

2009 HOUSE POLITICAL SUBDIVISIONS

HB 1181

# 2009 HOUSE STANDING COMMITTEE MINUTES

## Bill No. HB 1181

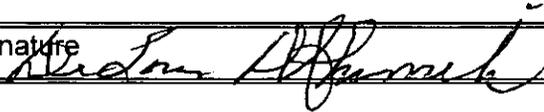
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: January 19, 2009

Recorder Job Number: 7256

Committee Clerk Signature



Minutes:

Chairman Wrangham opened the hearing on HB 1181.

Rep. Metcalf: I have changes to the bill. (see attached #1). Rep. DeKray has other engagements tonight so I signed on with him. We have in the active duty side we have what we call USARA (Uniform Serviceman Employment and Reemployment Rights Act). In ND we don't have that right. We don't have rights for employment and reemployment when we get called up as National Guardsmen and Civil Air Patrol for a disaster or emergency. This bill outlines what the definition of a disaster is and the duties of the employees and employers when it comes to this call up.

**Dave Sprynczynaty: Adjutant General:** We have National Guard and Civil Air Patrol as well. I am here in support of this bill since we do not have in law a means to protect the men and women in uniform that serve through the National Guard with employee's rights when they are called on to serve. Within the last couple of years we have had Northwood and within a matter of 24 hrs. we had approx. 100 soldiers and airmen helping for the next several days. Within the last month or so we had about 6 soldiers that we involved in the bovine TB in the state to dispose of the cattle that we suspect. We are now also in process of planning for the winter snow and thaw and whether we need to do something for flooding if necessary. This

bill is patterned after USARA as Rep. Metcalf said and the intent is to insure that we can call on employees whether public or private sector and put them on state active duty during missions that are asked of them when there is a disaster or emergency and not have to worry about what their employer might do to them as a result of them being call upon by the state. Those six bill sponsors represent in excess of 150 years of service in the ND National Guard.

**Rep. Klemin:** Does this cover volunteers?

**Dave Sprynczynatky:** I would have to look at that, but I think they would have to have been called up.

**Rep. Nancy Johnson:** Has there been a problem in the past with this employment.

**Dave Sprynczynatky:** I am not aware of any problems. The people of ND are all very supportive of our men and woman in uniform. USARA has been around for quite a while and when someone goes on Federal active duty we want no problems.

**Rep. Conrad:** I thought we had this, but it is just for federal events so if someone is called to Iraq then they are guaranteed they will have a job, but if someone goes to a local even that is what we are doing.

**Dave Sprynczynatky:** Yes.

**Rep. Zaiser:** I hear personal stories that in reality many people are turned down on the job they held and many veterans are homeless.

**Dave Sprynczynatky:** we do have people that work within USARA and we have people that help veterans with these employment problems called anbudmansen's; Often times we find that not all employers are aware of the law and when we set down and explain it we are able to work out the issue. When you think of an employer's standpoint we understand because we have had instances where soldiers in particular have been mobilized and deployed away from

home 16-18 months. It is harder to enforce that law when someone applies for a job and is in the National Guard and being able to determine an employer has discriminated against him.

**Rep. Corey Mock:** Are there any protections in place for a member of the National Guard that is employed in a border state like Minnesota?

**Dave Sprynczynatyk:** The only protections are under USARA and federal activation. If they are a member of the ND National Guard and they were activated then USARA would protect them. I don't think this would have any bearing for ND Guards men.

**Dave Sprynczynatyk:** Will they take an employer to court if they blithely disregard the law and not hire back or refuse to hire someone.

**Dave Sprynczynatyk:** To my knowledge we have had to take anyone to court.

**Rep. Jerry Kelsh:** If someone re ups for another tour, is there any time line that the employer has to guarantee that job?

**Dave Sprynczynatyk:** No there is not.

**Rep. Koppelman:** What is the longest state call up?

**Dave Sprynczynatyk:** It is hard to put that exact number, but in 97 we had people activated from January through April.

**Major Sean Johnson, Commander, Bismarck Composite Squadron, Civil Air Patrol:**

(see testimony #2).

