

2023 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1167

2023 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1167
1/20/2023

Relating to the governor's authority regarding polling places during a declared state of disaster or emergency.

Meeting called to order by **Chairmen Schauer at 10:33 AM**

Chairmen Austen Schauer, Vice Chairmen Bernie Satrom, Reps. Landon Bahl, Claire Cory, Jeff A. Hoverson, Jorin Johnson, Karen Karls, Scott Louser, Carrie McLeod, Karen M. Rohr, Vicky Steiner, Steve Vetter, Mary Schneider. All present.

Discussion Topics:

- Election integrity
- Mail in election parameters
- Governor's Office authority

Representative Vetter- Testifies in favor. (Testimony #14820)

Donnell Preskey- ND Association of Counties- Executive Director- Testifies in opposition (Testimony #14612)

Representative Schauer Closes the hearing for HB 1167 at 10:57 AM

Phillip Jacobs, Committee Clerk by Risa Berube

2023 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1167
1/26/2023

Relating to the governor's authority regarding polling places during a declared state of disaster or emergency.

Meeting called to order by **Chairmen Schauer at 11:15 AM.**

Chairmen Austen Schauer, Vice Chairmen Bernie Satrom, Reps. Landon Bahl, Claire Cory, Jorin Johnson, Karen Karls, Scott Louser, Carrie McLeod, Karen M. Rohr, Vicky Steiner, Steve Vetter, and Mary Schneider present. Rep. Hoverson not present.

Discussion Topics:

- Polling Locations
- Role of the governor in statewide elections
- Testimony #14612
- Committee work

Chairman Schauer – called for a discussion on HB 1167

Committee Discussion.

Representative Schauer - Closes the hearing for HB 1167 at 11:22 AM.

Phillip Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1167
2/2/2023

Relating to the governor's authority regarding polling places during a declared state of disaster or emergency.

Meeting called to order by Chairmen Schauer 4:09 PM.

Chairmen Austen Schauer, Vice Chairmen Bernie Satrom, Reps. Landon Bahl, Claire Cory, Jorin Johnson, Karen Karls, Scott Louser, Carrie McLeod, Karen M. Rohr, Vicky Steiner, Steve Vetter, and Mary Schneider present. Rep. Hoverson not present.

Discussion Topics:

- Committee work

Committee work on HB 1167

Representative Schauer - Closes the hearing for HB 1167 at 4:10 PM

Phillip Jacobs, Committee Clerk By: Leah Kuball

2023 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1167
2/9/2023

Relating to the governor's authority regarding polling places during a declared state of disaster or emergency.

Meeting called to order by Chairmen Schauer at 8:42 AM

Chairmen Austen Schauer, Vice Chairmen Bernie Satrom, Reps. Landon Bahl, Claire Cory, Jeff A. Hoverson, Jorin Johnson, Karen Karls, Scott Louser, Carrie McLeod, Karen M. Rohr, Vicky Steiner, Steve Vetter, and Mary Schneider present. Rep. Karen Karls not present.

Discussion Topics:

- Committee discussion

Chairman Schauer – called for a discussion on HB 1167

Austin Gunderson, Counsel with Legislative Council answered questions from the committee.

Committee discussion

Representative Schauer - Closes the hearing for HB 1167 at 8:51 AM. *Phillip*

Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1167
2/16/2023

Relating to the governor's authority regarding polling places during a declared state of disaster or emergency.

Meeting called to order by Chairmen Schauer at 9:18 AM

Chairman Austen Schauer, Vice Chairman Bernie Satrom, Reps. Landon Bahl, Claire Cory, Jeff A. Hoverson, Jorin Johnson, Karen Karls, Scott Louser, Carrie McLeod, Karen M. Rohr, Vicky Steiner, Steve Vetter, and Mary Schneider. All present.

Discussion Topics:

- Committee work
- Amendments (23.0300.01002)

Representative Vetter moved amendment 23.0300.01002.

Seconded by Representative McLeod.

Roll Call Vote:

Representatives	Vote
Representative Austen Schauer	Y
Representative Bernie Satrom	Y
Representative Landon Bahl	Y
Representative Claire Cory	Y
Representative Jeff A. Hoverson	Y
Representative Jorin Johnson	Y
Representative Karen Karls	Y
Representative Scott Louser	Y
Representative Carrie McLeod	Y
Representative Karen M. Rohr	Y
Representative Mary Schneider	Y
Representative Vicky Steiner	Y
Representative Steve Vetter	Y

Motion carries 13-0-0.

