

2015 HOUSE POLITICAL SUBDIVISIONS

HB 1442

2015 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

HB 1442
2/19/2015
24142

- ☐ Subcommittee
☐ Conference Committee

Amanda Muecha

Explanation or reason for introduction of bill/resolution:

Relating to the introduction of bills by executive branch agencies and the judicial branch.

Minutes:

Testimony 1 and 2

Chairman Klemin: Opened hearing in HB 1442.

Representative Toman: This bill requires executive agencies branches to get a legislative sponsor for legislation. Subsection provides for interim or study committees to request that an agency submits a bill.

Representative Maragos: A lot of legislators already can't handle the load of bills they sponsor. From that standpoint is this really necessary? Have you identified a problem that would make you want this policy?

Representative Toman: I am not familiar with that issue due to the fact I don't set any records with submitting bills. We are the elected body to make the laws so maybe we should do this. I am not aware of any problems.

Chairman Klemin: What three sections of law is this referencing on line 8 and 9?

Representative Beadle: They are 54, 44.1-06 is preparation of budget data, 44.1-6.1 is capital construction bill, and 7 is presentation of budget data.

Chairman Klemin: Why did you select those ones and not others?

Representative Toman: I didn't want it to affect the budgeting process, because I don't know that I would want my name on the budget. I may not know enough about that agencies budget to speak to it. That is what subsection 1 is about.

Representative Koppelman: Most people would read this and say 'well of course, who else would propose legislation besides legislation?'. How many other states allow what we allow here?

Representative Toman: I don't have an exact number on that.

Representative Koppelman: Do you know the history of this, or how long this has been allowed here in ND?

Representative Toman: I am not sure. I know that we used to do it this way and I am not sure when it was changed.

Chairman Klemin: I am not sure when it changed but I do know that it used to be that executive agencies at a point were not allowed to introduce bills. When we started to allow them we had prefilling deadlines and requirements for prefilling bills. The only profiling deadline is the judicial branch which has to have its budget within 7 days of adjournment of the organizational session. Under this I don't see we would have anymore profiling requirements anymore other than as stated here. All these bills would come in when the session started rather than in advance. Is that the intent?

Representative Toman: I think subsection 3 would cover that: where the interim committee or standing committee could prefile the bill at the request. It doesn't exactly say that but it was my intent that they would be able to do that.

Chairman Klemin: Let's say the political subdivisions committee is a standing committee. We don't start meeting until the session starts. How would the standing committee be able to request a bill to be introduced?

Representative Toman: There are maybe some issues to be handled there because the interim committees would be the only ones that would be able to prefile because they are the ones that are meeting.

Representative Beadle: Some of our earlier bills were introduced by the political subdivisions committee at the request of the Adjutant General, introduced by Legislative Management at the request of... By looking at that isn't the legislative branch the one introducing the bills?

Representative Toman: If this bill were to pass I don't see that that would change because we obviously didn't have that bill before our committee but Legislative Management submitted it on our behalf.

Chairman Klemin: Legislative Management probable doesn't get a request either. The Political Subdivisions committee didn't introduce any of those or request the introduction of those bills. It is sort of a way of titling it I think.

Charles Stallone: I am providing an informative document (testimony 1) from Brenda Erikson. She has been with the National Council for state legislators for 39 years and she has done a lot on state legislators that are part time versus full time. To answer Representative Koppelman and Chairman Klemin's question about how many that do process it this way is three. I support this because when I first started coming to the legislature I realized that our legislators are ill-equipped to handle the oncoming of bills. I go from one committee to the other dealing with different issues. These agencies come in and shove bills at you that deal with a variety of things and there is no way that part time

