

2013 SENATE JUDICIARY

SB 2225

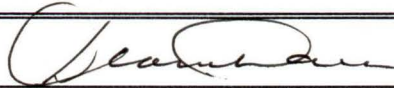
2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2225
1/30/2013
Job #17970 (03:51)

☐ Conference Committee

Committee Clerk Signature



Minutes:

Attached testimony

Relating to the authority to solemnize marriages

Senator David Hogue - Chairman

Senator Larry Robinson - District 24 - Introduces the bill and said he was asked by the Municipal Judge Association. This bill expands the ability of municipal judges to solemnize marriages. He relates his experience with his wife that coordinates marriages for Riverbend Farm.

Senator Nelson - Asks if the clerks of court and the recorders also have a location restriction.

Senator Robinson - Said he knows in the case of municipal judges their jurisdictional area is the city limits. That is what they are trying to address here.

Judge Bill Severin - Municipal Court Judge, Bismarck - In support of the bill. He said it is practical and it's positive. He gives an example of weddings he has performed. He says the clerks of court cannot perform weddings.

Senator Berry - Asks if he can preside over a wedding from while in a different location.

Judge Severin - Replies he believes so because you don't have to hold court in a courthouse, you hold court wherever the judge is sitting. He explains the private arrangements he makes with couples that he weds.

Opposition - none
Neutral

Reverend Auntie Carel Two-Eagle - Pipe Keeper and Presiding Bishop, Church of the Helping Hand, Inc. - See written testimony. (1)

Close SB2225

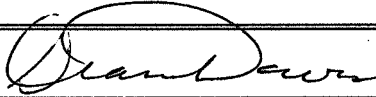
2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2225
2/5/2013
Job #18246

☐ Conference Committee

Committee Clerk Signature



Minutes:

Senator David Hogue - Chairman

Committee work

Committee discusses that the bill will need an amendment. Senator Armstrong said he sees no problem with the bill as it is written providing the technical corrections are cleaned up. Committee decides to act on a later date.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2225
2/12/2013
Job #18829

☐ Conference Committee

Committee Clerk Signature



Minutes:

Vote

Senator David Hogue - Chairman

Committee work

Senator Hogue explains the purpose of the bill to the committee.

Senator Armstrong moves the amendment

Senator Grabinger seconded

Discussion

Senator Sitte says she is bothered by people who can claim to be clergy. Senator Armstrong says that it is already covered. Committee discusses cleaning up the language in the future.

Verbal vote on the amendment - all yes

Senator Nelson moves a do pass as amended

Senator Grabinger seconded

Vote - 6 yes, 1 no

Motion passes

Senator Nelson will carry

13.0424.01001
Title.02000

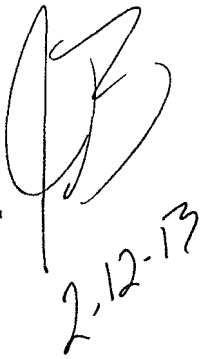
Adopted by the Judiciary Committee

February 12, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2225

Page 1, line 14, overstrike "licensed by recognized denominations pursuant to chapter 10-33"

Renumber accordingly



Handwritten signature and date: 2.12.13

Date: 2-12-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2225

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.0424.01001

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

Motion Made By S Armstrong Seconded By S Grabinger

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue			Senator Carolyn Nelson		
Vice Chairman Margaret Sitte			Senator John Grabinger		
Senator Stanley Lyson					
Senator Spencer Berry					
Senator Kelly Armstrong					

Total (Yes) _____ No _____

Absent Verbal - all yes

Floor Assignment _____

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

Date: 2/12/13
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2225

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.6424.01001

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

Motion Made By S. Nelson Seconded By S. Grabinger

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue	<input checked="" type="checkbox"/>		Senator Carolyn Nelson	<input checked="" type="checkbox"/>	
Vice Chairman Margaret Sitte	<input checked="" type="checkbox"/>		Senator John Grabinger	<input checked="" type="checkbox"/>	
Senator Stanley Lyson		<input checked="" type="checkbox"/>			
Senator Spencer Berry	<input checked="" type="checkbox"/>				
Senator Kelly Armstrong	<input checked="" type="checkbox"/>				

Total (Yes) 6 No 1

Absent _____

Floor Assignment S. Nelson

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

REPORT OF STANDING COMMITTEE

SB 2225: Judiciary Committee (Sen. Hogue, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2225 was placed on the Sixth order on the calendar.

Page 1, line 14, overstrike "licensed by recognized denominations pursuant to chapter 10-33"

Renumber accordingly

2013 HOUSE JUDICIARY

SB 2225

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee Prairie Room, State Capitol

SB 2225
March 13, 2013
Job 19837

☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 14-03-09 of the North Dakota Century Code, relating to the authority to solemnize marriages.

