

**2013 HOUSE POLITICAL SUBDIVISIONS**

**HB 1346**

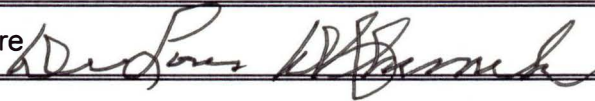
# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee Prairie Room, State Capitol

HB 1346  
February 7, 2013  
Job # 18545

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to permitting a volunteer firefighter receiving compensation from a city to serve as a member of the city council.

### Minutes:

Testimony #1

**Chairman N. Johnson:** opened the hearing on HB 1346.

**Rep. Hunsakor:** (See testimony #1) 00:14-02:47

**Rep. Koppelman:** Are volunteer firefighters typically compensated for responding to calls?

**Rep. Hunsakor:** Yes they are. Just a minimal compensation. The ND Firefighters are all supportive of this bill. This just enhances the chance that there will be another hand available for the very small pay they will get.

**Rep. Koppelman:** I thought volunteer firefighter was you volunteered your services.

**Chief CJ Craven, President of ND Fire Chief's Association:** I sent out an email to all the departments that I have on my list as president of the Fire Chief's Association because as a chief of a paid department this bill does not affect my city. All responders were fine with allowing members of the council and mayor to serve as a volunteer firefighter on their departments.

**Rep. Klemin:** The way this is set up now is an ambulance driver can be paid for services although that person is a member of the city council. It doesn't say anything about ambulance drivers going to training and being compensated for that. Is there a difference for an ambulance driver going to training and a fire fighter going to training?

**Chief Craven:** I am not sure about that. I know they do not go to as much out of town training as the firemen do. I think that is the difference. Most of the training with ambulance services other than the state EMS convention is in house or in their town.

**Rep. Klemin:** For a volunteer fire fighter who is not a member of the city council are they paid by the city for attending training or responding to fire calls?

**Chief Craven:** Yes that is correct. It is not something more. Whatever they do for their fire departments by the call and for training, it would make the councilman or mayor the same as the other fire fighters.

**Rep. L. Meier:** How many hours of training monthly do typically volunteer firefighters go through?

**Chief Craven:** They normally do have one training night a month for probably four hours or six hours of training and they also attend state fire schools; maybe specialty training like automobile extraction or hazardous material so it varies a lot.

**Rep. L. Meier:** Do you see quite a few city council members wanting this?

**Chief Craven:** I would hope that a lot of city council members would like to volunteer on their departments in smaller towns. I have no idea what that number would be.

**Rep. Koppelman:** You are a paid department in your community? How much are they paid?

**Chief Craven:** It varies completely by the department. I would not know. It varies greatly by community and they pay very small amounts for training.

**Connie Sprynczynatyk, North Dakota League of Cities:** 40-08-09 restricts council members from holding any other position from the governing body 40-09-17 provides the same restriction for city commission members. There are 29 cities that are commission formed. Typically they would be larger communities so this issue would not be an issue for them there are full time paid firefighters. There are smaller commission cities that may actually want to be included in this.

**Rep. Klemin:** What about ambulance drivers. Do they get paid for training?

**Connie Sprynczynatyk:** I don't know but I will check that out. The larger cities typically contract with an ambulance service.

**Rep. Klemin:** Seems like we are trying to treat people equally here so that somebody is on the city council or city commission and they can be a volunteer for an ambulance or firefighter, but then we have all this language about attending training for a fireman, but not for ambulance drivers so they are not equal. Maybe we should make everything equal.

**Connie Sprynczynatyk:** There is a bill that would allow compensation for many cities and commissions to find people; especially in the western half to find people who are willing and able to carve out the time.

**Rep. Klemin:** If a city does not pay for training for volunteer ambulance drivers then we don't need to say that a member of the city council could get paid for training as an ambulance driver; but if they do then that would make a difference.

**Connie Sprynczynatyk:** I will check it out right away and get back to you.

**Chairman N. Johnson:** 40-09-17; I have asked our intern to check on this.

**Connie Sprynczynatyk:** If it is a compensation position state law says we can't do that. I don't have an answer for you.

