

2013 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1055

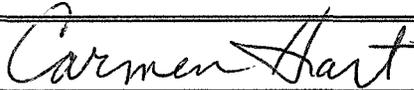
2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

HB 1055
January 11, 2013
17109

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Traffic citations on Capitol grounds

Minutes:

You may make reference to "attached testimony."

Chairman Jim Kasper opened the hearing on HB 1055.

John Boyle, Director of OMB Facility Management Division, appeared and presented the attached testimony. **Attachment 1.** (End 4:43)

Chairman Jim Kasper Mr. Boyle has been the head of the capitol grounds for many years. A number of sessions ago, I introduced a bill to have a new Governor's mansion and worked closely with Mr. Boyle to try to get that accomplished. Of course, it never happened. John is a walking encyclopedia of knowledge and does a great job at his position.

Vice Chair Randy Boehning What does the fine cost on the capitol grounds for parking illegally?

John Boyle Right now Highway Patrol writes out a warning for the first time and second time. I think it is \$15 or \$20. I can't really remember right off the top of my head. They do give multiple warnings before there is actually a fine given. If it is a state employee that is a multiple violator, we will talk to the agency head and just say we are having an issue with this employee so could you please ask them to use a parking space? Again, we haven't had that issue at all. It is the fourth day, but everyone is complying. We are very happy with the situation thus far.

Rep. Steven Zaiser Since it doesn't happen very frequently and it is permissive as it is and if it gets really out of control, then you would maybe talk to somebody and issue a citation, why then are you proposing to delete it because it is permissive rather than required?

John Boyle Right now it is not permitted. We can't write tickets right now. We want to eliminate that so that we may be able to do that in the future.

Rep. Gail Mooney Is the parking strictly for employee parking or is it for public parking as well?

John Boyle It is for all who use the capitol grounds. Where we have really saved a lot of spots is DOT added 66 new parking stalls to the east side of their building, and they require now that everybody that comes in for drivers' licenses and permits to park on the east side. The visitor lot which is located on the west side of DOT's building is probably half empty during the regular year. That gave us an extra 50 spots for the legislative session for visitors. Of course, they park around the mall. We encourage visitors to always come in the south entrance, but if they can't find a spot, there is plenty available now.

Rep. Vicky Steiner Have you thought about the days, though, where you have a thousand people come in to testify on a bill?

John Boyle Yes, we have. If we notice that there are additional people here on a large bill, we do have a contingency plan where we would open up spots. The first one would be this one north from Divide down because nobody really walks there. We would open up one side of that. If that didn't handle it, we would open up the other side of that. The really bad area is what we call this loop road out here that goes to Fourth Street. When they are parked on both sides there, you can hardly get one vehicle through. We do have a contingency plan in place, and if that is the case, we would send out another notice to agency heads allowing people to park up there.

Rep. Steven Zaiser Since you might want to give a ticket in a rare instance when there weren't a thousand people here, why are you changing it and taking that away?

John Boyle Our interpretation of the way it is written now is that we can't write a citation. We have to get rid of that last sentence just so Highway Patrol would have the ability to write a citation. It is always a warning, a warning, and then a citation.

Rep. Vicky Steiner Is the Highway Patrol aware of your thinking about that they are going to do a citation, a citation, and then a fine? How does that work with them?

John Boyle That is their policy now. We don't dictate to them how they do it. They give warnings and then citations. They don't ever really write a citation on the very first offense. The way it usually works is if somebody notices a car is parked illegal, they will call our office and give the license plate number. We will call Highway Patrol and tell them which car is parked illegally. They are responsible for security on the capitol, so they would look in the cameras, verify that the car is parked illegally, and look up the license plate number. Then we contact the employee and give them an opportunity to come out and move the car. If they choose not to move it, then they will put a warning on it.

Rep. Gary Paur Out of the 24 months in a biennium, you can write for 20 months. Correct?

John Boyle That is correct.

Rep. Gary Paur It is just while we are in session, you can't?

John Boyle That is correct.

Rep. Gary Paur Have you seen any employees abusing the whole process just because we are in session?

