



House Government and Veterans Affairs Committee

Testimony in Support of House Bill 1360 on January 31, 2025

Chair Schauer and members of this Committee. I am Murray Sagsveen, the newest member of the Ethics Commission. My professional career spans more than a half-century as a military officer, attorney, and public official, which provides an excellent insight into an appropriate enforcement process.

Voters adopted Article XIV of the North Dakota constitution in November 2018, and legislators scrambled in the following months to adopt implementing legislation without any input from the Commission (all commissioners were appointed by September 2019, and the first executive director was hired in January 2020). Under those circumstances, the legislature should be commended for adopting version 1.0 legislation.

Nearly six years have passed since the 28-section House Bill 1521 was enacted in May 2019, and the law has been amended in 2021 and 2023. The experience of the Commission and staff has revealed that continued “fine tuning” is necessary. House Bill 1360, if enacted, would be a significant improvement to the 2019 version 1.0 legislation.

Several comments about House Bill 1360.

1. The complainant. Currently, a complainant is involved in the initial stage of the enforcement process, which causes several problems:

- A complainant could file a complaint to gain leverage over the respondent, such as adverse publicity or offering to withdraw a complaint if the respondent (a legislator or public official) would agree to take a certain action.
- During this initial stage, the executive director must assume the inappropriate role of a mediator between the complainant and respondent.
- The mediation stage may unnecessarily extend the enforcement process for many months.

House Bill 1360 solves this problem.

2. Enforcement should be an administrative process. Currently, the law includes criminal terminology and favors the criminal process.

House Bill 1360, if enacted, would remove the term “complainant” from Chapter 54-66. This is a very positive signal that the enforcement process is transitioning from a criminal to an administrative process.

Also, the current law, at 54-66-08(2), requires the Commission to refer a complaint to a law enforcement agency if “a complaint contains allegations of criminal conduct,” which could lengthen the enforcement process for many months.

From a practical aspect, law enforcement agencies may be unwilling to prosecute (what they may consider) minor violations of the law. Criminal prosecutions would require proving to a judge or jury beyond a reasonable doubt that the defendant violated the law.

A much less complicated administrative enforcement process by the Ethics Commission would accomplish a key objective of Article XIV of the constitution – the Commission would accept, investigate, and timely complete all allegations of ethical misconduct brought to its attention in a manner that prompt, efficient, confidential, and respectful of the respondents’ rights.

House Bill 1360 removes the requirement that the Commission must refer possible criminal conduct to a law enforcement agency. However, the Commission would still have the discretion to refer egregious cases to a law enforcement agency.

3. Current law is cumbersome. After my appointment to the Commission, I tried to sketch a flow chart to follow the statutory enforcement process from the complaint through the final Commission action. It revealed to me that the current statutory process is complicated, cumbersome, and time-consuming.

House Bill 1360 vastly streamlines and would certainly shorten the enforcement process without sacrificing due process rights of the respondent.

Recommendation

Therefore, I strongly recommend that this committee vote “do pass” on House Bill 1360.

Murray G. Sagsveen
1277 Eagle Crest Loop
Bismarck, ND 58503