

2011 HOUSE POLITICAL SUBDIVISIONS

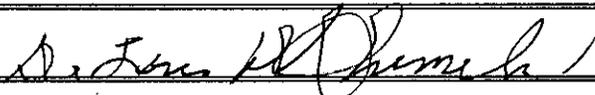
HB 1026

2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

HB 1026
January 13, 2011
Job #12867

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

Relating to authority of administrative agencies to adopt an organization rule.

Minutes:

No testimony or attachments

Chairman Johnson: Opened the hearing on HB 1026.

Rep. Koppelman: Introduced bill on behalf of the administrative rules committee, which I vice chair. The bill was only bill that was forwarded to you for the consideration of the legislature. It says that current law shall include in its rule that portion of rules subject to this chapter. This just makes it permissible not mandatory.

Rep. Shirley Meyer: Wouldn't it be better if they had to do this?

Rep. Koppelman: That is current law. The feeling is it would not be necessary to require it every time.

Rep. Klemin: If they already have a statement in there and they want to take it out they would have to do it through a rule making procedure at additional expense to take it out. I cannot imagine why they would want to do that.

Rep. Koppelman: That is a good point. I do not recall if there was a time certain on this statute where they had to do it by a certain time or if it could be just picked up later down the road.

John Walstad: Code Advisor, Council for the Administrative Rules Committee: The bill before you is not a big deal. We have had a provision in the code for years and years saying that administrative agencies have to provide in their rules an organizational rule. There are no guidelines for what that is suppose to tell people, but usually what agencies put in there is like division heads and telephone numbers and things like that. Some of them put in history of the agency. The problem is once they do that they never look at it again and we have rules in the code that are way outdated. The Historical Society asked to just take the rule out and the committee approved it, but then we have this thing that says we are suppose to have one so the committee recommended legislation to make it optional and that is what this does. Most agencies if you are looking at administrative codes you

are going to go to the bill site and that is all this bill does. I suspect if this is approved some of the rules in there will be removed at agency request rather than go through the effort to update the thing.

Rep. Klemin: Can they just take this out or do they have to go through a rules making thing to delete it?

John Walstad: That is a good question. It cost about \$1500 to make rules because of the newspaper notice. The organizational rule is not considered a substantive rule; so the agency can change this whenever it wants to; they just don't chose to do that and so if the agency lets me know they want to get rid of the organizational rule I will just take it out of the code and it won't have to be public hearing etc.

Opposition: None

Hearing closed.

Chairman Johnson: reopened the hearing on HB 1026. What is the wish of the committee?

Motion for Do Pass by Rep. Shirley Meyer: Seconded by Rep. Koppelman

Vote: 14 Yes 0 No 0 Absent Bill Carrier: Rep. Hatelstad

Hearing closed.

Date: 1-13-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1026

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider _____

Motion Made By Rep. Meyer Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Kilichowski	✓	
Vice Chairman Hatelstad	✓		Rep. Shirley Meyer	✓	
Rep. Beadle	✓		Rep. Mock	✓	
Rep. Devlin	✓		Rep. Zaiser	✓	
Rep. Heilman	✓				
Rep. Klemin	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Pietsch	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Heilman

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

REPORT OF STANDING COMMITTEE

HB 1026: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1026 was placed on the Eleventh order on the calendar.

2011 SENATE POLITICAL SUBDIVISIONS

HB 1026

2011 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee Red River Room, State Capitol

HB 1026
March 3, 2011
14875

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to authority of administrative agencies to adopt an organizational rule.

Minutes:

You may make reference to "attached testimony."

Chairman Andrist opened the hearing on HB1026, relating to authority of administrative agencies to adopt an organizational rule. All senators were present.

John Walstad: Representing the Legislative Council, Code reviser and works with the Administrative Rules Committee and publishes the Administrative Code. Mr. Welled is not for or against this bill, but gave neutral testimony.

His explanation of the bill is the fact that it is an organizational rule. What is in organizational rules is up to the agency. The law was written at a time when mail, was the way to communicate with people. It isn't that way anymore. Most people who want to know something about an agency will go to the agencies website to get their information. He referenced the Historical Society who requested the change.

Chairman Andrist: This doesn't just affect the Historical Society, it would affect all agencies?

John Walstad: All administrative agencies. And I am probably the only one who has ever looked at these administrative rules and they are almost uniformly awful. The information that is there is unreliable because it is so old.

Senator Dotzenrod: On line 13 &14, we changed shall to 'may' and it says, in its rules a portion of its description of its organization and functions. Isn't that something that you would normally want them to do like a mission statement? Isn't it normal for an agency for the benefit of the public to have as part of its function a description of its organization and function? You're saying we are indifferent, by taking the 'shall' out and making 'may'.

John Walstad: That is one view, the other view is that there allowed to write these statements without any legislative oversight, and maybe we don't want them saying what they think their mission and objective is. Frankly, I think the legislature has done a pretty good job identifying in statute why agencies exist and what their purpose is and for an

agency to expand on that. **Senator Dotzenrod:** Maybe the proper way to look at this is if the agency is a creation of the legislature, and created by state government, maybe that is where the description should come from rather than from the organization that has been created.

John Walstad: I think I would favor that approach from a viewpoint. If we end in court, and someone is trying to decide, if this is within the agencies mission or not, I would argue as the attorney for the Legislature, although we don't have one, that you look at statute and interpret from that what the agencies function is. You don't look at what the agency says its function is. **Senator Dotzenrod:** I agree with that way of looking at this bill.

No one came forward to testify for, against or in a neutral position on this bill.

Chairman Andrist closed the hearing on HB1026.

Motion for Do Pass: Senator Laffen
2nd: Senator Dotzenrod
Roll call: 5 Yeas, 0 No, 0 Absent
Carrier: Senator Laffen

REPORT OF STANDING COMMITTEE

HB 1026: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1026 was placed on the Fourteenth order on the calendar.