

**2019 SENATE JUDICIARY**

**SB 2178**

# 2019 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

SB 2178  
1/16/2019  
#30871 (27:34)

- Subcommittee  
 Conference Committee

Committee Clerk: Meghan Pegel
-------------------------------

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 40-18-06.2 of the North Dakota Century Code, relating to the term of a municipal judge; and to declare an emergency.

## Minutes:

1 Attachment
--------------

**Chair Larson** opens the hearing on SB 2178.

**Paul Hamers**, Municipal Court Judge and Executive Board member of the ND Municipal Judges Association, testifies in favor of the bill (see attachment #1)

**Judge Hamers:** A quick story- we have a small community with a population of under 5,000. There's a judge who has served there for almost 10 years with a workload in excess of 100 citations and 4 court appearances a month and a workload as low as 25 citations and 2 court appearances a month and receives a pay of about \$140 a month for this service. The number of citations is not important, but under different police officers, the number of citations fluctuate. Let's say we have a new police officer in town who in 14 months, writes 68 tickets- 40 of which are parking and the rest are warning. When a parking ticket is contested in court, the only court appearance written by this officer, the officer starts to argue with the person contesting the ticket. The judge says you must maintain order in his court. He ignores the judge's order and the judge dismisses the ticket. During the next city council meeting, the officer calls for the dismissal of the judge's office on the grounds of bias. There was no prior notice and if not for 1 concerned council member, the judge's office would have been dismissed.

As you can see I have something personal in this particular bill and for good reason. I called my mentor judge, the presiding judge for the district, one of the Justices, and the clerk of courts for the state and they all told me "legally we can't fight this because you're a city under 5,000". This bill moves to ensure that there is some forethought in the process of removing a Municipal Judge's office and that it is allowed to be in the public eye, not just snuck into a council meeting. During this process there were some meetings which have gone well, but the idea keeps coming from the council that judges should back up officers when they come to court. I believe that is in some ways a slight form of coercion and something to be held over small municipal court judges. If they disagree with council members or local police officers, then their ability to adjudicate is definitely impacted.

**(5:40) Senator Luick:** Does this obliterate any population requirement?

**Judge Hamers:** No, this is only for cities that have the population under 5,000. It would guarantee that if they decide to abolish the judgeship, that if once they abolish it, it would remain into effect up until the time they would register for the next term to vote. So they couldn't simply have court on Thursday, be unhappy with the decision, and abolish the judgeship on Wednesday of the next week.

**Vice Chairman Dwyer:** You're appearing on behalf of the Municipal Judges Association and they're all in favor of this?

**Judge Hamers:** Yes, this was discussed in the executive committee. I'm not a lobbyist, I just happen to be a member of the executive board and the sole person who was available to come.

**Senator Myrdal:** This reminds me of being on the school board- everyone knows you and can be contentious at times. If this is implemented, what is the process for removal?

**Judge Hamers:** The process would remain the same. If there was a judge who created some violation of the canon of ethics, that would actually go through the court administrator for the state. Removal of a Municipal Judge for violation of ethics is not covered in this part of the Century Code, but covered elsewhere. In this particular case, the process is that they have to have the presiding judge in their district agree to take all those cases. Normally once it appears before that judge, it's a piece of paper and they don't know the backstory. In this particular case the judge who would have to sign off on this, is my mentor judge. He has urged the association and myself to fight this because it's an attack on the independence of the judiciary.

**Senator Bakke:** What is the normal term of office for a Municipal Judge?

**Judge Hamers:** 4 years is the elected term.

**Senator Luick:** Are there any communities in North Dakota that have constables?

**Judge Hamers:** I'm not sure about constable moniker. When we have our association meetings, over half of the members are judges who serve multiple communities under 5,000. I don't know that there are any who have a title other than "Municipal Judge" officially.

**Senator Luick:** There used to be constables in smaller communities and they handled their own municipal judgeship types of problems within their own communities.

