

2023 HOUSE POLITICAL SUBDIVISIONS

HB 1448

2023 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

HB 1448
2/9/2023

Relating to the composition of the county board of appraisers and land appraisal requirements.
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9:44 AM Chairman Longmuir opened the hearing.

Members present: Chairman Longmuir, Vice Chairman Fegley, Rep. Hatlestad, Rep. Heilman, Rep. Holle, Rep. Jonas, Rep., Motschenbacher, Rep. Ostlie, Rep. Rios, Rep. Toman, Rep. Warrey, Rep. Davis, and Rep. Hager. Absent: Rep. Klemin

Discussion Topics:

- Conflicts with county boards
- Amendment
- County Superintendent duties
- Training requirements

Rep. Weisz: Introduced the bill. Testimony #20327

Aaron Burst, Association of Counties: Testimony #23001

Adam Tescher, Assistant Director, ND School Finance, DPI: No written testimony.

Hearing closed at 10:03 AM

Delores Shimek, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

HB 1448
2/9/2023

Relating to the composition of the county board of appraisers and land appraisal requirements.

10:24 AM Chairman Longmuir opened the hearing. Members present: Chairman Longmuir, Vice Chairman Fegley, Rep. Hatlestad, Rep. Heilman, Rep. Holle, Rep. Jonas, Rep., Motschenbacher, Rep. Ostlie, Rep. Rios, Rep. Toman, Rep. Warrey, Rep. Davis, and Rep. Hager. Absent: Rep. Klemin

Discussion Topics:

- Amendment

Rep. Jonas moved to amend Section 3. Amendment e. Each county superintendent shall receive annual training provided by the superintendent of public instruction and the North Dakota association of counties.

Seconded by Rep. Heilman

Representatives	Vote
Representative Donald W. Longmuir	Y
Representative Clayton Fegley	Y
Representative Jayme Davis	Y
Representative LaurieBeth Hager	Y
Representative Patrick Hatlestad	Y
Representative Matt Heilman	Y
Representative Dawson Holle	Y
Representative Jim Jonas	Y
Representative Lawrence R. Klemin	A
Representative Mike Motschenbacher	Y
Representative Mitch Ostlie	Y
Representative Nico Rios	A
Representative Nathan Toman	Y
Representative Jonathan Warrey	Y

Roll Call Vote: 12 Yes 0 No 2 Absent

Rep. Ostlie moved a Do Pass as Amended;
Seconded by Rep. Holle

Representatives	Vote
Representative Donald W. Longmuir	Y
Representative Clayton Fegley	Y
Representative Jayme Davis	Y
Representative LaurieBeth Hager	Y
Representative Patrick Hatlestad	Y
Representative Matt Heilman	Y
Representative Dawson Holle	A
Representative Jim Jonas	Y
Representative Lawrence R. Klemin	Y
Representative Mike Motschenbacher	A
Representative Mitch Ostlie	N
Representative Nico Rios	Y
Representative Nathan Toman	Y
Representative Jonathan Warrey	Y

Roll Call Vote: 11 Yes 1 No 2 Absent Carrier: Rep. Motschenbacher

Meeting closed at 10:26 AM.

Delores Shimek, Committee Clerk

February 9, 2023

yk
2-9-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1448

Page 1, line 1, replace "sections" with "section"

Page 1, line 1, after "15-06-02" insert ", subsection 7 of section 15.1-11-04,"

Page 1, line 1, after the second "and" insert "section"

Page 1, line 2, after "appraisers" insert ", required annual training,"

Page 1, after line 11, insert:

"SECTION 2. AMENDMENT. Subsection 7 of section 15.1-11-04 of the North Dakota Century Code is amended and reenacted as follows:

7. As secretary of the county committee:
 - a. Provide to the public information regarding the annexation of property to another school district;
 - b. Provide to the public all forms necessary for the annexation of property to another school district;
 - c. Compile information regarding school district annexations and dissolutions and provide such information to the appropriate county committees, at the time and in the manner directed by the state board of public school education; ~~and~~
 - d. Compile information regarding school district annexations, reorganizations, and dissolutions, and provide such information to the state board of public school education, at the time and in the manner directed by the state board; and
 - e. Attend annual training provided by the superintendent of public instruction and the North Dakota association of counties."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1448: Political Subdivisions Committee (Rep. Longmuir, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). HB 1448 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "sections" with "section"

Page 1, line 1, after "15-06-02" insert ", subsection 7 of section 15.1-11-04,"

Page 1, line 1, after the second "and" insert "section"

Page 1, line 2, after "appraisers" insert ", required annual training,"

Page 1, after line 11, insert:

"SECTION 2. AMENDMENT. Subsection 7 of section 15.1-11-04 of the North Dakota Century Code is amended and reenacted as follows:

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 - a. Provide to the public information regarding the annexation of property to another school district;
 - b. Provide to the public all forms necessary for the annexation of property to another school district;
 - c. Compile information regarding school district annexations and dissolutions and provide such information to the appropriate county committees, at the time and in the manner directed by the state board of public school education; ~~and~~
 - d. Compile information regarding school district annexations, reorganizations, and dissolutions, and provide such information to the state board of public school education, at the time and in the manner directed by the state board; and
 - e. Attend annual training provided by the superintendent of public instruction and the North Dakota association of counties."