**Rep. Koppelman:** Is the Civil Air Patrol subject to call up federally and if so are they covered by federal law?

**Major Johnson:** We are different from the National Guard. We are called up by the Air Force Rescue Coordination Center, but we are not subject to deployment. We are true volunteers and we do not receive a paycheck.

**Rep. Koppelman:** ND is full of volunteers and we have great respect for the uniformed people. This includes all local volunteers that are called up to fight fires etc. To my knowledge we have no law that covers this kind of thing. If there is a flood or fire volunteers go out. I have heard of no problems with ND employers having an issue with that. Maybe we should include some of those things.

**Major Johnson:** First, it would be wonderful if we could satisfy this protection for all these volunteers. The majority of our members in the Civil Air Patrol are from larger cities. Often smaller towns depend upon us for assistance. We are part of the adjutant general.

**Rep. Klemin:** What is the difference between the National Guard and Civil Air Patrol being called up? Is there a choice?

**Major Johnson:** Our volunteers have special training like our firefighters etc.

**Rep. Conrad:** Do I understand this does not require a governor's declaration or the adjutant general. Who decides?

**Major Johnson:** Civil Air Patrol is unique. We have certain missions that are given to us by congress. Search and rescue being the key one. We are also a lead agency for emergency operations for certain missions in ND so the Civil Air Patrol does not have to have a Governor's declaration.

**Rep. Conrad:** Who decides these folks should be pulled out of their jobs?

**Major Johnson:** We get a mission from Air Force Coordination Rescue Center or we will get one from the Dept. of Emergency Services but it is a state or local emergency

**Rep. Conrad:** Who decides you should go out and search for this child?

**Major Johnson:** the local sheriff.

**Rep. Jerry Kelsh:** I see you have those cadets from 12 to 21. I understand they are not required to do anything; would they have any consideration to be called out of class would they get any consideration?

**Major Johnson:** Not under the bill as it is written, but our school districts have been very supportive of letting our younger members out of class for a limited amount of time.

**Rep. Nancy Johnson:** What is the length of time are we talking about usually when someone is going to be gone. Then the second one is do they visit with their employers on length of time they might be gone.

**Major Johnson:** I hate to say what the average search is? The longest search that I remember us doing in recent history was two weeks. An average is 3-4 days. To answer your questions about the amount of time we are envisioning the bill does state 10 days.

**Rep. Nancy Johnson:** Do you encourage your members to visit with their employers about the amount of time they might be gone and when?

**Major Johnson:** Yes we do. They are not punished.

**Rep. Kilichowski:** How many stations do you have in the state and how many volunteers and how well are they spread out?

**Major Johnson:** We have flying squadrons in Bismarck, Minot, Dickinson, Grand Forks and Fargo. We also have cadet squadrons in Jamestown as well as Fargo. As far as capable air crews. most of them are in Bismarck followed by Grand Forks, and Dickinson.

**Captain Patrick Flanagan, Vice Chair Army, Nat'l Guard Association of ND:** (see testimony #3).

**Rep. Koppelman:** How many other states have this?

**Cap Flanagan:** No sir, I do not.

**Greg Wilz: Deputy Director, Dept. of Emergency Services:** (testimony #4).

**Rep. Klemin:** Looking at the definition of disaster emergency it doesn't say anything about how it would be contingent upon the declaration by the governor? Does it say this somewhere?

**Greg:** I think it is not addressed in the bill. I think it is left up to what the event is and if it is an emergency. As Major Johnson said we often call on the civil air patrol without the governor really knowing about it. We do not have time when things are happening to run a declaration process.

**Rep. Klemin:** Do you think we should specify that in the bill?

**Greg:** I think it would be OK to add to the bill because we do it anyway.

**Opposition:** none

**Neutral:** none

**Hearing closed.**

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1181

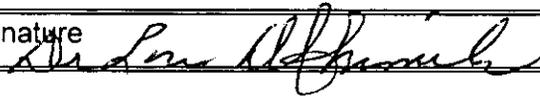
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: January 22, 2009

Recorder Job Number: 7604

Committee Clerk Signature



Minutes:

Chairman Wrangham reopened the hearing on HB1181. Do we have enough information here to act on this?

