

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1222

2005 HOUSE POLITICAL SUBDIVISIONS

HB 1222

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1222

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date January 14, 2005

Tape Number	Side A	Side B	Meter #
1	x		34.8 to end
		x	3.7 to 21.8

Committee Clerk Signature



Minutes: **Rep. Devlin, Chairman** opened the hearing on HB 1222, A Bill for an act providing for determining the estimated fiscal effect of an initiated measure.

Rep. Al Carson, Representing District 41 and prime sponsor introduced HB 1222. Rep. Carlson was on the commission which sponsor the constitutional amendment which passed and required a fiscal note. So now comes this bill setting forth the way to accomplish that. Recalling the youth initiative -- measure #3 -- depending on which day and which party your were listening to the cost was purported to be anywhere from \$10 to \$50 million. The public has a right to know that if a measure is passed what the effect will be and what the cost is going to be. How do you decide as a legislature who is going to determine what the number is -- who is going to do it , the legislative council, OMB, --? We also know that if you want kill a bill put a big fiscal note on it: if you want it to pass put a small number on it. Looking at other states to see what they do, Florida did something very similar to this but a little bit different. They have a fiscal impact estimating conference --- four members a representative of the governor, a coordinator of the

office of demographics and economic research, one professional staff member of the senate and one professional staff member of the house. Member is supposed to have fiscal expertise in the subject matter of the initiative. They could change group depending what the issue was. The estimating group could reach consensus but majority concurrence and then creating a fiscal impact statement of no more than 75 words placed on the ballot with the initiated measure. We did not ask for all that here and Secretary Of State Al Jaeger is present to inform the committee what the limitations and requirements are.

Al Jaeger, Secretary of State (40.9) to comment of a couple things -- under current law and the Attorney general has issued an opinion to the effect that financial information can not be placed on the ballot. We are charged with coming up with a statement that fairly represents the measure. It must fair and represent what the measure says. Once we start adding the financial information --- my concern would be what the committee will come up with and says is the number is it might not be the number that an opponent or proponent would agree with. All at once we would have something on the ballot that contains financial information that still the opinion of only a committee and not necessarily a fair one. The way the bill is written at this point -- I have no concern until we get to the last line. That is the expectation as to disseminating the information by the Secretary of State. The time lines are fine -- under the constitution the people have up to ninety days prior to the election . I have 35 days to certify -- you need to keep in mind that I need the entire 35 days -- the committee would have only 25 days to come up with the financial information -- to give the 30 days prior to the election. It is a very tight timeline in there as it is written -- just be aware of it. The other thing I want to say is if there is an expectation that I would publish the legal notice in all the states newspapers -- obviously the cost would need to be

budgeted of course. Is it something that we would have available at the polls in a manner that -- on our web site, any number of ways that do not involve an expenditure of a significant amount of funds --- I would be fine with that but it is the expectation that raises the question whether I am doing enough to inform the public -- to disseminate the information.

Rep. Carlson : (45.7

Rep. Ekstrom : We all know that the legislature has the fiscal responsibility as to what we will do in a certain situation, -- the people do have the right to come up with good ideas but some good ideas will fail because of the cost -- how do we address that?

Rep. Carlson : That was part of the debate at the time of this initiated measure when this was put on the ballot to amend the constitution that this would stifle good ideas. The people overwhelmingly said no it wont because we want to know what it is going to cost us. At this point in time we really don't have a legislative choice in the matter because it has been it (constitution) amended and it says the legislative assembly will provide a procedure for determining the fiscal effects an initiated measure. So that is a done deal. So the purpose now is-- the question is 'how do we get them the best -- the most accurate figure or number to show what these things cost' . The really is the debate now.

Rep. Ekstrom (48.2) One loser that comes to mind is the education formula --- we have struggled with that over the years --- it seems that no matter what we come up with there are winners/losers -- i.e. Cass loses the rest of the state gains. Should the cost be less or more--- how do you come up with that kind of estimation?

Rep. Carlson : Based on my experience most of the initiated measures have been quite specific and you could determine a fiscal note on them. Generally in legislation there are winner and

losers. In this case we have a responsibility to the people to let them know what something is going to cost.

Rep. N. Johnson : (50.7) Does this apply to every initiated measure now?

Rep. Carlson : I believe the way it is stated is that if they have fiscal impact. For example, lowering the drinking age to 19 -- no fiscal impact, it wouldn't be on there.

Rep. N. Johnson : (52.0) How do or who the fiscal impact if it doesn't ?

Rep. Carlson : If it doesn't you have to publish that too.

Rep. Ekstrom (52.8) some of these measures may have a long term intangible effect -- like same sex marriage -- sure has an effect on the state.

Rep. Carlson : We can't do the undeterminable. We can't do it legislatively and we can't do it here.

Rep. Kretschmar (3.7) Discussing the timelines, as Al Jaeger pointed out the it seems that maybe process can begin when the signatures are filed. That's the ninety day window. Even before the Secretary of State has authorized to be on the ballot and even if it does go on the ballot you would have a hearing or something maybe would make some sense -- or ---

Rep. Carlson : Your 30 day window seems to go into effect now it is a tight schedule -- If I took any thing up to LC or the OMB it might take 30 days before I would get an answer now. They might say we can't do it in 30 days. May our time frame is wrong but it does match up with or measures.

Rep. Kretschmar : (4.7) It seem that maybe the Legislative Council committee or the Legislative Council should be the one to disseminate the information rather than the Secretary of State.

Rep. Carlson : Does he not have some responsibility for the ballot?

Rep. Kretschmar : The Secretary of State in consultation with the Attorney General.

Rep. Carlson : These two items -- the fiscal statement and the ballot are not necessarily the same piece of paper. Look at Florida, the fiscal statement is a 75 word message on the ballot.

Rep. Kretschmar : I don't read the statute that anything goes on the ballot. The Secretary of State just has to put it -- where ever the public can see it.

Rep. Carlson : I had thought it should be on the ballot and that was my question of counsel.

Rep. Kretschmar : It does seem to me that the Legislative Council could disseminate it too.

Rep. Devlin, Chairman : (6.4) It seems that the Secretary of State has the whole 90 days to get the signatures verified

Rep. Carlson : May be we are going to have to clarify that.

Rep. Zaiser (6.7) My question is the mechanics -- line 9 -- time frame prescribed by legislative council --- who would make that determination? Who would make the appointments?

Rep. Carlson: The assumption was when this was written -- the designated committee would be the affected agency which had the information on that subject. The people on the committee would have to gotten together who have the expertise on that subject -- those who would know what the numbers mean.

Rep. Devlin, Chairman : There is a lot of confusion any time you refer toe the legislative council -- many people think you mean the staff.

Rep. N. Johnson : (8.2) When this committee is designated -- is there going to be some latitude as to how many years out they are going to project?

Rep. Carlson : that would depend on the measure.

Rep. Herbel, Vice Chairman : Has there been any thought given -- when this council or committee holds hearings -- would they be held throughout the state?

Rep. Carlson : That is not addressed. It could be they would simply be noticed.

Rep. Devlin, Chairman : since there are a number of the committee absent due their attendance at the funeral -- perhaps we be asking you to come back next week when we take up this bill again.

Sen. Flakoll representing District 44 was the other prime sponsor on this bill. His written remarks and explanation of this bill are attached.

Rep. Ekstrom (14.7) I don't question the wisdom of the voters but question whether we should be putting the question of raising taxes for needed thing as should be taken from the legislature -- none of us like to raise taxes but we are elected to do it. But who is going to determine the consequences if we don't raise taxes when needed and then who determines the consequences of the loss of services -- there could be untold fiscal effect -- I think we have opened a big box here.

Sen. Flakoll : We have to look at the positive versus the negative but when the people start adding these multiplier -- some have 3 -- some have 7 -- maybe we should have a state multiplier of three -- I think we are looking at the direct cost of something and not the spin offs.

Rep. Zaiser : (16.8) I may be reading Rep. Ekstrom wrong but I think what she was getting at is the cost benefit ratios but how do you determine the human impacts that we can't quite quantify in fiscal terms? Is there anyway of disseminating that information?

Sen. Flakoll : It is difficult to reduce all impacts into fiscal terms.

Rep. Zaiser : (18.6) But couldn't something be done on a cost benefits ratio thing?

Sen. Flakoll : some time maybe and other time maybe not

Rep.Devlin, Chairman perhaps we will calling you back sometime next week when we bring this bill up again.

Rep. Carlson : One comment -- from the comments I think that sometimes we have a tendency to over regulate because we think there is more than there really is. We need to keep our focus narrowed to the fiscal impact.

Bev Nelson : I am with the North Dakota School Boards Association. We are here to support passage of this bill. This is the third time we have tried to do this-- trying to put into effect amendments to the Constitution. That is about we want to say -- we support this bill.