John Boyle There is a handful. They are not only employees. Lobbyists and some employees do abuse it, because they know that they are not going to get a fine. They are only going to get warnings. Thus far, they haven't because we have adequate parking now. Until this session, there was never adequate parking. For 20 months of the biennium we are allowed to use the legislators' lot and that consists of 225 spaces. We are short 225 spaces even if no other visitors came, just state employees. Over the last couple biennium we have been monitoring how many illegally parked cars there are which were parked legally because we couldn't write citations. That is how we have determined how many new parking spaces we need to put in out here. We wanted to make sure we covered everybody plus an extra 50.

Rep. Gary Paur These parking spaces are just new. Correct?

John Boyle That is correct.

Rep. Gary Paur Would it hurt to wait until the next session to see if there is a problem? It doesn't sound like there is one now.

John Boyle There isn't a problem now, but because people might not want to park out there and just instead pull up and park right here on one of the curbs, there is nothing we can do now to stop that from happening. Before we allowed it to happen because we didn't have adequate parking. Yes, we do have adequate parking now. We would like the opportunity to actually write warnings and citations for people so that they would comply with the parking and the policy we have in hand.

Rep. Ben Koppelman During the session if we had an instance where people were coming in to testifying in droves and there wasn't any parking to be had, is it safe to say that you wouldn't issue any citations? It is not a matter of being unwilling or lazy or something like that in terms of parking, but to where there isn't anywhere to park. We wouldn't want to see that. If they are coming here to testify, I wouldn't want them to get a traffic ticket because they couldn't find a place to park.

John Boyle That is the case. We monitor the calendar and we have a pretty good idea of when there is going to be large crowds coming. We would work with Highway Patrol to not even write warnings at that time. This morning there are 80 available spots out there and there are 20 available spots around the mall. It would have to be a really big hearing. Usually, when you have groups like that, they come in motor coaches, not just individual cars. Yesterday we had 300 some people for the address at 1:00. The Native Americans came in vans and buses. Even though there was a large amount of people here, they didn't take up a lot of parking.

Rep. Marie Strinden Am I correct in assuming that at the root of this, it is a safety issue and if so, what were the safety issues that you had in the last session?

John Boyle Safety is the number one concern. Our concern is that when people park illegally especially, again, out on that loop road, people have to cross in between cars to get to their car. What we are concerned with is that one day someone is going to walk out in between a car, and someone is not going to be seen and they are going to get hit. We are just trying our best to prevent that incident from ever occurring.

Rep. Marie Strinden That hasn't happened yet?

John Boyle No one has been hit. There have been incidences where cars have hit other cars if that car wasn't parked there legally. We have had a lot of people who try to climb in between cars and have slipped and fallen. That is a workers' comp. claim.

Rep. Gail Mooney What I am really hearing from you is that you would like this as a method for deterring behavior that has been historically in place?

John Boyle That would be a very good way to put it.

Chairman Jim Kasper You indicated that there is no requirement that the Highway Patrol give a ticket or a warning. They could simply do one or the other at any point in time and you have no control over that, because they operate according to the North Dakota statute and they have some leeway. Is that correct?

John Boyle That is correct.

Chairman Jim Kasper Do you track the number of violations that have occurred in the past? Does the Highway Patrol give you some kind of report?

John Boyle When we were responsible for capitol security, about four biennium ago, we worked closely with Highway Patrol. Since they have taken over capitol security, we don't. They don't send us a report on that. They do send us reports on other issues like incidents that occur at night that they have noticed but not really how many citations they have handed out.

Chairman Jim Kasper Do you believe that record might be available for you to ask them, tell us how many citations you have issued or what the violations have been that you have observed over the last two or three legislative sessions?

John Boyle I could ask to see if they do have that information.

Chairman Jim Kasper In the current statute it says no traffic citation may be issued. What is the definition of citation? Is it an actual ticket or is it a warning or is it both?

John Boyle That is a very good question. I don't know the answer to that question. I can ask Highway Patrol what they feel the definition of citation is.

