

2013 SENATE POLITICAL SUBDIVISIONS

SB 2268

2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee
Red River Room, State Capitol

SB 2268
January 31, 2013
18094

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to publication of park district board proceedings

Minutes:

You may make reference to "attached testimony."

Chairman Andrist opened the hearing for SB 2268. All senators were present.

Chairman Andrist presented written testimony #1.

Senator John Grabinger asked Chairman Andrist if there has been any consideration for smaller communities that may not have first of all a park district or park board and second or if they don't have a newspaper from their community. Is there any consideration that may be it should set a certain population?

Chairman Andrist replied that there was nothing in this bill for that. But I can tell you from experience, often the very smallest of the cities vote to have their school and city minutes published. The smallest ones are the ones that usually opt not to do because they don't feel it is necessary because a third of their constituency serves on their city board or their school board.

Senator Howard Anderson: I always thought that at the city meeting of the park board meeting that if there were things of interest to the public at large, the reporter from the newspaper should be there and record those things and then publish them in the newspaper.

Chairman Andrist replied I agree. In the best of the newspapers they do. In the newspaper that I last owned, they don't miss any park board meetings or school board meetings, or any city council meetings but they still vote to have the official minutes printed because they want to make sure. Now whether they don't trust us or whether they find information, a lot of them are interested in seeing where the money is going which usually isn't a part of the reporter. The reporter of course when you read his story he's picking and choosing what he thinks is of interest.

Vice Chairman Ron Sorvaag gave the hearing back to Chairman Andrist.

Jack McDonald is here representing the North Dakota Newspaper Association. We support this bill for many of the same reasons as Senator Andrist just outlined. I might start out by answer a couple of the question Senator Grabinger said. Every Park District does have an official newspaper; it's the official newspaper of the city that created it. If the city doesn't have a Park District of course, then there won't be any park district to vote. But if the city has a Park District then the Park District's newspaper is the same as the city newspaper. Under state law every city in North Dakota is required to have an official newspaper. Referring to Senator Anderson's question is the person who testified afterwards will indicate the number of cities in North Dakota there is still well over 100, and so but there not all covered by reporters of a certain time especially in the weekly areas. So, that's why they need to have it there. If it were a weekly newspaper for example they may have eight different park districts in their area so they can't send a reporter to every single meeting. What this does basically as Senator Andrist said the language in this bill is the exact same language that's in the law for the school boards, and for the city commissions in North Dakota right now. This allows the voters to decide every four years whether they want to publish the minutes or not. Then if the voters vote to do that, then they publish them for the next four years and if the voters decide they don't want to, then they don't publish. This is a very democratic process; it comes from the citizens themselves. In reference to what Senator Andrist said that in the past park districts didn't do as much as they do now. Now you have the park district budgets and expenditures in the larger cities up in the many millions of dollars. There is an interest from the citizens to see what the proceedings are all about just like they are in the school districts in the cities. I think if the voters want to do that they should have the opportunity to do that. If the voters don't want to do that then they will vote no and that will be that.

Vice Chairman Ron Sorvaag For the record I am a Park Commissioner in the City of Fargo. We need to have that clear. With the cities and the schools do they actually have to publish all their detail bills as the park district would do? **Jack McDonald** replied yes. The law says they do and you'll notice that there is a provision in there like in the other minutes as well, that if for instance a salary checks. If you don't want to print the salaries every year (examples given), they can list the salaries just once and then they don't have to list them again. But yes they do have to list their checks and expenditures the cities and the school districts.

Vice Chairman Ron Sorvaag added for example in our district our bills each month are traditionally 30-80 paid bills, line item bills. So the understanding from this that every one of those details we have to buy newspaper space every month on the public dollar to publish that. Is that the way this is written?

Jack McDonald replied yes it is. I should've brought the City of Bismarck for example, or the Bismarck School Board for example follows this and they do list them. The Bismarck School Board is probably the same boat as you are. When you publish the minutes it doesn't turn out to be the ninety pages like you said because those are individually listed by being in smaller type. You'll see the listing of the checks for the Bismarck School Board and they don't have it in length. The cost is not that much compared to what the dollar value is.

Vice Chairman Ronald Sorvaag said so your saying they summarize it then? Because if you took all our bills and put them down to five inches, you would need a magnifying glass to actually read it in the newspaper.

Jack McDonald replied I may have miss spoke on the 5 inches. But it is smaller type for one thing. It is the legal notice type and then they run them on and don't list each check separately. For Bismarck it is probably more than 5 inches but it is not as large as you may think.

Vice Chairman Ronald Sorvaag From my community, but do you just know off the top of your head what percentage of the population regularly gets the paper delivered, say the Fargo Forum in our community? What percentage, do you know that fact? **Jack McDonald** replied that he did not know that off the top of his head. But someone speaking after me probably would know. There are some figures, certainly circulation figures and Fargo Forum has a circulation figure which is the number of papers sold. There is also a figure out of the number of people who read each newspaper is hiring than one circulation. So if you have a circulation of 38 or 40,000 people, that doesn't just mean that there is 40,000 people looking at a newspaper. That newspaper is passed on throughout the household. The readership is hirer than the circulation.

Vice Chairman Ron Sorvaag I just to clarify it because this is probably more than a statement than a question, but there was talk in our community that we've not had a regular reporter for 4 years. We may be seen maybe once a year. The media does not follow us at all. Maybe that's a rationale to do it or not, but I guess where this is leading is this not a cost being driven from the taxpayers to the newspapers and I know it's the peoples' choice and I respect that as much as anybody. Over the fact we have a web site, we do the regular minutes, not the bills but that could be included in a website very easily. Could you address that?

Jack McDonald replied first of the reason that they don't cover I can't explain that reason they don't except any newspaper especially in Fargo where you have a huge urban expansion there. The newspapers have limited resources of people they can go out to cover everything. They just may not be able to cover the Park Board meetings on a regular basis and we figure that is even more the reason why there should be some information about it in the newspaper. Secondly, I think the people do deserve to and there is interest in seeing what happens with their money in the newspaper. It is the same rationale to have a reporter at every school board meeting. This is the way for the people to get the information of what goes on.

Senator Judy Lee asked Mr. McDonald how many citizens in the state have contacted you saying they really want to have the Park District minutes published? Are we responding to a wave of citizen requests?

Jack McDonald replied no were not. We're not responding to a wave. We've had some requests, Mr. Bailey's had some requests, so I am not saying there's been a wave. We've had expressions over the number of years about people but there is no wave, no public outcry in doing this. We just think that it's something that the public would appreciate and the public had a chance to vote on it, they would probably vote.

Senator Judy Lee then replied to Mr. McDonald. I would be thrilled to have anything that I thought was effective that would actually cause people to know what elected officials are doing. Because we think that it is important that they know the impact of some of these things that are going on. If I could regulate what the media paid attention to I would really be happy about that too. Because we had some really good stuff the first three days this week in Human Services and there wasn't a member of the media to be seen. I question whether or not the legal notices, especially in the details that Senator Sorvaag had mentioned necessarily is going to do that. I'm unhappy that the school teachers, school staff salaries are published. I just don't think that's necessary. I also don't know anybody who wanted to have minutes. Anybody who wanted minutes from any of these public boards who couldn't get it if they asked for it; if I really want to know what the park district is doing in my community and if I can't find what I want on the website, I could contact the Director of the Park district and any of the park board members and I would be able to get whatever kind of information that I wanted. I wouldn't have to read through all that tiny font in the paper.

Jack McDonald replied I understand where you're saying from but that same goes for any type of news or anything else. If the material is presented in front of you, sometimes you're going to read it rather than ask for it. But it's the same as if you were covering the City Commission proceedings or if you're covering something that is coming up here.

Senator Howard Anderson asked Jack McDonald there is nothing currently that would prevent a park board from publishing their minutes now if they heard from their constituents that they were asking for that. They could publish it at the present time, but, generally speaking either people aren't asking for it or the Park Board decision is it's not a good expenditure of public money to publish things that people may or may not read. To follow up a little bit...the seven days in here, many of our small park boards are run by volunteers. Sometimes, the City Auditor if there is a full time position, may keep the minutes of the small cities park board. Whether they always get those minutes done within seven days to meet the deadline in this bill to get those published or not I am not sure that is true. This might spur them to get the minutes done. I don't know. Often the minutes aren't done until a few days before the next park board meeting. That puts an additional burden on them as well. I am a little concerned about some of those small park boards.

