

2023 HOUSE POLITICAL SUBDIVISIONS

HB 1405

2023 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

HB 1405
1/26/2023

Relating to vote centers, pollbooks, and absentee votes

Chairman Longmuir opened the hearing on HB 1405 at 10:15 A.M. Members present: Chairman Longmuir, Vice Chairman Fegley, Rep. Hatlestad, Rep. Heilman, Rep. Holle, Rep. Jonas, Rep. Klemin, Rep. Motschenbacher, Rep. Ostlie, Rep. Rios, Rep. Toman, Rep. Warrey, Rep. Davis, Rep. Hager

Discussion Topics:

- Election backlog.
- Electronic pollbooks.
- Reviewed bill.
- Uniform training

Rep. Hoverson: Introduced the bill. No written testimony

Mike Blessum: District 5. Minot, ND. Testimony #16787

Brian Newby, Secretary of State: Testimony #17035

Erica Johnsrud, McKenzie County Auditor: Testimony #16961

Donnell Presky, ND State Auditor: No written testimony

Additional written testimony:

Bob Henderson, Director of Information Technology for Cass County: Testimony #16433

Rae Portra: Testimony #17018

Doug Sharbono, Citizen of ND: Testimony #17013

Hearing closed at 11:28 AM.

Delores Shimek, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

HB 1405
1/27/2023

Relating to vote centers, pollbooks, and absentee votes

Chairman Longmuir opened the meeting on HB 1405 at 10:55 A.M. 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, Rep. Hager. Absent: Rep. Klemin

Discussion Topics:

- Electronic poll boxes
- Committee action.

Rep. Hagar moved a Do Not Pass;
Seconded by Rep. Ostlie

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	N
Representative Dawson Holle	Y
Representative Jim Jonas	Y
Representative Lawrence R. Klemin	A
Representative Mike Motschenbacher	N
Representative Mitch Ostlie	Y
Representative Nico Rios	N
Representative Nathan Toman	N
Representative Jonathan Warrey	Y

Roll call vote: 9 Yes 4 No 1 Absent: bill carrier: Rep. Fegley

Meeting closed at 11:03 AM.

Delores Shimek, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1405: Political Subdivisions Committee (Rep. Longmuir, Chairman) recommends **DO NOT PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1405 was placed on the Eleventh order on the calendar.

TESTIMONY

HB 1405



Cass County Information Technology

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TESTIMONY ON HOUSE BILL NO. 1405

House Committee of Political Subdivisions
January 26th, 2023

Chairman Longmuir and members of the Committee:

My name is Bob Henderson, Director of Information Technology for Cass County. Thank you for the opportunity to provide testimony on HB 1405. I am here to oppose the bill as proposed.

Cass County serves a large, diverse population in both heavily metropolitan locations, as well as large areas of mostly rural cities and townships. In our efforts to serve these citizens, starting in 2020 Cass County migrated from a precinct-based voting structure to utilizing vote centers. These vote centers allowed a citizen of Cass County to vote at any location that fit their personal needs, schedules, and requirements, regardless of their precinct of residency.

As part of these changes, Cass County has been expanding their vote center deployment during each election to better serve our voting populace. We have implemented marketing campaigns informing voters that they may vote at any vote center, which voters have appreciated. We have expanded to non-traditional locations, such as West Acres Mall, to allow as many qualified electors as possible to attend with minimal change to their day-to-day activities. Vote Centers have allowed us to position ourselves near locations of public transit hubs, childcare, education facilities, major roadways, and other critical markers to make voting as easy and hassle free as possible.

SECTION 2. AMENDMENT, PAGE 3, LINES 1 – 4

This section of the proposed bill would limit our capability to provide flexible voting locations to our citizens. By limiting the number of **precincts available per vote center** (Page 3, lines 1-3) as well as the **availability of a precinct being limited to a single vote center** (Page 3, Lines 3-4), we are forcing a qualified elector that resides within a specific district to only be allowed to vote in a **single, predetermined location**. By doing so, we are potentially putting undue hardships onto this qualified elector, as they may work in a completely different section of the County, requiring them to travel out of their way to be able to vote. In many cases, a qualified elector may not have access to a vehicle in the time frames that their predetermined location would be available, nor would Public Transport have routes providing coverage to all of these locations.

