

2009 SENATE POLITICAL SUBDIVISIONS

SB 2204

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2204

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: 01/22/2009

Recorder Job Number: 7516, 7518

Committee Clerk Signature



Minutes:

**Chairman Andrist:** Opened the hearing on SB 2204

**Senator Klein:** Senator and Volunteer Firefighter. Spoke in support of SB 2204. The bill is pretty simple. We want to provide pensions for rural firefighters. It is currently in the law; we are adding the words rural fire department. We are doing this under IRS guidelines so that local fire departments can continue to work at providing pensions for their volunteers. We have people here who can explain the bill and answer questions. We first brought this bill to the Legislative Compensation Committee because there are insurance premium tax dollars that currently go to all existing fire departments throughout the state. I went to that committee and they gave us the release to bring it here.

**Job #7518**

**Chairman Andrist:** Reopened hearing on SB 2204

**Lois Hartman:** Executive Director of the ND Firefighter's Association. Spoke in support of SB 2204. See attachment #1.

**Chairman Andrist:** What type of rural fire department would be salaried?

**Hartman:** What we call combination departments. In larger areas such as Bismarck rural, these are full time jobs but there may only be three or four who are paid and the others are volunteer.

**Chairman Andrist:** Is this pension just for the paid or for the unpaid as well?

**Hartman:** It would be for our whole association.

**Senator Bakke:** What is the difference between a rural fire department and a fire protection district?

**Hartman:** A rural fire protection district has the authority to impose a mill levy.

**Senator Dotzenrod:** Are all the areas stricken from the record onerous?

**Hartman:** The biggest concern is the number of years set in statute to qualify for a pension program. In many cases the 20 years is not attainable. If we remove the entire section of requirements, that allows the ND Firefighters Association to set the requirements. It would allow the Firefighters Relief

Association to function as a non-profit organization which gives them the flexibility to set the requirements for the members to qualify for the pension program.

**Senator Dotzenrod:** Would the standards adopted be uniform across the state or would they be individual requirements?

**Hartman:** It would be individual requirements for each fire protection district under the guidelines of the NDCC for non-profits. There is uniformity in the guideline structure but freedom for each district to act individually.

**Donovan Voeller:** Captain with Bismarck Rural Fire Department. Bismarck Rural wanted to set up a retirement plan 3 years ago. All of the specialists recommended an IRS 403B. The current requirements in the NDCC do not fit with an IRS 403B form. The State Attorney General's office required us to follow the rules set out in the NDCC. The current retirement plan, drafted 30 years ago, requires that all the money has to go into one lump sum. The administrative costs of this plan are prohibitive. We would lose any profit/investment potential with this plan. The changes proposed in the bill still require the departments to follow IRS rules but it allows the individual departments to write their own bylaws. Very few volunteers meet the 20 year requirement of the pension plan. This bill will help us use pensions as a recruiting tool.

**Chairman Andrist:** You work mostly with volunteers, usually retirement plans require you to pay in. How does that work with volunteers?

**Voeller:** In the case of a volunteer, the NDCC allows the fire departments to receive the insurance premium rebate checks every year. At this time, the code is written that if a relief organization is set up, 50% of those monies will be put into that organization. We also do fundraising.

**Chairman Andrist:** So it wouldn't be a matter of matching salaries, it's a pool of money that allows rural firefighters to participate without investing their own money.

**Voeller:** That is correct. I will say that most volunteers do not receive any money for the work they do. Bismarck Rural is a paid on call department, so we are all volunteers but we do receive a stipend when we have a call.

**Senator Dotzenrod:** How do you get around investment administrative costs?

**Voeller:** We would take care of that through the 403 B plan which would go through an investment firm. It would be individual retirement plans divvied up at the end of the year, a small administrative fee would be charged to the individual account.

**Chairman Andrist:** Any more in support? Any in opposition? Any neutral?

**Senator Dotzenrod:** How did the bill come about?

**Voeller:** When we went to the Attorney General's office they told us our only recourse was through legislation. We went back to the Bismarck Rural department and the association decided to move forward. The firefighters requested the change.