**Chairman N. Johnson:** The bill you mentioned was 1177 and that did pass and it passed on the floor.

Opposition: None

Hearing closed.

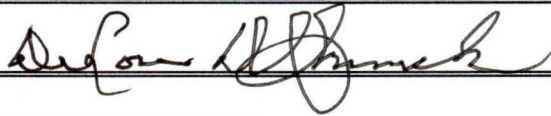
# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee Prairie Room, State Capitol

HB 1346  
February 14, 2013  
Job # 18992

☐ Conference Committee

Committee Clerk Signature



### Minutes:

You may make reference to "attached testimony."

**Chairman N. Johnson** reopened the meeting on HB 1346. This would allow volunteer firefighters who happened to be a city council member allow them to get whatever compensation the other volunteer firefighters received.

**Rep. Koppelman:** It was a question of whether we should add commission cities and not just city council cities.

**Chairman N. Johnson:** Maybe we could have Marcus take a look at that at 40-09-17 and have it for any city commission members and we have two forms of city council and city commissions.

**Rep. Koppelman:** I think it is pretty basic if we just ask language to be replicated in 40-09-17 with the exception of commission being substituted for council that would be the amendment.

**Motion Made to Move the amendment by Rep. Koppelman: Seconded by Rep. Beadle: That we use the same language but put it in for a city commission form of government.**

**Rep. J. Kelsh:** We would go to a different section of law that is on city commissions and put basically the same language on it. Is that it?

**Chairman N. Johnson:** Yes we would put it in the 40-09-17 which talked about the city commission form of government the same language.

**Rep. Klemin:** I don't have a problem with that suggestion; but the existing language a member of city council may serve as an ambulance driver it doesn't include training for ambulance drivers like we do for firefighters in the bill. On line 8 it says and be remunerated; whereas the rest of that changes it to compensate. I think we need to be consistent. I don't know what the rest of that section says? We have to look at that. The ambulance driver's training needs to be included, I think.

**Rep. Koppelman:** Looking at that section of law the word remunerated does appear at least one other time. I think if we simply note to ask our intern to note the committee asked

that question and allow legislative council to make any language corrections they deem appropriate to harmonized it with the statue.

**Rep. Hatlestad:** Firefighter at the top and ambulance driver in the next section? What are we doing there?

**Rep. Koppelman:** Rural ambulance service is often times separate from fire departments.

**Chairman N. Johnson:** I am gathering we are not ready to act on this yet. We need to have our intern take a look a little more to make sure the remuneration is correct and we have the city commission area correct.

**Rep. Koppelman:** I suspect that they included the specific language about training and calls are that these are volunteers.

**Chairman N. Johnson:** the intent of the bill is to say if you are employed by the city you also could get some money if you are a volunteer.

**Rep. Koppelman:** I would prefer we leave the motion on the table before us and just recess for now and we can talk to council to see if there is something more specific that we need to do.

Recessed.

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee

Prairie Room, State Capitol

HB 1346  
February 21, 2013  
Job # 19335

☐ Conference Committee

Committee Clerk Signature



### Minutes:

*Proposed amendment #1*

**Chairman N. Johnson** opened the meeting on HB 1346. (See proposed amendment #1)  
The bill was recessed because we had a question that we wanted answered and that was about the difference between remunerated and compensated. I did not realize we still had a hearing open out here. This is on allowing volunteer firefighters to receive compensation if they are employed by the city and a member of the city council.

**Rep. Klemin:** The other question on this we also have another Section 40-09-17 which relates to city commissions. It is the same issue over there as I understood it.

**Chairman N. Johnson:** That is correct. I would like to have Marcus, the intern, explain this.

**Marcus:** Compensation is so ambulance drivers can get paid even though they are volunteers.

**Rep. Klemin:** So ambulance drivers are not volunteers then; they get paid?

**Marcus:** That is my understanding.

**Rep. Hatlestad:** Especially in our rural area the ambulance driver is a volunteer. The whole EMS squad is all volunteers. Which is what you said?

