

South Dakota

Proposed Ballot Measure On Legislators Set Aside

BY BOB MERCER
State Capitol Bureau

PIERRE — Two men who want to ban party labels from South Dakota election ballots in most instances are proceeding with one of their proposed amendments to the South Dakota Constitution but have mysteriously set aside the second one.

The one they dropped would have also required elections for leadership positions in the Legislature to be held by secret ballot among members of each chamber.

The decision by Rick Weiland and Drey Samuelson to stop pursuing that idea appears linked to official explanations released Aug. 12 by state Attorney General Marty Jackley.

The proposal that would potentially affect the Legislature “may be challenged and declared invalid under the State Constitution,” Jackley wrote.

He didn’t elaborate at the time. His explanation issued the same day for the partisan-label ban didn’t carry that warning.

Weiland was the Democratic candidate for U.S. Senate in 2014. He lost to Republican former Gov. Mike Rounds.

Samuelson was the chief of staff for 28 years for Democratic former U.S. Sen. Tim Johnson, who retired rather than seek re-election in 2014.

Jackley is a Republican who may be a candidate for governor in 2018.

Weiland and Samuelson are leading the petition drive for sufficient signatures to qualify the partisan-label ban for a statewide vote in 2016.

The secretary of state website shows they are circulating the partisan-label petition but also shows they aren’t seeking signatures for the broader plan that would have required the secret elections



Weiland

for the legislative offices.

Weiland didn’t answer questions in an email from a newspaper reporter about how the choice was made and the reason for it. Weiland however responded to another question from the reporter asking whether the attorney general’s statement was

a factor.

“The later (sic) was the primary factor,” Weiland said. He didn’t elaborate.

On Friday, the attorney general responded to a reporter’s email question about the possible constitutional challenge.

“Under normal circumstances I am concerned about releasing too much information on the deliberative process because I do not want to potentially influence either the petition drive or voters at the ballot box, and even if I have concerns of Constitutional nature I ultimately have a responsibility to defend measures that pass and to let our Court’s ultimately make the Constitutionality decision,” Jackley wrote.

“However,” he continued, “because the sponsors have elected not to circulate this particular version, I feel I can tell you that my main concern was in relation to Article XXIII, Section 1 of the SD State Const.”

That section contains four sentences stating:

“Amendments to this Constitution may be proposed by initiative or by a majority vote of all members of each house of the Legislature.

“An amendment proposed by initiative shall require a petition signed by qualified voters equal in number to at

least ten percent of the total votes cast for Governor in the last gubernatorial election.

“The petition containing the text of the proposed amendment and the names and addresses of its sponsors shall be filed at least one year before the next general election at which the proposed amendment is submitted to the voters.

“A proposed amendment may amend one or more articles and related subject matter in other articles as necessary to accomplish the objectives of the amendment.”

Why Weiland and Samuelson might have been open to challenge wasn’t clear.

The proposed amendment that Weiland and Samuelson are carrying forward would end the practice of partisan primary elections and state party nominations in South Dakota, except for elections of president and vice president.

All registered voters could participate in non-partisan primary elections, with the two top finishers becoming candidates in the general election. The candidate names would appear without party affiliations.

Those provisions also were part of the proposed amendment dealing with the legislative offices.

Weiland and Samuelson must submit at least 27,741 valid signatures of registered South Dakota voters no later than Nov. 9 to qualify their proposed amendment for the 2016 general-election ballot.

Weiland and Samuelson are leaders of a group called TakeltBack. Others listed with them in the related group sponsoring the ballot measure, South Dakotans for a Nonpartisan Democracy, are Rick Knobe of Sioux Falls, De Knudson of Sioux Falls, John Timmer of Sioux Falls, Pam Murray of Rapid City and Brian Hagg of Rapid City.

Judge: Injunction Against Water Rule Is Limited To 13 States

BY JAMES MACPHERSON
Associated Press

BISMARCK, N.D. — A federal judge in North Dakota said Friday that his injunction blocking a new Obama administration rule aimed at regulating some small waterways applies only to the 13 states that sued to block it, and not nationwide.