**Judge Hamers:** There is a trend we see in our association where cities get rid of their police department. They keep their Municipal Judge and contract with the sheriff's department and make the arrangement that the sheriff's department can write against city ordinances. We see this more and more. More of our association members practice this. We see that a lot of district judges, when they make these agreements to take on the city cases, don't want to hear about lawn clippings and weeds and dogs in the district court. They would rather have this adjudicated where somebody has an interest in the community in keeping the peace so to speak.

**(12:05) Bill Woken**, League of Cities, testifies in opposition

**Woken:** I understand the situation the judge is describing and the reasons for the concern. The flip side is the position of the city. Some cities giving up their policing powers and disbanding the police department in smaller cities. Some cities are also looking at the municipal court function as well. If we tie cities into a 4-year decision period, and they decide they want to take the sheriff on as their law enforcement officer, the case is written by the sheriff or municipal court or the district court. In the case where the municipal court workload is low, the city may decide it's best to send those cases to the district court. The sheriff's normal citations would go through the district court as well. I'm concerned that the opportunity for the city to control its costs and manner of ordinances enforcement would be impaired. Cities would be forced to take their decisions regarding municipal court in 4-year increments. For that reason, I'd suggest this bill as written would not be acceptable to the League of Cities.

**Senator Luick:** Could you work out something with the Municipal Judges Association to get this to work?

**Woken:** That's a possibility.

**Senator Bakke:** What I'm understanding is that a municipal judge is elected with a 4-year term. Isn't that a contract that the city has with this judge? If someone is elected, they would have to serve out the term.

**Woken:** The difference is if the function ceases to be exercised then of course there's nothing to be elected to. The concern I have is if the city decides during the 4-year term that it's not going to have a municipal court any longer or that it's better off moving its cases to district court, this limits the versatility of the city to make that accommodation.

**Senator Bakke:** Who pays the judge? Is that the city? I would think that if they have a 4-year term, does the city then continue to pay their salary? Wouldn't that be a contract obligation?

**Woken:** I'm not sure of the contract obligation. I've always been in cities larger than 5,000 people and there the city did pay the expenses. I assume the city continues to pay the expenses in smaller cities as well, but that's an assumption.

**(16:10) Senator Myrdal:** It seems like to a city even of that size, 4 years is not that long for planning. If the people have elected a judge for 4 years, if we allow it to be as it stands right now, that election by the people of a separate judiciary is subject to movement from the city council which seems to circumvent something I think is very important- the separation of the judiciary from other branches. Hopefully in your budget you look at least to 3 or 4 years down the road. I'm concerned about the power of the local subdivision to remove an elected official of the people.

**Woken:** I also subscribe to the policy that the powers ought to be separated between administrative and judicial, but if the city has made a budget decision, that is within its prevail. That budget decision rolls over to the impact on the program. It's not necessarily interfering with the judiciary so much as finding a different way to accomplish that judicial relief.

**Vice Chairman Dwyer:** If this law passed, then the city council or commission would just need some foresight if they were looking at terminating their municipal judge when they do their budget.

**Woken:** That is exactly what would happen. As we find out the state has challenges ahead of it with only 2-year budgets. The city has to do a 4-year budget with things changing as they will. We're looking for the ability of the city to control its own destiny rather than making the 4-year decisions.

**Senator Luick:** Do cities have to write contingency clauses in their contracts with their judges?

**Woken:** I'm not sure of contract law.

**(19:05) Senator Bakke:** What about the due process rights of the judges? If there's an incident on a Wednesday and a decision is made the next Wednesday, isn't that in violation of due process for that judge if it's simply done because they don't agree with something they've ruled on at the bench?

**Woken:** That is a concern of mine as well, but I'm also concerned that limiting the relief to the entire term of a judge puts a city at a disadvantage. I don't support cities taking that kneejerk reaction to terminate, but there's a gap between that and the relief that's proposed by this bill which is the entire term of the judge.

