

1999 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1381

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1381

House Industry, Business and Labor Committee

Conference Committee

Hearing Date February 1, 1999

Tape Number	Side A	Side B	Meter #
1	x		47.2-end
1		x	0-end
2	x		0-1.2
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes:

A bill for an act relating to organization and representation of political subdivision employees, collective bargaining negotiations between political subdivision employers and their employees, and establishment of an employment relations board.

CHAIRMAN BERG called the hearing for HB 1381 to order with all members present.

1A: 47.2 REP. SERENUS HOFFNER introduced the bill, noting that it has bipartisan sponsorship. He read letters from states that have passed bills like HB 1381.

1A: 53.2 KEVIN KICONUS, AFSCME, testified in support of the bill. (See attached testimony.)

1B: 3.2 REP. KEISER asked if the bargaining unit would affect school teachers. Mr. Kiconus said that it would not, because they already have contract negotiations.

1B: 8.9 REP. KLEIN said that he sees only increased bureaucracy. Mr. Kiconus said that the bill does not intend this. Provisions are there to use in the event that situations cannot be resolved amicably. It would represent the workers who do not have any place to go for help.

1B: 14.1 REP. KOPPANG asked if this duplicates political subdivision policies. Mr. Kiconus said that there are some that do not have all the protection.

1B: 18.0 REP. KEMPENICH asked why this needs to be in code if it is already being done. Mr. Kiconus replied that there is nothing in the law that protects workers for the long term.

1B: 20.0 MICHAEL DANNENFELZER, ND Fraternal Order of Police, testified in support of the bill. He said that this will allow management and labor to work together more effectively.

1B: 22.1 REP. STEFONOWICZ asked how their policies and concerns are handled now. Officer Dannenfelzer said that they go to management and usually receive a deaf ear.

1B: 23.2 CHRIS RUNGE, Executive Director of ND Public Employees Association, testified in support of the bill. (See attached testimony.)

1B: 25.2 DALE BERGMAN, Union Leader for Local 148 in Grand Forks, testified in support of the bill. (See attached testimony.)

1B: 28.5 CAROL DIAMOND, Union Leader for Local 148 in Grand Forks, testified in support of the bill. (See attached testimony.)

1B: 33.9 REP. STEFONOWICZ asked about their status now, as they already have a union. Ms. Diamond said that the union speaks on their behalf, but the people have no power or control.

1B: 35.2 NANCY SAND, ND Education Association, testified in support of the bill. She said it provides a process for discussion. The bill forces the employer to come to the table and at least listen.

1B: 41.0 JERRY HJELMSTAD, ND League of Cities, testified in opposition to the bill. He said that local officials are elected to make these decisions, and that local budgets will be affected by the bill.

1B: 43.2 DAN LAROY, Director of Central Personnel, provided an explanation and review of the fiscal note.

2A: 0.0 DAVID KEMNITZ, President of ND AFL-CIO, voiced his support of the bill for the record.

CHAIRMAN BERG adjourned the hearing for HB 1381.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1381 2-2-99

House Industry, Business and Labor

Conference Committee

Hearing Date 2-2-99

Tape Number	Side A	Side B	Meter #
2		x	20.0--55.0
Committee Clerk Signature <i>Lisa Hornum</i>			

Minutes: Chairman Berg asked the committee the consider this bill.

Chairman Berg : There are a number of people concerned about the fiscal note to this bill. It is too costly. If the only concern is the fiscal note, but the committee like the bill, let's discuss this.

Rep. Ekstrom : I would like us to hold the bill.

After much discussion, the bill was put on hold.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1381

House Industry, Business and Labor

Conference Committee

Hearing Date 2-3-99

Tape Number	Side A	Side B	Meter #
2	x		23.4
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes:

HB 1381

Chairman Berg opened the meeting on the bill.

Ms. Chris Runge, Executive Director, ND Public Employees Association, explained components of the bill and responded to questions. If employees request to collective bargain, then it becomes a practice. If this happens in a political subdivision or school, it also becomes a policy for them to have a bargaining unit. Everything that is allowed in the private sector is also allowed in the public sector.