Rep.Devlin, Chairman (21.6) we will recess this hearing until next week.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1222 b

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date January 21, 2005

Tape Number	Side A	Side B	Meter #
1		x	38.2 to End
2	x		0.2 to 3.2

Committee Clerk Signature



Minutes: **Rep.Devlin, Chairman** re-opened the hearing on HB 1222 which had been recessed on January 14, 2005. The purpose was to have AL Jaeger, Secretary of State present for the benefit of those who had missed part of the hearings on January 14, 2005. They had been at a funeral on the original date plus Al Jaeger had wanted to research several items. Most all of his comments centered around the attached written material copied from 16.1 -11- 07; 16.1-11-21; and, 16.1-13-05.

Rep. Ekstrom : (49.3) Would an initiated measure where the conditions change rather dramatically and would the analysis define the change quite rapidly -- would put that analysis out to the media -- how good or bad it is ----?

Al Jaeger : It is not up to the Secretary of State to determine what is in the study or what that analysis would be -- only that whatever that analysis would be for me to get it disseminated.

Rep.Devlin, Chairman : I have a suggestion --- on line 4 before the word "Upon" insert " At least ninety days before the state wide election where the measure shall appear ---- 'approve to

"file " --- and the only other change I would propose would be to line 13 -- 'shall provide public notice that the measure shall be on the ballot'.

Al Jaeger: I am not sure -- I don't have that before but I wonder about tying that in with the other notice requirements in the code. We can work on that. I would tie that in with the other publishing requirements. Mr. Chairman I would be happy to work with the intern on the wording and the amendment.

Rep. Koppelman (0.2) You were saying some last time the Secretary of State shall inform the public -- some thing like ---

Rep.Devlin, Chairman We can work that out with the secretary and use some the text wording that is included in the bill. He doesn't have to provide a complete analysis. He only needs to provide a shortened version.

Al Jaeger : Up on line 4 where it say the measure "shall" should be "would". You can use the word shall there.

Rep.Devlin, Chairman (2.2) closed the hearing on HB 1222.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1222 c

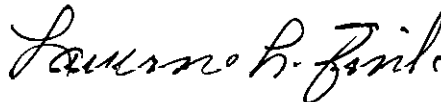
House Political Subdivisions Committee

☐ Conference Committee

Hearing Date January 27, 2005

Tape Number	Side A	Side B	Meter #
3		x	6.8 to 10.9

Committee Clerk Signature



Minutes: **Rep. Devlin, Chairman** opened the work session for discussion and action on HB 1222

The amendments worked out with Secretary Al Jaeger were handed out to the committee members. The main thing was to be sure that the Secretary had the 90 days. Other changes in the amendment were discussed.

Rep. Herbel, Vice Chairman moved to approve and adopt the amendments. **Rep.**

Dietrich seconded the motion. The motion carried unanimously on a voice vote.

Rep. Koppelman moved a 'Do Pass as amended' motion for HB 1222. **Rep. Dietrich** seconded the motion. On a roll call vote the motion carried **9 yeas 0 nays 3 absent. Rep. Dietrich**

Was designated to carry HB 1222 on the floor.

End of record (10.9)

January 27, 2005

V/R
1/28/05

HOUSE AMENDMENTS TO HB1222 PSD 1-31-05

Page 1, line 3, replace "The" with "At least ninety days before a statewide election at which an initiated measure will be voted upon, the"

Page 1, line 4, replace "an" with "the"

Page 1, line 5, replace "an initiated measure has" with "signed petitions have" and replace "approved" with "submitted"

Page 1, line 6, after "placement" insert "of an initiated measure"

Page 1, line 13, replace "arrange for the information to be available to the public" with "include a notice within the analysis required by section 16.1-01-07 specifying where copies of the statement of the estimated fiscal effect can be obtained"

Renumber accordingly

Date: *January 27, 2005*
Roll Call Vote:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *HB 1222*

House POLITICAL SUBDIVISIONS

Committee



Check here for Conference Committee

*Rep. Herbel moved amendment's Rep. Dietrich
Voice Vote carried -
Unanimous*

Legislative Council Amendment Number

Action Taken

Do Pass as Amended

Motion Made By

Rep. Koppelman

Seconded By

Rep. Dietrich

Representatives	Yes	No	Representatives	Yes	No
Rep. Devlin, Chairman	✓		Rep. Ekstrom	<i>A</i>	
Rep. Herbel, Vice Chairman	✓		Rep. Kaldor	✓	
Rep. Dietrich	✓		Rep. Zaiser	✓	
Rep. Johnson	<i>A</i>				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	<i>A</i>				
Rep. Pietsch	✓				
Rep. Wrangham	✓				

Total (Yes)

9

No

0

Absent

3

Floor Assignment

Rep. Dietrich

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

REPORT OF STANDING COMMITTEE

HB 1222: Political Subdivisions Committee (Rep. Devlin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1222 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "The" with "At least ninety days before a statewide election at which an initiated measure will be voted upon, the"

Page 1, line 4, replace "an" with "the"

Page 1, line 5, replace "an initiated measure has" with "signed petitions have" and replace "approved" with "submitted"

Page 1, line 6, after "placement" insert "of an initiated measure"

Page 1, line 13, replace "arrange for the information to be available to the public" with "include a notice within the analysis required by section 16.1-01-07 specifying where copies of the statement of the estimated fiscal effect can be obtained"

Renumber accordingly

2005 SENATE POLITICAL SUBDIVISIONS

HB 1222

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1222

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 10, 2005

Tape Number
1

Side A
X

Side B

Meter #
3257 - 5571

Committee Clerk Signature



Minutes: **Chairman Cook** opened the hearing on HB 1222, A BILL for an Act providing for determining the estimated fiscal effect of an initiated measure. All members (6) present.

Representative Alan Carlson, District 41, Fargo, ND introduced HB 1222. Last session we put in a bill which passed both chambers that said that on the ballot it would say that the people were to decide whether they wanted that information or not on the ballot. The people overwhelmingly voted for that. This bill sets up the methodology for doing that. If you read the last part of the bill it talks about what will happen. My original intent was that there would be a number put on the ballot, like the estimated effect of this will be thirty two million and there was a lot of discussion in the committee to whether or not it should be there or just something that should be available for the media and press. Basically what it says here is it will tell you where you can get the information. It does not say it is on the ballot. The way the bill reads today is that the information will be made available. It will be thirty days prior to the vote on the issue. So we have no choice in this as we were told by the initiated measure that we had to develop a measure

to get this information out and the question is how do you do it? It is important that people know what fiscal effect things have when they are voting on it.

Senator Hacker: In that fiscal effect analyzes is it going to tell you what political subdivision the fiscal effect is effecting. Is it the cities or county?

Rep Carlson: If we have a fiscal note it will tell you where the funds are - special or federal and it will tell you whether it is a subdivision that is effected or the general fund that is affected.

Assuming that when we ask for the information the way that it is normally provided they will tell us the ripple effect on down the line. It is more than just us that are effected.

Senator Fairfield: It says that the legislative council or a committee designated by the council - How is that committee going to be made up?

Rep. Carlson: It would be no different than the council which is elected among us and it would be no different than any other committee that would be picked. The leader would be involved with the council and he would have the authority to set that committee up.

Chairman Cook: We can assume with a committee that there could even have disagreement in that committee as far as what the ultimate number is to be but at least through that process there would be a public record available on the rational and the discussion. So there could still be a debate when the voter go to the poles as to what the real fiscal effect is going to be. What they are going to have is what a particular committee thinks it is going to be.

Rep Carlson: Yes because it does have a procedure to allow for public input.

Senator Fairfield: The Chairman brings up a good point, what you are going to have out of this legislative subcommittee is a very subjective number. Certainly there is going to be public input but the end result is going to be a political result and that is what is going to move forward.

So if the idea behind this is a subjective number that voters can use to say how much it is going to cost; how are we going to get away from the issue that one day it is this amount; and the next day its this amount.

Rep Carlson: There is politics in everything we do however there is no outside independent person that we can say tell us the cost of this to state government because they are not familiar with state government. So who does it? The only method we could come up with that we felt would be fair was to use the same methodology that we use to budget. We use OMB, the agencies, legislative council and the legislators. We have four prongs out there to decide.

Senator Flakoll, District 44, Fargo, ND testified in support of HB 1222. (See attachment # 1)

Chairman Cook: You put a lot of work into this. In your mind is this the best way to go?

Senator Flakoll: We tried to provide a little more time after the initiated measure is handed in. We did not require the verification. We want as much time as possible to hold hearings.