Jack McDonald was asked to answer that question. The seven days is the same for the other public entities as well. The law provides that it does not have to be the approved version but it can be the rough draft of the version and we found that in most cases even the smallest school districts or smallest city commissions with technology being such that they usually put those things on the computers. They don't have any trouble meeting the seven days. Just indicate that is a draft and subject to approval by whatever it is, city commission, park board etc.

Roger Bailey Executive Director of the North Dakota Newspaper Association. See written testimony #2. In support of SB 2268.

Senator Judy Lee asked Mr. Bailey how the survey was done, how many numbers were contacted for it just because if you're going to listen to survey results you ought to know what the basis is? There is difference between the people under 30 saying they ought to be

published and the people under 30 saying they read them. I didn't hear you tell that. Do you have information about how many people under 30 read the legal notices? Because your statistic was how many people thought they ought to be printed.

Roger Bailey replied we do have those figures. I didn't come prepared today to present those, but I certainly will obtain those for you.

Senator Judy Lee responded that it depends on the size of the sample would be kind of important because fifty percent of two is one and I'm back to not liking percentages very well, I like numbers really well. I just need to mention that it took yeoman's effort for over a week for me to get my local daily paper delivered here this year as I have had every session for eighteen years. So not always does the newspaper make it as easy to get the paper as it might have been at one time either. We all have a responsibility in that area to make the information available.

Chairman Andrist: Because people know I have a newspaper background, I hear people complaining about newspapers, especially their daily newspaper. But whether or not the complaints are valid and I think they are because I complain along with them, it does demonstrate that we really want a good newspaper. We covet that.

Vice Chairman Ronald Sorvaag asked Mr. Bailey that Mr. McDonald I thought kind of alluded that you could probably give me number, example in our park district fifty to eighty pages of bills about three pages of summary minutes, what would that all condense. Do you have idea of that would cost to put in the legal notices each month, or even a range?

Roger Bailey replied that without seeing it would be really difficult for me to make even a wild guess on what it would be. But I can tell you this, in Bismarck the school district or the city of Bismarck actually prints the price of the publication when it's printed as part of the minutes. Generally they are quite detailed, in their minutes. They don't abbreviate them to a great degree. Off the top of my head I think it usually is in the two hundred dollar range for the publication of that. Now, is it worth two hundred dollars to let the people know, especially people that wanted to know, what is happening in their unit of government? If it is two hundred dollars lets by wild and say its four hundred dollars that could be costing the park district all the way up to maybe five thousand dollars a year. Now, if your park district budget is sixteen million dollars that five thousand dollars is not a lot of money. I don't want government wasting any money. But if they spent five thousand dollars in an effort of transparency for people who said yes we want to know this information, it's not going to break the Park District. If the people in those cities don't want it published that's let them have the choice. That's what they can do. In response to the question if a reporter should be at every Park Board meeting or every school board or city council meeting. It is not practical in many instances. A question comes up why shouldn't the newspaper just do this as a public service and the answer is for the same reason that you people don't serve in the Legislature as a public service. There are costs involved and it requires newspapers to have income. In this case were not looking at this as an income producer for newspapers its' not enough to make the difference. Public notices brought in less than five percent of my revenue. Public notices didn't mean I would be in business tomorrow or not, but public notices are just that public notices to let the people know what's going on and in this

particular case we're giving those people the opportunity to say yes we want to know what's going on or no don't publish.

Chairman Andrist Roger, even as a prime sponsor of this bill, I've often felt there was more people vote yes than actually read the minutes at times. So my question is why that would be? Because they know their being paid and I am wondering if a lot of people don't want these minutes published because they think it's validation and it's a protection? That they're not going to do anything that they shouldn't be doing or something like that? Do you have an opinion on that?

Roger Bailey replied I am convinced you're absolutely right. I know from my experiences being a weekly newspaper publisher, the most read part of the public notice is the bills. They might scan the actions that the unit of government has taken, but they go through those bills with a fine tooth comb, because they want to make certain that if the city bought a new shovel that they bought that shovel from a local businessman and not from Quill, they watch that very carefully.

Dana Shar Executive Director of the North Dakota Recreation and Park Association, introducing Mike Schwartz to provide formal testimony; Neutral Position. See written testimony #3.

Senator John Grabinger I am wondering if and there were questions earlier about the newspapers being the only ones benefiting other than the public getting this information. I am wondering if there would be any objection on your groups' part to changing it from a newspaper to a social media form. You could use websites. The idea is to get this information out to the public and there are other ways to do that rather than the newspaper. So I am wondering if you thought of that.

Mike Schwartz, I don't for see that would be a problem. With the Bismarck Park District right now, we do place our minutes out on our web site which is part of the World wide web. I don't see that as being a problem.

Senator Jim Dotzenrod On your testimony there are about eighty eight of these districts that levy less than ten thousand dollars. What kind of money are we talking about to comply if the voters were to approve it in that community and these are probably these communities that our five hundred to one thousand people, is that publication costs going to be under five hundred dollars a year or will it be under two hundred dollars a year? I guess I don't know, it's the fine print that is back in the back part of the classified section, so it's not the expensive area. So do we know how much we're going to be asking these park districts to spend?

Mike Schwartz replied that he couldn't speak for the rest of the park districts. I can speak for the Bismarck Parks and Rec district. My financial director informed me that we're looking at probably somewhere in the vicinity of fifty five hundred dollars a year to go ahead and publish. That includes the cost for publishing but does not include the cost of staff time for arranging that because right now the way our minutes are presented our accounts payable and our payroll it isn't in a format that would work for publication.

Senate Political Subdivisions Committee

SB2268

January 31, 2013

Page 7

Chairman Andrist closed the hearing on SB2268.

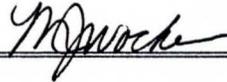
2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee
Red River Room, State Capitol

SB 2268
February 1, 2013
18155

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to publication of park district board proceedings

Minutes:

You may make reference to "attached testimony."

Chairman Andrist asked for open discussion of SB 2268. I would like to see if you're ready to propose any amendments or take any action on this bill. All senators were present.

Senator Ronald Sorvaag After our meeting, we had talked about amendments and I tried to talk to a few people. I talked to Dana Shar, the Executive Director of the State Parks and Recreation. There are four things I think we talked about that I would like to address. None of them are ready yet for amendments to be dealt with. But one of them we talked about if there is a way to separate large and small districts and the reason I talked to Dana if there something she can give us that would be a threshold that would make sense over us just pulling a number out of the sky. Dana researched and sent Senator Sorvaag an email real late in the day. The only thing she could come up with or they could that would make sense would be the \$200,000 budget level. The reason they suggested that is there is a real separation in the requirements audits and all of that. Those with less than \$200,000 are kind of here and then the larger ones go into what communities that's involved, I have no idea. I think you take a whole lot of park districts out the equation at \$200,000. I would guess that Jamestown is still quite a bit over that, but maybe a Valley City or that size would be starting to hit. I would guess any of your three thousand communities or less, I can't imagine there park budgets are over that unless there is some exceptionally large project involved. But that was a suggestion, even if we were even going to go forward with that. I visited with Mr. McDonald some more too, just about these issues. I think we all want to come up with some reasonable stuff to go forward and his opinion wasn't high of that either. The equation of why would you exempt at any size? It's legitimate. The other one we talked about is establishing the value in the ballot measure. My understanding that's been talked about and there is a lot of feelings whether that is even actually legal or not because it is campaigning. As I talked with the chair too from that entity it is kind of a subjective number to come up with. What is it really going to cost something but that isn't been figured so, I think for most discussions I will visit with Jack McDonald again on it, I think that would be a hard sell. Senator Anderson brought that up in the first place, but the real question is are you putting a bias right into the ballot measure if you put that in there.

