

2009 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1510

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1510

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 1/29/2009

Recorder Job Number: 8105

Committee Clerk Signature

Melissa M. Erhardt

Minutes:

Chairman Grande: Open the hearing on HB 1510. Clerk read the title.

Rep. Mark Dosch, District 32 in Bismarck: Here today to introduce HB 1510.

This bill was brought to me by a constituent of mine and I am presenting it on his behalf. There are some issues dealing with our current veteran's preference laws and how things are handled. He can certainly do a much better job in explaining the bill and so with that I would like to turn it over to James Martel who will give you a little bit more detail on this. I will be happy to answer any questions you might have.

Chairman Grande: Any questions?

Rep. Kasper: Is there a penalty if an employer does not follow the guidelines?

Rep. Dosch: I don't know. I believe that Mr. Martel will have a better answer to that question.

Chairman Grande: There should be two other people in the room who can answer that question. Anyone else wishing to speak?

James Martel, Disabled Veteran, Retired, USAF, MSgt.: See Testimony.

Attachment #1.

Rep. Dahl: Do veterans have the right to appeal this if they are not given this preference?

James Martel: Yes, they do, with justifiable cause. The veteran can look at the reasons why the agency does not want to employ them. Looking at that and basing it on their perceptions of how the interview went, they may, or may not want to pursue it. If it is something that they really want to do, this information will make it much easier for them.

Rep. Amerman: The hearing in Subsection 3, do you know to whom and how that works, not sure that I understand?

James Martel: The process is that once the veteran gets his/her justifiable cause or wants to get the justifiable cause, he/she would see his commissioner or one of his representatives to get the information on how to apply for an appeal. Once he applies for that appeal, the commissioner then takes that appeal, goes to the employing agency and says we have an appeal on prospective employment. They get the information for a justifiable cause, they evaluate it, and if it happens, it goes to an administrative hearing where an administrative law judge takes over, and they do an arbitration and they figure out how it is going to work.

Rep. Kasper: How is a veteran's preference determined? Is it the fact that you are a veteran and that gives you an extra percentage score during the interview process? How does that employer know how to give that preference and what weight does that preference have?

James Martel: The procedure is that on the State Employment form, the veteran has to declare that they are a veteran, and there are two different application options for them, the standard veteran and a disabled veteran. The standard veteran gets a five point boost in their score and the disabled gets ten points. It is on the employment form and they do have to provide our Title 10 which is to provide proof of our veteran's status.

Rep. Kasper: What I understand you saying is that as a State Employee you were not given a Veteran's preference, or you were not notified of your right to appeal, or both?

James Martel: Both. At one time, a veteran's preference was denied. The second time, it is a long process to get to justifiable cause. And once we have a justifiable cause, then the veteran can make a choice as to whether or not he wants to pursue.

Rep. Kasper: So right now, the State Agencies are not required to even give you a veteran's preference?

James Martel: No sir. They are required to give you a veteran's preference once you prove that you have your DD 14 and your Title 10, and they give you your preference, and once they do that then they evaluate your technical score?

Rep. Kasper: But in your case, you were not given notification of the appeal process, is that what the problem is?

James Martel: That is correct.

Chairman Grande: Any other questions? Anyone else wishing to speak in favor of HB 1510?

Lonnie Wangen: Commissioner ND Dept of Veteran's Affairs: See Testimony. Attachment #2.

Chairman Grande: If I have a job open, and I have three veteran's and two citizen's apply for this job, and I find by qualification, one citizen has ten years more experience, ready to go, don't have to spend time training, and that's the person I hire, I now have to pay for three certified letters to go out and I cannot hire that person for fifteen business days just in case of the appeals process? How long does the appeals process take before I can fill my position?

Lonnie Wangen: Right now they are required to send out a certified letter just saying you are a veteran and you did not get the job. What I am asking for is that they add the justifiable cause and their appeal rights so that we can move the appeal process along further. If the veteran sends in to appeal to me, we need to

send an appeal by certified letter to the agency also, immediately. So within fifteen days after they send that certified letter they do not send anything back they can proceed. If they do receive that certified letter I can be in contact with them and make a decision, it does not have to go to the appeal board. The sooner I have all the information and I can look at it and say, they gave you justifiable cause, you do not have a case for an appeal. We are going to notify the agency we are not going to continue on with an appeal.