Representative Louser moved a DO PASS as amended on HB 1167.

Seconded by Vice Chairman Satrom.

Roll Call Vote:

Representatives	Vote
Representative Austen Schauer	Y
Representative Bernie Satrom	Y
Representative Landon Bahl	Y
Representative Claire Cory	Y
Representative Jeff A. Hoverson	Y
Representative Jorin Johnson	Y
Representative Karen Karls	Y
Representative Scott Louser	Y
Representative Carrie McLeod	Y
Representative Karen M. Rohr	Y
Representative Mary Schneider	Y
Representative Vicky Steiner	Y
Representative Steve Vetter	Y

Motion carries 13-0-0.

Bill carrier: Representative Cory.

Chairman Schauer closed the meeting on HB 1167 at 9:27 AM.

Phillip Jacobs, Committee Clerk By: Leah Kuball

Handwritten in red:
2-16-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1167

Page 1, line 7, replace "or suspend" with "that suspends"

Page 1, line 7, replace "amend" with "amends"

Page 1, line 8, replace "the required" with "a state or local requirement regarding"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1167: Government and Veterans Affairs Committee (Rep. Schauer, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1167 was placed
on the Sixth order on the calendar.

Page 1, line 7, replace "or suspend" with "that suspends"

Page 1, line 7, replace "amend" with "amends"

Page 1, line 8, replace "the required" with "a state or local requirement regarding"

Renumber accordingly

2023 SENATE STATE AND LOCAL GOVERNMENT

HB 1167

2023 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee
Room JW216, State Capitol

HB 1167
3/17/2023

Relating to the governor's authority regarding polling places during a declared state of disaster or emergency.

11:03 AM Chair Roers opened the hearing. Present: Chair Roers, Vice Chair Barta, Sen Cleary, Sen Estenson, Sen J Lee, and Sen Braunberger.

Discussion Topics:

- Guaranteed voting place
- Legislature's decision

Rep Steve Vetter, Dist 18, bill sponsor testified in support #25710.

Charles Tuttle, Minot ND testified in support with no written testimony.

Lee Ann Oliver, answered Chair Roers question.

Additional Testimony:

Donnell Preskey, ND Auditors Assoc testified opposed #25653.

11:20 AM Chair Roers closed the hearing.

Pam Dever, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee
Room JW216, State Capitol

HB 1167
3/23/2023

Relating to the governor's authority regarding polling places during a declared state of disaster or emergency.

4:45 PM Chair Roers opened committee work. Present: Chair Roers, Vice Chair Barta, Sen Cleary, Sen Estenson, Sen J Lee, and Sen Braunberger.

Discussion Topics:

- Committee action

Sen Estenson moved a DO PASS.

Sen Barta seconded the motion.

Senators	Vote
Senator Kristin Roers	Y
Senator Jeff Barta	Y
Senator Ryan Braunberger	Y
Senator Sean Cleary	AB
Senator Judy Estenson	Y
Senator Judy Lee	AB

ROLL CALL VOTE: YES – 4 NO – 0 Absent – 2 Motion PASSED

Sen Barta will carry the bill.

4:52 PM Chair Roers adjourned the meeting.

Pam Dever, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1167, as engrossed: State and Local Government Committee (Sen. K. Roers, Chairman) recommends **DO PASS** (4 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1167 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

TESTIMONY

HB 1167

Testimony Prepared for the
House Government & Veterans Affairs
 January 20, 2023
 Donnell Preskey, NDACo



RE: OPPOSITION TO HB 1167

Mr. Chair and committee members, I'm Donnell Preskey with the North Dakota Association of Counties. In my role at NDACo, I serve as executive director of the North Dakota County Auditors Association. We stand in opposition to this bill only because, in critical emergency situations, someone needs to have the authority to respond.

This bill stems from executive orders and decisions that were made during the COVID-19 pandemic related to elections, specifically the June primary election in 2020. Prior to the Primary, the North Dakota County Auditors Association was in communication with the Governor's office regarding their concerns in being able to run an in-person election. In March, shortly after the Governor declared a state of emergency for COVID-19, County Auditors sent a formal request to the Governor requesting the Governor to use his emergency powers to make necessary changes.

It's important to understand the election timeline in relation to when COVID-19 pandemic hit to help explain the reasons for the county Auditors' requests.

March 13th – Governor Burgum declares state of emergency for COVID-19.

