

2019 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2062

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

SB2062
2/8/2019
32452

- Subcommittee
 Conference Committee

Committee Clerk Signature : Pam Dever

Explanation or reason for introduction of bill/resolution:

Relating to publication of election results.

Minutes:

Att #1 –Sen. Hogue; Att #2 – Donnell Preskey; Att #3 –
Steve Andrist; Att # 4 – Cecile Wehrman;

Chairman Davison: We will open the hearing on SB2062.

Sen. Hogue: I am here to introduce this bill. This came from the last session. I have attached HCR3014. (see att #1) In the House, they had a series of bills and the cost of service. They looked at who should be paying for the cost. They also looked at if the publication is needed. They decided to study the matter. (2.32) During the interim, legislative management decided to study these publication requirements. I chaired the committee. Some counties thought they should not have to pay for the publications. Newspapers want transparency so we ought to keep publishing these election results. This statute has been around a long time. I felt compelled to bring this in a bill. The information is so readily available the day of each election. Any questions?

Chairman Davison: I do agree with you. It is a compelling argument. I think of my 84-year-old dad in the nursing home. That newspaper that shows up every day, and it is his life line.

Sen. Hogue: We heard that argument in the interim. They watch TV in long term facilities. The newspapers said they are the ultimate true news. (9.28)

Devra Smestad, Ward County Auditor/Treasurer: I am in support of this bill. We have the AP and Minot Daily news. By the time we do canvassing the following week, we are a week behind. Our web site is immediate. I feel it is old fashion to have it in the newspaper.

Donnell Preskey, N.D. Assoc. of Counties: I am also director for the Auditors Assoc. (see att #2) This was studied in the Judiciary committee. This bill is what county auditors identified as unnecessary publications. By the time everything is made official, it is two weeks after the election. If counties do not have a web site, they should publish in newspapers.

Sen. Erin Oban: This is not we buy law make them print in the newspaper. You have a problem with auditors paying for it, right?

Donnell: No, we have no problem with results printed in newspaper. It is not that expensive. We were asked in the interim to identify top publication requirements that they saw an unnecessary.

Sen. Erin Oban: That is ultimately the problem, putting the cost on the counties?

Donnell: Yes. (15.39)

Chairman Davison: In favor? Agencies? Any opposition?

Steve Andrist, Ex. Dir. N.D. Newspaper Assoc.: I represent 78 weekly and 10 daily newspapers in N.D. (see att #3) Government transparency is very important. There may be a time when we stop publishing, but the time is not now.

Sen. Shawn Vedaa: (21.47) I read the newspaper to stumble upon good stuff. I think this is a money issue.

Sen. Erin Oban: Isn't this about who pays for it?

Steve: This bill does not affect who pays but whether it's paid for. It would be the counties paying for it. It is not that much cost.

Sen. Erin Oban: How would you feel if the law ways you must publish and take on the costs themselves. I don't think it is because of the law that those things get published in the newspaper. I think they would get published anyway. (23.17)

Steve: I agree. That much will be published. Details may not be ion there.

Sen. Erin Oban: If we change the language to say a newspaper 'must' print the results, would you support it?

Steve: We would not support if we have to at our expense. I think it is a first amendment issue. We are a vendor and expect to be paid.

Cecile Wehrman, Publisher of The Journal-Crosby/Tioga Tribune: (see att# 4) I am opposed to this bill. We spend 28 cents per citizen to publish the abstract of votes in the Journal. (25.37) Not much cost. Older people cannot find results on Secretary of State web site. Plus, it is hard to train them and most do not have computers.

Chairman Davison: This bill does not say that your county can't put it in newspaper. It just says either. So they still can in your county.

Cecile: Yes, they could. They are concerned with cost. They would prefer a web site. Counties usually want the easy way out, it seems.

Carol Two Eagles: I am against this bill. My residence is Standing Rock, but I know a lot about all reservations. There are many places on reservations that can't get internet. If their

county opts to not publish results, we have nothing. We need something on paper. I wish you would strengthen the bill to promote publication in areas of no service or limited service. We do watch what happened throughout the state. They need to know what happens off the reservations.

