

# MICROFILM DIVIDER

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DESCRIPTION

1397

2007 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1397

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1397

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: February 1, 2007

Recorder Job Number: 2641

Committee Clerk Signature

*Morgan Revell*

Minutes:

**Rep. Metcalf:** *This particular item that I am bringing up, I will mention. Most of you have the original bill in your bill book. I have taken the privilege to give you a hog house bill to completely eliminate or replace the bill that was in your book. I would hope you could look at that.*

**Rep. Haas:** Do you want to go over the amendment?

**Rep. Metcalf:** *Yes. Basically it has just one reference to the original bill. When I first thought about working on this re-districting that is going to come up in four more years from now, I look back on the re-districting that we had in 2001 and I said there is really no reason to understand why we had the difficulty in re-districting the state of ND. That is why I'm putting this bill in front of you. Originally I planned to change the whole thing. I wanted to get a new committee and do everything right. The more I thought about that I realized we have good people here. I think that they can take them places that they need to be in order to give us an adequate re-districting in the year 2011. You ask why we are dealing with this bill right now. I want to have it before you in enough advance time so that you can think about it. If you think it's not right and you want to change that, we have two sessions that we can do that so we can make this a good re-districting. Having said that, after I eliminated the need for a new committee, basically*

I looked at the requirements for re-districting and I put certain areas of the requirements, made changes, or added some information to it to make it more definitive for what we think should be done in re-districting. Let's look at the old paragraph 4 that has been lined out. It says that the legislative districts and the sub districts must be contact with continuous territory. That has been moved further down the list. We go down to underneath E and we talk about how a legislative district may not cross the Missouri River. I'm sure we've spent at least a day or two discussions what is going to happen to the Missouri River when we get a district divided on both sides. Now having said what I just got through saying, this is one of the things that this committee may want to take a look at and see if we can justifiably have that district on both sides of the river. This may be the case if we have a bridge that is very close to the center of the district. Further on down underneath 2, the legislative assembly or any of it's committee's in the legislative council shall not base any proposed legislative re-district times on judicially recognized re-districting principles including: creation of compact legislative districts so that when a district is identified on a map, a district is in a form of a circle or a square. Now having said that we can't put circles and squares on the map. We can get them as close as possible to a certain configuration that will meet this requirement. The direct distance across the district at its widest point is no more than 150% of the direct distance across the district at its narrowest point. The purpose of that is to keep the district compact. Before I go any further I forgot to mention that you should have received a piece of paper that will take care of the last item that we are going to talk about. That is number 2. Every one of the items I am talking about is referred to in a legislative re-districting committee background memorandum. The 5 or 6 things that are on here are basically recommended by the Supreme Court on how to re configure districts. Now this section 2 is not a part of the Supreme Court. It was a part of it but it didn't explain it. That is why I gave you this so when you read this you understand what

section 2 is about. In paragraph C it says preservation of political subdivision boundaries with the extent possible so that a city or county is not separated between legislative districts unless the total population of city or county exceeds the idea of district size. We had a little bit of that last time. Preservation of communities of interest including the recognition of business trade areas, school district boundaries, and the urban and rural nature of the majority of the population of the district. Here is where I feel we made quite a few different changes in my opinion that were not justified. There are many districts that did not receive this particular version of this with the thoughts to Supreme Court. Here is where we are talking about federal law and section 2 of the federal voting rights act. The last thing is the protection of incumbent members of the legislative assembly. I feel that it is kind of an unusual situation where the chairman is saying that this should be preserved. There were some members who were basically forced out of this assembly because of the duplication of re-districting. I have also included a map of the state of ND with the districts clearly marked on it. I believe that if you are looking at it you can see where your district comes into play. My main concern is Barnes County which is one district. However, after the changes were made by this department the county was cut in half. They paid no attention whatsoever to the political subdivision side. They brought the district line right by Valley City, within a mile, therefore Valley City lost a lot of the people who normally trade. They did the same thing with Lisbon, which is about a half of a mile away from the district line. Basically it makes it difficult for the people who live in Lisbon to figure out who their people are that represent them. And where they have to go to vote and everything else that we are very proud of. Enderlin is basically the same thing. It went around that. It was very difficult. In Northern Barnes County there are several small cities like Rogers and Daisy that are within a half of a mile of the district edge.

