

1999 HOUSE JUDICIARY

HB 1235


1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1235

House Judiciary Committee

Conference Committee

Hearing Date January 25, 1999

Tape Number	Side A	Side B	Meter #
2	X		3.4
Committee Clerk Signature 			

Minutes:

JUDGE JAMES VUKELIC: This bill is requested by the Judicial Conference. It will require municipal judges to get training during the first three months of their term, and yearly thereafter.

This squares the municipal judges with the rest.

COMMITTEE ACTION: January 25, 1999

REP. MARAGOS moved that the committee recommend that the bill DO PASS. Rep. Mahoney seconded and the motion passed on a roll call vote with 15 ayes, 0 nays and 0 absent. Rep.

Hawken was assigned to carry the bill on the floor.

FISCAL NOTE

(Return original and 14 copies)

Resolution No.: 1235 Amendment to: _____

Requested by Legislative Council

Date of Request: 01/13/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, and cities.

Narrative:

House Bill No. 1235 would require municipal judges to comply with judicial education requirements established by supreme court rule rather than having specific educational requirements enumerated in state law. There is no fiscal impact associated with this statutory change. However, a city would incur costs in reimbursing travel and subsistence expenses associated with attendance by the judge at required courses.

2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:	0	0	0	0	0	0
Expenditures:	0	0	0	0	0	0

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: 0
- b. For the 1999-2001 biennium: 0
- c. For the 2001-2003 biennium: 0

4. **County, City, and School District** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
0	Unknown	0	0	Unknown	0	0	Unknown	0

If additional space is needed, attach a supplemental sheet.

Signed Keith E. Nelson

Typed Name Keith E. Nelson

Department Judicial Branch

Phone Number 328-4216

Date Prepared: 1/13/99

Date: 4/25
Roll Call Vote #:

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1235

House JUDICIARY Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number Do pass

Action Taken _____

Motion Made By Maragos Seconded By Mahoney

Representatives	Yes	No	Representatives	Yes	No
REP. DEKREY	✓		REP. SVEEN	✓	
REP. CLEARY	✓				
REP. DELMORE	✓				
REP. DISRUD	✓				
REP. FAIRFIELD	✓				
REP. GORDER	✓				
REP. GUNTER	✓				
REP. HAWKEN	✓				
REP. KELSH	✓				
REP. KLEMIN	✓				
REP. KOPPELMAN	✓				
REP. MAHONEY	✓				
REP. MARAGOS	✓				
REP. MEYER	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Hawken

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

REPORT OF STANDING COMMITTEE (410)
January 25, 1999 3:45 p.m.

Module No: HR-15-1140
Carrier: Hawken
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1235: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1235 was placed on the
Eleventh order on the calendar.

1999 SENATE JUDICIARY

HB 1235

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1235

Senate Judiciary Committee

Conference Committee

Hearing Date March 3, 1999

Tape Number	Side A	Side B	Meter #
1		x	3650 - 4150
Committee Clerk Signature <i>Jackie Follman</i>			

Minutes:

HB1235 relates to continuing education for municipal judges.

SENATOR STENEHJEM opened the hearing on HB1235 at 10:55 A. M.

All were present except Senator C. Nelson.

REPRESENTATIVE KLEMIN, District 47, testified in support of HB1235. I am here on behalf of the Judicial Conference.

JIM GANJE, Supreme Court, testified in support of HB1235. Testimony attached.

SENATOR STENEHJEM CLOSED the hearing on HB1235.

SENATOR TRAYNOR made a motion for DO PASS, SENATOR LYSON seconded. Motion carried. 5 - 0 - 1

SENATOR STENEHJEM asked if this could be put on the Consent Calendar. No objection.

SENATOR TRAYNOR will carry this bill.

Date: 3-3-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1235

Senate Judiciary Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass on Consent Calendar

Motion Made By Senator Traynor Seconded By Senator Lyson

Senators	Yes	No	Senators	Yes	No
Senator Wayne Stenehjem	X				
Senator Darlene Watne	X				
Senator Stanley Lyson	X				
Senator John Traynor	X				
Senator Dennis Bercier	X				
Senator Carolynn Nelson					

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Traynor

REPORT OF STANDING COMMITTEE (410)
March 3, 1999 1:03 p.m.