The other one we talked about on publishing the salaries or pay and all that all the time, if we could separate them and what I am suggesting is we separate the full time year around from the seasonal part time and you don't have to do it on them. The rationale is with the Fargo Park District for example we have approximately eighty full time, fully benefited year people, and I think that is the one people want to see anyway. That is the people making \$ 70,000-80,000 dollars. But in our case we have seasonal part time over one thousand a year. Some of those are from a kid that umpires two softball games. The way our bills are presented to us now, those salaried amounts are not itemized out. This could be geared to the large districts predominately, but the part time seasonal could be excluded from that detail reporting. You're going to show a lump sum of what you're spending on salaries, but that is going to add a tremendous amount of information for very little information. It is such small details and small amounts. Again you would do the full time benefit ones. The only other one was the social media website and I really think Senator Grabinger would address that.

Senator John Grabinger concerns is that we're nailing this down to just newspapers in publication and I don't think that is appropriate in this day and age. I think there is other forms of public media if you will. I think we should give, if we're going to do this, the entities that have to perform this and publish their information, should have an alternative to put this on a website etc, that is accessible and available to people and I think that is just as good as method as publishing it in the newspaper.

Chairman Andrist replied that he suspects every chairman has to rest with what he should do with his own bills, how to handle them and you can decide if this is appropriate. I wanted to comment because I have some expertise in the field of newspapers too. I think the most newspaper people would not welcome probably would see the bill defeated is to substitute social media. But we can probably let the industry people respond to it. As to the suggestion that we set a threshold of \$200,000 I suspect we would be down to just about all we'd be dealing with is the major cities. If you're going to establish a threshold, and its arguable that you could, I think that threshold is too high. The third one as to whether people should be informed as to the cost, my thought is since our experience with cities and counties which were enacted at the time I was publishing, we found we estimated those cost so flagrantly high in many cases it discouraged folks. Yet there is something to be said and a lot of you have said you feel that people don't realize you pay for this. I am thinking that it wouldn't be a totally bad idea that on subsequent elections let them list the cost that they spent in the previous either biennium or year to give them a guideline. Then at least we would know the information was accurate. That is the way I would respond.

Chairman Andrist asked Roger Bailey to come back to the podium to respond to some of these issues.

Roger Bailey Executive Director North Dakota Newspaper Association. Someday it will have a place, today it is not the time. In response to the questioning including the estimated cost of publication on the ballot, what's generally become known as ballot electioneering. (Written testimony #1. 2/1/13) (Written testimony #2. 2/1/13) In response to the proposed amendment that would exclude part time park district employees, we can live with that. I don't think it needs to be a part of the bill. I think it could be easily handled on an individual basis in each park district situation. The proposal to put a limit on publications to those

cities which have a park district budget of \$ 200,000 or more is really unfair to people who live in small towns, which also pay taxes. If the park district budget in Hillsboro is only \$90,000 it still is important to the residents of Hillsboro to know how that money is being spent. It is not only important to people who live in big cities in North Dakota. I point out the park district minutes will not be a huge financial obligation on the part of the park districts. Honestly the park district minutes from Hillsboro which might not have any full time employees, would be considerable smaller and less costly than the minutes published by the Fargo Park District. I suggest that the taxpayers in each city decide if they want the Park District minutes published. I don't see this as an issue of state control. This is local control as the committee pointed out earlier. The best way for government to operate is to let the local people make the decision.

Because of the ballot electioneering process, but certainly the park district in any North Dakota city four years after the implementation of this bill and its approval by the voters can certainly inform the voters that the cost of publication was x number of dollars. It cannot be on the ballot, but they certainly can use that to let the people know what the cost was. Most importantly if the voters decide four years from the time of the implementation of the bill that it wasn't worth it, again they have that choice. It can be on the ballot four years later and the people will decide.

Chairman Andrist You peaked my interest here and I think you peaked my memory that you might be interested in sharing with the committee. Did the concept of letting the people in cities vote on whether to include minutes? That wasn't approved by the legislature that itself was approved by a statewide initiated measure wasn't it? **Roger Bailey** replied that's true. **Chairman Andrist:** Was it the same with the county? **Roger Bailey** replied no the county. State law from way back to the Dakota Territories day initiated there and then accepted by the state of North Dakota, 100 years ago. **Chairman Andrist:** How about the schools then? **Roger Bailey** replied schools was also an initiated measure. **Chairman Andrist:** It was, okay.

Vice Chairman Ronald Sorvaag I am going to make a comment here. Obviously I got this late from the park and they had one other suggestion. Mr. Bailey can comment on it. I'll put it out to the committee if that's okay. In the other recommendation on line 13, its says a list of individual expenditures issued by the park, approved by the governing body showing the pay in the amount of each expenditure. Well the way they are interpreting it, say we pay Hanks Hardware and buy three individual items and was there suggesting if the word individual was removed then you just say we paid Hanks Hardware \$50 this month and it saves a lot of reporting. It would save room in the paper, but I would think it would still and maybe they are interpreting it wrong and that's why. So, instead of because that is sort of the way the bills are kind of looked at, even as commissioners they don't break it down. We can go in and get that but usually if they paid this group \$100 this month if we want to question it more but it's a line item. Where here this, there might be 20 things, especially our maintenance, they go to Macs and sometimes buy 20 items and does the individual mean that all 20 would have to listed in the paper, or if the word individual was removed and that's a concern. I don't know that was just a suggestion. **Chairman Andrist:** The practice is to...**Vice Chairman Ron Sorvaag** My question if we remove the word 'individual', we'd still have to do that. Is the word individual on line 13 necessary to accomplish that because you still will be reporting the check and who you wrote it to But it

says every individual expenditure. **Chairman Andrist:** The expenditure is actually the check itself.

Vice Chairman Ron Sorvaag: Well it says later on the pay in the amount on line 14 and 15, showing the pay in the amount of such expenditure must be published. Maybe that is interpreting that the individual expenditure. That was the question they raised.

Chairman Andrist: I guess what I am saying Senator Sorvaag is its' always been interpreted to mean the payment not the purchase.

Vice-chairman Ron Sorvaag: That's the clarification they were concerned about. Obviously it keeps the size of the reporting down. You still have the check.

Senator Jim Dotzenrod You mentioned the point and we've discussed earlier in the day about local control. If many here would take this position that we like to see the local subdivisions have some leeway and ability to direct what goes on in their subdivision and have the control separate from what the state might think. Would you agree that we could extend that thinking then to the method by which they post this information to the public? That is the local control might also then say, give them that option to post it through the newspaper, through a city website, through some other means. I think that in today's world there are a lot of websites, city websites that are used for information so that our information can be there so that if its printed in the newspaper and a week or two goes by and the newspaper might not be there anymore. It might disappear from that home. Where if it was posted on the website a month or two could go by and the people in that community would have it at their fingertips so to speak without having to save it. So there are some advantages, it would print less cost, it would be more available over an extended period of time, 24 hours a day. If you're promoting to us that we should adopt this because its local control, could we also then extend that same thinking to provide another avenue of local control in the method of which its posted?

Roger Bailey responded I would first point out that North Dakota newspaper Association now and for about the past 12-14 years has operated a web site www.ndpublicnotices.com in which every public notice that appears in North Dakota's newspaper is on this particular website, very easily navigated. You can navigate by going to the name of the city, name of the newspaper, bids- search for bids- it's a very complete system and it's available for everybody.

We've talked about the social media and as I pointed out earlier, a lot of people still aren't connected to the web, and newspapers have been running public notices in North Dakota for more than 125 years and in the nation for more than 200 years. You can pick up any newspaper in North Dakota and for the most part you'll find those public notices almost on the same page every day. I checked the websites for cities and it was difficult to find the minutes, the budgets. In newspapers it's very easy to find them. We also talk about newspapers being an uninterested third party. This is extremely important. You've read stories about official documents that have posted on the World Wide Web, then suddenly and mysteriously they disappear. You would be leaving this up too an agency of government to post those notices on a city, school, county website. I know we're North Dakota nice and North Dakota honest, and it probably wouldn't happen here, but there is a

possibility that it could. Public notices disappearing, in planning and zoning and issues of that type, its' important. Nationwide these notices have been posted by units of government and then there gone. Newspapers were an uninterested third party there permanent, there not floating off into cyberspace someplace. That copy of the newspaper is in the State Historical Society, every newspaper office, its' in libraries, its' always available to the people.