**Vice Chairman Dwyer:** Do all cities have budgets based on calendar years?

**Woken:** I believe so.

**Vice Chairman Dwyer:** So if they budgeted for 2019 and made a decision in February of 2019, they've budgeted already.

**Woken:** Correct. They would have budgeted for 2019 and probably begun the budget for 2020 because of the way the budget year lays out.

**Vice Chairman Dwyer:** So if you said "no sooner than end of a calendar year", you've already budgeted for it. At least it would provide a time period that would be longer than just next week.

**Woken:** That would be true.

**(21:50) Senator Bakke:** How many cities are moving away from Municipal judges and going to the district judge format? Is this a trend or uncommon?

**Judge Hamers:** I don't know the exact number because the association doesn't track that, but we see that a large majority of our association are individuals who have no police department anymore. In our county alone we have had two cities besides Napoleon who have no police department but have picked up municipal judge offices again and have had to pass their city ordinances to reinstate a municipal judge. The average municipal judge salary, duties normally performed one time a month except for emergencies, is \$140 a month for cities under 5,000. The city would be budgeting in my case for \$1,600 a year for all of the services that a judge can provide that are binding and of equal equivalence to the city's attorney. That's cheap legal work that the cities get.

**Senator Osland:** Are we dealing with a unique situation? Is this a common issue?

**Judge Hamers:** I'm not sure that the actual call for removal on the state instance of bias is common, but I do believe we have animosity that does show up in city councils based on certain decisions. The real alarm for me is when I go to my mentors and the whole line of the judiciary, they all say "We cannot help you because of the way the Century Code is written."

They can get rid of you now for any reason because you're not protected by the Century Code". I was told that by the whole chain all the way up.

**Chair Larson** closes the hearing on SB 2178.

**Senator Osland Moves a Do Pass.**  
**Senator Bakke: Seconded.**

**Senator Myrdal:** We've heard concerns from two different entities, both of which are valid. As suggested by Senator Luick, if the testifying parties along with this committee could work on some different language that would be acceptable by everyone, that would be my preference. We're going from one extreme to the next. I suggest we amend.

**Judge Hamers:** I would be willing to work on this.

**Senator Osland Withdraws his Motion.**  
**Senator Bakke Withdraws her Second.**

**Chair Larson** assigns subcommittee for SB 2178 amendments: Vice Chairman Dwyer and Senator Bakke will work with Judge Hamers and Bill Woken.

**Chair Larson** closes the hearing on SB 2178.

# 2019 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

SB 2178  
1/16/2019  
#30909 (00:57)

- Subcommittee  
 Conference Committee

Committee Clerk: Meghan Pegel

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 40-18-06.2 of the North Dakota Century Code, relating to the term of a municipal judge; and to declare an emergency.

## Minutes:

No Attachments

**Chair Larson** calls the committee to order to briefly discuss SB 2178.

**Chair Larson:** Please comment on the status of SB 2178.

**Vice Chairman Dwyer:** Parties that testified on the bill, got together and said they can come up with an amendment. They will have it for us next week.

**Chair Larson:** They have something they think they can work up between them without you having to have a meeting?

**Vice Chairman Dwyer:** Correct.

**Chair Larson:** If you do end up calling a meeting to discuss this together, you must announce it on the 17<sup>th</sup> order, so it's on the record. We will wait to hear from you next week with that then.

**Chair Larson** ends discussion on SB 2178.

# 2019 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee  
Fort Lincoln Room, State Capitol

SB 2178  
1/21/2019  
#31106 (3:45)

- Subcommittee  
 Conference Committee

Committee Clerk: Meghan Pegel

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 40-18-06.2 of the North Dakota Century Code, relating to the term of a municipal judge; and to declare an emergency.

## Minutes:

1 Attachment

## Chair Larson calls the committee to order to discuss SB 2178.

**Chair Larson:** Vice Chairman Dwyer has done some work on this without needing a subcommittee. Please explain the amendment.

