

2015 HOUSE EDUCATION

HB 1402

2015 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Pioneer Room, State Capitol

HB 1402
1/26/2015
22568

- Subcommittee
 Conference Committee

Committee Clerk Signature *Donna Whitham*

Explanation or reason for introduction of bill/resolution:

Relating to exempting information regarding individuals applying for certain North Dakota university system and school district positions.

Minutes:

Chairman Nathe: opened the hearing on HB 1402

Representative Rich S. Becker, District 43, introduced HB 1402. It has to do with open records. I believe in transparency, but there are times when open records can hinder attracting quality people to fill some of our positions in education. Explained the 4 Sections of HB 1393. He did add district superintendents to Section 1. Section 2 addresses the timing of the issue. Section 3 gives extension of 30 days of closed record. Section 4 the school board can go into executive session to discuss and exempt record or the identity of the applicant. We deserve the best and we must support the ability to do better when it comes to hiring. I am asking for closed records for only a period of time. (1:50- 13:55).

Rep Rohr: Who is the supporter of this bill?

Representative Becker: I am representing myself on behalf of constituents of my district.

Rep Meier: On page 2 number 4 of the bill, you talk about a school board district under executive session, do they record that, how does that all work, would you speak to me about that?

Representative Becker: That wording came from the legislative assembly as what was required I am not sure except that the school board would have the same process of having an executive session to discuss the merits of the applicants.

Chairman Nathe: The sessions are recorded and videotaped and minutes taken.

Rep. Meier:

Is this the same procedure?

Chairman Nathe: I think so yes.

Rep. Kelsh: All that is true, there cannot be a motion made in the session, they have to come out of the session to make a motion.

Chairman Nathe: Those records are not available unless they are subpoenaed.

Rep. Olson: Do you know if other states have carved out similar exceptions for meetings for this type of thing?

Representative Becker: I have asked people from Texas and Colorado, in both instances they do have closed records for key individual positions.

Chairman Nathe: Do you have any examples of the districts losing applicants under the current system?

Representative Becker: Not so much losing but not applying.

Chairman Nathe: So the way it stands right now for the candidates it is all made public?

Representative Becker: Yes.

Rep Mock: In the bill see coach is that limited only to the head coaches or does that include assistant coaches as well.

Representative Becker: It is only head coaches.

Rep. Mock: In subsection 2 on line 19, '3 or fewer finalists', the way it is written could a search committee narrow from 5 to 2 or to only one candidate, once they narrow it down to three would that be the only record that is public?

Representative Becker: Everyone is protected with closed records until the final 3 at that point in time they have 2 weeks to withdraw if they choose.

Rep. Mock: With any of these positions at least the final three would be subject to open to open records?

Representative Becker: That is the intent. This was meant to hurry the process along knowing we can't keep closed records forever.

Rep Ben Koppelman: Is this geared so the current employer of the applicant isn't aware they are applying for another job?

Representative Becker: It could be. There could be various reasons for them wanting closed records.

Rep Ben Koppelman: Example of hiring a superintendent at school board level coming from one public institution to another, (22:00)-(23:52) What do you think about that?

Representative Becker: I can understand it, the thing that I have heard from people is sometimes the stigma of being hired in North Dakota, is not where we would like it to be, I can understand why prestigious candidates don't necessarily want to be identified. If they have a bit of protection might help. All I trying to do is promote getting the best qualified applicants that we can and encourage them to apply.

Rep. Olson: Who is it that is telling you this is a problem and that this is the solution?

Representative Becker: Numerous school board people in the past 10 years, and people in my district, search committees, and athletic boards.

Chairman Nathe: Any other support HB 1402? None. Any opposition of HB 1402?

Jack McDonald: Lobbyist for Newspaper Association (29:10-37:32) This cuts out the public from the process until the very end and it at the last two weeks the records might be opened, or they might not if there is not 3 applicants. Open record law was enacted in 1958. Open records has not stopped many very excellent candidates, gave examples of such. People naturally want to advance in their jobs but that is not a reason to have closed records. You are creating a huge body of closed records. What does this do actually? Read through the sections of HB 1393. The last section the board or a board search committee or board of school district may meet in executive sessions. There is 180 school districts and this law will give them another reason to have executive sessions. This is a bill that is not needed. It also protects the head hunters who are paid to find coaches and etc. I don't think it is time for a change. We ask for a do not pass.

Rep. Mock: There was a similar bill years ago that would have narrowed the open records and made exempt for presidential applicants for Higher Ed until the field was cut in half. It did fail. But I am curious any thought that we could exempt a few records oin the beginning of the process of hiring?

Jack McDonald: No I don't think we should. Where do you draw the line? The bill says 3 or fewer, well there may not be 3 or fewer. If you get 50 applicants there is always different stages in the applicant process. We oppose the bill.

Annette Bendish: Legal Counsel for NDSBA In opposition to HB 1402 (40: 41 -no Superintendents have not asked for this bill. We do not think this is an issue. We ask for a do not pass.

Chairman Nathe: Any opposition to HB 1402? None. Closed the hearing on HB 1402.

2015 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Pioneer Room, State Capitol

HB 1402
1/28/2015
22766

- Subcommittee
 Conference Committee

Committee Clerk Signature

Donna Whetham

Explanation or reason for introduction of bill/resolution:

Relating to exempting information regarding individuals applying for certain North Dakota university system and school district positions.

Attachment #

Minutes:

Chairman Nathe: reopened the hearing on HB 1402.

Rep Meier: Moved Do Not Pass.

Vice Chairman Schatz: seconded .

Chairman Nathe: Any discussion? Seeing none.

A Roll Call Vote was taken. Yes: 12 No: 0 Absent: 1.

Rep. Olson: will carry the bill.

Date: 1/28/15
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1402**

House Education Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep Meier Seconded By Rep Schatz

Representatives	Yes	No	Representatives	Yes	No
Chairman Nathe	✓		Rep. Hunsakor	✓	
Vice Chairman Schatz	✓		Rep. Kelsh	✓	
Rep. Dennis Johnson	✓		Rep. Mock	A	
Rep. B. Koppelman	✓				
Rep. Looyesen	✓				
Rep. Meier	✓				
Rep. Olson	✓				
Rep. Rohr	✓				
Rep. Schreiber Beck	✓				
Rep. Zubke	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep Olson

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

REPORT OF STANDING COMMITTEE

HB 1402: Education Committee (Rep. Nathe, Chairman) recommends DO NOT PASS
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1402 was placed on the
Eleventh order on the calendar.