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2003 HOUSE EDUCATION

HB 1091

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2003 HOUSE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. HB1091

House Education Committee

Conference Committee

Hearing Date January 8, 2003

Tape Number	Side A	Side B	Meter #
1	x		00-1560
Committee Clerk Signature <i>Linda Tschetter</i>			

Minutes:

Chairman Kelsch called the meeting to order. Roll call was taken.

SUPPORT

Rosellen Sand appeared on behalf of DPI, see attachment written testimony. Both sections make it a class A misdemeanor to offer free items as enticements for purchase of textbooks, furniture, school supplies change to anything of school value.

Q. Rep. Solberg: What are the number of occurrences regarding this?

A. Sand: None

Q. Rep. Hanson :Do you have any dollar value on this, lets say a company gave a calendar?

A. Sand: Under the criminal code says that there is a provision, basically anything with any value.

Q. Vice Chair Johnson : Where does soft drinks companies fit in here with score boards, and things of this nature?

A. Sand: Again, if you look at the statute it says for the purpose of enticing them to buy.

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House Education Committee
Bill/Resolution Number HB1091
Hearing Date January 8, 2003

Q. Rep. Williams : Is it common for school district to benefit from this.

A. Sand. Yes, for personal gain only.

Q. Rep. Herbel : If the athletic department accepts a pair of shoes with the hopes that the team will purchase that brand?

A. Sand: Shoes are prohibited now.

Q. Rep. Haas : If no fractions, why change now?

A. Sand Conflict between criminal law under 12.1 and 15.1, can't receive anything of value.

Q. Rep. Jon Nelson : Could a dollar value be added, making the statute less subjective?

A. Sand: Setting this into statute would remove the subjectivity.

Q. Rep. Herbel : Will this be retroactive to statute of limitations?

Q. Rep. Haas : Question of proof for personal gain, school gain?

A. Sand: Reiterate that value is not determined.

Q. Rep. Williams Is this a current problem?

A. Sand Not at this time.

Q. Rep. Williams Is there policies at the school level that prohibit this type of activity?

Q. Rep. Hanson Questioned the minimum of the bidding process? It is currently set at 10K-25K

Dr. Larry Klundt , 78 NDCEL, Called this a solution in search for a problem. The law already mandates this interpretation. As long as it continues to be intent not to bribe there is no violation, example the trinkets given at trade show etc.

Bev Nielson, NDSBA spoke of support. Agreement with Dr. Klundt and Sand.

OPPOSE none

Closed hearing on this bill

2003 HOUSE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. HB 1091

House Education Committee

Conference Committee

Hearing Date January 14, 2003

Tape Number	Side A	Side B	Meter #
1		x	4725 -5025
Committee Clerk Signature <i>Linda Flechtner</i>			

Minutes:

Chairman Kelsch open hearing on bill.

Rep. Herbel : I had conversations with Legislative Council person on this. And asked why the change? (LC) Has there been a problem with this before. Rep. Herbel : No there has never been a law suit. (LC) Then why the change. Based on the language that is put in there now you could open up a can of worms for someone in the school system where there superintendent might take an offense. That would be legal grounds for law suit. Based on the information that I received from her I would recommend a DO NOT PASS.

Chairman Kelsch Rep. Herbel moves for a DO NOT PASS, Rep. Williams seconds the motion.

Discussion: hearing none, roll was taken, 12 yea, 2 no, 0 absent.

Chairman Kelsch : Rep. Herbel will carry the bill to the floor.

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Date

42

Date: January 14, 2003
Roll Call Vote #: 1

**2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1091**

House HOUSE EDUCATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS

Motion Made By Rep. Herbel Seconded By Rep. Williams

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	X				
Rep. Johnson	X				
Rep. Nelson	X				
Rep. Haas	X				
Rep. Hawken	X				
Rep. Herbel	X				
Rep. Meier	X				
Rep. Norland	X				
Rep. Sitte	X				
Rep. Hanson	X				
Rep. Hunsakor	X				
Rep. Mueller		X			
Rep. Solberg		X			
Rep. Williams	X				

Total (Yes) 12 No 2

Absent 0

Floor Assignment Rep. Herbel

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

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10/2/03
Date

REPORT OF STANDING COMMITTEE (410)
January 15, 2003 12:40 p.m.

Module No: HR-07-0578
Carrier: Herbel
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1091: Education Committee (Rep. R. Kelsch, Chairman) recommends DO NOT PASS
(12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1091 was placed on the
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-07-0578

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2003 TESTIMONY

HB 1091

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**TESTIMONY ON HB 1091
HOUSE EDUCATION COMMITTEE
January 8, 2003
Department of Public Instruction**

Chairman Kelsch and members of the committee:

My name is Rosellen Sand and I am appearing on behalf of the Department of Public Instruction in support of HB 1091.

House Bill 1091 amends sections 15.1-07-18 and 15.1-07-19. These statutes make it a class A misdemeanor* for any person to give, or for a county superintendent, a school board member or a school district employee to receive, something in return for purchase by a school district of "textbooks, furniture, or school supplies." For example, these statutes prohibit a textbook company from paying a school board member a commission to purchase textbooks from that company. The statutes provide the public with confidence that purchases are made to benefit the school district and not because the person making the purchasing decision will benefit personally.

But the statutes now only cover "textbooks, furniture, or school supplies". They do not address a number of other items or services that are routinely purchased by school districts, such as school buses, computers, consulting fees, and software.

The amendments broaden the language in the statutes so that whatever a school district purchases is subject to the prohibition on commission, fees and rewards. This way the public can continue to have confidence that public moneys will be expended to benefit the school district and not because the individual in charge of making the purchasing decision will benefit.

That concludes my testimony. I would be happy to answer any questions the committee may have.

*Upon conviction of a class A misdemeanor punishment of a maximum penalty of one year's imprisonment, a fine of two thousand dollars, or both, may be imposed.