

**1999 HOUSE JUDICIARY**

**HB 1025**

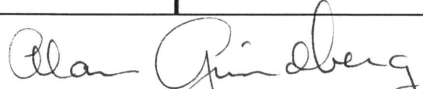
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1025

House Judiciary Committee

Conference Committee

Hearing Date January 11, 1999

Tape Number	Side A	Side B	Meter #
1		X	32.7
Committee Clerk Signature 			

Minutes:

JOHN WALSTAD: (LC) This came out of an interim study and is a continuation of some 1995 legislation. Then, the Health Dept got the legislature to not allow rules that have no application in North Dakota just to match Federal rules. An example would be rules relating to pineapple growing. This law made it easier to get the federal officials to waive the rules. This bill seeks to extend the law to cover all areas, not just environmental rules.

JOHN LITTLEFIELD: (GNDA) We are for this bill. This will remove unnecessary laws from the Administrative Code. There are many rules on the books that have no application to North Dakota.

KEN BERTSCH: (NDFB) We are in favor of both 1025 and 1026

REP KOPPLEMAN: I am for 1025. We don't want to clutter up our Administrative Code with rules on pineapples, alligators and the like.

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House Judiciary Committee

Bill/Resolution Number (Untitled)

Hearing Date January 11, 1999

IKE MULLEN: (DOH) Our department is opposed to this bill. It will be burdensome.

CHARLES JOHNSON: (PSC) Presented written testimony, which is attached.

COMMITTEE ACTION: January 20, 1999

REP MARAGOS moved that the committee recommend that the bill DO PASS and rerefer the bill to the appropriations committee. Rep. Koppleman seconded. That motion passed on a roll call vote with 10 ayes, 4 nays and 1 absent.

Date: 1/20  
 Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1025

House JUDICIARY Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Maragos Seconded By Koppelman

Representatives	Yes	No	Representatives	Yes	No
REP. DEKREY	✓		REP. SVEEN	✓	
REP. CLEARY		✓	<u>Kopp</u>		
REP. DELMORE	✓				
REP. DISRUD	✓				
REP. FAIRFIELD		✓			
REP. GORDER		✓			
REP. GUNTER					
REP. HAWKEN	✓				
REP. KELSH	✓				
REP. KLEMIN	✓				
REP. KOPPELMAN	✓				
REP. MAHONEY		✓			
REP. MARAGOS	✓				
REP. MEYER	✓				

Total (Yes) 10 No 4

Absent 1

Floor Assignment \_\_\_\_\_

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

refer to ap.

REPORT OF STANDING COMMITTEE (410)  
January 21, 1999 9:24 a.m.

Module No: HR-13-0940  
Carrier: DeKrey  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1025: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (10 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1025 was rereferred to the Appropriations Committee.**

**1999 SENATE JUDICIARY**

**HB 1025**

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1025

Senate Judiciary Committee

Conference Committee

Hearing Date March 15, 1999

Tape Number	Side A	Side B	Meter #
1	x		0 - 2026
3-16-99 1	X		0 - 1240
Committee Clerk Signature <i>Jackie Follman</i>			

Minutes:

HB1025 relates to adoption of administrative rules from federal guidelines and adoption of rules by reference and appropriate circumstances; and to provide an effective date.

SENATOR WATNE opened the hearing on HB1025 at 9:00 A.M.

All were present except Senator Bercier.

JOHN WALSTAD, Legislative Council, testified in support of HB1025. This bill is an extension of legislation enacted in 1997. This is amending sections of the law that were created at that time. There were questions asked "How can the number of administrative rules being adopted be reduced." One of the suggestions were perhaps state law would provide that in cases where federal environmental rules require state adoption, state law could provide that if those rules are not relevant to state regulatory programs, they would not be adopted. If those rules are

not relevant to anything that is going on in North Dakota this bill would direct the agency to exclude those rules from its rulemaking proceedings.

SENATOR NELSON asked the effective date then says that the agencies don't have to go back into their mountains of rules and update everything.

JOHN WALSTAD stated that is correct. The effective date makes this prospective only that rules would not be adopted in the future that have nothing to do with what is happening in North Dakota.