**Rep. Klemin:** There was another question about the remuneration and I did not look in other parts of this same section is the remunerated used elsewhere in Section 40-08-09? It is. Maybe that word compensated should be remunerated?

**Chairman N. Johnson:** Remunerated means if you are getting paid to do that.

**Rep. Klemin:** It is my understanding that most of the ambulance drivers aren't paid unless they are working for a company.

**Chairman N. Johnson:** We are going to hold this one and ask Mr. Bjornson and walk through this one with us so we can understand what our confusion is.



**Rep. Kretschmar:** I got the idea that this involved a city council or city commission to do that if they wanted to. It says and be remunerated when it gets to the language; I think it should say will be compensated. I think it should be up to the city council or commission to determine if they want to pay the guy.

**Rep. Koppelman:** May be it would make more sense after the word city in line 8 just to say or as a volunteer firefighter for the city and get rid of all the rest of it. It says the same thing as the current language and it is just adding volunteer firefighter where city councilmen serve. It wouldn't specifically talk about training etc. but that could be something the city could deal with in their own internal policy if the law allows them to have that person as a firefighter.

**Chairman N. Johnson:** I am struggling a little bit. We are trying to get the language to allow for compensation for people that are volunteer firefighters or ambulance drivers on city commissions or city councils and it looked like remunerated was going to be for ambulance drivers, but they said there are some volunteer ambulance drivers too so they are not going to have remuneration. It might have to be compensated.

**Rep. Kretschmar:** I am looking at line 8 which is the current statute. It seems to me the ambulance driver is employed by the city or employed by someone who has a contract with the city. In those cases he would be remunerated or paid for the work he does. The other part with the volunteer firemen, I thought it should be that the city would have the option to pay him or not to pay him depending on what they wanted to do.

**Chairman N. Johnson:** You could compensate a volunteer ambulance driver too.

**John Bjornson:** To respond to Rep. Kretschmar that was the intent of the sponsor as I understood it was to simply to address these volunteer firemen so they work under contract or they were being paid under an employee of the city but they might be getting some type of payment for responding to a call or going to training. You are looking at also addressing volunteer ambulance drivers. Am I correct in that? We can change this to work with the intern and make that change.

**Rep. Koppelman:** Is the bill just written more complicated than it needs to be. Maybe after ambulance driver on line 7 we just insert, or volunteer firefighter. Doesn't that do that same thing? It would be up to the city whether they pay for a call or training course or what.

**John Bjornson:** We did not do it that way because the volunteer firemen were not employed or under contract by the city so we felt it was not appropriate to put it in that place in the bill. We had discussions with the fire chiefs about how this should be because they were worried about the status on being a volunteer. There is no intent to allow both firefighters that are employed by the city to be a member of the city commission. I came from a small town and they gave \$25 a training session and they were probably a city council member because there were not that many people in the town.



**Rep. Koppelman:** I understand that. What does volunteer mean. I was not aware that they were paid. Does it mean you would not be a full time employee?

**John Bjornson:** In certain circumstances in some of these smaller communities and rural fire departments the department will give somebody \$25 for responding to a call just to address some of their expenses that they may have incurred or some loss of their salary for their job.

**Rep. Klemin:** Maybe we need to look into how these payments to these firefighters are treated for tax purposes because if they have to report that as income then they are getting paid. If they don't or aren't required to then they maybe more of a volunteer. Everybody has to pay their own expenses to get to their job so if a volunteer fireman has to drive his car a ½ mile to get to the firehouse he is not getting compensated for these driving expenses. He is getting paid to be there to be volunteer fireman. If the IRS and State Commissioner required that to be reported as income then they are not really volunteers. This may also be the same thing with city commissions under 40-09-17 so we would need an amendment for that.

**John Bjornson:** This was brought to us by city council so that is what we addressed. The first part I have no idea how they do this reimbursement. I have never heard of it before. We did address part of it in the second part of that sentence. I am on a nonprofit board and when I go to training sessions they will pay my expenses so these are things I don't have to report to IRS as income.