Representative Eckstrom additionally explained the bill. The amendment was prepared to remove the state and political subdivision which will put the issue back into local control. States

Page 2

House Industry, Business and Labor

Bill/Resolution Number Hb 1381

Hearing Date 2-3-99

or political subdivisions can not participate in collective bargaining. Currently they are precluded from collective bargaining. With this bill, they can collectively bargain if they elect to do it.

Motion by Representative Thorpe for a do pass on amendment, Second by Representative Stefonowicz.

By roll vote, 8 yes, 6 no, motion carried.

Motion for do pass as amended by Representative Ekstrom, Second by Representative Stefonowicz.

By roll vote, 6 yes, 8 no, motion failed.

Motion for do not pass by Kempenich, Second by Representative Severson.

By roll vote, 11 yes, 4 no, motion for do not pass carried

Representative Kempenich will carry.

Chairman Berg adjourned the meeting.

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: _____

Amendment to: HB 1381

Requested by Legislative Council

Date of Request: 2-8-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

The revised costs reflected in this fiscal note assume that costs previously allocated to the State Labor Relations Board would be assumed by the Department of Labor. Since the amendment removes exemption for both state and political subdivision from the state Labor Management Relations Act, this fiscal note is based on non-redundant costs from HB 1381 and SB 2191.

2. State fiscal effect in dollar amounts:

1997-1999 Biennium		1999-2001 Biennium		2001-2003 Biennium	
General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds

Revenue:

Expenditures:

945,899

993,194

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

a. For rest of 1997-99 biennium: _____

b. For the 1999-2001 biennium: _____

c. For the 2001-2003 biennium: _____

4. County, City, and School District fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-2003 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			69,200					
				136,400		72,660		
							143,220	

If additional space is needed,
Attach a supplemental sheet.

Signed 

Typed Name Dan LeRoy

Department Central Personnel Division

Date Prepared: 2/8/99

Phone Number 328-4735

(Revised)
FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: HB 1381

Amendment to: _____

Requested by Legislative Council

Date of Request: 1-20-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

2. **State** fiscal effect in dollar amounts:

1997-1999 Biennium		1999-2001 Biennium		2001-2003 Biennium	
General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds

Revenue:

Expenditures:

683,959

718,157

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

a. For rest of 1997-99 biennium: _____


b. For the 1999-2001 biennium: _____

c. For the 2001-2003 biennium: _____

4. **County, City, and School District** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-2003 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			69,200			72,660		
				136,400			143,220	

If additional space is needed,
Attach a supplemental sheet.

Signed 

Typed Name Dan LeRoy

Department Central Personnel Division

Phone Number 328-4735

Date Prepared: 1/27/99

Fiscal Note HB 1381

POLITICAL SUBDIVISION EMPLOYEE RELATIONS BOARD

Note: The bill contains no provision for compensation of Board members.

Transcription for Unfair Labor Practice Issues \$ 7,440
 (2 hrs./month @ \$155/hr.)

Legal Services \$150,300
 (used estimate from SB 2191 - collective bargaining - state employees)

Office of Political Subdivision Employee Relations Board \$367,360

	<u>Salary</u>	<u>Benefits</u> <small>(28% actual sal.)</small>	<u>Total</u>
1 Director	\$55,000	\$15,400	\$70,400
2 Labor Relation Specialist/ Asst. Director	45,000	12,600	57,600
1 Admin. Asst.	22,700	6,356	29,056
1 Admin. Sec.	20,800.	5,824	26,624
Operating Expenses (33% of base salaries)			\$124,259
Equipment			\$25,000
Contract Services			\$9,600
--Hearing Officers (80 hrs. @ \$80/hr.)		\$6,400	
--Mediators (6 days @ \$200/day)		2,000	
--Arbitrators (6 days @ \$200/day)		1,200	
 PSERB Total *1999-2001			 \$683,959

County and City Fiscal Effect

Assumptions

- That employees in 10 counties will form bargaining units.
- That employees in 20 cities/towns will form bargaining units.
- That the forming of some bargaining units will be disputed.
- That hearing officers, mediators, and arbitration services will Be required to some degree.

