

1999 HOUSE TRANSPORTATION

HB 1162

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1162

House Transportation Committee

Conference Committee

Hearing Date January 11, 1999

Tape Number	Side A	Side B	Meter #
2	x		-8.5
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes:

CHAIRMAN BERG OPENED THE HEARING ON HB 1162; A BILL RELATING TO THE AUTHORITY OF THE BANKING COMMISSIONER TO EXAMINE BANK HOLDING COMPANIES.

GARY PRESZLER, Commissioner of Banking, introduced HB 1162. (See written testimony).

REP. BERG asked for an example of a non bank that this may affect.

GARY said a city group merger such as insurance agents may be affected.

REP. KEISER asked about the financial institutions transitioning into the new era? How do we know if the banks are safe?

GARY said a lawsuit can be brought against a holding institution who owns stock.

REP. KEISER further asked if you audit for protection of the bank?

GARY said this bill gives the ability to handle bills at a holding company.

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House Industry, Business, and Labor Committee

Bill/Resolution Number hb 1162

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REP. ECKSTROM noted that maybe the committee should examine page 1, line 23 and page 2 line 1.

GARY said that it was the only way to make it discretionary.

REP. KEMPENICH asked if this bill simply makes supervision clearer?

GARY said rather than supervision, it gives authority.

REP. KEMPENICH further asked if this will improve ratings?

GARY said that we have met the minimum ratings and we are just now trying to implement the changes.

REP. KOPPANG asked if no changes are made, will it affect the accreditation?

GARY said no.

JOEL GILBERTSON, ICBND, testified in opposition to HB 1162. (See written testimony).

REP. KEISER asked if this wouldn't enable the State Banking Commissioner to intervene between review and the federal reserve?

JOEL said that the SBC has the authority to do that right now. Yes is the answer to the question.

This does give more authority to the Commissioner.

REP. KEMPENICH asked if there is something that puts all of this pressure on the banking companies?

GARY said no.

REP. KLEIN asked JOEL to give an example of review authority and enforcement authority.

MARILYN FOSS, NDBA, testified in opposition to HB 1162.

REP. KLEIN asked if the issues are in the bank?

MARILYN said no, there is no problem.

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House Industry, Business, and Labor Committee

Bill/Resolution Number hb 1162

Hearing Date February 11, 1999

CHAIRMAN BERG CLOSED THE HEARING ON HB 1162.

COMMITTEE ACTION

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1162 1-12-99

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-12-99

Tape Number	Side A	Side B	Meter #
2	x		4614 - end
2		x	0 - 200
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes: Chairman Berg opened the discussion of HB 1162.

Right now the Banking Commissioner is allowed to gather information for a holding company.

This bill would allow him to examine the holding company.

Rep. Klein I have a problem with this. He has the authority to examine but not to do any enforcement. What do we need this for?

Rep. Glassheim: What new powers does this give him that we are afraid of? He can already require the bank to give him what is needed.

Rep. Martinson: My concern is that this is duplicating, that this is over regulation.

Rep. Klein made a motion for a Do Not Pass.

Rep. Severson second the motion.

The roll call vote was 11 yea, 3 nay, 1 absent. The motion carries.

Rep. Johnson will carry the bill.

Date: 1-12-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1162

House Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken do not pass

Motion Made By Klein Seconded By Severson

Representatives	Yes	No	Representatives	Yes	No
Chair - Berg	/		Rep. Thorpe		
Vice Chair - Kempenich	/				
Rep. Brekke	/				
Rep. Eckstrom		/			
Rep. Froseth	/				
Rep. Glassheim		/			
Rep. Johnson	/				
Rep. Keiser	/				
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux	/				
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz		/			

Total (Yes) 11 No 3

Absent 1

Floor Assignment Johnson

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

REPORT OF STANDING COMMITTEE (410)
January 12, 1999 5:15 p.m.

Module No: HR-06-0526
Carrier: N. Johnson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1162: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1162 was placed on the Eleventh order on the calendar.

1999 TESTIMONY

HB 1162

TESTIMONY FOR HOUSE BILL NO. 1162

House Industry, Business, and Labor Committee

Testimony of Gary D. Preszler, Commissioner, Department of Banking and Financial Institutions in support of House Bill No. 1162.

House Bill No. 1162 grants discretionary authority to the Commissioner to examine bank holding companies.

Eighty-eight of the ninety-six North Dakota state-chartered banks are owned by a parent bank holding company. The Federal Reserve Bank of Minneapolis has primary jurisdiction for chartering, examinations, and supervision of bank holding companies.