(see attachment #1)

**Vice Chairman Dwyer:** The municipal judge and the League of Cities sat down and worked out this language which they both said would meet their respective needs. They presented it both to Senator Bakke and to me. We decided we did not need a subcommittee meeting since all parties were in agreement that this would take care of it. Essentially what they're saying is it would be the last day of the month in which all municipal cases have been transferred to district court. So if the city has said we are going to terminate our municipal judge position, then they'd have to wait until all municipal cases have been transferred before that was terminated or the expiration of the term, whichever came first.

**Vice Chairman Dwyer:** moves to adopt amendment 19.0845.01001.

**Senator Bakke:** Seconds.

**A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent. Amendment is adopted.**

**Senator Luick:** Moves a Do Pass as Amended.

**Senator Myrdal:** Seconds.

**A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent. Motion carries.**

**Vice Chairman Dwyer will carry the bill.**

January 18, 2019

EC  
1/18

PROPOSED AMENDMENTS TO SENATE BILL NO. 2178

Page 1, line 16, replace "completion of the municipal judge's elected or appointed term" with "last day of the month in which all municipal cases have been transferred to district court or the expiration of the judge's term, whichever occurs first"

Renumber accordingly

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2178**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 19.0845.01001

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 Vice Chairman Dwyer    Seconded By Senator Bakke

Senators	Yes	No	Senators	Yes	No
Chair Larson	X		Senator Bakke	X	
Vice Chair Dwyer	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total    (Yes) 6    No 0

Absent 0

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

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

**Replace “completion of the municipal judge’s elected or appointed term” with “last day of the month in which all municipal cases have been transferred to district court or the expiration of the judge’s term, whichever comes first”**

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2178**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 19.0845.01001

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 Senator Luick Seconded By Senator Myrdal

Senators	Yes	No	Senators	Yes	No
Chair Larson	X		Senator Bakke	X	
Vice Chair Dwyer	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Vice Chairman Dwyer

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

**REPORT OF STANDING COMMITTEE**

**SB 2178: Judiciary Committee (Sen. D. Larson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2178 was placed on the Sixth order on the calendar.

Page 1, line 16, replace "completion of the municipal judge's elected or appointed term" with "last day of the month in which all municipal cases have been transferred to district court or the expiration of the judge's term, whichever occurs first"

Renumber accordingly

**2019 HOUSE JUDICIARY**

**SB 2178**

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

SB 2178  
3/6/2019  
33284

- Subcommittee  
 Conference Committee

Committee Clerk: DeLores D. Shimek

## **Explanation or reason for introduction of bill/resolution:**

Relating to the term of a municipal judge; and to declare an emergency.

## **Minutes:**

1

**Chairman Koppelman:** Opened the hearing on SB 2178.

**Senator Erbele:** Introduced the bill. I introduced this on behalf of the municipal judges.

**Paul Hamers, Municipal Judge of Gackle and Napoleon:** (Attachment #1) Went over testimony. I worked with Bill Wolken and Stephanie Dassinger from the League of Cities on the verbiage of this after it was already introduced in the Senate. I believe we have come up with a solution that serves both of us in an amicable way.

**Rep. Hanson:** Municipal judges are elected aren't they?

**Paul Hamers:** They are elected. Initially they would be appointed to cover the remainder of a term. This is something that comes up all the time. How can a city council abolish an elected position? The Century Code allows it in this one particular case.

**Chairman K. Koppelman:** Do you know when the statute originated and whether municipal judges at that time were elected or were they appointed?

**Paul Hamers:** I do know that non-members of the bar where serve municipalities as a judge have a very rich tradition in ND. I would speculate that it initiated.

**Rep. Paur:** Why is this restricted to cities under 5,000?

**Paul Hamers:** We go back to the availability of law trained judges and people who can serve the community balanced against clogging up the rotating district courts. Right now in our district and I believe all the districts we have a series of rotating court dates that go from county to county. If each municipality could take care of infractions against the city ordinance with someone who is non-law trained but who is relatively educated and competent then that alleviated the strain on the district courts. I believe that is at the heart of your discussion.