legislators can decipher all of this. I had a legislator once tell me 'I don't understand this so I am just going to go with committee recommendation'. I always carry the ND Constitution with me and if I were you I would do the same. This essentially separates the executive branch from the legislative branch and responsibilities of the legislative branch have been diminished in the past years. The legislative branch is a stamp yes. The governor does the budget and we go along with it. I had a representative tell me: "Well we have to go along with the governor's budget because otherwise we will spend more money." If you read in the Constitution the responsibilities of the legislature are as follows: to make the laws, to make the budgets, and to make these decisions and if that means legislators need full time staffs that is what we need to do. We need to get the separation back in place so the legislature is responsible for the budget. I have many legislators tell me we are spending 2 billion dollars more in this session than we did the last. I am handing this next document out as a warning about what is going on with the price of oil (testimony 2). We all know the issues and there is a problem with too much money. We have so many special interests in ND that are writing these laws behind closed doors by the association's folks. They are writing the laws and needs that they want and get every session. For some reason we have no checks and balances as to how our money is being spent. We have a half a million dollars being spent on common core. Common core has been in ND for four years and the legislature wasn't even aware of it. That is how out of tune we are as far as what is going on behind the scenes in our state. I strongly support this bill and I think it is important that we have more dialogue with people who are want to meet with the legislature. They should be discussing the needs throughout the year with you so you have an understanding before we come into these meetings and vote on them. We don't want legislatures that will vote based on a committee's recommendation.

Representative Anderson: What is the purpose of the committees if we shouldn't rely on their recommendations?

Charles Stallone: Their purpose is to decipher the issues and not to be strong willed by special interest. They shouldn't take major issues and put them in a three day period. I got called from 9 farmers last night because Friday a bill was introduced to allow corporate farming for cattle, dairy, and pigs. They just got notified and are upset. They were able to testify yesterday and know it will be against them. Citizens come and testify but don't believe they are being heard or represented because special interests have taken over. That bill violates the equal protection clause by the way.

Representative Zubke: Are you saying the corporate farming bill came from an agency?

Charles Stallone: Yes it came through the Ag commission. It was sponsored though. It appeared Friday, discussed yesterday, and it will be voted on Friday. That is only a week and farmers that work had not warning or knowledge of it.

Representative Zubke: Did it get here through a hog house amendment?

Charles Stallone: I am not that familiar. I just got calls from upset farmers.

Representative Zubke: I realize that not everyone can be pleased.

Charles Stallone: Right. I am just talking about the time period. We had no notice and they are major issues. We are rushing these things.

Andrea Toman: I got the chance to speak with Brenda and got a copy of the document you received. From my conversation with her the first part relates to the prefilling of bills and the reasons for and against allowing agencies to prefile bills, and the last section is about the ability of agencies to move pass that point to essentially introduce them: it speaks of just legislatures introducing bills and the reasons why only legislature should be allowed to do that, and the last part is why legislatures and legislative council/management offices within the legislative branch should be able to introduce bills. Lastly she lists sometimes other things by permission of someone the governor can introduce bills, but she lists no reasons why that is a good idea. That is interesting because these agencies are not underneath the legislature the way legislative management and council is a part of the legislative branch. I wanted to make sure that was all clear as you looked at it.

Representative Koppelman: Is this from NCSL?

Andrea Toman: Yes

Representative Koppelman: So did a legislator research this?

Andrea Toman: She wrote that paper in 2000. I called her this week and wanted to know if they hand any information no states that did it this way and she her response was: Iowa and Oregon kind of. The agencies when they prefile, it is automatically introduced by a committee. It is defacto introduced. No legislator reads it in between the point where it is prefilled by the agency to where it is introduced on the floor. The house or senate leadership before they assign it might but no one else has that responsibility to say 'I introduce this bill as a legislator' which means we have no one to hold accountable.

Representative Koppelman: There are certain agencies and state wide elected officials that have ideas they want introduced in the legislature, but they make it a point to go to legislators and talk to them. I have found that refreshing. They don't have to do that but when they do a legislator's eyes are on it.

Liam Malberg: I want to relay the situation I was involved in. I went to a legislative forum and went to a senator about why he sponsored it. He had no idea what it was about. The secretary of state asked him if he had any room to sponsor one and that is the only conversation that went on. Hopefully this bill would change that.

Representative Beadle: If we take away the ability for agencies to profile bills. Would we see an increase in that?

Liam Malberg: I am trying to raise the conversation. Where is the responsibility? We are getting away and you have to get a lot of bills done in a slim amount of time. We need to figure out where the rules are. I am expecting you legislators to figure out a bill before it gets going.

Chairman Klemin: Closed the hearing on HB 1442

Chairman Klemin: Opened the discussion on HB 1442

Representative Koppelman: I would move a do pass.

