

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

3009

2001 HOUSE JUDICIARY

HCR 3009

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3009

House Judiciary Committee

Conference Committee

Hearing Date 01-23-01

Tape Number	Side A	Side B	Meter #
Tape I	x		3581 to 4460
Committee Clerk Signature <i>Joan Deers</i>			

Minutes: Chr DeKrey opened the hearing on HCR 3009. All present with the exception of Rep Onstad. The clerk will read the title, A concurrent resolution for the amendment of section 9 of article 1 of the Constitution of North Dakota, relating to judicial review of governmental determinations that impact a person's property or activities.

Chr DeKrey: Since there was no one to appear to introduce the bill we will take testimony.

Allen Hobert: Director of the Office of Administrative Hearings (see attached testimony).

Chr DeKrey: Are there any questions for Mr Hobert? Seeing none, thank you appearing in front of this committee.

Dave Thiele: Senior Litigation Counsel for the North Dakota workers Compensation, I just want to voice our board of directors opposition to this bill.

Rep Mahoney: Is your concern, loosing control, getting into court tha' fast, you don't want to get into court that fast?

Page 2
House Judiciary Committee
Bill/Resolution Number HCR 3009
Hearing Date 01-23-01

Dave Thiele: No it isn't a control issue, it is the process and I think it is obvious what it would do to the current court system. Right now our cases are greatly reduced. This bill would see an increased cost in the administrative cost. The current process serves the individual best.

Rep Mahoney: Do you know, is there someone here from the Supreme Court that opposes this bill.

Dave Thiel: Most of the people that we talked to were just made aware of this bill yesterday.

Chr DeKrey: Anyone else wishing to testify on HCR 3009? We will recess the hearing on HCR 3009 until I can talk to the people who presented this bill.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR3009a

House Judiciary Committee

Conference Committee

Hearing Date 01-31-01

Tape Number	Side A	Side B	Meter #
TAPE II	x		01 to 1816
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey resumed the hearing on HCR 3009.

Bob Hale: President of Spectrum Care LLC (see attached testimony)

Rep Klemm: I see political subdivisions are not included in the bill, can you tell me why?

Bob Hale: They are included.

Rep Klemm: Would this be an increase work load for the courts and possibly increase the number of judges..

Bob Hale: We have two judicial systems, we have the judicial branch and we have the executive administrative remedies branch. We have more attorneys and hearing examiners working in that branch then we do in our entire judicial branch. Under the new system we would see a difference in the outcome, there would be fewer grievances. Citizens would still have access to both systems.

Rep Klemm: You see no increase in the work load of the district court.

Bob Hale: Decrease in the administrative hearing examiners.

Chairman DeKrey: I see the work load of the district court going up and the administrative hearing going down? I believe we would have to have some kind of fiscal note.

Bob Hale: I believe it would have a very small, when people become aware. The option would be that the average citizen would have their day in court.

Vice Chr Kretschmar takes over the hearing.

Rep Maragos: Am I to understand, the fact that we have this procedure, contributes to the fact that North Dakota is not growing.

BOB Hale: No, I am not. Our state is alone in the entire nation in the direction that it is headed. This bill would make North Dakota a very friendly citizen state.

Rep Maragos: Did you say that 2% of the state budget is allocated to the judiciary.

Bob Hale: Two per cent is the budgeted amount that funds the judicial system.

Rep Maragos: Asks a question of the percentage of the over all budget.

Bob Hale: I was responding to Chr DeKrey, it may led to higher costs.

Rep Maragos: Can you tell how much the Legislative Branch costs the Legislative Branch doesn't register on the scale.

Bob Hale: I don't know what the numbers are.

Rep Maragos: I believe that you said, that hearings have appellate status, isn't that the same thing as your day in court.

Bob Hale: No, it is not the same, it is an appellate review, not a review of the facts.

Rep Maragos: Could we accomplish the same thing in the legislation, appeal on the merits, can we do this without changing the constitution.

Bob Hale: You could.

Page 3
House Judiciary Committee
Bill/Resolution Number HCR 3009
Hearing Date 01-31-01

Rep Klemin: On page 2 lines 2 and 3, is this the intent that you would have the right to go to court?

Bob Hale: No, the intent is that there would be a jury. This is the option of the plaintiff not the option of the defendant.

Chairman DeKrey: If there are no other questions, thank you for appearing. We will close the hearing on HCR 3009.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR3009b

House Judiciary Committee

Conference Committee

Hearing Date 01-31-01

Tape Number	Side A	Side B	Meter #
TAPE II		x	2608 to 3598
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey called the committee to order and took up HCR 3009. Does someone want to make a motion.

COMMITTEE ACTION

DO NOT PASS motion made by Rep Grande, seconded by Rep Wrangham. Discussion was held on the bill. The clerk will call the roll on a DO NOT PASS motion. The motion of DO NOT PASS and the second were withdrawn.

We have a DO PASS motion made by Rep Grande, seconded by Rep Delmore. Discussion was held. The clerk will call the roll on a DO PASS motion. The motion passes with 8 YES, 6 NO and 1 ABSENT. Floor carrier Chairman DeKrey.

Date: 01-31-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3009

House JUDICIARY Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep Grande Seconded By Rep Delmore

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 Chr DeKrey

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

REPORT OF STANDING COMMITTEE (410)
February 1, 2001 8:56 a.m.

Module No: HR-18-2076
Carrier: DeKroy
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HCR 3009: Judiciary Committee (Rep. DeKroy, Chairman) recommends DO PASS
(8 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). HCR 3009 was placed on the
Eleventh order on the calendar.

2001 TESTIMONY

HCR 3009



OFFICE OF ADMINISTRATIVE HEARINGS


STATE OF NORTH DAKOTA
1707 North 9th Street
Bismarck, North Dakota 58501-1882

Allen C. Hoberg
Director

701-328-3260
FAX 701-328-3254

MEMORANDUM

TO: Fifty-seventh Legislative Assembly
State of North Dakota

FROM: Allen C. Hoberg, Director 
Office of Administrative Hearings

RE: House Concurrent Resolution No. 3009

DATE: January 23 2001

Since the 1930s there has developed administrative mechanisms in this country on both the federal and state levels to dispose of administrative disputes at an administrative hearings level outside the jurisdiction of the courts, except, of course, the courts have retained jurisdiction over administrative appeals from the hearings of these various administrative mechanisms. These various administrative mechanisms generally take the form of administrative agencies practices acts, and related statutes and rules. It is true that prior to the development of these administrative mechanisms the court systems (state and federal) did dispose of all administrative disputes. However, I do not believe that it is wise to simply allow all those who wish to bypass the current administrative mechanisms in place for administrative disputes to go to the courts for the initial hearing on those disputes. The courts are not prepared to handle the increased

caseload for all of the possible types of cases that could then go to hearing in the courts (although it is not known how many people will initially avail themselves of this option, it could be in the thousands).

Furthermore, this bill would have a considerable impact both fiscally and otherwise on the existing administrative mechanisms of government, whether they be OAH or agencies outside of OAH's jurisdiction. It would also have considerable fiscal impact on the court system.

Any legislative measure with a goal such a this one should have considerable legislative study before it is passed.

fz