Chairman Cook: We could have an initiated measure that could have a fiscal impact on the state, cities, counties, school districts and everything. The way that measure was written in the constitutional measure that we are addressing here with this, we would want to provide the fiscal impact to any political subdivision that would be affected.

Senator Flakoll: Yes that would be accurate. Anyone that would be voting on it could have that information available to them.

Chairman Cook told the committee they had written testimony from Al Jaeger, Secretary of State. (Attachment # 2)

No further testimony for or against HB 1222.

Chairman Cook closed the hearing on HB 1222.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1222

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 10, 2005

Tape Number	Side A	Side B	Meter #
1		X	4638 - End
2	X		0 - 138

Committee Clerk Signature



Minutes:

Chairman Cook called the committee to order to discuss HB 1222. All members (6) present.

Senator Fairfield: My feeling with on this is that I agree with what the sponsors talked about, that this is what the citizens of North Dakota want. They want to know what something is going to cost. We have to be as careful as we can about making sure that the information they get can not be construed as political or subjective. I wish there were a way to make it as objective in developing the fiscal notes as we can.

Chairman Cook: I agree one hundred per cent but I don't think there is a way. No matter what we think of a fiscal note it is the number that we are required to use to pass a balanced budget.

As I see this I don't know how else it could work unless you have a committee and that committee starts out with a fiscal note. Then that committee will debate that fiscal note and they will either say that is the number we will use to take to the voters.

Senator Triplett: I appreciate the restraint on the part of the drafter in leaving the information out of the actual statement on the ballot. I think that helps in the sense that it is sort of set aside as a separate document. Other groups can get involved.

Chairman Cook: We have to start out at some point and I think that maybe this is the right way to start out. I think the first time this is going to be applied to an initiated measure it might reveal that this method is just as flawed as it was prior to requiring it.

Senator Fairfield: I agree with your comment but I am not entirely sure the debate will be that much different. When we have had the debate in the past the two sides have been able to come forward and say it costs this much and it costs that much and people were allowed to make their own determination. This suppose to be a citizens measure.

Senator Cook asked Carlee McLeod, Intern to look up the last initiated measure.

Senator Dever is going to look at the time frame being changed.

Further discussion Tape 2, Side A Meter # 180 -1054

Chairman Cook closed the discussion on HB 1222.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1222

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 18, 2005

Tape Number
1

Side A
X

Side B

Meter #
26 - 2100

Committee Clerk Signature



Minutes:

Chairman Cook called the Senate Political Subdivisions to order. All members (6) present.

Chairman Cook passed out amendments on HB 1222 to get the committee's comments. The intent of these amendments are to assure that the fiscal notice that would be presented to the voters would be the same fiscal impact that would be presented to the legislature if the initiated measure was to pass. So we would not have two different fiscal notes.

Chairman Cook asked the committee to think about the amendments and we will come back to the bill at a later date.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1222

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 24, 2005

Tape Number
1

Side A
X

Side B

Meter #
0 - 1045

Committee Clerk Signature



Minutes:

Chairman Cook called the Political Subdivisions Committee to order. All members (6) present.

Chairman Cook asked the committee to go to HB 1222.

Chairman Cook : You all have amendments, numbered 0303. The amendments simply makes it clear that the legislative council or a committee designated by the council shall request from the state agency, institution or department most directly affected by the provisions of the measure an estimated fiscal impact of the measure It also says that there shall be a hearing to receive testimony and information on the estimated fiscal effect and the agency can go back and change its fiscal note if it feels it should based on that testimony but it gives no authority to the committee to create the numbers that would be used for this fiscal note. That sole authority lies with the affected state agency. If you go to the bottom of these amendments starting on page 1 line 16. That would be a new paragraph at the end of the bill it would say "within thirty days after the close of the first completed fiscal year after the effective date of an initiated measure

approved by the voters, the agency, institution, or department that provided the estimated fiscal effect information to the legislative council under this section shall submit a report to the legislative council on the actual revenues or expenditures resulting from provisions of the initiated measure compared to the estimates provided to the legislative council.”

Hopefully that will help them to see how accurate they were. That is something we have been discussing during the session.

Senator Fairfield moved a Do Pass on the amendments.

Senator Hacker seconded that motion.

Role call Vote: Yes 6 No 0 Absent 0

Senator Dever moved a Do Pass as amended.

Senator Triplett seconded the motion.

Discussion:

Roll call Vote; Yes 6 No 0 Absent 0

Carrier: **Senator Cook**

March 17, 2005

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1222

Page 1, line 8, replace "hold hearings, receive public testimony, and gather" with "request, from the state agency, institution, or department most directly affected by the provisions of the measure,"

Page 1, line 9, after "measure" insert "on state government"

Page 1, line 13, remove "a statement of" and replace "the measure" with "information as provided by the state agency, institution, or department"

Renumber accordingly

March 23, 2005

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1222

Page 1, line 8, replace "hold hearings, receive public testimony, and gather" with "request, from the state agency, institution, or department most directly affected by the provisions of the measure,"

Page 1, line 9, after "measure" insert "on state government"

Page 1, line 10, after "provide" insert "the" and replace "in the format and timeframe prescribed by the" with "within ten business days of the receipt of the request. The"

Page 1, line 11, replace "for identifying" with "shall hold one or more hearings to receive testimony and information on", replace "an" with "the", and after the period insert "The agency, institution, or department may revise its estimate based on the testimony or information received after the initial estimate."

Page 1, line 13, remove "a statement of" and replace "of the measure" with "information as provided by the state agency, institution, or department"

Page 1, line 16, after the period insert "Within thirty days after the close of the first complete fiscal year after the effective date of an initiated measure approved by the voters, the agency, institution, or department that provided the estimated fiscal effect information to the legislative council under this section shall submit a report to the legislative council on the actual revenues or expenditures resulting from provisions of the initiated measure compared to the estimates provided to the legislative council."

Renumber accordingly

Date: 3-24-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1222

Senate Political Subdivisions

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Moved Amendment 50208.0303

Motion Made By Senator Fairfield Seconded By Senator Hacker

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield	X				
Senator Constance Triplett	X				

Total Yes 6 No 0

Absent 0

Floor Assignment

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

Amendment passed

Date: 3-24-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1222

Senate Political Subdivisions

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass as Amended

Motion Made By Senator Dever Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield	X				
Senator Constance Triplett	X				

Total Yes 10 No 0

Absent 0

Floor Assignment Senator Cook

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

REPORT OF STANDING COMMITTEE

HB 1222, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1222
was placed on the Sixth order on the calendar.

Page 1, line 8, replace "hold hearings, receive public testimony, and gather" with "request, from the state agency, institution, or department most directly affected by the provisions of the measure,"

Page 1, line 9, after "measure" insert "on state government"

Page 1, line 10, after "provide" insert "the" and replace "in the format and timeframe prescribed by the" with "within ten business days of the receipt of the request. The"

Page 1, line 11, replace "for identifying" with "shall hold one or more hearings to receive testimony and information on", replace "an" with "the", and after the period insert "The agency, institution, or department may revise its estimate based on the testimony or information received after the initial estimate."

Page 1, line 13, remove "a statement of" and replace "of the measure" with "information as provided by the state agency, institution, or department"

Page 1, line 16, after the period insert "Within thirty days after the close of the first complete fiscal year after the effective date of an initiated measure approved by the voters, the agency, institution, or department that provided the estimated fiscal effect information to the legislative council under this section shall submit a report to the legislative council on the actual revenues or expenditures resulting from provisions of the initiated measure compared to the estimates provided to the legislative council."

Renumber accordingly

2005 HOUSE POLITICAL SUBDIVISIONS

CONFERENCE COMMITTEE

HB 1222

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1222 conf

House Political Subdivisions Committee

☒ Conference Committee

Hearing Date April 5, 2005

Tape Number

1

Side A


x

Side B

Meter #

0.4 to 21.9

Committee Clerk Signature



Minutes: Conference Committee - Chaired by Rep. Carlson

Conferees:

Sen. Cook

Rep. Carlson

Sen. Lee

Rep. Devlin

Sen. Fairfield

Rep. Zaiser

Rep. Carlson- -- opened by asking Sen. Cook to explain what Senate had done with their amendments.