Senator Judy Lee if you just change the subject of that sentence to website, you would have much the same thing because every library has a computer, every senior center has computers. I get my church minutes online, so the access for somebody who wants to have access to these its equally there. I can recycle my newspaper. But the website is going to have that. There are certainly people who only get a newspaper and may not sit with a computer in front of them. On the flip side there are a whole lot of people not reading newspapers either. So I think to eliminate that possibility becomes an issue. The other thing is that I certainly want the public to know what is going on that's not the issue here. But I think if some of these park districts perhaps especially those with very small budgets, I hate to see any program having an impact from taking dollars away, modest dollars from a little budget, to print something in the paper when all they have to do is talk to the neighbor down the block who is on the park board what is happening, because in the small communities it is a pretty much interactive kind of local coffee shop sort of deal. The reality is that there is some people who read newspapers, there are some people who only get their information from the web, and there are some people who use both and I think to deny the fact that they are folks for whom that is the better source of information would be wrong on our part. We need to kind of look at the whole big picture. When I see the recommendation about under \$2400 for part time seasonal help, how much is Fargo spending on part time seasonal help. I just can't see all those kids who are referring at one softball or two softball games being listed in the paper. That's a big number, lots of zeros in that one compared to \$2400.

Vice Chairman Ron Sorvaag This idea that it might be lost from the web. The web is an informational source that is not the record keeping site of all the minutes and everything. It can be reconstructed in a minute. It's not where we store anything. Nobody does, it's how you put information out there. So even if somebody goes in and hacks the sites and destroyed the site, you reconstruct it. But I do agree with you, on the concept. We are not finding it easy to navigate and that is a legitimate concern.

Chairman Andrist asked the committee if they wanted more time to consider amendments?

Senator Howard Anderson my amendment Chairman Andrist is very clear and I thank the Attorney General for providing us this information. It's clear from this opinion that because the measure did not include the requirement therefore it's superfluous but if the measure had included the requirement of the estimate then it would be legal. So that is clear when you read this. The measure makes no provision for the including of the cost of publishing the minutes. So if the measure did include that then it would be allowed. I would be happy to say that it includes an estimate from that official newspaper of the cost of publishing the minutes. That would be fine with me. Then the newspaper, can put their own estimate in there and then we don't have a guess it to high like you indicated. Since it's a official

newspaper already, then there would be no reason that we need to bid it out or ask more than one person.

Chairman Andrist It's kind of interesting to me on this sample that Mr. Bailey gave us on the Bismarck Public Schools. The first paragraph supports the cost of doing it. I was kind of surprised, I thought that was at least one good way of letting them know its' not free.

Vice Chairman Ronald Sorvaag I would like to suggest that we put off further discussion until next week. I think there is about three of us that each have amendments that might or might not be considered, but because of the time frame of the hearings yesterday we didn't have the time. More information is coming in that makes sense and would be legal. I request that we put all that of until next.

Senator Judy Lee reminded the committee that several years ago when the Legislature passed a law which says that initiated measures have to be accompanied by an estimate from the Office of Management and Budget about the fiscal impact of the initiated measure. So, that is different from this. It is in a different statute. But if somebody is initiating a measure and its going on the ballot that is accompanied by the information about what the fiscal note appropriation or fiscal impact will be. So, there another area where we just in the last 12 years did that in another area.

Senator John Grabinger: I will hand out the amendments that I drew up. They have to be changed but someone may use them as a guideline.

Chairman Andrist closed the discussion on SB 2268.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee Red River Room, State Capitol

SB 2268-3
February 14, 2013
18929

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A Bill for an Act to create and enact a new section of the North Dakota Century Code, relating to publication of park district board proceedings.

Minutes:

You may make reference to "attached testimony."

Chairman Andrist opened the committee for discussion on SB 2268. All senators were present.

Chairman Andrist We have had laws on the books requiring County Commissions and City Councils to publish their minutes in the official newspaper. For some reason or another we made reference to city councils and back in my early days as a newspaper publisher the newspaper industry tried many times to get the Legislature to put a fix on city commission forms of government which did have to consider all cities to be equal. The Legislature all resisted. I was part of the crowd to initiate legislation. It said, okay, let the voters decide' to vote on whether they want to print their city council and city commission minutes and that passed overwhelmingly by a large margin. The history is that practically in every city the voters when it was voted on, it was decided to let the voters decide to vote on whether or not they want to print their city council and city commission minutes that passed overwhelmingly by a large margin. So we liked that model pretty good. We decided that schools should have the same opportunity and we initiated that because of the legislatures' resistance and that had the same success and so we were feeling pretty heady, you know we had the support of the people. So then when this issue came up two years ago, park boards were getting bigger and their doing more things, that involved more things, we should call that model the legislature will probably feel different now. Obviously, we don't feel different now. So, I am here today to suggest that rather than to try fix this thing, I've been asked by the industry to consider shooting my dog. (Reference to not liking what's in the bill and asking the committee to kill the bill) They don't feel particularly concerned about introducing a concept of using the web to replace publications because they say, now for a variety of reasons; but they say the web is here today and gone tomorrow. But the newspaper is the hard copy that we can look back and we can find out in history every copy of every newspaper ever printed is still available on microfiche, even in the hard copy in the archives of the Historical Society. So for that reason, my newspaper colleagues are skittish about trying to mend this. They would just as soon that the committee, just kill the bill. They are afraid that amending it would establish precedent that

would create more problems for them than it would solve. But your pleasure is to do whatever you wish.

Senator John Grabinger Move Do Not Pass on SB 2268
2nd Senator Howard Anderson

Committee discussion

Senator John Grabinger I appreciate the effort everybody did put into this. I agree with you that it is important that the public have this information accessible to them. It just got tied up on the one thing and I agree that its' probably more difficult to fix than leave it.

Senator Jim Dotzenrod I did check with my local park board there in the little town where I live and their budget is \$4000 a year. They have a few mills that they collect locally and then they do a big community picnic once a year and that is really how they get their money. They were concerned if this requirement was imposed on them what share of their revenues would they have to dedicate to it? So they were hoping we could not have to do this one. I am going to support the motion for do not pass.

Senator Howard Anderson I thought the bill was a good opportunity to institute the requirement that there be an estimate from the local county newspaper of the price, but, I am in favor of killing the bill in place of that.

Roll Call Vote 5 Yea 1 No, 0 Absent

Carrier Senator John Grabinger

REPORT OF STANDING COMMITTEE

SB 2268: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends DO NOT PASS (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2268 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

SB 2268

Testimony SB 2268

Political Subdivision Committee -- North Dakota Senate

Sen. John M. Andrist

This is the first time I've been able to testify on newspaper industry legislation without a disclaiming statement, and it's the first time in my life I have no relational connection to the newspaper business. But, of course, you know of my love for newspapers and for participatory government.

The hard-pressed newspaper industry, while experiencing more than its share of change, is far from a dying institution. And I would like to note for those of you from the larger cities that the weekly newspapers that dot the North Dakota landscape are generally in very good health and of superior quality to those in my working life.

Like you I sometimes feel disappointed in the vote of initiated and referred measures, but we live with their choices, because we believe and accept that voters are always the boss.

That's what this bill is all about, letting the home folks decide. Presently, city and school district voters are asked every four years if they want the minutes of their governing boards to be published in the local newspaper. This would extend the same kind of vote to park district taxpayers. Park boards do far more things than they once did. They run swimming pools, recreation programs, and a good many winter as well as summer programs. And they spend a lot of money.

Despite some thirty years of technological change that gives us all kinds of new communication options, the folks almost all vote to have school and city minutes printed in their newspaper. Somebody else will supply those statistics, but it's pretty difficult to believe that taxpayers want to spend their money for information in which they have no interest. Indeed, marketing studies show that readership of all locals is high.

Indeed, one of the reasons North Dakotans are a special people is because they do participate and care.

That's the reason my name is on this bill, and the reason why I ask you to give local voters this choice.

