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SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1463

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1463

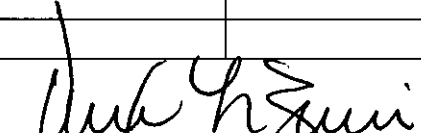
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1463

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/11/05

Tape Number	Side A	Side B	Meter #
1	x		1.9-31.7
Committee Clerk Signature 			

Minutes: HB 1463 Relating to appointments during the first year of a governor's term in office

Chairman Haas: At this time we will open the hearing on HB 1463 and ask the clerk to take roll.

14 members present, 0 absent.

Rep. Dave Weiler-District 30- For-This bill is a bill for better government, three components to it, a definition that has to do with century codes that has to do with boards and commissions.

Serving at the pleasure of the Governor.

Robert W. Harms-Bismarck, North Dakota-For-Attached Testimony

Rep. Conrad: How come the Board of Nursing and not the Board of Social Worker Examiners, why these boards and not others?

Robert: The boards that are listed specifically in the bill is really the decision by legislative council, the boards that I have shown in my testimony are specifically listed in statute and having some kind of criteria and think that is the reason they have specifically been listed.

Rep. Conrad: Are you aware the boards that aren't listed are probably because they have some self regulating mechanism in the law that they submitted to the legislature and these are just boards that didn't have that in there. So what we might end up doing is having, next session, that many of these boards come in and just remove the governor from being able to remove their members.

Robert: In that instance **that** person has not been appointed by the governor. The reason those boards and commissions are listed specifically by statute is the way state law is written, in each of those chapters, those boards have some type of mechanism. It is an inventory done by legislative council throughout the state statute.

Chairman Haas: Thank you very much. Anymore testimony in favor of or oppose to **HB 1463**.
The hearing is closed on HB 1463.

Chairman Haas: Committee members we deal with this bill, Luke passed out a copies of 540701.2, it was recommended by Mr. Harms that we take that repealer out of the bill. Rep. Grande moves the amendment to remove lines 26 and 27 on page 10, is there a second, seconded by Rep. Kasper. Is there any discussion. We will do a voice vote on the amendment, all in favor of the amendment signify by saying I, oppose say no. Amendment is carried.

Rep. Conrad: I would also like to this amendment to take all of the professional boards out of this and so that would leave the parole board, the game and fish advisory board, and the water pollution control board. The ones I named would be the ones left. The rest of them are all professional. The aeronautics board would be considered also. Those are policy boards and I can understand that is where the governor needs should reflect the will of the people.

Chairman Haas: We have the amendment on the floor, we will take a voice vote on the amendment before we discuss the amendment, is everyone clear on the amendment. We have a motion and a second to only leave aeronautics board, parole board, game and fish board and the water pollution board. Discussion.

Rep. Sitte: I have a good friend that serves on the Electrical board, even though there are several professional boards here, they often have a citizen. The citizen is there to represent the wishes of the people and of the government. I disagree with you.

Rep. Conrad: I am sympathetic with what you are saying. What I know about licensing laws and regulations is that person is not removed by the governor, that person is removed by the board in the law. These boards happen to set themselves up with the governor removed and the other boards set themselves up so that the board removes someone that is not doing there duty themselves. There is no criteria, it allows for political hankie panki, I think, with in these boards **where others are not.** The electrical boards are not mentioned here, will not be affected by this law anyway.

Rep. Kasper: I think we need to go back to the intent of this bill, intent of this bill to make it clear that these boards serve at the pleasure of the governor, intent is not debate whether we take boards out or leave them in or whatever. This has been statute for years.

Rep. Klemin: I agree with Rep. Kasper, I am going to resist that amendment.

Chairman Haas: Further discussion on the amendment. If there is no further discussion on the amendment, we will have a voice vote, all signify by saying I, oppose by saying no, the amendment is defeated. We now have the amended bill in front of us and the only amendment

Page 4
House Government and Veterans Affairs Committee
Bill/Resolution Number HB 1463
Hearing Date 2/11/05

that is attached to the bill is the removal of line 26 and 27 on page 10. What are the wishes of the committee.

Rep. Meier: I move a Do Pass as amended.

Chairman Haas: Rep. Meier moves a Do Pass as Amended, is there a second, seconded by Rep. Kasper. Is there any further discussion on the bill. The clerk will take the roll on a DO PASS as AMENDED on HB 1463.

