

2009 SENATE POLITICAL SUBDIVISIONS

SB 2259

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2259

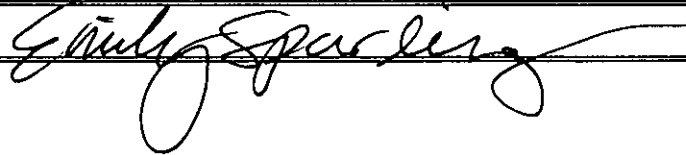
Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: 02/05/2009

Recorder Job Number: 8806

Committee Clerk Signature



Minutes:

Chairman Andrist Opened the hearing on SB 2259.

Aaron Birst Association of Counties. Introduced the bill. 2259 makes a small change in the law related to public access to public records. Currently, the law restricts access for political subdivisions as it just says "state" in subsection 5. The bill does mandate or dictate, but simply allows people to create some sort of outside access to electronic data. This is not a new concept; people already do this with land records. So, this is already happening, this chapter just hasn't been brought up to date. The attorney general did not indicate that they have any problems with this but they are here and can answer any questions.

Senator Anderson What do you consider a reasonable fee? Do you have any idea what you would charge?

Birst I'm not sure, with land records they charge about 4 cents a page. We would never exceed the state's fees.

Senator Anderson When I was a city auditor, if someone was nice I didn't charge them anything, if they were snotty—it was 25 cents a page.

Chairman Andrist Is there a paper section to this as well?

Birst What we have done is try to format the computer records into page format and charge that way. This is a place we could update to use computer language but that might be in the future.

Mary Kae M. Kelsch Assistant Attorney General. My primary portfolio is open meetings and records and I would be happy to answer any questions. (Neutral)

Chairman Andrist Are we looking to provide access to what the county has on file on a database or is info to be accessed through email?

Kelsch We are finding more and more people are willing to pay a small fee for the convenience of accessing records online. Counties have spent a lot of time and money to digitize their records. People can still access the paper records in person. This is allowed on the state level but not for political subs. I have always thought that was a little weird. My understanding is that the cost is usually a per image fee and the fees are driven by the market. We have no problem with this bill.

Senator Dotzenrod Spoke about the NDCC. What is the function of this section of the code? Is this really about extending the right to political subdivisions?

Kelsch This is all about the access of the public to our public records. This is the general law across the NDCC. This does not take any access away. It is really just putting political subs at the same level as the state as both care for their records in much the same way. This is a routine process, we have an interim committee that meets to discuss these issues. We have to update with the changing technology.

Chairman Andrist We are very proud of the work you do.

Aaron Birst We agree completely with the comments of the Attorney General's office.

Senator Lee Would a fee structure be discussed? Would everyone involved be able to get together and have a discussion?

Birst Yes, we have been trying to do that. I think at some point we will try and make a specific chapter that this all falls under. The Attorney General's office is working on that and we are happy to help in any way.

Senator Lee I trust that you will come up with a reasonable fee that enable people to access records.

Discussion

Chairman Andrist Closed the hearing on SB 2259

Senator Anderson I move **Do Pass**

Senator Dotzenrod Second

The Clerk called the role on the motion to **Do Pass. Yes: 6, No: 0, Absent: 0**

Senator Bakke will carry the bill.

Date:
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2259

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass Do not pass Amend

Motion Made By J. Anderson Seconded By J. Dotzenrod

Senators	Yes	No	Senators	Yes	No
Chairman John M. Andrist	/		Senator Arden C. Anderson	/	
Vice Chairman Curtis Olafson	/		Senator JoNell A. Bakke	/	
Senator Judy Lee	/		Senator Jim Dotzenrod	/	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Bakke

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

REPORT OF STANDING COMMITTEE

SB 2259: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2259 was placed on the Eleventh order on the calendar.

2009 HOUSE POLITICAL SUBDIVISIONS

SB 2259

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. SB 2259

House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: March 13, 2009

Recorder Job Number: 10907

Committee Clerk Signature



Minutes:

Chairman Wrangham opened the hearing on SB 2259.

Aaron Birst: ND Association of Counties: This bill was requested by the Association of Counties after a number of Attorney General opinions. They are dealing a lot with open records and what you can charge for and what you can't be charged for and let a fee be provided. This bill does not address and is not intended to address the type of records or confidential of that nature. When you look at Section 44-04 and that chapter and particularly in Section 1. Chapter 5. The bill it simply sets the method of providing the computer and electronic databases the county could charge for. The county is not looking at this as some sort of money making opportunity. This is just enough to cover the cost. Counties can already charge about four cents a unit depending on whether the record is and it is a minimal cost.

Rep. Koppelman: I noticed in the current language it talks about charging a reasonable fee and in a bill we had yesterday there was a fee that limited it to the actual cost. Is there any definition for reasonable fee?

Aaron Birst: No there is no definition for that so with that we tried to set down and work with the county officials and the Attorney General's office to figure out what we should charge.

Typically counties are charging ten cents a copy. I think the Counties, Cities and Attorney General could get together during the interim and try to work out some changes to the open records so we could get some uniformity. This is a catch all chapter that we are asking for this to be put into. It allows the counties to charge the state if they request the records so there is some evidence in there that this is reasonable. In the interim it would be a good idea to figure out. Right now Chapter 44-04 is the general open records requirement, but scattered throughout the chapter there are scattered open records requirements. Some chapters allow different charging but that is an oversight in this one. A citizen would want to come in and get a physical copy of that we would provide that so this is where we would find this instruction. To excess electronic database the county can't charge for that. This is to have outside excess to database; not inside. So this is just trying to help a citizen if we can.

Mary Kae Kelsch: Office of the Attorney General: We are in support of this legislation. We see no major problems with this.

Opposition: None

Neutral: None

Hearing Closed.

Chairman Wrangham: reopened the hearing on SB 2259.

Do Pass Motion Made By Rep. Hatlestad: Seconded By Rep. Corey Mock:

Vote: 12 Yes 0 No 1 Absent Carrier: Rep. Hatlestad:

Hearing closed.

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

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2259

HOUSE POLITICAL SUBS COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP DNP DP AS AMEND DNP AS AMEND

Motion Made By P Hatlestad Seconded By Rep Mock

Representatives	Yes	No	Representatives	Yes	No
Ch. Wrangham	✓		Rep. Conrad	✓	
Vice Chair Rep. Headland	✓		Rep. Kelsh	0	
Rep. Hatlestad	✓		Rep. Kilichowski	✓	
Rep. N. Johnson	✓		Rep. Mock	✓	
Rep. Klemin	✓		Rep. Zaiser	✓	
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Pietsch	✓				

Total (Yes) 12 No 0

Absent 1

Floor Carrier: Rep. Hatlestad

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

REPORT OF STANDING COMMITTEE

SB 2259: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends DO PASS (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2259 was placed on the Fourteenth order on the calendar.