Module No: SR-38-3922
Carrier: Traynor
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1235: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1235 was placed on the Tenth order on the calendar.

1999 TESTIMONY

HB 1235

SUMMARY - HOUSE BILL NO. 1235

House Bill No. 1235 resulted from a legislative proposal submitted to the North Dakota Judicial Conference by the Continuing Judicial Education Commission. The Commission is charged by Supreme Court Administrative Rule 36 (copy attached) with the responsibility of developing and administering quality judicial education programs for North Dakota's judges. The Judicial Conference is comprised of all judges of the state, the attorney general, the clerk of the supreme court, and representatives of the bar association and municipal judges' association. The Conference voted unanimously to support the legislative proposal that has been introduced as House Bill 1235.

House Bill 1235 amends the current statute governing municipal judge education to clarify that municipal judges must comply with education requirements established by supreme court rule, rather than having the detail of educational requirements spelled out in state law. This amendment would afford greater flexibility in meeting the needs of municipal judge education and would eliminate the possibility of conflict between state law and supreme court rule. It would also eliminate the need to seek statutory amendments each time a change is desired in education requirements for municipal judges. Any changes to municipal judge education requirements under the administrative rule would be made at the request of the Continuing Judicial Education Commission, which has among its members a representative of the municipal courts.

*AR 36 amended
Effective April 13, 1994*

**NORTH DAKOTA RULES ON
CONTINUING JUDICIAL EDUCATION**

Administrative
Rule 36

Rule 1. Continuing Judicial Education Commission Created.

(a) There is established within the North Dakota judicial system the Continuing Judicial Education Commission consisting of nine members. All members shall be appointed by the executive committee of the Judicial Conference. Five members must be appointed from among the judges of the courts of record of this state. One member must be appointed from each of the following classes:

- (1) Juvenile court personnel;
- (2) Support staff of the courts of record of this state;
- (3) The faculty of the University of North Dakota Law School; and
- (4) Judges who serve on courts not of record.

(b) The members of the Commission shall designate one of the nine members to chair the commission.

(c) The state court administrator, or designee, and the director of judicial education are ex officio members of the commission, but may not vote.

(d) Of the members of the commission initially appointed, three must be for a one-year term, three for a two-year term, and three for a three-year term. Thereafter, each member must be appointed for a three-year term, except an appointment to an unexpired term. The initial term of each member of the commission must be determined by lot at the first meeting of the commission.

(e) A member of the commission may not serve more than two successive three-year terms, but may serve until a successor is appointed and has qualified.

Rule 2. Powers and Duties of Commission.

(a) The commission has general supervisory authority over the administration of this Rule.

(b) The state court administrator shall, with available funds, provide staff assistance to the commission including a director of continuing judicial education.

Rule 3. Powers and Duties of Director.

The director shall:

- (1) assist the commission in planning an integrated, continuing judicial education program for all personnel of the unified judicial system;
- (2) provide all administrative assistance for the presentation of educational conferences and programs;
- (3) assist the commission in making application for and administering special grant programs;
- (4) assist the commission in developing cooperative agreements with other states and organizations, such as the National Judicial College, that are qualified to provide judicial education conferences and demonstration projects;
- (5) promote effective teaching techniques for the presentation of materials at judicial conferences and institutes;
- (6) perform other additional duties assigned by the commission from time to time.

Rule 4. Mandatory Continuing Judicial Education Requirements.

(a) Each judge of a court of record of this state, including the surrogate judges and justices of the supreme court, must complete at least 45 hours of approved course work in continuing judicial education, at least three of which must be in judicial ethics, during each three-year period of tenure, commencing July 1, 1993.

(b) Each municipal judge must complete at least eight hours of approved continuing judicial training per year. In addition, each new municipal judge must complete a judicial orientation course within the first three months of taking office.

Rule 5. Duties of Commission.