VOTE: YES 10 NO 4 ABSENT 0 DO PASS AS AMENDED ON HB 1463

REP: KASPER WILL CARRY THE BILL.

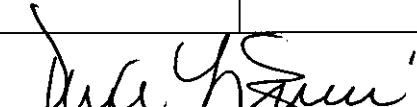
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1463b

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/15/05

Tape Number	Side A	Side B	Meter #
1	x		0-11.5
Committee Clerk Signature 			

Minutes: HB 1463 Relating to appointments during the first year of a governor's term in office.

Discussion

Chairman Haas: The meeting will come to order and I will ask the clerk to take the roll.

14 members present, 0 absent.

Chairman Haas: The chair declares we have a quorum. Before we can begin discussing 1463 and the changes to our amendment that I have proposed, I need a motion to reconsider our action by which we gave that bill a 10-4 DO PASS as Amended, is there someone willing to make that motion. Rep. Kasper moves that we reconsider, seconded by Rep. Klemin, is there any discussion. If not we will take a voice vote on the motion, all in favor signify by saying I, all oppose no, motion is carried. We now have before us HB 1463 and let me explain. Let's go back to our own amendments, the amendments we put on the bill. Essentially the only thing we did was remove the repealed on page 10, that means 54-07-01.02 is back in the bill. I think it was unanimous by the committee that this should be in the bill. That brings section 19 of the bill, in

direct conflict with section 54-07-01.02, in addition to that, in reviewing the bill with Legislative Council attorneys, the section 19 is far too pervasive, it covers too many committees, it removes legislative prerogative in recommending and assigning board members and there is conflict with 54-07-01.02, the amendment that you have before you right now, which is amendment 50722.02, legislative council has in fact heard that we want to remove the repealer, we have already done that. On 202, you can cross out page 10, remove line 26 and we could leave our earlier amendment on and we could change the new amendment, the 202 amendment, simply by crossing out that page 10, line 26 and 27, I think that might be easier. In order to remove our amendment, we would have to amend the bill and put the repealer back in and then amend it again with amendment 202, so it seems to me that we just amend it again without dealing with the repealer. The way the bill sits right now, there is no line 26 and 27. Is there any further discussion. Is there a motion to attach the new amendment, minus page 10 stuff. Moved by Rep. Grande, is there a second to that amendment, Rep. Conrad seconds the amendment. Is there any discussion. We will read through the bill. Rep. Grande will read the changed bill. We are not adding a new section to 54-07-01.02, by deleting section 19. The new amendment you cross out, page 1, line 7 on the amendment, on page 1, remove line 8, cross that out on the amendment. Page 9, remove lines 9-15, page 10, lines 26 and 27. The repealer is removed, so the language you have on what I handed out is back in code.

Rep. Sitte: So if I am understanding this correctly, it would just be affecting 24 boards and commissions.

Chairman Haas: If you recall from our discussions, it makes sense to include section 17 and section 18, those are logical things to do. If a state official is on a board by virtue of his or her

office this allows that person to designate someone to sit in there place. Section 17 simply says that if a person who is on a board because of a certain set of qualifications loses those qualifications it terminates there membership on the board and then they would have to find someone who meets those qualifications. Any other discussion? All in favor of the amendment signify by saying I, all oppose say no, amendments are carried. Now we need a motion to have the bill as further amended, Rep. Meier moves a DO PASS as AMENDED, Rep. Sitte seconds the motion, is there any further discussion, if not I will ask the clerk to take the role call vote on amended HB 1463.

VOTE: YES 10 NO 4 ABSENT 0 DO PASS AS AMENDED ON HB 1463

REP. KASPER WILL CARRY THE BILL.

CHAIRMAN HAAS: IS THERE ANY OTHER BUSINESS THAT NEEDS TO COME IN FRONT OF THIS COMMITTEE AT THIS TIME? THANK YOU VERY MUCH FOR AN INTERRUPTED SCHEDULE, THE MEETING IS ADJOURNED.

