

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2242

2007 SENATE POLITICAL SUBDIVISIONS

SB 2242

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2242**

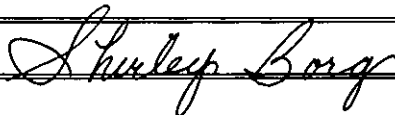
Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: **January 25, 2007**

Recorder Job Number: **1878**

Committee Clerk Signature



Minutes:

**Chairman Cook** called the Senate Political Subdivisions to order. All members (5) were present.

**Chairman Cook** opened the hearing on SB 2242 relating to the definition of a political subdivision under laws governing claims against political subdivisions.

**Chairman Cook**, District 34, Mandan, ND, prime sponsor, introduced SB 2242. The bill was introduced to make sure that what everybody thought was the law is the law.

**Senator Nething**, District 12, Jamestown, ND appeared in support of SB 2242. This is one of those bills that we thought we were doing it but we want to make sure when the people who enter into joint powers agreement have the protection they think they have. Joint power agreements are important to the state of ND.

**Representative Aarsvold**, District 20, testified in support of SB 2242. I concur with the observations made by Senator Nething. We need to make the necessary changes to make sure we don't have issues arise in the future that might jeopardize the future of Joint Powers Agreement across the state.

**Steve Spilde**, CEO, ND Insurance Reserve Fund, testified in support of SB 2242. (See attachment #1)

**Senator Olafson** asked if he could explain just how a JPA is structures and what type of liability risk exposure they would typically have.

**Steve Spilde** answered that the Joint Powers Agreements are run a gamete on most of the operations the Political Subdivisions enter into. A typical one would be two or three political subdivisions joining together to provide some service that is no longer economical for one of them to do. The liabilities are what the liabilities would be as political subdivisions performing the same type of operation.

**Senator Anderson** asked how they get the information. Do cities and counties have to supply you with the information?

**Steve Spilde** answered that they don't require the members to supply us with a copy of the Joint Powers Agreement if they are entering into them. The way we become aware of them is if we are requested to provide coverage if some one has a question.

**Aaron Burst**, Association of Counties, appeared in support of SB 2242. The counties have a direct benefit from this legislation. The primary place where you see this in the counties is the running of jails. The cities should not have to be running their separate jail and the counties their separate jails. The counties also have dispatch centers.

**Jon Martinson**, Executive Director of the ND School Boards Association is in support of SB 2242. (See attachment #2)

**Chairman Cook** said it is safe to say that no matter what someone thinks about JPA's, this is a smart solution to potential problems.

**Jon Martinson** agreed with him.

No further testimony in support, opposed or neutral to SB 2242.

**Chairman Cook** closed the hearing on SB 2242.

**Senator Warner** moved a Do Pass on SB 2242.

**Senator Anderson** seconded the motion.

Roll call vote: 5 Yes 0 No 0 absent.

Carrier: **Senator Warner**

Date: 1-25-07  
Roll Call Vote #: 1

## 2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2242

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Senator Warner Seconded By Senator Anderson

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X		Senator Arden C. Anderson	X	
Senator Curtis Olafson, ViceChair	X		Senator John M. Warner	X	
Senator Nicholas P. Hacker	X				

Total Yes 5 No 0

Absent 0

Floor Assignment Sen. Anderson

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

**REPORT OF STANDING COMMITTEE**

**SB 2242: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2242 was placed on the Eleventh order on the calendar.**

2007 HOUSE POLITICAL SUBDIVISIONS

SB 2242



## 2007 HOUSE STANDING COMMITTEE MINUTES

### Bill No. SB 2242

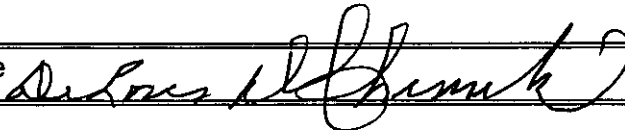
House Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: February 23, 2007

Recorder Job Number: 3782

Committee Clerk Signature



Minutes:

**Chairman Herbel** opened the hearing on SB 2242.

**Senator Cook:** Puts into law what everyone assumes was law. It says is that when you have political subdivisions that fill out a GPA form from the legal entity that the political subdivision is covered under the ND Insurance Reserve Fund. There are some Attorney General opinions that indicate that it could be questioned. I signed in Senator Anderson in support of this bill also.