Representative Hatlestad: Second

Representative Koppelman: When I first started I was curious as to how anyone but a legislator could introduce legislation. I asked a few questions and was told it was for expediency and you get bills going early with prefilling. I have good relationships with agencies that have asked me to introduce bills for them. Under our system they don't have to but they realize it will get farther with a legislator's name in it. I think this is a good idea. We are the legislative branch of government. In a practical sense it wouldn't change anything and separation of powers is a good thing. If an agency can't find a person to put their name in it then maybe it shouldn't be introduced. Everything we see now we would see then, it would just be through the process of legislators.

Representative Zubke: Wouldn't that create more of those situations instead of less that Mr. Malberg spoke on?

Representative Koppelman: I think it would theoretically. It is their privilege as a legislator and they can choose how to use it.

Representative Maragos: I will vote against this because we have an efficient system and in the end the responsibility lies with us. I don't see the need for this. Agencies would pester us even more. If a bill has merit it will succeed.

Representative Kelsh: Years ago they would meet for 60 days and they got some stuff done. When I first started we would have a lot of bills and still get done early. It's not the number of bills you have. It's the appropriations committees that are taking us up to the last days. We have a good process and I agree with Representative Maragos.

Chairman Klemin: I think the prefilling requirements are good to at least get those bills out so the public can see them instead of having to wait until the session starts.

Representative Beadle: That would be my concern. It might create a delay in the beginning of the session. I am wondering if on line 8 it looks like there is a drafting error.

Chairman Klemin: That is a typo and it will be fixed as the bill moves forward.

Representative Koppelman: We can prefile bills and many of us don't do that, but those are rule issues and can be changed. If this does pass we could change those rules in terms of how bills are submitted. This reminds of the story where you only do it because that is always how it has been done even if you don't know why anymore. It's just a habit we may need to rethink.

Representative Kretschmar: I do not know exactly when the procedure began but it was many sessions ago. The procedure is a procedure of the legislature and it seems to me that the sponsors of the bill couldn't do much better. The legislature can do it by themselves. We don't need a statute to do that or a directive from the government. I don't think we should go forward with this.

A Roll Call Vote Was Taken: Yes 4, No 9, Absent 1 (Strinden)

House Political Subdivisions Committee

HB 1442

2/19/2015

Page 6

Motion fails

Representative Maragos: I would move a do not pass

Representative Anderson: Second

A Roll Call Vote Was Taken: Yes 9, No 4, Absent 1 (Strinden)

Motion carries

Representative Maragos will carry the bill

15.0833.01001
Title.02000

Adopted by the Political Subdivisions
Committee

February 19, 2015

JS
2-19-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1442

Page 1, line 8, replace "54-44.-06.1" with "54-44.1-06.1"

Renumber accordingly

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1442

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 Hoppelman Seconded By Hatlestad

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		/
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) 4 No 9

Absent 1 (Strinden)

Floor Assignment _____

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

motion fails

Date: 2/19/2015
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1442

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 maragos Seconded By anderson

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	/	
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) 9 No 4

Absent 1 (Strinden)

Floor Assignment maragos

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

motion carries

REPORT OF STANDING COMMITTEE

HB 1442: Political Subdivisions Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1442 was placed on the Sixth order on the calendar.

Page 1, line 8, replace "54-44.-06.1" with "54-44.1-06.1"

Renumber accordingly

2015 TESTIMONY

HB 1442

HB 1442
2/19/2015
1.1

WHO MAY SPONSOR LEGISLATION?

By Brenda Erickson

The lawmaking process begins with an idea to create a new law or revise an existing statute. The idea may come from a legislator, legislative committee, court decision, state department or agency, political subdivision, individual citizen, business or special interest group, news media investigation or national organization. However, that person or group may not be allowed to initiate the formal legislative process.

This report investigates who has the authority to directly request legislation to be drafted and introduce a bill. It also looks at the rationales for various practices.

Requesting bill drafts. Every legislature allows its members to directly request legislation to be drafted by the body's drafting agency. But is anyone else permitted to do so? The answers to this question generally fall into four categories:

1. Legislators are the *only* ones permitted to ask for bill drafts.
2. A chamber allows bill draft requests from others within the legislature--that is, a standing or interim committee, a caucus, a legislative staff agency or an individual staff person.
3. A chamber lets bill draft requests come from individuals or groups that are outside the legislature--such as the governor, lieutenant governor, an executive branch agency, a state board or commission, a judicial branch court or agency, a local government entity, a lobbyist or any state resident.
4. A chamber may give special authority to individuals or groups to request bills. For example, in Alabama, a legislator, the governor or the lieutenant governor may grant this authority to any person. Any person acting on behalf of an Arkansas senator may ask for legislation to be prepared. In the Louisiana Senate, the governor, lieutenant governor, executive branch agency, state board or commission and judicial branch court or agency may ask for bill drafts only if they are given "blanket approval" by the floor leader.

