

2015 HOUSE JUDICIARY

HCR 3050

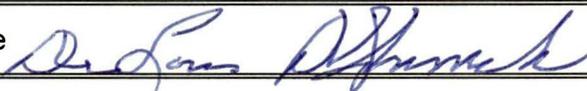
2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HCR 3050
3/9/2015
24495

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to precluding corporations from claiming the rights of natural persons and exerting influence on elections or legislation.

Minutes:

Chairman K. Koppelman: Opened the hearing with testimony in support.

Rep. B. Hanson: Introduced the bill and in favor of the bill. This HCR would ban corporations from possessing the rights of a natural person so they may not attempt to influence elections or legislation. This resolution came about because due to a Supreme Court decision Citizen's United in which corporation entities were given the right of speech by campaign money. Since then we have seen a large increase being spent on campaigns around the country. We have gone from about \$3 billion total being spent in the 2000 election to \$6 billion spent in 2012. In our state not so much an influx of money into North Dakota or an influx of corporate influences. The case of the first battle of corporate contributions came from Montana during the early 1900s when the iron mining industry had taken over the state. There was a fellow by the name of William Andrews Clark who owned the Anaconda Copper Mining that essentially bought the US Senate seat. Eventually the state legislature there granted the parliament laws to the people and then voting in first ban in 1912 of corporate contributions. Here we have those banned as well. I would like to see us take this to the voters and they would concur with us that we don't need that kind of influence here. I have been upset about really dangerous president that the Supreme Court has put in overruling Montana's corporate contribution laws. They upheld a decision in 2012 to override for themselves and now allow Montana to have to have control over elections in their own state. They thought that was their privy in a 5-4 decision and I don't think that is right and I think we would like to make sure that our state is staying above the influence as well as we have a history of doing.

Rep. D. Larson: This session we have heard a lot about changing the work individual to person. I wonder if you should have individual.

Rep. Hanson: I did not know that. I have been noticing in the bills so I would like it changed to reflect the right thing. That is the intent so I would appreciate that.

Vice Chairman Karls: Did we have a similar bill on this before?

Rep. Hanson: Yes I voted for it on the floor.

Rep. K. Hawken: There was a documentary on this same thing and how it is affecting the future of democracy in our country and we are now buying our elections and I find it terrifying.

Rep. G. Paur: Should it also be a corporation or union?

Rep. Hanson: I understand the way unions are legally classified in the state this would already apply to them. If not I would certainly be in favor of adding that.

Rep. G. Paur: Unions can't influence legislation?

Rep. Hanson: Like corporations can they can hire lobbyist under this and that is currently legal too so it wouldn't be banning that.

Rep. L. Klemin: What does this do since clearly we superseded the law?

Rep. Hanson: I concur that states should still be allowed to run their own elections and even Citizen United should not be allowed to dictate to individual states. I think that is a violation of their jurisdiction and I feel that the ND legislature have precedent to try and challenge that we feel is not the correct decisions made by the federal court system.

Rep. L. Klemin: The first sentence of this resolution; have you considered this may affect the other rights that corporation's entity might have?

Rep. Hanson: The intent of this bill isn't to take any rights and advantages away when becoming a corporation or LLC or others. As I see the way this it written it would not affect any of those aspects that you mentioned that aren't specifically mentioned in lines 14-19?

Chairman K. Koppelman: He is probably referring to the end line 15 where it says and does not possess the rights of a natural person. You are stripping that away or are you just after the right to free speech?

Rep. Hanson: I was trying to make sure an individual could influence an election.

Chairman K. Koppelman: Do you think the rest modifies it enough to prohibiting their right to free speech?

Rep. Hanson: Just because we are saying that doesn't have the rights of a natural person, that doesn't mean that it doesn't have rights. Corporations have rights. I don't see how it could affect them?

Vice Chairman Karls: Have any other states taken this action?

Rep. Hanson: I am not aware of that.

Rep. D. Larson: Are you a member of ARP? I am not sure what this is intended to do?