March 24th – ND County Auditors sent letter to Governor requesting the following:

- **Waive requirements for 1 physical polling location for June election.**
- **2020 Primary be mail ballot only.**
- **Increase time to process mail/absentee ballots from 2 to 5 days.**

March 26th - Governor signed Executive Order which:

- Strongly encouraged county commissions to:
 - o Approve and authorize voting by mail ballot "absentee ballot".
 - o Establish secure mail ballot drop box locations.
- The Executive Order also:
 - o Suspended the requirement for counties to have one polling location; allowing county commissions to utilize all vote by mail ballots.
 - o Suspended requirement to establish polling places no later than 64th day before the election.
 - o Allow for processing absentee ballots 5 days prior to election.
 - o Required applications for ballots to be sent to all voters in state's central voter file.
 - o Provide an assistive ballot marking device 40 days prior to election through election day.

Auditors have deadlines to follow in election preparations, which was the reason for the urgency in making the request to move to all vote by mail in June.

April 6th (64 days before election) – deadline for setting polling locations.

April 6th - filing deadline for candidates.

April 6th – deadline to upload ballot information for election programming.

April 20-30th – Applications for ballots need to be mailed.

County commissioners in all 53 counties passed resolutions to go all vote by mail due to the pandemic.

To summarize, when the COVID-19 emergency was declared in North Dakota, the state shut down – schools closed, workplaces adjusted by having employees work from home if able, businesses and most county courthouses were restricted or closed. County auditors had to make quick decisions on how to plan for the June election during this time of great uncertainty. Election deadlines were quickly approaching, and auditors were faced with venues typically used as polling locations being closed, “gatherings” were restricted under the emergency order, and willing poll workers were impossible to hire. In addition, personal protection equipment was almost impossible to find at that time. Imagine, faced with all that, planning and holding an in-person election.

We have never experienced an emergency that has affected the entire state like this. If the legislature wants to restrict the Governor’s authority to respond in dire emergency situations, then the power needs to lie with our local elected officials, in this case our county commissioners. In an emergency, in the most urgent situation, someone needs to have the power to make the necessary adjustments.

For the November 2020 Election, every county had at least one voting location open. Auditors had the time to prepare for holding an election during a pandemic and were able to purchase PPE to provide a safe voting environment for citizens who wanted to vote in person. It is important to note that elections returned to normal for the 2022 election cycle.

The County Auditors urge a Do Not Pass on HB 1167.



North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Steve Vetter

District 18
804 South 17th Street
Grand Forks, ND 58201-4241
smvetter@ndlegis.gov

COMMITTEES:

Judiciary
Government and Veterans Affairs

01/20/2023

My name is Steve Vetter representing district 18.

HB 1167 guarantees every county will have a physical polling location on the Election. If you look at the century code, you will find it already states there must be one physical polling location per county. However, this law guarantees it cannot be changed by executive override.

For example, a couple of election cycles ago, the primary election was mail-in only and did not allow for people to vote on Election Day which is contrary to tradition.

If an election needs to be mail-in only election because of an emergency then a special session could be called and the issue settled quickly. Especially with the newer approved technologies available because it could be done remotely. In the previous affected primary there was plenty of time to call a special remote session.

Also, This bill is in no way an attack on our current Governor. This is about limiting the office's power to have the ability to limit the people's ability to vote in person for the Elections. Example: already has unlimited abilities when an emergency is called.

Elections are too important to be in the control of one person especially if that person is also running in that election. If a significant change like not having one physical polling location per county really needs to be changed because an emergency then the decision should be made by a consensus of the legislature not person.

Again,. This bill guarantees there can't be an all mail-in election without having a minimum 1 physical polling location per county. This is a very simple but very important election integrity bill. I would ask that you give HB 1167 a favorable Do Pass recommendation. Thank you and I will stand for questions.

"Click here to type"

Testimony Prepared for the
Senate State and Local Government
 March 17, 2023
 Donnell Preskey, NDACo



RE: OPPOSITION TO HB 1167

Chair Roers and committee members, I'm Donnell Preskey with the North Dakota Association of Counties. In my role at NDACo, I serve as executive director of the North Dakota County Auditors Association. We stand in opposition to HB 1167 and ask for a Do NOT Pass recommendation. We oppose HB 1167 because, in critical emergency situations, someone needs to have the authority to respond.

This bill stems from executive orders and decisions that were made during the COVID-19 pandemic related to elections, specifically the June primary election in 2020. In March 2020, shortly after the Governor declared a state of emergency for COVID-19, County Auditors sent a formal request to the Governor requesting the Governor to use his emergency powers to make necessary changes to waive polling location requirements.