**Rep. Aarsvold:** Co-sponsor of the bill. In support of the bill.

**Steve Spilde, CEO ND Insurance Reserve Fund:** Provides insurance to nearly all the political subdivisions in ND. (see testimony #1)

**Rep. William Kretschmar** How do you divide them up for the insurance?

**Steve Spilde:** It would depend on what we had agreed to in the joint powers agreement. We ask them to include how they want to handle coverage and responsibility. We would certainly defend any members that were involved on that joint powers agreement. We would not; however, unless there was separate coverage.

**Aaron Birst: ND Association of Counties:** Joint powers agreement works quite well for the county. Asked for a do pass on this.

**John Martinson:** ( see testimony #2) NDSBA: In support of this bill.

**Chairman Herbel** What is your status of your GPA that would be put into affect? Do you have coverage through what?

**John Martinson:** The individual schools have coverage through ENDER and prior to the last year and a half we have been working on this we assume that the GPA's would also be covered since they are members of school districts. However, as Mr. Spilde pointed out, there is a need for clarity in that regard and that is what this piece of legislation would do.

None

Hearing closed.

Chairman Herbel reopened the hearing on SB 2242.

**Do Pass Motion Made By Rep. Nancy Johnson Seconded By Rep. Pat Hatlestad**

No discussion.

**Vote: 11    yes    0    No    3    Absent    Carrier:    Rep. Nancy Johnson**

Hearing closed.

Date: 2-23-07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB2242

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken

Do Pass

Motion Made By

Rep. Johnson

Seconded By

Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Rep. Gil Herbel-Chairman	✓		Rep. Kari Conrad	✓	
Rep. Dwight Wrangham-V. Chair	✓		Rep. Chris Griffin	✓	
Rep. Donald Dietrich	<del>✓</del>		Rep. Lee Kaldor	✓	
Rep. Patrick Hatlestad	✓		Rep. Louis Pinkerton	✓	
Rep. Nancy Johnson	✓		Rep. Steve Zaiser		
Rep. Lawrence Klemin	✓				
Rep. Kim Koppelman					
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 11 No 0

Absent

3

Floor Assignment

Rep. Johnson

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

**REPORT OF STANDING COMMITTEE**

**SB 2242: Political Subdivisions Committee (Rep. Herbel, Chairman) recommends DO PASS (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2242 was placed on the Fourteenth order on the calendar.**

2007 TESTIMONY

SB 2242

**Testimony of Steven L. Spilde  
to the  
N.D. Senate Political Subdivisions Committee  
Concerning Senate Bill No. 2242  
January 25, 2007**

Mr. Chairman and members of the North Dakota Senate Political Subdivisions Committee, my name is Steve Spilde - I am the Chief Executive Officer of the North Dakota Insurance Reserve Fund (NDIRF) and offer the following testimony in support of Senate Bill No. 2242.

- The NDIRF provides liability, auto and public assets coverage to nearly all of the political subdivisions in North Dakota, many of whom participate in one or more joint powers agreements (JPA's) with other governmental entities.
- It has consistently been the NDIRF's position, with regard to coverage of JPA's, that they are simply a cooperative means of achieving governmental purposes that are otherwise accomplished separately by individual political subdivisions. Therefore, the JPA's and their administration posed little additional risk beyond what their NDIRF member participants already presented.
- Over the past several years, however, a series of North Dakota Attorney General Opinions have increasingly suggested that managing entities of JPA's are not political subdivisions, at least for certain purposes. It is perceived by the NDIRF that this line of reasoning could create ambiguity with regard to whether JPA's qualify for NDIRF coverage or the statutory protections for political subdivisions under state law.
- In order to establish clarity with regard to the eligibility of JPA's (a) for NDIRF coverage and (b) for status as political subdivisions under the North Dakota Political Subdivision Tort Claims Act (Chapter 32-12.1 NDCC), Senate Bill No. 2242 provides that administration of JPA's is an activity/entity that is a "political subdivision".
- The NDIRF has been in consultation with various state associations of political subdivisions (North Dakota League of Cities, North Dakota Association of Counties, North Dakota School Boards Association and North Dakota Recreation and Parks Association) on this matter and all are in support of Senate Bill No. 2242. The North Dakota Attorney General's Office has also been consulted with regard to the language of Senate Bill No. 2242 and has expressed no concern.