**Rep. Hatlestad:** The few volunteer firemen that I have encountered indicate that they are given compensation for dry cleaning or replacing the clothing that might be damaged on responding to a call. On line 9 after volunteer firefighter can you put a slash ambulance driver?

**John Bjornson:** Yes we could. The service would then cover the paid ambulance drivers and contract ambulance drivers and the second part would then address the volunteer ambulance drivers for reimbursement for expenses.

**Rep. Kathy Hogan:** We discussed on line 9 was before being compensated could we add a may so it is a local control issue?

**John Bjornson:** The may carries over from before.

**Rep. Koppelman:** Is there something in law that prohibits this now?

**John Bjornson:** Marcus could you tell me what subsection 1 says? It might be in there. I don't recall.

**Rep. Koppelman:** Is there anything in law that would prevent anyone from being reimbursed for expenses?

**John Bjornson:** I don't believe there is. This is just added as part of a discussion that came from the fire chiefs that were behind the bill.

**Rep. Klemin:** There really is two parts to it. One is compensated for attending training or responding to a fire calls and part two is being reimbursed for expenses in attending training or responding to fire calls. So one you are paying him and one you care covering expenses.

**Rep. Koppelman:** This bill is only to allow for pay.

**John Bjornson:** Yes, yes and yes.

**Chairman N. Johnson:** In current law you can't be on a city council and be an employee of the city so this is saying if you are going to be a volunteer you can. Since the word may is in there on line 7; it means it is optional. I am using Rep. Hatlestad's comment, if we start at the end of line 8 have it read or as a volunteer firefighter or ambulance driver for the city and be compensated for attending training and responding to fire calls or ambulance calls and maybe reimbursed for expenses incurred in attending training or responding for both calls. This is for both areas. We will get that written and hopefully address it at 11:00AM. Recess.

**Rep. Klemin:** This talks about ambulance drivers, but not everyone who is an EMT on the ambulance is a driver necessarily. This is confusing.

**Chairman N. Johnson** reopened the meeting on HB 1346.

**Rep. Klemin:** I don't think they are not all drivers. There are EMT's that ride in the back. Then if you are an EMT riding in the back do you not get paid the same as the driver? Not every person in the ambulance is necessarily a driver and we are limiting this to the driver.

**Rep. Kathy Hogan:** Can we simply change this to ambulance personnel?

**John Bjornson:** I don't know if those terms are then to be defined anywhere. That is one solution to make it a little broader, yet somewhat vague. We can go back and do some research and who the ambulance crew is.

**Rep. Hatlestad:** If we do that do we not expand who can be a member of the city council as well?

**John Bjornson:** Yes

**Rep. Klemin:** I would suggest we say ambulance crew member.

**Rep. Kathy Hogan:** We will do this and then the Senate can change it if they want.

**Chairman N. Johnson:** We have to change it in the amendment page 1, line 9 it would be ambulance crew member.

**Rep. Klemin:** Line 7 of the original bill it says driver also so it should be crew member.

**Chairman N. Johnson:** Where ever it says ambulance driver we will substitute ambulance crew member. That is just three places. Further Discussion?

**Motion made to move the amendment .03001 by Rep. Kathy Hogan: Seconded by Rep. J. Kelsh: With the addition of the deletion of driver and substitute crew member and on line 7 on the original bill.**

**Voice vote carried.**

**Do Pass As Amended Motion Made by Rep. A. Looyen; Seconded by Rep. J. Kelsh:**

**Vote: 12 Yes 0 No 3 Absent Carrier: Rep. Ben Hanson**

**Closed.**

February 21, 2013

2/22/13  
JMC

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1346

Page 1, line 1, after "40-08-09" insert "and section 40-09-17"

Page 1, line 2, after "firefighter" insert "or ambulance crew member"

Page 1, line 3, after "council" insert "or city commission"

Page 1, line 7 overstrike "driver"

Page 1, line 7, after the overstruck comma insert "crew member"

Page 1, line 9, after "firefighter" insert "or ambulance crew member"

Page 1, line 10, replace "fire" with "emergency"

Page 1, line 11, replace "fire" with "emergency"