Renumber accordingly

2023 SENATE INDUSTRY AND BUSINESS

HB 1448

2023 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

HB 1448
3/14/2023

A bill relating to the composition of the county board of appraisers, required annual training and land appraisal requirements.

10:31 AM Chairman D. Larsen called the meeting to order. Members present: Chairman D. Larsen, Vice Chairman Kessel, Senator Barta, Senator Klein, Senator Boehm.

Discussion Topics:

- County appraisers
- Annual training
- County Superintendents

10:31 AM Representative Robin Weisz, District 14, introduced HB 1448 and testified in favor. No written testimony.

10:41 AM Adam Tescher, School Finance Officer with the Department of Instruction, testified in favor of HB 1448. # 24745

10:50 AM Chairman D. Larsen closed the hearing on HB 1448.

10:50 AM Senator Barta moved a DO PASS engrossed HB 1448.

Senator Kessel seconded the motion.

Roll call vote:

Senators	Vote
Senator Doug Larsen	Y
Senator Greg Kessel	Y
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Jerry Klein	Y

Vote: 5-0-0 Motion passed.

Senator Barta will carry the bill.

10:52 Chairman D. Larsen closed the meeting.

Brenda Cook, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1448, as engrossed: Industry and Business Committee (Sen. Larsen, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1448 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

TESTIMONY

HB 1448

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1448

Page 1, after line 21 insert:

"SECTION 3. AMENDMENT. Section 15.1-11-04(7) of the North Dakota Century Code is amended and reenacted as follows:

e. Each county superintendent shall receive annual training provided by the superintendent of public instruction and the North Dakota association of counties."

LETTER OPINION
93-L-214

June 28 1993

Mr. Mark Scallon
Dickey County State's Attorney
P.O. Box 3958, First Avenue S.
Ellendale. ND 584

Dear Mr. Scallon:

Former Dickey County State's Attorney Daniel Diemert requested an opinion regarding whether a county auditor may be appointed to the position of county superintendent of schools. He also asked, if the foregoing was authorized, whether the county commissioners may pay the county auditor also serving as county superintendent of schools less than the total mandated salary for both positions.

There is no general state statute that prohibits one person from holding more than one county office. There is also no state statute that specifically prohibits a county auditor from also being appointed to the position of county superintendent of schools. However, it is a well settled rule of common law that a person may not hold two offices at the same time which are incompatible. State v. Lee, 50 N.W.2d 124 (N.D. 1951). Incompatibility of offices exists where there is a conflict in the duties of the offices so that the performance of the duties of the one interferes with the performance of the duties of the other. Id. at 126. See also Tarpo v. Bowman Public School Dist. No. 1, 232 N.W.2d 67, 71 (N.D. 1975).

The duties of a county auditor and a county superintendent of schools conflict in such a way that the performance of the duties of the one interferes with the performance of the duties of the other. N.D.C.C. ? 15-06-02 provides that both the county auditor and the county superintendent of schools, along with the chairman of the board of county commissioners, are to serve on the county board of appraisers. See also N.D.C.C. ? 54-01-13.2. Because

Mr. Mark Scallon
June 28, 1993

the same person may not serve on the county board of appraisers in both the capacity as a county auditor and a county superintendent of schools, performance of the duties of the one interferes with the performance of the duties of the other. Thus, it is my opinion that a county auditor may not be appointed to the position of county superintendent of schools because the two offices are incompatible. Consequently, the second question need not be considered.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

DAB/mh

**INFORMATION & HISTORY FOR HB 1448
SENATE INDUSTRY AND BUSINESS COMMITTEE**

March 14, 2023

**By: ADAM TESCHER, NDDPI SCHOOL FINANCE OFFICER
701-328-3291**

North Dakota Department of Public Instruction

Chairman Larsen and Members of the Committee:

My name is Adam Tescher, and I am the School Finance Officer with the North Dakota Department of Public Instruction (NDDPI). I am here to provide testimony in support of the amendment offered by ND Association of Counties, Executive Director Aaron Birst.