**House Amendments to HB 1463 - Government and Veterans Affairs Committee
02/14/2005**

Page 1, line 4, after the semicolon insert "and"

Page 1, line 7, replace "; and to repeal section 54-07-01.2 of the North Dakota" with a period

Page 1, remove line 8

**House Amendments to HB 1463 - Government and Veterans Affairs Committee
02/14/2005**

Page 10, remove lines 26 and 27

Renumber accordingly

**House Amendments to HB 1463 - Government and Veterans Affairs Committee
02/15/2005**

Page 1, line 1, remove "and a new section to"

Page 1, line 2, remove "chapter 54-07"

Page 1, line 3, replace the first comma with "and" and remove ", and removal of gubernatorial"

Page 1, line 4, remove "appointees" and after the semicolon insert "and"

Page 1, line 7, replace "; and to repeal section 54-07-01.2 of the North Dakota" with a period

Page 1, remove line 8

**House Amendments to HB 1463 - Government and Veterans Affairs Committee
02/15/2005**

Page 9, remove lines 9 through 15

**House Amendments to HB 1463 - Government and Veterans Affairs Committee
02/15/2005**

Page 10, remove lines 26 and 27

Renumber accordingly

Date: 2/11/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1463

House House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP As Amended

Motion Made By Meier Seconded By Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas	✓		Rep. Bill Amerman		✓
Bette B. Grande - Vice Chairman	✓		Rep. Kari Conrad		✓
Rep. Randy Boehning	✓		Rep. Louise Potter		✓
Rep. Glen Froseth	✓		Rep. Sally M. Sandvig		✓
Rep. Pat Galvin	✓				
Rep. Stacey Horter	✓				
Rep. Jim Kasper	✓				
Rep. Lawrence R. Klemin	✓				
Rep. Lisa Meier	✓				
Rep. Margaret Sitte	✓				

Total (Yes) 10 No 4

Absent 0

Floor Assignment Rep Kasper

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

Grande remain
Kasper
voice amendment carried
Conrad
Potter

Date: 2/15/05
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1463

House House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

JP

Amended As Amended

Motion Made By

Meier

Seconded By

Sitte

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas	✓		Rep. Bill Amerman		✓
Bette B. Grande - Vice Chairman	✓		Rep. Kari Conrad		✓
Rep. Randy Boehning	✓		Rep. Louise Potter		✓
Rep. Glen Froseth	✓		Rep. Sally M. Sandvig		✓
Rep. Pat Galvin	✓				
Rep. Stacey Horter	✓				
Rep. Jim Kasper	✓				
Rep. Lawrence R. Klemin	✓				
Rep. Lisa Meier	✓				
Rep. Margaret Sitte	✓				

Total

(Yes)

10

No

4

Absent

0

Floor Assignment

Kasper

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

Kasper - moved
Klemin Klemin
voice vote

motion to attached new
amendment cross out
line page 10
lines 26+27

Grande
Meier 2nd

REPORT OF STANDING COMMITTEE

HB 1463: Government and Veterans Affairs Committee (Rep. Haas, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1463 was placed
on the Sixth order on the calendar.

Page 1, line 1, remove "and a new section to"

Page 1, line 2, remove "chapter 54-07"

Page 1, line 3, replace the first comma with "and" and remove ", and removal of gubernatorial"

Page 1, line 4, remove "appointees" and after the semicolon insert "and"

Page 1, line 7, replace "; and to repeal section 54-07-01.2 of the North Dakota" with a period

Page 1, remove line 8

Page 9, remove lines 9 through 15

Page 10, remove lines 26 and 27

Renumber accordingly

2005 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1463

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1463**

Senate Government and Veterans Affairs

Business and Conference Committee

Hearing Date March 17, 2005

Tape Number	Side A	Side B	Meter #
1	x		Blank tape
Committee Clerk Signature <i>Diane Davis</i>			

Chairman Krebsbach opens the hearing on HB 1463

Relating to removal of gubernatorial appointees.

Representative Dave Weiler - Sponsor of this bill.

Senator Brown - Asked what the House changed on this.

Rep. Weiler - Described the amendments.

Robert Harms - On his own behalf - See written testimony. - In favor of do pass.

Senator Nelson - Asked about when a new governor takes office are members pink slipped or what.

Harms - Said state law does give the new governor authority to install new members.

Senator Syverson - Said he knows of boards that do have term limits and maybe that takes more scrutiny.

Harms - Said we have a number of boards that it limits the scrutiny.

Senator Syverson - Thought maybe that should be studied.

Senator Nelson - Asked him to define "at the pleasure of the governor".

Harms - Said it is the understood meaning of those words.

Senator Nelson - Asked if the governor could wipe out a board on a whim.