*These individuals that put it as district 20, they have to go 50-60 miles to talk to their legislator. If they want a legislator that they want to support with problems, they probably don't even know who to talk to. In fact the legislators in district 24 have been asked on numerous occasions to take their problems in the east part of Barnes County which is basically in district 20. This is all created because of problems with re organization. If we go one step further, Rep. Mueller and I voted in favor of this plan. I would say that this is the dumbest thing to do if you aren't in favor of this. Rep. Mueller lives on the north end of Barnes County. We did it because we were basically told that if we don't vote for this plan we were going to cut it the other way and soon he would have been up in district 20. To me it was not a good plan. It could have been done better. There were quite a few plans that came out of the committee that was working on this. They did an excellent job in dividing the districts. They gave everyone a good perspective on where they were at and what they were doing. That concludes my information.*

**Rep. Weiler:** After my first session in 2001 we re districted. I remember that session and how difficult it is to re district having to have 14,000. It is a very difficult process to go through. With these new guidelines with this bill, have you attempted to go through the state yourself and re district? It seems like it would be just as difficult with the new guidelines as it would be under the current law to have a situation where everything is perfect. I'm just wondering if you have gone through the state yourself. I know your not attributing to all the computerized stuff that they have when you do this.

**Rep. Metcalf:** I have not done that. However, as I basically stated previously. There were plans that did this before this one came up. Before this plan was submitted basically Barnes County was kept in tact. We picked up two precincts out of Cass County and we had all of the population we needed without changing Barnes County at all. This was a solid plan that took care of all the needs of the re-districting. I can't go and say as far as other parts of the State of

ND but listening to Representatives from other areas, their areas were pretty well decimated in certain areas. We can look up one certain point up in the north east corner of Steele County. You will notice that there is a dark colored corner there. One township is taken out of the far corner. That particular township contains a state Senator. By putting him in that particular district, it also left him in the same district with another state Senator. If we are going to talk about one part of this bill that I am trying to approach here that says we are going to try to ensure the protection of incompetent members of the legislative assembly and which by the way is part of the Supreme Court thing that has to be done. That wording is the same way is the Supreme Court did it.

**Rep. Weiler:** Just to follow up on the example that you just gave, in 2001 when we did re district, there were also three Republican house members that were put into the same district. One had to leave. It's unfortunate but it happens.

**Rep. Metcalf:** I would like to reply to Rep. Weiler's statement. If I'm not mistaken that particular instance happened in District 28. The Representative was talked to and agreed to stay out for a session. We did the same thing in the Democratic Party. There were 3 of us in the same district. One of us said that he would retire. We did have 3 there too. When you do go from 51-47 districts you are going to have to have people step down.

**Rep. Kasper:** I wanted to clarify it for my own thinking. The top half of the amendment is really current law until we get to D, E, is that correct?

**Rep. Metcalf:** It is basically the same until B, which is something about substances provided. Then we get down to E.

**Rep. Kasper:** I did a little coloring on my map. I've counted 15 counties, besides Barnes County that were sliced up. There are a couple of instances where a couple of the counties were sliced up in thirds. From what I recall, the reason being is because of our lack of

population and our great expanse of square miles. We are trying to find 12 or 14,000 people like out in district 39 where you go from the South Dakota border and Hettinger up to almost Williston. We have a population problem. I think that is why when the committee came forward with their plan they had to cut up the counties. Do you agree that we will never have a perfect county perfection?

**Rep. Metcalf:** I am using Barnes County as a model not as something that I feel specifically enthralled about. It is just something that I know a lot about. There are other counties that were changed that way. I have not gone through this whole situation. For instance District 8 why does it go from Bismarck all the way to the Mclean County line? There has got to be considerable district there. It sure is not a square or circle. There are several others districts like that. There were maps that were built that would have done that for the 47 districts.

**Rep. Kasper:** I realize that. I know what Rep. Devlin went through spending 100's of hours on trying to come up with plans. I think at the end there were three or four and none of them looked real pretty. The fact is that when you move a line it impacts 25,50, or even 100 miles away because of our population. I wanted to ask you where you state the direct distance at the widest point is no more than 150% of the narrowest point. How would we handle District 39?

**Rep. Metcalf:** I guess the only way I can see that is when we work with our legislative council which has a computer system on it. If they could bring out the best solution possible to meet that, I don't think there is anyway you can get a district as a circle or square. I think we can try to get the closest point we can. I see we have a portion of District 36 going down into Hettinger County. Would that be better off as a part of Billings County? I don't know. We have some going into Morton County. I just feel that it could be with the proper ways, it can be done.