Minutes:

Chairman Koppelman: Opened hearing on SB 2225

1:17 Senator Robinson: Introduced this bill on behalf of their association per request of a municipal judge in Dickenson, ND.

5:25 Rep. Boehning: Reference to line 13 of Bill.

6:30 Senator Robinson: I can only speak from the standpoint of couples asking for us to provide a minister at our place of business where marriages take place. It is not easy to find someone to perform these weddings.

9:55 Rep. Klemin: Is there some other court decision that presently limits the location these persons can solemnize marriages; it doesn't have any limitation under the current language?

10:18 Senator Robinson: Individuals who testified on the Senate side were referencing statutes when I left the hearing and I don't have that in front of me. I can get the Senate testimony for you.

10:47 Rep. Klemin: The language deleted in line 14, why is that removed?

11:00 Senator Robinson: I can't answer that question. I will get the marked up bill later this day for you.

12:56 Rep. Hanson: On the original version on line 14 was not crossed out but this version it is crossed out.

Chairman Koppelman: Aren't we rewarding irresponsibility if we make it work for them to have a marriage performed by anyone?

13:45 Senator Robinson: You are providing the municipal judges a bit of flexibility to say yes or I can't go outside of town. I will get the information asap.

14:45 Chairman Koppelman: Sounds like your talking about people who want a unique setting for a wedding and they just don't have someone available, is that right?

15:12 Senator Robinson: That's exactly the case.

Chairman Koppelman: Closed hearing on SB 2225

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

SB 2225
March 25, 2013
Job 20410

☐ Conference Committee

Carmen Hechle

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 14-03-09 of the North Dakota Century Code, relating to the authority to solemnize marriages.

Minutes:

Chairman Koppelman: Opened SB 2225 for committee action.

Vice Chairman Larry Klemin: Testimony from Senate Judiciary Committee Reverend Auntie Carel Two-Eagle Pipe Keeper, and Presiding Bishop, Church of the Helping Hand, Inc. on page two of her testimony she refers Section 6 and says "No state or federal law is allowed to recognize or to not, recognize any method of worship, so the language recognized denominations is illegal and they cannot exist without its blessing, then chapter 10-33 is probably unconstitutional and illegal as well. Therefore Section 6 should be struck from the final version of this bill".

Chairman Kim Koppelman: 10-33 is still part of the law, it is licensed clergy and that is an interesting point but it really isn't what the bill is about. If you notice item 7, I remember when we put that in and that says by any person authorized by the rituals and practices of any religious persuasion. I think her point is cared for in the law already and if we are going to call it clergy and we have a chapter on licensing clergy we should continue to cross reference that section. My recommendation is that we remove the overstrike on line 6.

Rep. Andy Maragos: Made a motion to amend the bill.

Rep. Lois Delmore: Seconds the motion.

Voice vote - carried.

Rep. Kathy Hogan: Makes a do pass motion as amended.

Rep. Randy Boehning: Second the motion.

Vote 12-1-1

Rep. Kathy Hogan: Will carry the bill.

Chairman Koppelman: Closes on SB 2225

13.0424.02001
Title.03000

Adopted by the Judiciary Committee

March 25, 2013

VR
3/25/13

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2225

Page 1, line 14, remove the overstrike over "~~licensed by recognized denominations pursuant to
chapter 10-33~~"

Renumber accordingly

Date: 3-25-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2225

House Judiciary 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 Rep. Maragos Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman			Rep. Lois Delmore		
Vice Chairman Lawrence Klemin			Rep. Ben Hanson		
Rep. Randy Boehning			Rep. Kathy Hogan		
Rep. Roger Brabandt					
Rep. Karen Karls					
Rep. William Kretschmar					
Rep. Diane Larson					
Rep. Andrew Maragos					
Rep. Gary Paur					
Rep. Vicky Steiner					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote - Carried

Date: 3-25-13
Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2225**

House Judiciary 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 Rep. Hogan Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore	/	
Vice Chairman Lawrence Klemin	/		Rep. Ben Hanson	/	
Rep. Randy Boehning	/		Rep. Kathy Hogan	/	
Rep. Roger Brabandt	/				
Rep. Karen Karls	/				
Rep. William Kretschmar	/				
Rep. Diane Larson	/				
Rep. Andrew Maragos	/				
Rep. Gary Paur	/				
Rep. Vicky Steiner					
Rep. Nathan Toman		/			

Total (Yes) 12 No 1

Absent 1

Floor Assignment Rep. Hogan

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

REPORT OF STANDING COMMITTEE

SB 2225, as engrossed: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2225 was placed on the Sixth order on the calendar.