Counties

- Costs of conducting representative elections (5 at \$200 each) \$1,000/yr.
- Cost of extra staff to conduct negotiations (negotiator @ \$50/hr., 10 contracts, 10 meetings each, 6 hrs./meeting) \$30,000/yr.
- Costs associated with unfair labor practice changes, mediation, and arbitration (10 days/hr. ULPs, 5 days mediation sessions, 3 days arbitration at \$200 per day) \$3,600/yr.

Estimated county cost for 99-01 biennium \$69,200/bien.

Cities

- Cost of conducting representative elections (10 at \$200 each) \$2,000/yr.
- Cost of extra staff to conduct negotiations (Negotiator @ \$50/hr., 20 contracts, 10 meetings each, 6 hrs./meeting) \$60,000/yr.
- Costs associated with unfair labor practice charges, mediation, and arbitration (15 days/yr. ULPs, 10 days mediation services, 6 days arbitration at \$200/day) \$6,200/yr.

Estimated city cost for 99-01 biennium \$136,400

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: HB 1381 Amendment to: _____

Requested by Legislative Council _____ Date of Request: 1-20-99

- 1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

- 2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:	0	0	0	0	0	0
Expenditures:	0	0	0	0	0	0

- 3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: _____
- b. For the 1999-2001 biennium: _____
- c. For the 2001-03 biennium: _____

- 4. County, City, and School District fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

Unknown

If additional space is needed, attach a supplemental sheet.

Signed Pam Sharp

Typed Name Pam Sharp

Department OMB

Phone Number 328.4606

Date Prepared: 1-22-99

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1381

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 3 of section 34-12-01 of the North Dakota Century Code, relating to the definition of employer for labor-management relations purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 34-12-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Employer" includes any person acting as an agent of an employer, directly or indirectly, but does not include the United States ~~or~~; any wholly owned government corporation, ~~or~~; any federal reserve bank, ~~or any state or political subdivision thereof, or~~; any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual, ~~or~~; any person subject to the Railway Labor Act [Pub. L. 69-257; 44 Stat. 577; 45 U.S.C. 151 et seq.], as amended from time to time, ~~or~~; any labor organization ~~(other than when the labor organization is acting as an employer), or anyone; any individual acting in the capacity of officer or agent of such a labor organization;~~ other than when the labor organization is acting as an employer; or any farmer."

Renumber accordingly

Date: _____
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1381

House Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass on amendments

Motion Made By _____ Seconded By _____

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

Total (Yes) 8 No 7

Absent _____

Floor Assignment Keiser

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

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

House Industry, Business and Labor Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken do not pass as amended

Motion Made By _____ Seconded By _____

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

Total (Yes) 4 No 11

Absent 0

Floor Assignment _____

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

Date: 2-3-99
Roll Call Vote #: 3

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1381

House Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken do not pass as amended

Motion Made By Keiser 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 4

Absent _____

Floor Assignment Keiser

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

REPORT OF STANDING COMMITTEE

HB 1381: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (11 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1381 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 3 of section 34-12-01 of the North Dakota Century Code, relating to the definition of employer for labor-management relations purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 34-12-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Employer" includes any person acting as an agent of an employer, directly or indirectly, but does not include the United States ~~or~~; any wholly owned government corporation, ~~or~~; any federal reserve bank, ~~or any state or political subdivision thereof, or~~; any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual, ~~or~~; any person subject to the Railway Labor Act [Pub. L. 69-257; 44 Stat. 577; 45 U.S.C. 151 et seq.], as amended from time to time, ~~or~~; any labor organization (other than when the labor organization is acting as an employer), ~~or anyone; any individual acting in the capacity of officer or agent of such a labor organization;~~ or any farmer."

Renumber accordingly

1999 TESTIMONY

HB 1381



NORTH DAKOTA
AFSCME

THE UNION FOR PUBLIC EMPLOYEES

Post Office Box 2423, Bismarck, North Dakota 58502

Telephone: (701) 223-5979

February 1, 1999

TESTIMONY BY CAROL DIAMOND ON HB 1381
LOCAL 148 AFSCME

Chairman Rick Berg, Industry, Business and Labor Committee:

My name is Carol Diamond and I am a union leader for Local 148. I am here to testify on HB 1381.

