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ROLL NUMBER

DESCRIPTION

1297

2007 HOUSE JUDICIARY

HB 1297

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1297

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/5/07

Recorder Job Number: 2749

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on HB 1297.

Rep. R. Kelsch: Explained the bill, sponsor. This bill limits the amount that a political action committee or a state political committee can give to a legislative candidate. The reason I introduced this bill, I truly believe that in ND, the closest grass roots campaign in this area, is with the legislature. I think if candidates are going to run for the legislature, the majority of their money should come from their constituents. It should come from within their district. If that means that you're only able to get \$5, \$10, \$25 contributions, I believe that should fund your campaign. I think the bill, as it was written, I was not quite as generous in the dollar amounts that you could receive from these campaigns. I believe, in my mind, that the ones who should be the most interested in your campaign are those that are affected by the laws in the state of ND. That does not include special interest groups that don't have anything in the state or individually who do not have any activities, or land or businesses in the state of ND. I've had many people come up to me and say that potentially this bill can come back to haunt you. I personally don't think that this bill would because I believe that legislative races are the last true grass roots campaigns that we have. Some can say that you've got city council, etc. they don't have to raise the amount of money that legislative races has to raise. Personally, I hear

from my legislative colleagues across the nation that they have to raise \$50,000-\$100,000 or more in campaigns. In ND I don't think we have to be paying this. I know I heard about a legislative race for one candidate who spent in excess of \$30-40,000. I don't think that's right. Furthermore I question as to whether or not they were able to get those campaign contributions from their districts. If I'm here representing my district, I believe that I should be receiving the money, the majority of the money, from my district. I understand that all of us at one time, receive a PAC check. However, they are reasonable PAC checks. I think the infusion of money that came into this last legislative campaign and it didn't matter if it's on the Republican side or the Democratic side. When money is coming in, in excess of \$2,000-\$5,000, I just wonder who is controlling the campaign and who's running the campaign.

Rep. Dahl: How does this effect, does this control the state political parties filtering money down to the candidate.

Rep. R. Kelsch: It does affect state parties. Who we do not want to affect, and we've been told that it doesn't. I know that there are local women's groups that do raise money. Those are still grass roots organizations where they raise locally within their districts. Those are the ones that we thought potentially they should be exempt from this, I'm not positive that they are. The way that I read it they're not. But that was one of the considerations that we made because I know that there are local organizations that raise money to give to candidates, but those monies are raised locally, within their district, their city. They're not raised from outside sources.

Rep. Delmore: Would you not think, however, regardless of the circumstances if we're looking at \$3,000-6,000, the same rules should apply, regardless of where the money comes from.

Rep. R. Kelsch: Yes, that's why we left the dollar amounts at the levels that they were, they were pretty much consistent with what is happening with a lot of the local grass roots organizations.

Rep. Onstad: On the same line as Rep. Delmore, any reason that personal contributions isn't included.

Rep. R. Kelsch: If you can get a personal contribution in your district that is given by an individual in your district, that is more than \$3-6,000, give us your secret. I honestly don't know a lot of people that receive contributions from an individual that is that high, for a legislative race. This is just for legislative races. This does not affect statewide races. It does not affect any of our congressional races. This is strictly for legislative races.

Rep. Meyer: What about your own individual money. Should we not cap that also.

Rep. R. Kelsch: Again, I don't know of legislative races where an individual puts a lot of their own money into the campaign for the legislative races. I do know that there are candidates for statewide races or other races that do put their own money into those campaigns. I don't know of a lot of monies that are put in by individuals who are running themselves.

Rep. Wolf: My question is that if you can get money from a person in your district, what about my father or mother who lives out of state. Is there something in the law that says that the person has to be in your district, or is that what you are trying to amend. Can they not give me \$10,000 for my campaign.

Rep. R. Kelsch: No there is no limit for contributions from other than PACs.

Chairman DeKrey: Thank you. Further testimony in support.

Rep. Jim Kasper: I support this bill as well. We should keep the legislative races local as much as possible. This bill doesn't address local PAC, family, private or personal money, it

simply addresses a political committee structured under federal law and in the state. We're saying that should a ND legislative race cost \$80,000 or \$100,000 when we're representing 12-14,000 people. But there's been some campaigns in the last election that spent almost that much. Are we getting to the point where you have to be rich, or you've got to know the right people, or have the right political connections to be able to get elected in ND to a legislative district. We don't think so. I think the bill is generous. If you do the math, it says \$3,000 in a calendar year in which you are not on the ballot. So there would be three years where we would not be on the ballot, that's \$9,000 you can collect from these areas that were limited. Then the year that you are on the ballot, you could collect another \$6,000, that's a total of \$15,000 that a candidate could raise over a 4 year period, when we're trying to decide to run for reelection or not. We have three candidates for each legislative race, so \$15,000 per person x 3 is really \$45,000 that a district group of legislators could receive from these outside sources. That's still a lot of money. That would be enough to fund most any legislative campaign right now. But if we don't do something about slowly down the cycle of money, we'll end up where if you know the right people, with the right amount of money, you can buy elections in ND. I don't think that's where we want to go. I think we need to be careful about the infusion of federal dollars coming into ND legislative races because it could change the whole dynamics of our election process and the people who represent the people of districts in ND.