Chairman Grande: Is ten years experience, five years experience justifiable cause?

Lonnie Wangen: It really comes down to what you put in your job description when you post your job and it's minimum requirements? If they meet the minimum requirements, they get the points, they should be on the ranking system as everyone else is and if they are interviewed and qualified the way the law states right now, they should be getting the position.

Chairman Grande: Do you have a suggestion as to how we make that process easier?

Lonnie Wangen: In discussing that with the members of my staff and a few others in Human Resources here, I believe that the law could be changed a little bit to better serve the Veteran and alleviate the process on the employing agencies so they can better fill their positions with qualified people and quicker.

The attempt of this law was to employ veterans. To help veterans so that they are not unemployed. To help them get a job so they have a better benefit to get a job. It was created during the Viet Nam War, when the college kids went to college, and the other kids went to Viet Nam and they came back and they did not have that education. If an amendment were to be made, the veteran would need to meet the minimum requirements and qualifications, and that they use the veteran's points straight across. Right now you can use the Merit system or hard point system. If you change to just a point system, the Veterans preference would be used right there and they could get the five or ten points whether they are a veteran or a disabled veteran. If they make the top candidates in the row, they should get an interview. If that Veteran is the top candidate along with another equally qualified person and you have to make that decision, you should give that preference to the Veteran. I can work with Human Resources, Attorney General, and other constituents to come up with a reasonable bill that would satisfy both the Veteran and Human Resources of the agencies to better serve them.

Rep. Winrich: To pursue this hypothetical example a little further, it is conceivable, is it not, that someone may get the Veteran's preference, the five point ranking, but still not be the top-ranking candidate for the job because of points awarded in other categories?

Lonnie Wangen: That is correct.

Rep. Winrich: What happens if the Veteran gets a letter that says you got the Veterans preference but unfortunately you are still not the top candidate and so you do not get the job? There is no basis for appeal is there?

Lonnie Wangen: The way it is now, or the proposed changes?

Rep. Winrich: What would be the difference? What happens now?

Lonnie Wangen: If the Veteran files an appeal, he will only get a certified letter saying that he did not get the job. This letter does not provide them with any appeal processes or justifiable cause. So they need to research how they appeal and they will find out that they need to contact me by certified letter within fifteen days of receiving that certified letter from the possible employer. Also, they will have to send a certified letter to the employing agency at the same time saying that they are appealing this. So that my notice and the employing agency notice comes at the same time. I look at it and I request the employing agency and the claimant, more information, the application, the posted job, the interviewing points, how they ranked it, and the justifiable cause. I look at the justifiable cause and I see that, yes, justifiable cause was given here, will contact the Veteran and say there was justifiable cause given here, so don't feel this is something that you need to go forward into hearings. If I find that they do have justifiable cause then we notify the employer and the employing agency and the

office of administrative hearings to schedule a hearing within fifteen days, after receiving that certified letter. If there is a hearing, it is supposed to go very quickly. If the hearing decides that they do not have justifiable cause, then the agency will have to hire them, put them in the position, close the position, and pay them back pay from the day they should have been hired.

Rep. Winrich: Basically what this law would change is that all that information would be provided up front?

Lonnie Wangen: That is correct. Basically would have all the information I wanted and in a timely manner and we could make that decision immediately and notify the agencies that the appeal is going through or not going through so they can make their hiring decisions that way.

Rep. Nathe: Under the current system, do you have number of how many hearings have been held?

Lonnie Wangen: Probably about five. Right now we just had one hearing which was based on the fact of time.

Rep. Nathe: Do you see this proposal as possibly increasing the number of hearings?

Lonnie Wangen: The intent of this is to basically eliminate the number of appeals down. That is why if we get the information up front, we can make a reasonable decision on that and figure out if it was correct, the appeals should go

down. Right now, by the time it gets to our office, we usually have no idea it was wrong before we have all the information and as we are on the time limit we have to file the appeal. We have fifteen days or we don't have that chance.