The ruling by U.S. District Judge Ralph Erickson clarified the temporary injunction he issued last week at the request of North Dakota and 12 other states. They sought to stop the U.S. Environmental Protection Agency and the Army Corps of Engineers from regulating some small streams, tributaries and wetlands under the Clean Water Act.

“Because there are competing sovereign interests and competing judicial rulings, the court declines to extend the preliminary injunction at issue beyond the entities actually before it,” Erickson wrote.

The EPA had maintained after Erickson’s initial ruling that the injunction applied in only those 13 states, and said it had begun enforcing it elsewhere. The states had argued that the judge made no geographical limitation in his ruling and it should apply everywhere.

“No harm, no foul for North Dakota and the 12 other states,” said North Dakota Attorney General Wayne Stenehjem, who filed the original lawsuit on behalf of those states. “It’s unfortunate for the other states because they will have to abide by the ruling.”

The states involved in the lawsuit with North Dakota are Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, New Mexico, Nevada, South Dakota and Wyoming.

Justice Department spokesman Wyn Hornbuckle said, “We are gratified that the court agreed with our position that the preliminary injunction does not apply nationwide.”

Erickson, who is based in Fargo, wrote that there are “compelling reasons in favor of both extension of the injunction and limitation of the injunction.

“On the one hand, there is a desirability for uniformity regarding a national rule with national application. On the other hand, there is the idea of respecting the decisions of other courts and other sovereign states.”

Stenehjem said a total of 31 states have filed various lawsuits against the ruling. The states involved “cover 75 percent of the nation’s landmass,” he said.

District judges in other

“No harm, no foul for North Dakota and the 12 other states. It’s unfortunate for the other states because they will have to abide by the ruling.”

WAYNE STENEHJEM

high-profile cases have issued orders that apply nationwide, over the federal government’s objection.

One recent example was earlier this year in Texas, where U.S. District Judge Andrew Hanen issued a nationwide order blocking the Obama administration from implementing rules to spare nearly 5 million people living in the U.S. illegally from deportation. Hanen issued his order in a lawsuit filed by Texas and 25 other states. The government has appealed

The water rule is a re-

sponse to calls from the U.S. Supreme Court and Congress for the EPA to clarify which smaller waterways are protected. The EPA said the new law aims to help landowners understand which waters fall under the Clean Water Act.

Thirteen states led by North Dakota sued, claiming the new rule illegally expands federal jurisdiction and infringes on their sovereignty. Some critics have also argued the rule does nothing to increase water quality.

The government coun-

tered that the rule will help protect the nation’s waters from pollution and development and safeguard drinking water for 117 million Americans.

Several other lawsuits remain from other states, farm and business groups that hope to delay or block the rule. State officials say the regulations could be harmful to farmers and landowners who might have to pay for extra permits or redesign their property to manage small bodies of water on their private land.

The government argued in court last month that the new rule clarifies some of the ambiguity in the law and actually makes it easier for the states to manage some waterways.

Officer Fatally Shot Man During Struggle

MITCHELL (AP) — The state Division of Criminal Investigation is investigating a Mitchell police officer’s fatal shooting of a man after a struggle for the man’s gun during an early-morning disturbance call.

The South Dakota Attorney General’s office says 37-year-old Curtis James Meyer died at the scene.

Attorney General Marty Jackley says that Mitchell Police Officer Russ Stevenson responded to a disturbance call at a Mitchell residence just before 2 a.m. Friday and encountered Meyer armed with a gun. The incident escalated and during an ensuing struggle, Stevenson shot Meyer with the man’s gun.

Jackley says that at the completion of the investigation, DCI will issue a case report to be reviewed by the Attorney General for a final determination on the officer’s action. The summary report is anticipated within 30 days.