Rep. Griffin: Does the federal limit include, does it include political parties, national organizations or any one that has a federally registered PAC.

Rep. Jim Kasper: I think if you look on line 7, a political committee registered under federal law. I think you want to be sure that you have the definition of what this is. So that you understand what we're trying to do. The intent is that federal political action committees, 529

organizations registered under federal law. Any political committee registered under federal law. I would suggest that would be something that could be clarified.

Rep. Griffin: Do you have examples.

Rep. Jim Kasper: I've been a licensed insurance and securities representative in ND for many years. We have a national PAC that, when I'm a candidate they will give donations to my campaign because I am a member of their organization. The largest amount I've ever received, from my PAC is \$1,000 since I've been on the ballot. We're looking at those national PACs.

Chairman DeKrey: Thank you. I've got a question for Al Jaeger. What is the penalty if somebody overdonated.

Al Jaeger, Secretary of State: I come up in a neutral position. We're just concerned with line 8, "state political party" doesn't register as a political committee. So there's a technical correction that needs to be made there, depending on what the sponsors would want, but a suggestion might be a political committee registered under federal law, state political party, or a registered state political committee, or something on that order. But as it reads now, a political party doesn't register as a political committee. It's a technical matter. The law would be referring to something that doesn't exist.

Chairman DeKrey: So your suggestion is, a political committee registered under federal law, state political party, or a registered state political committee.

Al Jaeger: That would define three areas, but the way it is now, it doesn't quite match. Under 12.1-32-01, it would be an infraction which has a maximum fine of \$500.00.

Chairman DeKrey: So if they had money to give you \$20,000, they could give it to you, and it would just cost them another \$500.

Al Jaeger: I don't know. One of the things that came up in the testimony that we heard so far, as Rep. Klemin has mentioned, these are criminal acts and when we receive calls, and we receive a lot of calls, we need to refer them to the state's attorney because in my office, we can't prosecute, we can't do whatever. We have to refer them to the state's attorney, because it is a criminal matter.

Chairman DeKrey: Thank you.

Rep. Kretschmar: Under current law, if I receive \$205 from some group, I must report it to your office.

Al Jaeger: Anything in excess of \$200, correct.

Rep. Kretschmar: Does the donor have to do the same thing, send it in to your office.

Al Jaeger: Individuals do not, but a contribution from a PAC, they'd have reporting requirements where they have to report their receipts and their disbursements.

Rep. Kretschmar: These reports are matter of public record.

Al Jaeger: Yes, the deadline was January 31 and if you go out to our website, quite a few of the reports are up already.

Rep. Kretschmar: To your knowledge, does any group or anyone go in and look at these and make lists of contributions or donations.

Al Jaeger: I have no idea who looks at our website. I would guess that it's gotten a lot of hits in the last few days.

Rep. Delmore: If I have a group of housewives for Delmore, that isn't registered for any reason and they choose to give me \$5,000, this particular law would not apply to that. Is that correct.

Al Jaeger: I don't know about that specifically. If there are several people that form together and call themselves a name, I think they would have a registration requirement as a political

committee. So if your housewives individually gave you money, that would be okay, but if they formed a group and give you a contribution under the name of a group, then there would be a registration requirement.

Rep. Delmore: If my husband is in a group of people doing fundraising for two years, and that group decides to give me money, should they be registered.

Al Jaeger: My understanding that if there is more than one person and there in a group, and they are raising money under a banner of some type, they should be registered. Any time that they do that, regardless of whether you are on the ballot or not.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition. We will close the hearing.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1297

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/6/07

Recorder Job Number: 2913

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will take a look at HB 1297.

Rep. Koppelman: Apparently, the penalty for this is an infraction. What is the penalty for an infraction. Should it be more than that?

Rep. Onstad: I am offering three sets of amendments, 70606.0201, 70606.0202, and 70606.0203. Explained the three sets.

Rep. Koppelman: I move the DeKrey amendment.

Rep. Klemin: Second.