Rep. Meier: Does the language in this bill line up with what other States are doing with their Veterans laws currently?

Lonnie Wangen: I have not researched what other States have done.

Rep. Froseth: Agree with Line 10, for the employer to give justifiable cause for a refusal but Lines 11- 17 seem like that is kind of a shift of responsibility from your office to the potential employer? This puts the burden on the employer to give the notification. If the Veteran feels he is unjustifiably refused, he should go to your agency and file the process. Is that a fair estimation of what's happening with Lines 11-17?

Chairman Grande: The onerous is falling to the possible employer to notify them when they come in for the interview and it's marked that they are a Veteran. She could just had them a thing saying, "By the way, you do have the right to appeal" and then they proceed as we currently do and if they don't the job they get the certified letter and now we add in justification. Do you understand what I am saying? The onerous falls there but the appeals process still falls on the employee and the commissioner to make sure it followed through or not followed through.

Rep. Froseth: Presently, if the Veteran feels he is unjustifiably denied the position, and he goes to the Veterans service and starts the process, you can make that veteran aware of what his options are, rather than the employer?

Lonnie Wangen: The point is many of these Veterans do not know where to go to get the information for appeals or become aware of it. They might be Veterans that are represented by a CVSO or our agency our might just be one that has never worked with our agency before. The only thing that we are changing here is the words justifiable cause because they are already required to send a certified letter. The basic content of the wording and it does not take the burden off of our office at all.

Chairman Grande: This will affect political subdivisions does it not? Does not affect private employers but all forms of Government?

Rep. Amerman: This would allow you more time to review more documents and request more documents from a hiring agency? When you request more documents there is no power to you that they have to give them to you? If they feel there is something that you shouldn't see or because of the privacy thing? You can only request?

Lonnie Wangen: Most agencies will send us the information because it will help with the appeal process. If they refuse to give us the paperwork then we have not been shown the probable cause and we will have to go to a hearing because

then the employee hasn't been given justifiable cause and I prefer to make those decisions and work that out with the Veteran and the agencies.

Chairman Grande: Anyone else?

Todd Anderson: OMB, Assistant Atty General: I was asked to appear today to point out some flaws in the current language. The Office of Management and Budget and this management are not taking a position on this. But there are some difficulties with the current language that do exist in the current bill draft. Believe Rep. Winrich aptly noted the difficulty with the current language. Not every Veteran that applies for a position with the State or political subdivision will not be hired because of justifiable cause. They simply may not have the minimum qualifications for the position. Some positions may be filled through a position where there is not an established personnel system where their getting five points or ten points, so in those cases there would be no justifiable cause. Finally, you may have a Veteran that applies for a job and they get on the certificate of eligibles but they are not the top on the list. If they are not hired, it has nothing to do with justifiable cause, it's simply that their points did not get them high enough to get the job. So those are some of the difficulties with the current language. I would suggest that with the underlying policy, if the committee wants to endorse it, change the language to indicate that the notification from the employer must notify the Veteran why they were not hired as

opposed to the justifiable cause, because justifiable cause may not apply to that Veteran.

Chairman Grande: In the previous conversation when we were talking about meeting minimum standards, point system, and one of the things was just getting the Veteran the interview. If they had the interview it might change whether they really or not had some of those standards or the personality and raised them that ability to do so. Then putting them on, where are we at for equal qualification? Is the wording correct there?

Todd Anderson: Currently, the Veterans preference in ND operates in one of two ways, either, an absolute preference, or the preference is awarded through additional points while using the scallop personnel system to do the hiring, which is a system that is designed to do hiring for the most qualified candidate based upon objective criteria. In an absolute preference situation, if a Veteran applies for a job and they meet the bare bones minimum qualifications for that position they are entitled to that job. (Inaudible, phone wringing). They have established personnel system when a hiring agency or political subdivision they come up with evaluative criteria simply based on a points scale, education, experience all sorts of things that are trying to get the best qualified candidates. The Veteran gets an additional 5 points and the disabled Veteran gets an additional 10 points. Then you have a list of the applicants based upon which objective criteria you ranked

them on. Part of that list would be what is called the Certificate of Eligibles, the Certificate of Eligibles is actually the group that is certified to the agency that does the hiring. That individual has to look at the list in descending order. If there is a disabled Veteran on that list, they go to the top and that would have been the situation with Mr. Martel. Does that answer your question Chairman?

