

2011 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2256

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

SB 2256
January 27, 2011
13527

Conference Committee

Committee Clerk Signature *Krista Oliver*

Explanation or reason for introduction of bill/resolution:

Relating to election observers

Minutes:

No written testimony.

Chairman Dever opened the public hearing on SB 2256. Senator Holmberg was on hand to introduce the bill.

Senator Holmberg: International observers are a key component in the election process and keeping the election process around the world open, transparent and honest. As part of the Helsinki Commission the United States said that it would allow election observers in our county. The basic problem with the United States, unlike most counties, is that we are less experienced with international observers, our elections system is very decentralized and varying local laws and administration of those laws. Representative Grande will be able has been an international observer will be able to tell you her experience but the code of conduct for an observer that would come to a polling place in North Dakota must be impartial, must be identifiable, they are trained in professional behavior, they cannot interfere with the process, they cannot make comments to the media, they must be compliant with laws and regulations. In the bill itself we had discussion with the Secretary of State's office about the use of the words 'international election observers' and they felt quite strongly that it was better just calling them 'election observers'.

Vice Chairman Sorvaag: There is no addressing the number of observers. What is preventing a group of 50 to show up?

Senator Holmberg: The simple answer is common sense; they will spread them out because the election judge has the absolute authority.

Senator Cook: Line 7, does the word 'must' have to be in there?

Senator Holmberg: Yes. Because they must; they can't discriminate?

Senator Cook: Were they not allowed?

Senator Holmberg: No.

Chairman Dever: Do we have in separate law rules regarding poll watchers that might be similar to this?

Senator Holmberg: That is the patrician nature of the 'can you have people there observing the election' and the answer is yes.

Senator Berry: My question mainly revolves around the election judge. Is there one at each site?

Senator Holmberg: Yes. Their job is to keep the process running smooth.

Vice Chairman Sorvaag: That is where my line of questioning was going to go. I think that it is a great idea, don't get me wrong. Who decides who goes where?

Senator Holmberg: That would be up to the election judge, they are there to observe the process, not participate in it.

Representative Grande: District 41, Fargo. I had the opportunity to attend the elections in Iraq. We had 3 days of educational meetings, meetings with the EU which was a big part of setting up the international observers.

John Arnold: North Dakota Association of Counties. Express my support of the bill. The reason the board was left off, in North Dakota the election officials do recognize the integrity of the election process is based on openness.

Chairman Dever: Do these same provisions count to poll watchers?

John Arnold: Well there are checkers and challengers. Checkers are appointed by the party and can't challenge the accountability.

Jim Silrum: We are in favor of this bill because it codifies the practice. I personally had election observers from Russia and France, leading up to the election and at the poles themselves. Myself I have not been an international observer yet but have served in other states in our country. That is why we asked for the international to be stricken from this.

Chairman Dever: It seems to me that the connotations of international observers was to ensure that they were fair elections

Jim Silrum: You are correct. There have been a number of times that I have been asked to help in other counties but have not been able to attend yet. There are many organizations that do this.

Chairman Dever: But with some greater authority that is what they have done here.

Vice Chairman Sorvaag: No

Senator Berry: My question basically is that at the pole sights there are someone from either party that can assist with the ballot, is that true?

Jim Silrum: It is true, the makeup of the election board that is at every polling place is that there must be one inspector that is in charge and there must be one judge from each political party in addition to the clerks. The judges that are there and representing both parties would be on hand to help people out. There is also a provision in law that if I need assistance I can bring someone with me to do that.

Chairman Dever then closed the public hearing on SB 2256

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

SB 2256
February 11, 2011
Job number

Conference Committee

Committee Clerk Signature *Kate Oliver*

Explanation or reason for introduction of bill/resolution:

Relating to election observers.

Minutes:

No written testimony.

Chairman Dever opened the floor to discussion on SB 2256. A motion was made for a do pass by Vice Chairman Sorvaag with a second by Senator Berry. There was no further discussion, roll was taken, the motion passed 7-0 with Vice Chairman Sorvaag carrying the bill to the floor.