January 31, 2013

**SENATE POLITICAL SUBDIVISIONS COMMITTEE
SB 2268**

Chairman Andrist and members of the committee:

I'm Roger Bailey, executive director of the North Dakota Newspaper Association. The members of NDNA are the 80 weekly and 10 daily newspapers in North Dakota.

For most of my active life I was a weekly newspaper publisher in North Dakota and can relate first-hand to the importance that taxpayers place on substantial and complete public notices.

SB 2268 is an attempt to again provide the public with information that will be easily accessible with the publication of park district minutes. This matter was initially brought to the attention of the newspaper association when a former legislator called and asked why the park board in his city wasn't printing its minutes. I had to tell him it was because there was not a requirement for park boards to do so. He asked that NDNA "do something about that."

Park board operations have become more and more important in recent years as budgets have increased. The budgets of the Fargo and Bismarck park districts exceed \$15 million annually. The tax levy in Fargo is almost \$7 million and the tax levy in Bismarck is more than \$8 million.

Park district meeting minutes are available, of course, to anyone interested upon request, but they are not available to the public easily. The park district websites of Devils Lake, Dickinson, Jamestown, Wahpeton, Minot and Grand Forks all have lists of activities but unlike Fargo and Bismarck do not contain financial information. Most of North Dakota's smaller cities do not have park district websites.

SB 2268 will give the taxpayers the right to decide whether the park district in their city will print this important information. Similar to NDCC 40-01-09.1 -- which has for many years allowed voters to decide if city council/city commission proceedings should be published -- this new law would give taxpayers the right to decide if park district proceedings should be published. Simple: If they want them published, yes. If they don't want them published, no.

I have included for your perusal a listing of cities in which voting was held in June of last year on the question of publishing city council/city commission proceedings. The listing includes in *ITALIC* print the cities in which voters didn't want the minutes published; the cities in **BOLD** print are the cities in which the taxpayers voted unanimously for the printing of the minutes.

Also included is a condensed version of how taxpayers in a range of North Dakota school districts voted. NDCC 15.1-09-31 allows voters in school districts to vote on the question of having their school board minutes printed. Again, by a huge majority, voters in one of the smallest to the largest school district, want to know how their school district is being operated and how their money is being spent.

NDNA asks for your DO PASS vote on SB 2268. If I may answer your questions, I will do so.

CITY	YES	NO
Abercrombie	56	19
Adams	25	27
Alexander	61	9
Almont	14	8
Amenia	12	8
Aneta	62	5
Alice	11	6
Argusville	96	21
Arnegard	36	4
Arthur	86	28
Ashley	282	33
Ayr	4	4
Barney	7	6
Beach	278	31
Belfield	177	15
Benedict	25	3
Berthold	125	15
Beulah	971	52
Binford	85	4
Bismarck	13,836	3,931
Bowbells	100	3
Bowman	628	13
Braddock	7	7
Brocket	4	4
Briarwood	20	1
Buffalo	65	8
Burlington	185	21
Butte	24	3
Buxton	81	14
Cando	413	23
Carpio	31	7
Carson	106	5
Casselton	577	27
Cavalier	543	41
Cayuga	5	3
Center	237	20
Christine	15	27
Churches Ferry	3	3
Clifford	8	6
Cogswell	23	4
Coleharbor	18	6
Colfax	29	26
Columbus	45	1
Cooperstown	370	31
Crary	14	12
Crosby	281	18
Davenport	36	31
Dawson	9	11
Des Lacs	55	24
Devils Lake	1,379	140
Dickinson	2,987	447
Dodge	16	15
Donnybrook	20	7
Douglas	18	5
Drayton	207	17
Dunn Center	48	4
Dwight	10	5
Edinburg	53	34
Edmore	53	2
Elgin	236	9
Ellendale	294	29
Emerado	61	12
Enderlin	220	15
Fairmount	83	9
Fargo	17,634	3,642
Fessenden	156	20
Finley	158	15
Flasher	74	12
Flaxton	14	1
Forest River	15	10
Fortuna	5	4
Forman	194	15
Frontier	66	12
Fredonia	10	1
Fullerton	17	0
Gackle	119	0
Galesburg	24	11
Gardner	15	3
Garrison	391	34
Gilby	50	20
Gladstone	62	8
Glen Ullin	177	18
Glenburn	51	17
Golden Valley	55	12
Golva	15	8

The people have spoken
On June 12, 2012, residents of North Dakota cities voted on the question of whether their city should print the minutes of city government in their newspaper.

**94,203
 VOTED "YES"
 19,220
 VOTED "NO"**

83% of North Dakotans favor transparency in government

Goodrich	32	5	Mapleton	108	30
Grafton	880	135	Mandan	4,407	635
Grand Forks	6,995	4,782	Mantador	5	16
Grandin	31	7	Manvel	77	31
Great Bend	19	14	Mapleton	138	30
Gwinner	143	10	Marmarth	48	15
Hague	26	0	Martin	29	2
Halliday	91	10	Max	91	4
Hampton	3	10	Mayville	460	23
Hankinson	219	10	McClusky	146	14
Hannaford	40	6	McVile	126	7
Harvey	591	56	Medora	45	6
Harwood	190	33	Mercer	32	9
Hatton	156	6	Michigan	114	5
Havana	24	6	Milnor	173	8
Hazelton	62	12	Minot	6,725	752
Hazen	921	45	Minto	168	16
Hebron	142	23	Mohall	225	17
Hettinger	335	20	Mooreton	33	17
Hillsboro	446	42	Mylo	2	5
Hoople	36	30	Napoleon	290	30
Horace	596	57	New Leipzig	91	4
Hunter	81	8	New Rockford	315	26
Inkster	5	3	New Salem	223	26
Jamestown	3,048	381	New Town	194	12
Kenmare	226	25	Niagara	15	8
Killdeer	206	9	Noonan	22	7
Kindred	157	15	North River	16	14
Lakota	256	10	Northwood	246	17
LaMoure	233	5	Oakes	351	21
Lankin	27	17	Oxbow	90	34
Lansford	56	8	Page	57	8
Larimore	357	34	Park River	400	43
Lawton	3	10	Parshall	111	8
Lehr	45	2	Pekin	9	17
Leonard	45	4	Pembina	133	7
Lidgerwood	175	9	Petersburg	47	5
Lignite	70	3	Pick City	36	14
Lincoln	449	103	Pettibone	12	13
Linton	424	27	Plaza	39	8
Lisbon	468	40	Portal	43	2
Litchville	56	0	Portland	178	11
Makoti	41	7	Powers Lake	73	0

Prairie Rose	13	8
Ray	179	40
Regan	2	4
Reiles Acres	131	24
Reynolds	29	4
Richardton	108	49
Riverdale	68	21
Robinson	3	5
Rolette	110	14
Rolla	293	27
Ross	13	2
Rugby	754	62
Ruso	0	1
Rutland	55	11
Ryder	10	3
Sawyer	66	29
Sentinel Butte	21	9
Sherwood	63	5
South Heart	54	14
St. Thomas	72	25
Stanton	115	4
Steele	235	9
Starkweather	9	7
Strasburg	107	10
Surrey	210	37
Tappen	33	2
Taylor	68	11
Thompson	241	85
Tioga	264	12
Tolley	14	5
Tolna	54	10
Tower City	48	14
Towner	192	14
Turtle Lake	209	10
Tuttle	14	8
Underwood	201	9
Velva	312	18
Venturia	4	8
Wahpeton	1,145	188
Walcott	39	27
Walhalla	223	13
Washburn	492	22
Watford City	279	22
West Fargo	4,664	626
Westhope	107	3
White Earth	60	5
Williston	2,450	250
Wilton	41	1
Wing	29	20
Wishek	358	45
Wyndmere	138	16
Zap	67	6
Zeeland	26	5

We knew it all along.