Chairman Davison: Any more in opposition? We will close the hearing. (32.18)

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Sheyenne River Room, State Capitol

SB2062
2/14/2019
No recording

- Subcommittee
 Conference Committee

Committee Clerk: Pam Dever

Explanation or reason for introduction of bill/resolution:

Relating to publication of election results.

Minutes:

Chairman Davison: What are the committee wishes?

Sen. Kristin Roers: I just think the argument is precinct by precinct issue and really don't think this is an issue.

Chairman Davison: Other thoughts?

Sen. Shawn Vedaa: I move a DO NOT PASS.

Sen. Erin Oban: I second

Vice Chair Meyer: The 'may' is not forcing them to do it. It gives them the option.

Sen. Erin Oban: I struggle with this because I think the final record printed is good.

Sen. Shawn Vedaa: I go back to the feeling that the newspaper is the truth in older people for sure.

Chairman Davison: Any more discussion? Take the roll: **YES -- 4 NO -- 3 -0-absent**
The **DO NOT PASS – passed. Sen. Shawn Vedaa will carry the bill.**

2-14-19
Date:
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2062

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Sen. Vedaa Seconded By Sen. Oban

| Senators | Yes | No | Senators | Yes | No |
|------------------|-----|----|-----------------|-----|----|
| Chairman Davison | | / | Sen. Oban | / | |
| Vice Chair Meyer | | / | Sen. Marcellais | / | |
| Sen. Elkin | / | | | | |
| Sen. K. Roers | | / | | | |
| Sen. Vedaa | / | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Total (Yes) 4 No 3

Absent -0-

Floor Assignment Sen. Vedaa

If the vote is on an amendment, briefly indicate intent:
Do Not Passed = passed

REPORT OF STANDING COMMITTEE

SB 2062: Government and Veterans Affairs Committee (Sen. Davison, Chairman)
recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING).
SB 2062 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

SB 2062

SB 2062
2-8-19
att #1
p81

1 TESTIMONY OF DAVID HOGUE IN SUPPORT OF SB 2062

2 SENATE GOVERNMENT AND VETERANS AFFAIRS

3 FEBRUARY 8, 2019

4
5 Good Morning Chairman Davison and members of the Senate Government and
6 Veterans Affairs Committee. My name is David Hogue. I am a North Dakota state
7 senator representing District 38, which includes northwest Minot and the city of
8 Burlington. I appear before your committee to seek support for SB 2062.

9 SB 2062 is a bill that was inspired during the 65th legislative session. During that
10 last session, there were apparently several bills that proposed the elimination of certain
11 publication costs to the state of North Dakota and its political subdivisions. Those bills
12 led to the passage of HCR 3014 which concluded that the state spends approximately
13 \$3.7 million per year on publication costs and that the legislature should study the costs
14 borne by the state and by political subdivisions and figure out if these costs could be
15 reduced. I attach a copy of HCR 3014 for your reference.

16 Legislative Management chose the study provided for in HCR 3014. The study
17 was assigned to the Interim Judiciary Committee. I was appointed chairman of that
18 committee.

19 The interim Judiciary Committee undertook a review of many of the mandated
20 publication costs that the state legislature has foisted onto counties and cities over the
21 past 40 years. The organization that represents the counties compiled a list of those
22 publication requirements. The Interim Judiciary Committee discussed and debated the

SB 2062

2-8-19
AH d1
pg 2

1 wisdom of proposing draft legislation to find an alternative place to publish these
2 publication requirements.

3 There was also the question of whether certain public notices should be paid for
4 by the county. For example, our interim study found that several agricultural commodity
5 groups held public elections that required publication of an upcoming election of
6 leadership of the commodity group in the official county newspaper. But, for reasons
7 that remain unclear, the county, and not the group, was charged with paying for these
8 public notices related to the election of leadership within the commodity group. So are
9 interim committee proposed legislation that shifted the cost of those legal notices back
10 to the organizations that were hosting elections for leadership of the organization.

11 SB 2062 advocates for publishing election results in an electronic format on line
12 instead of with the official county newspaper. This is a common sense modification to a
13 law that was passed when the public's access to the information was limited.

14 I support this proposal because it provides a cost savings to the counties without
15 sacrificing access to information about election results. All election results are freely
16 available on the North Dakota Secretary of State's web page. In fact, the newspapers
17 that publish these results obtain the results from the ND Secretary of State web site.
18 So, why do we require the publication of the election results?

