

2009 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2360

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2360

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 27, 2009

Recorder Job Number: 7859

Committee Clerk Signature

Eva Libelt

Minutes:

Chairman Klein: Calls IBL back to order.

Senator JoNell Bakke: Written Testimony Attached. In support of Senate Bill 2360.

Senator Andrist: This would be unpaid leave and would the insurance be paid by the employee?

Senator Bakke: The way it works is the employee continues to receive benefits, and the association they are working for reimburses the state for those costs.

Senator Andrist: It really only affects one person?

Senator Bakke: That's correct; the President of the Association has someone representing them full time.

Senator Potter: All it is doing is holding the job open for that person?

Senator Bakke: That's correct; it says when they are done with their term of office they would go back to their job.

Senator Horne: Are we to understand the current president has a full time job?

Senator Bakke: That's correct.

Senator Wanzek: It seems to me there might be some places where this would put a burden on the other side.

Senator Bakke: Usually someone takes the position knowing it is not a permanent one.

Discussion followed.

Gary Feist, President of North Dakota Public Employee Association: Written Testimony

Attached. In favor of the bill.

Chairman Klein: Are you open for a compromise?

Gary: Yes, we are willing to accept any plan that could be worked out.

Senator Horne: How long is your term?

Gary: The term is two years. I am currently serving my sixth term.

Senator Wanzek: Is there any flexibility with the public employee association to reimburse you for your expenses?

Gary: Currently I receive reimbursement for my expenses but not my time.

Discussion followed.

Stuart Savelkoul, Executive Director of the North Dakota Public Employee Association: Written Testimony Attached. In support of Senate Bill 2360.

Senator Potter: The bill was specifically written for NDPEA but would you be willing for some changes to be made so that this becomes the largest organization representing state employees?

Stuart: I thought a rewrite had been ordered on this bill to indicate that language.

Chairman Klein: We will close the hearing on Senate Bill 2360.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2360

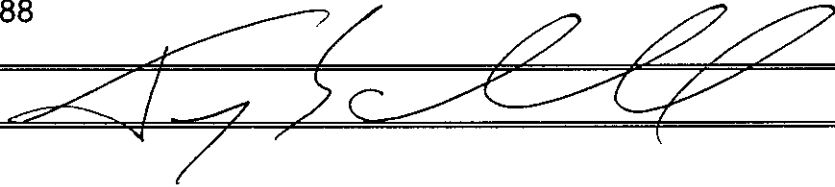
Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Hearing Date: February 3, 2009

Recorder Job Number: 8488

Committee Clerk Signature



Minutes:

Chairman Klein: opened the hearing on SB 2360, referring to temporary leave of absence to employees in public agencies. I'm really reluctant to go this way.

Senator Potter: I understand your position and I have thought there were alternative ways to handle. They need to be willing to bend in their stance.

Chairman Klein: They do go out of their way to give him time off.

Senator Potter: Right now he is using vacation and comp time. It's an organization useful to all of us. I think we can do more so he is not personally hurt.

Senator Andrist: I would be willing to go with an amendment if we change the language.

Senator Potter: Do you want a single term?

Senator Horne: This would give him one year.

Senator Andrist: This would give the agency the ability to give him one year off.

Senator Horne: Half-time job and half-time to be paid.

Senator Andrist: This is partial.

Senator Wanzek: Would this give the Dept. the ability to say no?

Senator Andrist: If you say "may".

Senator Andrist: The agency doesn't like the half-time employees.

Senator Horne: Are you talking about half-time

Senator Potter: They would be looking for a "shall" instead of "may". I'd like to offer that as an amendment and work on it.

Chairman Klein: We give them paid time off to attend the NDPA Conventions.

Senator Andrist: yes, and I was told the number of employees that belong are small.

Chairman Klein: Let's hold this until next week, closed the hearing on SB 2360.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2360

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: February 4, 2009

Recorder Job Number: 8706

Committee Clerk Signature

Eva Libelt

Minutes:

Chairman Klein: Senator Potter the amendments to the bill that would allow the state employee to have.