Sen. Cook - we greatly improved the bill -- seriously we had one concern with the bill the way it came to us -- that was that the interim committee that could come up with a fiscal note and present that fiscal note to the voters -- prior to voting on an initiated measure --the voters then would make a decision based on that fiscal note and then let us say that initiated measure that created the fiscal was to pass --- and then we came into session -- in an effort in dealing with our budget we had another fiscal note that followed the fiscal note policies that we follow here at the

legislature. In other words the fiscal note that was created by the state agency most directly effected by -- and that fiscal note would be more or less -- and the other concern was that if we created a fiscal note and the committee that presented it to the voters --that the state agency that created the fiscal note could further muddy the waters by saying that --yes, the fiscal note that this committee came up with but, however if it passes -- and we deal with legislation -- this is the fiscal note that will be introduced during the session when we deliberate on the merits of this bill (and) how it will effect the balanced budget when it is adopted -- so what we did with the amendments basically is to make it clear that the agencies which would be most directly effected would present to the committee designated by the legislative council chairman -- they would -- that agency would present its fiscal note and -- this would be the same agency that would present the fiscal note if the bill is introduced in the session -- it is an effort to get to one fiscal note and that these fiscal notes would be the same. The committee then could certainly ask questions of the agency of the rationale and how they determined that fiscal note and based on that hearing -- the agency could say we are going to change the fiscal note -- believe it or not -- I have seen that happen -- this session where an agency presented a fiscal note to Finance and Tax -- I raised a question -- the agency said -- as a matter of fact we have changed the fiscal note -- but ultimately we want to protect the fiscal note that this committee came and presented to the voters and it would be the same fiscal note that would be applied to the measure if it were introduced as a bill. That was the serious concern that we had. -- And the other thing that we did --on the bottom of those amendments on page 1 line 16 -- we inserted some new language -- and this is something that we in finance and Tax have been talking about throughout the session and that is --it deals with fiscal notes in general -- that's within thirty days after the close first complete fiscal year

--after the effective date of an initiated measure approved by the voters -- this same agency that provided the fiscal note is going to have to come back to the table and present what the actual fiscal impact really was -- and so it is kind of a tool -- and there are some us that think there is some merit to have this on every fiscal note that is introduced -- and quite frankly we could do it right now--- with a simple study where -- a particular study to see what a particular fiscal was -- I hope that somehow that puts it back in the mind of the agency that created the fiscal note they should not get too political with this because we are going to be held accountable for what the actual fiscal impact was --- an so that is why we put these on the bill.

Rep. Devlin -- I think the amendments defeat the intent of what the people wanted -- they wanted the legislature to come up with a fiscal note through the legislative council-- I think the intent was that that we would get the proponents and the opponents, the agencies, anybody we could -- that the legislative council go to get the information and bring that to the voters -- you may get suspect fiscal notes from an agency whether they are for or opposed to an initiated measure -- we want to look at all sides and that's why we -- that's what the constitutional measure was that the people voted -- the said they want the legislature to find a way do that -- this puts it back into the lap of the state agencies and I don't think that is what the voters wanted.

Sen. Cook -- I am going to disagree with that a little bit -- I believe -- I don't have it in front of me but what voters approved I believe is -- in constitutional amendment 2 --was it? -- of the June primary is that legislature provide a process for the legislative council to provide a fiscal note. I don't think we have to do anything but to provide the process for the voters to get the information.

Rep. Zaiser (6.9) My view on what the senate did is --particularly at the end is -- I think we have to have someway to evaluate the process -- the second time -- I don't think that portion changes the intent -- if we put it back in the laps of the agency we can ask them whether they were accurate or not.

Sen. Lee -- Once that fiscal note is prepared by the agency -- there is a provision for the hearing for public input -- there the numbers can be refined.

Seb. Cook - I agree - that's where they can agree on a number..

Rep. Carlson -- I don't know that anybody ever agreed completely.

Sen. Cook -- Mr. Chairman I agree 100% with you -- there maybe some bills introduced where fiscal note are not argued but I would guess that most issues on an initiated measure are going to be in many cases -- number 1 are going to be difficult to provide fiscal effect and number 2 when a fiscal effect is determined -- not matter how we do it is going to be (?) dated -- with that rationale it is always going to be ?baited? -- to let us provide a process in which at least we know the number we are going to have to deal with and how that number is going to -- ultimately we have to pass it down -- we will have to deal with it.

Rep. Carlson -- we have built a five billion dollar budget on forecasts and fiscal notes -- I think you have made this way too difficult. I think the way the bill in its original form says very simple things -- the effected agency is going to have look to the initiated measure and estimate a cost. No we don't hold this group to getting to a 5 billion dollar budget -- we don't make them come back at the end of the biennium -- and justify that information -- I don't know that that is a necessary ingredient -- we use it for our own personal gratification but I don't know what usefull purpose it serves after the fact.

Sen. Lee (10.0) It may help us in the future to restore some accountability to the process.

Rep. Carlson but when you hold public hearings and public testimony and you gather information on these estimated fiscal effects and then they should answer to the legislative council and you prescribe at ten thing in there -- I don't care -- you can put anything in there -- but I struggling to see how you have made this any easier or more accurate by the changes you have added here.

Rep. Zaiser (10. 5) I don't know about easier but we always talk about accountability -- we talk about that throughout the session -- we talk about evaluating things ---- the last portion from line 19 really sets up the evaluation process. If an agency comes in with a flawed fiscal impact statement -- then they should be --whatever.

Rep. Devlin -- it still takes the legislature out of the process -- I don't like any part of that process when it takes the legislature out of the process -- if the legislature brought all the proponents, opponents and public input all together then I don't think you can lay it a the feet of a single agency. I think it should be the legislature operating through its bipartisan council.

Sen. Fairfield (11.9) I certainly would agree that when the voters approved overwhelmingly was they wanted accuracy in the numbers. They didn't want the political process -- they didn't want a political number -- they wanted to know how much it was going to cost. My only argument for what you are saying that it has to be on the back of the legislature -is my opinion is that is exactly where it should not be. As legislators we as policy makers have our shot. With this as an initiated measure the people are speaking -- there should be no other enforcement from the legislative council -- saying this it the number -- because it is up to the people to make that decision -- I don't think it should be in the hands of the legislature in this particular case.

Rep. Devlin -- then the initiated measure that went to the people should have said the state agencies should or executive branch should come up with the best -- but that is not what it says -- we can do it best when we have the state agencies which have the most information to supply it as just part of the process.

Sen. Fairfield -- My assessment is that I disagree with that -- my concept is that what they were voting on is that they had the correct number -- it was not to put this in the hands of the legislature -- the legislative council to determine what is the correct fiscal note. It was just tell us what the number is. With our amendments we wanted to make this as fair and as balanced a process that was not a political process.

Rep. Carlson -- It is the law.

Sen. Fairfield -- we can sit and argue about what the people voted for but I will never agree that the people voted that the it had to be the legislature to determine the fiscal note.

Rep. Carlson - This was debated on the floor when the initiated resulted -- and that was exactly what the prevailing argument was -- that the legislature should be responsible.

Sen. Cook -- (15.8) What do you think about the process we have for fiscal note in the legislature?

Rep. Carlson -- Actually I don't have much trouble with those -- if they are given accurate information on what the bill does -- I believe they should be able to give us accurate numbers and I have not seen many discrepancies of the years -- it is when they don't understand the intent of what we are asking for is when the numbers - - are off and after having been I appropriation 3 term and living off those numbers -- we have sent some back but 95% are pretty good -- so I am not dissatisfied with the process.

Sen. Cook (16.4) -- I tend to agree with you -- but why is it not good enough for the voters?

Rep. Carlson -- that is why I am struggling with this bill.

Sen. Cook -- I believe the way we have presented the bill to you is the very process for the people of North Dakota as is followed by us. Our process calls for one fiscal note to be presented to us and the same fiscal note presented to the voters.

Rep. Carlson -- Now this is my opinion -- I would have placed somewhere on the ballot the estimated fiscal effect of this measure -- so many million dollars plus or minus but that is not in the bill. It says the information will be made available to the public. The public can call for it or the media will pick up on it.

Sen. Cook -- (18.2) Let's walk through this one more time -- shall schedule one more hearing to receive testimony and information of the fiscal effects the agency, the institution or department may revise its estimate based on the testimony received -- they revise it and then they are going to have to come back and present it at least thirty days prior to the public vote on the measure the legislative council or its legislative committee shall submit the estimated fiscal effect (the numbers) as provided but the state agency, institution or department to the Secretary of State. Up on receipt the Secretary of State shall include notice within the analysis required -- copies of the estimated fiscal effect can be obtained. We leave that up to the discretion of the Secretary of State where they can be obtained -- the Secretary of State can somehow provide a mechanism to put it on the ballot -- to do whatever it is the Secretary of State feels it is he has to do to fulfill his obligations for that constitutional law. That's the way we intended. We certainly intended this to follow the same process for fiscal notes as is followed by us and to present that fiscal note to the voters.

Rep. Zaiser (19.4) I just want to make a statement on behalf of a couple of members of our committee -- that indicated there were some issues potentially on some initiated measures where there -- it would be very difficult to quantify fiscal impact -- it might be a delayed impact -- I think the example was some policy that the state initiated that would cause people to leave the state in droves -- how do you establish that fiscal impact?

