

2015 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2277

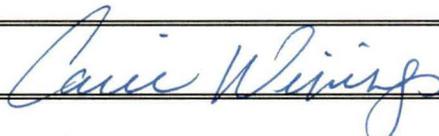
2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2277
2/12/2015
Job # 23708

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 54-55-01 of the North Dakota Century Code, relating to membership on the commission on uniform state laws.

Minutes:

Attachments 1

Chairman Dever: Opened the hearing on SB 2277.

Senator Armstrong, District 36: Testified as sponsor and in support of the bill. This allows for permissive language for the Attorney General to appoint someone to the uniform law commission. A lot of the uniform laws that we deal with impact the Attorney General's office most of the time. In speaking with the Attorney General they requested the language to read permissive because they want someone in their office that has an appetite for doing this. They do not want to be compelled to be on it.

Senator Cook: I have been to one of their meetings and they meet in some real nice places, is that why we have this?

Senator Armstrong: I am sure others can answer that.

Senator Flakoll: It looks like it would not have to be a resident of the state of North Dakota. While that may be something that would be taken care of by appointment, should we put that in here?

Senator Armstrong: I think they were excluded for the other reasons. I hope you don't have to make an amendment on this bill for that reason. I will look at that.

Chairman Dever: Do you know how many from North Dakota are members?

Senator Armstrong: I do not. (Lists members he knows are on the commission)

Chairman Dever: The commission, as I understand, consists of representatives from every state. Do they limit the number that can come from each state?

Senator Armstrong: I cannot answer that but others can. The nice thing about the uniform law commission is that if you get some standardization across the states without involving the federal government, which is always a good thing.

(4:50) Gail Hagerty, North Dakota Uniform Law Commissioners: See Attachment #1 for testimony in support of the bill.

(8:15) Chairman Dever: Does each commissioner vote at that or each delegation?

Gail Hagerty: It depends. Each state is free to set up its own delegation as it sees fit and there is no limit on the number of people who can come from each state. Each uniform act has to be read out loud line by line at two different annual meetings before it can be proposed as a uniform act. As we do that, we have a committee of about 200 people making amendments, comments, suggestions and when there are votes on those matters, everyone gets to vote. Before an act becomes a uniform act there is a vote by the states where each state has one vote.

Chairman Dever: Then once it is adopted the legislature has a vote.

Gail Hagerty: Exactly. After something is adopted as a uniform act, then the commissioners come back and we try to focus on a few acts each session to bring to you.

Chairman Dever: Do we have latitude to make changes to that?

Gail Hagerty: You do have latitude to make changes. In some cases that might be problematic with regard to the way the laws work between the states. In other cases, like with human trafficking act, we are trying to allow states the option to tailor it to their specific needs. (Gives examples) I think it depends on the act and the type of changes.

Senator Cook: Have you had people give testimony that is not a member of the commission?

Gail Hagerty: Absolutely. Every single drafting process has a huge group of observers of people that are impacted by the act. As the drafting process goes on there are many in the room that testify. It is a very open process. We also have public hearings where we invite people to come in and weigh in just to make a determination on whether or not there is a need for a uniform act.

Senator Cook: Have you ever seen a state legislator there?

Gail Hagerty: Yes we have some that are members and we have some that come in as observers and work with drafting committees.

Senator Cook: There was time that three of us went there to testify on behalf of NCSL on a tax issue and I swear they did not know how to handle us. I do not think they had ever had a legislator come there before.

Gail Hagerty: It might have been the point of the process where you were there.

Senator Cook: We were at the point where they did take us. There were others there as well but they finally agreed that they would let the three of us talk and no more.

Gail Hagerty: I am not sure if you were at a drafting committee meeting or before the whole body.

Senator Cook: We were in a committee meeting.

Senator Nelson: Who is the new citizen member?

Gail Hagerty: the Governor appoints a practicing attorney and he appointed Jake Rodenbiker who is a State's Attorney in Watford City.

Chairman Dever: Do other states generally have their Attorney General or an appointee?