The number of school districts in North Dakota has decreased by 96% since peaking in 1918, with 4,700 schools served by 53 superintendents to 168 operating districts, with 468 schools served by 144 superintendents. North Dakota student enrollment reached a high point in 1923, with 170,000 students attending public schools compared to today's 115,000. These numbers represent a governance transition from a system of 53 elected county superintendents working with numerous boards and schools. (State Historical Society, *Unit 7: Set 4: Rural & Town Schools*; history.nd.gov)

County superintendents are still required by law in [NDCC 15.1-11 County Superintendent of Schools](#) and [NDCC 11-10-10.5](#)

The employment qualifications of the county superintendent are:

15.1-11-01. County superintendent of schools - Employment - Qualifications.

1. Except as provided in section 15.1-11-02, each board of county commissioners shall employ a county superintendent of schools on a full-time or a part-time basis.

An individual hired under this section:

- a. Must hold a baccalaureate degree from a regional or nationally accredited institution of higher education approved for teacher education.
 - b. Must hold a valid North Dakota professional teaching license.
 - c. Must have experience teaching at an approved elementary, middle, or secondary school.
 - d. Must be approved by a majority of the school board presidents representing school districts having their administrative headquarters in the county.
 - e. Serves until the individual resigns or is discharged by the board of county commissioners at the direction of a majority of the school board presidents referenced in subdivision d.
2. The presidents of the school boards referenced in subsection 1 shall perform the duties of school boards with respect to the evaluation, renewal, and discharge of an individual hired under this section.

The duties of the county superintendent are:

15.1-11-04. County superintendent of schools - Duties.

A county superintendent of schools shall:

1. Serve as the superintendent of all schools in a county except those schools in districts that employ a district superintendent of schools.
2. Receive copies of and review, in a timely manner, all reports submitted to the superintendent of public instruction by school districts having their administrative headquarters in the county.
3. Compile reports containing statistics and any other information requested by the superintendent of public instruction and forward the reports at the time and in the manner directed by the superintendent of public instruction.
4. If requested by a school district, assist in planning, coordinating, and providing education and related services.
5. Promote coordination and cooperation among the school districts and the multidistrict special education units within the county.
6. Assist school districts in taking advantage of incentive programs administered by the superintendent of public instruction.
7. As secretary of the county committee:
 - a. Provide to the public information regarding the annexation of property to another school district;

b. Provide to the public all forms necessary for the annexation of property to another school district;

c. Compile information regarding school district annexations and dissolutions and provide such information to the appropriate county committees, at the time and in the manner directed by the state board of public school education; and

d. Compile information regarding school district annexations, reorganizations, and dissolutions, and provide such information to the state board of public school education, at the time and in the manner directed by the state board. 8. Perform any other duties required by law

Some have asked if other states use county superintendents exclusively for school leadership in their state. An analysis identified seven states that have county-wide school districts:

- **Florida**
- **Georgia**
- **Louisiana (by parish)**
- **Maryland**
- **Nevada**
- **North Carolina**
- **Virginia**
- **West Virginia**

- Other states use counties for **some** but not all district boundaries.

The following examples highlight how state policy organizes districts in states that rely on counties for district boundaries.

Florida's state constitution establishes local school districts at the county level. As such, the state has 67 counties and 67 public school districts.

Nevada statute established county boundaries as school district boundaries in 1956. Carson City is the only exception, but it is treated like a county school district in policy. Nevada currently has 17 school districts, including Clark County, which is one of the largest in the country.

- North Dakota has 12 schools using a county superintendent.

04-001	Billings Co 1	95	Co Sup
08-025	Naughton 25	27	Co Sup
08-033	Menoken 33	58	Co Sup
08-035	Sterling 35	16	Co Sup
08-039	Apple Creek 39	68	Co Sup
08-045	Manning 45	21	Co Sup
15-010	Bakker 10	2	Co Sup
27-032	Horse Creek 32	12	Co Sup
28-050	Max 50	148	Co Sup
30-004	Little Heart 4	27	Co Sup
30-017	Sweet Briar 17	25	Co Sup
44-012	Marmarth 12	21	Co Sup

- To the best of our knowledge, six school districts share a superintendent other than the County Superintendent.

- Linton Public Schools and Kidder County Schools
- Anamoose Public Schools and Drake Public Schools
- Flasher Public Schools and Roosevelt Public Schools (Carson)

Given the importance of many of the duties of county superintendents, the fact that there is an opportunity to better leverage these individuals in each county for the efficiency and effectiveness of our school systems and the \$2.3 billion investment the ND State Legislature makes in K12 education each biennium, NDDPI looks forward to partnering with the ND Association of Counties and providing this training.

- Chairman Larsen, members of the committee, that concludes my report.