Chairman Grande: We have two different ways that this could work?

Todd Anderson: Yes.

Chairman Grande: Any other questions? Favor? Opposition? Neutral? Hearing Closed HB 1510.

VR
2/5/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1510

Page 1, line 10, replace "justifiable cause for the refusal" with "reasons for nonselection"

Renumber accordingly

Date: 2/5/09
Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1510

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Dahl Seconded By Wolf

Representatives	Yes	No	Representatives	Yes	No
Chairman Grande	✓		Rep. Amerman	✓	
Vice Chairman Boehning	✓		Rep. Conklin	✓	
Rep. Dahl	✓		Rep. Schneider	✓	
Rep. Froseth		✓	Rep. Winrich	✓	
Rep. Karls	✓		Rep. Wolf	✓	
Rep. Kasper	✓				
Rep. Meier	✓				
Rep. Nathe	✓				

Total (Yes) 12 No 1

Absent 0

Floor Assignment Rep Dahl

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

REPORT OF STANDING COMMITTEE

HB 1510: Government and Veterans Affairs Committee (Rep. Grande, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (12 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1510 was placed on
the Sixth order on the calendar.

Page 1, line 10, replace "justifiable cause for the refusal" with "reasons for nonselection"

Renumber accordingly

2009 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1510

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1510

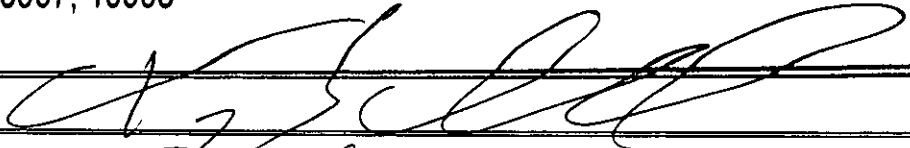
Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Hearing Date: March 16, 2009

Recorder Job Number: 10997, 10998

Committee Clerk Signature



Minutes:



Chairman Klein: Opened the hearing on HB 1510, all members present.

Mark Dosch: Representative District 32 introduced HB 1510.

James Martel: Disabled retired veteran testified in support of HB 1510. (See attachment #1)

Senator Nodland: This proposal would make the law very similar to what it is for the private sector?

James Martel: No, private agencies do not have to give "preference" to veterans unless they are receiving federal money, and then they do have to give "priority of service". The change this bill does requires these state, county, and local agencies more information to the veteran with regards to non-selection for employment so they can make a better decision about whether or not to request the hearing in regards to their non-selection for employment.

Senator Andrist: As I read the bill, the hearing would be before the employer.

James Martel: The hearing process goes to an administrative law judge.

Senator Nodland: Does this give veterans a preference?

James Martel: The DD214 still applies.

Chairman Klein: Veterans Preference, does that mean that if you have two equally qualified applicants for a specific position, the veteran has preference.

Senator Potter: The Commissioner of Veterans Affairs, what is his role in this?

James Martel: He is the arbitrator for the veteran.

Senator Potter: Does he set the hearing or in some way facilitate the hearing so there is a hearing?

James Martel: Yes he does. He coordinates with the ALJ (Admin. Law Judge).

Senator Potter: Wartime Veterans, only veterans who fought in time of war are the veterans this bill addresses and not the veterans during peace time, is that correct?

James Martel: 3719.1 sub 8 defines veteran is defined as a "North Dakota resident who a wartime veteran is as defined in subsection 2 of 3701.40

Lonnie Wangen: Commissioner of Veterans Affairs testified in support of HB 1510. (See attachment #2)

Chairman Klein: Does this happen often?

Lonnie Wangen: I have been in this position under a year now and have had about 5 cases. In the past, I am aware of some issues, however, I cannot give you accurate numbers pertaining to that.