Chairman DeKrey: Voice vote. Motion carried.

Rep. Delmore: I move to further amend with the Onstad amendment, 70606.0201.

Rep. Meyer: Second.

Rep. Klemin: What we're adding here is that an individual has caps on what he can do too. Let's say a married couple contributes each to this campaign, and they have children who are of voting age, those children could each do this. Could I give some money to my mother and have her contribute to me. It doesn't restrict people from giving money to someone else, who can then turn around and donate it.

Rep. Onstad: There are probably ways you can get around this the way it is right now, there are ways that you can get around later. The point is that if we're asking for some to report, that everyone has to report. I'm just adding an individual. It could be your son or daughter, or grandmother. They have to report it. We're going to cap it.

Rep. Klemin: As far as how this money is filtered out is virtually unlimited, then as long as it's an individual, it is capped.

Rep. Griffin: I have the same argument that could probably be made with the federal PAC money as well. You could probably set up as many as federal PACs as you want and have those distribute to you. I don't really see the difference.

Rep. Koppelman: For clarification, the individual includes the candidate, him or herself.

Rep. Delmore: This puts everyone on the same playing field. I'm not sure it is going to affect anybody. I don't get contributions like this.

Rep. Klemin: This bill doesn't limit a person contributing to himself now. Just so we're clear, that individual does not include the candidate, himself or herself.

Rep. Onstad: If you put it all in there, as contributions to a candidate, does not include himself or herself.

Rep. Dahl: You divided your amendments out and then in the third amendment you specifically say that a candidate cannot make contributions to their own campaign in excess of \$3,000. But why is a candidate not considered an individual under the first amendment.

Rep. Onstad: When I had the amendments drafted, I thought 1) let's include all contributions, 2) let's look at all races, statewide and legislative; and 3) let's look at putting a cap on what can be given to a campaign. That directive was given to Legislative Council and they came up with these amendments.

Rep. Koppelman: I would further amend to say, "or the individual, other than the candidate..."

Rep. Klemin: Let me substitute. The reason I say that is because I think it would be better if we had another sentence at the end. Because I've got a question, is one candidate making a contribution to another candidate's campaign. If we said, "this section would not apply to contributions that an individual makes to that individual's campaign". "This section does not apply to contributions that an individual makes to that individual's campaign."

Rep. Koppelman: I move to further amend the amendment.

Rep. Klemin: Second.

Chairman DeKrey: Now we have an amendment to the amendment.

Rep. Meyer: If we're truly interested in finance reform, there has to be some way of capping an individual's contributions to this campaign.

Chairman DeKrey: I think that might be unconstitutional because they dealt with that on the federal level and that was unconstitutional.

Rep. Meyer: So in essence we're just passing, is there a way to further amend it to put a reporting requirement in it.

Chairman DeKrey: You still have to report it if it's more than \$200 in your campaign.

Rep. Meyer: In your own campaign, you are required to report if you paid for expenses in excess of that.

Rep. Delmore: You are putting in a cap for another individual in the district, or it could be my father, sister.

Rep. Klemin: All we're doing is saying it doesn't apply to money you give to yourself.

Rep. Delmore: So there isn't a limit as to what an individual can contribute to their own campaign.

Rep. Koppelman: What we're getting at here, the bill is trying to make sure that we have transparency and we have some limits to elections being bought. We've never had any limits on contributions from anybody.

Chairman DeKrey: I knew Rep. Kelsch was going to be a bill to try and cap this.

Rep. Koppelman: I don't object to what Rep. Onstad is trying to do here with the first amendment.

Rep. Charging: Isn't it more about the grass roots. It is one thing when you have somebody in your district that is supporting you and they are from your district, that's the voice you are hearing. It's quite another thing if you have a PAC that is buying you. That was the point she was trying to make. Those are the people that have the most money to give vs. your district.

Rep. Delmore: There could be some very powerful individuals in my community as well, because their interest could be interpreted in the same way. When you get very large contributions, no matter what you say, it certainly looks like, whether it's someone in my district or somebody out of it. I don't know how you can control that. I think I have integrity and that because someone takes me out to dinner or gives me a campaign contribution, that doesn't make me accountable to whoever it is, whether it is a single person or a PAC.

Chairman DeKrey: My personal opinion has always been that it will not matter, until it matters to the public. It seems like it doesn't matter to the public now. I can't remember a campaign for a congressional seat, where the Republicans haven't screamed bloody murder about money that the Democrats are getting, and it has had zero effect on the campaign. People just don't seem to care.

Rep. Charging: But you have to agree, that in this past election, some can't afford to run.