Page 1, after line 11, insert:

**"SECTION 2. AMENDMENT.** Section 40-09-17 of the North Dakota Century Code is amended and reenacted as follows:

**40-09-17. Restrictions on members of board.**

No

1. Except as provided in subsection 2, a member of the board of city commissioners shall may not:
  - 1- a. Be eligible to any other office the salary of which is payable out of the city treasury;
  - 2- b. Hold any other office under the city government; and
  - 3- c. Hold a position of remuneration in the employment of the city.
2. A member of a board of city commissioners may serve as an ambulance crew member employed by the city or under a contract with the city and be remunerated for those services or as a volunteer firefighter or ambulance crew member for the city and be compensated for attending training or responding to emergency calls or may be reimbursed for expenses incurred in attending training or in responding to emergency calls."

Renumber accordingly

Date: 2-14-13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1346

House Political Subdivisions Committee

☐ Check here for Conference Committee

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

Action Taken: ☐ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Koppelman Seconded By Rep. Bunker

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Ben Hanson		
Vice Chairman Patrick Hatlestad			Rep. Kathy Hogan		
Rep. Thomas Beadle			Rep. Jerry Kelsh		
Rep. Matthew Klein			Rep. Naomi Muscha		
Rep. Lawrence Klemin					
Rep. Kim Koppelman					
Rep. William Kretschmar					
Rep. Alex Looyen					
Rep. Andrew Maragos					
Rep. Lisa Meier					
Rep. Nathan Toman					

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

Absent \_\_\_\_\_

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

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

*Language w/ City commission and  
Ambulance and fire fighters.*

Date: 2-22-13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1346

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number . 03001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. K. Hogan Seconded By Rep. J. Kelsh

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Ben Hanson		
Vice Chairman Patrick Hatlestad			Rep. Kathy Hogan		
Rep. Thomas Beadle			Rep. Jerry Kelsh		
Rep. Matthew Klein			Rep. Naomi Muscha		
Rep. Lawrence Klemin					
Rep Kim Koppelman					
Rep. William Kretschmar					
Rep. Alex Looyen					
Rep. Andrew Maragos					
Rep. Lisa Meier					
Rep. Nathan Toman					

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

Absent \_\_\_\_\_

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

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

Drive to crew member  
line 7

voice  
vote  
carried



Date: 2-21-13  
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1346

House Political Subdivisions Committee

☐ Check here for Conference Committee

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

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Looyen Seconded By Rep. J. Kelsh

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Ben Hanson	✓	
Vice Chairman Patrick Hatlestad	✓		Rep. Kathy Hogan	✓	
Rep. Thomas Beadle	✓		Rep. Jerry Kelsh	✓	
Rep. Matthew Klein	✓		Rep. Naomi Muscha	✓	
Rep. Lawrence Klemin	✓				
Rep. Kim Koppelman	—				
Rep. William Kretschmar	✓				
Rep. Alex Looyen	✓				
Rep. Andrew Maragos	—				
Rep. Lisa Meier	—				
Rep. Nathan Toman	✓				

Total (Yes) 12 No 0

Absent 3

Floor Assignment Rep. B. Hanson

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

**REPORT OF STANDING COMMITTEE**

**HB 1346: Political Subdivisions Committee (Rep. N. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1346 was placed on the Sixth order on the calendar.

Page 1, line 1, after "40-08-09" insert "and section 40-09-17"

Page 1, line 2, after "firefighter" insert "or ambulance crew member"

Page 1, line 3, after "council" insert "or city commission"

Page 1, line 7 overstrike "driver"

Page 1, line 7, after the overstruck comma insert "crew member"

Page 1, line 9, after "firefighter" insert "or ambulance crew member"

Page 1, line 10, replace "fire" with "emergency"

Page 1, line 11, replace "fire" with "emergency"

Page 1, after line 11, insert:

