

15.8191.02000

**FISCAL NOTE STATEMENT**

Senate Bill or Resolution No. HB 1363

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, school districts, or townships. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Sheila Sandness  
Senior Fiscal Analyst

**2015 HOUSE POLITICAL SUBDIVISIONS**

**HB 1363**

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Prairie Room, State Capitol

HB 1363  
2/12/2015  
23760

- Subcommittee  
 Conference Committee

*Annemaria Musala*

### Explanation or reason for introduction of bill/resolution:

Relating to bonds, coverage, and legal representation for public administrators.

### Minutes:

*Attachment - one*

Chairman Klemin: Opened hearing on HB 1363

Representative Brabandt: At the request of the 6 public administrators this bill was drafted.

Mark Westering: I am the ward county public administrator in Minot. The reason for the amendment is the court system assigns public administrators to represent individuals where there is not someone to represent themselves or a family member. The public administrators don't have a choice in the cases they take. I am assigned a case by a judge and can't turn it down. I have no liability of protection for my actions as a public administrate. If there is no protection, people have chosen to not participate in certain activities, they may or not like the actions I take. If they don't like it they can take me to court and I have to answer for my actions. I have no liability of my actions.

Chairman Klemin: This is in the section not the bond of the public administrator and this is adding a subsection two to the bond statute. Bond provisions, if there is a claim made against the bond then the assuredly that issues bonds may be able to step in and either pay off on the bond or defend against the claim made on the bond. What you seem to be asking for is some form of liability insurance coverage as opposed to maximum bond. Could you clarify?

Mark: That is exactly it. There is no liability insurance. There can be a claim on the bond in the course of my duties I may mange an individual's finances. I the even that a public administrator may mishandle or misappropriate the funds, the bond can be used to make the injured party whole but in the event I am making a decision regarding life support or medically related and someone is against the decision I make they may sue me but there is no liability for me. In the event that I am regarding medications or life support and someone doesn't like a decision I make they could go and sue me. It has no liability for me.

Chairman Klemin: How are you got this job?

Mark: Public administrators are appointed by the presiding judge of that district. The presiding judge appoints the public administrator but yet is still a position of the county and operates for the county. It is not a state position.

Chairman Klemin: How are you compensated for?

Mark: I am compensated as a contract with the county. I am not employed by the county so I don't receive insurance reserve, liability coverage that way. As a contractor, I contracted Stipen with the county.

Chairman Klemin: Is this a competitive bidding process?

Mark: No it is not. It is appointed by individuals that may be qualified. It is not bid.

Chairman Klemin: The contract you have with the county. Are your fees negotiated with the county and put into the contract?

Mark: Yes

Chairman Klemin: As part of this contract there is no provision of how liability insurance is handled?

Mark: Yes

Chairman Klemin: There could be though.

Mark: Yes.

Chairman Klemin: Or it could be merely a cost of doing business by you as the party to this contract?

Mark: It could be but I would be a little reserve in my own liability insurance whether or not as operating as the public administrator my insurance company would look at me and say you had the choice of not taking the case, which I don't.

Chairman Klemin: Do you have liability insurance now that covers your work as public administrator?

Mark: Yes

Chairman Klemin: Do you pay for that out of the fees you receive out of the contract?

Mark: No I pay for that out of other contracts/engagements I have. That covers my private action and that's the base of the issue. Private insurances look at me as a private practice individual and will cover the cases I have as a private practicing individual but under the case under acting as the Public Administrator I don't have a choice in the matters. This came to light when I was assigned a case when someone was on life support. I had to decide based on the best of the individual and what the doctors insisted happen

Chairman Klemin: What do you do other than a public administrator that you would need liability insurance?

Mark: I am a personal representative for the states and some I am a Representative for Veterans.

Chairman Klemin: Do you operate in a business capacity?

Mark: Yes

Chairman Klemin: Do you have a company name?

Mark: No.

Chairman Klemin: So what you're asking is to transfer the cost of liability insurance for your work as public administrator from yourself to the county.

Mark: Only in the event where it is operating under the public administrator contract. If I can refuse a case I would, but I can't. The compensation for the county doesn't cover the costs of the liability insurance.

Chairman Klemin: I thought you said you had liability insurance?

Mark: Yes, but it doesn't cover my conduct as public administrator under the contract with the county.

Chairman Klemin: Either you have it or you don't.

Mark: It doesn't cover the contract with the county and so therefore my insurance company is saying the county should be covering where I am entered into the contract with the county.

Representative Koppelman: What is a public administrator? What do you do in your private and public work?

Mark: I am assigned to handle the affairs for individuals that cannot. That individual needs decisions made in the areas of finance, residence, legal decisions, marital, educational, medical, and locational.

Representative Koppelman: What qualifies one to do that?

Mark: I am an accountant by education. Most of the public administrators are social workers. There are no qualifications at this time.

Representative Koppelman: This focuses on the public administrator chapter in the bond but when the county does other things that gives them legal exposure, how is that handled? Is that something you could get into or is it always done through the insurance reserve fund or bond?

Mark: That's the whole issue behind this amendment because currently there is nothing, but for a staff member in the county who is employed by the county they are covered by the insurance reserve.

Representative Koppelman: If the county was going to pave a road and engaged in an engineering firm to determine something about the technical side and the county was sued over negligence, don't they have some coverage to protect the entity they contracted with?

Mark: I believe they do but I am not sure.

Representative Koppelman: Maybe that's what we need to look into.

Mark: Probably.

Representative Kelsh: You were appointed by a judge. Was that something you requested? Could you refuse that?

Mark: The position is a throwback to the old county court system and many aspects of it are in a state of flux for many years. I can turn it down and I am thinking about declining this position because the liability that I am undertaking is not there. There is a growing need for this position though.

Representative Beadle: A public administrator may be a corporation or a limited liability company so it may be worth being an LLC to protect yourself.

Mark: I am just been made aware of that.

Representative Beadle: Also it says that the judge of the judicial districts in which the county is located may consult and it says the presiding judge may appoint a single public administrator to serve more than one county within the district. I am wondering if it would be the appropriate means for the county to be the one to provide you with the insurance if that judicial court district goes across multiple counties and that one PA could be representative of multiple counties or if it would be better to put the owners of providing this coverage on the judicial system instead?

Mark: I leave that up to the committee. I would just like some coverage.

Representative Koppelman: Are you aware of people who have sued and who do they go after? The person or the county? If you enter into a lawsuit and you are a local accountant with great means versus the entire county, I would be more tempted to look at the deeper pockets.

Mark: It is possibly true they would go for more and I have been sued four times for my actions. It dealt with the disagreement of the family and no regard to the financial aspects. The family chose to go after me and I have won those times. I only need to lose once for it to impact me.

Chairman Klemin: In those four cases did your liability insurance carrier provide the defense?

Mark: No, it was prior to my getting liability insurance.

Chairman Klemin: Your contract with the county does it require you to maintain your own liability insurance?