Election day and early voting vote centers have differing venue requirements and this section fails to distinguish the difference between election day and early voting. Unlike the election day vote centers, early voting vote centers generally operate the week preceding the election and provide flexibility to a much smaller voting population. Early voters include those who may be



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unavailable on the day of the election to vote in person or those who would like to avoid election day line ups. Due to the lesser demand of early voting, Cass County opens a much smaller number of early voting locations that are both available and located in desirable high traffic locations. By limiting the number of precincts available in any vote center, it would be required to open a larger amount of vote centers to separate the precincts as requested. This would reduce voter accessibility and increase the hardship and cost of locating and preparing these locations, as it is difficult to find areas that are readily accessible to the public while meeting requirements such as parking, accessibility, restroom access, connectivity, and availability for the entire early voting period.

Chairman Longmuir and committee members, I appreciate your time in looking at my opinions on this critical bill. Once again, I want to reiterate that I am opposing this bill. An approval of the bill as written will not only make it more difficult to vote in Cass County, but will also require more time, effort, and funds to be utilized to do so.

Sincerely-

Bob Henderson
Director of Technology
Cass County
701.241.5723
hendersonb@casscountynd.gov

HB1405 Testimony – House Political Subdivisions Committee – 1/26/2023 10:00 AM

Mike Blessum – District 5, Minot – mblessum@min.midco.net – 701-818-2000

Chairman Longmuir and House Political Subdivisions Committee members, thank you for the opportunity to testify in support of HB1405. For the record my name is Mike Blessum. I am a small business owner, husband, and father from District 5 in Minot. I would like to thank Representative Jeff Hoverson for introducing this bill.

In the 2021 session more than 40 election related bills made their way through the legislature. As of this week there are 32 bills this session. I believe the people of our state have concerns about election integrity and have asked their representatives to tighten our laws.

I served as an election judge in the 2022 primary and general elections at the State Fair Center in Minot. HB1405 modifies several sections of ND Century Code related to elections based on issues I saw at our vote center.

1. Poll books must be disconnected from all internet or cell networks. To facilitate this, mailed ballots received in the last few days before election day must be set aside and counted at canvassing.
2. A qualified elector may vote at only one precinct based polling place or vote center within a county.
3. Counties must lay out polling places or vote centers such that they have no more than 5 precincts or ballot types in each vote center.

I'd like to paint a bit of a picture of what happened in our vote center during the last election cycle. For both elections we had approximately 12 election clerks, 6 judges, and 1 inspector that worked a 14-15 hour shift. It was a wonderful team of Republicans and Democrats united to do a great job for the voters of our county. Because all eligible electors in the county could vote at any of the polling places, we had more than 40 different ballot types in the June election and more than 20 in November. As a judge I matched the paper slip printed from the poll book to the ballot type for each elector based on the ballot code in June and the ballot name in November. I'd like to think of myself as a relatively competent person, but I know that I personally handed at least 2 incorrect ballots to electors in those elections because the voters brought them back to me.

At the end of election night we go through a series of steps to close the polls and tie out all of our various counts. The voter count from the poll books must match the number of ballots counted in the tabulation machines. This count must also tie out to the number of total unvoted, spoiled, and set aside ballots as well. In both elections our counts were off (1 vote in June and 5 votes in November). I believe this issue was due to internet communication errors between the electronic poll books and the central voter file.

You may ask why this matters. Isn't 99%+ accuracy enough? In the case of the June primary election this bill's sponsor led on election night by 1 vote. After canvassing the final difference stood at 8 votes. Regardless of whether the outcome of the election is impacted every elector deserves to have their vote counted accurately.

Now let me give you a picture of a better system that this bill sets us on a path to achieve. Rather than county wide voting centers, I'd love to serve as a judge at Edison Elementary a few blocks from my house. I'd like to serve on a team of 5 that could man that voting center serving a group of voters that number somewhere in the 400-800 range rather than the thousands that come through our huge voting centers now. I'd likely know a large number of these voters because they are my friends and neighbors that live nearby.