**Senator Anderson:** Are any of your people bonded by the state bonding fund?

**Voeller:** I am not sure; I know our treasurer is bonded.

**There was no opposition testimony given.**

**Senator Lee:** I move **Do Pass**.

**Senator Anderson:** Second.

**Senator Dotzenrod:** Who drew the bill up, did you have help?

**Hartman:** I did it in a draft and had the Attorney General look it over; I have 20 years of experience with the legislature so I understand how the process works.

Clerk called the role on the recommendation to **Do Pass. Yes: 6. No: 0, Absent: 0.**

**Senator Bakke will carry the bill.**



**REPORT OF STANDING COMMITTEE**

**SB 2204: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2204 was placed on the Eleventh order on the calendar.**

2009 HOUSE POLITICAL SUBDIVISIONS

SB 2204

# 2009 HOUSE STANDING COMMITTEE MINUTES

## Bill No. SB 2204

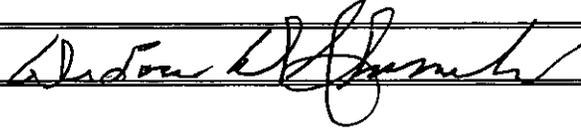
### House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: March 13, 2009

Recorder Job Number: 10914

Committee Clerk Signature



Minutes:

**Chairman Wrangham** opened the hearing on SB 2204.

**Senator Klein:** Introduced the bill. What we have is a bill to provide an opportunity for a rural fire department to want a retirement plan. What you see are just a couple of changes. The rural fire department was added. There are three different groups of rural fire department groups; the rural fire protection districts. Local fire departments are just volunteers who provide fire protection. When I introduced this bill it got a little attention because I wound up having to go to the pays benefit committee because they saw the pension issue so this thing has had a very through hearing because I also meet in front of this group and it was not going to cost them anything so with that you will hear from a firefighter in your district Mr. Chairman who understands this.

**Rep. Klemin:** does this allow firefighters to have a pension using public moneys?

**Senator Klein:** I believe under current law they are allowed to provide that. This is additional language that we need to set under an IRS approved plan. Generally that money is raised through a variety of projects and other avenues.

**Lois Hartman, Executive Director, ND Firefighter's Association,** (see testimony #1).

**Rep. Klemin:** This would allow volunteers to have a pension for serving on a volunteer capacity and the limits you provide here would allow them through their association by laws what they want the departments to do will be. If you are there two years you go by the by laws.

**Lois Hartman:** If that is what the bylaws are. It is unlikely they would do it for a two year term.

**Rep. Klemin:** Volunteers do all sorts of things without expecting pension in the process so I am just not sure what the rational is for this?

**Lois Hartman:** Most volunteer organizations their volunteer work is not life threatening. That is what the fire service is and so that is the issue. It is giving them confirmation to keep that retention tool. In North Dakota the language is there to do that, but it was not clear on how they could do it and whether it was an IRS approved program.

**Rep. Klemin:** What do we have to do to have an IRS approved program?

**Lois Hartman:** You have to file profit and loss and you have to prove the association through your fire department you have to file documents with the IRS and file taxes.

**Rep. Klemin:** The IRS department says what you have to do?

**Lois Hartman:** I am not real sure on that.

**Rep. Headland:** Are rural fire departments completely staffed by volunteers?

**Lois Hartman:** We have three fire departments, city, rural fire departments and rural fire protection. 99% of them are staffed by volunteers.

**Rep. Headland:** This bill just addressed volunteers or not?

**Lois Hartman:** This bill addresses a combination and the volunteers so it has three sections.

**Rep. Headland:** Rural fire departments their funding sources mostly property taxes?

**Lois Hartman:** Yes, there is insurance premium tax distribution that comes from tax funds. Your fire protection district you have the authority to raise the mill levy. Most fire protection districts and rural fire protection has fund raisers besides.

**Rep. Kilichowski:** Where I come from we have a fire protection district and it is all volunteers so that department is eligible to do it right now. This just puts everybody else on the same field of play. Because there is not a protection district they are not allowed to do this. That isn't right. The volunteers are the same as other fire protection districts.