**Rep. Froseth:** I was on that committee. I agree with most of your criteria. I do believe that we did use most of the items in consideration on how to form these boundaries. Part of the



problem we ran into was the Missouri River and not crossing it. We crossed it in District 4. That was about the only place that we could cross it. To get 13,360 people we had to form some humongous districts like 39. We needed the population of Stanley to make District 2 a full district. We had to go down through those townships and pick up those small towns. I'm sure there were people up there that weren't happy with that situation. It had to be done to get enough people. As far as square blocks and circles, we just found that it would be impossible. I know there were some conflicts of interest in certain areas like Barnes County. It's a task that we spent hours on. I know there were some unhappy legislators that lost some of their boundaries. I gained some boundary that I was totally unfamiliar with in my district. That is just part of the process when the re districting issue comes forward. The only way to solve that is to add more districts and I don't hear a huge cry for that to happen. I think this problem is going to exist no matter who does it or what guidelines you use.

**Rep. Metcalf:** I guess the only reason I am bringing this out this time is so we start taking a look at it. Looking at it, what can we actually do? We have two more sessions before this comes into play.

**Rep. Haas:** You refereed to District 36 and that is my district. You referred to that little portion of Hettinger County that is in my district. If we take that out and go into Billings County, I would have to take the whole county. This is a difficult task. The configuration of District 36 was a whole lot nicer before the redistricting from a convenient standpoint. I think all of us accepted that. I think the rural legislators thought it became more complicated also.

**Rep. Metcalf:** I agree with that. It is a complicated problem. There is no easy fix to this. That is why I'm bringing that up now.

**Rep. Haas:** Thank you. Are there any further questions?

**Rep. Weiler:** In my 7 years up here I have heard so many complaints from the legislators

regarding the size of their districts. I know it's an inconvenience for us, but do the constituents care? They are the ones that we represent. I don't even know if they care.

**Rep. Metcalf:** I really think that there are many people out there that don't know who represents them. However, there are many of us that know exactly what their constituents were and who their representative was the last time.

**Rep. Weiler:** I didn't want to misconstrue my comments. I didn't mean to say that our constituents don't care who represents them. I'm just saying that our constituents don't care about the size of the district.

**Rep. Froseth:** We as legislators represent our district people and the state of ND. I tell people in District 2 which is just a couple miles west of us that I will reach across district boundaries and work with them just as well as people in my own district.

**Rep. Metcalf:** I think we all do that. I am working with two people right now that aren't in my district.

**Rep. Haas:** I was at a meeting in Texas. I ate dinner with some Senators and Representatives from Texas. The Senators in Texas represent 600,000 people by themselves. That is the size of the state of ND. Each one of ours represents about 13,500 people.

**Rep. Potter:** With the original bill you are asking for a creation of a committee. With the new one it doesn't ask for a committee. So then just trying to get this clear, we aren't working with a new committee? You are asking to establish guidelines?

**Rep. Metcalf:** The committee is already in force by legislation.

**Rep. Haas:** Is there any additional testimony in support of HB 1397? If not we will close the hearing on HB 1397.

# 2007 HOUSE STANDING COMMITTEE MINUTES

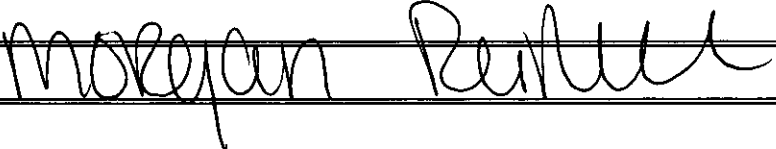
Bill/Resolution No. HB 1397

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: February 8, 2007

Recorder Job Number: 3142

Committee Clerk Signature 

Minutes:

**Rep. Weiler:** I move a do pass.

**Rep. Froseth:** I second that.

**Rep. Weiler:** Just a little bit of discussion here. This is extremely difficult, when you are trying to reorganize a district. It's hard. The way it's been done in the past, they keep making changes to it. This bill here throws a lot of really different tasks out.

**Rep. Haas:** Is there any further discussion on the motion?

**Rep. Froseth:** I was on this committee last time. We followed a lot of the same criteria he has in here. It was part of our purpose. In a hog house amendment, it limits it to 47 districts. It takes away the flexibility for the committee if they want to reduce the number of districts. We can't possibly continue to make our rural districts larger than they are now. The cities like Bismarck and Fargo might need a whole new district by the time this comes up again. I don't like the idea of increasing our legislature either but it might have to happen. This would limit it to 47 districts, and that's it. There are things in here that aren't necessary.