Why do some legislatures choose to limit access to bill drafting while others have expanded it? Drafting a bill is a difficult and time-consuming task. By allowing *only* legislators to request bill drafts, legislative employees are able to adequately serve the duly elected representatives of the people. Opening this service to non-legislators places a additional demand on staff time. In addition, a limitation on who may request bill drafts:

- Provides a filtering process, ensuring uniformity in bill drafting and controlling the quantity and quality of legislation.
- Reduces legislative costs by avoiding unnecessary drafting.
- Identifies members as the primary clients of the bill drafting agency and keeps staff focused on their mission of *legislative* support, thereby maintaining staff allegiance and responsibility to legislators.
- Helps the drafting agency maintain required confidentiality.
- Requires one person to make the policy decisions inherent to the draft, resulting in a single set of instructions.
- Increases efficiency of organization, scheduling and tracking.
- Compels interests outside the legislature to work with a legislator, ensuring communication between the interested party and a member regarding the issue addressed in the bill.

However, some believe that there are benefits in allowing other individuals or groups to request bill drafts. Expanding the pool of bill requesters:

- Offers a broader base of thoughts and ideas.
- Allows creative ideas to move forward.
- Gives citizens a greater sense of participation in the legislative process.
- Promotes flexibility in the legislative institution.
- Alerts legislators and staff to issues that are of current public interest.
- Speeds the process because the drafter can get input from the original source of an idea.
- Produces the best product for the member when the most knowledgeable person provides information for the bill draft.
- Provides the drafting bureau an opportunity to examine an issue before it is presented to a legislator.
- Allows creation of a final document to show legislators when soliciting support.

Introducing bills. Generally, legislatures are stricter about who may introduce bills than who may request drafts. That is, legislative chambers are more likely to limit introduction authority to legislators or others from within the legislature.

Proponents of the practice allowing *only* legislators to introduce bills argue that it reinforces the principles of representative democracy and separation of powers. By constitution, lawmaking is solely the function of the legislature. Therefore, only those persons who have been elected to serve in the legislature should be able to initiate the formal process. Also, a strict limitation on who may sponsor legislation:

- Reduces the number of people inside the chamber.
- Reduces the bills entering the legislative process.
- Conserves legislative support resources.
- Increases efficiency of organization, scheduling and tracking.
- Gives a member "ownership" of, responsibility for and commitment to the legislation.
- Demonstrates that there is support for the proposal.
- Increases accountability to the electorate.
- Requires outside interests to work with legislators.

Chambers often permit other individuals or groups from within the legislature--especially committees--to introduce bills. Supporters of this practice argue that it:

- Reduces the bills entering the legislative process.
- Demonstrates that a proposal has support beyond a single individual.
- Strengthens the committee system.
- Illustrates that the consensus-building process has begun, because a measure introduced by a committee or caucus probably already reflects initial compromises.
- Increases efficiency.

Occasionally, chambers allow individuals outside the legislative arena--typically, the governor--to directly introduce legislation. More often, a legislator must be convinced to sponsor the bill "by request of" or "on behalf of" the person or group. However, in Massachusetts, any state resident may be a bill author.

Contact for More Information

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Oil's Decline Keeps Looking Like the Better Bet: A Gary Shilling

Wednesday, 18 Feb 2015 11:45 AM

By A Gary Shilling



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At about \$50 a barrel, crude oil prices are down by more than half from their June 2014 peak of \$107. They may fall more, perhaps even as low as \$10 to \$20.

Here's why.

U.S. economic growth has averaged 2.3 percent a year since the recovery started in mid-2009. That's about half the rate you might expect in a rebound from the deepest recession since the 1930s.

Meanwhile, growth in China is slowing, is minimal in the eurozone and is negative in Japan. Throw in the large increase in U.S. vehicle gas mileage and other conservation measures and it's clear why global oil demand is weak and might even decline.