**Rep. Hatlestad:** this bill only was for the National Guard and Civil Air Patrol.

**Rep. Jerry Kelsh:** Discussed declaration like a tornado.

**Rep. Koppelman:** I am concerned the bill could back fire and that some employers may say you cannot have the time off. Small businesses may say they cannot afford it.

**Rep. Pietsch:** We were talking about putting into the bill an emergency section. The adjutant general did not have any objection if we want to have that in there. It is something they already so; advise him so we would not have to have it in law.

**Rep. Koppelman:** We were hearing in testimony that this is the language problem and do we really want to enact in law if employers have a National Guard member are we going to put it in writing?

**Rep. Hatlestad:** If I read this thing right an employer can say no I cannot go to duty; you must stay home.

**Rep. Corey Mock:** I have a discussion that it should not exceed 10 working days.

**Rep. Klemin Made a Motion to Move the amendment. Seconded by Rep. Nancy Johnson**

**Voice vote carried.**

**Motion Made By Rep. Zaiser Do Pass As Amended. Seconded by Rep. Corey Mock**

**Vote: 13 Yes 0 No 0 Absent Carrier: Rep. Corey Mock**

**Hearing closed.**

VR  
1/22/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1181

Page 1, line 2, remove "and"

Page 1, line 4, after "responders" insert "; and to declare an emergency"

Page 4, after line 27, insert:

**"SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Roll Call Vote #: /

Date: 1-22-09

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1181

House Political Subdivisions Committee

Check here for Conference Committee

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

Action Taken \_\_\_\_\_ Do Pass \_\_\_\_\_ Do Not Pass \_\_\_\_\_ Amended

Motion Made By Rep. Klemin Seconded By Rep. R. Johnson

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman			Senator Kari Conrad		
Rep. Craig Headland, Vice Chairman			Senator Jerry Kelsh		
Rep. Patrick Hatlestad			Senator Robert Kilichowski		
Rep. Nancy Johnson			Senator Corey Mock		
Rep. Lawrence Klemin			Senator Steve Zaiser		
Rep. Kim Koppelman					
Rep. William Kretschmar					
Rep. Vonnie Pietsch					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Voice Vote  
carried!*

Roll Call Vote #: 2

Date: 1-22-09

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1181

House Political Subdivisions Committee

Check here for Conference Committee

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

Action Taken Do Pass Do Not Pass Amended

Motion Made By Rep Zaiser Seconded By Rep Mock

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman	✓		Senator Kari Conrad	✓	
Rep. Craig Headland, Vice Chairman	✓		Senator Jerry Kelsh	✓	
Rep. Patrick Hatlestad	✓		Senator Robert Kilichowski	✓	
Rep. Nancy Johnson	✓		Senator Corey Mock	✓	
Rep. Lawrence Klemin	✓		Senator Steve Zaiser	✓	
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep Mock

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

**REPORT OF STANDING COMMITTEE**

**HB 1181: Political Subdivisions Committee (Rep. Wrangham, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1181 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "and"

Page 1, line 4, after "responders" insert "; and to declare an emergency"

Page 4, after line 27, insert:

**"SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

2009 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1181

## 2009 SENATE STANorth DakotaING COMMITTEE MINUTES

Bill/Resolution No.1181

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 03/13/09

Recorder Job Number: 10947

Committee Clerk Signature *Katia Oliver*

Minutes:

Vice Chairman Oehlke opened the public hearing on HB1181. Sean Johnson was there to introduce the bill.

**Sean Johnson:** Commander, Bismarck Composite Squadron, Civil Air Patrol. See attached testimony #1.

**Senator Cook:** When they are called as a volunteer are they required to go, the civil air patrol.

**Sean Johnson:** They have the option, but most of them have special skill set and we need them. This bill helps gives a level of insulation, it will help them say yes.

**Senator Horne:** Is there any time limit on this where they could not be dismissed?

**Sean Johnson:** The clause is written for 10 working days. We feel is a reasonable amount of time. What we are doing at home, even in the worst of times, 10 days should cut it.