**Donavan Voeller, Capitan with the Bismarck Rural Fire Protection District:** I am also a full time fire fighter with the city of Bismarck. A little history on how we got to this point. About three years ago I missed a meeting because I was working in town so I was selected as the chairman to facilitate a fire plan for the Bismarck Rural Fire Department. When we started this process three years ago I thought it would be a pretty easy process working with the City of Bismarck. We went ahead and meet with some different investment people on what type of plan they would recommend for our situation out here being a rural fire protection district and being a nonprofit and those kinds of things and most of them in those political subdivisions. We met with those folks and they recommended an IRS plan; a 403b plan. We took steps to go ahead and start implementing that plan. When we started doing some additional research in the Century Code; the Century Code spells out specifically at this time what type of retirement plan fire departments and rural fire protection districts can have. It is a defined benefit plan and that is where you take all the money that you are going to put into a retirement plan and put it into a one lump sum you set what your retirement benefits are going to be and you have to hire an actuary to manage this for you. The administrative fees of the defined benefit plan were such that it was counterproductive to set up the plan. So at that time we contacted the state attorney general's office to get his opinion on what or if we could set up

another type of plan. His opinion came back that we had to follow the Century Code with us using a prime method plan only or we had to come do all and see about getting the legislation changed to allow us to use different types of plans. At that time I contacted Lois Hartman because I know she works with the legislature. She was able to get this bill to this point so the language changed in the Century Code the way it is laid out right now we don't want to have to come back so that is why the rural fire protection districts and rural fire departments and volunteers and all the different types of department's were included in the wording so we covered everybody. The IRS approved plan portions of it. In order to set up a plan it has to be an IRS approved plan whether it is a 403b, 401k, and 457 plan. Whatever plans the IRS already has established would become available to the individual fire departments to whatever would need to fit their need. Right now we are tied to one particular type of plan and it works for the full time city departments because they have a lot of money they are playing with to put into the plan to support the plan and cover the administrative fees. Rural departments that are just trying to start one out in this day and age are almost impossible to cover the administrative fees and still make a profit. By using an IRS approved plan the departments would be allowed to take a plan that fits their needs. We wanted to be able to give the rural fire protection district an option to use this as a maturity and retention tool. In a community all you would have is the older folks in the 40s and 50s so this would be an incentive to get help now. The individual department can set this at five years because they realized that most of their members are only going to be able to serve five to ten years and age and physical restraints are going to take them out of the picture. We wanted to make it as liberal as we can to allow them to use this as a recruiting tool. As far as funding goes, the funding right now for Bismarck rural is we get an insurance rebate check and the way the century code is currently written, if there is a retirement plan in place, 50% of that insurance rebate money must go into that retirement plan

and that is currently under the Century Code. It has been in the Century Code at least twenty years. As far as traditional money; whether the district can tax this mill levy money for that, I do not know. I can tell you the Bismarck Rural Fire Protection District is not going to be doing that. We have a plan to raise additional money to help buy additional equipment. Fire fighters themselves do that. Under the plan we are hoping to use with the IRS it will allow the association to take some of the money that we raise for fund raising and put some of that money into the retirement fund as well. I hope that I covered most of the questions.

**Rep. Klemin:** The insurance rebate check and the insurance premiums that come back to the state. Volunteers who aren't paid for what they do; do they pay pension?

**Donavan Voeller:** I never heard it put that way. That is what it is. It is currently allowed under the Century Code under existing law that is allowed. All we are going to do with this is change the plans that are available for the fire departments to use. Under the current century code rural fire departments now are currently allowed to staff their Find Definite Plan benefit plan and use that money for that. The Find Definite Plan is an unrealistic plan for most departments to use for the minimal amount of money that they get forms that in two or three days.

**Rep. Klemin:** In looking at this I thought there was a distinction between the rural fire districts and the fire protection districts.

**Donavan Voeller:** This beyond my scope of what it would take to become a rural fire protection district. My understanding is that currently in the state of ND we have in the rural communities either a rural fire protection districts or rural fire departments and maybe volunteer departments and maybe a combination of full time, volunteer department or maybe full time paid on call.

**Rep. Conrad:** How many hours generally a month do they have to commit to?

**Donavan Voeller:** That is different in every fire department. I can tell you with Bismarck Rural Fire Department when we bring new people on to the fire departments they are required to attend monthly meetings; once a month. Once a month we have training and those are the requirement's that are on all the fire departments. The new people are required to take on additional training where we have every Monday night we have credits to bring them up to Firefighter I or Firefighter II certification so they actually know what they are doing when we get onto a fire call. We have additional training for a year just to learn the equipment that before they are fully trained we take them out on call they can operate in a support function. After all the training they are just required to do the monthly meeting and fire training.