Page 1, line 14, remove the overstrike over "~~licensed by recognized denominations pursuant to chapter 10-33~~"

Renumber accordingly

2013 CONFERENCE COMMITTEE

SB 2225

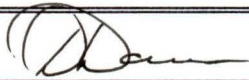
2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2225
4/16/2013
Job #21173

☒ Conference Committee

Committee Clerk Signature



Minutes:

attachment

Conference committee on SB2225

Senators - Armstrong, Sitte, Nelson
Representatives - Paur, Toman, Hogan

Senator Armstrong and Representative Paur offer identical amendments. .02003 and .02004. (1) (2). Senator Sitte expresses her concern with the nonprofit corporation language and does not believe the tax code should define religious freedom. The committee discusses this and Senator Nelson proposes language that may work for both sides. Rep. Hogan replies that she is comfortable with the proposed language. Rep. Paur asks for a recess to look at the new language. The committee decides to come back during the afternoon.

Committee comes back to order and agrees on amendment 13.0424.02005.

Representative Toman moves the House recede from House amendments and amend as follows: 13.0424.02005.

Representative Hogan seconded

Vote - all yes
Motion passes

Conference committee adjourned

13
4-16-13

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2225

That the House recede from its amendments as printed on page 942 of the Senate Journal and page 1063 of the House Journal and that Engrossed Senate Bill No. 2225 be amended as follows:

Page 1, line 12, overstrike the semicolon and insert immediately thereafter an underscored comma

Page 1, line 12, remove the overstrike over "~~priests~~" and insert immediately thereafter an underscored comma

Page 1, line 13, remove "5. Priests"

Page 1, line 13, overstrike the semicolon and insert immediately thereafter "and"

Page 1, line 13, remove the overstrike over "~~clergy~~"

Page 1, line 14, remove "6. Clergy"

Page 1, line 14, after "~~licensed~~" insert ", authorized"

Page 1, line 14, remove the overstrike over "~~by recognized denominations~~"

Page 1, line 15, replace "7." with "5."

Page 1, line 15, overstrike "person" and insert immediately thereafter "individual"

Renumber accordingly

Date 4-16-13Roll Call Vote # 1

2013 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2225 as (re) engrossedSenate Judiciary CommitteeAction Taken ☐ SENATE accede to House Amendments☐ SENATE accede to House Amendments and further amend☐ HOUSE recede from House amendments☒ HOUSE recede from House amendments and amend as follows13.0424.02005☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointedMotion Made by: Rep Toman Seconded by: Rep. Hogan

Senators	4/16 a.m.	P.M.		Yes	No	Representatives	4/16 a.m.	P.M.		Yes	No
Armstrong	X	X		X		Paur	X	X		X	
Sitte	X	X		X		Toman	X	X		X	
Nelson	X	X		X		Hogan	X	X		X	
Total Senate Vote				3		Total Rep. Vote				3	

Vote Count Yes: 6 No: 0 Absent: 0Senate Carrier Armstrong House Carrier PaurLC Number 13.0424 . 02005 of amendment

LC Number _____ of engrossment

REPORT OF CONFERENCE COMMITTEE

SB 2225, as engrossed: Your conference committee (Sens. Armstrong, Sitte, Nelson and Reps. Paur, Toman, Hogan) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ page 942, adopt amendments as follows, and place SB 2225 on the Seventh order:

That the House recede from its amendments as printed on page 942 of the Senate Journal and page 1063 of the House Journal and that Engrossed Senate Bill No. 2225 be amended as follows:

Page 1, line 12, overstrike the semicolon and insert immediately thereafter an underscored comma

Page 1, line 12, remove the overstrike over "~~priests~~" and insert immediately thereafter an underscored comma

Page 1, line 13, remove "5. Priests"

Page 1, line 13, overstrike the semicolon and insert immediately thereafter "and"

Page 1, line 13, remove the overstrike over "~~clergy~~"

Page 1, line 14, remove "6. Clergy"

Page 1, line 14, after "~~licensed~~" insert ", authorized"

Page 1, line 14, remove the overstrike over "~~by recognized denominations~~"

Page 1, line 15, replace "7." with "5."

Page 1, line 15, overstrike "person" and insert immediately thereafter "individual"

ReNUMBER accordingly

Engrossed SB 2225 was placed on the Seventh order of business on the calendar.

