



April 6, 2023

The Honorable Dennis Johnson
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, ND

Re: House Bill 1273

Dear Speaker Johnson:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed House Bill 1273 and return it to the House.

House Bill 1273 undermines local control of local political subdivisions exercising their granted powers under home rule charter, specifically prohibiting using an approval voting method or ranked-choice voting method in local elections. This bill also applies restrictions to local elections held by counties, cities and other political subdivisions, regardless of whether they have adopted a home rule charter.

To be clear, under existing law, counties and cities currently do not – and should not – have authority to implement approval voting or ranked-choice methods for state and federal elected office. Home rule authority applies only to local elections.

House Bill 1273 blatantly infringes on local control and the ability of residents in home rule cities to determine which method of local city election is best for their communities based on the unique aspects of city elections, including those that often have a very large field of candidates elected at-large and not by wards, with no party affiliation and no primary or runoff elections.

Currently, the mantra of “one person, one vote” is often cited in opposition to approval voting. However, in city and county elections using the current plurality voting method in North Dakota, individual voters already often have the opportunity to vote for multiple candidates for two, three, or four seats on a city council or county commission, for example.

Only one political subdivision, the city of Fargo, uses approval voting, having adopted this method through a citywide ballot measure in 2018 approved by 63.5% of those voting on the measure. Ranked-choice voting is not used by any political subdivision in North Dakota.

House Bill 1273 – sponsored by a dozen legislators but none of the 18 legislators who represent Fargo – subverts the will of Fargo residents and overturns the supermajority approval of their 2018 ballot measure five years later.

House Bill 1273 also rolls back the power granted to all 155 cities – across every North Dakota legislative district – that have adopted a home rule charter under North Dakota Century Code 40-05.1-06 Subsection 9, which states that home rule cities have authority “to provide for all matters pertaining to city elections, except as to qualifications of electors.”

Withdrawing this authority after it has already been exercised to carry out the supermajority will of voters is an egregious example of state overreach and demonstrates a lack of respect for local control. Further, instead of taking the opportunity to respect the decision made by over 30,000 Fargo voters and include a grandfather clause in House Bill 1273, the Legislative Assembly is attempting to move the goalposts after the rules were set and legally followed.

To nullify the legitimate votes of tens of thousands of North Dakota citizens and prevent other home rule cities and counties from exercising their home rule authority over elections of their own elected officials is improper and invites legal action against the state.

In North Dakota, we frequently rail against federal overreach that impacts states’ rights. If we truly believe in limited government and local control, we can begin by honoring the boundaries, intent and spirit of home rule charters, especially when there is no evidence of any harm having occurred from trusting the residents of cities to have self-determination within the bounds of their home rule charters.

For the reasons stated above, House Bill 1273 is vetoed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doug Burgum", with a long horizontal flourish extending to the right.

Doug Burgum
Governor

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1273
(Representatives Koppelman, Bellew, Heilman, Heinert, Kasper, Louser)
(Senators Clemens, Larsen, Meyer, Paulson, Vedaa, Wobbema)

AN ACT to create and enact a new section to chapter 16.1-01 of the North Dakota Century Code, relating to the prohibition of ranked-choice and approval voting in elections; and to amend and reenact subsection 7 of section 11-09.1-05 and subsection 9 of section 40-05.1-06 of the North Dakota Century Code, relating to home rule powers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 11-09.1-05 of the North Dakota Century Code is amended and reenacted as follows:

7. Provide for all matters pertaining to county elections, except as to qualifications of electors and the limitations provided in section 2 of this Act.

SECTION 2. A new section to chapter 16.1-01 of the North Dakota Century Code is created and enacted as follows:

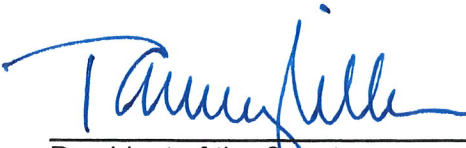
Ranked-choice voting - Approval voting - Prohibition.

1. A ranked-choice voting method that allows voters to rank candidates for an office in order of preference and has ballots cast tabulated in multiple rounds following the elimination of a candidate until a single candidate attains a majority may not be used in determining the election or nomination of any candidate to any local, state, or federal elective office.
2. An approval voting method that allows voters to vote for all the candidates the voter approves of in each race and the candidates receiving the most votes will be elected until all necessary seats are filled in each race may not be used in determining the election or nomination of any candidate to any local, state, or federal elective office.
3. Pursuant to a home rule charter or not, an ordinance enacted or adopted by a county, city, or other political subdivision which is in conflict with this section is void.

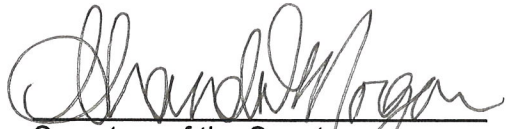
SECTION 3. AMENDMENT. Subsection 9 of section 40-05.1-06 of the North Dakota Century Code is amended and reenacted as follows:

9. To provide for all matters pertaining to city elections, except as to qualifications of electors and the limitations provided in section 2 of this Act.


Speaker of the House


President of the Senate


Chief Clerk of the House


Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1273.

House Vote: Yeas 74 Nays 19 Absent 1

Senate Vote: Yeas 33 Nays 13 Absent 1


Chief Clerk of the House

Received by the Governor at 9:58 AM. on April 4, 2023.

Approved at _____ M. on _____, 2023.

Governor

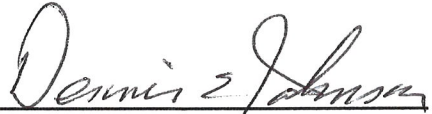
Filed in this office this 25 day of April, 2023,
at 10:32 o'clock A M.


Secretary of State

Honorable Michael Howe
Secretary of State
Bismarck, North Dakota

I certify this Act, House Bill No. 1273, together with the objections of Governor Burgum, was returned to the House, being the body in which it originated, on April 6, 2023; that the objections of the Governor were read at length on April 10, 2023, and entered upon the Journal; that the Bill was taken up for reconsideration; that the motion for reconsideration prevailed on April 10, 2023, at 8:18 a.m.; and the roll was called and the Bill did pass, with more than two-thirds of the members-elect voting in the affirmative.

Vote:	Yeas	71
	Nays	17
	Absent and not voting	6



Speaker of the House

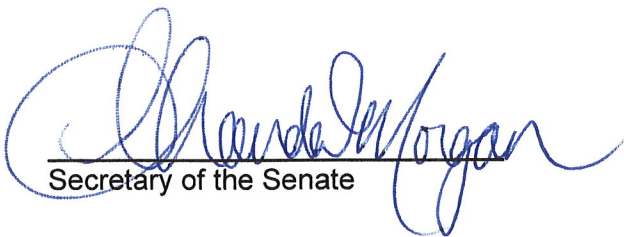

Chief Clerk of the House

Honorable Michael Howe
Secretary of State
Bismarck, North Dakota

I certify this Act, House Bill No. 1273, together with the objections of Governor Burgum, was received from the House, being the body in which it originated, on April 19, 2023; that the objections of the Governor were read at length on April 19, 2023, and entered upon the Journal; that the Bill was taken up for reconsideration; that the motion for reconsideration failed on April 19, 2023, at 12:59 p.m.; and the roll was called and the Bill failed to pass, with less than two-thirds of the members-elect voting in the affirmative.

Vote:	Yeas	28
	Nays	19
	Absent and not voting	0


President of the Senate


Secretary of the Senate