Harms - Replied, yes that could happen but he would probably face public scrutiny.

Senator Nelson - Said he could then appoint an all new board.

Harms - The bill is limited to those boards mentioned.

Senator Lee - Said she had some concern of section 18.

Senator Nelson - Mentioned that certain boards have by-laws, would this supersede those.

Harms - Said this bill would override those by-laws. Deputy can act instead of state official.

Senator Krebsbach - Asked if this bill has the Governor's blessing.

Harms - Said he has not spoken to the governor on this bill..

Closed the hearing on HB 1463

Discussion -

Senator Syverson - Said he would like to review some of the statutes.

Senator Lee - Said she has a problem with taking away protections of the boards and is the protection appropriate.

Senator Syverson - Stated that some board members have had long terms of service.

Senator Krebsbach - Said there is some good to continuity.

Committee will wait to act on

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1463**

Senate Government and Veterans Affairs

Business and Conference Committee

Hearing Date March 25, 2005

Tape Number	Side A	Side B	Meter #
1	x		1233-1703
Committee Clerk Signature <i>Diane Davis</i>			

Chairman Krebsbach opens committee work HB 1463

Relating to removal of gubernatorial appointees.

(meter #1233)

Senator Krebsbach - Expressed that she has an uneasy feeling about this bill. She thinks it probably needs to be a little more specified. This bill was amended down in the House.

Senator Lee - Said she has no beef with any gubernatorial appointments with either governors or parties. She related a how it could possibly work with a governor such as Jesse Ventura.

Senator Nelson - Said she feels if the boards wanted a change they could bring in a bill saying they wanted something changed.

Senator Krebsbach - Said until they have a clearer picture and understanding of what may be happening this might not be the time to do it.

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Senate Government and Veterans Affairs

Bill/Resolution Number **HB 1463**

Hearing Date March 25, 2005

Senator Syverson - Brought up that a board he is more familiar with has term limits if the governor so desired he could easily apply the term limits. He does not think it is fair to the individual to be summarily removed by the governor or by the choice of the governor. He has no deep feelings that this bill should receive any more work than already has been done.

Senator Syverson - Motioned for do not pass

Senator Nelson - Seconded

Do Not Pass carried

Senator Lee will carry the bill.

(meter #1703)

Date: 3/25/05

Roll Call Vote #:

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1463

Senate **Government and Veterans Affairs**

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Not Pass

Motion Made By

Senator Syverson

Seconded By

Senator Nelson

Senators	Yes	No	Senators	Yes	No
Karen K. Krebsbach, Chairman	X		Carolyn Nelson	X	
Richard L. Brown, Vice Chairman	X				
Judy Lee	X				
John O. Syverson	X				

Total (Yes) 5 No 0

Absent _____

Floor Assignment

Senator Lee

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

REPORT OF STANDING COMMITTEE (410)
March 25, 2005 10:53 a.m.

Module No: SR-55-6199
Carrier: J. Lee
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1463, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends DO NOT PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1463 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1463

Testimony

HB 1463

Government and Veterans Affairs Committee
North Dakota House of Representatives

February 11, 2005

Mr. Chairman, and members of the Committee, my name is Robert W. Harms of Bismarck, North Dakota. I am appearing this morning on my own behalf, and in support of HB 1463. The bill is designed to provide additional accountability and consistency within state policy regarding appointments made by the Governor. Sections 1 through 16 and Sections 19 and 20 all essentially make the same changes indicating the members of a board or commission appointed by the Governor serve at the Governor's pleasure. The sections impact:

- Aeronautics Board
- Parole Board
- Game and Fish Advisory Board
- State Board of Architecture
- Barbers Board
- Board of Cosmetology
- Board of Nursing
- Board of Medical Examiners
- Board of Registration for Professional Engineers and Land Surveyors
- Board of Real Estate Appraisal Qualifications and Ethics
- Board of Massage
- Board of Veterinary Medical Examiners
- Board of Examiners for Nursing Home Administrators

- Board of Registration for Professional Soil Classifiers
- Board of Counselor Examiners
- Board of Reflexology and
- Water Pollution Control Board

In some instances in the Century Code, a board member, expressly serves at the pleasure of the Governor. In other instances the Century Code is silent, giving no guidance as to whether the board member can be removed for cause, or is subject to removal at all. And in some instances, the board member cannot be removed except for some specific reason or cause. All of this creates inconsistency, and in my view erodes accountability of the 150 or so boards and commissions we have in North Dakota. These sections should increase the accountability of those boards responsible for performing public functions.