**"SECTION 2. AMENDMENT.** Section 40-09-17 of the North Dakota Century Code is amended and reenacted as follows:

**40-09-17. Restrictions on members of board.**

~~No~~

- ~~1.~~ Except as provided in subsection 2, a member of the board of city commissioners shall~~may not:~~
- ~~4.~~ a. Be eligible to any other office the salary of which is payable out of the city treasury;
- ~~2-~~ b. Hold any other office under the city government; and
- ~~3-~~ c. Hold a position of remuneration in the employment of the city.
- ~~2.~~ A member of a board of city commissioners may serve as an ambulance crew member employed by the city or under a contract with the city and be remunerated for those services or as a volunteer firefighter or ambulance crew member for the city and be compensated for attending training or responding to emergency calls or may be reimbursed for expenses incurred in attending training or in responding to emergency calls."

Renumber accordingly

**2013 SENATE POLITICAL SUBDIVISIONS**

**HB 1346**

# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Political Subdivisions Committee Red River Room, State Capitol

HB 1346  
March 15, 2013  
19984

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to permitting a volunteer firefighter or ambulance crew member receiving compensation from a city to serve as a member of the city council or city commission

### Minutes:

You may make reference to "attached testimony."

**Chairman Andrist** opened the hearing for HB 1346. All senators were present.

**Representative Hunsakor** District 6, prime sponsor on behalf of the North Dakota Volunteer Firefighters for the smaller communities in North Dakota. Written testimony #1.

**Senator John Grabinger** Was there any thought or discussion that went in to just repealing this whole section? I was not aware of this, that this even existed, rather than allowing it, why don't we just repeal the whole thing and leave this for the cities to decide whether or not they are going to allow somebody to serve both?

**Rep. Hunsakor** replied I can't answer for the ambulance end of it when that got put into code. I think it was some time ago, I am sure. The initial reason this was brought forth comes from Bottineau. The Mayor in Bottineau is presently serving as a volunteer fireman and they brought the issue to me and so the bill comes from there. There wasn't any discussion on that at all.

**Senator John Grabinger** The reason I suggested this is because in Jamestown our assistant fire chief was also a city council member at the same time and I didn't even know this existed. I would think this would be something on a local level that should probably be considered. From a state level, I am wondering do you think we should be making or having a law like this?

**Rep. Hunsakor** replied you know in Minot, I assume in Jamestown, Fargo the larger cities, the fireman are paid, not true in Jamestown? **Senator John Grabinger** no, we're volunteers.

**Rep. Hunsakor** I see it as an incentive in a small way, again of saying thanks to those folks who are willing to do that extra little thing. It really amounts to a very small amount of money.

**Chairman Andrist** I think it's worth noting to Senator Grabinger that once the law is on the books, even if it's taken off and has legislative history, which if there is ever a dispute, a court will review it for determination what the legislative intent might have been. There is always this potential, probably if we had never had it on, your suggestion would've been a better one.

**Vice Chairman Ronald Sorvaag** It is to keep employees like your talking in Fargo of being on the council or the commissions it reads the same. But they wrote that one exemption in and that's what you're trying to do, because it's separating volunteer firemen from full time fireman. But I think the intent of putting it together, was to keep people from being in council and an employee both. So, I think it is necessary to have it in there, basically saying if you're a volunteer fireman or ambulance driver you're not really an employee. You're getting compensation from the city but you're not an employee.

**Rep. Hunksor** replied I would assume that the ambulance thing got put in there whenever it did, because in our rural areas that is very critical. There are times when there's nobody available. If this little incentive or little thanks would give you one extra driver in some of these rural communities, that could be the difference between an emergency call versus not getting there. It is that critical to have that person. Not that little bit of pay would necessarily be what would make that ambulance driver show up, but it is there and it may be that I would assume that is why it got put on because of the dire need.

**Senator Judy Lee** You would not have necessarily been aware of this, but this committee before crossover considered SB 2150 and recommended do not pass, but a part of that would've said that any elected or appointed governmental official or governmental employee while serving as a member of an board, commission, or other governing body established by statute, may not receive both compensation for the governmental office or employment in per diem compensation as a member of the board for the same day of service. We recommended do not pass on that because you couldn't have someone who was an employee of a school district for example who then served on the park board which didn't have anything to do with their job. So, we've kind of had this conversation once already in this session in a little different way, but we would again in this case be supporting the idea that someone for a different duty would be eligible for compensation. I have a tendency to agree if that section wasn't even in there.

