: Ekstrom  
Insert LC: 30408.0101 Title: .0200

REPORT OF STANDING COMMITTEE  
HB 1246: Political Subdivisions Committee (Rep. Froese, Chairman) recommends  
AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS  
(13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1246 was placed on the Sixth  
order on the calendar.

Page 1, line 3, after "11-09.1-05" insert "and section 27-05-06"

Page 1, line 4, after "county" insert "and the jurisdiction of the district court"

Page 1, line 16, replace "adopts" with "has adopted" and remove "and"

Page 1, line 17, remove "provides for the enforcement of criminal penalties in the charter"

Page 1, after line 20, insert:

**"SECTION 3. AMENDMENT.** Section 27-05-06 of the North Dakota Century  
Code is amended and reenacted as follows:

**27-05-06. Jurisdiction of district courts.** The district courts of this state have  
the general jurisdiction conferred upon ~~them~~ the courts by the constitution, and in the  
exercise of ~~such~~ that jurisdiction ~~they~~ the courts have power to issue all writs, process,  
and commissions provided therein or by law or which may be necessary for the due  
execution of the powers with which ~~they~~ the courts are vested. ~~Such~~ The courts have:

1. Common-law jurisdiction and authority within their respective judicial districts for the redress of all wrongs committed against the laws of this state affecting persons or property.
2. Power to hear and determine all civil actions and proceedings.
3. All the powers, according to the usages of courts of law and equity, necessary to the full and complete jurisdiction of the causes and parties and the full and complete administration of justice, and to carrying into effect ~~their~~ the courts' judgments, orders, and other determinations, subject to a reexamination by the supreme court as provided by law.
4. Jurisdiction of appeals from all final judgments of municipal judges and from the determinations of inferior officers, boards, or tribunals, in ~~such~~ the cases and pursuant to ~~such~~ the regulations as may be prescribed by law.
5. Disputed property line proceedings pursuant to section 11-20-14.1.
6. Power to hear and determine all actions and proceedings arising from the enforcement of home rule charter ordinances.

Renumber accordingly.

(2) DESK, (2) COMM

Page No. 1

HR-20-1681

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Operator's Signature

10/3/03  
Date

EP

2003 SENATE POLITICAL SUBDIVISIONS

HB 1246

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Operator's Signature

*10/3/03*  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1246

Senate Political Subdivisions Committee

Conference Committee

Hearing Date March 7, 2003

Tape Number	Side A	Side B	Meter #
1	X		2868 - End
		X	0 - 1143
Committee Clerk Signature <i>Shirley Berg</i>			

Minutes:

SENATOR COOK called the committee to order. All members (6) present.

SENATOR COOK opened the hearing HB 1246 relating to powers of a home rule county and the jurisdiction of the district court.

REPRESENTATIVE ALON WIELAND, District 13, West Fargo, ND, introduced and supported HB 1246. (see attached testimony)

Birch Burdick, Cass County State's Attorney was not able to be at the hearing to testify but sent his testimony ( See attached testimony)

John Olson, Attorney, representing ND State Attorneys Association, appeared in support of HB 1246. He thinks it is a good bill that counties need to add to provide sanctions to enforce ordinances.

SENATOR COOK asked if Mr Olson could give an example of an ordinance that they might put in place and put a penalty on and enforce under this law that they can not right now.

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*Shirley Berg*  
Operator's Signature

10/3/03  
Date

Page 2  
Senate Political Subdivisions Committee  
Bill/Resolution Number HB 1246  
Hearing Date March 7, 2003

John Olson, answered dogs and cats. Dogs running at large in the counties. This only applies to home rule counties.

Other Discussion: Tape 1, Side B, Meter # 279 - 650

Wade Williams, North Dakota Association of Counties, appeared in support of HB 1246. The main problem is that counties no longer have a court to do any enforcing. Those counties that were home ruled before 1991 could use the county court to enforce their ordinances and after the consolidation there were no provisions to allow home rule counties to enter into district court to seek remedy for violations of their ordinances. This bill is trying to remedy that.

SENATOR COOK asked if counties have the right to establish their own fine.

Wade Williams answered he believed home rule counties could by ordinance set fines for dogs running at large.