Date: 2-11-11
Roll Call Vote #: 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2256

Senate Government and Veteran's Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sorvaag Seconded By Benny

Senator	Yes	No	Senator	Yes	No
Chairman Dever	X		Senator Marcellais	X	
Vice Chairman Sorvaag	X		Senator Nelson	X	
Senator Barry	X				
Senator Cook	X				
Senator Schaible	X				

Total (Yes) 7 No 0

Absent _____

Floor Assignment Sorvaag

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

REPORT OF STANDING COMMITTEE

SB 2256: Government and Veterans Affairs Committee (Sen. Dever, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
SB 2256 was placed on the Eleventh order on the calendar.

2011 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2256

2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

SB 2256
March 11, 2011
15325

Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to election observers

Minutes:

Chairman Bette Grande opened the hearing on SB 2256.

Senator Ray Holmberg, District 17, appeared. He had a power point presentation. A commission on security and cooperation in Europe also known as the Helsinki Commission was created to monitor compliance with acts dealing with fair elections around the world. The United States is a member of that commission. There are nine members from the US senate, nine from the house, and one each from the department of state defense and commerce. The international community has a role in observing elections and assisting as they can. The mere presence of observers can dissuade misconduct and true transparency and inspire confidence in the process. Your chairwoman has been on one of these visits to another country that she is going to talk about in a bit. One of the things in the US, though, when it comes to the other side of it, we will go and observe your elections and we invite you to come and observe ours is that the US has less experience with international observers. Our election system is very decentralized. All the red states in this particular picture indicate that all states allow partisan observers. We don't have anything specifically that says to the world our elections are open for any observers. Two states and the District of Columbia allow international observers. That does not mean that there have not been international observers in other states. The solution is state legislation because of our decentralized system. You will find and your chair will be able to tell you about the code of conduct they have in other countries. You have to be impartial. You have to be identifiable. Professional behavior, you can't be involved. You don't stand out there giving press releases and you have to comply with laws and regulations. It really builds on that whole idea that if we and other countries are sending observers and we ourselves don't appear to welcome observers that is kind of a double standard. I first was made aware of the situation at a NCSL meeting on redistricting and elections where a speaker from the commission talked about states and talked about urging states to put in legislation that would make it clearer. I came back and asked them to send us model legislation so they sent us the South Dakota law and a couple other laws and some of them were very long and complex. I turned them over to the association of counties and to the secretary of state's office because that is where elections are handled. They all came to the conclusion that it would be better to have it very simple and that is what 2256 is. The issue was sent

out to county auditors and asked for comments. The one comment I thought was interesting and mentioned it in the senate hearing was that he didn't like the idea because even now people come, they vote, they stand around and have coffee and make things hard for other people who are voting. They make too much noise and they get in the way. My response to a gentleman from the association of counties is that you should write that individual back and say you should be doing your job. There shouldn't be people standing around getting in the way. The bill itself just allows nondiscriminatory access to all stages of the process. The individual must be identified. They have to keep their hands out of the process. They can't be there offering suggestions and things like that. They can't interfere with voters in the preparation or casting of a ballot or prevent the performance of the duties of any election official. This does not at all reduce the authority of the election judge to say you are making too much noise, you have to leave or you are getting involved in the process.

Rep. Lonny Winrich: Are you familiar with the quotation that all power tends to corrupt and power point corrupts absolutely?

Senator Ray Holmberg: I do now and I will use it and take it as my own.

Rep. Karen Rohr: It looks like you have done a lot of research into this concept of international elector observers. Of the states that do have that concept incorporated, what kind of feedback are you getting both positive and negative?

Senator Ray Holmberg: We received no negative comments. I can't really tell you on a South Dakota experience. I would guess probably they haven't had a lot. Virginia has had a lot of them. Most of the information I gather was through the NCSL meetings that I have been at.