Chairman Klein: Closed the hearing on HB 1510.

Chairman Klein: Opened discussion on HB 1510.

Senator Andrist: Instead of kill the bill, maybe we should put language in that clearly instructs the employer to disclose the details of why the individual was not hired.

Chairman Klein: After talking to the state, county, and city representatives; their concerns are with the fifteen days.

Senator Wanzek: There is nothing saying we couldn't amend out the 15 days and leave the rest as it is. These are things that the employer already has to. The biggest concern from the

city and county reps has been the fact that they need to hire and fill these positions and the time lapse of having an employee do the job is troubling.

Senator Nodland: When you go through the resumes, all the veterans have that on the application. When the employer is narrowing down the applicants, you have already did the work ahead of time and then you interview, at this point you know who you are hiring and subsequently know why you didn't hire an applicant. This is just telling the employer that they have 15 business days to inform the veteran why he/she was not selected. I think the counties and cities are trying to make something out of nothing. I'm sorry, I am a veteran and we served our country.

Senator Horne: Regardless whether we move the 15 days to 15 business days, if I am hiring for...the county, I have to decide whether to hire you and hope that the veteran doesn't appeal, or hold the position open until the 15 days have passed.

Senator Potter: My question is: under what time constraints am I under to notify the veteran that they have not been selected for the position? If we eliminate the business days, but still give them the information, I think we accomplish what these veterans are looking for.

Chairman Klein: Closed the hearing on HB 1510

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1510

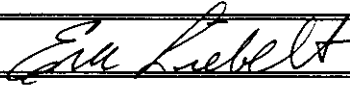
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: March 18, 2009

Recorder Job Number: 11217

Committee Clerk Signature



Minutes:

Chairman Klein: This bill will make sure that the veterans are notified in writing why they did not get a job they applied for.

Senator Wanzek motioned a do pass on the amendment.

Senator Potter seconded the motion.

Passed 7-0.

Senator Wanzek motion a do pass as amended.

Senator Horne seconded the motion.

Passed 6-1.

Senator Horne will carry the bill.

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Date: 3/18/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1510

Senate

Committee

Industry, Business and Labor

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken **Pass** **Do Not Pass** **Amended**

Motion Made By Senator Wanzek Seconded By Senator Potter

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment _____

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

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Date: 3/18/09
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1510

Senate

Committee

Industry, Business and Labor

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken **Pass** **Do Not Pass** **Amended**

Motion Made By Senator Wanzek Seconded By Senator Horne

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist		✓	Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Senator Horne

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

REPORT OF STANDING COMMITTEE

HB 1510, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1510 was placed on the Sixth order on the calendar.

Page 1, line 8, remove "business"

Page 1, line 13, remove "business"

Renumber accordingly

2009 HOUSE GOVERNMENT AND VETERANS AFFAIRS

CONFERENCE COMMITTEE

HB 1510

2009 HOUSE STANDING COMMITTEE MINUTES

4/25/09
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Bill/Resolution No. Conference Committee One HB 1510

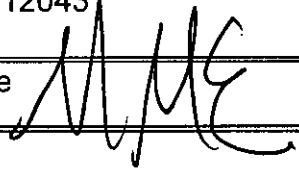
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 04/21/2009

Recorder Job Number: 12043

Committee Clerk Signature



Minutes:

CONFERENCE COMMITTEE ONE:

Chairman Dahl: We will call the Conference Committee to order on HB 1510. It looks like there was only a small change to this bill. Clerk will call the roll.

Clerk Engleson: Roll Call. All present. Chairman Stacey Dahl. Rep. Lisa Meier. Rep. Lonny Winrich. Senator Terry Wanzek. Senator George Nodland. Senator Robert Horne.

Chairman Dahl: I guess I will ask Sen. Wanzek or any other member of the Senate to explain the rationale behind this amendment.