2013 TESTIMONY

SB 2225

IN RE: SB 2225

FROM: REVEREND AUNTIE CAREL TWO-EAGLE, PIPE KEEPER, and PRESIDING BISHOP, CHURCH OF THE HELPING HAND, INC. (OneDakotaWoman@gmail.com)

TO: SENATOR DAVID HOGUE & THE SENATE JUDICIARY COMMITTEE; and
SENATORS ROBINSON, ARMSTRONG, and WARDNER and REPRESENTATIVES
D. JOHNSON and J. KELSCH

Hanh, Senator Hogue and members of the Senate Judiciary Committee, and the sponsors of this bill. I send good greetings and strong prayers to you all.

For the record, I am the Reverend Auntie Carel Two-Eagle, a Traditional Lakota spiritual person, a Keeper of a Holy Pipe, and the Presiding Bishop of the Church of the Helping Hand, Inc. I come before you today about SB 2225, to advise you of some problems with its original wording, and to recommend changes which will improve it, and make it acceptable under the Constitution of the USA.

The first bill I ever testified before ND Legislators on was a similar bill, back in 1997, & it was also before the Senate Judiciary Committee. I told that Committee that some of the wording in that bill was unConstitutional in its original form, and I am telling you the same thing about this bill, now. The 1997 Senate Judiciary Committee was wise enough to listen to me, and then-Senator Marv Mutzenberger and I worked on amending that bill, which was eventually passed and signed into law. It is my prayer you will be similarly wise.

In the 1997 bill, reference was made to "ordained Christian ministers", which is unConstitutional, because it violates the Doctrine of Separation of Church and State. In this bill, Section (4), which specifies "ordained ministers of the gospel" is similarly unConstitutional, and therefore illegal, because Christianity is the only religion which refers to its "guidebook" as "the gospel". The US Constitution specifies that there shall be no law made regarding establishment of a 'religion of state'. The Supreme Court has upheld this section of the Constitution and the Doctrine of Separation of Church and State repeatedly.

The over-arching superiority of the US Constitution over all state Constitutions is well-documented - therefore, no state Constitution can make even the appearance of an 'official' religion either.

<< P 2 >>

Section (4) should be struck from the wording of SB2225 for that reason, as well as the fact that Section (7) makes it redundant. The wording of Section (7) covers everything needed.

For that reason, Section "(5) priests" should also be struck.

Section (6) of SB2225 refers to something that is not allowed by the Constitution - licensure of clergy. It does not matter whether it is 'by the state' or by any group.

Section (6) mentions "recognized denominations pursuant to chapter 10-33", apparently of the ND Century Code. No state or federal law is allowed to recognize or to not recognize any method of worship, so the language "recognized denominations" is illegal under the US Constitution. Since the US Constitution enlivens all state Constitutions, and they cannot exist without its blessing, then Chapter 10-33 is probably unconstitutional and illegal as well. Therefore, Section (6) should be struck from the final version of this bill, and Chapter 10-33 needs a close looking-at, too.

Again, the language of Section (7) makes the language of section (6) redundant - in addition to its unConstitutionality.

By removing Sections (4), (5), and (6) from SB2225, we would have a bill which meets Constitutional requirements and which would not result in eventual litigation which the state of North Dakota would lose; litigation which would be easily and entirely avoided by said removal of these Sections of this bill.

Thank you for hearing me in a good way now, and for heeding my council in these regards. I stand ready to answer any questions you may have.

2225 (1)
2/12/13

Sixty-third
Legislative Assembly
of North Dakota

February 4, 2013

Amendment No:
Title No:

PROPOSED AMENDMENTS TO SENATE BILL NO. 2225

Page 1, Line 14, remove "licensed by recognized denominations pursuant to chapter 10-33"

13.0424.02004
Title.

Prepared by the Legislative Council staff for
Senator Armstrong
April 11, 2013

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2225

That the House recede from its amendments as printed on page 942 of the Senate Journal and page 1063 of the House Journal and that Engrossed Senate Bill No. 2225 be amended as follows:

Page 1, line 14, remove the overstrike over "~~recognized~~"

Page 1, line 14, after "to" insert "by a denomination that is a nonprofit corporation under"

Page 1, line 14, remove the overstrike over "~~chapter 10-33~~"

Page 1, line 15, overstrike "person" and insert immediately thereafter "individual"

Renumber accordingly

13.0424.02003
Title.

Prepared by the Legislative Council staff for
Representative Paur
April 11, 2013

1 aux Conf. Comm. (2)

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2225

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Page 1, line 14, remove the overstrike over "~~chapter 10-33~~"

Page 1, line 15, overstrike "person" and insert immediately thereafter "individual"

Renumber accordingly

13.0424.02005
Title.

Prepared by the Legislative Council staff for
Representative Paur
April 16, 2013

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2225

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Page 1, line 15, overstrike "person" and insert immediately thereafter "individual"

Renumber accordingly