This message brought to you by

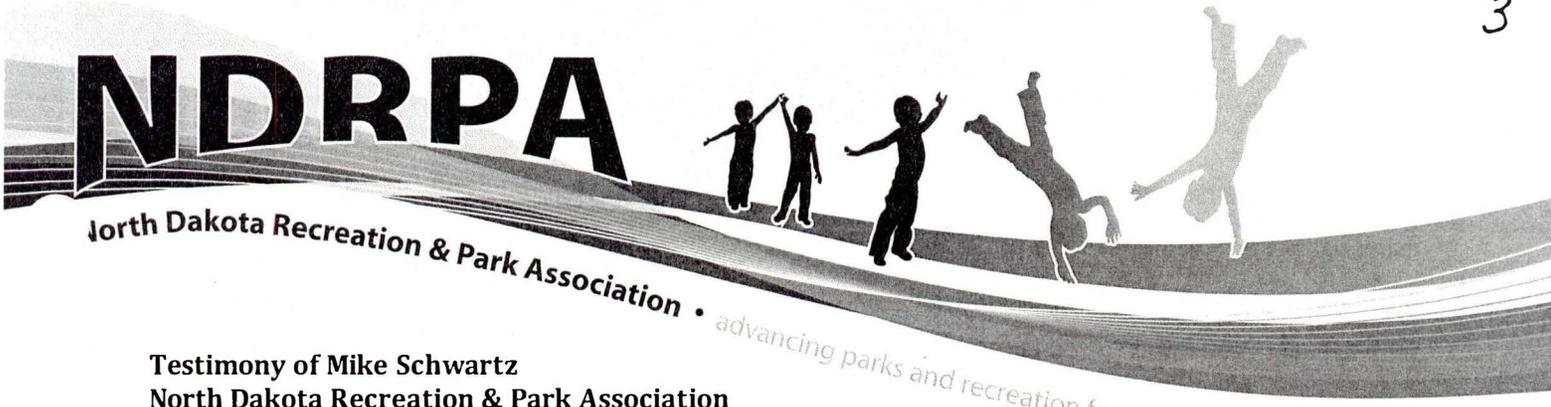


and your newspaper.

Thanks for your vote for open government.

2012 vote on publication of school district minutes

	<u>YES</u>	<u>NO</u>	<u>PERCENTAGE YES</u>
Alexander	38	8	82.61%
Bismarck	8,759	1,802	82.94%
Bowman	629	45	93.32%
Fargo	7,388	1,330	84.74%
Jamestown	3,224	551	85.40%
Mandan	1,688	323	83.94%
Watford City	652	40	94.22%
Minot	3,282	462	87.66%
West Fargo	3,402	307	91.72%



North Dakota Recreation & Park Association •

Testimony of Mike Schwartz
North Dakota Recreation & Park Association
Senate Political Subdivisions Committee
SB 2268
Thursday, January 31, 2013

Mr. Chairman and Members of the Committee, I am Mike Schwartz, president of the Board of Park Commissioners for the Bismarck Parks and Recreation District. I am here on behalf of the North Dakota Recreation & Park Association (NDRPA), which represents more than 500 members across the state and works to advance parks and recreation for an enhanced quality of life in North Dakota. We are here in a neutral position on Senate Bill 2268 but have concerns with implementation we would like to share.

We do not have any issues with providing the public with the opportunity to vote on whether or not they want park board minutes published in the local newspaper. However, we raise the issue of the necessity of this legislation given the additional staff and financial commitments required for newspaper publication, especially given the small size of most park districts.

Based on information from the North Dakota Tax Department, 222 agencies levied the general fund levy for city park districts in 2011. Of these, 189 levied less than \$50,000 in property taxes, and 88 levied less than \$10,000. Given these relatively small budgets, it would be difficult for many of the park districts to pay the newspaper printing fees without limiting recreation services in communities.

For the larger park districts, one of the concerns is newspaper printing of employee salary disbursements. While printing of an annual salary schedule is possible for full-time employees, this is not possible for part-time and seasonal employees, who may be hired within only a few days of their start date. Park districts in large cities have a significant number of part-time employees, such as coaches, officials, and lifeguards, including youth under the age of 16. Attached is a chart summarizing the seasonal and part-time staff of the state's 12 largest park districts. Printing of part-time employee checks over the course of the year could be particularly expensive, as well as time consuming for staff.

Given the cost of printing the minutes and the list of individual expenditures in the newspaper, perhaps the cost should be included in the ballot language so voters understand the impact of their vote.

Park districts are committed to transparency and recognize that the public should have access to the proceedings of the park board. Most park districts with websites currently post their minutes and are willing to post additional information for the public, which is a more economical way to ensure the information is readily available.

We ask for your consideration of these issues in your deliberation of SB 2268. Thank you, and I would be happy to answer any questions you may have.

Part-time & Seasonal Employment – 12 Largest Park Districts

	Part-time	Seasonal
Bismarck Parks and Recreation District	40	839
Devils Lake Parks and Recreation	3	100
Dickinson Parks and Recreation	103	263
Fargo Park District	256	787
Grand Forks Park District	108	177
Jamestown Parks and Recreation Department	9	107
Mandan Parks and Recreation	0	325
Minot Park District	13	140
Valley City Parks and Recreation	1	170
Wahpeton Parks and Recreation	4	121
West Fargo Parks and Recreation	4	190
Williston Parks and Recreation	4	170

**SENATE POLITICAL SUBDIVISIONS COMMITTEE
SB 2268**

Chairman Andrist and members of the committee:

I'm Roger Bailey, executive director of the North Dakota Newspaper Association.

I have prepared the following answers to questions of the committee posed yesterday at the hearing for SB 2268.

In response to the question about the survey conducted by NDNA on the readership of public notices:

1. Participating in the survey were 500 adult residents of North Dakota – with a minimum of one reply from each county in the state.
2. 80.6% of readers under the age of 35 indicated a desire to have state and local governments publish public notices in newspapers. 76.7% of those readers said they always or usually read public notices. That number increases as the ages increase – with 81.1 percent of readers 55 and over reading public notices.

In response to the question of including an estimated cost of publication on the ballot asking if park district proceedings should be printed – what has generally become known as “ballot electioneering.”

1. In a 1967 opinion from Assistant Attorney General Gerald W. VandeWalle, VandeWalle said of an initiated measure to require a vote on the publication of school board proceedings, “The Measure makes no provision for including the cost of publishing the minutes on the ballot and we do not believe it is proper to include same on the ballot.”
2. In a 2002 opinion from Attorney General Wayne Stenehjem, in which he referenced the 1967 opinion, Stenehjem said, “It is my opinion that NDCC 15.1-09-31 (school district voting on publication) and ND 40-01-09.1 (city voting on publication) do not permit the inclusion of surplage such as the estimated cost of publication on the ballot and it is improper for a city or a school board to include them.”

In response to the proposed amendment which would exclude part-time park district employees from being listed in the published wage payments, NDNA suggests a once-per-year aggregate listing of wages paid to all part-time employees making less than \$2,400 per year.

In response to the possibility of providing exclusion for park districts in small cities, we suggest that the minutes of park districts in small cities would result in much shorter minutes than from large cities. The small cities would not have 30 pages of bills as does Fargo. Thus the number of bills, and likely the number of issues taking place before the boards in smaller cities, will be considerably shorter.

Again, NDNA suggests that the taxpayers in each city, not the legislature, decide if park district minutes should be published, as there is no direct outlay of state funds involved.

I have attached to this report as an example a public notice in the Bismarck Tribune of January 19, 2013 – the total cost of which was \$178.62. I remind the board that the cost of publishing public notices is established by the North Dakota Office of Management and Budget. The line rate for every newspaper is the same – the 138 circulation Edmore Herald receives the same line rate as the 53,100 circulation The Forum of Fargo-Moorhead.