I'd like to add, that the bill is not designed to alarm any of the boards mentioned in the bill itself, nor suggest any wrong doing. Some may suggest that they be excluded from the bill. But, I would argue that as a matter of consistent state policy, we should promote the highest degree of accountability available in all boards and commissions. This bill helps to do that.

Let me address section 17 and section 18 as well.

Section 17 simply clarifies that if a person no longer retains the qualifications or the classification necessary to serve on a board or commission, then the appointment terminates. This situation occurs from time to time, raising the question whether the

board member could continue to serve. (For example, an apprentice serving on a board as the apprentice member might attain a higher qualification, but no longer represents the apprentices of his profession, so his appointment would terminate and a new apprentice member would be selected.)

Section 18 authorizes a state official who is a member of a board or commission to name a designee, unless specifically prohibited by the Constitution. This section is necessary as this question arose from time to time, and in fact a series of attorney general opinions were issued on the question. So, Section 18 of HB 1463 clears up that issue.

Section 19 is a generic, catch all provision confirming that if an official or a member of a board or commission is appointed by the Governor, then they shall serve at the pleasure of the Governor.

Finally, I would like to suggest a short amendment to the bill, which would remove the last section of the bill. Retaining Section 54-07-01.2 NDCC, in my view fits well with the changes proposed by HB 1463.

For these reasons members of the Committee I request a DO PASS recommendation on HB 1463.

#1463
Testimony

Engrossed HB 1463

Government and Veterans Affairs Committee
North Dakota Senate

March 17, 2005

Madam Chairman, and members of the Committee, my name is Robert W. Harms of Bismarck, North Dakota. I am appearing this morning on my own behalf, and in support of Engrossed HB 1463. The bill is designed to provide additional accountability and consistency within state policy regarding appointments made by the Governor. Sections 1 through 16 and Sections 19 all essentially make the same changes indicating that the members of a board or commission appointed by the Governor serve at the Governor's pleasure. In each of those sections of the bill, some limitation, qualification or other criteria is place upon the governor's ability to remove someone a governor has appointed to the board. Sections 1 through 16 and Section 19 of the bill remove those limitations, clearly providing that the members appointed, serve at the governor's pleasure, and effect the following boards in that manner:

- Aeronautics Board (1)
- Parole Board (2)
- Game and Fish Advisory Board (3)
- State Board of Architecture (4)
- Barbers Board (5)
- Board of Cosmetology (6)
- Board of Nursing (7)
- Board of Medical Examiners (8)
- Board of Registration for Professional Engineers and Land Surveyors (9)

- Board of Real Estate Appraisal Qualifications and Ethics (10)
- Board of Massage (11)
- Board of Veterinary Medical Examiners (12)
- Board of Examiners for Nursing Home Administrators (13)
- Board of Registration for Professional Soil Classifiers (14)
- Board of Counselor Examiners (15)
- Board of Reflexology and (16)
- Water Pollution Control Board (19)

In some instances in the Century Code, a board member expressly serves at the pleasure of the Governor. In other instances the Century Code is silent, giving no guidance as to whether the board member can be removed for cause, or is subject to removal at all. And in some instances, the board member cannot be removed except for some specific reason or cause. All of this creates inconsistency and confusion, and in my view diminishes accountability of the 132 boards and commissions we have in North Dakota. These sections should increase the accountability of those boards responsible for performing public functions.

I'd like to add, that the bill is not designed to alarm any of the boards mentioned in the bill itself, nor suggest any wrong doing. Some may suggest that they be excluded from the bill. But, I would argue that as a matter of consistent state policy, we should promote the highest degree of accountability available in all boards and commissions. HB 1463 helps to do that.

Let me address section 17 and section 18 as well.

Section 17 simply clarifies that if a person no longer retains the qualifications or the classification necessary to serve on a board or commission, then the appointment terminates. This situation occurs from time to time, raising the question whether the board member could continue to serve. (For example, an apprentice serving on a board as the apprentice member might attain a higher qualification, but no longer represents the apprentices of his profession, so his appointment would terminate and a new apprentice member would be selected.)

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For these reasons Madam Chairman and members of the Committee I request a DO PASS recommendation on Engrossed HB 1463.