Senator Potter: I was unable to reach the President of the organization. I did reach the head of the NDPA, Stuart Savelkoul, yesterday. We discussed this and I told him it wasn't likely to pass in its current form and the reasons for that. I suggested to him that they'd have a better chance if they made it, half time. That the President of the organization could be entitled to release on a half time basis. That's the tone of the amendment I would like to make.

Senator Andrist: I spoke of an amendment that said that the agency may do it. Instead of using half time I used partial or full release. Put the language in during the first term. I would like that language a lot better. I talked to the agency since and they said they would be between a rock and a hard place because they can't hire a replacement for him because he can't be half replaced. I would support amending it if someone wants to try.

Senator Horne: You were talking about half time, Senator Potter, is this "may allow up to half time leave with pay or "shall"?

Senator Potter: They would be looking for shall language in there. If "may" passes it and "shall" doesn't. I think they would accept that as well. But they are looking at what the MDEA has.

Senator Potter: I would like to offer that as an amendment.

Senator Andrist: I am not sure if it was a different agency and a different person in a different situation that the agency might not have some discretionary authority to the way it is. I've been told by executive order the agency is told to give paid time to all their employees who are delegates to their state convention.

Chairman Klein: We give them paid time off to attend the convention and I thought that's what got someone else in trouble at a different agency that we do that. Because that's what they've always done.

Senator Potter: They are trying to put a bill together of eight hundred hours the association that they could access on behalf of its many employees.

Chairman Klein: Did we hear what the association membership was? We know it's thousands.

Senator Andrist: I asked that question and I was told it is small. The number of employees that belong to that association.

Chairman Klein: We will hold this until next week.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2360

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: February 11, 2009

Recorder Job Number: 9251

Committee Clerk Signature

Eva Lubelt

Minutes:

Chairman Klein: Committee we have a couple of bills we want to act on this afternoon. Senator Potter 2360, we had some discussion on the method or biggest company or the biggest organization.

Senator Potter: I hope this will correct its impairments and get a do pass recommendation, even if it doesn't get a do pass, I would hope we'd be able to pass the amendments. The one concern I had was any one could say they were a president of a state wide organization representing public employees. So on line eight we made it the largest state wide organization representing public employees. On line nine we replaced the full release with half time unpaid release from employment for no more than one year. With that I move the amendment.

Senator Horne: I will second that.

Roll Call Vote: Yes: 7 No: 0 Absent: 0

Senator Horne: I motion for a do pass as amended.

Senator Potter: I second. Roll Call Vote: Yes: 3 No: 4

Senator Andrist: It just seems that it opens up a Pandora's box and since we talked about this I learned that the agency has some major misgivings about it. I am going to vote no on this.

Senator Potter: I understand that. I just would like to make this point clear. It's my understanding watching Gary Feist the volunteer head of this organization. He really acts as an adjunct to state government beyond his regular job. Beyond what he does at the tax department in cooperate tax, he's serving the governors pleasure and creating the budget for state employees serving on the committees that regard that. It's almost as if he's an unpaid state employee in addition to being a state employee. And it's useful to have this kind of communication with the President of the organization that represents the greatest number of state employees. Even if it's ten percent of the state employees I am sure many that aren't members consider that NDPA represents them as well. I think this is a pretty modest tip of the hat. As was pointed out in testimony NDEA has this full time. I don't think this is too much to ask to create a stronger relationship with are state employees.

Chairman Klein: In observation I would say that Gary's department certainly gives him a tremendous amount of flexibility. He seems to have the opportunity to do his testimony. I am guessing that he is being reimbursed. But he certainly must enjoy this or he wouldn't be doing it for his six terms. I have some issues on how you replace a guy that is that valuable but yet his boss is giving him that opportunity to still participate.

Senator Andrist: I might be more inclined to support this bill if he wasn't such a good and valuable employee. I checked with his agency and they are wary they say you can't replace him with a part time cooperate auditor. That's a big part of the reason I changed my view on it.

Senator Nodland: You said the term is a two year term and another two year reelection. If they only let him go one year he can't even serve a term. Is that an issue?

Senator Horne: He can serve more but he wouldn't het half time for more than one year. He could do it but the second year would be on a volunteer basis.

Senator Potter: My understanding much of the service he has been rendering for the association, for the state of North Dakota that is his vacation time. He is using his benefit. He is voluntarily giving up something that has a cash value. I don't believe he's reimbursed by anybody.