Sen. Wanzek: During the hearing on the bill we really didn't hear any opposition but when you walk out the door into the hallway and you get grabbed by the nearest opposition and there was some concern about the length of time as far as the length of time the political subdivisions have for instance have to wait to get a response. They are keeping this position open or waiting and when you think of 15 business days we looked at it in the perspective of that could be three

weeks and by removing the word business more or less narrowed it down to two weeks. If they are denied they have to make an appeal to the entity or governmental entity; "No, I want to appeal that decision and want to know why I wasn't given the job." Then they have to follow through with the rest of the law. It was just a matter of shortening up one week. Because again they have the administration of the agency or the entity and they have to hold that position open and it seemed reasonable to at least expect that to be done in as timely a manner as possible. So by removing the word business we felt took a week off.

Chairman Dahl: Any discussion?

Rep. Meier: Actually, Sen. Wanzek, I think that is a reasonable compromise.

Chairman Dahl: I do have one question, if you took business out of it, why not take it to 14 days to make it clearly a straight two week period. Why leave at 15 then?

Sen. Wanzek: It is probably because the language was already in there. It does seem a little bit odd it is like two weeks and one day. I suppose you could say that it just gives them one extra day to get there appeal request in.

Chairman Dahl: Further discussion?

Rep. Winrich: In thinking about this I do remember from the testimony in our committee that the reason for saying 15 business days and so on was that in

most cases the person who gets this letter, the Veteran, is probably going to

meet with a Veteran's Service counselor and get some advice with just exactly what his rights are and so on. I know that some sort of boiler plate information has to be included with the notice. There are some things for the person involved to do too. In the event that there are holidays intervening or something those offices are frequently closed. I don't think the requirement of 15 business days was frivolous in any way. It was an attempt to accommodate the person who was making an appeal here too.

Sen. Horne: I think the issue boils down to who do we want to lean towards, do we want to give the Veteran who thinks he has been abused more time to deal with this we keep the 15 business days in the bill. If we want to lean towards helping the employer to know whether he is going to be replacing that person or keep the position open or not then we stay with this end amendment which is 15 days. I guess that is the issue we are dealing with here.

Rep. Meier: Myself and Rep. Dosch had actually in for a constituent and I had a chance to visit with the constituent after the Senate hearing and he felt that the wording that the Senate had removed was reasonable and he was very agreeable with the bill as it is.

Sen. Nodland: I think that what Sen. Horne said is really where we are at. I think that trying to understand both sides and yet it can like you say Sen. Wanzek it can get a little tough for a Veteran if some of those issues happen but there are

a lot of changes. I am involved as a County Commissioner being with the Veteran's Service Officer's and the changes. We are having the Veteran's Service Offices that are open now and I think there is a trend to consolidate Veteran's Service Offices so that they are open for the five days. That trend should enable Veteran's more staff for availability to a Veteran's Service Officer. Then on the employer's side, for an opening, they need to fill that position and there is a need to help them a little bit too. I just think that it is a good compromise.

Rep. Meier: I would move that the House accede to the Senate amendments.

Chairman Dahl: We have a motion for the House to accede to the Senate amendments. Do we have a 2nd?

Sen. Wanzek: 2nd.

Chairman Dahl: Any discussion?

Sen. Wanzek: Just another point, it is my understanding that they have 15 days to file for an appeal. Am I understanding that right? That does not mean that they can't give into the appeal process after the 15 days it is just that the employee has to make notice that he/she intends to appeal and that seems reasonable. I appreciate Rep. Meier you sharing that with your constituent because that makes it easy on us both.

Chairman Dahl: Sen. Wanzek, it is my understanding that it is the time frame in which the employer has to send out why they didn't receive the position and their rights as to the hearing process. Further discussion? We will have the clerk call the roll.

Clerk Engleson: Roll Call: Yes: 6. No: 0. Absent: 0. Carrier: Chairman Dahl.

Chairman Dahl: Motion passes and with that we will adjourn and dissolve the committee.