**Rep. Paur:** If a city is over 5,000 then it goes to district court?

**Paul Hamers:** No that is not what I mean. If it is a city over 5,000 then the requirement is that that person be a member of the bar and be law trained. Then there is a different method for abolishing that office. This piece of the century code is unique in that only a city of less than 5,000 can abolish the office of the municipal judge.

**Chairman K. Koppelman:** As I read the statute and the bill you are not actually abolishing the office; they are abolishing that particular judges term of office. Then these smaller communities, so a municipal judge who is not law trained, it seems to me the way this wording is written could the language in the bill create some abuse on the part of a city the way this statute is written, but could the language in the bill create some abuse on the part of a municipal judge who would simply hold some cases and not refer them to the district court as a means of extending his or her term of office until it expired?

**Paul Hamers:** When a municipality decides to send court cases to the district court as a matter of practice an agreement is required between the district court and the city council. They have to pass an ordinance to show that that is going to happen. They have to have the same agreements in place. This bill establishes how the final passage and transfer of all future cases will be handled as a result of abolishing the office.

**Chairman K. Koppelman:** There are two things we are amending in this bill. One is the term of office of the municipal judge; the other is the office of municipal judge. Under current law the city commission could terminate the individual that is serving in that position now and then terminate the office itself. I want to be sure that the wording of the bill is correct. Right now if you eliminate that directive then it says the term of office of the municipal judge elected to serve the city terminates upon the last day of the month which the municipal cases have been transferred to district court or the expiration of the judge's term; whichever occurs first. So there is no mechanism in a small town in ND to say we can't afford a municipal judge anymore we are going to do away with this office. We don't need it. If so we might want to add something restoring that implied authority without injuring the process; as this bill apparently seeks to rectify.

**Paul Hamers:** Yes I see your concerns. Mr. Wolken is here and would be better qualified to answer that.

**Rep. Magrum:** Has there been a problem in the state?

**Paul Hamers:** I have a really good story and it goes something like this. We have a police officer that has not written very many citations. (14:30) Discussed the story in detail about the local police office and how things were handled. Explained that he is not originally from this area and something has gone on that is affecting the local municipal judge, police and city commission in running the city? Similar conflicts have happened with members of our association. We just want to make for sure people understand what is happening before they abolish an office like that.

**Bill Wolken, ND League of Cities:** We look at this bill when it was first introduced. We were aware of the circumstances as the municipal judges are some of the groups that the League of Cities works with. We looked at the language; however, the language we have that was in the original bill wouldn't allow cities to terminate a municipal judgeship if that were to be the case. We felt that restricted the cities to having to have a municipal judge if they couldn't afford it or didn't want to have one. We also said this shouldn't be about the judge; it should be about the judgeship. How about if we change the language to say that the term of office of the judge elected to serve the cities terminates on the last day of the month when all municipal cases have been transferred to district court as is allowed by statute or when the judges term expires. We put that language in so if the city district court and city reaches decision that the city will no longer have a municipal judge that is an agreement that is reached and it is on the record. That is a decision the cities make's relative to its judgeship. The last day of the month in which all municipal cases have been transferred to district court or the expiration of the judge's term; whichever occurs first.

**Vice Chairman Karls:** In a case like Paul Hamer's case; where would a citizen have to go to district court to argue a parking ticket? Where would that be located? I know we have 53 district courts; but we only have 51 district judges.

**Bill Wolken:** That will probably change by locality. I don't know if there is a general rule. If the community makes a decision to have a municipal court, it is because they want to enforce their ordinances locally. If they decide they cannot afford it or they no longer want to afford it, we think cities should have the opportunity to adjust their budget by deciding to keep that or not. In the case of a parking ticket I am not sure if they would be writing violations on parking tickets that would go to the district court?

**Judge Hamers:** We also have a different situation where once a city abolishes its office of municipal judge; then they also have to make an agreement with the county sheriff to write against city ordinances. What we are finding is cities who have abolished their police department and their office of municipal judge are actually reacquiring their office of municipal judge so that they can hear these cases. There are only 8 or 9 judicial districts in the state. It is a revolving set of district judges and they meet in the county seat of each county within their district.