Chairman Bette Grande, District 41, appeared in support. A little over a year ago I had the opportunity to spend time in Iraq to observe as an international observer of their election process. I am affiliated with an organization called the National Foundation of Women Legislators. They were called by our state department and said Iraq was asking countries to come in to observe this very critical election they had coming up for the assurance of the world to see that they knew how to run their elections. This was very important to them that they would have as many countries represented as possible in their nation during their election cycle so that they could say to the world see we have reached democracy. We are trying to do this fairly. The key to international observations of elections come because it helps in the spread of democracy in that they come here, they see the democratic process take place, they go home and set it up as they see fits their nation. They try to run the process to what worked for their needs. Some of the reasons our group was asked to go is that they were looking for women to come to Iraq. Their constitution had been written that 25% of their parliament would be made up of women. They have all forced women into leadership in their country. They needed to see women in leadership standing shoulder to shoulder with their women to show them it is okay to take that step forward. She passed around to the committee that was required of them. One was a purple card which showed they were a NGO out of an international election observers. This was as close to or equal to a passport as you ever had. She also handed out the international observers' guide written in multiple languages and it gives us the entire

code of conduct. The international poll watcher/observer form (**Attachment 1**) was also handed out. This was the form we would use if we saw something that we did not feel was accurate in the way something was being done. We could fill out that form and turn it in. We only did a few of them because what was interesting is you don't disrupt. They were so thrilled to have the observers there as they set things up. Their head person if they saw us whispering or asking questions of the interpreter, they would get all excited and gather around to want to know what they had to fix because they didn't one of these forms filled out. Slides were shown and some interesting information was given. The day we arrived was also military voting day. Most of their military were very tied up with assurance of making sure their people could get from their jobs, to work, to vote, back and forth. Every room was very uniform. The sealing of the boxes were also very particular because they never wanted to be accused of stuffing a ballot box, changing ballots, or removing ballots. We also received a lot of briefing of how and what and the dos and don'ts and I'll pass that along. You had the option to go red zone. Some observers chose not to enter the red zone. I chose to go to the red zone. I am not going to Iraq and not seeing it all. She shared some of her experiences getting to and in the red zone. It was stated when we left to bring scarves and headdress. She showed hers and explained that she could not wear it in the red zone.

Rep. Vicky Steiner: Is this inking on the finger a fingerprint and do people worry about voting with a fingerprint in that country?

Chairman Bette Grande: You can sign with a X because a lot of them are not educated. The previous leader there did not believe in the education of the people. The ink is put on after you vote. After you cast your ballot and you are at the box, it is some ink but it is actually silver nitrate. It is about 25%. It is a temporary tattoo that is burnt into the finger so that tattoo goes into the finger and your finger stays purple for a minimum of three days. They have pre election for military three days prior. It won't come off for them to go vote a second time and also it stops you, since you have so many displaced people, from coming to this polling site to this polling site and making a declaration of wanting to vote and it has proven that you have voted. That ink meant freedom to every one of them.

Rep. Bill Amerman: It sounds like a good bill to allow international community to observe and learn and so on and so forth. If this were to pass, just reading it, could we have a whole bunch of election observers?

Chairman Bette Grande: I will defer all this, and I will stand corrected if so, but I believe I will have secretary of state's office answer that as to why it ended up drafted the way it did, but each county would have the ability to say this is how much room we have for observers. This is how it will take place. I don't know why we don't have the word international in here. They have that answer for you.

Jim Silrum, Deputy Secretary of State, appeared in support. I will Rep. Amerman's question. The reason we suggested just having it be observer is because the observers do need to be identified as to who they are. The counties have the authority to say there are going to be too many observers in this particular location. Therefore, it might be better placed to have those observers elsewhere so there is control over that. This particular bill actually just simply codifies what has already been the practice in North Dakota. We have

international observers. We also have had domestic observers as well. In 2008 for two weeks prior to the presidential election in November we were host to a gentleman from France and a gentleman from Russia to observe the process. As you can imagine, with North Dakota being the only state without voter registration everywhere we go we are asked how do you run elections without any form of voter registration? There are observers that like to come in and see how we do that even from other states. Many other states are thinking about things like election day registration which is more closely related to what we do. We want to make the process is open and transparent for everyone. I have traveled to California, Colorado, and Texas to observe their election process and it has been a big help to us as well.

Rep. Bill Amerman: We have always had domestic observers, etc. What did this bill change?

Jim Silrum: This bill puts into law that observers must be allowed. Yes, it has been the practice. It doesn't substantively change anything about the way things have been handled so far, but by putting it in the law this says to election officials all across the state election observers will be allowed to observe the process.