Job # 12043

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)

Bill Number HB 1510 (as (re)engrossed):

Date: 4/21/09

Your Conference Committee GVA

For the Senate:

For the House:

Roll Call

Roll Call

	YES / NO		YES / NO		
<input checked="" type="checkbox"/> Chair Terry Wanzek	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Chair Stacey Dahl	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> George Nodland	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Lisa Meier	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> Robert Horne	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Lanny Winick	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

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

the (~~Senate~~ House) amendments on (SJ/HJ) page(s) 1066 - _____

X, and place HB 1510 on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the Seventh order:

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

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

DATE: 4/21/09

CARRIER: Dohi Wanzek

LC NO. _____	of amendment _____
LC NO. _____	of engrossment _____
Emergency clause added or deleted _____	
Statement of purpose of amendment _____	

MOTION MADE BY: Meier

SECONDED BY: Wanzek

OTE COUNT 6 YES 0 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1510, as engrossed: Your conference committee (Sens. Wanzek, Nodland, Horne and Reps. Dahl, L. Meier, Winrich) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 1066 and place HB 1510 on the Seventh order.

Engrossed HB 1510 was placed on the Seventh order of business on the calendar.

2009 TESTIMONY

HB 1510

House Bill 1510 testimony from James Martel

Madam. Chairman

Distinguished Members

My name is James Martel I am a disabled veteran and retired from the United States Air Force at the rank of MSgt. I am currently employed by the state working with the Department of Mineral Resources (and for the record)

I am on leave for this hearing and the views expressed during my statement are solely my own.

I am here to express my support of and approval for the proposed changes in the current veterans' preference law.

I have firsthand experience with the frustrations many veterans have when attempting to get the information they need to make a decision about a non selection for a state employment opportunity and how to properly request a hearing.

I would like to provide you with comments taking you through the changes and on how these changes will better serve the veterans of our great state.

a. Currently a state employing agency is not specifically required to provide the justifiable cause for non selection or information on how to appeal the non selection to the prospective employee.

i. This change will provide the veteran with more information about their non selection and their rights to appeal the non selection. The main benefit of this change is that the veteran will be provided enough information to make an informed decision as to whether they want to pursue a hearing or not. If the veteran decides to request a hearing this change will also provide the veteran with the proper information concerning the process to request a hearing. The main benefit is the veteran is now better informed and second benefit is that this information may prevent extra time and revenue being spent involving the Commissioner of Veteran Affairs preparing the necessary documents for a hearing.

b. Currently the time line for the veteran is listed as 15 days.

i. This change will provide the veteran 15 business days instead of 15 days to determine if they want to request a hearing. Currently the veteran has 15 days which includes

holidays and weekends sometimes limiting the veteran to approximately 9 business days to make a decision and begin the appeal process. The main benefit of this change is that it provides the veteran more time to decide and begin the process excluding holidays and weekends.

Madam. Chairman and members of the committee I want to thank you for your time and allowing me to present my views. I will also entertain any questions you or the committee have concerning the proposed changes and my experience with the current law.

Attachment
#2

HB 1510
Veterans Preference

01/29/2009

Testimony of: Lonnie Wangen Commissioner of Veterans Affairs.

Madam Chairman Grande, Vice Chairman Bochning and committee members,

I have proposed and support the wording of the changes to subsection 1 of section 37-19.1-04 of the North Dakota Century Code as prescribed in HB 1510.

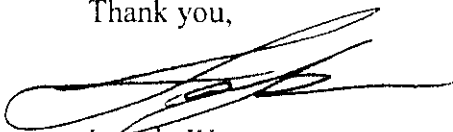
The reasons for this bill is to provide North Dakota Veterans proper notification of a hiring agencies justifiable cause for not offering positions applied for under Veterans preference guidelines. By providing the justifiable cause, with the already mandatory certified letter of non-hire, to the Veteran will help the Veteran to better understand the reasons for the refusal of Veterans preference.

This will also give the Commissioner of Veterans affairs immediate possession of these documents should the veteran file an appeal. This will allow the Commissioner of Veterans Affairs to make a more timely decision as to validity of an appeal and the need to file for a hearing with the Office of Administrative Hearings.

By requiring the hiring agency to provide appeal rights and procedures will afford the Veteran the ability to contact the Commissioner of Veterans Affairs in a timely manner, allowing the Commissioner time to review the documents, request more documents and make an informed decision as to proceed with requesting a hearing.