Rep. Hanson: Of course. No it absolutely would not. Those are political action committees and are given separate legal designations that are regulated differently so they are viewed to be allowed to give to candidates and multiple candidate committees. That has always been the case for Citizen's United. This isn't to take any of that. This is simply insuring that was a fine system.

Rep. K. Hawken: In the drafting of this was one of the underlying concepts that corporate piece that came out of Citizen's United there are no regulations that go along with that and no reporting; there is no acknowledgement of who says what?

Rep. Hanson: It ties back to Rep. Larson's question. Under the previous system those political action committees were under specific sunshine laws that this expansion and corporate spending capacity or union spending capacity are not subject to enhance a pack without anybody being able to look at whose is funding your elections to create your laws that you live under. That is very scary.

Rep. Mary Johnson: You indicated that from the year 2000 to 2012 corporation donations to campaigns have increased by \$3 billion.

Rep. Hanson: If I did say that it is incorrect. I meant total spending. It increased from a little over \$3 billion to a little over \$6 billion. I gave that example because part of what I fear is happening now; we have already lost a generation because federally right now they are constantly embroiled in a money chase. By expanding the ability for legal corporate, union and otherwise entities to be given directly you have set yourself up with congressmen who spent a 30 hour work week on the phone hunting for cash versus maybe 15 hours in a legislative body so to your question?

Rep. Mary Johnson: You are saying the \$3 billion increase was to campaign contributions for corporations?

Rep. Hanson: No. I meant money raised and spent. I did not specify whether it was corporate or not. I know the corporate influx has increased by quite a bit. I think corporate dollars are a large part of that.

Rep. Mary Johnson: We all know that federally they have fund raisings and staffs so I wouldn't suggest that any of our representatives in congress are spending any greater time or less time policy making. When I see things like this I am always looking for the problems that caused this resolution? Who is unduly influenced in Citizen's United and can you name them and how they have been unduly influenced?

Rep. Hanson: It would be impossible for me to tell you who has been influenced directly by their contributions. I simply agree with Justice Steven Brier in the Montana case experience cast great doubt on the courts supposition that independent expenditures do not corrupt or appear to do so. I agree with that legal opinion that you can't know.

Influence isn't a stat. Just because you can't prove it doesn't mean it isn't happening. My reason behind this bill is it is taking away a precedent that we have that we need to have in policy making to keep it going.

Rep. Mary Johnson: We need this in our state? Somebody on that floor is unduly influenced by what they receive?

Rep. Hanson: No. I will give an example. We are talking about Article 12. There are six sections currently remaining. There are a lot of them that have been repealed. So technically Section 16, even though it reads section 6 is about any combination between individuals, corporations, associations either having for its object or the effect; either having for its object the effect controlling the price of an product, of the soil or any article manufacture of commerce or basically I am basically saying price fixing. That is in the ND Constitution. I don't believe anybody who put that there stated that Bob down the street is price fixing therefore we need this. Essentially if you are asking if it is a got you game; it is not. I haven't implied or written anywhere about any group, entity, political party, pack or individual being reflected by this. I just want to insure that our elections are not influenced by outside people.

Rep. Mary Johnson: What is the reason for just including for profits? Why for not for profits?

Rep. Hanson: I would be fine adding it to it.

Rep. Mary Johnson: It says for corporations or other for profit institutions?

Rep. K. Hawken: Nonprofit laws would not allow them to do this. You cannot give that kind of money and maintain your status.

Rep. Mary Johnson: We are trying to avoid undue influence sometime in the future.

Rep. Hanson: If that is the case then I think those laws of a governing nonprofit would be unaffected if we added this to it so I would be fine adding it to it as it is already in existence.

Rep. K. Wallman: Someone brought up the supremacy clause that maybe we should just forgo this resolution because it comes up against Supreme Court law. I have never known the ND legislature to ever let that be an issue when it comes to passing a law. There is a precedent of this body to pass laws that bump up against the supremacy clause. Do you have any concerns about that?

Rep. Hanson: I thought I had answered that. This body has had a precedent for challenging federal laws that we do not deem to be correct and I think this would fall under that situation.