It's important to understand the election timeline in relation to when COVID-19 pandemic hit to help explain the reasons for the county Auditors' requests.

March 13th – Governor Burgum declares state of emergency for COVID-19.

March 24th – ND County Auditors sent letter to Governor requesting the following:

- **Waive requirements for 1 physical polling location for June election.**
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Auditors have deadlines to follow in election preparations, which was the reason for the urgency in making the request to move to all vote by mail in June.

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County commissioners in all 53 counties passed resolutions to go all vote by mail due to the pandemic.

To summarize, when the COVID-19 emergency was declared in North Dakota, the state shut down – schools closed, workplaces adjusted by having employees work from home if able, businesses and most county courthouses were restricted or closed. County auditors had to make quick decisions on how to plan for the June election during this time of great uncertainty. Election deadlines were quickly approaching, and auditors were faced with venues typically used as polling locations being closed, “gatherings” were restricted under the emergency order, and willing poll workers were impossible to hire. In addition, personal protection equipment was almost impossible to find at that time. Imagine, faced with all that, planning and holding an in-person election.

We have never experienced an emergency that has affected the entire state like this. If the legislature wants to restrict the Governor’s authority to respond in dire emergency situations, then the power needs to lie with our local elected officials, in this case our county commissioners. In an emergency, in the most urgent situation, someone needs to have the power to make the necessary adjustments.

For the 2020 General Election in November, every county had at least one voting location open. Auditors had the time to prepare for holding an election during a pandemic and were able to purchase PPE to provide a safe voting environment for citizens who wanted to vote in person. It is important to note that elections returned to normal for the 2022 election cycle.

The County Auditors urge a Do Not Pass on HB 1167.



North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
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Representative Steve Vetter

District 18
804 South 17th Street
Grand Forks, ND 58201-4241
smvetter@ndlegis.gov

COMMITTEES:

Judiciary
Government and Veterans Affairs

03/17/2023

Good Morning Madame Chair Roers and the State & Local Government committee,

My name is Steve Vetter representing district 18.

HB 1167 guarantees every county will have a physical polling location on the Election. If you look at the century code, you will find it already states there must be one physical polling location per county. However, this law guarantees it cannot be changed by executive override.

For example, a couple of election cycles ago, the primary election was mail-in only and did not allow for people to vote on Election Day which is contrary to tradition.

If an election needs to be mail-in only election because of an emergency, then a special session could be called, and the issue settled quickly. Especially with the newer approved technologies available because it could be done remotely. In the previous affected primary, there was plenty of time to call a special remote session.

Also, this bill is in no way an attack on our current Governor. This is about limiting the office's power to have the ability to limit the people's ability to vote in person for the Elections. Example: already has unlimited abilities when an emergency is called. This just deals with one small thing, having a physical polling location on Election Day to ensure all citizens that want to vote, can. Many voter were disenfranchised. On Election Day, there was nowhere that a voter could drop of their ballot. It had to be submitted the day before at minimum. Explain.

Elections are too important to be in the control of one person especially if that person is also running in that election. If a change like not having one physical polling location per county really needs to be changed because an emergency then the decision should be made by a consensus of the legislature not one person. Should a future governor have the ability to help his/her own election? Explain potential.

The opponents of this bill:

-They claim the the Governor needs to respond to emergency situations. The governor can respond. The only thing this bill deals with is one small aspect. Having 1 Physical polling location in a county. -They say they need this because when they had an all mail -in election before they claim they didn't have to time to prepare. Well, now they have lots of time now to prepare and the legislature has the ability to meet remotely. If the governor needs this power, all he/she would need to do is get the permission of the legislature.

-This bill is not about the auditors, read the bill, it is about the governor power to take away a law that is already in century code. I challenge you to ask the opponents of the bill where they see auditors anywhere in the bill. You won't find it, only the governor.

-The opponents will tell, we had to do this way. Ok, fine but what reason would you ever have to do it again considering the legislature has the ability to meet remotely in the future and now we have the hindsight of our actions.

-There nothing about this bill that deals with local control. The governor is the most powerful person in the state. There is nothing local about the governor having power to override existing law to take away the voting rights of individual citizens. It was the Governor's decision to allow the auditors to choose what they wanted. He could made a different decision by himself. The emergency powers give him all kinds latitude to suspend laws, however, this should not be one of those abilities.

Again, This bill guarantees there can't be an all mail-in election without having a minimum 1 physical polling location per county. This is a very simple but very important election integrity bill. I would ask that you give HB 1167 a favorable Do Pass recommendation. Thank you and I will stand for questions.