Gail Hagerty: Several do. It is up to each state how they proceed. I think that there is one state that it is the Attorney General but there are several others that have an appointee.

Senator Flakoll: Who pays for your trip? In this case, would it be the Attorney General's office? Do we pay in national dues? Who covers the costs?

Gail Hagerty: There is a budget for the Uniform Law Commission. The commissioners that attend the annual meeting, their expenses are paid through that budget. I am on several drafting committees and a division chair for the commission so they pay for my travel and my expenses for meetings other than that annual meeting.

Chairman Dever: Our justice system is set up as an adversarial system, so do all these attorneys agree?

Gail Hagerty: You would not believe some of the level of some of the arguments. It has been an amazing process to watch, I can tell you for sure there is not agreement on everything.

(15:43) Tom Trenbeath, Chief Deputy, Attorney General's Office: Testified in support of the bill. We are generally in support of the bill. Both the Attorney General and I are past commissioners of this organization. It is certainly up to the legislature. We will do what you folks ask us to do and give us the money to do. We have both had good experiences. For the most part, the venue does not make a difference. It is the activity that is engaged in. It would be a pleasure to serve the commission for the state of North Dakota.

(17:56)Chairman Dever: This seems to make so much sense that I wonder why it was previously overlooked.

Tom Trenbeath: There are about 300 of the finest attorneys in the country there and it is a pleasure to listen to those people address the different facets of the different proposals.

Chairman Dever: Closed the hearing on SB 2277.

Senator Flakoll: Moved a Do Pass.

Senator Nelson: Seconded.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 1 absent.

Motion Carried.

Senator Nelson will carry the bill.

Date: 2/12
 Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2277**

Senate Government and Veterans Affairs 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 Flakoll Seconded By Nelson

| Senators | Yes | No | Senators | Yes | No |
|-----------------------|-----|----|--------------------|-----|----|
| Chairman Dever | ✓ | | Senator Marcellais | Ab | |
| Vice Chairman Poolman | ✓ | | Senator Nelson | ✓ | |
| Senator Cook | ✓ | | | | |
| Senator Davison | ✓ | | | | |
| Senator Flakoll | ✓ | | | | |
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Total (Yes) 6 No 0

Absent 1

Floor Assignment Nelson

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

REPORT OF STANDING COMMITTEE

SB 2277: Government and Veterans Affairs Committee (Sen. Dever, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
SB 2277 was placed on the Eleventh order on the calendar.

2015 HOUSE JUDICIARY

SB 2277

2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2277
3/23/2015
25300

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to membership on the commission on uniform state laws.

Minutes:

Chairman K. Koppelman: Opened the hearing on SB 2277.

Senator Armstrong: Judge Hagerty asked me to sponsor this bill. It is language to allow the attorney general to appoint himself or a representative to the Uniform Law Commission. Every session we deal with uniform laws and they often involve civil or criminal remedies in which the Attorney General's office would be involve in. It is a good avenue for states to get on the same page with regard to some of these things like human trafficking because it moves around from state to state.

Vice Chairman Karls: I noticed almost everyone on the commission is an attorney? Is that a requirement?

Senator Armstrong: I think the answer is yes.

Chairman K. Koppelman: Is the makeup of the membership of each state has to be the same? How does that work?

Senator Armstrong: I am assuming Judge Hagerty would not do something to us that would make that happen?

Rep. Kretschmar: The ND Commission is set forth in the statute. It is broadly based. One thing I worry about is our appropriations?

Rep. L. Klemin: Every state is different. Many states the Governor appoints everybody. It is up to the individual state determines how that is to be done. You have to be a licensed attorney to be on the board. That would apply nationwide.

Chairman K. Koppelman: Is there a limit of number from each state?

Rep. L. Klemin: Each state gets one member vote regardless of the number of commissioners from that state. The number of commissioners a state wants to send is determined by their own budget for that purpose. We have an appropriation.

Rep. K. Wallman: Line 16 what is the purpose of this statement that they have to be a resident of the state?

Senator Armstrong: We put that there because of their term of service. Otherwise I don't know.