This bill should be passed to provide protection to public employees. Without the passage of this bill, policies can be changed without notice given to employees that could be affected.

Recently, in the city of Grand Forks, the importance of Collective Bargaining became apparent. There are two full-time city employees who are married to each other. They have a nine year old son who was diagnosed with a brain tumor. Unfortunately, after the brain surgery, it was determined that the tumor was cancerous. Both of the employees are facing prolonged absences from work as they take this child to chemotherapy and radiation treatments out of town.

Other city employees have reached out to this couple and tried to help them out financially. There is a policy in the city where one employee can give another employee some of their sick leave. Some employees tried to exercise this right and found out that the rules regarding this policy had been changed. No notice was ever given to employees notifying them of this change and a revised policy had already been approved by the City Attorney and the Mayor. Now, an employee cannot donate leave directly to another employee. They can only donate it into a "black hole" called excessive leave bank and an employee who needs leave must petition the Mayor. The amount of leave granted, if any, will be decided by the Mayor and the Human Resource Department. In addition, the donating employee must pay all payroll taxes and the receiving employee will receive a 1099 for surplus income to file with their taxes.

These changes were all adopted without any notice given to employees. Without Collective Bargaining, employees have no recourse. This family is strapped both financially and emotionally and they certainly do not need any hassles like this one.

Incidents like this could be avoided with the passage of this bill. Public Employees are there serving every day and need the protection that this bill could provide. Please vote YES and support it. Thank You.



NORTH DAKOTA
AFSCME

THE UNION FOR PUBLIC EMPLOYEES

Post Office Box 2423, Bismarck, North Dakota 58502

Telephone: (701) 223-5979

February 1, 1999

TESTIMONY BY DALE BERGMAN ON HB 1381
LOCAL 148 AFSCME

Chairman Rick Berg, Industry, Business and Labor Committee:

My name is Dale Bergman and I am a union leader for Local 148. I am here to testify on HB 1381.

I urge your support for this bill. Public employees need the protection that this bill could provide them.

There is very low morale throughout the employees in the city of Grand Forks. Most city employees are also home owners. As these employees strive to repair their homes and recover from the devastating flood that hit our area, many employees are finding themselves facing financial hardship.

City employees received a raise this year of 3.65%. This was the first raise in four years. In the past employee raises have been discussed and when the time came to implement the raise, the city has changed their mind and refused to honor the discussions. With the Collective Bargaining Bill this would not have been possible without negotiations. Cost of living increases in the area, with increased property taxes have made it difficult to stretch pay checks.

In the last year employees have been forced to pick up some of the cost of health insurance premiums. This was a benefit previously discussed and approved by the city and now the city has refused to honor its past promises.

Also, this year, employees received a reduction in their pension benefits. At the same time, the city **INCREASED** the employee contribution amount of the pension. The employees hired their own attorney because the city refused to negotiate in good faith. The first proposal from the city would have reduced each employees pension about 10% and raised the employee contribution drastically. Had this bill been in effect, the employees would have been able to negotiate with the city without hiring their own attorney.

Two new jobs have come open in the city and the city filled these positions with contracted employees instead of filling them through the Civil Service System. Even though these two positions were management positions, this has opened the door to future discussions on non-management positions. One Council person has already indicated any future vacant positions coming open in the city will be scrutinized closely for possible change to a contracted position

instead of being filled through the City Civil Service System.

All of these issues should have been addressed with input from city employees. Without a Collective Bargaining Bill in place, employees have no recourse as benefits continue to erode.

I strongly urge your support for HB 1381. Public employees want and need the protection it could provide. Thank you.



North Dakota Public Employees Association

3333 EAST BROADWAY AVE, SUITE 1220
BISMARCK, NORTH DAKOTA 58501-3396
TOLL FREE: 1-800-472-2698
BISMARCK-MANDAN: 701-223-1964



AMERICAN
FEDERATION
OF TEACHERS
LOCAL 4660
AFL-CIO

 C-163

TESTIMONY IN SUPPORT OF HB 1381

**Before the House Industry, Business and Labor Committee
North Dakota Public Employees Association, American Federation of Teachers, #4660
AFL-CIO
February 1, 1999**

Chairman Berg, members of the House Industry, Business and Labor Committee, my name is Chris Runge and I am the Executive Director of the North Dakota Public Employees Association, AFT Local #4660. NDPEA supports HB 1381 a bill which would bring collective bargaining rights to public employees of political subdivisions, a right now enjoyed by all other workers in the state of North Dakota.