Sen. Cook - I think that would come up in the interim committee as they prepare to present the measure to the people.

Rep. Zaiser -- (20.4) That is one of the reason that interplay between the agency and the legislative council --- and I want to get back to --- about the agencies and holding their feet to the fire -- I also believe that the that language at the end holds the legislative councils feet to the fire also -- we as policy makers should be a part of that.

Rep. Carlson -- I am still not convinced that wwe we need all that language in there - -and I have another conference committee to go to -- we will schedule this to come back again.

Rep. Devlin -- We don't have an itnerim process in this -- it is in the last ninety days before it goes to on the ballot.

Adjourned. (21.9)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1222 conf b


House Political Subdivisions Committee

☒ Conference Committee

Hearing Date April 7, 2005

Tape Number	Side A	Side B	Meter #
1	x		24.1 to 50.4

Committee Clerk Signature



Minutes: Conference Committee for HB 1222

Members:

Sen. Cook	Rep. Carlso
Sen. Lee	Rep. Devlin
Sen. Fairfield	Rep. Zaiser

All members were present except Sen. Cook who was detained for a conference call (telephone call).

Rep. Carlson (24.1) opened the session with a statement that said it would be best to go back to the exact wording of the constitutional measure the people voted.

Rep. Devlin -- furnished copies of a hand out obtained from the Secretary of State's office which were duplicates of the legislative resolution, a copy of the actual ballot, and a copy of the measure -- the purpose was to review the text.

Rep. Devlin was asked to go through the text as to what the wording was ---there were two things --one is what the measure actually says -- voted on by the people --- and the second one was the statement of intent which brought the bill to the people -- those who were on the original bill felt it was quite clear through the whole the intent was -- as it says on the underlined language -- to establish a procedure which the legislative council may --- so that was what was passed and that is clearly the intent that the legislature would be the ones to carry out what the people for voted. Rep. Devlin stated that in his opinion they were getting away from that when the proposed amendments wanted the state agencies to determine the fiscal impact statements. His preference was that the bipartisan legislative council come together -- solicit the information from the state agencies, get information from the proponents, opponents, colleges and gather all the information and put it out to the people.

Sen. Fairfield (25.8) So in your estimation - the legislative council would limit the political aspects of the process more so than the state agencies?

Rep. Devlin Yes -- I think so because both parties are fully involved in the Legislative Council- we have the leadership of both parties -- we have good representation of both parties on there --where state agencies could very well be controlled by one party or the other -- This is the better approach to have the Legislative Council do it. They can get all the information in the world including the state agencies -- we can get several or all the state agencies if they are involved not just one agency to prepared the fiscal impact statement.

Sen. Fairfield -- so what was the rationale of the authors of them for putting in the wording for the " establishing the procedure for " instead of saying the legislature shall do it?

Rep. Carlson -- Because if this does pass (at that time) all is asks is that they set up the procedure --- this is what this bill does. It authorizes the procedure saying how to gather information, and anybody who is to be involved-- take testimony, issue statements --

Sen. Fairfield -- that is my point -- that is what was voted on -- "the measure would authorize by law the procedure for determining the fiscal impact" of the initiated measure. We could argue that all day -- when I read that -- when I know how overwhelmingly the people supported this -- to me it says that they wanted the absolute unbiased -- as unbiased as we can possibly create fiscal note -- this bill to make this -- what the Senate amendments do is better -- it says the people are going to see the same fiscal note that we will see -- it says that a year after the effective date -- they have to make an accounting of it -- I think we are going to have the most precise unbiased view -- the way we have it in the Senate rather than having it in a political setting in the legislature.

Rep. Zaiser -- I want to respond to Rep. Devlin's comments -- the agencies are more political than the Legislative Council -- I guess I could see their technicians or professionals in their trades -- by all accounts -- people call us politicians -- by its very nature politics seems to imply biases and partisanship -- I am not opposed to the Legislative Council -- I think what the Senate has done is to first ask the state Agencies for the information and if that is bogus in the opinion of the Legislative Council then they can should send it back or make serious changes quickly.

Chairman Carlson --(30.1) -- We get fiscal notes on everything we do -- it is the Legislature's responsibility to craft the budget -- if we follow these same guidelines then we should say that whatever the agency brings to us we should approve -- because they have the final word and have all the information and therefor that's the number we have to take -- I agree with Rep. Devlin

that delegate our authority given to us when we do that (what the Senate Amendments do) - we have hearings on all our bills -- we listened to all the information and we pass the final bill. We don't probably pass the final bill the agency wants in every regard -- I agree with him (Rep. Devlin) completely that after all the information is gathered -- we should be able to determine that number is accurate enough to quote. That's our disagreement --

Sen. Fairfiled - (32.4) I think we have left some negotiating -- maybe that the wrong way to put it but there is some input when a department brings to the Legislative Council with a number -- they can provide -- they can change it -- I guess what I am hearing is that your concern is -- something in there that after this process is complete -- the final arbiter is the Legislative Council.

Chairman Carlson -- I do -- because it says " the Legislative Council or its designated committee shall submit" -- it doesn't say may --- or can but shall submit the estimated fiscal effect information as provided by the State agencies --

Sen. Fairfield -- (33.5) you said --- if you said the designated committee shall after approval submit the estimated effect

Rep. Zaiser -- ? After the Legislative Council concurs --

Chairman Carlson -- the Legislative council has to be the final arbiter -- because we gather all the facts -

Rep. Devlin -- the original bill makes the Legislative Council the one who is in control -- it asks for all the information from all the agencies and from wherever -- What I have been saying is that a State Agency may be controlled by on party or the other but the Legislative Council is nearly equal between the two parties -- we all leadership of both parties represented in the Legislative

Council and with all the information at hand then jointly between the two parties which is a very open process -- an open public meeting -- the Legislative council then takes something to the voters.

Sen. Lee --(35.3) I think what the Senate was trying to do was to mirror the process that's in place beginning with fiscal notes the legislature has now -- you all know that process better than I -- if we just -- starting on line 15 where it says "at least thirty days prior to public vote -- the Legislative Council shall submit the estimated fiscal impact" -- take the committee out of their because of their involvement --

Chairman Carlson -- to me - -I think that is a crucial step. Otherwise we have spent a lot of time all session scrutinizing budgets --- because that is their job --

Sen. Fairfield -- should that say " approve and submit' ? The Legislative Council approve and submit ?

Rep. Zaiser -- I think that is a good idea.

Rep. Devlin -- I don't know how many fiscal notes on bill I have read that say "indeterminable" --I think we are -- a little bit -- confusing here -- fiscal note for fiscal impact. What the voters asked us to do was to determine the fiscal effect. There is much more in that than a fiscal note.

Chairman Carlson -- I don't know if we are ever going to know exactly what the fiscal effect is but I do know we need to tell them what our best estimate is.

Sen. Fairfield -- (37.9) I guess that is kind of where my concern is -- because I think we have to be as diligent as the process of collecting that information and putting it out there as fair as we possibly can because there still might be a difference of opinion but what we are doing through this process is putting out stamp of approval on it -- the information maybe no more creditable

than any other information -- but by us putting this out there and saying this is how much it is going to cost and this the number people are going to trust -- that is why I think we must make absolutely make sure is as open and nonpolitical as it can be -- that cuts both way -- for both sides.

Chairman Carlson -- Just again I go back to appropriations -- we are projecting \$32 a barrel oil for revenue next time and we are building a budget based on that -- for most of us we must concede might be 50 but on the other hand the best information we have on a conservative side is it is smarter to go with 32 -- we as a legislative assembly say -- 'we will go with that when we build our next budget'. We had to take the best information and make our best guess what we think the revenue stream will be -- I will give an example of what an initiated measure could possibly be -- take Rep. Kasper's bill (for internet poker) which we killed but Rep. Herbal, Vice Chairman says it will bring in \$200 million dollars to the State -- somebody initiates a measure to put to the people -- I guarantee you that under this bill or something like -- somebody is going to have to come up with a figure to put out to the people --- some body is going to have to sit down and say ultimately that that is correct or that it might only be 3 million -- which agencies will it be who do that -- it might be the Attorney General's office, the Legislative council, OMB, -- but we need a process to kick it out the door. I don't think we are disagreeing about that -- we may fight over language -- but in the end we want to have as much information as we can get -- to get an accurate number --I guess Rep. Devlin and I have trouble looking at your language and saying its -- so if you want to work up some amendments -- Senator cook isn't here -- I think we will just adjourn but if you guys have some ideas -- of some amendments -- we will be happy to look at them.