Mark: It does not.

Representative Kelsh: Are your wages from the county negotiable or set?

Mark: They are set fees.

Representative Kelsh: You have no negotiation?

Mark: I submit my budget and they move it to what they believe is correct and it is not necessarily negotiable. My county does not participate in the joint powers agreement so it is a one on one. My county is of the belief that the PA should be under the state's function so we have that battle.

Chairman Klemin: You submit a budget and they either accept it or revise it and you can choose to take it or not?

Mark: Correct

Chairman Klemin: So it is negotiable.

Mark: In that sense yes.

Chairman Klemin: Not a set fee although you may not have the same bargaining position.

Mark: Correct

Chairman Klemin: You can turn down their budget.

Mark: Yes.

Judy Vetter: It is needed. Individuals who are needed to serve cannot afford the insurance they need. It is costly and their compensation wouldn't nearly cover it. Public administrator duties are appointed and there are not many people offering to do this job. If judges don't have people to do this they have no one to take on these cases.

Representative Maragos: In testimony before the unified court system the PA came under the county court. Were they selected in the same fashion? Or were they an employee of the county?

Judy: Under the old system it was when you had a county judge covering each county, it was that county judge that had the responsibility to appoint a PA or not and so they weren't considered employees of the court and not considered employees of the court, they were considered appointed positions. Under the statute it is every four year they need to be reviewed.

Chairman Klemin: You are a public administrator for 8 counties. What is your company title?

Judy: Guardian and Protective Services in corporate.

Chairman Klemin: Do you have separate contracts with each of the counties?

Judy: No, we are appointed by the presiding district court judge. They wouldn't be separate under each county because it went to regionalized.

Chairman Klemin: How are you paid?

Judy: We get paid by the cases that have the ability to pay and we write grants. We do apply as a nonprofit so we get a small amount of funding there too. With the passing of The Guardianship funding for mentally ill helped cover the cases that we have been providing services and are getting now. We are grateful but it wasn't enough. It was enough to cover less than 1 case per county.

Chairman Klemin: Mark has a contract with the county and that is how he get paid but in this case you have contracts with the counties but you are not paid by any?

Judy: It is a different situation because when the funding was put into place last session the North Dakota Association of counties had a contract with the different counties or regions to sign onto this and so the funding after the two year time frame was done and the funding for the Guardianship piece of the PA duties would be covered under that. Some chose to not participate because they thought it was better to have separate contracts. Most did participate and it only pays on cases that meet the criteria set.

Chairman Klemin: So you're paid a fee based on a certain case and where does that payment come from?

Judy: It is currently coming from a combination of the counties and also the state that after this biennium ends, it will end and fall to the state to cover the current ones. We are asking in another bill to cover the growth.

Chairman Klemin: That other bill doesn't cover liability insurance?

Judy: No

Chairman Klemin: When you said you were paid by the counties and the states, do you mean through the association of the counties?

Judy: No it is through a mill that involved a levy that the counties all participated a certain amount based on whatever the mill percentage was and then it went into the association of counties and they gave it out to the providers.

Representative Koppelman: Do most of the people who work with you, are they full time?

Judy: They are full time. We also serve as personal representatives.

Representative Koppelman: All of those deal with serious legal and potential liability exposure. Do you have liability insurance?

Judy: Yes

Representative Koppelman: That is private insurance that you pay for out of your income?

Judy: Yes out of our budget.

Representative Koppelman: So you're supporting this because you think it should be a government function since the contracts that you're working on are from the counties or courts.

Judy: Yes, especially because they are asking it for non-corporate. The county in which a non-corporate public administrator would cover the private individuals.

Representative Koppelman: Does a non-corporate mean people like Mark but you would be corporate?

Judy: We would like to be included but I am not sure. It is much needed.

Chairman Klemin: If this bill passed it would not do things for you? You're here speaking for private individuals.

Judy: Yes.

Representative Kretschmar: Any knowledge of Pas getting in trouble with claims against them or they are being sued?

Judy: Yes, some people do have ulterior motives and we need the coverage for the people who need to be protected. We do what is in the individual's best interest. There have been cases that have been a problem.

Opposition:

Steve Spilde: (Testimony 1)

Representative Koppelman: You say the NDIRF shouldn't be named but then you also object that says or similar entity which seems you or somebody else. I don't know how else you would try to phrase it without naming your organization. You say the dilemma is that the Pas are called for and appointed by the county and function in that capacity and by the court where is a multijurisdictional area but if you're carrying out a public function is that Mark thinks there should be some liability function as he carries it out. He's not asking you to insure him outside of that. The other option could be to make PAs full time count employs. What's the solution?

Steve: I am not sure what the solution could be. I mentioned in my testimony that we do try to facilitate our members being able to do business when necessary through the devise of adding an additional covered party. We do that in one county but we advise against it. Most of the time if a county asked us to we would. The option is there Commercial insurance is another option and that could be another entity. In our view we understand the difficulty of finding people willing to do the job. WE are submitting that ought to be worked out between the county and the PA rather than the mandate.

Representative Koppelman: How are other contracted entities covered for liability? If the county goes out and builds a road and there is a lawsuit and they sue the engineer and they sue the county and I assume they are there carrying private insurance that takes into

consideration based on the fact that they would be doing public contracts and that is all paid for and wrapped into the fee? Or because they are building a public project would the county be liable?

Steve: Risk transfer is like baseball in that role. We suggest don't take on someone else's liability. Transfer yours to them.

Representative Maragos: What's the highest level of government you ensure?

Steve: Counties are probably involved more than most.

Representative Maragos: Your coverage doesn't extend to state agencies?

Steve: No it doesn't.

Representative Oversen: Insurances or fund cover state attorneys as county employees as a contracted party or as an additional party under their current coverage?

Steve: Yes.

Representative Anderson: How are public defenders covered under liability?

Steve: I am not sure

Representative Anderson: Would they be similar to public defenders?

Steve: The public defender incorporated into the judicial system is a more formalized method than what the PA system appears to be. Public defenders have a lot of state involvement to the district. Perhaps what the state is doing for public defenders if they are we could explore that.

Aaron Burst: Public Administrators system is going under revamp. We are getting there and we think the insurance reserve fund or some sort of insurance company should take the process but we don't need a bill yet. We are going to work with our counties to get them on the policies because they should get the insurance and it shouldn't be the individual buying the insurance because it is pricey. If there is any way we could hold off on this it would be helpful. Public administrators used to all be county officials and so the court would say you are now the PA for this county and counties have now divested themselves from actually having a staff person being on staff providing the PA business and they have contracted with outside private firms or individuals. That comes difficult because it is no longer unified but it wasn't before either. The association of counties worked last session to get a bill passed that the state threw in some dollars into a pool and the association of counties manages it and we almost got all the counties to get some money for the program and we are paying the private service providers for the service. Public administrators are public guardians, every one of us could petition for a guardianship on me and you could get that to be one of myself. If there is not one to take me on then it becomes the PA responsibility which was traditionally a county responsibility. Essentially we want to state tie that. This is phase one, we want insurance for these folks but we don't think a bill requiring it is good.