It is the intention of this bill to allow all parties to understand decisions made by the hiring agency their rights and obligations and to ensure that the hiring agency can proceed with filling their open position as soon as possible.

Thank you,



Lonnie Wangen
Commissioner
North Dakota
Department of Veterans Affairs

lw

#1

House Bill 1510 testimony from James Martel

Mr. Chairman

Distinguished Members

My name is James Martel I am a disabled veteran retired from the United States Air Force at the rank of MSgt. I am currently employed by the state working with the Department of Mineral Resources (and for the record) I am on leave for this hearing and the views expressed during this statement are solely my own.

I am here to express my support and approval for the proposed changes in the current veterans' preference law. The changes requested in this bill are good and will save time and possibly money for all persons concerned. Please note this bill went to the house with a DO PASS recommendation and passed with a resounding 89-0.

Since this issue only applies to a very specific group of military veterans and in special circumstances military spouses, I would like to provide a brief background to this bill concerning the employers it affects. The changes in this bill only affect public employment i.e. (local, county and state government agencies). Employment laws concerning veterans in the private sector are regulated on the federal level

I have first hand experience with the frustrations many veterans have when attempting to get the information they need to make a decision about a non selection for a public employment opportunity and how to properly request a hearing.

I would like to provide you with comments taking you through the changes and on how these changes will better serve the veterans of our great state.

- a. Currently a local, county or state employing agency is not specifically required to provide the reason for non-selection or the rights to appeal the non-selection to the prospective employee.
 - i. This change will provide the veteran with more information about their non-selection and their rights to appeal the non-selection. The main benefit of this change is that the veteran will be provided enough information to

make an informed decision as to whether they want to pursue a hearing. If the veteran decides to request a hearing, this change will provide the veteran with the proper information concerning the process to request a hearing. The main benefit is the veteran is now better informed and the second benefit is that this information may prevent extra time and revenue being spent involving the Commissioner of Veteran Affairs and the employing agency preparing the necessary documents for a hearing.

- b. Currently the time line for the veteran is 15 days.
 - i. The 15 days includes holidays and weekends sometimes limiting the veteran to approximately nine business days to make a decision and begin the appeal process. The main benefit of this change is that it provides the veteran more time to decide and begin the process excluding holidays and weekends.
 - ii. This change will provide the veteran 15 business days instead of 15 days to determine if they want to request a hearing.

Mr. Chairman and members of the committee I want to thank you for your time and allowing me to present my views. I will also entertain any questions you or the committee have concerning the proposed changes and my experience with the current law.

#2

HB 1510
Veterans Preference

03/16/2009

Testimony of: Lonnie Wangen Commissioner of Veterans Affairs.

Chairman Klein, Vice Chairman Wanzek and committee members,

I have proposed and support the wording of the changes to subsection 1 of section 37-19.1-04 of the North Dakota Century Code as prescribed in HB 1510.

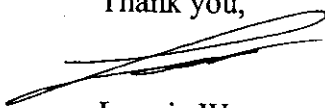
The reasons for this bill is to provide North Dakota Veterans proper notification of a hiring agencies reason for non-selection for the positions applied for under Veterans preference guidelines. Providing the reason for non-selection with the already mandatory certified letter of non-hire to the Veteran will help the Veteran to better understand the reasons for the refusal of Veterans preference.

This will also give the Commissioner of Veterans affairs immediate possession of these documents should the veteran file an appeal. This will allow the Commissioner of Veterans Affairs to make a more timely decision as to the validity and the need to file for a hearing with the Office of Administrative Hearings.

Requiring the hiring agency to provide appeal rights and procedures will afford the Veteran the ability to contact the Commissioner of Veterans Affairs in a timely manner, allowing the Commissioner time to review the documents, request more documents and make an informed decision as to proceed with requesting a hearing.

It is the intention of this bill to allow all parties to understand decisions made by the hiring agency, their rights, and obligations and to ensure that the hiring agency can proceed with filling their open position as soon as possible.

Thank you,



Lonnie Wangen
Commissioner
North Dakota
Department of Veterans Affairs

lw