Chairman Klein: I see it as; He's the president of the organization. They hired someone else to lift the heavy load and day to day operations. Gary's job is to help when they need him.

Senator Andrist: I move a do not pass.

Senator Wanzek: I second the motion.

Roll Call Vote: Yes: 4 No: 3 Absent: 0

Floor Assignment: Senator Wanzek

Prepared for Senator Potter

February 11, 2009

PROPOSED AMENDMENTS TO SENATE BILL NO. 2360

Page 1, line 8, replace the second "a" with "the largest"

Page 1, line 9, replace "full" with "half-time, unpaid" and after "employment" insert "for no more than one year"

Renumber accordingly

Date: Feb. 11, 2009
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2360

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 Potter 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 | ✓ | | | | |
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Total (Yes) 7 No 0

Absent _____

Floor Assignment _____

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

Date: Feb 11, 2009
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2360

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 Horne 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 | | ✓ | | | |
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Total (Yes) 3 No 4

Absent 0

Floor Assignment Senator

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

Date: Feb 11
Roll Call Vote #: 3

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2360

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 _____

Seconded By _____

| 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 | ✓ | | | | |
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Total (Yes) 4 No 3

Absent 0

Floor Assignment Senator Wanzek

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

REPORT OF STANDING COMMITTEE

SB 2360: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2360 was placed on the Sixth order on the calendar.

Page 1, line 8, replace the second "a" with "the largest"

Page 1, line 9, replace "full" with "half-time, unpaid" and after "employment" insert "for no more than one year"

Renumber accordingly

2009 TESTIMONY

SB 2360

SB2360 – Relating to authorizing a state agency to grant a temporary release from employment for an employee providing service on behalf of a public employee organization.

Chairman Klein and members of the Industry, Business and Labor committee, for the record my name is Senator JoNell Bakke and I represent district 43 in Grand Forks. I bring before you today SB2360 which would allow the public employees association to have a full time release president.

This bill allows the individual elected to serve as president the opportunity to receive a leave of absence from their job with a guarantee of returning to that position when their term as president expires. It further allows the individual to continue to receive insurance benefits and retirement credit; however, these benefits would be paid for by the public employees association by a reimbursement to the state. This is a pretty standard way of arranging for a release president for an organization when the need is evident.

I guess the question is then, why would the Public Employees need a release president? Well, there are currently 14,869 public employees in the state of North Dakota representing 925 different job categories. Although not all these employees are currently members of this association, the president still represents their interests and concerns because of the way our century code addresses union memberships. This is an overwhelming task and something that would almost be impossible to do while working full time. The employees of our state deserve to have someone who can give their full attention to their needs, work conditions, and their concerns. By having the president of their association available on a full time basis, the relationship between public employees and our executive branch can only improve.

Thank you for your attention to this matter and I would stand for any questions at this time.

**NDPEA**NORTH DAKOTA
PUBLIC EMPLOYEES ASSOCIATIONAMERICAN FEDERATION
OF TEACHERS LOCAL 4660 AFL-CIO333 EAST BROADWAY AVE, SUITE 1220
BISMARCK, NORTH DAKOTA 58501-3396701-223-1964
1-800-472-2698EMAIL: comments@ndpea.org
WEBSITE: www.ndpea.org

Good morning Chairman Klein and members of the Senate Industry, Business, and Labor


Committee, my name is Gary Feist and I am President of the North Dakota Public Employee Association, AFT local 4660. I am also a corporate income tax auditor in Office of State Tax Commissioner's office and have worked for the department for 17 years. I am here to support Senate Bill 2360 which would allow the president of NDPEA to take a leave of absence from their job to perform the duties to which they have been elected and to return to their job after completing the term or terms to which they have been elected to serve.

The president of NDPEA serves the organization on a state and national level. Allowing the president of NDPEA the opportunity to take a leave of absence from their job would allow the president opportunity to travel the state and meet with its members and other state employees to discuss and resolve issues at the lowest level possible. Currently the president of NDPEA must take annual leave to attend meetings with the governor, testify at legislative hearings, and conduct union business scheduled during the normal work day. This bill would allow the president to be more available to its members and to the state, if called upon.