Somewhere along the way we decided that it was too hard to conduct elections in this manner. It was too hard to find election workers. It was too hard to manually count ballots or deal with paper poll books. We chose to implement technology, add mass mail in voting, and consolidate our vote centers. All of this removes the human element from our election systems and opens them to many potential issues. I know that county and state election officials would like you to believe that North Dakota doesn't have any election issues. I would ask that you show the voters of North Dakota that you care about how our elections are conducted and return a do pass recommendation on HB1405.

Thank you Chairman Longmuir and members of the committee. I am happy to stand for any questions you may have.



Written Testimony for the
House Political Subdivisions

January 26, 2023

Erica Johnsrud, McKenzie County Auditor/Treasurer

RE: OPPOSITION for HB 1405

Good morning, Chairman Longmuir, and members of the House Political Subdivisions Committee. My name is Erica Johnsrud and I serve as the Auditor/Treasurer for McKenzie County. I stand in opposition of HB 1405.

The intent of this bill is to disconnect electronic pollbooks from secure networks on Election Day and to limit the number of precinct ballots that can be within one vote center.

Outlined below are concerns of election officials regarding the current bill language as it pertains to election security and integrity:

- **SECTION 1**

- Page 1, lines 22-23 state that the voter file is to be downloaded the day before the Election.
 - Downloading the voter file only the day before the Election allows no time for counties to conduct the important logic and accuracy testing on the pollbooks, which is a key component of a successful Election Day.
 - One day allowed to download the voter file may not be sufficient for some counties due the number of pollbooks in that county.
 - Would not allow the use of pollbooks during early voting.
- Page 1, lines 23-24 state on Election Day the pollbooks are to be disconnected from all internet or cell networks.
 - Currently pollbooks are connected via a secure connection to the State's Central Voter File (CVF) on Election Day.
 - Pollbooks are "married" to specific devices called cradle points, provided and controlled by North Dakota IT, that allow the pollbooks to communicate with the CVF specifically.
 - This allows voters who vote in one polling location to appear state-wide in all pollbooks as having already voted.
 - Pollbooks are used only for checking in voters, ensuring they are in the proper location, and assigning the proper ballot style to the voter.
 - This also allows any voter who has returned an absentee ballot to be marked as already voted in the Election, ensuring that voter will be unable to vote a second time at an in-person location on Election Day.

- Pollbooks are only used to check in voters, no other functions are permitted.
 - Page 2, lines 1-5 state the voter must be added to the pollbooks AFTER the polling place has closed and that the pollbook can be reconnected to a network only AFTER all ballots cast are counted.
 - Voters should not be added to the pollbook AFTER the polls close. It is important voters are added at the time they are determined to be a qualified elector in that polling location. Currently, voters are added immediately and that information is communicated in near real-time to every county across ND.
 - If voters are added after the polls close, it leaves a possibility for that voter to go to a second polling location and vote again, as the election board will have no knowledge the voter has already cast a ballot in the Election.
 - One important step on election night is for the Election Board to verify the number of qualified electors checked into a polling location equals the number of ballots cast at that polling location. The addition of voters to the pollbook after ballots cast are counted would cause additional confusion and delays in reporting results.
- **SECTION 2**
 - Page 2, lines 26-28 state a qualified elector may only vote at one polling location.
 - This is the aim of electronic pollbooks, to ensure voters only vote one time in each Election.
 - Currently the communication between the State CVF and pollbooks across ND assists in assurances that voters only vote one time in any given election.
 - Page 3, lines 1-8 limit the number of precincts within a vote center.
 - This would limit voter accessibility to the polls.
 - This would make early voting difficult for jurisdictions with more than 5 precincts.
 - For example, McKenzie County has 11 precincts, many with more than one ballot style per election.
 - For example, Burleigh County would have to operate 6 separate early vote locations to accommodate over 30 precincts.
 - This would make it increasingly difficult to recruit qualified election workers, already a difficult task and unnecessarily increase costs to taxpayers.
 - This would increase voter confusion regarding which vote center they can utilize.
 - Definition of a vote center in NDCC 16.1-04-02 currently is a place that “contains all of the precincts in a county.”
- **SECTION 3**
 - Page 3, lines 22-24 adds language that pollbooks must be locked and secured until the polling location is open to voters on Election Day.