Chairman Jim Kasper You indicated a lot of people have slipped and we have had Workers' Comp. claims. How many of those have occurred over the last three or four sessions?

John Boyle I can get you that information. I would say it is less than 30. For us, because it eventually affects our premium, we feel that one is too many.

Chairman Jim Kasper Were these slips all in the area that you are saying the people are parking illegally or do you know?

John Boyle I wouldn't know that off the top of my head. They usually occur during the winter. I would say out of 60, 30 are during the winter when we have a legislative session. I don't know if it is actually higher during a legislative session, but I can check.

Chairman Jim Kasper Where is the impetus of this bill? Did this come from the Highway Patrol or did it come from the executive branch or from your office?

John Boyle It came from us, Facility Management of OMB.

Chairman Jim Kasper The Highway Patrol did not come to you and say we have a problem here. It is something that you said we have a problem here.

John Boyle No, I think their stance is whatever this body chooses to do, that is what they will do.

Chairman Jim Kasper What do you think would be the public reaction to this bill passing as far as potentially limiting the desire or the ability or the access of citizens of our state to come here when they are already probably quite frightened in the first place if they are going to come and testify?

John Boyle I don't think the citizens even know that this is on in statue, so I don't know if that is a deterrent for them to not come. We provide adequate parking so there is really no reason why somebody should be deterred by getting a citation.

Chairman Jim Kasper With the new parking there really isn't much of a problem from what I hear you saying.

John Boyle That is correct.

There was no opposition.

The hearing was closed.

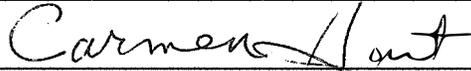
2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

HB 1055
January 17, 2013
17373

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Traffic citations on Capitol grounds

Minutes:

You may make reference to "attached testimony."

Chairman Jim Kasper opened the session on HB 1055. Mr. Boyle implied that there is quite a bit of activity of people potentially getting hurt and citations and so on. Remember in his testimony he said that now we have the extra parking lot, nobody is violating the law. **Handouts 1 and 2** by Mr. Boyle were gone over. The other thing that concerns me about this is access of the public to us when we are in session. It is hard enough to get people to come here. Imagine the headlines. Legislature imposes traffic fines on people coming to the capitol to park.

Rep. Gary Paur I don't understand what citations have to do with falls and slips. When did this parking lot become serviceable, and if there is an explanation for why the citations, even though the number had dropped to the smallest warnings, increased in 2012?

Chairman Jim Kasper The parking lot became open this summer. In hearing some discussion in the chambers, they're indicating there is 40-60 empty parking spots all the time.

Rep. Ben Koppelman Looking at the data you handed out, even on the number of warnings, if you look at that as being more of a barometer of how many people they were concerned about versus citations, from one legislative year of 2011 to the previous year of 2010 the number of warnings was about the same. If you look at 2009 compared to 2008, they are different, but not substantially. I agree this is a solution looking for a problem. I also wonder if the number of slips and falls wouldn't somewhat take care of themselves by the nature of having more parking.

Rep. Karen Rohr On this email that you received from John dated January 17, if you are looking at a pattern, the pattern shows a decrease except in 2012. You are always looking for trends. Basically you can't _ anything off this report after 2012 because they are going to have to keep more data. It just had a fluke. It went up to 16 under citations although the warnings went down. Where is the relationship on the one showing the slips and the falls?

We would have to get the risk management reports, and we would have to determine what was the predisposition to this occurrence. I agree. I don't think it is a good bill.

Rep. Steven Zaiser made a motion for a **Do Not Pass**.

Rep. Vicky Steiner seconded the motion.

A roll call vote was taken and resulted in **DO NOT PASS, 14-0**. **Rep. Gary Paur** is the carrier of this bill.