19 The simple answer is the publication requirement is a legacy requirement that
20 predates the age of the internet. There was a time when the public looked to the
21 newspapers to provide that information. Of course, election results are widely reported
22 in the media on evening of the election, and for several days after the election by

SB 2062
2-8-19
AH #1
pg 3

1 television, newspaper, radio and internet sources. The actual results are known usually
2 the evening of the election. By the time many weekly and bi-weekly newspapers go to
3 print, the results of the elections are stale news.

4 Chairman Davison and committee members, this is one antiquated law we ought
5 to repeal. I would be happy to try an answer your questions.

6

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

SB 2062
2-8-19
AH #1
pg 4

HOUSE CONCURRENT RESOLUTION NO. 3014
(Representatives Keiser, Porter)
(Senators Cook, Sorvaag, Wardner)

A concurrent resolution requesting the Legislative Management to consider studying the various legal notice and publishing requirements of all state agencies and political subdivisions, the related costs required in state and political subdivision budgets, and potential notification alternatives.

WHEREAS, the North Dakota Century Code requires numerous state agencies and political subdivisions to publish various legal notices; and

WHEREAS, state agencies spend an estimated \$3,700,000 during each biennium in publishing legal notices; and

WHEREAS, state leaders are constantly pursuing solutions to be more fiscally responsible; and

WHEREAS, many forms of alternative and mainstream media are now available to provide legal notices;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management consider studying the various legal notice and publishing requirements of all state agencies and political subdivisions, the related costs required in state and political subdivision budgets, and potential notification alternatives; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-sixth Legislative Assembly.

SB 2062
2-8-19

Testimony Prepared for the
Senate Government & Veterans Affairs
February 7, 2019
By: Donnell Preskey, NDACo



RE: Support for SB 2062 – Publication of Official Election Results

Good morning Chairman Davison and committee members, I'm Donnell Preskey with the North Dakota Association of Counties. In that capacity, I serve as Executive Director for the Auditors and Treasurers Associations which are in support of this bill.

This bill comes before you today as a result of discussion initiated from the interim during the Interim Judiciary committee's work studying publication requirements. During this, we were requested to provide information regarding publication requirements. We identified 142 various notices, documents and listings which counties are required to publish (generally in their official county newspaper) as mandated by state law. After surveying our counties on their 2018 budget for publications, we estimate \$450,000 was spent by counties in 2018 on meeting publication requirements.

SB 2062 represents one of the items identified by County Auditors as an unnecessary publication requirement. By the time official election results are printed in the paper, they are already "old news" and known by the general public. Elections are news worthy at all levels and the results are available and reported by the media and on the Secretary of State's Election website. Because of the timing of weekly newspaper deadlines and when the canvassing board meets, often times the official results appear in papers weeks after the election. Therefore, we support at the very least the repeal of this requirement, if counties list the results on their websites.

It is important to note that advertising rates are negotiated and set every biennium by OMB. Although this mechanism is efficient, local governments have little direct control of this cost.

During our last survey of our 53 counties, only six do not have websites.

Also, Mr. Chairman for your information, HB 1229 which has yet to be voted on, includes similar language to change the requirement for publishing election results and in addition, eliminates a requirement to publish a listing of expenditures if listed on a county website. A third bill, SB 2035, was the result of the interim judiciary's work but only addresses the notice of elections for commodity group's county representatives and the date for notice of financial statements. That has passed the senate unanimously.

SB 2062
2-8-19
Att. #3
p81



Testimony of Steve Andrist
Executive Director, North Dakota Newspaper Association
Before the North Dakota Senate Government and Veterans Affairs Committee
In Opposition to SB 2062

Chairman Davison and members of the committee: My name is Steve Andrist, and as executive director of the North Dakota Newspaper Association I represent the 78 weekly and 10 daily newspapers in the state.

Government transparency is a popular concept these days. Who's opposed to transparency? Today I want to suggest to you that transparency goes beyond availability. It also goes to usability.

Sure, election results are pretty quickly available online. But different North Dakotans access information in different ways, and there's ample evident to document than many of them still prefer the printed copy of their local newspaper.

SB 2062 would reduce transparency for those people. Why? To save a little money. And frankly, the amount saved would be little.