Rep. Zaiser -- I agree and I think we are all pretty much in agreement and getting pretty close here but one of the other things Rep. Devlin talked about fiscal impact versus a fiscal effect -- one of the things I think that if we do that in line 10 after measure on state government -- yeah now that's on the 400 version (of the bill) -- I suggest " in the state as a whole" because the fiscal effect -- we don't talk about fiscal effect on State government but the effect on the state -- there are some things that would be treated quite differently on an initiated measure than -- in terms of their impact on state government and on the state as a whole.

Rep. Devlin -- If we can get everybody back to .0300 (version of the bill) just for a second -- we thought the intent -- we did put in some things on the House side too-- we thought what we did was -- we thought we were following the intent on line 4 and 5 of the legislative council's 'to coordinate and determine' -- we thought on line 7 and 8 that we would bring in more than the state agencies but you know we want to hold hearings, we want to receive public input, we want public testimony -- we want to pull together all the information -- and then beginning on line 9 we want each agency, institution, department, --- the council may request -- we thought we did that the way we drafted -- we weren't prepared to say this agency is more or most effected so they come up with the fiscal note -- we think that is very short sighted -- the Bank of North Dakota -- the Ag Department many agencies may have something to input -- under the House bill we wouldn't leave it up to just a state agency to say what it is --

Sen. Fairfield (43.9) - Mr. Chairman -- don't you think the way the Senate has it --

Rep. Devlin -- No -- what you end up with is one fiscal note or what ever you want to call it.

Rep. Zaiser -- I do agree with Rep. Devlin -- I thought our amendments in the House did strengthen it -- one of the things I really like and I pointed it out in our first session is the

evaluation. I think you always have to look at --- that should be an automatic -- but do agree with Rep. Devlin -- that House version does spell out that the Council is the arbiter.

Sen. Lee (45.5) In terms of the intent -- you talked about fiscal impact --Rep. Devlin-- in the bill it says effect -- is that in conflict (in the wording).

Chairman Carlson -- that is a good question for counsel -- we will get John Walstad to look at that and give us -- the language is different. There is a difference between impact and fiscal note.

Sen. Fairfield -- (46.9) are you particularly tied to line 16 of .0400 -- are tied to Legislative council or legislative committee? You mentioned many times the Legislative Council because of their make up, etc.

Chairman Carlson -- I would prefer not to hand off the responsibility to anyone else. If you look at the make up of the Council it is so closely equal in representation (politically) there is only about one vote difference. If you give it to an interim committee the difference is going to be one third -- two thirds.

Rep. Devlin -- It was the original language -- the council but I don't think anybody thought of an interim committee until Sen. Cook mentioned that.

Adjourned to meet again -- (50.3) We will look at some specific amendments -- hopefully.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1222 conf c

House Political Subdivisions Committee

☒ Conference Committee

Hearing Date April 8, 2005

Tape Number	Side A	Side B	Meter #
1	x		17.4 to 49.1

Committee Clerk Signature



Minutes: Conference Committee on HB 1222 Rep. Carlson chairman.

Conferees:

Sen. Cook	Rep. Carlson
Sen. Lee	Rep. Devlin
Sen. Fairfield	Rep. Zaiser

All members were present.

Chairman Carlson -- Acknowledged the fact Sen. Cook had missed most all of the previous conference due a telephone conference call. Also that while the bill was discussed there were conclusions nor resolutions. The house reiterated their concerns in summary -- the House thinks it is very important that the Legislative Council remain the driving factor behind the fiscal information that goes out to the public -- instead of an agency. Some people have brought amendments that need to be looked at.

Rep. Devlin -- This amendment is based on the House's first engrossment of the bill --.0300.

When we left the other day we had some question in our mind as to what is the difference between an 'effect' and an 'impact'. So we changed the whole bill (in these amendments) back to impact which is what the voters passed and what the original bill had.

Chairman Carlson -- excuse me Rep. Devlin -- I just talked with John Walstad (legal counsel -- Legislative Council) -- it would be best if we kept the language the same --(as the wording the people voted) otherwise there will be calls and asking what the difference is between -- he didn't care which term you used but be consistent --

John Walstad -- (19.5) To me we should be consistent in terminology -- but more importantly we should match the wording that is in the constitution because we can't change that -- the constitution says impact -- and if we say something different in statute even though we don't mean something different -- courts will interpret it that since we used different words we must have meant something different. So my sense is that we should use impact because that's constitution says and then there is no question.

Sen. Cook -- What does it means relative to a fiscal note?

John Walstad -- I would read I impact to mean all aspects of the fiscal -- it is nothing different than what we try to get at on a fiscal note for legislation at the legislature. What we want is somebody to tell us how it will effect revenues and expenditures of the State, how it might impact political subdivisions, ----what I would expect that it would not cover is the same things we have problems with now with fiscal notes -- that is how will this effect the state's economy in general --- not the state government's budget -- but the economy of the state as a whole -- for example they never show the effect on tax revenues -- what does it do to local governments --

Rep. Devlin -- As Mr. Walstad said -- fiscal impact is what it said in the constitution -- the next thing is -- we talked about -- the legislative council or a committee made up of the legislative council -- until it gets back to the full council -- that is the second amendment and then on line 16 is what the Senate asked for -- we broadened is a little bit so that if the legislative council depends on the agencies and higher ed or some other department -- they would have to give a report at the end -- all of them -- at the end of the year how the final was compared to what they presented to the legislative council. That is what these amendments are designed to do.

Sen. Cook -- these are some pretty good amendments I do believe -- there might be some more need but let's go back -- if we -- think strongly that we should be done within the legislative council -- without the ability to assigned it to an interim committee -- then why don't you just leave it there?

Rep. Devlin -- I would have no problem with that.

Sen. Cook -- I am not going to speak for the other two Senators here but personally I think what we are doing here is walking on to virgin soil. We will learn a lot once this is put into place and actually used.

Chairman Carlson -- We all want this to be factual not political -- we want people to look at the numbers and to know that they are as accurate as we can make them. When we looked at this the interim committees are usually one third/two thirds reflecting the Legislative assembly where as the Legislative Council is basically a one or two vote difference -- is all -- so if you wanted people from all sides and equal -- the Legislative Council is the mechanism which makes it more nearly equal. The Council is where it really should stay.

Sen. Cook -- If we can come to agreement of this then I think we have one real area yet to that

we need to have some goods dialogue on --- that the concern the Senate brings to the table -- the possibility of having two numbers or the possibility of the Legislative Council presenting to the voters one number and then if the voters approve that initiated measure and then we come into session then the Governor puts together his budget is going to use a different number as he brings forth his balanced budget. Now Mr. Walstad just said something that I wrote down -- to what degree is there a difference between numbers that effect the state's economy and a number that effects the state's budget.

Chairman Carlson -- I am confused by this two numbers -- this says nothing about the budgeting process at all --

Sen. Cook -- I doesn't say anywhere anything about two numbers -- it is silent about that and that's my concern that we could end up with two numbers -- The Legislative Council could present one number to the voters and a State agency could present a different number -- they could say we don't care what the Council says but this is the number that is going to be on our fiscal note when they come to session and try to balance the budget.

Chairman Carlson -- The Governor makes a recommendations -- even though it appears to be the Gospel of Saint John -- it s still a recommendation -- so this simply addresses the impact of the Council has gathered -- their best estimate of what the people would perceive this to be the cost -- it says nothing about a budgeting process -- because that could be completely different than the initiated measure -- I don't know that you can tie those two together --

Sen. Lee -- The Governor can come in with any number he wants to -- his budget can be presented anyway that they want is to be but they have to make up the difference somehow.

Rep. Devlin -- you could have an initiated measure that cost the state \$5 million in tax revenues but the Legislative council is going to have come up with what that impact would be on local governments -- for example

Chairman Carlson -- yes -- I still can't tie the two together.

Rep. Devlin -- You can't look at it just what it is going to do to the state budget -- there are going to be a lot of numbers as to what it is going to do to programs, local governments, small business, -- a lot of things.

Sen. Fairfield - - It is your intent to have the impact on fiscal matters whether it had an effect on state government or on small business or whatever?

Rep. Zaiser -- I agree with Rep. Devlin a 100% -- just so that I understand -- the way it is written it leaves it up somewhat to the imagination. Why not just say not just for state government but on the state as a whole.

Chairman Carlson -- we are trying to be so careful here but none of us has any idea what one of these measures and the fiscal impact statement is going to look like and it may be several sessions down the line before we have a constitutional measure come up that requires this.

Sen. Lee -- We are leaving it up to the legislative council and they should be able to determine what is clear and what to present to the people in a manner they will understand it and the statement of intent sets forth quite clearly what is intended.

Rep. Devlin -- we might ask a half dozens different agencies for data and input but it is up to the council who is made up of a balanced representation to put this out to the people and I don't think we should tie their hands in this.