Rep. Lois Delmore: Did the Attorney General request to be able to appoint a member and does the rule him out as being a member?

Senator Armstrong: Yes he requested that we don't come in here and make him go. It would not preclude him.

Rep. L. Klemin: There are some states where the attorney general is on this.

Tom Trenbeath, Ass't Attorney General: We like the bill and we think it makes sense to have someone from the attorney general's office. This bill has a lot of merit. (Mike not on)

Rep. Lois Delmore: Would you see somebody going to every single one of them or not?

Tom Trenbeath: I can see them going to every one of the meetings. (Mike not on)

Rep. L. Klemin: Before a uniform law is being proposed; there is first a study committee made up of commissioners who study it and they make a recommendation to officers on the uniform office committee and then a drafting committee actually meets and drafts that uniform law which is then presented at the annual meeting. Discussed my meeting this weekend regarding wage garnishment act that the commission is working on. So a person from the Attorney General's office may want to apply to be on a drafting committee. No one is required to be on a drafting committee.

Rep. Lois Delmore: Are the states limited to how many lawyers they can send to the Uniform Law Commission meetings?

Rep. L. Klemin: About 20% of the lawyers are legislators and the rest are judges, law professors, private practice attorneys that are appointed by their governor and have a great deal of legal expertise in some of these subjects and nationally known experts on the subjects.

Rep. Maragos: Under the exception maybe he could appoint someone who is not a resident of the state?

Tom Trenbeath: That is true. (Mike not on)

Chairman K. Koppelman: In the context you describe Mr. Trenbeath is trying to do things as states where the federal government argument ally have authority to intervene because

it involves interstate commerce and that sort of thing. Often we have gone the route of interstate packs to deal with those issues. Those require the permission of Congress. How can uniform state laws do that?

Tom Trenbeath: Officially if it is an area in which the federal government can intercede there is nothing stopping it from interceding just because there is a uniform law out there. The acceptance by a majority of states of a particular method of dealing with a situation throw that pitch that encourages the federal government to stay out of that area.

Opposition: None

Neutral: None

Hearing closed.

Do Pass Motion Made by Rep. D. Larson: Seconded by Rep. K. Hawken:

Discussion:

Rep. Kretschmar: During committee testimony Rep. Maragos on line 16 the member appointed by the Attorney General doesn't have to be a resident of this state, but the statute and intend of putting that in there was that each member of the commission would be required to be a resident of ND.

Rep. L. Klemin: On that part you have to read the rest of that too. Except for the members appointed by the Attorney General members must be appointed by the Governor. That would be further exception to that thing.

Chairman K. Koppelman: You could argue if that is good policy or should that whole section be rewritten for clarity? Would it make more sense to have that statement as a stand-alone statement?

Rep. Kretschmar: When we passed the bill to require commissioners to be residents of ND that was the legislators intent. We did have a commissioner live out of state for a long time.

Chairman K. Koppelman: If we were to take that section on lines 17 & 18 and move it o

Rep. D. Larson: Mr. Trenbeath pointed out this is the way the whole statute was written and only added another member.

Chairman K. Koppelman: I think the language is confusing.

Rep. Brabandt: Could you just cross the words except for?

Chairman K. Koppelman: No then they are all appointed by the Governor.

Rep. D. Larson and Rep. K. Hawken agreed to withdraw their motion.

Chairman K. Koppelman: My suggestion is to take the words on line 17 beginning with commissioners and thru the word state out of that sentence and insert it after the period on line 20.

Rep. L. Klemin: You have to leave the word commissioners on line 17 also.

Motion made to move the amendment Rep. L. Klemin: Seconded by Rep. Kretschmar

Voice vote carried.

Do Pass As Amended Motion Made by Rep. D. Larson: Seconded by Rep. K. Hawken:

Roll Call Vote: 12 Yes 0 No 1 Absent Carrier: Rep. L. Klemin:

March 23, 2015

AL
3/23/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2277

Page 1, line 18, overstrike "first appointed after July 21, 2011, must be residents of the state,"

Page 1, line 20, after the period insert "Commissioners first appointed after July 21, 2011, must be residents of the state."