For these reasons, the NDIRF urges the Committee to give Senate Bill No. 2242 a "Do Pass" recommendation. I would be pleased to respond to questions or provide further information to the Committee at any time.

Thank you.

Senate Political Subdivisions Committee  
Senate Bill 2242  
January 25, 2007

Testimony by Jon Martinson, North Dakota School Boards Association

Chairman Cook and members of the Committee, I am Jon Martinson, Executive Director of the North Dakota School Boards Association, speaking in support of SB 2242.

There are nine educational joint powers agreements in North Dakota that comprise 88% of the school districts and 97% of enrollment in the state. As enrollment continues to decline in almost all our school districts, JPAs have been an important delivery system for a variety of administrative and student services outlined in current state law that include professional development, advanced placement, dual credit, and summer courses--to name a few. The possibilities for educational JPAs to provide a whole host of services are virtually unlimited.

For example, the Governor's Commission supports greater coordination and cooperation among educational JPAs and Career and Technical Education, as well as Special Education Units.

In the future, educational JPAs can also liaison with other local, state, and federal agencies to include juvenile services, human services, health services, and drug/alcohol prevention.

Educational JPAs are just one type of the many joint powers agreements that currently exist in North Dakota. This bill will add clarity regarding the eligibility of JPAs for coverage by the North Dakota Insurance Reserve Fund and for the protection of the limited liability tort caps.

I am happy to answer questions. Thank you.

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**Testimony of Steven L. Spilde  
to the  
N.D. House Political Subdivisions Committee  
Concerning Senate Bill No. 2242  
February 23, 2007**

Mr. Chairman and members of the North Dakota House Political Subdivisions Committee, my name is Steve Spilde. I'm the Chief Executive Officer of the North Dakota Insurance Reserve Fund (NDIRF) and offer the following testimony in support of Senate Bill No. 2242.

- The NDIRF provides liability, auto and public assets coverage to nearly all of the political subdivisions in North Dakota, many of whom participate in one or more joint powers agreements (JPA's) with other governmental entities.
- It has consistently been the NDIRF's position, with regard to coverage of JPA's, that they are simply a cooperative means of achieving governmental purposes that are otherwise accomplished separately by individual political subdivisions. Therefore, JPA's and their administration posed little additional risk beyond what their NDIRF member participants already presented.
- Over the past several years, however, a series of North Dakota Attorney General Opinions have increasingly suggested that managing entities of JPA's are not political subdivisions, at least for certain purposes. It is perceived that this line of reasoning could create ambiguity with regard to whether JPA's qualify for NDIRF coverage or the statutory protections for political subdivisions.
- In order to establish clarity with regard to the eligibility of JPA's (a) for NDIRF membership and (b) for status as political subdivisions under the North Dakota Political Subdivision Tort Claims Act (Chapter 32-12.1 NDCC), Senate Bill No. 2242 provides that administration of JPA's is an activity/entity that is a "political subdivision".
- The NDIRF has been in consultation with various state associations of political subdivisions (North Dakota League of Cities, North Dakota Association of Counties, North Dakota School Boards Association and North Dakota Recreation and Parks Association) on this matter and all are in support of Senate Bill No. 2242. The North Dakota Attorney General's Office has also been consulted with regard to the language of Senate Bill No. 2242 and has expressed no concern.

For these reasons, Senate Bill No. 2242 passed the Senate unanimously and the NDIRF urges the House Political Subdivisions Committee to also give this bill a "Do Pass" recommendation. I would be pleased to respond to questions or provide further information to the Committee at any time.

Thank you.



House Political Subdivisions Committee  
Senate Bill 2242  
February 23, 2007

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