The commission shall:

- (1) develop high quality judicial training and continuing judicial education programs in this state for individuals required to have judicial training or continuing judicial education to enhance performance of their duties in the unified judicial system and their professional growth, and to provide them with a reasonable opportunity to fulfill mandatory continuing legal educational requirements;
- (2) develop and cooperate with other states, Canadian Provinces, and judicial training and continuing judicial educational organizations, in presenting regional training and educational programs;
- (3) develop and recommend to the Supreme Court a biennial budget for mandatory judicial training and continuing judicial education;
- (4) seek, apply for, and administer grants to fund other judicial training and continuing judicial educational projects approved by the commission;
- (5) develop a resource library of materials on judicial training and continuing judicial education, including bench books, manuals, instructional materials, video tapes, and other judicial aids;
- (6) receive, review, and grant applications for funds for expenses of attendees for attending judicial training and continuing judicial educational programs conducted out of state, in accordance with policies adopted by the commission;
- (7) draft, review, and recommend appropriate legislation and rules of court relating to judicial training and continuing judicial education; and
- (8) perform such related functions as may be necessary or desirable to improve the delivery of judicial training and continuing judicial educational services to the unified judicial system of this state.

Rule 6. Crediting Attendance of Programs.

(a) The commission shall give credit for attendance at a judicial training or continuing judicial educational program sponsored or approved for credit by the commission on the basis of one hour for each hour of attendance. If a program is attended out of state, an applicant for credit must furnish the commission a description of the program and the number of qualifying hours. The commission will review the information and promptly notify the applicant of the number of credits to be approved. If any financial assistance is to be provided from the judicial education budget, application and approval by the commission must be in advance of attendance.

(b) The commission shall determine what shall constitute "approved course work." Courses sponsored by the following organizations and their associated entities shall be presumptively approved:

- (1) North Dakota Judicial System;
- (2) National Judicial College;
- (3) American Bar Association;
- (4) American Academy of Judicial Education;
- (5) National Council of Juvenile and Family Court Judges;
- (6) American Law Institute;
- (7) American Judicature Society;
- (8) Institute for Court Management;
- (9) State Bar Association; and
- (10) Accredited law schools.

(c) The commission, by written policy, shall determine eligibility of applicants for attendance of out-of-state educational programs and the amount of financial assistance to be provided. If no financial assistance is requested through the Commission, the attendee does not need prior approval to attend presumptively approved courses.

(d) The commission may grant credit for self-study courses and other educational means approved in advance on a case-by-case basis.

Rule 7. Crediting Attendance as Faculty.

A judge who serves on the faculty of an approved judicial education or continuing legal education course is entitled to claim as judicial education hours an amount of time equal to the judge's actual presentation and up to two times the presentation time for preparation. A judge who serves on a panel may claim the entire time of the panel presentation as presentation time.

A judge claiming judicial education hours for faculty participation shall list those hours on the Judicial Education Report provided to the judge annually or by separate affidavit. A judge

may claim only fifteen (15) judicial education hours for faculty participation in any one reporting period.

Rule 8. Self-Reporting Requirements.

Within 30 days after the end of each reporting period, commencing July 1, 1993, each individual subject to the mandatory training or educational requirements of this Rule must submit, on a form furnished by the commission, a statement of the courses and hours completed during the reporting period.

Rule 9. Noncompliance.

The commission may grant an extension of time for completion of the requirements of this Rule, including the duty to self report, to an individual who fails to meet the requirements and shows good cause for noncompliance. If the individual fails to comply within the extended time, the commission shall report the dereliction to the North Dakota Judicial Conduct Commission for appropriate action against the individual.

Rule 10. Transitional Provisions.

On July 1, 1993, the Judicial Training Committee of the Judicial Conference is dissolved and the bylaws of the committee are superseded by this Rule.

Rule 11. Repeal.

Administrative Rule 30.1, Mandatory Continuing Judicial Education for Municipal Court Judges, is repealed by this Rule.

Rule 12. Effective Date.

This Rule, as further amended, is effective April 13, 1994.

Dated this 13th day of April, 1994.

Gerald W. Vandewalle, Chief Justice
Herbert L. Meschke, Justice
Beryl J. Levine, Justice
William A. Neumann, Justice
Dale V. Sandstrom, Justice

ATTEST:

Colette M. Bruggman
Chief Deputy Clerk

SOURCE: Adopted June 23, 1993, as an emergency rule effective July 1, 1993. Amendments adopted December 29, 1993, effective January 1, 1994. Emergency amendments adopted effective April 13, 1994 (repeal of AR 30.1 effective April 13, 1994).