

House Bill 1285

Presented by: Randy Christmann, Chair
Public Service Commission

Before: Senate State and Local Government Committee
Honorable Kristin Roers, Chair

Date: March 24, 2023

TESTIMONY

Madam Chair and members of the committee, I'm Randy Christmann, Chair of the Public Service Commission, here to testify on HB 1285. I am testifying on my own behalf. To be clear, from my current position at the PSC I have a completely neutral position regarding your decision on passage of this bill. We submitted five policy bills this session and all have passed both Houses unanimously. The Commissions had another one that was not ready by our early December deadline and we found Legislative sponsors and it has also passed both Houses. So passage of HB 1285 would not be problematic for the PSC at all. I do have some other history on this topic though that I think should be shared.

In the 1990's, I would have signed on as a cosponsor of this legislation had it been proposed. I had a firm belief that agencies should find legislators to sponsor their bills rather than proposing them on their own. Instead of legislation to require this, there was a Governor's directive urging executive agencies to obtain legislative sponsors.

After trying this for a couple of sessions the Legislature took the opposite position. The Legislative Council, which is what we called Legislative Management in those days, finally sent a letter to executive branch agencies and the Supreme Court urging them to use the agency introduction privilege rather than asking individual legislators to introduce

agency bills. Please read the “Executive Agency and Supreme Court Bills” section of the 1999 Legislative Council report for yourselves for the most accurate explanation of the reasons Legislative Council took this action. I am confident that with the new ideas presented in favor of this change and this historical context you will provide good guidance for how you want us to submit our legislation in the future.

This concludes my testimony. Thank you for your time and I am available for questions.

REPORT
OF THE
NORTH DAKOTA LEGISLATIVE COUNCIL

Pursuant to Chapter 54-35 of the North Dakota Century Code



FIFTY-SIXTH LEGISLATIVE ASSEMBLY
1999

sponsors could be changed after approval of the Delayed Bills Committee or otherwise. The Senate also approved deleting this word, but it was retained through a clerical error in 1995 and 1997.

The committee recommends amendment of Senate Rule 403 to delete reference to the "original" sponsor's name and thus reaffirm the change first approved in 1994.

Bill Introduction Deadlines

Traditionally, bill introduction deadlines fall on the 5th, 10th, and 15th legislative days—Mondays—when the Legislative Assembly convenes on Tuesday. The 55th Legislative Assembly convened on Monday, January 6, 1997, rather than the traditional Tuesday. For the 1997 session, the bill introduction deadlines were changed to the 6th, 11th, and 16th legislative days so the various bill introduction deadlines would continue to fall on Mondays.

The committee recommends amendment of Senate and House Rules 402 to change the bill introduction deadlines from the 6th, 11th, and 16th legislative days to the 5th, 10th, and 15th legislative days. The 56th Legislative Assembly will convene on Tuesday, January 5, 1999, and this recommendation is made to ensure that each bill introduction deadline will continue to fall on Monday.

Divided Committee Reports

The committee discussed the use of divided committee reports. Senate and House Rules 602 provide that in case all the members of any committee cannot agree upon any report, the majority and minority may each make a report and any member dissenting from both the majority and minority may also present a report. Committee members discussed the effect of allowing one member to make a report, regardless of the practicality of the success of that report on the floor of the chamber. The committee determined that more than one member should be required for a report so as to reduce the possibility of frivolous reports.

The committee recommends amendment of Senate and House Rules 602 and House Rule 601(1) to provide that in case all the members of any committee cannot agree upon any report, the majority and minority may each make a report, and the minority report must be signed by at least two members of the Senate committee or three members of the Senate Appropriations Committee, or three members of the House committee or four members of the House Appropriations Committee, who voted against the majority report.

Resolutions Crossover Day

Joint Rule 203 provides a bill that has passed one house may not be sent to the other house for concurrence after the 34th legislative day, and a resolution requesting a Legislative Council study may not be sent to the other house for concurrence after the

40th legislative day. The committee discussed whether there should be a deadline for sending any type of resolution to the other house for concurrence. No reason was advanced to continue to exclude certain resolutions from a crossover deadline. A reason for establishing a deadline is to reduce the volume of proposals scheduled on the calendar late in the session.

The committee recommends amendment of Joint Rule 203 to provide that a resolution that has passed one house may not be sent to the other house for concurrence after the 40th legislative day, except a resolution approved for introduction after the deadline for introduction of that type of resolution. This deadline would depend on the type of resolution, e.g., a general resolution may not be introduced after the 18th legislative day and a resolution requesting a Legislative Council study or proposing amendment of the United States Constitution may not be introduced after the 31st legislative day.

Executive Agency and Supreme Court Bills

The committee discussed the effect of agencies requesting legislators to be listed as sponsors of agency bills. The committee reviewed statistics on the number of bills introduced beginning with the 1993 session (before the rules change) through the 1997 session. There has been a reduction of 17 percent in the number of bills introduced from 1993 through 1997, and the reduction in the number of agency bills introduced has been 61 percent. Of 193 agency bills introduced in 1995, 33 were sponsored by legislators, and of the 121 agency bills introduced in 1997, 18 were sponsored by legislators. Only two percent of all bills introduced were agency bills with individual sponsorship.