Theresa L. Kellington
Kellington & Oster, P.C.
619 Riverwood Drive, Suite 202
Bismarck, ND 58504
Telephones: (701) 258-1074
Fax: (701) 530-1943
ND State Bar #05385
Attorney for Petitioners,
Ri a Hoff and Timothy Miller

IN THE DISTRICT COURT
OF BURLEIGH COUNTY,
STATE OF NORTH DAKOTA
In the Matter of the Estate of
Thomas Miller, Deceased

Probate No. 08-2012-PR-00269

NOTICE TO CREDITORS

NOTICE IS HEREBY GIVEN that the undersigned have been appointed Co-Personal Representatives of the above estate. All persons having claims against the said deceased are required to present their claims within three (3) months after the date of the first publication of this notice or said claims will be forever barred. Claims must either be presented to Rita Hoff of 2444 Timberlane Place, Bismarck, ND 58504 and Timothy Miller of 4913 Shelburne Street #5, Bismarck, ND 58503 or with Theresa L. Kellington of Kellington & Oster, P.C., 619 Riverwood Drive, Suite 202, Bismarck, ND 58504, or filed with the Burleigh County District Court at 514 East Thayer Avenue, P.O. Box 1013, Bismarck, ND 58502-1013.
Dated this 7th day of January, 2013.

/s/ Rita Hoff
Rita Hoff
2444 Timberlane Place
Bismarck, ND 58504

Dated this 7th day of January, 2013.
/s/ Timothy Miller
Timothy Miller
4913 Shelburne Street #5
Bismarck, ND 58503
First Publication on the 12th day of January, 2013.

1/12, 19 & 26 - 608900

BISMARCK PUBLIC SCHOOLS

The following detailed minutes of the Bismarck School Board are being published as required by a vote of the electors of the district pursuant to North Dakota Century Code 15-28-11. The cost of this publication is \$ 178.62.

The Bismarck School Board met on December 10, 2012, in the Tom Baker Room of the City/County Office Building. Board President Marquardt called the meeting to order at 5:15 p.m. and requested that the Business Manager call the roll.

Members present: Heide Delorme, Scott Halvorson, Lawrence King, Matt Sagsveen, and Steve Marquardt.

Following agreement on the Agenda, Mr. Marquardt called upon Superintendent Tamara Uselman to give her reports. Mrs. Uselman began by stating that the Focus on Success for this meeting was student election workers. She called the Board's attention to a letter received from County Auditor Kevin Glatt in which he commended students from Bismarck and Century High Schools for their help during the recent election.

Mrs. Uselman gave an update on enrollment for the current school year as of December 6. Fran Rodenburg, Assistant Superintendent of Elementary Schools and Student Services, reported that 23 additional elementary students had enrolled since November 20.

Darin Scherr, Director of Facilities and Transportation, provided an update on major projects throughout the District. There were no public presentations at the previous meeting and thus, no need for a Board response.

It was moved by King and seconded by Sagsveen to approve the following list of items on the Consent Agenda in accord with the recommendations made by the administration: the minutes of the November 26 regular and December 5, 2012, special School Board meetings; the destruction of records as detailed on the attached list provided by Business Manager Ed Gerhardt; and the hiring and salary of

Mandi Clausen, Library Media Specialist at Northridge Elementary, \$11,314 (25.67%). Motion carried. (The listing of records to be destroyed is on file in the office of the Business Manager.)

Mr. Marquardt announced that it was the time scheduled for public appearances. He asked Mrs. Uselman if anyone had contacted her to request an opportunity to address the Board. Mrs. Uselman stated that no one had contacted her. Mr. Marquardt then asked if there was anyone in the audience who wished to speak to the Board. Deb Hill, parent of a BPS student, addressed the Board regarding her concerns about overcrowding at Bismarck High School if 9th grade students were to be moved to the high schools.

The only other item of unfinished business was the 2013-14 school calendar. Following much discussion regarding alternatives for the calendar including whether to have graduation on Memorial Day weekend and the pros and cons of starting school before or after Labor Day, it was moved by Sagsveen and seconded by King to approve the 2013-14 school calendar with a first day of school start date of August 20, 2013, as recommended by Administration. Upon roll call vote, King, Sagsveen, and Marquardt voted aye and Halvorson and Delorme voted nay. Motion carried.

Under New Business, Mr. Marquardt presented the summary of the Superintendent's formative evaluation as reported by each Board member. Mr. Marquardt stated that it was the unanimous opinion that the Board was pleased with Mrs. Uselman's job performance as Superintendent of Bismarck Public Schools. It was moved by Halvorson and seconded by King to approve the formative evaluation of Tamara Uselman as presented. Motion carried.

Mrs. Uselman explained the change order recommended for the MDU Resources Community Bowl renovation project that would allow meters to be installed so that the parking lot and field lighting would be eligible for a special rate that reduces the electrical demand charges for the lights. The cost of the change proposal is approximately \$40,000 and has a pay-back period of five to six years. It was moved by Sagsveen and seconded by Halvorson to approve Change Order E-2 in the amount of \$40,000 in the MDU Resources Community Bowl project. Motion carried. Mr. Scherr explained that three bids had been received for the purchase of two Head Start replacement buses and that the low bid was submitted by Trucks of Bismarck, Inc. It was moved by Sagsveen and seconded by King to accept the \$174,913.50 low bid submitted by Trucks of Bismarck for two Head Start buses to be fully funded by a Head Start program grant. Motion carried.

Dr. Rodenburg explained her request for 13,000 additional teacher aide hours to help address needs resulting from increased enrollment. Following a brief discussion, it was moved by Halvorson and seconded by Delorme to amend the 2012-13 budget to add \$189,150 in order to fund 13,000 additional aide hours. Motion carried.

Mike Manstrom of Dougherty and Company, LLC, reported on the bids received earlier in the day for \$10,000,000 General Obligation School Building Bonds, Series 2012. Mr. Manstrom reported that the low bid was submitted by Piper Jaffray at a net effective rate of 1.784766%. It was moved by King and seconded by Sagsveen to approve the attached Resolution Authorizing the Issuance and Sale of \$10,000,000 General Obligation School Building Bonds, Series 2012. Motion carried. (The complete text of the Resolution Authorizing the Issuance and Sale of \$10,000,000 General Obligation School Building Bonds, Series 2012 is on file in the office of the Business Office.)

Mrs. Uselman provided detailed information regarding enrollment projections and the need to accelerate the proposed re-configuration of the District to K-5 elementary schools, 6-8 middle schools, and 9-12 high schools. Following an extensive

discussion regarding the justification for this move and the fact that there were no other viable alternatives, it was moved by Sagsveen and seconded by King to authorize Administration to move forward with the plan to adopt the K-5, 6-8, and 9-12 re-configuration of the Bismarck Public School District for the fall of 2013. Motion carried.

Mrs. Uselman reviewed Administrative Rules JBCCA-R1: School Assignment - Parent, Initiated Transfers and JBCCA-R3: Decision Making and Petition Process for Parent Initiated Transfers. Board members offered suggestions regarding possible changes to the proposed Administrative Rules.

Under Discussion Items, Mrs. Uselman advised the Board members that a meeting with local legislators was scheduled for Wednesday, December 19, 2012. She also mentioned that a link to various legislative information had been created on the District web site.

Under General Information, Board members were advised of upcoming meetings dealing with school attendance boundaries.

Board members were also advised of the copy of the State of the Arts newsletter for December 2012/January 2013 that was included with the Agenda.

There being no further business to come before the Board, Mr. Marquardt adjourned the meeting at 7:58 p.m.

January 7 - Special Session

The Bismarck School Board met in Special Session on January 7, 2013, in Board Room #2 of the Hughes Educational Center.

Board President Marquardt called the meeting to order at 12:14 p.m. and requested that the Business Manager call the roll.

Members present: Heide Delorme, Scott Halvorson, Lawrence King, Matt Sagsveen, and Steve Marquardt.

Mr. Marquardt explained that the first item on the Agenda for the special meeting was consideration of the resignation request

submitted by Alea Dutchuk, English teacher at Wachtler and Horizon Middle Schools. It was moved by Halvorson and seconded by Delorme to accept the resignation submitted by Alea Dutchuk, effective as of January 8, 2013. Motion carried. The second item on the agenda was an update on school safety practices. Superintendent Tamara Uselman informed the Board regarding the progress and practices already in place as well as those planned for the remainder of the school year. Also present to provide information to the Board were Darin Scherr, Director of Facilities and Transportation, and Beaky LaBella, Safety Coordinator. The Board also reviewed School Board Policy EBBC and Administrative Rule EBBC-R, both of which pertain to school emergency drills.