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Sen. Cook -- I would be surprised if we went through process and didn't come back after that experience and change some aspect of it -- we are trying to look into the future -- really my objections are dwindling --

Rep. Devlin -- Then Mr. Chairman if we are going with the wording you have ask John Walsatd to make regarding the legislative council report and with these amendments the on page 1 line 7 on .0300 version we would have to overstrike " or a committee" and on line 8 through " council "

Chairman Carlson -- We will have John Walstad make these changes and we will come back one more time.

End (49.2)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1222 conf d

House Political Subdivisions Committee

☒ Conference Committee

Hearing Date April 11, 2005

Tape Number	Side A	Side B	Meter #
1	x		2..4 to 10.8

Committee Clerk Signature



Minutes: Conference committee meeting on HB 1222 Chaired by Rep. Carlson

Conferees:

Sen. Cook

Rep. Carlson

Sen. Lee

Rep. Devlin

Sen. Fairfield

Rep. Zaiser

All members were present.

Chairman Carlson (8.1) had the members review the amendments which they had before them.

Rep. Devlin - reviewed the changes which had been discussed and how they were addressed in the amendments-- version .0306. There was very little discussion.

Page 2
House Political Subdivisions Committee
Bill/Resolution Number HB 1222
Hearing Date April 11, 2005

Sen Cook moved that the Senate recede from its amendments and moved to amend the bill with amendments before the committee -- .0306 LC number. **Sen Fairfiled** seconded the motion. On a roll call vote the motion carried with all members of the committee voting aye.

Chairman Carlson thanked all the committee members for their participation and adjourned the meeting.

End (10.8)

Conference Committee Amendments to Engrossed HB 1222 (50208.0306) - 04/11/2005

That the Senate recede from its amendments as printed on pages 1344 and 1345 of the House Journal and page 1017 of the Senate Journal and that Engrossed House Bill No. 1222 be amended as follows:

Page 1, line 1, replace "effect" with "impact"

Page 1, line 3, replace "effect" with "impact"

Page 1, line 5, replace "effect" with "impact"

Page 1, line 7, remove "or a committee"

Page 1, line 8, remove "designated by the council"

Page 1, line 9, replace "effect" with "impact"

Page 1, line 11, replace "effect" with "impact"

Page 1, line 12, remove "or its designated"

Page 1, line 13, remove "committee" and replace "effect" with "impact"

Page 1, line 16, replace "effect" with "impact" and after the period insert "Within thirty days of the close of the first complete fiscal year after the effective date of an initiated measure approved by the voters, the agencies, institutions, or departments that provided the estimates of the fiscal impact of the measure to the legislative council under this section shall submit a report to the legislative council on the actual fiscal impact for the first complete fiscal year resulting from provisions of the initiated measure and a comparison to the estimates provided to the legislative council under this section and the legislative council shall issue a report of the actual fiscal impact of the initiated measure."

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)

Bill Number HB 1722, as (re)engrossed):

Date: April 11, 2005

Your Conference Committee

Political Subs

For the Senate:

For the House:

4/11

YES / NO 4/11

YES / NO

✓ Sen. Cook

✓

✓ Rep. Carlson

✓

✓ Sen. Lee

✓

✓ Rep. Derlin

✓

✓ Sen. Fairfield

✓

✓ Rep. Zaiser

✓

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1454

____, and place _____ on the Seventh order.

✓, adopt (further) amendments as follows, and place HB 1454 on the Seventh order:

____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) HB 1454 was placed on the Seventh order of business on the calendar.

DATE: April 11, 2005
CARRIER: Rep. Derlin

LC NO. 50208.0306 of amendment

LC NO. _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

MOTION MADE BY: Sen. Cook

SECONDED BY: Sen. Fairfield

VOTE COUNT 6 YES 0 NO 0 ABSENT

Revised 4/1/05

REPORT OF CONFERENCE COMMITTEE

HB 1222, as engrossed: Your conference committee (Sens. Cook, G. Lee, Fairfield and Reps. Carlson, Devlin, Zaiser) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1344-1345, adopt amendments as follows, and place HB 1222 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1344 and 1345 of the House Journal and page 1017 of the Senate Journal and that Engrossed House Bill No. 1222 be amended as follows:

Page 1, line 1, replace "effect" with "impact"

Page 1, line 3, replace "effect" with "Impact"

Page 1, line 5, replace "effect" with "impact"

Page 1, line 7, remove "or a committee"

Page 1, line 8, remove "designated by the council"

Page 1, line 9, replace "effect" with "impact"

Page 1, line 11, replace "effect" with "impact"

Page 1, line 12, remove "or its designated"

Page 1, line 13, remove "committee" and replace "effect" with "impact"

Page 1, line 16, replace "effect" with "impact" and after the period insert "Within thirty days of the close of the first complete fiscal year after the effective date of an initiated measure approved by the voters, the agencies, institutions, or departments that provided the estimates of the fiscal impact of the measure to the legislative council under this section shall submit a report to the legislative council on the actual fiscal impact for the first complete fiscal year resulting from provisions of the initiated measure and a comparison to the estimates provided to the legislative council under this section and the legislative council shall issue a report of the actual fiscal impact of the initiated measure."

Renumber accordingly

Engrossed HB 1222 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

HB 1222

HB 1222

Testimony from Senator Tim Flakoll

Chairman Devlin and members of the Political Subdivisions committee. For the record I am Senator Tim Flakoll of District 44 in Fargo.

HB 1222 comes as a result of the Constitutional measure #2 that passed overwhelmingly with 69.42% of the statewide vote held during the June 8th 2004 primary. Incidentally, in only one district in the state did it receive less than 60% of the vote (59.55% in district 32) and in many districts it received more than 80% of the vote.

Measure #2 changed the ND Constitution to allow for the development and dissemination of estimates of fiscal effects on an initiated measure.

I feel the components of HB 1222 provide due process for allowing for the gathering of information, the holding of public hearings, and the receiving testimony in route to the development of the data. The process can be aided by obtaining information from agencies, institutions or departments.

HB 1222 requires that at least 30 days prior to the public vote on the measure, that the legislative council or its designated committee shall submit a statement of the estimated fiscal effect to the secretary of state. Upon receipt, the secretary of state will arrange for the information to be available to the public. Please note that the bill is not heavy handed with mandates of where and how it will bill published or made available.

The information generated by the committee could be distributed or made available in a number of ways. Methods such as the Internet and the dissemination of information to and by the media could play important roles in today's world, allowing voters to have this vital information.

Chairman Devlin and committee members, we live in the information age. People like to have as much information available as possible for the basis of their decisions. HB 1222 will provide a process format that will allow for rigorous, responsible debate that should result in the best information possible.

HB 1222 will allow us to fully execute the wishes of the voters when they overwhelmingly charged us with the duty of developing the process and methodology that you have before you.

Chairman Devlin, that concludes my testimony and I would be happy to stand for any questions.

Last Session 5
CHAPTER 579**HOUSE CONCURRENT RESOLUTION NO. 3069**

(Representatives Carlson, Belter, Devlin)

(Senators Flakoll, O'Connell, Wardner)

INITIATIVE MEASURE FISCAL IMPACT

A concurrent resolution for the amendment of section 2 of article III of the Constitution of North Dakota, relating to granting the legislative assembly the authority to provide a procedure for determining the fiscal impact of initiative measures.

STATEMENT OF INTENT

This measure authorizes the legislative assembly to provide for by law a procedure for determining the fiscal impact of initiative measures.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following proposed amendment to section 2 of article III of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the primary election to be held in 2004, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 2 of article III of the Constitution of North Dakota is amended and reenacted as follows:

Section 2. A petition to initiate or to refer a measure ~~shall~~ must be presented to the secretary of state for approval as to form. A request for approval ~~shall~~ must be presented over the names and signatures of twenty-five or more electors as sponsors, one of whom ~~shall~~ must be designated as chairman of the sponsoring committee. The secretary of state shall approve the petition for circulation if it is in proper form and contains the names and addresses of the sponsors and the full text of the measure.

The legislative assembly may provide by law for a procedure through which the legislative council may establish an appropriate method for determining the fiscal impact of an initiative measure and for making the information regarding the fiscal impact of the measure available to the public.

Filed March 24, 2003

NOTE: This will be measure No. 2 on the 2004 primary election ballot.

Publishing requirements for constitutional amendments, initiated measures, or referred measures

There are three sections of law that we need to consult when looking into the publishing requirements of the analysis. We should be required to only review two sections because the last two are unnecessary duplications of each other. But that is a question for the day we work with the code reviser on 16.1.