Oil Prices

At the same time, output is climbing, thanks in large part to increased U.S. production from hydraulic fracking and horizontal drilling. U.S. output rose by 15 percent in the 12 months through November from a year earlier, based on the latest data, while imports declined 4 percent.

Special: 70% of Seniors Make This \$152K Social Security Mistake

Something else figures in the mix: The eroding power of the OPEC cartel. Like all cartels, the Organization of Petroleum Exporting Countries is designed to ensure stable and above-market crude prices. But those high prices encourage cheating, as cartel members exceed their quotas. For the cartel to function, its leader — in this case, Saudi Arabia — must accommodate the cheaters by cutting its own output to keep prices from falling. But the Saudis have seen their past cutbacks result in market-share losses.

So the Saudis, backed by other Persian Gulf oil producers with sizable financial resources — Kuwait, Qatar and the United Arab Emirates — embarked on a game of chicken with the cheaters. On Nov. 27, OPEC said that it wouldn't cut output, sending oil prices off a cliff.

The Saudis figure they can withstand low prices for longer than their financially weaker competitors, who will have to cut

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production first as pumping becomes uneconomical.

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What is the price at which major producers chicken out and slash output? Whatever that price is, it is much lower than the \$125 a barrel Venezuela needs to support its mismanaged economy. The same goes for Ecuador, Algeria, Nigeria, Iraq, Iran and Angola.

Saudi Arabia requires a price of more than \$90 to fund its budget. But it has \$726 billion in foreign currency reserves and is betting it can survive for two years with prices of less than \$40 a barrel.

Furthermore, the price when producers chicken out isn't necessarily the average cost of production, which for 80 percent of new U.S. shale oil production this year will be \$50 to \$69 a barrel, according to Daniel Yergin of energy consultant IHS Cambridge Energy Research Associates. Instead, the chicken-out point is the marginal cost of production, or the additional costs after the wells are drilled and the pipes are laid.

Another way to think of it: It's the price at which cash flow for an additional barrel falls to zero.

Special: Scientist Warns of 30-Year Freeze, Economic Disaster

Last month, Wood Mackenzie, an energy research organization, found that of 2,222 oil fields surveyed worldwide, only 1.6 percent would have negative cash flow at \$40 a barrel. That suggests there won't be a lot of chickening out at \$40. Keep in mind that the marginal cost for efficient U.S. shale-oil producers is about \$10 to \$20 a barrel in the Permian Basin in Texas and about the same for oil produced in the Persian Gulf.

Also consider the conundrum financially troubled countries such as Russia and Venezuela find themselves in: They desperately need the revenue from oil exports to service foreign debts and fund imports.

Yet, the lower the price, the more oil they need to produce and export to earn the same number of dollars, the currency used to price and trade oil.

With new discoveries, stability in parts of the Middle East and increasing drilling efficiency, global oil output will no doubt rise in the next several years, adding to pressure on prices.

U.S. crude oil production is forecast to rise by 300,000 barrels a day during the next year from 9.1 million now.

Sure, the drilling rig count is falling, but it's the inefficient rigs that are being idled, not the horizontal rigs that are the backbone of the fracking industry. Consider also Iraq's recent deal with the Kurds, meaning that another 550,000 barrels a day will enter the market.

While supply climbs, demand is weakening. OPEC forecasts demand for its oil at a 14-year low of 28.2 million barrels a day in 2017, 600,000 less than its forecast a year ago and down from current output of 30.7 million. It also cut its 2015 demand forecast to a 12-

year low of 29.12 million barrels.

2.3

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Meanwhile, the International Energy Agency reduced its 2015 global demand forecast for the fourth time in 12 months by 230,000 barrels a day to 93.3 million and sees supply exceeding demand this year by 400,000 barrels a day.

Although the 40 percent decline in U.S. gasoline prices since April 2014 has led consumers to buy more gas-guzzling SUVs and pick-up trucks, consumers during the past few years have bought the most efficient blend of cars and trucks ever.

At the same time, slowing growth in China and the shift away from energy-intensive manufactured exports and infrastructure to consumer services is depressing oil demand. China accounted for two-thirds of the growth in demand for oil in the past decade.

So look for more big declines in crude oil and related energy prices.

To contact the author on this story: A Gary Shilling at insight@agaryshilling.com

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