Representative Kelsh: You are working with the counties and insurance reserve fund, Spilde made it clear they don't want the responsibility. Can you tell us where the negotiations are?

Aaron: It's not that they don't want the responsibility it's that they just want to be able to work it out with the county so the county would say insurance reserve we are going put on this private individual providing the services and the insurance reserve would say that is 500 additional to your premium. I think his testimony was we will but we need to negotiate it through your premium increase. The insurance reserve is one of the answers but the private industry might say they have a better solution.

Representative Becker: This is mainly a liability concern and it's coming out and you're saying hold on we will address this. Why is it taking to come up with and enact the solution?

Aaron: The lack of PA system has been a problem for a long time. The chief justice made it a priority of his and pushed the legislature into looking at the system. The studies got the ball rolling so we have some momentum not. One more session I think we will get there.

Representative Maragos: Do you have any idea what the total cost is?

Aaron: 1.8 million a biennium. The OMB received the appropriation form last year which was 800,000 from the state and 800,000 from the counties. The OMB pulled in about 1.6; it'll be a little short.

Representative Koppelman: I thought that fall out was done but now I see this. What happened when Mark was sued? Was the county involved? The association? Did anyone defend him? Are they on their own at this point?

Aaron Burst: We support court unification but the PA system is one that maintained as a county responsibility and there started the separation. Courts need the PA and it fell.

Representative Koppelman: Like the clerks of court...

Aaron Burst: Yes. That's what watered it down to whose responsibility is what. To the question of the lawsuits, PA deal with the toughest cases. They don't have resources, family, friends, and people who are difficult to deal with. That sets you up for liability concerns and lawsuits.

Representative Koppelman: If the committee takes your advice and kills the bill and allows you to work on this. What happens between now and the time the solution is found?

Aaron Burst: You are right. Those individuals and companies if they are not as a rider on to the counties insurance now they could be on their own, the insurance reserve has engaged even when legally they didn't have to, and maybe they still would. I am not completely sure.

Representative Kelsh: One more session of your working group or legislative session?

Aaron Burst: One more legislative session because the PA group that meets with the entities is going to be an ongoing group and they are putting forward many bills. Legislative

session wise because we have to see how the money falls out. The funding was phase one and we have many to come.

Chairman Klemin: This bill has a lot of problems.

Representative Koppelman: A sunset would work, and the problem they are trying to resolve will not happen this biennium. Either we leave them or we have a stop cap.

Chairman Klemin: It doesn't help certain people. Only individuals not the corporate and there is something that could be done by the administrators if they would choose to negotiate.

Representative Anderson: The non-corporate wouldn't apply to many.

Representative Koppelman: Maybe we need more work on the wording and we do need a stop gap because this is a public function. If there is a case with red flags, he is stuck doing it and that could be a major issue.

Representative Zubke: This process has been working so why should we change it.

Chairman Klemin: This would be an unfunded mandate back to the counties which they don't want.

Representative Kelsh: When they are proposing the budget they have a chance to testify. In the process they might get cut or accept the liability. There is a decision made after you say your case.

Chairman Klemin: If a county can't get someone to do it what do they do?

Representative Kelsh: I am not sure.

Chairman Klemin: Either they have one or they don't.

Representative Kelsh: I was appointed a POA and decisions are difficult. People are willing to sue and the people's lives are line the line when they are not covered by anything.

Chairman Klemin: This would make counties have to provide for the noncorporate people.

Representative Hatlestad: If we kill this bill my concern is people won't negotiate anymore.

Representative Becker: The bargaining strength of the public administrators is less than equal. If this is already onto the legislative council they believe this is where it is supposed to be. I would like to see a sunset discussion.

Chairman Klemin: 1.06.00 I don't know about a sunset policy when we would be requiring someone to provide. This would be a claims made type of policy.

Representative Klein: We have a problem and the work of these people is getting bigger. WE have left the hanging out there and we should do something.

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee

Prairie Room, State Capitol

HB 1363  
2/12/2015  
23777

- Subcommittee  
 Conference Committee

Chmonda Muscha

### Explanation or reason for introduction of bill/resolution:

Relating to bonds, coverage, and legal representation for public administrators.

### Minutes:

Testimony 1

Chairman Klemin: Opened discussion on HB 1363.

Representative Koppelman: I contacted Aaron and he sent me an email with suggested amendment language. (Testimony 1) With that I would move my amendment.

Representative Maragos: Seconds.

Chairman Klemin: I have a problem that we have to do this through a government self-insurance pool or other risk financing mechanism. It would be better to say they have to provide liability risk coverage and not say where it comes from. I think that is inappropriate to specify where it comes from when you're saying it is someone not regulated by us. I am wondering if the new language could say the county in which the county in which a non-corporate public administrator is appointed must provide liability risk coverage or services provided while acting within the public administrator's role.

Representative Koppelman: I would have no disagreement with that and would change my motion to this amendment.

Representative Maragos: Second

Chairman Klemin: I think we also have to amend subsection two of this.

Representative Beadle: In this chapter wouldn't it make sense to make it a new section in the chapter?

Chairman Klemin: We would have to remove the other amendments. So this is another hog house.

Representative Koppelman: I would recommend it would replace the language on page 2 and the intern could make appropriate numbering. Let council have some flexibility there.

Chairman Klemin: You want to keep page one in the bill?

Representative Koppelman: It is all current language so it just a question. I suspect if there was another chapter where liability coverage for PAs would fit better that council would draft the bill that way or create a new chapter.

Representative Beadle: Chapter 11-21 deals with public administrator. It all deals with their power and compensation not liability. So a hog house would work better anyways.

Representative Oversen: If we go ahead and vote on the amendment to change subsection 2 I will make the amendment to redirect this to a different section.

Chairman Klemin: It could be a bill for an act a new section to chapter 11-21 of the North Dakota Century Code relating to liability risk coverage for PAs

Representative Koppelman: I would amend my motion as you have just stated it.

Representative Maragos: Second

Chairman Klemin: This is a hog house to replace the bill.

A Voice Vote Was Taken: All in favor

Motion carries

Representative Hatlestad: Moved a do pass

Representative Beadle: Second

Representative Kretschmar: Will the amendment include the expiration date?

Chairman Klemin: Yes

A Roll Call Vote Was Taken: Yes 14, No 0, Absent 0

Motion carries

Representative Hatlestad will carry the bill

February 12, 2015

HA  
2-13-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1363

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 11-21 of the North Dakota Century Code, relating to liability risk coverage for public administrators; and to provide an expiration date.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 11-21 of the North Dakota Century Code is created and enacted as follows:

**Liability coverage for public administrators.**

The county in which a noncorporate public administrator is appointed must provide liability risk coverage for services provided by that public administrator while acting within the role of public administrator.