We have data suggesting that on average, counties spend less than \$10,000 a year on public notices. That's far less than one-tenth of 1 percent of their budgets. The abstracts of votes make up a tiny portion of that \$10,000 average. In many counties, it's less than \$500 a year (see chart) -- not enough even to pay health insurance for one commissioner for one month. From our perspective, the savings SB 2062 would achieve would be barely noticeable to most counties, and would come with the added cost of reduced transparency.

There are three other points I'd like to offer for your consideration:

- 1) A few years ago, a survey conducted by Newton Marketing and Research revealed that 70 percent of North Dakota adults would likely not read public notices if they were available only on government web sites.
- 2) A 2017 survey by Pulse Research of Portland, OR., reveals 58% of ND adults

prefer to get public notices in the newspaper, while 33% prefer web sites. That result suggests a need to offer both options.

3) Newspapers offer both options. Several years ago NDNA established a state-wide public notice web site. That site has recently been upgraded, and the House Judiciary Committee has passed a bill to require newspapers to post all their public notices to it. We believe a third-party site that aggregates all public notices to one web site is more useful than publishing them on hundreds of different government web sites.

Thanks for your time and attention. I'd be happy to try to answer any questions.

Thank you.

Publication costs of election abstracts

| County | 2018 Primary | 2016 General |
|-------------------|---------------------|---------------------|
| Cavalier | \$181.50 | \$126.72 |
| Eddy | \$210.54 | \$206.25 |
| Renville | \$214.62 | \$262.80 |
| Burke | \$230.88 | \$284.16 |
| Benson | \$271.05 | \$294.45 |
| Pierce..... | \$344.00 | \$823.00 |
| McHenry..... | \$345.45 | \$338.10 |
| Bottineau | \$408.32 | \$446.60 |
| Morton..... | \$669.88 | \$435.00 |
| Pembina | \$808.67 | \$535.92 |
| Richland..... | \$922.32 | \$1,523.88 |
| Sargeant..... | \$1,346.16 | \$807.91 |
| Burleigh | \$3,186.12 | \$1,638.60 |
| Grand Forks | \$4,026.27 | \$2,462.67 |
| Cass | \$6,588.56 | \$2,426.68 |

Testimony of Cecile Wehrman
Publisher of The Journal, Crosby and Tioga Tribune
In opposition to SB 2062

2-8-19
AH # 4
pg 1

Mr. Chairman and Members of the Committee:

I am here today to speak against removing the requirement of counties to publish their abstract of votes in their official newspaper. I come to you with the experience of recently launching an updated website. It's an example of how availability doesn't necessarily equate with usefulness for the people we serve.

Every two years, Divide County spends approximately 28 cents per citizen to publish the abstract of votes in The Journal. It's a small price to pay for transparency. Especially when you consider the amount of troubleshooting and frustration that come when we assume all citizens are computer savvy.

Many of our readers are over the age of 65 and have been reading our online edition for years. You would think minor tweaks in a login system and platform for reading the paper online would be simple for them. It's not. In fact, if not for us being able to walk them through on the phone exactly how to login and find the online edition on our home page, many would simply give up. The conversation usually starts with us defining what the homepage is.

When subscribers like this call us at The Journal, we can spend as much as 10 minutes per call showing them the process and demonstrating the features that allow them to navigate our site. For some it may take multiple calls.

Based on this experience, I know the idea that older people will adapt to finding local vote totals online is unlikely. It isn't easy to train them and I don't imagine the state has a help line that's going to instruct people how to do it. On the flip side, everyone knows how to read a newspaper. And when it comes to older citizens, they prefer it. Many of our older readers, in fact, pay for both print and electronic subscriptions, relying on the online content only when traveling. Or, like my mom, who is homebound,

she subscribes to both the print and online editions because she wants to see what's in the paper Tuesday night -- even though she knows she'll peruse every inch of the print edition when it gets to her mailbox on Wednesday.

SB 2062
AH #4
2-8-19
pg 2

My mother is 75. I often use her as my Beta test for what works for my older subscribers. This woman does not lack intelligence. She's only been out of the workforce for 10 years. My mother would not be capable of finding local election results on a state website or even a local county website.

If you've ever tried to train a parent to complete a purchase or set up a simple online membership on their computer, you know what I am talking about. Please vote no on SB 2062.