Nebraska Workers’ Comp Ruling Stands

OMAHA, Neb. (AP) — The Nebraska Supreme Court on Friday upheld a workers compensation ruling requiring a Kearney hospital to pay the salary of a former nurse who says she’s unable to work because of psychological injuries she received from three assaults at the hands of patients while she was on the job.

The ruling requires Good Samaritan Hospital to pay the former nurse \$578 a week for nearly three years for her temporary disability, then \$644 a week for as long as she remains permanently disabled. The hospital also must pay her medical bills.

The woman says she suffers from posttraumatic stress disorder and depression as a result of three assaults that occurred in 2008 while she worked as a nurse in the hospital’s mental health unit. The first assault happened in April 2008, when a patient whipped her with an appliance cord and punched her in the jaw. In the weeks that followed, she reported being kicked and bitten by a patient and on another occasion being grabbed by a male patient who made “extremely aggressive” sexual comments to her.

In its appeal, the hospital argued, among other things, that a psychiatric expert’s testimony saying the assaults caused the nurse’s psychological disability should not have been allowed. The hospital’s expert had argued that past experiences of the nurse, including a prior sexual assault, may have been the source of her trauma.

But the state’s high court dismissed that suggestion.

Feds Auditing Grants To S. Dakota Tribe

SIOUX FALLS (AP) — Federal auditors are examining nearly \$20 million in grants to the Lower Brule Sioux Tribe in response to a human rights organization’s report this year alleging financial mismanagement in the tribal government that already has been the subject of another federal investigation.

The audits of four projects are meant to make sure the money is being spent and handled correctly, and are not criminal inquiries, an official at the Interior Department’s Office of Inspector General said. The inspection of \$19.15 million in awards spanning several years comes at a sustained period of legal deadlock in the tribal government.

The dispute is between reform-oriented councilmembers and an old guard loyal to now-deceased Chairman Michael Jandreau, who led the tribal government for decades.

2 Killed In Western SD Motorcycle Crash

RAPID CITY (AP) — Authorities say two people from Missouri were killed when the motorcycle they were on left South Dakota Highway 385 and struck a guardrail in Pennington County.

The Pennington County Sheriff’s Office says the crash occurred near mile marker 91 about 3 p.m. Thursday. Deputies say a 68-year-old woman died at the scene. Rescuers transported a 72-year-old man to the hospital in Rapid City, but he died on the way.

Authorities didn’t release the victims’ names pending notification of relatives.

Neb. Fairgoer Hurt After Leaping Incident

GRAND ISLAND, Neb. (AP) — Officials say a woman has been injured after leaping onto an inflated bag at the Nebraska State Fair in Grand Island.

The fair said in a news release that the woman was hurt around 12:30 p.m. Thursday at the Stunt Jump attraction. The huge bag used is similar to those used in movie stunts.

The fair said the 45-year-old woman didn’t hold her legs as she was instructed, so she bounced from the bag onto the ground, dislocating a hip and shoulder. She was taken to a hospital for treatment.

State Fair Executive Director Joseph McDermott says the incident is being investigated.

Yankton Medical Clinic, P.C. is pleased to announce the association of

April K. Willman
MD, FAAP, Board Certified Pediatrician

Dr. Willman completed her residency in pediatrics at the University of Missouri in Columbia and received her medical degree from the Sanford School of Medicine at the University of South Dakota. She completed her undergraduate work at Augustana College in Sioux Falls. Dr. Willman will join Yankton Medical Clinic, P.C. September 22, 2015. She specializes in pediatric care for newborns and children up to 18 years and has expertise in caring for premature babies, providing support for parents and children to develop healthy lifestyles, and cares for acute and chronic illnesses in children. Part of her practice is the evaluation and care for physical and emotional development, including ADHD.

She is a Fellow of the American Academy of Pediatrics.

Dr. Willman and her husband, Dave, are the parents of two children and reside in Yankton.

Dr. Willman will begin seeing patients
at the Yankton Medical Clinic, P.C.
September 22, 2015.



 YANKTON MEDICAL CLINIC®, P.C.

605-665-5538
Please call today to schedule an appointment.