On the national level, as president, I currently serve on the American Federation of Teachers Public Employee Program and Policy Council which discusses issues that are affecting public employees and state and local governments around the country. Some of the issues that the council has worked on include: privatization; recruiting and retaining quality employees;

Quality Services from Quality People

Testimony



public employee pensions; and the economic crisis. On February 4, I will be in Washington DC along with other AFT public employees, teachers, nurses, school support personnel, and higher education faculty and staff to lobby congress to pass President Obama's proposed economic stimulus package. The passage of the stimulus package would bring additional money to North Dakota for K-12 education, higher education, Medicaid, and other important projects around the state.



NDPEA along with its national affiliate, the American Federation of Teachers, has worked and will continue to work with agencies on issues such as recruiting and retaining quality employees and privatization. NDPEA wants to be part of the solution to issues facing the state and its employees. That is why NDPEA, through AFT, has brought experts to the state to discuss important issues and has invited North Dakota government officials to Washington DC to work on solutions to the critical issues facing the state.

This bill is asking for the same right that is granted to the President of the North Dakota Education Association. The passage of this bill will not cost the state any money as NDPEA will pay the salary of its president and will reimburse the state for the costs associated with their participation in the state's health care and retirement system.

Thank you for your consideration of this bill. If you have any questions I am willing to answer them.



Gary Feist
NDPEA President



NDPEA

NORTH DAKOTA
PUBLIC EMPLOYEES ASSOCIATION

AMERICAN FEDERATION
OF TEACHERS LOCAL 4660 AFL-CIO



33 EAST BROADWAY AVE, SUITE 1220
BISMARCK, NORTH DAKOTA 58501-3396

701-223-1964
1-800-472-2698

EMAIL: comments@ndpea.org
WEBSITE: www.ndpea.org

Good morning Chairman Klein and members of the Senate Industry, Business, and Labor Committee, my name is Stuart Savelkoul. I live in Bismarck and I am the Executive Director of the North Dakota Public Employee Association, AFT local 4660. I am also in support of Senate Bill 2360.

NDPEA is fortunate to have a man as dedicated as Gary Feist as its president. His position is demanding. It is time consuming. It is difficult. It also requires a tremendous amount of self-sacrifice. More than just our organization benefits from having a president who is committed to this job. In fact, all of North Dakota's public employees have benefitted tremendously from having an effective leader as the president of NDPEA. However, we should not assume nor expect that we will always have a man as noble as Mr. Feist willing to serve in that role. It is for that reason that I encourage this committee to join me in support of this bill.

I expect any opposition to this bill to use the word "union" often and maliciously. However, NDPEA is an association whose members simply want to participate in the discussions that impact their livelihood. To that end, NDPEA provides a service to the state of North Dakota. When our governor wanted input from our state's public employees when putting together a budget proposal, he worked with NDPEA. When you, as legislators, are curious as to how a particular policy or proposal will be received by public employees, you work with NDPEA.

Quality Services from Quality People

Testimony

We have nearly 15,000 public employees in our state. They work at places like NDSU and Williston State College. They work at the State Developmental Center in Grafton and right here in the Capitol building, and our association strives to represent the interests of all of them. Through your continued work with NDPEA, you provide yourselves with a fair amount of coverage on the decisions that you make. Hindsight is 20/20 but foresight seldom is. Our organization serves as an effective resource to policy makers in our state because dedicated leaders, like our president, have done a good job of keeping a finger on the pulse of our state's public employees by staying abreast of their collective concerns and their priorities.

I think it is important to point out that there is precedent for such policy, because a similar privilege is afforded to the president of NDEA. Also, several other states grant this privilege to the president of the largest public employee organizations in their states.

Mr. Chairman and members of the committee, it is unlikely that the passage of this bill will have an immediate impact on you or our state. But, someday, we are going to have a new NDPEA President. We can not assume that that person will be willing to sacrifice the majority of his or her annual leave time in addition to sacrificing countless hours of his or her personal time in order to serve as an advocate for our state's public employees. Passing this legislation this session will help to ensure that we always have good candidates for this office. Having a good NDPEA President is good for more than just our association. It is good for all public employees and all public officials. It is good for government and good for our state in general.

Thank you for your time and now I will make an effort to answer any questions that you might have.