Rep. Meyer: Following this up a little further, I'm so interested in that, where it's on an individual campaign where you have to report, if you put in more than \$200 of your own

money. Go to the Secretary of State's website, pull up the campaign, any district, donations that they received, PAC monies, and then you go, I couldn't find any legislators that used their own money on their own behalf. Then say I know they had a \$22,000 TV buy, for example. There is just a huge discrepancy of money there. I mean if they're technically supposed to be reporting when they use more than \$200 of their own money. I challenge you to pull up the website. That's an awful lot of \$100 contributions to pay for a \$22,000 TV ad buy. That's just a television buy. Then you factor in the radio and newspapers. If you are supposed to report every \$200 over your own money that you used, I just don't see it happening in there.

Chairman DeKrey: We will take a voice vote on the amendment to the amendment. Motion carried. We now have the Onstad amendment as amended. We will take a voice vote.

Motion carried. We now have the bill before as amended. What are the committee's wishes.

Rep. Koppelman: I move a Do Pass as amended.

Rep. Kingsbury: Second.

12 YES 1 NO 1 ABSENT

DO PASS AS AMENDED

CARRIER: Rep. Onstad

Prepared for Rep. DeKrey
by Erica Shively

PROPOSED AMENDMENTS TO H.B. 1297

Page 1, line 8, after "law" insert ", a political committee registered under state law,"

OK

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1297

Page 1, line 2, replace "political" with "people."

Page 1, remove line 3

Page 1, line 8, replace "or" with an underscored comma, replace "registered as" with an underscored comma, and after "committee" insert ", or an individual"

Renumber accordingly

*add to line 12 - sentence -
Does not apply to contributions
an individual can give to his/her
own campaign.*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1297

Page 1, line 2, remove "legislative" and replace "political" with "people."

Page 1, remove line 3

Page 1, line 7, remove "legislative"

Page 1, line 8, replace "or" with an underscored comma, replace "registered as" with an underscored comma, and after "committee" insert ", or an individual"

Page 1, line 9, remove "for the legislative assembly"

Page 1, line 11, replace "legislative" with "public"

Page 1, line 12, replace "legislative" with "public"

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1297

Page 1, line 2, remove "legislative" and replace "political" with "people; and to amend and reenact subdivision c of subsection 3 of section 16.1-08.1-01 of the North Dakota Century Code, relating to exclusions to the definition of contribution as it relates to campaign contribution statements."

Page 1, remove line 3

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Subdivision c of subsection 3 of section 16.1-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

- c. Money spent by a candidate on the candidate's own behalf which does not exceed two hundred dollars."

Page 1, line 7, remove "legislative" and after the underscored boldfaced period insert "1."

Page 1, line 8, replace "or" with an underscored comma, replace "registered as" with an underscored comma, and after "committee" insert ", or an individual"

Page 1, line 9, remove "for the legislative assembly"

Page 1, line 11, replace "legislative" with "public"

Page 1, line 12, replace "legislative" with "public"

Page 1, after line 12, insert:

- "2. Notwithstanding subsection 1, a candidate may not make contributions to that candidate's own campaign for public office in excess of three thousand dollars in the aggregate during any calendar year."

Re-number accordingly

House Amendments to HB 1297 (70606.0204) - Judiciary Committee 02/07/2007

Page 1, line 2, replace "political" with "persons."

Page 1, remove line 3

Page 1, line 8, replace "or" with ", a political committee registered under state law," and replace "registered as a political committee" with ", or an individual"

Renumber accordingly

Date: 2-6-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1297

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Rep. Koppelman Seconded By Rep. Kingsbury

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Meyer <u>Absent</u>	✓	✓
Rep. Charging	✓		Rep. Onstad	✓	
Rep. Dahl	✓		Rep. Wolf		✓
Rep. Heller	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 12 No 1

Absent _____

Floor Assignment Rep. Onstad

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

REPORT OF STANDING COMMITTEE

HB 1297: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1297 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "political" with "persons."

Page 1, remove line 3

Page 1, line 8, replace "or" with "a political committee registered under state law," and replace "registered as a political committee" with ", or an individual"

Renumber accordingly

2007 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1297

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1297

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 03/08/07

Recorder Job Number: 4676

Committee Clerk Signature

Monica Spurling

Minutes:

All members of the committee were present.

Senator Dever, Chairman, opened the hearing on HB 1297.

Representative Raeann Kelsch from District 34 introduced the bill. The bill limits the contributions to legislative candidates. She feels legislative races are what is left of true grassroots races in our state. She feels the majority of the money for a campaign should be coming from the district. We should not be seeing large contributions coming from outside our state or from PACs that don't have any interest in our state politics.