Rep. Marvin Nelson: In support of this bill. Corporations now have additional rights it gets to be a question of when we as a legislature allow something are we allowing just that or do we actually open the door to something much broader? That has been part of our corporate farming debate that is taking place this session too. Can we actually limit it the

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way were trying to limit it in that legislation. We as a state can limit corporations and therefore I would stand in support of this and any questions.

Opposition: None

Neutral: None

Hearing closed.

2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
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24660

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Committee Clerk Signature



Minutes:

Handout #1

Chairman K. Koppelman: Reopened the meeting on HCR 3050.

Do Not Pass Motion made by Rep. Mary Johnson: Seconded by Rep. Brabandt:

Rep. Mary Johnson: I think this is a completely unworkable resolution. I cannot as a single member of an LLC come in to testify to influence legislation. This bill not only carves away the most protected right, political speech, it also carves away and dampens the right the associate which is also guaranteed by the constitution. I don't know who would be the speech police in the committee. I come to testify as a single member of a single member LLC; do I as a chairman have to ask everyone who is to testify. We pride ourselves in the unfettered excess to our processes here. You might say this doesn't regard that. I just gave you a perfect example of an entity granted existence by the state of ND and now I cannot testify.

Rep. L. Klein: This resolution has some of the same issues in it that another resolution had on relating to corporations not having rights of a natural person in which we all agree they do have a lot of those same rights like right to be free from warrantless searches and your property can't be taken without just compensation etc. Now the sponsors of this said that first sentence of the resolution is modified by the second sentence, but that is not the way constitution works. Everything has to stand on its own and the court would say if the legislature or the people had intended that corporation would have some rights of a natural person then they would have said so. Well it says the corporation doesn't have any of those rights so regardless of the campaign financing issues that this is meant to address it does a lot more than that. That is my reason I can't support it.

Rep. K. Hawken: I feel they didn't state it correctly. I don't think they got to what they were trying to get to which was unfettered ability to provide money for campaigns or influence without having to report it so this did not address that. I don't think it was ever a plan to prevent people from testifying.

Rep. P. Anderson: I agree with Rep. Hawken.

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Roll call vote: 13 Yes 0 No 0 Absent Carrier: Rep. Mary Johnson:

(Handout #1-handed out later)

Date: 3-11-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HR 3050

House JUDICIARY 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 Rep. M. Johnson Seconded By Rep. Brabant

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	✓		Rep. Pamela Anderson	✓	
Vice Chairman Karls	✓		Rep. Delmore	✓	
Rep. Brabant	✓		Rep. K. Wallman	✓	
Rep. Hawken	✓				
Rep. Mary Johnson	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. D. Larson	✓				
Rep. Maragos	✓				
Rep. Paur	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Johnson

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

REPORT OF STANDING COMMITTEE

HCR 3050: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends DO NOT PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3050 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

HCR 3050

Hawken, Kathy K.

#1
HCR3050

3-11-15

From: Luke Ouradnik <ouradnlu@hotmail.com>
Sent: Monday, March 09, 2015 8:55 AM
To: Hawken, Kathy K.
Subject: Our state can rein in corporate election spending

Our state can and should use the model created by Maryland State Senator Jamie Raskin to rein in spending on all elections by corporations based here. Part 3 of the "Shareholders United" Act is the key.

1. Corporations cannot spend any resources on political campaigns and candidates without showing that there has been a prior majority vote of shareholders authorizing political spending by management and expressing the partisan political preferences of the shareholders.
2. Any corporate political expenditures or contributions must be posted on the company website within 48 hours.
3. If a majority of a company's shares are owned by large institutional investors that cannot take political positions -- like state and local pension funds, mutual funds, insurance companies, foundations, churches, and universities -- then the corporation cannot make political expenditures or contributions.
4. Shareholders have the right to request a pro rata rebate for that portion of their investments spent by the corporation on any political expenditures and contributions they disagree with.

Please work to pass the "Shareholders United" Act in our state.

Luke Ouradnik
1209 University Dr S
Fargo, ND 58103