SENATOR TRAYNOR asked if we are now subject to all Federal rules.

JOHN WALSTAD stated that Federal law and rules are supreme.

SENATOR WATNE asked would any of the funding be at risk from the Feds.

JOHN WALSTAD stated there may be a threat of that. This law does set up the possibility for that catch-22.

SENATOR WATNE asked if there are any other states with this legislation.

JOHN WALSTAD stated that he did not think so.

SENATOR TRAYNOR asked if this has been suggested by a Federal agency.

JOHN WALSTAD stated no.

SENATOR WATNE asked this is actually 3 different types of law.

JOHN WALSTAD stated yes, that is correct.

DON LITCHFIELD, GNDA, testified in support of HB1025. Testimony attached.

MIKE MULLEN, Health Department, testified in support of HB1025. We haven't experienced any problems with the environmental legislation. It would simplify the administrative rule book.



DAN BIESHEUVEL, R-KYDS, testified in support of HB1025. We feel this bill is important to regulate the over institution of federally mandated laws in the state statute.

BETH BAUMSTARK, Attorney General's Office, testified as neutral on HB1025. There may be an administrative problem on this bill that I foresee. One is that the first section does require a repeal of any existing rule that has been adopted. This will be an area of uncertainty. The second is determining what is relevant to state regulatory programs. There are some questions which could lead to some uncertainties in terms of which rules are relevant.

SENATOR WATNE asked if she had any ideas on how to change this.

BETH BAUMSTARK stated that she doesn't with specific language. The first could be corrected by taking out the repeal or amend and just prohibiting any adoption of new rules. In terms of what is relevant to the state program, unless you would put it in the agencies determination or something so you spell out where the responsibility for that decision is going to be.

SENATOR TRAYNOR asked what if we changed that to permissive language, the agency may repeal.

BETH BAUMSTARK stated that she wouldn't see a problem with that in terms of leaving it up to the agency. It is the mandated repeal that causes concern.

SENATOR STENEHJEM CLOSED the hearing on HB1025.

**MARCH 16, 1999 TAPE 1, SIDE A**

SENATOR HOLMBERG testified to add a germane amendment. This amendment is regarding the size of city councils. In Grand Forks, there are 7 wards and 14 city council members.

3-16-99

This amendment is to change the size to include only 7 members. The problem is the state law is pretty specific in that  $\frac{1}{2}$  of the members need to be elected in different years. The way the law is now they cannot elect  $\frac{1}{2}$  of 7. This amendment would require the vote of the people.

Proposed amendment attached.

SENATOR TRAYNOR asked that the proposal is to reduce the number to 7. Have they considered going to the commission.

SENATOR HOLMBERG stated that the 5 are elected at large, they like the ward system. They can't make the ward system fit and meet all the requirements in law with an uneven number.

SENATOR NELSON asked what are the limitations on council members in this form of government.

SENATOR HOLMBERG stated the maximum is 14 and the minimum is 5.

SENATOR STENEHJEM stated this bill is not controversial. It will be up to the voters to make the reduction.

SENATOR WATNE made a motion on the Amendments, SENATOR TRAYNOR seconded.

Discussion. Motion carried. 6 - 0 - 0

SENATOR WATNE made a motion for DO PASS, SENATOR TRAYNOR seconded.

Discussion. Motion carried. 6 - 0 - 0

SENATOR TRAYNOR will carry the bill.





REPORT OF STANDING COMMITTEE

HB 1025: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1025 was placed on the Sixth order on the calendar.

Page 1, line 1, replace the second "and" with a comma and after "28-32-02.4" insert ", and 40-08-06"

Page 1, line 3, after "circumstances" insert "and to the terms of office of city council members"

Page 2, after line 5, insert:

**"SECTION 3. AMENDMENT.** Section 40-08-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**40-08-06. Term of office of council members - Staggered terms provided for in cities where other than ten council members elected.** Council members shall hold office for four years and until their successors are elected and qualified. Terms of council members must be arranged so that ~~only~~ one-half of the council members in any city, as nearly as is practicable, are elected in any one election. When a city first adopts the council form of government or changes the number of council members, or when a city that has adopted the commission system of government returns to the city council form of government as provided by section 40-04-08, the alternation of the terms of the council members must be perfected as follows: of the council members elected in each ward, the one receiving the greater number of votes shall serve until the fourth Tuesday in June following the second succeeding biennial election and the one receiving the lesser number of votes shall serve until the fourth Tuesday in June following the biennial election succeeding the council member's election; if the city is not divided into wards, the one-half of the council members elected in the entire city receiving the greater number of votes shall serve until the fourth Tuesday in June following the second succeeding biennial election and the one-half of the council members elected in the entire city receiving the lesser number of votes shall serve until the fourth Tuesday in June following the biennial election succeeding their election. ~~Whenever, for any cause, more than one half of the total number of council members in any ward, or more than one half of the total number of council members in the city, if the city is not divided into wards, are to be elected in any one election, the length of the terms of the council members elected at the election must be determined as provided in this section.~~

Page 2, line 6, replace "This" with "Sections 1 and 2 of this" and replace "is" with "are"

Renumber accordingly

**1999 TESTIMONY**

**HB 1025**

## H.B. 1025

**Presented by:** Charles E. Johnson  
Public Service Commission

**Before:** Judiciary Committee  
Representative Duane DeKrey, Chairman

**Date:** January 11, 1999

### TESTIMONY

Mr. Chairman and committee members, I am Charles E. Johnson, an attorney with the Public Service Commission (Commission). I appear on behalf of the Commission.

The Commission is concerned about this bill because it requires the agency to seek a waiver from the federal government to relieve the agency from complying with or adopting federal rules that are not relevant to North Dakota regulatory programs.

Federal agencies are not always cooperative in granting waivers.

For example, if the Commission does not adopt certain federal gas safety rules or regulations, even though they might not be relevant to our state, our program is downgraded and our funding for the program is reduced. As a result we have no choice but to adopt such rules.

Senate Judiciary Committee  
Senator W. Stenehjem, Chairman  
March 15, 1999

House Bill No. 1025

Same as  
given  
1-11-99

Mr. Chairman, Members of the Committee:

My name is Don Litchfield and I am Chairman of the Greater North Dakota Association (GNDA) Regulatory Affairs Committee, and I am testifying today on behalf of GNDA.

The Greater North Dakota Association is a strong advocate for reasonable and efficient rule making. House Bill 1025 expands the requirement for state agencies to repeal or amend any existing rule that was adopted from federal environmental guidelines, and which is not relevant to state regulatory programs, to all federal guidelines.

House Bill 1025 will remove unnecessary rules from the state's regulatory process, and keep similar unnecessary rules from being adopted in the future.

House Bill 1025 is part of GNDA's legislative agenda and is approved for support by the GNDA Board of Directors. We urge a DO PASS on House Bill 1025.

D. K. Litchfield, Chairman  
GNDA Regulatory Affairs Committee



## PROPOSED AMENDMENTS

**40-08-06. Term of office of council members - Staggered terms provided for in cities where other than ten council members elected.** Council members shall hold office for four years and until their successors are elected and qualified. Terms of council members must be arranged so that only one-half of the council members in any city, as nearly as is practicable, are elected in any one election. When a city first adopts the council form of government or changes the number of council members, or when a city that has adopted the commission system of government returns to the city council form of government as provided by section 40-04-08, the alternation of the terms of the council members must be perfected as follows: of the council members elected in each ward, the one receiving the greater number of votes shall serve until the fourth Tuesday in June following the second succeeding biennial election and the one receiving the lesser number of votes shall serve until the fourth Tuesday in June following the biennial election succeeding the council member's election; if the city is not divided into wards, the one-half of the council members elected in the entire city receiving the greater number of votes shall serve until the fourth Tuesday in June following the second succeeding biennial election and the one-half of the council members elected in the entire city receiving the lesser number of votes shall serve until the fourth Tuesday in June following the biennial election succeeding their election. ~~Whenever, for any cause, more than one-half of the total number of council members in any ward, or more than one-half of the total number of council members in the city, if the city is not divided into wards, are to be elected in any one election, the length of the terms of the council members elected at the election must be determined as provided in this section.~~