Committee members expressed concern, however, over another practice the statistics revealed. The number of bills prefiled for early introduction has gone down by 22 percent for the House and 43 percent for the Senate. Thus, the decrease in the number of prefiled bills is disproportionately greater than the general reduction in the total number of bills introduced. Of concern, however, is the fact that although the number of prefiled bills has gone down, the number of House bills introduced by the first introduction deadline has increased by 23 percent and the number of Senate bills introduced by the first introduction deadline has decreased by only 11 percent. Agencies appear to present their proposals to individual legislators for individual sponsorship rather than prefile those proposals for introduction, e.g., an agency requests a legislator to sponsor a bill and provides that bill to the legislator, and that legislator introduces that bill usually during the time period in which legislators may sponsor an unlimited number of bills (before the 6th legislative day in the House and the 11th legislative day in the Senate).

This practice results in agencies determining the house of introduction by contacting legislators from the

preferred house and could lead to an overbalance of bills in one house because agencies are not responsible for balancing the workload of both houses. Also, fewer bills are available for being scheduled for hearing during the first two weeks of the session which results in more bills having to be scheduled for hearing during the remaining time before crossover. Committee members also discussed the purposes of the agency introduction privilege—spacing legislative workload and reducing the need for legislators to miss committee hearings to testify before other committees with respect to agency proposals. Also discussed was the effect of the Governor's 1994 directive to executive agencies to obtain individual sponsors of their proposals.

In response to these statistics and the committee's concerns, a letter was sent to executive branch agencies and the Supreme Court urging the agencies to use the agency introduction privilege rather than asking individual legislators to introduce agency bills after the prefiling deadline. A letter was also sent to the Governor pointing out the statistics showing that agencies going to individual legislators to introduce bills has affected the ability of the Legislative Assembly to schedule bills early in the session and requesting the Governor to encourage agencies to use the agency introduction privilege rather than burdening legislators with the responsibility of appearing before committees solely to defer to agency representatives.

Printing of Measures

The committee reviewed Joint Rule 603, which provides for 500 copies of each bill and 400 copies of each resolution to be printed. The employees in the bill and journal room during the 1997 session suggested that the number of printed resolutions be increased to equal the number of printed bills because of the demand for each.

The committee recommends amendment of Joint Rule 603 to provide for 500, rather than 400, copies of resolutions to be printed. This should reduce the need for special orders to print resolutions on a regular basis.

Use of Committee Rooms

The committee was informed of requests by legislators to reserve legislative committee rooms for scheduled use by private groups. Joint Rule 803 provides that during a legislative session committee rooms may be used only for functions and activities of the legislative branch, but a state agency may be granted permission by the Secretary of the Senate or the Chief Clerk of the House to use a room at times and under conditions not interfering with the use of the room by the legislative branch. With respect to use during the interim, NDCC Section 48-08-04 applies and provides that committee rooms may not be used without authorization of the Legislative Council, or its designee.

The committee discussed the difficulty of bringing every request to the Legislative Council or applying

unwritten policies. Under current practice, the Legislative Council retains jurisdiction over the Harvest Room and the Roughrider Room and responsibility for use of the other committee rooms is transferred to the Office of Management and Budget (Facility Management Division). A written policy would provide notice regarding permitted uses and would provide guidelines for the Legislative Council staff and the Facility Management Division in managing use of committee rooms.

The committee recommends a policy governing approval of use of committee rooms during the interim similar to that governing use of the chambers. The first priority is for the legislative branch. A state agency may use committee rooms for official purposes of the agency. Any other group or organization may use committee rooms as necessary for educational and informational meetings that have a reasonable relationship to the legislative process only if the group or organization arranges for security, janitorial, and other services with the Office of Management and Budget and either is sponsored by a state agency or signs a facilities use agreement as required under the guidelines for use of legislative chambers and displays in Memorial Hall. Committee rooms may not be provided for use by a group or organization if the planned function would interfere with the business or activities of the legislative branch, if the purpose of the meeting is to advocate the introduction of legislation or to encourage or oppose the enactment of legislation or any decision on a matter before the Legislative Assembly or Legislative Council or any legislative committee, or if there are other suitable facilities on the Capitol grounds or in a privately operated facility that may or may not charge a fee for that use. The Legislative Council staff may arrange with the Office of Management and Budget to manage the scheduling of committee rooms. Any use contrary to the policy is subject to prior approval from the Legislative Management Committee.

Legislative Rules Book

The committee approved a proposal to reprint the Legislative Rules Book and incorporate rules changes approved at the organizational session, with appropriate grammatical, style, obsolete reference, and numbering changes to integrate new rules; reorder and renumber rules as appropriate; and reflect current procedures.

Other Rules Proposals Considered

The committee reviewed several other proposed rules amendments. These included (1) amendment of Senate and House Rules 347 to require the title of a bill or resolution to be summarized when a motion to reconsider is made with respect to a bill or resolution (to give notice to members and allow time to search voting records and to respond); (2) amendment of Senate and House Rules 329 to provide for automatic referral to the Appropriations Committee of a bill or resolution that