**Rep. Haas:** In being on that committee in the initial discussions, were there discussions and did you define some guidelines to be used?

**Rep. Froseth:** Yes we did.

**Rep. Haas:** Is there any other discussion on a do not pass motion for HB 1397? If not we will take a roll call. The do not pass motion for 1397 passes by a vote of 9-4-0. Is there a volunteer to carry this bill?

**Rep. Froseth:** I will.

# FISCAL NOTE

Requested by Legislative Council  
01/16/2007

Bill/Resolution No.: HB 1397

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>						
<b>Expenditures</b>			\$23,228		\$23,228	
<b>Appropriations</b>						

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill requires the Legislative Council to appoint an interim committee on the legislature.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill requires the Legislative Council to appoint an interim committee on the legislature.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The expenditure amounts reflect the estimated travel and per diem costs associated with the legislative members of this interim committee. The estimate assumes 10 legislators would serve on this committee.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The 2007-09 budget request for the Legislative Council includes adequate funding to provide for the costs of this committee for the 2007-09 biennium.

<b>Name:</b>	Jim W. Smith	<b>Agency:</b>	Legislative Council
<b>Phone Number:</b>	328-2916	<b>Date Prepared:</b>	01/17/2009

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1397

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 54-03-01.5 of the North Dakota Century Code, relating to legislative redistricting requirements.

**SECTION 1. AMENDMENT.** Section 54-03-01.5 of the North Dakota Century Code is amended and reenacted as follows:

**54-03-01.5. Legislative redistricting requirements.**

1. A legislative redistricting plan based on any census taken after ~~1999~~ 2009 must meet the following requirements:
  - ~~1.~~ a. The senate must consist of forty-seven members and the house must consist of ninety-four members.
  - ~~2.~~ b. Except as provided in ~~subsection 3~~ subdivision c, one senator and two representatives must be apportioned to each senatorial district. Representatives may be elected at large or from subdistricts.
  - ~~3.~~ c. Multimember senate districts providing for two senators and four representatives are authorized only when a proposed single-member senatorial district includes a federal facility or federal installation, containing over two-thirds of the population of the proposed single-member senatorial district.
  - ~~4.~~ d. ~~Legislative districts and subdistricts must be compact and of contiguous territory.~~ Legislative districts must be as nearly equal in population as is practicable. Population deviation from district to district must be kept at a minimum. The total population variance of all districts, and subdistricts if created, from the average district population may not exceed recognized constitutional limitations.
  - e. A legislative district may not cross the Missouri River.
2. The legislative assembly or any of its committees and the legislative council shall base any proposed legislative redistricting plan on judicially recognized redistricting principles, including:
  - a. Creation of compact legislative districts so that when a district is identified on a map the district is in the form of a circle or a square and the direct distance across the district at the widest point is no more than one hundred fifty percent of the direct distance across the district at the narrowest point.
  - b. Creation of contiguous districts.
  - c. Preservation of political subdivision boundaries to the extent possible so that a city or county is not split between legislative districts unless the total population of the city or county exceeds the ideal district size.

- d. Preservation of communities of interest, including the recognition of business trade areas, school district boundaries, and the urban and rural nature of a majority of the population of the district.
- e. Preservation of the core area of existing legislative districts.
- f. Compliance with federal law and section 2 of the Federal Voting Rights Act of 1965 [42 U.S.C. 1973].
- g. Protection of incumbent members of the legislative assembly."

Renumber accordingly

Date: 2-8-07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1397

Action Taken DO NOT PASS

Motion Made By Rep Weiler Seconded By Rep. Froseth

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman	X		Rep. Bill Amerman		X
Rep. Bette Grande VC	X		Rep. Louise Potter		X
Rep. Randy Boehning	X		Rep. Jasper Schneider		X
Rep. Stacey Dahl	X		Rep. Lisa Wolf		X
Rep. Glen Froseth	X				
Rep. Karen Karls	X				
Rep. Jim Kasper	X				
Rep. Lisa Meier	X				
Rep. Dave Weiler	X				

Total (Yes) 9 No 4

Absent 0

Floor Assignment Rep. Froseth

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



**REPORT OF STANDING COMMITTEE (410)**  
February 8, 2007 1:27 p.m.

**Module No: HR-27-2545**  
**Carrier: Froseth**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1397: Government and Veterans Affairs Committee (Rep. Haas, Chairman)**  
recommends **DO NOT PASS** (9 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING).  
HB 1397 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

HB 1397

