

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1451

2001 HOUSE JUDICIARY

HB 1451

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1451

House Judiciary Committee

Conference Committee

Hearing Date 01-31-01

Tape Number	Side A	Side B	Meter #
TAPE II	x		3419 to 6255
TAPE II		x	01 to 1559
Committee Clerk Signature <i>Jean Deora</i>			

Minutes: Chairman DeKrey opened the hearing on HB 1451. A bill for an act to provide for administrative rules committee review of existing administrative rules and to provide for elimination of obsolete provisions and provisions that do not comply with law.

Rep Koppelman: District 13 Fargo, (see attached testimony)

Chairman DeKrey: How is this bill different from Rep Grande's bill?

Rep Koppelman: The main difference is the procedure. This bill encourages the committees to review their own rules.

Rep Delmore: Would you favor something in this bill, going through the rules with the permission of the agencies, who want to get rid of out dated or obsolete provisions?

Rep Koppelman: We went through a lot of rules at the request of agencies, to say that only agencies should have the authority ignores the check and balance of our rules.

Rep Delmore: I think that there are people that would question has the right. I see this as a group of people to go in and micro manage an agency. Could that happen with this bill?

Rep Koppelman: I suppose anything can happen.

Rep Maragos: you maintain that the legislature doesn't have the time to go back and look at all the rules, we probably could do it in one Interim with one Interim Committee to look at the rules and that would solve the problem.

Rep Koppelman: If you want to amend the bill, you certainly may, it will be interesting.

Rep Maragos: I don't think we need legislation, we need an interim committee.

Rep Koppelman: I don't know that we do.

Rep Maragos: we have three or four standing committees, these are not interim committees. I believe the Legislative Council has the power to do this, if they want to do this. I don't think we need legislation to do this.

Rep Koppelman: That may be a good idea. However without statutory authority, the only way to accomplish that would be to bring all those rules before the legislature.

Rep Maragos: I do like to give up my authority to a smaller group within the body.

Rep Koppelman: I understand that position, you would still have the authority two years from now.

Rep Mahoney: In the event that this bill passes, do you think that any people of the administrative rules committee will hold down a day job too.

Rep Koppelman: I think that this would be something to do over a long period of time, it may take a session or two We need to start now..

Rep Klemin: What would happen if we simply require an agency to do a self review and report to the legislature.

Rep Koppelman: Section one of the bill says that.

Rep Klemm: The committee could establish a time schedule.

Rep Koppelman: That language is not to say, the intention is to work with agency to establish a schedule.

Chairman DeKrey: If there are no further questions for Rep Koppelman, thank you for appearing. Is there anyone else wishing to testify in support, we will move to the opposition.

Rick Clayburn: State Tax Commissioner. We have only voided one rule, since I have been in office. The legislature was concerned about the policy that was being made by the agency, unwritten rules. Agencies were given the authority to make written rules so that the public could see and have an opportunity to respond. He went on talk about tax issues and how complicated it has become. There are concerns about constitutionality challenge. This bill is taking this one step further and we stand in opposition to it. We do review our rules. Part of step two and we find something in conflict of the law, we have no authority to remove it. Section three has the more dangerous area, this is the area of where it may become unconstitutional.

TAPE 1 SIDE B

Rick Clayburn testimony continues. He goes on to state his objections to HB 1451.

Rep Wrangham: Do you agree, you wouldn't have time for a day job, because you would have to look at too many rules that are obsolete.

Rick Clayburn: I do not believe that a review of the tax department would be of much concern.

Rep Wrangham: A department that is run like yours, it probably wouldn't take much time to review the rules.

Rick Clayburn: You are right.

Rep Mahoney: It says the rules committee shall establish a schedule for the review of rules. I would read that as the Administrative Rules Committee would have to review all the rules. If they ask you to review, we would be back to where we are without this law.

Rick Clayburn: Speaking for the tax department, we manage our rules.

Chairman DeKrey: If there are no further questions, thank yo for appearing.

Hona A Jeffcoat-Sacco: director of the Public Utilities Division of the Public Service Commission. (see attached testimony)

Chairman DeKrey: Any questions. if not thank you for appearing. Is there anyone else wishing to testify.

Melissa Hauer: Director of the Legal Advisory Unit for the Department of Human Services (see attached testimony).

Rep Klemin: If you have obsolete rules, in order to repeal those rules, you have to go through the same process that you would to enact a rule.

Melissa Hauer: That's true.

Rep Klemin: Maybe there should be some short cut method to repeal obsolete provisions.

Melissa Hauer: That would be one way of doing it.

Rep Klemin: If there was such a process, could a member of public do it also.

Melissa Hauer: That right is already there.

Rep Klemin: That's correct, but you have to go through the whole process to repeal

Melissa Hauer: That is correct.

Chairman DeKrey: If there are no further questions, thank you for appearing.

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House Judiciary Committee

Bill/Resolution Number HB 1451

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Chuck Johnson: Attorney with the Insurance Department. We are opposed to HB 1451. He gave his reasons for the opposition of his department.

Rep Klemm: You are saying that there should not be some short cut process to repeal a rule.

Chuck Johnson: Yes, it is too dangerous to short cut the process.

Chairman DeKrey: If there are no further questions, thank you for appearing. If there is no further testimony, we will close the hearing on HB 1451.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1451a

House Judiciary Committee

Conference Committee

Hearing Date 02-14-01

Tape Number	Side A	Side B	Meter #
TAPE II	X		2627 to 4241
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey called the committee to order, we will take up HB 1451.