**Vice Chairman Karls:** So if you abolish a municipal court does that mean you abolish the local police job also? If that is the case and the sheriff issues the parking tickets; isn't it a lot more expense to defend yourself in district court?

**Judge Hamers:** That is correct. The city may keep their police department and elect to transfer 100% of all ordinance violations to the district court. The agreement that is put in place is a 60-40 split. The state gets 60% of what happens in district; the county and city must by agreement set down and down and work out what percentage of the fines go to the county and city.

**Chairman K. Koppelman:** In the district court that must really clog the schedule if they are going to be dealing with some of those local ordinance issues etc. Does the district court have to agree with those?

**Judge Hamers:** Yes they have to. On the flip side if a case is actually transferred to the district without disagreement the district gets 100% of whatever fines are collected. Without the agreement in place the city does not receive anything.

**Chairman K. Koppelman:** Do the municipal judges called upon to adjudicate only city ordinance violations or are there century code statutes that might have an infraction or minor penalty that a municipal judge would still enforce?

**Judge Hamers:** It is in the century code that municipal judges may only hear cases with infractions of the city ordinance; however, we have a lot of ordinances that are an overlap of the century code. Often times we have an officer who makes a choice; do I write it to the city or century code?

**Rep. Paur:** I have a problem with the elected official. I do not know how the bill was originally proposed? If we would change it to may abolish by resolution the office of municipal judge at the expiration of the judge's term; would that work in all cities do you think?

**Bill Wolken:** That is a fair question. The concern that the League of Cities would have is if you just relate it to the end of the judge's term; which is what was first proposed so in the middle of a term after a year or two; the city decides we really can't afford to have the office of municipal judge or our own court; we are going to turn all of our cases over to the district court; that language would preclude them from doing that until the end of the judge's term. We wanted to leave the opportunity to the city to abolish the judgeship without having an undue influence on the judge itself. The language here requires the district court and city have an agreement for the movement of those cases so that makes it the judgeship that is being moved. We didn't feel comfortable going beyond the term of the existing judge so we had to recognize that as well so that was the reason for the new language.

**Chairman K. Koppelman:** The only potential problem I see with that language is you could have a situation where a municipal government is unhappy with an elected municipal judge and they chose this course of action to rid themselves of that judge even though it might be midterm and that judges elected term simply by saying it is worth it to us to just get rid of the office altogether. It could still be an end around to the situation we heard about.

**Bill Wolken:** That is up to them. I think it would be very difficult for a local unit of government to make that decision in a vacuum to say we just don't like the guy and that is it. They would have to talk about the judgeship as a whole. There might be some adverse action from the community.

Opposition: None

Neutral: None

Hearing closed.

**Do Pass Motion Made by Rep. Satrom; Seconded by Rep. Magrum**

Discussion:

House Judiciary Committee

SB 2178

March 6, 2019

Page 5

**Roll Call Vote: 13 Yes 0 No 1 Absent Carrier: Rep. Magrum**

Closed.

2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2178

House Judiciary 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 Lafrom Seconded By Magrum

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	✓		Rep. Buffalo	✓	
Vice Chairman Karls	✓		Rep. Karla Rose Hanson	✓	
Rep. Becker	✓				
Rep. Terry Jones	✓				
Rep. Magrum	✓				
Rep. McWilliams	✓				
Rep. B. Paulson	✓				
Rep. Paur	✓				
Rep. Roers Jones	✓				
Rep. Satrom	✓				
Rep. Simons	✓				
Rep. Vetter	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Magrum

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

**REPORT OF STANDING COMMITTEE**

**SB 2178, as engrossed: Judiciary Committee (Rep. K. Koppelman, Chairman)**  
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
Engrossed SB 2178 was placed on the Fourteenth order on the calendar.

**2019 TESTIMONY**

**SB 2178**

Chairman and Members  
North Dakota Senate Judiciary Committee

#1  
SB 2178  
1/16

January 16, 2019

Chairman,  
Ref: SB 2178

I am Paul Hamers, the Municipal Judge for the cities of Gackle and Napoleon. I am an Executive Board member of the North Dakota Municipal Judges Association and appear before you today on behalf of the association.