16.1-01-07. Constitutional amendments and other questions to be advertised - Notification by secretary of state - Manner of publishing. Whenever a proposed constitutional amendment or other question is to be submitted to the people of the state for popular vote, the secretary of state shall, not less than fifty-five days before the election, certify the amendment or other question to each county auditor and each auditor shall cause notice thereof to be included in the notice required by section 16.1-13-05. Questions to be submitted to the people of a particular county must be advertised in the same manner.

The secretary of state shall, at the same time the secretary of state certifies notice to the county auditors of the submission of a constitutional amendment or other question, certify the ballot form for such questions. The ballot form must conform to the provisions of section 16.1-06-09 and must be used by all county auditors in preparing ballots for submission to the electorate of each county and in the preparation of sample ballots. Any requirements in this title that a sample ballot be published will be met by the publication of either the paper ballot or the ballot as it will appear to persons using an electronic voting system device, depending upon the method of voting used in the area involved. Absentee voter ballots may not be considered in determining which method of voting is used in an area. If both paper ballots and electronic voting system ballots are used in an area, both forms must be published as sample ballots to meet publication and notice requirements. For two consecutive weeks before the sample ballot is published, an analysis of any constitutional amendment, initiated measure, or referred measure, written by the secretary of state after consultation with the attorney general, must be published in columns to enable the electors to become familiar with the effect of the proposed constitutional amendment or initiated or referred measure.

16.1-11-21. County auditor to publish sample primary election ballot and notice of time and place of election. The county auditor shall publish in the official county newspaper, and if no newspaper is published in the county then in a newspaper published in an adjoining county in the state, the following:

1. A copy of the sample ballot of the primary election, as arranged by order and direction of the county auditor. The form of the sample ballot must conform in all respects to the form prescribed for the sample primary ballot by the secretary of state. The county auditor shall publish the sample ballot in all forms appropriate for the method or methods of voting in the county. Absent voters' ballots may not be considered in determining which form of voting is used. Candidates from each legislative district that falls within the boundaries of the county must be listed in a separate box or category within the sample ballot by legislative district number to enable the voters in each legislative district to ascertain the legislative candidates in their specific district. Sample ballots used for publication purposes must be arranged using the rotation of the ballot in the precinct in the county which cast the highest total vote for governor at the last general election at which the office of governor was filled.
2. The date of the primary election.
3. The hours during which the polls will be open.
4. The statement that the primary election balloting will be held in the regular polling place in each precinct.

The notice must be published in the official county newspaper once each week for two consecutive weeks before the primary election and include a statement in substantially the following format:

The arrangement of candidate names appearing on ballots in your precinct may vary from the published sample ballots, depending upon the precinct and legislative district in which you reside.

16.1-13-05. Notice of election - Contents - Publication with sample ballot. Notice of all general elections must be published by the county auditor in the official county newspaper at the same time as, and as a part of, the publication of the sample ballot preceding the election. The notice must be substantially as follows:

Notice is given that on Tuesday, November _____, _____, at the polling places in the various precincts in the county of _____, an election will be held for the election of state, district, and county officers, which election will be opened at _____ a.m. and will continue open until _____ p.m. of that day with the following exceptions:

Dated _____

Signed _____

County Auditor

The county auditor shall publish a copy of the sample ballot of the general election once each week for two consecutive weeks before the election in the official county newspaper. If no newspaper is published in the county, the publication must be in a newspaper published in an adjoining county in the state. The form of the sample ballot as ordered and arranged by the county auditor must conform in all respects to the form prescribed by the secretary of state for the sample general election ballot. The county auditor shall publish the sample ballot in all forms appropriate for the method or methods of voting in the county. Absentee voter ballots may not be considered in determining which form of voting is used. Candidates from each legislative district which falls within the boundaries of the county must be listed in a separate box or category within the sample ballot by legislative district number to enable the voters in each legislative district to ascertain the legislative candidates in their specific district. Sample ballots used for publication purposes must be arranged using the rotation of the ballot in the precinct in the county which cast the highest total vote for governor at the last general election at which the office of governor was filled. The notice must include a statement in substantially the following format:

The arrangement of candidate names appearing on ballots in your precinct may vary from the published sample ballots, depending upon the precinct and legislative district in which you reside.

HB 1222

9:40 AM

Thursday, March 10
Red River Room

Chairman Cook and members of the Political Subdivisions committee. For the record I am Senator Tim Flakoll of District 44 in Fargo.

- o **Cook**
- o **Hacker**
- o **Dever**
- o **Fairfield**
- o **G. Lee**
- o **Triplett**

HB 1222 comes as a result of the Constitutional measure #2 that passed overwhelmingly with 69.42% of the statewide vote held during the June 8th 2004 primary. Incidentally, in only one district in the state did it receive less than 60% of the vote (59.55% in district 32) and in many districts it received more than 80% of the vote. All in all a pretty strong message.

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The information generated by the committee could be distributed or made available in a number of ways. Methods such as the Internet and the dissemination of information to and by the media could play important roles in today's world, allowing voters to have this vital information.

Chairman Cook and committee members, we live in the information age. People like to have as much information available as possible for the basis of their decisions. HB 1222 will provide a process format that will allow for rigorous, responsible debate that should result in the best information possible.

HB 1222 will allow us to fully execute the wishes of the voters when they overwhelmingly charged us with the duty of developing the process and methodology that you have before you.

Chairman Cook, that concludes my testimony and I would be happy to stand for any questions.

ALVIN A. JAEGER
SECRETARY OF STATE

HOME PAGE www.state.nd.us/sec



Attachment # 2

PHONE (701) 328-2900

FAX (701) 328-2992

E-MAIL sos@state.nd.us

SECRETARY OF STATE

STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

March 10, 2005

TO: Senator Cook, Chairman,
and Members of the Senate Political Subdivisions Committee

FR: Al Jaeger, Secretary of State

RE: HB 1222 – Fiscal Impact of Initiated Measure

The House Political Subdivisions Committee considered the involvement of the Secretary of State's office as to how the procedural requirements of this bill would impact the agency.

The amendments reflected in the engrossed bill clearly define the duties of the Secretary of State and the agency concurs with the changes.

As stated in line 14, the notice to the public of where the statement of the estimated fiscal effect may be obtained would be included in the analysis published according to the following underlined section of law:

16.1-01-07. Constitutional amendments and other questions to be advertised -
Notification by secretary of state - Manner of publishing.

Whenever a proposed constitutional amendment or other question is to be submitted to the people of the state for popular vote, the secretary of state shall, not less than fifty-five days before the election, certify the amendment or other question to each county auditor and each auditor shall cause notice thereof to be included in the notice required by section 16.1-13-05. Questions to be submitted to the people of a particular county must be advertised in the same manner.

The secretary of state shall, at the same time the secretary of state certifies notice to the county auditors of the submission of a constitutional amendment or other question, certify the ballot form for such questions. The ballot form must conform to the provisions of section 16.1-06-09 and must be used by all county auditors in preparing ballots for submission to the electorate of each county and in the preparation of sample ballots. Any requirements in this title that a sample ballot be published will be met by the publication of either the paper ballot or the ballot as it will appear to persons using an electronic voting system device, depending upon the method of voting used in the area involved. Absentee voter ballots may not be considered in determining which method of voting is used in an area. If both paper ballots and electronic voting system ballots are used in an area, both forms must be published as sample ballots to meet publication and notice requirements. For two consecutive weeks before the sample ballot is published, an analysis of any constitutional amendment, initiated measure, or referred measure, written by the secretary of state after consultation with the attorney general, must be published in columns to enable the electors to become familiar with the effect of the proposed constitutional amendment or initiated or referred measure.

Inf. HB. 1222
Westlaw.

2004 ND Bal.Meas. 2
(SN)

FOR EDUCATIONAL USE ONLY

Page 1

2004 North Dakota Ballot Measure No. 2, North Dakota NO REGULAR 2004 SESSION
(FULL TEXT - STATE NET)

NORTH DAKOTA BILL TEXT

Fifty-eighth Legislative Assembly of North Dakota

In Regular Session Commencing Tuesday, January 7, 2003

HOUSE CONCURRENT RESOLUTION NO. 3069

(Representatives Carlson, Belter, Devlin)

(Senators Flakoll, O'Connell, Wardner)

VERSION: Ballot Measure

April 8, 2004
Ballot Measure

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STATEMENT OF INTENT

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TEXT:

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~~The legislative assembly may provide by law for a procedure through which the legislative council may establish an appropriate method for determining the fiscal impact of an initiative measure and for making the information regarding the fiscal impact of the measure available to the public.~~

2004 ND Bal.Meas. 2
(SN)

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Page 2

2004 North Dakota Ballot **Measure** No. 2, North Dakota NO REGULAR 2004 SESSION
(FULL TEXT - STATE NET)

2004 ND Bal.Meas. 2 (SN)

END OF DOCUMENT