Rep. Bill Amerman: You said it would be left up basically to the county if they had too many observers. If they have too many observers, are they going to kick some out?

Jim Silrum: Common sense must prevail in situations like that. If your polling place is in a civic center where there is lots of room, there is going to be lots of space for observers to be there without interfering in the process. However, if your polling place is a small room in a particular building, common sense is going to dictate that perhaps more than two observers is going to be too much for that room to handle. In those cases perhaps the counties will be thinking about different polling locations to accommodate that sort of thing. We want to encourage the observation process, because there is nothing to hide within elections.

Chairman Bette Grande: As we were observing, there would be six chairs set up in the room, so we would come in groups of six and after a certain time period you rotated out and the next group would come in and you would go to the next polling site. We also pulled up to various polling sites especially when we went to the red zone and if it did not look safe you didn't go. The same would happen with them. If they got there and it wasn't going to be a good polling site, they might drive down the street to the next polling site.

Rep. Lonny Winrich: In Paragraph 2 of the bill the language seems to imply that an observer must be representing an organization. Is that the case or could someone just go to the county auditor and say I would like to observe an election?

Jim Silrum: It is our understanding that most observers are going to be coming in representing a particular organization or they are going to be the special guests of the state or something like that. This is just trying to say that these people should be identified.

Chairman Bette Grande: What we are trying to ask for here is that just like when we currently have observers and there is a republican and a democrat doing observation, the

judge knows who they are and it is very specific that they don't interact with anything. All they are doing is watching and doing that, but they are identified with the judge. The republican and democrat that are there for observation are observing who is coming in so they can poll watch and go make calls. Election observers are there to see how the process flows, not the outcome of the election.

Rep. Lonny Winrich: Do you view this as authorizing a county auditor to just allow an observer who doesn't necessarily have an organizational affiliation?

Jim Silrum: The election process from beginning to end is completely open to the public. Most of the time observers that currently observe want to observe the tabulation process. Certainly observers are very interested when there is a recount. This specifically addresses those that come from groups but it really could address it for all people.

Rep. Lonny Winrich: I am familiar with the partisan observation process that is currently in law. Since this doesn't show anything about that, that must be in another section of the law.

Jim Silrum: It is in another section of the law. There is a bill that I believe has passed through the house that does actually take that particular political party observers and put it into its own section of the law. They are specifically identified as well and more clearly identified.

Rep. Lonny Winrich: Those poll watchers are there for a very specific purpose usually to try to identify voters that they believe are their own voters, etc. In the event the county auditor had to say they had too many observers here, who gets priority?

Jim Silrum: I don't believe it is going to be an issue. Were it to become an issue for a particular location, there would be an effort made on all parts to make sure there is representation there from the political parties to observe the process. Prior to and on election day our staff is busy interacting with both political parties to make sure that those people who have already voted by absentee or early voting or something like that are identified to the political parties. We are actually probably going to see a continued drop off on the number of political party observers just because their primary focus in being there in a polling location is to watch and go and call members of that party to get out and vote. With what we can do now from the central voter file and transmitting that to the political parties and the district chairs, the need for physical observers in the polling place is no longer as necessary as it was. There is fairness going to be put in place so that both observers are allowed access to the polling place.

There was no one opposed or neutral to this bill.

The hearing was closed.

2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

SB 2256
March 18, 2011
15693

Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to election observers

Minutes:

Chairman Bette Grande opened the discussion on SB 2256.

Rep. Gary Paur moved a Do Pass.

Rep. Lisa Meier seconded the motion.

Rep. Karen Rohr: If a county doesn't want to do this, have international observers, do they have the right to do that?

Chairman Bette Grande: If they don't have opportunity for them, there is really no way to put an international observer in the room, but I can't imagine why you wouldn't want somebody to observe your process.

Rep. Karen Rohr: I am having a hard time envisioning out there in rural America like Glen Ullin, ND where they have maybe five or six people coming in, it wouldn't be a very good opportunity there but going to Mandan or Grand Forks might be.

Chairman Bette Grande: If an international observer is going to come in to the state, they are going to be coming through the secretary of state's office. The secretary of state will not put them in places like Mott. They are coming here to learn about democracy and the process. We are not going to put them where they are not going to see democracy in process.