**SECTION 2. EXPIRATION DATE.** This Act is effective through July 31, 2017, and after that date is ineffective."

Renumber accordingly

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1363**

House Political Subdivisions Committee

Subcommittee  Conference Committee

Amendment LC# or Description: 15.0191.01001

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Koppelman Seconded By Maragos

Representative	Yes	No	Representative	Yes	No
Chairman Lawrence R. Klemin			Rep. Pamela Anderson		
Vice Chair Patrick R. Hatlestad			Rep. Jerry Kelsh		
Rep. Thomas Beadle			Rep. Kylie Oversen		
Rep. Rich S. Becker			Rep. Marie Strinden		
Rep. Matthew M. Klein					
Rep. Kim Koppelman					
Rep. William E. Kretschmar					
Rep. Andrew G. Maragos					
Rep. Nathan Toman					
Rep. Denton Zubke					

*motion carried  
 voice vote*

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 2/12/2015  
 Roll Call Vote #: 2

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1363**

House Political Subdivisions Committee

Subcommittee  Conference Committee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations

Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Hatlestad Seconded By beadle

Representative	Yes	No	Representative	Yes	No
Chairman Lawrence R. Klemin	X		Rep. Pamela Anderson	X	
Vice Chair Patrick R. Hatlestad	X		Rep. Jerry Kelsh	X	
Rep. Thomas Beadle	X		Rep. Kylie Oversen	X	
Rep. Rich S. Becker	X		Rep. Marie Strinden	X	
Rep. Matthew M. Klein	X				
Rep. Kim Koppelman	X				
Rep. William E. Kretschmar	X				
Rep. Andrew G. Maragos	X				
Rep. Nathan Toman	X				
Rep. Denton Zubke	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Hatlestad

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

motion carries

**REPORT OF STANDING COMMITTEE**

**HB 1363: Political Subdivisions Committee (Rep. Klemin, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1363 was placed on the Sixth order on the calendar.

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**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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Renumber accordingly

**2015 SENATE POLITICAL SUBDIVISIONS**

**HB 1363**

# 2015 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Red River Room, State Capitol

HB 1363  
3/13/2015  
Job Number 24833

- Subcommittee  
 Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to liability risk coverage for public administrators

### Minutes:

Written testimony # 1 Judy Vetter (Guardian and Protective Services)  
Written testimony #2 Aaron Birst

**Chairman Burckhard** opened the hearing on HB 1363. Chairman Burckhard, V.Chairman Anderson, Senators Bekkedahl, Judy Lee, Grabinger were present. Senator Dotzenrod was absent.

**Rep. Roger Brabrandt** State Representative District 5, Minot. He introduced HB 1363 at the request of a public administrator from his home district, in support of HB 1363.

**Mark Westereng** Ward County Public Administrator, here in support of HB 1363. I believe it to be in a central part of protection for public administrators in their line of work, much in the way of law enforcement officers protected in his line of work while he is on duty. The language gives public administrators who are already on a tight budget the ability to function as a guardian for the best interests of the wards of the state that they are in charge of. I am a contracted public administrator by the county of which I reside and I don't have a choice in which cases I receive from the court. Part of the problem is that the court assigns the cases in the county and the county has to contract with the public administrator. But they don't provide any liability coverage for a public administrator in that contract. I am requesting a do pass of this bill (1:20-2:05).

**Chairman Burckhard** Mark do you have any written testimony that we will have copies of?  
**Mark** replied I do not.

**Senator Anderson** What keeps the county from doing this now, why can't they buy insurance for you if they wanted to?

**Mark Westereng** I couldn't answer that as a representative of the county. I don't represent the county itself, so that question would have to be asked of one of my commissioners.

**Judy Vetter** (3:05-5:46) Administrator of Guardian and Protective Services. I am here speaking today on behalf of the State Association because I am also the State Association President in support of HB 1363. Written testimony #1.

**Chairman Burckhard** Judy wouldn't you say its' very expensive. Can you relate to that, or relative to what? It's an ambiguous term.

**Judy Vetter** Yes our insurance runs us about \$20,000 a year and that covers a business package to it. It covers errors in omissions for people who are acting, it also covers our Board of Directors, so there is various things within that business package. So for somebody such as Mark who I am not sure what his salary or contract is with the county but let's say it is \$30,000, then insurance is \$20,000 there is no way that they could make it on that.

**Chairman Burckhard** So it's \$20,000 for an individual? **Judy Vetter** Well this is for a corporation, so it may be different from that. They look at the kind of cases you serve and the liability attached to it and it's really tough also to find insurance coverage for it because of the type of work that we do its high risk.

**Senator Grabinger** Aren't these public administrators don't they require to have bonding or something? Why wouldn't they go and get that?

**Judy Vetter** There's bonding provided for the County Public Administrators to my understanding but not liability insurance coverage. So if you get a situation where you're making decisions and maybe the family because of all the discontent in there, doesn't agree with some of the decisions your making even though it's for the best interest of the person your appointed to serve as guardian and they can sue you. Mark could maybe speak to that because it's happened to him and he had no representation and he had to cover the legal costs for that on his own.

**Senator Grabinger** So that is really this is looking at as from the legal standpoint if somebody comes back after them. It isn't if the public administrator goes bad? **Judy Vetter** replied, no.

**Senator Bekkedahl** So if I read this correctly, it states the county which means the bill for this liability insurance would go to the county? Is that correct?

**Judy Vetter** Yes, because right now the statute follows under the county responsibility and that is where the rub is because when the courts unified the public administrator piece did not go with it and that stayed as a county responsibility. But the counties take issue with that because who's appointing us on some of these guardianship cases. It is the District Courts, who are employees of the state.

**Senator Bekkedahl** So, understanding that is there already insurance that the counties have that they could be listed as parties to that same insurance policy, through North Dakota Insurance Reserve Fund or is there already policies in place or is this a totally separate insurance policy strictly for these entities?

**Judy Vetter** Yes there is through my understanding that the counties do have insurance through the North Dakota Insurance Reserve Fund. Ex. Cited (8:54-9:11) In Burleigh County in this judicial district our agency provides a list of the clients that we are appointed as public administrator and the value of their estate at the time of the report. They have a list of what we're providing for like for 2013, because 2014 we haven't done yet was almost \$500,000 in value of assets for people that we are managing under our public administrator appointment. Granted we have cases that were appointed that are not under the public administrator but as a private non-profit agency. What I wanted at the hearing was that they do have the capability of adding them as an additional insured. If I am incorrect, I think there's people from the Association of Counties that can clarify that.

**Senator Anderson** How does the administrators responsibility different from the guardians that we see appointed under different statutes that we've dealt with in this committee?