**Rep. Conrad:** How often do they go on call?

**Donavan Voeller:** that various. In the Bismarck Rural Fire Department we average between 200 and 250 calls.

**Rep. Conrad:** What is the average?

**Donavan Voeller:** We expect them to show up for at least 20% of the calls. Any call that comes in on the week they are on call they are expected to show up and respond to. The other three weeks out of the month when they are not on call if we have a structure fire or grass fires they are also expected to show up on that.

Opposition: None

Neutral: None

Hearing closed.

# 2009 HOUSE STANDING COMMITTEE MINUTES

## Bill No. SB 2204

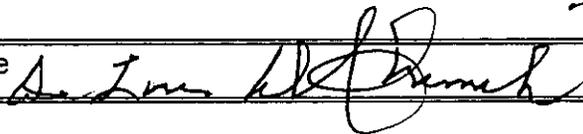
### House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: March 19, 2009

Recorder Job Number: 11250

Committee Clerk Signature



Minutes:

**Chairman Wrangham** reopened the hearing on SB 2204. On page 2 where we take out the requirements for being vested that they meet all the requirements of the firefighter's association bylaws.

**Rep. Klemin:** As I understand this bill these rural fire departments now can receive a portion of insurance premium tax that comes down through the state to local fire departments. What this would allow the fire departments to do is volunteers would be able to have pension plans which could use some of that insurance premium tax to fund them.

**Rep. Kilichowski:** It is already being done by rural fire protection districts and I know that I was on the Mitchell Rural Fire Board 15 years and we moved to a fire district.

**Rep. Klemin:** does a rural fire protection district have ability to levy mills? But the rural fire department does not have that ability? There is a difference here that a rural fire protection district can levy mills to take care of that somehow on their own within their district.

**Rep. Jerry Kelsh:** they have a meeting of several townships who have paid and they have a mill levy and the townships have paid part of that fire percentage. The rural fire department they just go on contributions.

**Rep. Klemin:** when you are a volunteer you are a volunteer; why should you get a pension?

**Rep. Jerry Kelsh:** A lot of your rural fire districts are all volunteers too.

**Rep. Pietsch:** When they do mill levy's can they actually put that in a pension. When you make donations to the fire department I thought that was for equipment? I didn't think of it as being part of a pension plan.

**Rep. Jerry Kelsh:** The original language allows rural fire protection districts, the ones that do operate. Isn't there a tax on insurance companies? Isn't there a tax on the ones that take the policy premium?

**Rep. Klemin:** It is a tax on premiums received by insurance company.

**Chairman Wrangham:** The consumer ultimately pays the tax on the premium.

**Rep. Headland:** I am not completely clear Mr. Chairman, is the only funding source for the pension plans the tax receipts from insurance or can they use other fees collected that they charge out to townships and everything else?

**Rep. Kilichowski:** I don't think so. I am not sure.

**Rep. Jerry Kelsh:** I think most of the time when you are charged for a fire call; they might spend all afternoon out there with a dozen guys there. I am sure that is part of the operation of the fire department so can we use this?

**Rep. Headland:** The fees they collect from responding to a fire they also charge townships just to have the township covered by them. So there are additional fees essentially there are the property taxes that are paying that and my concern is that the property tax payer have to support the pension plan for the volunteer. I am not clear if this is the only money they can use?

**Rep. Kilichowski:** I will get more information and bring it back to the committee.

**Rep. Zaiser:** Does anyone know if anyone knows where a volunteer does receive a pension?

**Rep. Conrad:** We do have a rural fire protection pension right now.

**Rep. Kilichowski:** I will check this all out.

Hearing closed.

# 2009 HOUSE STANDING COMMITTEE MINUTES

## Bill No. SB 2204

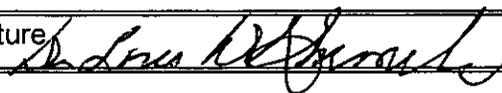
### House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: March 20, 2009

Recorder Job Number: 11318

Committee Clerk Signature



Minutes:

**Chairman Wrangham** reopened the hearing on SB 2204.

**Rep. Kilichowski:** I called Lois Hartman and the only fund that can go into that retirement would be from that insurance. The tax levy or donation cannot go into the retirement. If they want to have a fund raiser they could. So it is only 50% of that insurance.