Senator Nelson asked what this bill is trying to stop. Does it want to limit the ability of both parties?

Raeann responded, "Yes, once it's law it will affect everyone." She stated that the reason there are no democrat sponsors on this bill is because she couldn't get any. Her preference when she started drafting this bill was that the numbers specified should be even smaller but this is a compromise. This would not affect congressional races or statewide races. The House Judiciary Committee added the language "or an individual" on lines 7 and 8.

Senator Dever asked if there were any amendments made when the bill was in the House Judiciary Committee. He thinks it was in reference to a person still being allowed to contribute to his or her own campaign.

Raeann said that was the case and they did not want to limit a candidate's ability to finance their own campaigns. But when it came to the House floor this was the only language that was in there.

Senator Lee said that this would mean out-of-state family members could not contribute to a candidate's campaign beyond the limits set out in this bill.

Raeann said the contributors could send the maximum amount each of the four years of the term and that way they could still contribute \$15,000.00, (This includes \$3000.00 in each non-election year and \$6000.00 during the election year.)

Senator Horne said it requires planning ahead. He questioned whether it is legal to set limits. Raeann said she spoke to the Attorney General to craft the language. Using his informal opinion, this is the draft they came up with.

Representative Jim Kasper from District 46 spoke in favor of the bill. On the election year when a 3 member team is running for office they can receive \$18,000.00 because when it is split 3 ways it is a contribution of \$6000.00 to each. He feels that is not that limiting. He agrees that legislative races should be kept local. Big money does sway elections especially when there is a large disparity between the funds available to the candidates.

Secretary Jaeger addressed the previous question about the amendments that were possibly missed. He mentioned the definition sections when you go to contributions which are referenced in this bill. In the contributions for this chapter it very specifically does not include money spent by a candidate on his own behalf. He feels it is already covered as the law and the definitions in the law stand.

Senator Nelson questioned what happens when a couple has a joint account and one of them writes a check out to a campaign.

Secretary of State Jaeger said it goes by whose signature is on the check.

Senator Nelson asked how many contributions are more than \$6000.00.

Secretary Jaeger said that is public information and is on the Secretary of State's website.

Senator Dever asked if it would preclude the transfer of an amount from one district to another.

Secretary Jaeger said it might.

Senator Dever asked if 3 candidates are running together might it create a problem.

Secretary Jaeger said that would be considered a candidate committee or a multi candidate political committee so it would be the maximum amount multiplied by three.

Senator Horne asked if there would be any penalty placed on the candidate if he accepts a contribution that goes over the limit.

Secretary Jaeger said the wording says willfully, and the penalty is spelled out.

Senator Horne pointed out that the bill states the penalty is for the contributor, not for the recipient. Also if a group gave \$10,000.00 and the infraction is only \$500.00 it could just be considered the cost of doing business.

Senator Nelson said she has looked at the website and has checked on the amounts given.

She said she feels it would impact some candidates. The people we elect to leadership sometimes get large contributions from the national parties. Their instructions are to distribute them to candidates who are in need or who they think are on the cusp of winning. This means an individual senator could be getting \$1000.00 from his national political committee. Would this bill say from now on his choice of who those go to would have to be made by the national committee and they would have to keep it within the established limit?

Secretary Jaeger said it does set a limit of \$6000.00.

Senator Oehlke asked if a check is made out to the state party or the district then no amount has been established?

Secretary Jaeger said that is correct.

Chairman Dever closed the hearing on HB 1297.

The committee will wait until a later date to act on this bill.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1297

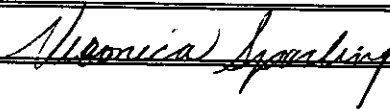
Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 03/16/07

Recorder Job Number: 5214

Committee Clerk Signature



Minutes:

All members of the committee were present.

Chairman Dever opened discussion on HB 1297.

A do not pass motion was made by Senator J Lee.

The motion was seconded by Senator Nelson.

Senator Dever said this bill would have left a lot of loopholes in campaign finance.

The discussion was about how to control and audit it and the fine being too low. There also was discussion about limiting a political party to how much it could spend on a campaign. Each campaign committee could only spend \$6000.00 so a team running together would each have to have their own campaign committee.

Senator Dever said he was concerned about unintended consequences of the bill. Senators Lee and Horne agreed with this concern.

Senator Nelson said theoretically if you plan far enough ahead you can receive up to \$15,000.00 from a contributor.

Senator Lee expressed concern about the political parties being limited to the amounts because they do not divvy it out annually.

Senator Dever mentioned that the contributions include in-kind contributions.