**Senator Horne:** Can you help us find that?

**Sean Johnson:** It is on page 2 line 17.

**Senator Oehlke:** What about training activities?

**Sean Johnson:** Not covered by the bill, but it is not necessary. Training often occurs on weekends and is not a burden to the employer. They are also set up with enough advanced notice so if there is an impact there is chance to work with their employer to get the time off.

**Senator Cook:** Was this a big problem out there?

**Sean Johnson:** There have been issues; I want to point out that North Dakota, by far, is in the top tier when it comes to employer support of the Guard. Civil air patrol volunteers are supportive but this bill will help them.

**Senator Nelson:** ESGR do you still do that?

**Sean Johnson:** I would defer that to Mr. Wilz, but I do believe it is still in place.

**Senator Horne:** Are you a paid employee of the civil air patrol?

**Sean Johnson:** As far as civil air patrol goes, everyone is an unpaid volunteer. As far as guardsmen go, they are temporary state employees.

**Senator Horne:** The provisions of this proposed legislation would kick in when?

**Sean Johnson:** It could be kicked in with a governor's declaration; it could also be activated through the department of emergency services if they decide that they need the civil air patrol for an emergency.

**Senator Cook:** They are not covered by workforce safety if they are injured.

**Sean Johnson:** Guardsmen are not covered by workforce safety. Civil air patrol volunteers are covered under federal mission number.

**Senator Oehlke:** Firemen are provided workforce safety insurance under their regular job if they are injured at a fire activity in North Dakota.

**Greg Wilz:** Deputy Director, Department of Emergency Services and Director of Homeland Security. See attached testimony #2.

A motion was made for a do pass by Senator Nelson with a second by Senator Cook. There was no discussion and the motion passed 5-0 with Senator Nelson carrying the bill to the floor.

Date: 3-13-09  
Roll Call Vote #: 1

Carrie Nelson

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1181

Senate Government and Veteran's Affairs Committee

Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Nelson Seconded By Cook

Representatives	Yes	No	Representatives	Yes	No
Dick Dever	1		Dwight Cook	1	
Dave Oehlke	1		Carolyn Nelson	1	
Robert M. Horne	1				

Total Yes 5 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

**REPORT OF STANDING COMMITTEE (410)**  
March 13, 2009 1:03 p.m.

**Module No: SR-46-4824**  
**Carrier: Nelson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1181, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1181 was placed on the Fourteenth order on the calendar.**

2009 TESTIMONY

HB 1181

# 2

TESTIMONY – HB 1181  
HOUSE COMMITTEE – POLITICAL SUBDIVISIONS  
JANUARY 19, 2009  
BY MAJOR SEAN JOHNSON  
COMMANDER, BISMARCK COMPOSITE SQUADRON, CIVIL AIR PATROL

Mr. Chairman and members of the committee, my name is Major Sean Johnson. I am the Commander of the Bismarck Composite Squadron of the Civil Air Patrol (CAP). I am also a full time member of the North Dakota National Guard and the Chair of the National Guard Association of North Dakota. I will be providing supportive testimony for HB 1181 as it relates to the Civil Air Patrol.

The Civil Air Patrol is a lead support agency, performing over 90 percent of the State's inland search and rescue missions. CAP is also called upon for aerial imagery and damage assessment reconnaissance. The CAP provides the State's most cost effective air support to State and local authorities. The North Dakota Wing of CAP is comprised of five flying unit operating single engine Cessna aircraft, crewed by 100 percent unpaid volunteers. We are close to 300 members strong, with our ranks comprised of both adult members and cadets ages 12 to 21. As members of CAP, our aircrews must retain proficiency to FAA and CAP emergency services standards. Many times this training is at the individual member's expense.

The Civil Air Patrol is most often called to serve North Dakota without a Governor's declaration of emergency. We have been called upon during the past year to help locate lost children and dementia patients, as well as locating aircraft transmitting distress beacons. We have provided high quality aerial imagery products to State and local agencies to aid them in making decisions regarding wildfires and flooding. In all instances, our unpaid volunteers have made a significant difference towards saving lives, alleviating suffering, and preserving property.