**Rep. Kretschmar:** The more I think about the rural areas of North Dakota the fire department is volunteer people and I am not aware of any type of pension plan. It is not about the money coming to them to set up a viable pension?

**Rep. Kilichowski:** I agree with you. I didn't call Mitchell, but they are a fire district so they can do retirements already. I think this just opens the door if they wanted to they could, but it is not mandated. I think if this were a district or a regular fire district, they are welcome to do it anyway.

**Rep. Kretschmar:** In my area there isn't a political subdivision or a rural fire district but they have a rural fire department and you become a member and pay your dues and go to a fire or something.

**Rep. Klemin:** I guess I am going to oppose the motion to pass this bill. I don't think your volunteers shouldn't be expecting a pension. We hear about not having enough money for equipment and gas and everything else so half of this insurance premium tax goes to some pension for volunteers I don't think is appropriate. It really leaves it up to the districts to decide what it has to be. All you have to be is age 50 and meet any other requirements they have in their bylaws.

**Rep. Jerry Kelsh:** You already, you rural firefighting districts, are getting it so why would you not let rural fire departments have this ability. I know all the smaller towns have fund raisers to keep their fire department going. There is a lot of volunteer that are doing this. If they can and want to why wouldn't you give them equal footing?

**Rep. Klemin:** What would prevent the rural fire district from doing that anyway? I suppose it would take the vote of the people.

**Do Pass Motion Made By Rep. Kilichowski: Seconded by Rep. Corey Mock**

**Vote: 10 Yes 1 No 2 Absent Carrier Rep. Hatlestad**

**Hearing closed.**

Date: 3/20/09  
Roll Call Vote #: 7

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2207

**HOUSE POLITICAL SUBS COMMITTEE**

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  DP  DNP  DP AS AMEND  DNP AS AMEND

Motion Made By Rep. Kilichowski Seconded By Rep. Mock

Representatives	Yes	No	Representatives	Yes	No
Ch. Wrangham	✓		Rep. Conrad	✓	
Vice Chair Rep. Headland	0		Rep. Kelsh	✓	
Rep. Hatlestad	✓		Rep. Kilichowski	✓	
Rep. N. Johnson	✓		Rep. Mock	✓	
Rep. Klemin		✓	Rep. Zaiser	0	
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Pietsch	✓				

Total (Yes) 10 No 1

Absent 2

Floor Carrier: Rep. Hatlestad

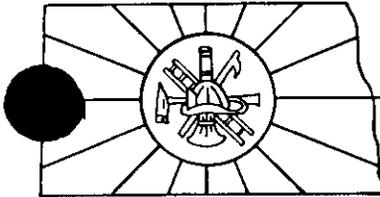
If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2204: Political Subdivisions Committee (Rep. Wrangham, Chairman)** recommends **DO PASS** (10 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). SB 2204 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2204



*North Dakota  
Firefighter's Association*

P.O. Box 6127 • Bismarck, ND 58506-6127

Phone: 701-222-2799  
Fax: 701-222-2899

Organized June 4, 1884. Incorporated January 20, 1901.

**S.B. 2204  
Firefighter Relief Association**

*Same  
given to  
House.*

Mr. Chairman and members of the Senate Political Subdivisions Committee, my name is Lois Hartman. I am the Executive Director of the North Dakota Firefighter's Association. I appear before you this morning in support of SB 2204. This bill updates the language in Chapter 18-05-01 of the Century Code to allow rural fire departments to create a firefighter's relief association if their budgets can support it.

In Section 4, language is added to require that any firefighter relief association plan must be compliant with internal revenue service guidelines. This section also removes the requirements for eligibility for benefits and gives the local firefighter's relief association the flexibility to set those requirements. Many of the rural fire departments and fire protection districts have told me that the requirements in this section make it very difficult for them to participate in kind of a retirement program for their volunteers. A firefighter's relief association is a retention and recruitment tool that is needed by the volunteer fire service.

Mr. Chairman, that is a quick summary of the bill and the changes to it. I respectfully request a do pass on S.B. 2204. I would be happy to try and answers any questions of the committee.