House Bill No. 1162 is the result of the recommendation made by the Conference of State Bank Supervisors Performance Standards Committee and a report received in September 1998 from an accreditation review team on-site visit. Accreditation program involves the completion of a self-evaluation questionnaire comprising six areas. The review team made only five overall recommendations for Department improvement with one of the recommendations: "the review team recommends that the DBFI seek explicit statutory inspection and enforcement authority over bank holding companies." The review team also downgraded the Department's rating on bank holding company examinations from a four to a three. Each question carries a weighted value and a rating of from one to five, with five

being the highest. A rating of three is considered average. Additionally, the review team downgraded the Department's bank holding company supervision rating from a three to a one. The definition for a one rating is "poor", meaning that the "state, industry, and public poorly served". This was the only below average rating the Department received.

The 1996 Conference of State Bank Supervisors Profile indicates 31 states having supervisory authority, including conducting examinations, over bank holding companies.

The basis for establishing the accreditation standard for bank holding company supervision is a concern by the Performance Standards Committee that state supervisory authorities cannot meet bank examination responsibilities to determine the banks true condition if activity is occurring at the parent bank holding company level that is detrimental to the safe and sound operation of the bank. Further, the Performance Standards Committee maintains that state supervisory authorities should be on parity with federal regulatory counterparts. The Comptroller of the Currency under 12 U.S.C. § 481 has authority to examine national bank affiliates to the extent an affiliate's activities affect the bank's operation.

Although House Bill No. 1162 provides discretionary authority to examine bank holding companies, it is equally important to understand what House Bill No. 1162 does not do.

- The bill does not mandate bank holding company examinations or require routine examinations.
- The bill does not contain an examination fee for the time and cost associated with bank holding company examinations.
- The bill does not extend enforcement authority, including cease and desist authority, assessment of civil money penalties, or removal of directors and officers to bank holding companies.
- Presently, all North Dakota bank holding companies controlling state banks, with the exception of six that have some insurance agency ownership, are essentially shell holding companies. There is little to examine.

Based upon this information, why is it that discretionary authority to examine bank holding companies is being requested? First, it is necessary for the Department to review shareholder ledger and payment status on any credit obligations to verify compliance with change of ownership statutes. Second, it is also necessary to review any arrangement for rent, officer compensation, or loan participations that affect arrangements with the bank and the Federal Reserve

Board's affiliated transaction requirements. Finally, the trend is for more non-bank activity to generate from the holding company level and, despite North Dakota holding companies presently being merely shell corporations, that is likely to change and a bank holding company that has extensive non-bank subsidiary activity could acquire a North Dakota state-chartered bank in the future.

The committee also recommended seeking the ability for enforcement authority over bank holding companies. I am not asking for enforcement authority over holding companies at this time in House Bill No. 1162 as I plan to try to convince the Performance Standards Committee in our annual reports that any concerns identified at the parent bank holding company level can be adequately addressed through Department supervisory enforcement authority at the bank level.

Based on the above, the Department stands in support of House Bill No. 1162 and requests a favorable "Do Pass" from the Committee.

HB 1162
Testimony by Joel Gilbertson
Independent Community Banks of North Dakota

It is rare that our organization will oppose a regulatory bill proposed by the Department of Banking. This is one of those rare occasions. We oppose HB 1162.

Banking is one of the most regulated industries in the United States. It is an industry that has established an enviable reputation for safety, has created a confidence that is at least the equal of any other industry, and has given us federal insurance for depositors in nearly all banks, big and small, for up to \$100,000 for losses due to bank failure.

A unique dual set of regulatory structures has been set up and has been in place for many years. A bank may have a national charter or a state charter. This bill is proposed by the Department of Banking, which has regulatory responsibility for state charters.

One primary problem is that it seeks to examine holding companies. By law, holding companies are already examined by the federal government. This legislation would duplicate a regulatory structure already established. In addition, the Banking Department gets copies of the examinations completed by the federal government.

There is movement federally for less regulation rather than more regulation of national banks. We do not need to create more regulation for our state banks and simply create more incentive for those state banks to seek federal charters. The result of that would simply be to place more banks under the control of the Fed in Washington and fewer banks under the control of our State Banking Department in Bismarck.

The Independent Community Banks of North Dakota respectfully oppose HB 1162 and request a DO NOT PASS recommendation from this committee. Thank you.