Rep. Gary Paur: Jim Silrum from the secretary of state's office says that whatever is in this bill is the current practice. We are just codifying it.

DO PASS, 13 YEAS, 0 NAYS. Rep. Lonny Winrich is the carrier of this bill.

Date: 3-18-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2256

House GOVERNMENT AND VETERAN AFFAIRS Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Paur Seconded By Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Bette Grande	✓		Bill Amerman	✓	
Vice Chairman Randy Boehning	✓		Ron Guggisberg	✓	
Glen Froseth	✓		Lonny Winrich	✓	
Karen Karls	✓				
Lisa Meier	✓				
Gary Paur	✓				
Karen Rohr	✓				
Mark Sanford	✓				
Vicky Steiner	✓				
Roscoe Streyle	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Winrich

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

REPORT OF STANDING COMMITTEE

SB 2256: Government and Veterans Affairs Committee (Rep. Grande, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
SB 2256 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

SB 2256

INTERNATIONAL POLL WATCHER/OBSERVER FORM

Council of Representatives Election - Iraq 2010

Team: _____ Governorate: _____
 Observer's name: _____ District: _____
 Arrival time: _____ City: _____
 Departure time: _____ Polling Centre (PC) nr: _____
 Polling Stations (PS) nrs: _____

1. Were there any posters displayed outside the PC explaining to voters where to vote?

Y	N
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2. Was there any campaign (candidate/party) material displayed within 50m of polling center?

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2. Were male and female voters searched before entering the polling center?

Y	N
---	---
4. Did the Polling Station open at 07:00?

Y	N
---	---

 * If not, please specify the time of opening and reasons for delay at the end of this form
5. Were at least 3 members of the Polling Staff present at all times during polling?

Y	N
---	---
6. Was there any essential election material missing (e.g., voters' list, ink, ballot papers, etc.)?

Y	N
---	---

 * If yes, please explain. Use the space at the end of this form.
7. Were voters asked to present a photo ID prior to being checked on the Voter Registry?

Y	N
---	---
8. Were voters checked for evidence of previous voting (e.g., the ink on the finger?)

Y	N
---	---
9. When identified, were voters asked to sign the voter's registry next to their names?

Y	N
---	---
10. Were names of voters being added to the voter's list?

Y	N
---	---

 * If so, please explain. Use the space at the end of this form.
11. Were the ballots verified by a stamp just before being issued to voters?

Y	N
---	---
12. Was there a poster inside the polling station explaining how to mark the ballot paper?

Y	N
---	---
13. Was there a poster of candidate names placed behind the voting screens/booths?

Y	N
---	---
14. Were there any cases of violation of the secrecy of voting?

Y	N
---	---

 * If so, please explain. Use the space at the end of this form.
15. In case of a wrongly marked ballot, did voters ask for a new ballot?

Y	N
---	---
16. Were the voter's index finger properly inked (covering the cuticle before casting a ballot)?

Y	N
---	---
17. Was there any security personnel present inside the polling stations?

Y	N
---	---

 * If so, for what reason? Use the space at the end of this form to explain.
18. Were there any cases of multiple voting? If so, explain on the back of the form.

Y	N
---	---
19. Were there any cases of group voting?

Y	N
---	---

 * If so, why (e.g., illiteracy)? Use the space on the back to explain.
20. Were there any complaints lodged?

Y	N
---	---
21. Were any other domestic observers present at the polling station?

Y	N
---	---

 * If yes, please specify number and name of organizations on the back of this form.
22. Were political entity agents present at the polling station?

Y	N
---	---
23. Were there domestic observers and/or political entity agents turned away from the PSs?

Y	N
---	---

 * If so, specify. Use the back of this form.
25. Did the polling center close at 17:00?

Y	N
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EVALUATION

Performance of the Polling Station Staff: Please rate between Very Good (1) to Bad(5)

- Very Good 1
- Good 2
- Fair 3
- Poor 4
- Bad 5

Please use space below for additional information

YOUR ANSWERS SHALL ONLY COVER THE PERIOD OF YOUR VISIT