Rep Koppelman was there to explain the differences in this bill.

Chairman DeKrey: What is the difference in this bill.

Rep Koppelman: The other bill is more selective, mine calls for a review by the agency.

DISCUSSION

COMMITTEE ACTION

Chairman DeKrey: if there is no further discussion or questions, what are the wishes? Rep

Delmore moved a DO NOT PASS, Rep Onstad seconded.

DISCUSSION

Rep Klemin: Sub section one has some merit .Maybe we should consider to amend by deleting section two and three.

Rep Delmore: I will withdraw my motion.

Rep Onstad: I will withdraw my second.

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House Judiciary Committee
Bill/Resolution Number HB 1451
Hearing Date 02-14-01

Rep Klemin: Moved to amend HB 1451, by deleting lines 12 through 20.

Rep Kingsbury: I will second.

DISCUSSION

COMMITTEE ACTION

Chairman DeKrey: We will have a voice vote on the amendment. Motion carries. What are the wishes of the committee? Rep Wrangham moved a DO PASS as amend, seconded by Rep Kingsbury. The clerk will call the roll on a DO PASS as amend motion on HB 1451. The motion passes with 8 YES, 6 NO and 1 ABSENT. Carrier Rep Wrangham

10728.0101
Title.0200

Adopted by the Judiciary Committee
February 14, 2001

VR
2/15/01

HOUSE AMENDMENTS TO HB 1451 HOUSE JUDICIARY 02-15-01
Page 1, line 2, remove "and to provide for elimination of obsolete provisions and provisions that do not comply"

Page 1, line 3, remove "with law"

Page 1, line 7, remove "1."

Page 1, remove lines 12 through 20

Renumber accordingly

Date: 02-14-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB-1451

House JUDICIARY Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amend

Motion Made By Rep Wrangham Seconded By Rep Kingsbury

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore		✓			
Rep Rachael Disrud		✓			
Rep Bruce Eckre	✓				
Rep April Fairfield		✓			
Rep Bette Grande					
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney	✓	✓			
Rep Andrew G Maragos		✓			
Rep Kenton Onstad		✓			
Rep Dwight Wrangham	✓				

Total (Yes) 8 No 6

Absent 1

Floor Assignment Rep Wrangham

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

REPORT OF STANDING COMMITTEE

HB 1451: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (8 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). HB 1451 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "and to provide for elimination of obsolete provisions and provisions that do not comply"

Page 1, line 3, remove "with law"

Page 1, line 7, remove "1."

Page 1, remove lines 12 through 20

Renumber accordingly

2001 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1451

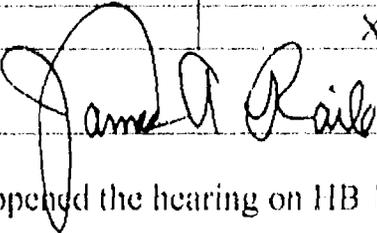
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1451

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date March 22, 2001

Tape Number	Side A	Side B	Meter #
1	X		42.8-End
1		X	0.0-8.9
1		X	24.3-40.9
Committee Clerk Signature 			

Minutes: **Chairman Krebsbach** opened the hearing on HB 1451 which relates to a bill for an act to provide for administrative rules committee review of existing administrative rules.

Appearing before the committee to introduce this proposed legislation was **Representative Kim Koppelman**, District 13. A copy of his written testimony is attached. **Senator T. Mather** inquired about the proposed amendments to the bill. He wondered if these had to be added to accomplish what you were seeking to accomplish. **Representative Koppelman** indicated that he believed they were necessary to accomplish what needs to happen in this bill. The amendments actually return the bill to the way it was initially introduced. **Senator Dever** noted that HB 1228 was passed by the Senate in spite of a veto threat by the governor. One of the objections raised by the chairman of the Judiciary Committee was that the repeal of an administrative rule by an agency involves a hearing process and that the bill would allow the administrative rules committee to void it without that hearing process. How does that reconcile with this? **Representative Koppelman** indicated that while he respects the governors position and

his authority and he visited with him on numerous occasions on this very issue, and his authority certainly exists to veto any legislation we've passed. However, and I could be mistaken about this, there is a statute somewhere and perhaps its even constitutional that prohibits the governor from threatening vetoes on pending legislation. So that is going a little bit far if that happened. Having said that I would not be surprised if there is a veto. That bill was vetoed by a previous governor. Regarding hearings, every administrative rules committee meeting is a public meeting just like your hearings here. To make that statement is almost like saying gee, the senate government and veteran's affairs committee ought not do what it does because it is not a public hearing. Certainly it is, you are here and anyone who wants to walk in this room can, be it the media, be it the public, be it the other branches of government are certainly welcome. The only questions that comes into play is that adequate enough public notice. He indicated he would not be opposed to additional notice. One option would be to have agencies who are reviewing rules to notify the regulative community. He says the agency rather than the community because they better know who is regulated by a specific rule. He would have no objection to that. All of this ought to be done in the light of day and he has no objection to this. **Senator Dever** indicated that another objection was that the administrative rules committee really acts as a body and it should be the larger body of the legislature that deals with these kinds of issues. Representative Koppelman indicated that because we are not a full time legislature we delegate responsibility and authority to certain groups like the legislative council and the administrative rules committee to act in our stead. When people make comments like that, like well, gee, this could be unconstitutional because the legislature is delegating authority to a smaller group of its own, they ignore the fact that the entire administrative rules process is in affect a delegated authority to make law, and lawmaking or policy making is an authority that clearly rests constitutionally with