- Pollbooks are already secured prior to Election Day.
 - Polling locations must be ready to check in voters the moment the polling location opens for voting. If pollbooks are not allowed to be opened until the polling location it is open, voter delays will occur.
 - Important communication between the State CVF and the secure pollbooks occurs in the morning prior to the polls opening. This ensures that all voters who returned absentee ballots or voted early the preceding day are correctly marked in the pollbook and not allowed to cast a second ballot.
- **SECTION 4**
 - Page 3, line 30 changes the date by which ballots need to arrive to the Auditor's Office prior to Election Day from the day before to six days before.
 - Numerous absentee ballots are returned within 6 days prior to the Election through USPS, secure dropbox, or other mail delivery services.
 - Represents 174 ballots in McKenzie County that would not have been included in the Election Night results.
 - Represents 10,673 ballots statewide that would not have been included in Election Night Reporting.
 - Changing from the day before to six days before will cause many eligible ballots to not be included in the Election Night Results.
 - Voter expectation is to have their votes included with Election Night Results.
 - County Officials' goal is to have all eligible votes received tallied on Election Night.
 - Possible changes in outcomes of races between Election Night (unofficial results) and Canvassed Official results, 13 days later.
 - Could result in increased voter confusion and distrust if results change between Election Night and Official Canvass.
 - Page 4, lines 3-7 adds the same changes as the previous statement on Page 3, line 30 when dealing with canvass boards now counting all ballots received five days before the Election and Election Day.

It is my hope that from the details and concerns briefly presented above you can appreciate the effects HB 1405 would have on voter experience, vote integrity, and the resulting apprehension of local election officials regarding these changes. Elections and election integrity are at the forefront of every election official's mind all days of every year, not just one or two days a year. Election Officials need the opportunity to thoroughly test each and every piece of election equipment used on and for elections, while also ensuring that each voter only casts ONE ballot. This bill would severely limit our abilities to both test and ensure one voter, one vote statewide and, as such, I urge a **DO NOT PASS** recommendation on HB 1405.

**Do Pass Testimony
of Doug Sharbono, citizen of North Dakota
on HB1405
in the Sixty-eighth Legislative Assembly of North Dakota**

Dear Chairman Longmuir and members of the House Political Subdivisions Committee,

I am writing as a citizen and believe HB1405 is good legislation. I particularly like the cap on number of precincts served by a voting center. If I had my way, we would have strictly precinct level voting. Both primary and general election 2022 in Cass County, the voting centers were overwhelmed with lines exceeding one hour at all times of the day on election day. This disenfranchised many voters, particularly Republican voters, many who insist on voting on the Election Day. Many people did not vote that wanted to because they simply did not have the time to stand in line due to work and their convictions of voting on Election Day.

Please give HB1405 a Do Pass Recommendation.

Thank you,

Doug Sharbono
1708 9th St S
Fargo, ND 58103

Political Subdivisions Committee Members,

My name is Rae Portra and I am writing today mostly in opposition to HB1405, but I do support a couple of items included in this bill.

I can see there were good intentions behind this bill, but as long as any piece of election equipment has the capability of connectivity, our elections are vulnerable to being hacked. A paper record that can be verified should always be kept. I have huge concern with electronic equipment being used in our elections and an unwillingness to do a full audit to ensure they are working properly. I have included links below that go through equipment used in North Dakota elections and the risks of electronic devices in general.

The issue I have with Section 2 is the wording "A qualified elector may vote at only one precinct-based polling place or vote center within a county." 'Within a county' doesn't need to be included, 'A qualified elector may only vote at one precinct-based polling place or voting center.'