**Judy Vetter** The public administrator, when you look at the state statute it's not just a public guardian piece. There are other duties that fall under that also. But what happened is because it is a non-funded position and it is appointed, that is we survived in 1996, Bill Chaussee the former Public administrator and myself co-founded Guardian and Protective Services because we knew there is such a need for it, but yet there is no funding for it. So if you get the job you're appointed and then the way you get paid is if the clients that your serving or the person your appointed a guardian for has the resources to pay you. So we co-founded the non-profits that we could write grants and accept donations and those kinds of things to help keep our doors open and serve those that are low-income and don't have the resources to pay. How that is different is it was only until this last legislative session where the funding was passed to cover those indigent cases that we have public administrators and other private agencies or entities our doing the work.

**Senator Bekkedahl** Just to follow up, other than the fact that legislators tend to like expiration dates can you explain why this act expires after July 31, 2017? I didn't understand it this is something that needs to happen, why it is not ongoing in this legislation?

**Judy Vetter** I don't know how that ended up in there. I wasn't a part of the revisions but I am guessing there is somebody is here who can maybe explain how that ended up with a determination date.

**Senator Grabinger** I am not positive on this but I live in Jamestown and Stutsman County. We have many people that are in the position of guardianship. I don't know that we even have a public administrator so how would our county handle putting coverage over all those people that are being assigned as guardians for the people that aren't?

**Judy Vetter** It's only for the county that choose to have an appointed public administrator that this would affect so, those counties that do that and like I said there is inconsistencies throughout the state and there is a lot of work that needs to be done on this specific state statute. I think there is some changes and I am part of the Guardianship study work group and its been talked about possibly taking a look at that and trying to rectify some of the things and clarify so that there is more clarity as to what the difference between guardianship under the public administrator statute and that of the new funded program or dollars under the Guardianship grant funds. But when you, in your county I am sure you

have an agency over there, but there has been some issues with DKK and I thought that they were the county public administrator. But whether their covered under the insurance reserve fund I couldn't tell you that you would have to check with your county.

**Chairman Burckhard** I heard a DKK? I am not sure what that stands for. **Judy Vetter** It stands for the names of the two individuals that started it like Delight, Kora Patnke, basically.

**Chairman Burckhard** How many counties then have public administrators? **Judy Vetter** Just a handful of them actually, like we are in this judicial district but we cover 8 counties.

**Senator Judy Lee** I was just going to mention for the committee's information, Senator Anderson and I have heard in Human Services Committee a rewrite of all of the Guardianship statutes which now is in the House. It was presented in the House Human Services this week, so there is ongoing work that resulted from this task force which included representatives on the Supreme Court, Jim Gange was on that from the office upstairs and Cynthia Feland was a part of that there to as they are two of the ones that testified. These functions that they have are so extremely important and they are taking care of people who have no resources of their own, and no families to help them or if they have resources and no family to help them or if they have resources and no family to help them it is a way to make sure that somebody hasn't been taken advantage of an individual who is no longer capable of handling everything on their own. It was a golf outing or a bake sale funding for something that should not have been that way and Ms. Vetter has been very much a part of this important guardianship project for the years. Maybe it would be helpful since this is political subs committee if you take a minute to explain a bit of the difference between public administrator and guardian. You don't have to go into real detail but so that they might have a little picture on that.

**Judy Vetter** The public administrator if you read the state statute tells what the duties and responsibilities and part of that is you become law leaders for the court to serve as guardian of last resort. Okay, so you would still have the same responsibilities under public administrator when you're appointed as guardian as you would on this side on the private sector where the guardianship grant funds which are currently in another bill for that, you're doing the same thing it's just coming from a different pot of money and it's coming from different statutes. So, I don't know if that makes it simpler or not, you still have all the responsibilities you're doing it's under the appointment of the public administrator and it's coming through the county that has that. There is many counties out there that don't have it, so counties that don't have a public administrator such as our organization even though we don't, we aren't appointed in Stark County, and the counties in the Southwestern part of the state, we still will take on cases that are emergency based only just because of the distance we are away. Because there is else out there to do, so you have some cross section of some county public administrators out there, on the counties that choose to have a public administrator and then you have private entities out there that are doing the work such as another agency out of Fargo called Guardian Judiciary and Advocacy Services and they are a private entity and there's another one starting up in Jamestown that is another entity. So, you have the private sector and then you have the option of those counties that have a public administrator to be appointed and serve as guardian as last resort.

**Senator Judy Lee** I don't know if you're interested in asking Mr. Birst but the Association of Counties set up; I think the committee might be interested to know what the Association of Counties did with this because it was really a fabulously well done job with the funding that came out and so just for background if you give him a minute, I would like to ask him. Never mind if I read forward I would see that.

**Aaron Birst** Association of Counties and stand in full support of HB 1363. (Written testimony #2). However we are making one potential suggestion for an amendment and I know this make come as a concern for the supporters by the way who we are partners with. We very much appreciate what they do, with GAPS and all, the public administrator guardians do is really the Lord's work. But what we are suggesting is the "shall" go to "may" for a couple of reasons. One, we are suggesting as a policy anytime there is a bill that says the county shall do something when there is a fiscal note attached it gets us a little nervous of course. "May would certainly allow the counties and give them the authority so as Senator Anderson said well, what is the point? Can the counties do this already? It probably can Senator Anderson, however this would certainly clarify that they have the authority to pay essentially a private service provider's insurance coverage. We're still working on this issue. Going back to Senator Lee's comment I think it's easier if I kind of give a little bit of history on this (18:09- 22:00 Refers to his two page handout)

The reason we are using GAPS and DKK is because it used to be in the old days, the counties would have an employee who actually served as the public administrator. So, it was be as a duty assigned. So it be a Veteran's Service officer would also then serve as the public administrator. Over years though, because of the court consolidation, and other factors such as liability and not understanding public administrators all the counties divested themselves from having an employee be the public administrator and just simply going to a contract basis. Many of the counties have public administrators and didn't even know it, because essentially GAPS was serving as their public administrator but the county had no idea. It is a vital process to the courts. Again just for purposes of this bill, if that goes to "may" we would be much happier. Again we will continue to work with Insurance Reserve or any other private providers to see if we can't even someday fund out of our fund some of those insurance costs for those providers too. The first priority when we set out on this public administrator track is to take care of the people in the trenches. They need to get their bills paid, other structural changes such as what Senator Lee mentioned such as the Guardianship statute, those are the next step. We'll get those cleared and eventually we'll get the program that works pretty well. Quite frankly before this even started when the Chief Justice intervened, we had a terrible system. It was hodge-podge. People didn't know it existed, they didn't know what to do and so now we're finally getting it, like Senator Bekekdahl said when government doesn't have that one contact point it gets frustrating. But we are providing a better service and we look forward to even working further.

The question why is this 2017? The House amended that because I did testify that hopefully we essentially statetize this whole program and so the House for whatever reason said by next session, you'll get it all taken care of so we'll just put a clause that it goes away. That is where that came from.