Through all these things our greatest challenge has not been the weather or aircraft maintenance. Our volunteer members' greatest challenge has getting out of work to staff missions. Passage of HB 1181 will help to ensure that Civil Air Patrol members are best able to continue to meet this call to service, and continue to volunteer their time and resources to help make our citizens safer.

On behalf of the Civil Air Patrol, I urge your support of HB 1181. One of CAP's core values is Selfless Service, and our members live that core value everyday in the sacrifices they make. By passing HB 1181 our state will give these volunteers the employment and reemployment protections they need to continue to provide the valuable services they do to our State.

Thank you, I will now take any questions you may have.

TESTIMONY – HB 1181  
HOUSE COMMITTEE – POLITICAL SUBDIVISIONS  
JANUARY 19, 2009  
CAPTAIN PATRICK FLANAGAN  
VICE CHAIR ARMY, NATIONAL GUARD ASSOCIATION OF NORTH  
DAKOTA

Mr. Chairman and members of the committee, my name is Captain Patrick Flanagan. I am the Vice Chair of the National Guard Association of North Dakota (Officers) as well a full time member of the North Dakota National Guard. I will be providing supportive testimony for HB 1181 as it relates to the North Dakota National Guard.

The National Guard Association of North Dakota is comprised of 400 Army and Air National Guard commissioned and warrant officers. Our mission is to foster and improve the Army and Air National Guards ability to serve the State of North Dakota and our nation.

Similar to the issues faced by the Civil Air Patrol, North Dakota National Guard members sometimes find their greatest challenge to serving the State comes from employer/work schedule conflicts. Currently North Dakota National Guard members have federal employment and reemployment protection when federalized by the President. House Bill 1181 will provide similar employment protection under state law for individuals called upon by the Governor to serve the State of North Dakota.

On behalf of the National Guard Association of North Dakota I urge you to support HB 1181. House Bill 1181 is also supported by the North Dakota National Guard Enlisted Association.

Thank you, I will take any questions you may have.

TESTIMONY – HB 1181  
HOUSE COMMITTEE – POLITICAL SUBDIVISIONS  
JANUARY 19, 2009  
BY GREG WILZ  
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

#4  
Same given  
to Senate.

Mr. Chairman and members of the committee, my name is Greg Wilz. I am the Deputy Director of the Department of Emergency Services (NDDDES) and Director of Homeland Security for the state of North Dakota. My intent is to provide information concerning the importance of HB 1181 as it relates to NDDDES.

During the past three years, the Department of Emergency Services (NDDDES) has embarked on a committed effort to review all facets of emergency response. Plans, processes, and protocols were all studied to meet the challenges incorporated into our changing threat and incident environments for which we must plan and respond.

Clearly, collaboration drives our ability to respond successfully to small and large scale events. Leveraging capabilities through partnerships is prudent in times of increasing costs and budget concerns. HB 1181 enhances efficiency by providing employment protection needed for National Guard and Civil Air Patrol; the organizations play a vital and integral role in emergency response. The two agencies provide the largest manpower and equipment reservoir in the state for assisting and backing up primary responders. Both are able to serve in lead or support roles and are often called upon for specialized capabilities in order to fulfill large and small scale response needs.

I believe that now and into the future the state will continue to demand the extraordinary capabilities delivered by the men and women of the National Guard and Civil Air Patrol in its quest to attain a collaborative, integrated response approach. Passage of HB 1181 will not only provide necessary employment protection but provides citizens a more ready reserve to respond to emergency events.

I urge your support of HB 1181.

Thank you, I will try to answer any questions you may have.

TESTIMONY – HB 1181  
SENATE COMMITTEE – GOVERNMENT AND VETERANS AFFAIRS  
MARCH 13, 2009  
BY MAJOR SEAN JOHNSON  
COMMANDER, BISMARCK COMPOSITE SQUADRON, CIVIL AIR PATROL

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MARCH 13, 2009  
CAPTAIN PATRICK FLANAGAN  
CHAIR ELECT, NATIONAL GUARD ASSOCIATION OF NORTH  
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Thank you, I will take any questions you may have.