I do, however, like that it would change the number of precincts that can be included in a voting center and the process for late mail-in ballots. I've been upset that our town hasn't had in-person voting in 5 years, and as a new district, we were the only district in Williams County to be deprived of a polling location on Election Day. As long as we keep using devices in our elections we cannot be guaranteed our elections are free and fair. Please vote no on the Amendments that support the use of electronic devices and yes on the amendments that support accountability and more Election Day polling locations. Thank you for your time and consideration.

Sincerely,

Rae Portra

<https://rumble.com/v21iqzw-kill-chain-the-cyber-war-on-americas-elections.html>

<https://docs.google.com/document/d/1eYd0vHktAzmQK5VvmwVs7RaJrs9ZbJjBX327znlvJ90/edit?usp=drivesdk>

<https://rumble.com/v24zxpq-hacking-americas-election-system.html>

<https://docs.google.com/document/d/1IMnXZ2octQDHChoAWrNG3sT7XqsYjMxNLf1M4dXKcE0/edit?usp=drivesdk>

<https://rumble.com/v1iu7wk-electronic-voting-system-issues.html>

<https://rumble.com/vwfhv1-sc-safe-election-es-and-s-system-analysis-and-canvass-results.html>

<https://rumble.com/vf9sdx-jovan-hutton-pulitzer-testifies-during-georgia-senate-hearing-on-election-i.html>

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HOUSE BILL 1405
JANUARY 26, 2023

HOUSE POLITICAL SUBS COMMITTEE
REPRESENTATIVE DONALD LONGMUIR, CHAIRMAN

TESTIMONY PRESENTED BY

BRIAN NEWBY, SECRETARY OF STATE

Chairman Longmuir and members of the committee. I am Brian Nybakken with the Office of the Secretary of State. I am here today to oppose House Bill 1405. This bill simply does not work administratively, and ultimately, works against past legislative investments in our state's election processes.

Below are just a few areas of the bill that do not work with current practice or process:

- Seeks to limit the use of electronic pollbooks and their access to the internet on the day of the election. (Page 1, Line 22; Page 2, Line 2)
 - Electronic pollbooks are the actual devices used by election workers. There are no other computers or machines used by election workers in this regard. The electronic pollbooks do have a secure internet connection over the state's virtual private network, allowing syncing between devices to ensure voter security – meaning a “checked-in” voter is instantly checked-in across all devices within two minutes so they cannot attempt to vote at any other polling location. This is done during early voting, which can begin two weeks before election day, and on election day.
 - The 2019 Legislature provided funding to invest in this technology for security in North Dakota elections. In fact, Senate Bill 2002 passed 47-0 in the Senate, 84-6 in the House.
 - If the electronic pollbook is not connected through the state's network to the Central Voter File during the weeks leading to the election and on election day, the security benefits of electronic pollbooks would be lost. According to this bill, the electronic pollbook could only be reconnected to the state's network when all votes are counted, 13 days after the election, at which time, then and only then, will counties begin to discover potential voters may have cast a ballot by mail and at the polls, or voters who may have voted in two locations.
 - The electronic pollbooks are designed and were purchased to prevent that occurrence.
- Creates issues with election results by limiting access to votes that come via mail prior to the election. (Page 3, Line 30; Page 4, Line 5) .
 - Currently, returned mail ballots can begin being canvassed three business days before the election. The language in these passages would mean anybody postmarking a ballot nearly a week before the election wouldn't have their ballot counted until 13 days after the election. This would create voter distrust when a large number of ballots are added into the count 13 days after the election when the

canvassing board meets. Our office estimates, based on previous results, that at least 10 percent of mail ballots come in those final days.

- Election night winners would then become conceptual only due to mail in votes being counted after the canvass. Voter confidence would erode as some races that don't appear close on election night then potentially flip 13 days after the election.
- The language also implies that all ballots set aside during this period would be counted, regardless of eligibility. Likely, this is not the intent, and that only eligible ballots would be counted.
- Recount races would not be identified until after the canvassing board meets, where now some are able to be identified on election night because there are few set-aside ballots.

These are just of a few of the issues we see with the language in this bill. We urge you to not support HB 1405 as it simply does not work with current election administration practices or support past state investments in this area.