**Chairman Burckhard** How often do lawsuits occur against the Guardian or the Public Administrator?

**Aaron Birst** Actually I would say relatively frequently. For the most part they are very, very unsuccessful. We just had one, and the Insurance Reserve actually covered Grand Forks. Again you've got to realize the clients that there serving have a lot of difficulty. So, they say hey my public administrator stole all of my gold bars, and so generally that is exactly what happened up in Grand Forks. They said I had a bunch of silver and it's all missing and so that prompted an investigation. Ultimately the jury came back and they threw out the case because they couldn't even prove they had any silver to begin with. It is a point of litigation and that's why these folks do need some insurance coverage. You can't just leave them hanging out there. But again because they are mostly good folks we don't lose but we pay attorney's fees.

**Mark Westereng** In the wording "must" versus "may", it will give the counties the option of providing that insurance and I have been through a great number of budget battles with my county over this. It has been hard enough to garner enough to sustain the office. Therefore, if they choose to not fund this insurance I can just as well go and look for another job and let somebody else do it. I don't mean to sound like a victim here but if there not required to handle that particular piece or required too counties that chose not to, we're right back where we started. Second of all, Mr. Birst stated that public administrators are nothing more than public governing and that is not true. I do far more than just public guardianships. There are unattended deaths where I am required to go in and help clean up that mess and the affairs of that individual. This would also address that issue. So, therefore, I would give you the one example (26:51-27:06)

**Chairman Burckhard** Mark, how long have been doing this? **Mark** replied since 2003.

**Chairman Burckhard** asked for anyone in favor of the bill, in opposition or neutral to the bill.

**Chairman Burckhard** closed the hearing on HB 1363.

#### Committee Discussion

**Senator Grabinger** The one thing I saw in this if we mandate that they have to take out this insurance, that is an unfunded mandate, and I strongly.

**Steve Spilde** CEO North Dakota Insurance and Reserve Fund.

**Senator Grabinger** If we change this from "must" to "may" we are taking away from a mandate, but if we leave it, the "must" in there, are these counties going to be able to get insurance reserve fund to cover these costs or this liability or is this something, I mean what is the cost to these counties if we made it "must" rather than "may" in this bill?

**Steve Spilde** We've had discussions with the Association of Counties on this matter and committed to working with the Association to provide coverage at least on the basis of the 2 years that we're talking about continuing that the bill provides for and at a pretty reasonable coverage charge. We're talking \$500 typically for a county involved which is somewhat less as we understand would be required if they went out into the open market. We're not keen on the idea of continuing on indefinitely at that level but just to kind of bridge the situation to what people are looking at as possibly a better solution down the road. We'll work with

them. We have a concern with the "must" because there is a possibility and I think the people involved are good folks but there is the possibility since the county can't control or have any control over the individuals, they are appointed by the District Court if we got a bad actor in there and was creating a lot of problems it would make it very difficult in the county in a "must" situation is going to have to provide coverage somehow for that person. When then may in fact in normal circumstances be uninsurable. So, it makes a lot of sense to provide an option for the county in this indicates it.

**Senator Grabinger** So I see you're going ahead with the two year trial period is my understanding of the one part. Then the second, I will leave it at that. You're both agreeing to go ahead with this for the 2 years as "must" or do you still want "may"?

**Steve Spilde** Our discussion with the Association of Counties was with regard to the original bill which has the mandatory language in it. So, yes we would try and facilitate this to be done.

**Senator Judy Lee** If we left the months in and deleted the expiration date because we can't obligate any future legislative body to do anything of course even though we would like to see this all done, wouldn't you have the ability to change the premium amount anyway? If we got to the end of the second year and the problem was not yet solved, I want it to be solved too, but, if it doesn't happen the way we might want, I mean you're not locked into this estimate of \$500 a year are you?

**Steve Spilde** That is correct. We would be looking to make a change in that. Our discussions have been on an initial basis to move forward. If there were experience that was adverse, we would look to adjust that.

**Senator Grabinger** Aren't these Public Administrators appointed by the county commissioners, at this point right now, or is it by the court?

**Steve Spilde** My understanding is they are appointed by the District Court and their actions are reviewed by the District Court, the fees are approved by the District Court. It does not appear to me that the county has a great deal of involvement here.

**Senator Grabinger** So is there was a bad actor the county commissioners would have to go back to the District Court to try and get the District Court to remove the person?

**Steve Spilde** I would guess that is how they would go about it, yes.

**Senator Anderson** As a matter of discussion, it seems to me like there's a mechanism in place to solve this within two years. I think we should leave the date in there. It seems to me like for \$500 you ought to leave the "must" in there and let them pay the \$500 for the two years and solve the problem and then rewrite the language or move them into the Guardianship statute; or whatever at the end of the two years, if we really want to solve it for the counties. The person we heard testify here from Ward County and have been doing it since 2003 without any insurance so I am not sure that there is a crisis in the next two years, but for \$500 you can cut his salary by that and then they can buy the insurance or whatever. But it seems they ought to be able to be able to afford that.

**Chairman Burckhard** asked if that was a motion.

**Senator Anderson** moved a do pass on 1363.

**2<sup>nd</sup> Senator Grabinger**

**Chairman Burckward** we'll leave it open for Senator Dotzenrod to vote on Monday.

Roll call vote

5-0-1

Carrier: Senator Anderson

Minutes:

Roll Call vote:

5-0-1

**Senator Dotzenrod** later votes " Yes" on HB 1363 or " Do Pass " motion changing the roll call vote to 6-0-0. His vote is recorded on Job number 24927, on March 16, 2015.



**REPORT OF STANDING COMMITTEE**

**HB 1363, as engrossed: Political Subdivisions Committee (Sen. Burckhard, Chairman)**  
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1363 was placed on the Fourteenth order on the calendar.

**2015 TESTIMONY**

**HB 1363**

HB 1363

2/12/2015

1.1

Testimony to the

**North Dakota House Political Subdivisions Committee**

February 12, 2015

Prepared by Steve Spilde, CEO

North Dakota Insurance Reserve Fund

**RE: House Bill No. 1363 (Public Adm.)**

Mr. Chairman and members of the North Dakota House Political Subdivisions Committee, the North Dakota Insurance Reserve Fund (NDIRF) is a government self-insurance pool that provides liability risk coverage (and other coverages) to political subdivisions in North Dakota. Over 2,500 local government entities have joined the NDIRF as members since 1986, including all 53 counties.

**The NDIRF urges a “Do Not Pass” recommendation for HB 1363** for the following reasons:

- We are unsure of the rationale for distinguishing between “noncorporate” and other public administrators.
- **The only means by which the NDIRF might provide liability risk coverage, or other types of coverage that may be required under HB 1363, to a public administrator (whether corporate or non-corporate) would be to add the public administrator as an additional covered party** under a county’s NDIRF memorandum of coverage, at the county’s request. This is because the NDIRF is able to directly cover only political subdivisions.
- **The addition of entities as added covered parties is generally discouraged by the NDIRF as a poor risk management practice** for several reasons, including: **(1)** in this instance, a public administrator does not appear to be a county employee and, if so, the county exercises little or no control; **(2)** the county, in effect, shares its coverage limits with an added party, reducing the financial protection available to the county; and **(3)** statutory defenses, such as a limitation on damages (tort cap) that would be available to a county may not be available to an added covered party such as a public administrator.