Following a comprehensive discussion by Board members, including several questions and answers, it was moved by Halvorson and seconded by Delorme that Administration present a schedule for a safety audit at the January 14 School Board meeting. Motion carried.

Since these were the only two items on the Agenda for the special meeting, Mr. Marquardt adjourned the meeting at 1:06 p.m.

1/19 - 608926

Deadlines

PUBLISH BY	RECEIVE BY
Mon.	Thurs. 12 Noon
Tues.	Fri. 12 Noon
Wed.	Mon. Noon
Thurs.	Mon. 5PM
Friday	Tues. 5PM
Sat.	Wed. 12 Noon

NOTICE OF LAPSE OF MINERAL INTEREST

- TO: John E. Andrich, Alverton, PA 15612
Paul B. Greiner, 300 Little St., Ridgway, PA 15853-1221
John Prushnok, 1st National Bank Bldg., Punxsutawney, PA 15767
Ralph Neal, 1st National Bank Bldg., Punxsutawney, PA 15767
Maude Kebler, 136 Fraley St., Kane, PA 16735-1352
Cornelia K. Dolan, 136 Fraley St., Kane, PA 16735-1352
E.J. Heckle, 329 Chase St., Kane, PA 16735-1318
Paul E. Bloomquist, 412 Janeway St., Kane, PA 16735-1441
Margaret Bloomquist, 412 Janeway St., Kane, PA 16735-1441
Charles F. Boller, Port Allegany, PA 16743
Peter Avenalla, Avenalla Garage, Kane, PA 13735
White Star Energy, Inc. PO Box 51108, Midland, TX 79710
J.L. Salberg, 90 Lincoln Ave. Ridgway, PA 15853-1918
C.E. Longshore, Kane, PA 16735
Sherman P. Oakes, 215 Ash St., Ridgway, PA 15853-1601
Cecil Oakes, 215 Ash St., Ridgway, PA 15853-1601
Jennie Edgett-Greeve St., Kane, PA 16735-1378
Charles Miceli, 127 Park St., Kane, PA 16735-1227
Gregg Turner, 323 Bayard St., Kane, PA 16735-1403
Alice Turner, 323 Bayard St., Kane, PA 16735-1403
Elmer Quirk, 1st National Bank Bldg., Smethport, PA 16749
Gordon Lathrop, 517 Norwood Ave., Buffalo, NY 14222-1318
L.L. Bishop, PO Box 1032, Lufkin, TX 75902
Bi-State Oil Co., Tyler State Bank Bldg., Tyler TX 75701
Robert Quirin Bussell, 5343 South 70th East Place, Tulsa, OK 74145-7526

Notice is hereby given that Charles Rasmussen, Leonard Rasmussen and Clara J. Rasmussen, are making a claim on such minerals interest that you hold and which interest has lapsed, as defined by Chapter 38-18.1 of the N.D.C.C. on the following described real property located in Burleigh County, North Dakota, to wit:

Township 144 North, Range 77 West of the 5th PM,
Section 6: Lots 1,2,3,4, & 5, E1/2SE1/4, NW1/4SE1/4
Section 8: W1/2

For inquires contact Attorney Walter M. Lipp, Lic. # 03099, PO Box 590, McClusky, ND 58463, 701 363-2545
Dated this 14th day of January, 2013.

/s/ Charles Rasmussen /s/ Leonard Rasmussen /s/ Clara J. Rasmussen
Charles Rasmussen Leonard Rasmussen Clara J. Rasmussen
STATE OF NORTH DAKOTA)
)
)

COUNTY OF SHERIDAN

The foregoing instrument was acknowledged before me this 14th day of January, 2013, by Charles Rasmussen, Leonard Rasmussen and Clara J. Rasmussen.

/s/ Walter M. Lipp
Notary Public
State of North Dakota
My Commission Expires: 11/6/15 (Seal)

1/19, 26 & 27 - 608928

LETTER OPINION
2002-L-73

December 24, 2002

Honorable John Andrist
State Senator
PO Box E
Crosby, ND 58730-0660

Dear Senator Andrist:

Thank you for your letter concerning extraneous or surplus language appearing on some city and school district election ballots. You indicate that some cities and school districts include estimates of publishing costs on ballots containing the question of whether these political subdivisions should publish the minutes or proceedings of their governing bodies in their official newspapers. You ask about the propriety of including these cost estimates on the ballots.

Section 15.1-09-31, N.D.C.C., provides, in part:

Every two years, at the time of a school district's annual election of board members, the electors of the district shall determine whether a record of the board proceedings must be published in the official newspaper of the district.

Similarly, N.D.C.C. § 40-01-09.1 provides that every four years:

[A]ll cities in North Dakota, regardless of their form of government, must put on the ballot the question of whether the minutes of its governing body shall be published in its official newspaper.

You included with your letter sample ballots that have been published in newspapers showing that together with the question of publication of minutes, ballot language had been added estimating annual publication costs.

As you also noted, the school districts' practice of including the cost of publishing minutes was addressed in prior correspondence issued by this office. See Letter to

Leon Johnson (May 11, 1967). The letter discussed an initiated measure which was a predecessor provision to N.D.C.C. § 15.1-09-31. See 1999 N.D. Op. Att'y Gen. L-112. The 1967 letter concluded that the "Measure makes no provision for including the cost of publishing the minutes on the ballot and we do not believe it is proper to include same on the ballot." Likewise, the current versions of N.D.C.C. §§ 15.1-09-31 and 40-01-09.1 make no provision for including the cost of publishing the minutes.

The North Dakota Supreme Court has not addressed this issue; however, according to one authority, "[t]he appearance on the ballot of words of surplusage which could not mislead the voters will not require the invalidation of a local election. . . . The test is whether surplusage 'would tend to confuse or misinform a voter so as to affect his free choice.'" 6 Sandra M. Stevenson, Antieau on Local Government Law § 86.16[3] (2d ed. 2002). In addition, the use of language that is "in the nature of a persuasive argument in favor of or against the issue . . ." is prohibited. State ex rel. Bailey v. Celebrezze, 426 N.E.2d 493, 495 (Ohio 1981), quoting Beck v. City of Cincinnati, 124 N.E.2d 120, 121 (Ohio 1955). See also 42 Am. Jur. 2d Initiative and Referendum § 21 (the summary of an initiated measure generally must be clear, concise, and a true and impartial statement as to the intent of the proposed law; not an argument, nor likely to create prejudice for or against the measure.).

While publishing good faith estimated publication costs would not necessarily confuse or misinform a voter to such a degree that it would call into question the results of an election, such statements are clearly surplusage that is not authorized by either N.D.C.C. §§ 15.1-09-31 or 40-01-09.1. Furthermore, to the extent that such estimated costs of publishing are included in the ballot language in order to influence the voters to vote against publication because of the costs involved, the additional language would be argumentative or prejudicial. While presumably the school district or city officials who placed the estimated costs of publication on the ballots you enclosed would assert that they were only trying to fully inform the voters on the ballot measure and not trying to improperly influence them, many of the voters are likewise taxpayers who may be less inclined to vote for publication if reminded in the voting booth of the estimated costs involved.¹ As the court in Beck noted:

¹ Whether including cost estimates constitutes a violation of North Dakota's electioneering statute, N.D.C.C. § 16.1-10-06, would require a determination by the trier of fact in a case as to whether the persons responsible for the surplus ballot language were "asking, soliciting, or in any manner trying to induce or persuade, any voter on an election day to vote or refrain from voting for . . . any measure submitted to the people . . ." within the meaning of that statute. Such determinations of fact are beyond the scope of an Attorney General's opinion.

Proposed Amendment to SB 2268

Senator Grabinger

(subject to grammatical changes by Legislative Council; other wording includes "made available" or some other wording)

Page 1, Line 9: remove "published in the city's official newspaper" and insert "accessible in a social media forum"; remove "publication" and insert "this measure"

Page 1, Line 10: remove "official newspaper" and insert "social media forum"

Page 1, Line 12: remove "published" and insert "made available"

Page 1, Line 16: remove "published" and insert "accessible"

Page 1, Line 17: remove "published" and insert immediately thereafter "accessible"

Page 1, Line 18: remove "published", and insert immediately thereafter "accessible"