In a jurisdiction of under 5,000 residents, a city council may abolish the office of the municipal judge immediately upon passing a motion to transfer all cases to the district court. The problem with the current verbiage of 40-18-06.2 is that a council's authority may be used to remove a judge whose decisions are unpopular with the police department or council members. This is essentially a form of coercion and a threat to the independence of the judiciary.

Changing the verbiage to align the termination of office with the end of the current term of election adds a hedge of protection for the independence of the judiciary and ensures that the decision to abolish the office of municipal judge is made with careful thought and consideration as opposed to a whim.

Please feel free to contact me directly by cellphone 701-400-0085, or email [paul.hamers@napoleon.k12.nd.us](mailto:paul.hamers@napoleon.k12.nd.us).

Sincerely,



Paul Hamers  
USA Retired  
Municipal Judge

19.0845.01001  
Title.

Prepared by the Legislative Council staff for  
Senator Dwyer  
January 18, 2019

#1  
SB 2178  
1/16

PROPOSED AMENDMENTS TO SENATE BILL NO. 2178

Page 1, line 16, replace "completion of the municipal judge's elected or appointed term" with "last day of the month in which all municipal cases have been transferred to district court or the expiration of the judge's term, whichever comes first"

Renumber accordingly

#1  
SB 2178  
3-6-19  
P.1

Chairman and Members  
North Dakota House Judiciary Committee

March 6, 2019

Chairman,  
Ref: SB 2178

I am Paul Hamers, the Municipal Judge for the cities of Gackle and Napoleon. I am an Executive Board member of the North Dakota Municipal Judges Association and appear before you today on behalf of the association.

In a jurisdiction of under 5,000 residents, a city council may abolish the office of the municipal judge immediately upon passing a motion to transfer all cases to the district court. The problem with the current verbiage of 40-18-06.2 is that a council's authority may be used to remove a judge whose decisions are unpopular with the police department or council members. This is essentially a form of coercion and a threat to the independence of the judiciary.

Changing the verbiage of 40-18-06.2 to align the end of the term of a municipal judge to be effect when the process of abolishing the office is 100% complete, as the last step in the process, serves as a hedge of protection for the independence of the judiciary and ensures that the decision to abolish the office of municipal judge is made with careful thought and consideration as opposed to a whim.

Please feel free to contact me directly by cellphone 701-400-0085, or email paul.hamers@napoleon.k12.nd.us.

Sincerely,



Paul Hamers  
USA Retired  
Municipal Judge



41  
SB 2178  
3-4-19  
P. 2

19.0845.02000

FIRST ENGROSSMENT

Sixty-sixth  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE BILL NO. 2178

Introduced by

Senators Erbele, Luick, Myrdal

Representatives K. Koppelman, Paur, Satrom

1 A BILL for an Act to amend and reenact section 40-18-06.2 of the North Dakota Century Code,  
2 relating to the term of a municipal judge; and to declare an emergency.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 40-18-06.2 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **40-18-06.2. Transfer of municipal ordinance cases to district court - Abolition of office**  
7 **of municipal judge.**

8 With the agreement of the governing body of the county, the presiding judge of the judicial  
9 district in which the city is located, and the state court administrator, the governing body of a city  
10 may, by ordinance, transfer some or all of the cases of the municipal court to the district court  
11 serving the county in which the city is located. These cases are deemed district court cases for  
12 purposes of appeal. The governing body of a city with a population of less than five thousand,  
13 upon transferring all municipal court cases to the district court, may abolish by resolution the  
14 office of municipal judge. The term of office of the municipal judge elected to serve that city  
15 terminates upon the ~~date the governing body of the city abolishes the office of municipal~~  
16 judge last day of the month in which all municipal cases have been transferred to district court or  
17 the expiration of the judge's term, whichever occurs first.

18 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.