- Obtaining coverage for a public administrator outside the NDIRF would (presumably) expose the county to a **higher cost** for this service.
- **Identifying the “North Dakota insurance reserve fund” by name, as in HB 1363, is not appropriate.** Although the NDIRF would prefer to believe it will exist in perpetuity it is not, itself, a unit of government with the continuity of existence that such status implies (as, for example, the North Dakota Fire & Tornado Fund).
- **HB 1363 lacks clarity as to what is being required** – the meaning of “coverage or legal representation, or both, through the North Dakota insurance reserve fund or a similar entity...” is unclear. The NDIRF is the only government self-insurance pool currently operating in North Dakota. Does “a similar entity” mean commercial insurance, the ND State Risk Management Fund, or something else?

Thank you for the opportunity to present this testimony. I would be pleased to respond to questions members of the Committee may have.

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1.1

**Koppelman, Kim A.**

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**From:** Aaron Birst <aaron.birst@ndaco.org>  
**Sent:** Thursday, February 12, 2015 3:24 PM  
**To:** Koppelman, Kim A.  
**Subject:** HB 1363

Representative Koppelman,

As you know, we think the bill should die and we can handle this without a bill but if the committee is interested I think the below new language would be better than the original. As you can see my proposal contains the word may as opposed to shall and that is the debate the committee will have to have. Either case if the sunset is in there that would be helpful.

Also I realize the appropriations bills are gone but it would be nice to stick a small appropriation on this to help meet the anticipated premium increase. I'm not asking it be stuck on in the house but just to give you a heads up we might try on the Senate if this passes.

Thanks and let me know if you need anything else.

AGB

Language in HB 1363

2. The county in which a noncorporate public administrator is appointed under this chapter shall provide coverage or legal representation, or both, through the North Dakota insurance reserve fund or a similar entity to defend a claim against the public administrator based on services provided while acting within the administrator's scope of authority in accordance with the appointment and this chapter.

New Language

2. The county in which a noncorporate public administrator is appointed may provide liability risk coverage through a government self-insurance pool or other liability risk financing mechanism for services provided while acting within the public administrator's role.

"EXPIRATION DATE. This Act is effective through June 30, 2017, and after that date is ineffective."

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3.13.15  
#1

Testimony to: **Senate Political Subdivision**

Senator Burckhard, Chairman

Testimony by: Judy Vetter, Administrator of Guardian and Protective Services, Inc.

March 13, 2015

Senator Burckhard and Members of the Senate Political Subdivision Committee, I am Judy Vetter, Administrator of Guardian and Protective Services, Inc. (GaPS) and the President of the Guardianship Association of North Dakota. I am speaking today on behalf of the State Association and in my capacity as Administrator. Guardian and Protective Services Inc. currently serves 8 counties in the South Central Judicial District as the County Public Administrator.

I am asking this committee to support HB 1363.

As an agency that serves as Public Administrator, I can speak from my experience as to the importance of having insurance coverage when providing services that come under the duties / responsibilities of a Public Administrator, which are identified by State Statute under Century Code 11-21-05.

The Public Administrator services are a valuable resource for our Courts / Judges. The history behind the Public Administrator is extensive and has been a part of our State Laws for a very long time. The Public Administrator used to be an elected official, which changed after 1984.

When the County Courts were unified under our State Court System, the Public Administrator was not included in that unification. Currently, Public Administrators are appointed by the Presiding, District Court Judges respective to their Judicial Districts. With that being said, not every County / District Court has

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a Public Administrator, so there are inconsistencies throughout the Judicial Districts.

There are several individuals in various counties throughout North Dakota, in addition to Mark Westereng, that serve as Public Administrator. Some of these individuals include; Steve Forde of Nelson County, Tracie Retterath of Benson and Ramsey Counties, Bev Robinson of Towner County and Kathy Downs of Cavalier County.

As an agency / corporation that provides services as Public Administrator, we have insurance coverage. This insurance coverage is very expensive. Private individuals that serve as a Public Administrator, such as those identified above, would not be able to afford this insurance.

We live in a very litigious society. Public Administrators are often appointed to serve as Guardian in very complex cases. The legislation contained in HB 1363 is necessary and the right thing to do. It provides the Public Administrator a layer of protection, when they are performing their duties in a responsible manner.

Thank you for your time and consideration of the requests made to support and pass HB 1363.

I would be happy to answer any questions you may have.

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# 2.1

Testimony to the  
**Senate Political Subdivisions Committee**

Prepared March 13, 2015 by  
Aaron Birst, Legal Counsel  
North Dakota Association of Counties

**RE: Engrossed House Bill 1363 – Public Administrator Insurance**

Mr. Chairman and members of the committee, I am Aaron Birst, legal counsel of the North Dakota Association of Counties, and I wish to express our support for Engrossed House Bill 1363, but also ask for the Committee's consideration of an amendment.

Just a bit of history first, if I may. Public administrator (or public guardianship) service is one piece of several troublesome and ambiguous responsibilities that remained with counties after the unification of the courts in 1993. For those that may be unfamiliar with public guardians, they are really no different than private guardians in their duties and responsibilities, but they are assigned by the State Court when no family member, friend or acquaintance is available or willing to serve. Most often the wards served by public guardians also lack the financial resources for the compensation of the guardian's time.

Back when counties had a county court, and the demographics of the state were quite different; the COUNTY judge, in consultation with the county commission, usually appointed a county employee – the county clerk, veterans service officer, treasurer, someone...to serve as guardian for the very, VERY few county residents that were found incapable of managing their own affairs and also had no family member to act as guardian.

When the county court shifted to the State Court, this responsibility (we believe) should have gone with it, but didn't. For a number of reasons, (liability, conflict of interest, and state law prohibitions) the court has largely moved away from appointing county employees as public administrators. State district judges now assign private individuals and non-profit corporations, often with little input from

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2.2

county commission. As a result, reimbursement for this extremely important service has been, until the past two years, been varied and in some counties non-existent – the statutes are terribly unclear.

Counties were not alone in their concerns about how this service was handled. The Legislature, with considerable prompting from the Supreme Court, hired a consultant after the 2011 Session to study a host of issues facing both public and private guardianship services. The Legislature’s consultant, Dr. Winsor Schmidt, recommended a number of improvements to set the haphazard and unequally funded public guardianship “system” on a course for greater uniformity, better training, improved oversight and consistent funding.