SENATOR COOK asked if a home rule county could increase fines. Fines that are levied, where do they go?

Wade Williams answered that the fines go to the county general fund.

No opposition to HB 1246.

SENATOR COOK closed the Hearing on 1246.

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1246

Senate Political Subdivisions Committee

Conference Committee

Hearing Date March 13, 2003 (Discussion and Action)

Tape Number	Side A	Side B	Meter #
2	X		2201 - 2695

Committee Clerk Signature *Stanley Berg*

Minutes:

SENATOR COOK called the committee to order. All members present.

SENATOR COOK told the committee they have a memo from Jack McDonald with the concern that the District Courts have that the bill cover county home rule ordinances. He said the way to clarify that would be to go to the very last sentence in the bill and insert county between the words of and home so the bill would say enforcement of county home rule ordinances. Terry Traynor thinks that is a good amendment.

SENATOR SYVERSON asked if that would cover the other issues on page 2.

Jack McDonald answered yes.

SENATOR SYVERSON moved adoption of amendment on HB 1246

SENATOR GARY LEE seconded the motion.

Roll call vote: Yes 6 No 0 Absent 0

SENATOR GARY LEE moved a DO PASS as AMENDED on HB 1246

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Operator's Signature

*10/3/03*  
Date

5P

Page 2  
Senate Political Subdivisions Committee  
Bill/Resolution Number HB 1246  
Hearing Date March 13, 2003

SENATOR SYVERSON seconded the motion.

Roll call vote: Yes 6 No 0 Absent 0

Carrier: SENATOR GARY LEE

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Jo Costa Rickford 10/2/03  
Operator's Signature Date

30408.0201  
Title.0300

Adopted by the Political Subdivisions  
Committee

March 13, 2003

*JB*  
3-14-03

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1246

Page 2, line 18, after "of" insert "county"

Renumber accordingly

Page No. 1

30408.0201

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*A. Costa Rickford*  
Operator's Signature

*10/3/03*  
Date



EP

Date: 3/13/03  
Roll Call Vote #: 1

**2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.**

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number 1246

Action Taken adopt amendment

Motion Made By Sen. Aguirre Seconded By Sen. Kay Lee

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	✓				
Senator John O. Syverson, V C	✓				
Senator Gary A. Lee	✓				
Senator Judy Lee	✓				
Senator Linda Christenson	✓				
Senator Michael Polovitz	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

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Jo Costa Rickford 10/13/03  
Operator's Signature Date



EP

REPORT OF STANDING COMMITTEE (410)  
March 14, 2003 2:32 p.m.

Module No: SR-46-4843  
Carrier: G. Lee  
Insert LC: 30406.0201 Title: .0300

**REPORT OF STANDING COMMITTEE**

HB 1246, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1246 was placed on the 86th order on the calendar.

Page 2, line 18, after "of" insert "county"

Renumber accordingly

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Operator's Signature

*10/2/03*  
Date

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2003 TESTIMONY

HB 1246

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Jo Costa Rickford  
Operator's Signature

10/3/03  
Date

#1 178-03



Representative Alon Wieland  
District 13  
P.O. Box 412  
West Fargo, ND 58078-0412  
aloniw@state.nd.us

# NORTH DAKOTA HOUSE

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360

## TESTIMONY HB 1246

Representative Alon Wieland



COMMITTEE  
Human Services  
Political Subdivisions

Chairman Froseth, Members of the Committee.

My name is Alon Wieland, Representative from the 13th District in West Fargo, and I am here to introduce and support House Bill 1246.

North Dakota cities that are Home Rule Cities are able to adopt ordinances and to enforce them, other cities may also have this power as well, but Home Rule counties are able to adopt ordinances but they are unable to enforce them.

This bill provides for Home Rule counties that adopt ordinances to be able to enforce them. Other counties that pass home rule in the future would also be able to enforce ordinances. Currently, there are 5 home rule counties in North Dakota. They are Richland, Cass, Walsh, Stutsman, and Ward.

This Bill also prevents any authority to regulate any industry or activity which is regulated by State Law or by rules adopted by a state agency.

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The penalty for a violation of an ordinance may be an infraction or a class B misdemeanor.

Mr. Chairman, Members of the Committee. I hope you will support this bill.

Thank you.

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