But first, let me tell you what this bill does not do. This bill does not permit strikes. This bill does not repeal the right to work provisions of state law and this bill does not force the Legislature to spend more money outside the money appropriated by the Legislature. This bill does not take away the power of the Legislature to manage the resources of government nor does it place employers and employees in an adversarial position.

The right to association in the workplace is a right afforded to all workers in North Dakota except public employees and in this case, employees of political subdivisions. In a time where the governor and legislators tout the private sector as an example to us as public employees, it is only fair that the right to association in the workplace be included. Collective bargaining, quite simply, is a democratic process of determining wages, hours of work, and working conditions with our employer. Collective bargaining will

Testimony

give public employees a real voice in the decisions that affect our jobs by allowing us to negotiate as equals with the state in determining our salary, benefits, and working conditions.

Collective bargaining for public employees is allowed in every state surrounding North Dakota and then some. Some of the most innovative and effective worker involvement programs in this country are in the organized workplace. If political subdivisions, as employers, want to empower employees, if you want employees to be involved in discussions on how to make government more efficient, more responsive and more customer driven, then it is necessary for you to allow the employees to vote for meaningful representation through the process outlined in HB 1381.

Today, the employees of political subdivisions are asking you to afford them the same workplace rights afforded to those in the private sector, federal employees and K-12 educators; the right to choose through free and open democratic elections whether to be represented by a labor organization in order to negotiate employment contracts. I challenge you to open government up to workers and apply the law of the land to political subdivisions and its workers.

NDPEA supports HB 1381 and urges a DO PASS.



NORTH DAKOTA
AFSCME

THE UNION FOR PUBLIC EMPLOYEES

Post Office Box 2423, Bismarck, North Dakota 58502

Telephone: (701) 223-5979

TESTIMONY BY KEVIN KICONAS ON HB 1381

Chairman Rick Berg & Industry, Business and Labor Committee:

My name is Kevin Kiconas. I am with AFSCME (American Federation State, County, Municipal Employees). We are the public employee labor union in the state of North Dakota. In addition to representing the state employees, AFSCME represents county workers in Mercer County, city workers in Bismarck and Grand Forks, police officers in Grand Forks. I am proud to be here testifying in support of HB 1381. Let me take a couple of minutes to explain why it is important and define what Collective Bargaining is. What Collective Bargaining does is give the right to political subdivision employees to negotiate contracts concerning wages, hours and conditions of employment. What we have right now is an informal process where in some places like Grand Forks and Bismarck they have an employee rep system. This means that employees sit down with management to discuss salaries, benefits and sometimes policies. Usually the workers don't have much input, they can make suggestions and ask questions, but these meetings are usually very one sided and not effective in terms of giving employees real input into their wages, hours and conditions of employment. Things can get agreed to at these meetings but can change without notice. Policies can and are developed outside of this process by management themselves. The workers are usually left out. In these situations communications are not good and morale is usually bad.

So how does Collective Bargaining change this and what is it? Collective Bargaining is a process, a time honored tradition in the American work place. It is a legally established procedure through which employees can meet with their employers, discuss their needs and jointly reach an agreement on terms and conditions of employment, all done through representation by an organization of employees choice. Private sector workers have had this right for over 50 years. School teachers in North Dakota got it in 1969. Why bargain? The process of Collective Bargaining brings the decision making closer to the work place, providing continuity and harmonious relationships between the employees and employers. With this process in place, fewer conflicts will occur in the work place. Those that are there will be resolved in a fairer way. What Collective Bargaining and HB 1381 do is create a partnership between the local government and the union.

Let me address some specific concerns of HB 1381.

Section 2 Union membership in this bill is voluntary and is consistent with our right to work law. It says in Section 2 Employee rights - Exclusive representation. It re-states current state law.