In 2013, the Legislature responded to the consultant’s recommendations and acknowledged the state government role, by providing an appropriation for what was estimated to be half of the necessary funding for the truly indigent public wards – although at a very minimal rate. With a future goal of 100% state funding, the Legislature proposed a cost share model where counties would pay one-half the cost of public guardianships that were established prior to the current biennium, and the state would fund the other half of those existing cases and 100% of all newly establish public guardianships. The conference committee discussed this funding plan as a necessary transitional step toward full state funding in the 2015-2017 biennium.

As an illustration of what the state appropriation, and county match, is funding; I have attached a table and several charts.

The inclusion in the current Executive Budget recommendation, consistent with legislative intent, of the 100% State funding, is significant, and Senate’s approval of that funding in the OMB budget is very much appreciated. This we see as major progress toward a truly state public guardianship system.

Engrossed House Bill 1363 therefore poses a bit of a dilemma for counties, in that it appears to be moving in the wrong direction – making counties more responsible for

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this service rather than less. We understand the concerns of the individuals providing this important service however – thus our support for the bill.

Our amendment would simply change the “shall” to “may”. If it is the intent for the Legislature to allow counties to expend public funds for the insurance of private individuals, the bill is critical. As this committee is aware however, counties are opposed to mandates, and we would prefer that they be granted the permissive authority instead.

Ideally, the appropriated amount contained in the OMB budget should have included sufficient funds to address these insurance needs as well – shifting this cost to the state as well. Timing however makes this seem an unlikely option. Therefore, for now we ask the Committee to consider the amendment below and give HB1363 a Do Pass recommendation.

PROPOSED AMENDMENT TO ENGROSSED HOUSE BILL No. 1363

Page 1, line 8, replace “shall” with “may”

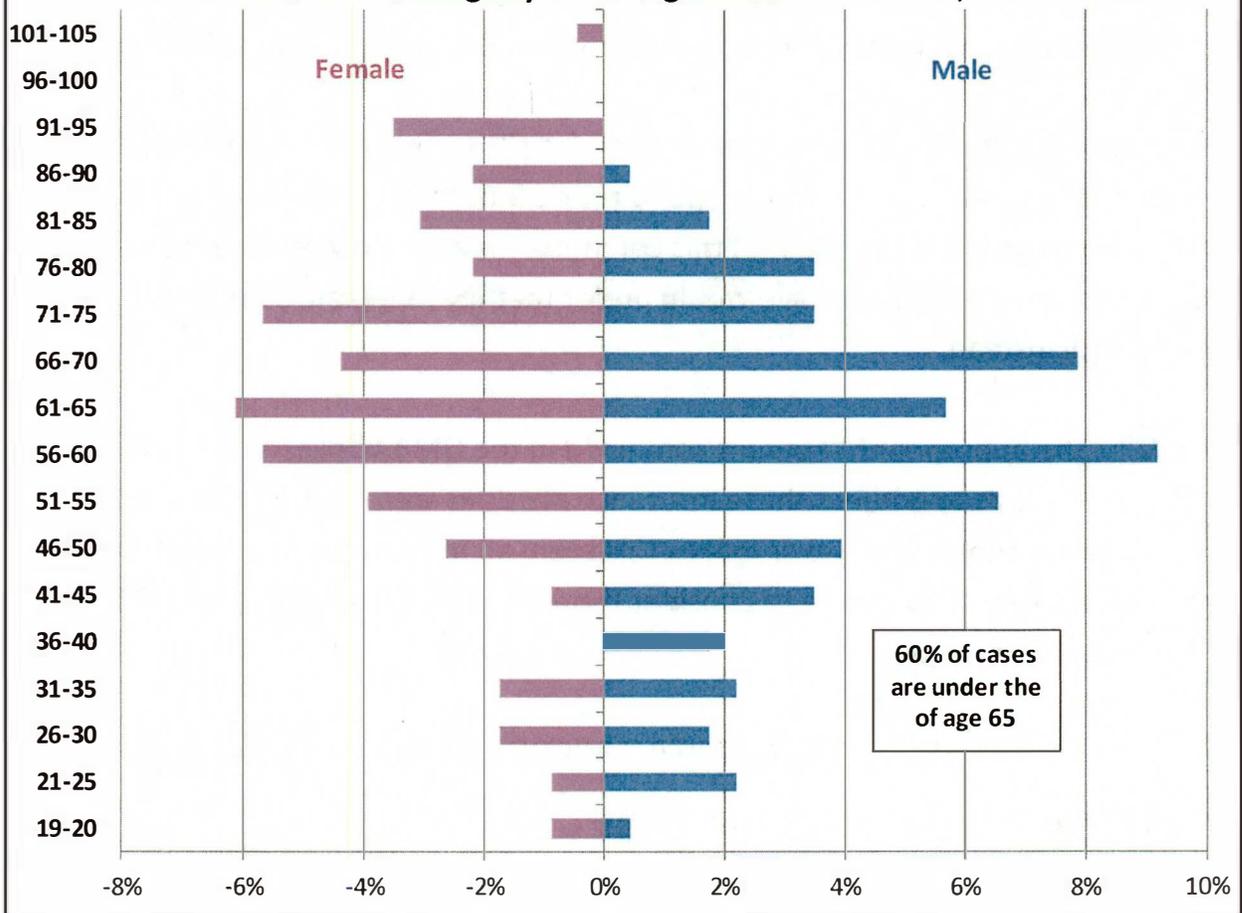
Re-number Accordingly

**Public Guardianships Reimbursed by State Funding - Jan. 31, 2015**

County	Corporate					Individuals					Grand Total
	DKK Guardianship	Guardian & Protective Services, Inc.	Guardian, Fiduciary, & Advocacy Services	Lighthouse Associates, Inc.	Opportunity Foundation Inc.	Kathy Downs	Steve Forde	Tracie Retterath	Veronica Miller	Bev Robinson	
Barnes	4							1			4
Benson											1
Billings		1									1
Burleigh		18									18
Cass	11		11						2		24
Cavalier						1					1
Dickey		1									1
Eddy	2										2
Foster	2										2
Golden Valley		1									1
Grand Forks	34		4	5				1			44
Grant		1									1
Kidder	1										1
McIntosh	1										1
McLean		2									2
Mercer		1									1
Morton		5									5
Nelson	4						2				6
Ramsey	1							18			19
Richland			1								1
Rolette		1									1
Stark		2						1			3
Stutsman	83	3	3		1						90
Towner										3	3
Walsh			1								1
Wells	1										1
Williams					9						9
<b>Total</b>	<b>144</b>	<b>36</b>	<b>20</b>	<b>5</b>	<b>10</b>	<b>1</b>	<b>2</b>	<b>21</b>	<b>2</b>	<b>3</b>	<b>244</b>

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### Indigent Individuals with Public Guardians (PASS) Caseload Percentage by 5-Year Age Cohort on June 30, 2014



### Indigent Individuals with Public Guardians (PASS) Distribution by Reason for Guardianship - June 30, 2014