Date: 1-17-13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1055**

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Zaiser Seconded By Steiner

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	✓		Rep. Bill Amerman	✓	
Vice Chairman Randy Boehning	✓		Rep. Gail Mooney	✓	
Rep. Jason Dockter	✓		Rep. Marie Strinden	✓	
Rep. Karen Karls	✓		Rep. Steven Zaiser	✓	
Rep. Ben Koppelman	✓				
Rep. Vernon Laning	✓				
Rep. Scott Louser	✓				
Rep. Gary Paur	✓				
Rep. Karen Rohr	✓				
Rep. Vicky Steiner	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Paur

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

REPORT OF STANDING COMMITTEE

HB 1055: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1055 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

HB 1055

Testimony on HB 1055
John Boyle, Director
OMB Facility Management Division
January 11, 2013

Good morning Chairman Kasper and members of the Government and Veterans Affairs committee. My name is John Boyle. I am the Director of the Facility Management Division within the Office of Management and Budget.

The Facility Management Division is responsible for the safety of all who utilize the capitol grounds. Since the last legislative session, 344 parking spaces have been added to the capitol grounds. This has created a surplus of parking throughout the biennium including the first four days of the 63rd Legislative Session.

Because of this surplus, we are requesting the removal of the last sentence in Subsection 4 of section 39-10-48 of the North Dakota Century Code. This will allow us to continue to keep the environment for those using the capitol grounds in a safe manner.

Mr. Chairman, this concludes my prepared remarks. At this time, I would be happy to answer any of your questions.

Kasper, Jim M.

*Handout 1
1055*

From: Boyle, John A.
Sent: Thursday, January 17, 2013 8:07 AM
To: Kasper, Jim M.
Subject: FW: Stats

Good morning Representative Kasper,

Please see below the information on warning and citations you requested as additional information concerning HB 1055. This information was provided to me by the Highway Patrol.

Thanks,
John

	Warn	Cit.
2007	2269	10
2008	1568	13
2009	1839	7
2010	679	8
2011	601	2
2012	171	16
Total	7127	56

Handout 2
1055

Kasper, Jim M.

From: Boyle, John A.
Sent: Monday, January 14, 2013 7:57 PM
To: Kasper, Jim M.
Subject: Fwd: RE: HB 1055 information

Please see definition of citation.

John Boyle

----- Original Message -----

Subject: RE: HB 1055 information
From: "Kleppe, Maj. David A." <dkleppe@nd.gov>
Date: Mon, 14-Jan-2013 15:58
To: "Boyle, John A." <jaboyle@nd.gov>
CC:

Hi John,

Citation is used as a more general term. NDCC describes a document in **29-05-31 Uniform traffic complaint and summons** which is the actual format used when issuing a "traffic ticket" also known internally as a "traffic citation". Give a shout if you need more.

Dave



Major David A. Kleppe
Chief of Staff

State Capitol, Judicial Wing
800 E Boulevard Ave, Dept. 504
Bismarck, ND 58505-0240

Phone 701-328-4348
Fax 701-328-1717
Email dkleppe@nd.gov

From: Boyle, John A.
Sent: Monday, January 14, 2013 1:36 PM
To: Kleppe, Maj. David A.
Subject: HB 1055 information

Good afternoon Major Kleppe,

Please see email below. I believe Ronda Berg spoke with Sgt. Iverson this morning. Just wanted to keep you informed. I thought I could find a definition for term "citation" in ND century code but could not. Do you have a definition that is used in Highway patrol?

Thanks,
John

Kasper, Jim M.

From: Boyle, John A.
Sent: Monday, January 14, 2013 1:06 PM
To: Kasper, Jim M.
Subject: HB 1055 information
Attachments: [Untitled].pdf

Good afternoon Representative Kasper,

Please see attached a spreadsheet indicating the number of slip and falls we received on a monthly basis commencing with November 2006. All blank cells (such as February 2008) indicate no reports were submitted.

In addition, I am to provide you with the definition of the word "Citation" and the number of warnings and citations written during the past six years. I have not received this information from Highway Patrol. I hope to have this information no later than Wednesday.

Let me know if I can be of further assistance.

Thanks.

John A. Boyle
Director of Facilities Management
State of North Dakota
jaboyle@nd.gov
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Facsimile: 701-328-0121