Renumber accordingly

Date: 3-23-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 582277

House JUDICIARY Committee

Subcommittee Conference Committee

Amendment LC# or Description: 15.0727.02001

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

Motion Made By Rep. Klemin Seconded By Rep. Kretschmar

| Representative | Yes | No | Representative | Yes | No |
|-----------------------|-----|----|----------------------|-----|----|
| Chairman K. Koppelman | | | Rep. Pamela Anderson | | |
| Vice Chairman Karls | | | Rep. Delmore | | |
| Rep. Brabandt | | | Rep. K. Wallman | | |
| Rep. Hawken | | | | | |
| Rep. Mary Johnson | | | | | |
| Rep. Klemin | | | | | |
| Rep. Kretschmar | | | | | |
| Rep. D. Larson | | | | | |
| Rep. Maragos | | | | | |
| Rep. Paur | | | | | |
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voice vote carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 3-23-15
 Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2277

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. Larson Seconded By Rep. Hawken

| Representative | Yes | No | Representative | Yes | No |
|-----------------------|-----|----|----------------------|-----|----|
| Chairman K. Koppelman | ✓ | | Rep. Pamela Anderson | ✓ | |
| Vice Chairman Karls | ✓ | | Rep. Delmore | ✓ | |
| Rep. Brabandt | ✓ | | Rep. K. Wallman | ✓ | |
| Rep. Hawken | ✓ | | | | |
| Rep. Mary Johnson | ✓ | | | | |
| Rep. Klemin | ✓ | | | | |
| Rep. Kretschmar | ✓ | | | | |
| Rep. D. Larson | ✓ | | | | |
| Rep. Maragos | ✓ | | | | |
| Rep. Paur | ✓ | | | | |
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Total (Yes) 12 No 0

Absent _____

Floor Assignment Rep. Klemin

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

REPORT OF STANDING COMMITTEE

SB 2277: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2277 was placed on the Sixth order on the calendar.

Page 1, line 18, overstrike "first appointed after July 21, 2011, must be residents of the state,"

Page 1, line 20, after the period insert "Commissioners first appointed after July 21, 2011, must be residents of the state."

Renumber accordingly

2015 TESTIMONY

SB 2277

#1

Testimony on Senate Bill 2277
Senate Government and Veterans Affairs Committee
February 12, 2015

by Gail Hagerty

Chair Dever, members of the Senate Government and Veterans Affairs Committee,

I am Gail Hagerty, one of North Dakota's Uniform Law Commissioners. I am testifying today in support of Senate Bill 2277. The bill amends Section 54-44-01 of the Century Code to allow the Attorney General to appoint a member to the Uniform Law Commission. The appointment could not extend beyond the term of the appointing Attorney General, and the Attorney General would not be required to make an appointment.

Over the past several legislative sessions, I've worked with the Attorney General's office on proposed uniform laws which impact the Office of Attorney General or agencies for which his office provides legal representation. I believe the process would work better if the Attorney General had an opportunity to have a staff member involved in the consideration of uniform acts as they are drafted. Concerns could be addressed early on, and the expertise and experience of the Attorney General's office would benefit the process.

During this session, there is a uniform act dealing with human trafficking. The Attorney General has taken a lead in addressing this issue in North Dakota, and his office has experience in dealing with the difficult issues presented. The Attorney General's office has coordinated the preparation of amendments which will improve the uniform act to better meet the needs of North Dakota.

There are currently drafting committees working on drafts of a Criminal Records Accuracy Act, a Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act, revisions to the Unclaimed Property Act, and a Social Media Privacy Act. A new drafting committees will consider a Model Veterans Court Act and there is a study committee on Declarations of Quarantine. There are a number of proposed acts which impact state agencies for which the Attorney General serves as legal advisor. The Attorney General's Office should have a place at the table as those acts are drafted.

Thank you for your consideration of this bill. I would respectfully request a "do pass" recommendation.