"Employees also have, and are protected in the exercise of, the right to refrain from participating in any such concerted activities. Section 2 also says that the union will serve as the exclusive representative for the purpose of Collective Bargaining. Section 2, page 4, number 3 says that the union is responsible for representing the interests of all the employees in the unit

Section 3 - Duty to Bargain simply means that the union and representatives of management must sit down to negotiate an agreement with respect to hours, wages and other conditions of employment but it states that the obligation to collectively bargain "does not compel either party to agree to a proposal and does not require the making of a concession."

Section 4 - Managements rights simply means that there are matters of inherent managerial policy, including discretionary policies and standards of service like its overall budget, its organizational structure, the selection of new employees and the direction of employees. This includes about six exclusive management rights.

Section 5 - Section 5 deals with the political subdivision employment relations board. This section says that the Governor shall appoint three members of the board with the advice and consent of the Senate. This section defines how the members will be picked and their terms of office.

Section 6 - Duties of the Board describes what kind of reports have to be filed and has seven functions. They are:

- a) The board shall conduct elections to determine whether an employee organization has majority status.
- b) Investigate and attempt to resolve charges of unfair labor practices.
- c) Determine bargaining units.
- d) Maintain an employees mediation and arbitration roster.
- e) Hold hearings in order to carry out its functions.
- f) Issue orders as necessary to effectuate the rulings of the board.
- g) The board shall sign and report in full an opinion in every case decided.

This section also allows it to hire whatever personnel it needs to do its duties.

Section 7 - Elections - Recognition. This section allows secret ballot elections to be held. The workers get a chance to vote whether or not they want a union. Section 7 also says that in order for the union to be in recognition, it must have a majority of the workers that voted.

Section 8 - Unit Determination. This section gives the board the authority to determine what groups of workers will be defined in bargaining units. It describes the guidelines the board must use and gives the board the authority to set up bargaining units which is the group of workers that will vote.

Section 9 - Grievance Procedure. This calls for the political subdivision and the union to negotiate a grievance procedure which applies to all employees in the bargaining unit.

Section 10 - Unfair Labor Practices. This section lays out seven unfair labor practices for employers and seven for the union.

Section 11 - Unfair Labor Practice Procedures. This section gives the board the authority to investigate, settle, and resolve unfair labor practices. It gives them the authority to impose sanctions against any guilty party.

Section 12 - Negotiations. This section defines how the negotiations will be set up, how issues will be resolved and what to do if an agreement is not ratified.

Section 13 - If there is an impasse, section 13 calls for mediation. It establishes how the request for the mediator is to be formulated. It defines the functions of the mediator to communicate with the employer and the exclusive representative to endeavor to bring about an amicable and voluntary settlement. In addition, the parties have the flexibility to select their own mediator.

Section 14 - Arbitration can only be used as a last resort. Section 14 calls for binding arbitration. Under this bill an independent outside arbitrator would come in and hear the disagreement between the two parties and make a decision based on the facts relating to the dispute. He would hold a hearing which would be informal and he would make a decision that would be binding on the employer and the union. The arbitrators must use eight criteria laid out in #7 as the basis of his decision.

Section 16 - Strike Policy. Strikes, work stoppages, slow downs or lockouts are prohibited. This means that the union does not have the right to strike and that's why the mediation and arbitration procedures are so important.

This concludes the summary of the bill sections.

AFSCME as a national union negotiates with hundreds of local governments each year. 95% of these negotiations are resolved between the parties to both sides satisfaction. What the procedures in this bill do is establish a fair playing field. It makes sure that everyone enters into the negotiations by the same rules.

Opponents may argue that you are interfering with the rights of local government but the truth is that you are giving them the right to enter into a partnership that does not now exist and this process will make local government operate more smoothly, more fairly and more justly. Local government, Collective Bargaining has worked well in South Dakota and other states.

In closing, AFSCME believes that the legislative process is about legislators having the courage to stand up to the justice for those workers who have no rights but are on the front lines every day making our communities and state great places to live, work and raise a family. We have an opportunity today to do justice. I encourage you to support HB 1381.

Mr. Chairman and committee members, thank you. I will be glad to answer any questions.