**C. J. Craven Fire Chief from the City of Minot**, serving as a President of the North Dakota Fire Chiefs Association; testified in favor of this bill. When Rep. Hunksor contacted me regarding this bill, I did send out emails to all of our member departments which are about 90%-95% volunteer, and I did receive back word from many of the chiefs, across the state, that they will take any help that they can get. They would like to see, someone who serves on the council or as the mayor be able to still be a volunteer firefighter. Usually the people that are serving on the council or serving that are public minded citizens and they are the type of people that volunteer for the fire service. So they would like to see this go forth. I did run this by the City of Fargo chief as well as Bismarck and Minot, to make sure it did not cause problems for a city council member in the Minot to hire on as a firefighter which we don't allow. But they are all fine with the wording of the bill, and they have their



own ordinances that prevent those types of things. Everyone that I've talked to is in favor of this bill and allowing them to serve.

**Senator Jim Dotzenrod** My reading of the bill and I get the impression that the number of people in the state of North Dakota that would be affected by this is probably a relatively small number. Am I right about that, because most of the towns that have volunteer fire departments wouldn't be affected. Is that right?

**C. J. Craven** I don't think there would be a lot of people that would be affected but I think there would be enough that it would help the fire departments to have the extra people be allowed to volunteer.

**Connie Sprynczynatyk, Director** North Dakota League of Cities. When this bill was heard on the House side, I sent a quick email to cities to ask who has volunteer fire departments and which ones receive compensation and does anybody have a possible conflict where there is a council or commission member trying to wear those multiple pairs of shoes. There were a handful, it is not very many. But what the members of the House Political Subdivision Committee were very surprised to learn was that there was a mix of how fire departments are organized. There are only 4 fulltime; and then there are many where there may be a chief and some firefighters but then a whole bunch of volunteers. Some of them are compensated, some of them are not. But we did have a few instances just in that quick survey where a council member or a mayor is wearing both pairs of shoes and then is not allowed to receive compensation.

**Vice Chairman Ronald Sorvaag** If you realize too, if you read the code, there is an exemption for ambulance, for council, but isn't if you're a commission form of government. There is no exemption for being an ambulance driver in a commission form of government. So, were not even exempting them there. There are a lot of problems the way it is now.

**Connie Sprynczynatyk** yes and there is 29 cities in the state that are the commission form. I used to remember which one was the smallest. Flasher is the commission form. If you were to lop off the top twelve in population; you would be down to under 5,000 people.

**Senator Judy Lee** West Fargo is a commission form of government and it has a paid fire chief and maybe 2 staff people and all the rest are volunteers. So, we are the exception to that and I think maybe we should discuss looking at both council and commission. **Vice Chairman Ronald Sorvaag** replied they are both in the bill. **Senator Judy Lee** yes, that's why I think it's a good thing because we would be one of those larger cities that continues to have a volunteer fire department.

**Connie Sprynczynatyk** replied your community is probably the poster child for what is pretty amazing volunteerism because any city that grows in ten years grows 73%. West Fargo should have stretch marks, because of their fast growth.

**Chairman Andrist** closed the hearing on HB 1346.

Vice Chairman Ronald Sorvaag moved do pass on HB 1346.  
2<sup>nd</sup> Senator John Grabinger



Role call vote 6 Yea, 0 No, 0 Absent  
Carrier: Senator Anderson

#### Committee discussion

Senator John Grabinger I don't think I can legally do both. I will just say that I am surprised that we even have this issue. I was on the fire department for 16 years and I left the fire department to go on the city council not because I thought there was a conflict, I did it because I was concerned about voting on issues regarding the fire department. My predecessor that I talked about, the assistant fire chief was a city council member, and he wouldn't vote on fire department issues because of a conflict of interest. I really questioned whether there was a conflict of interest to any degree because all we received in compensation was a stipend that was supposed to cover our cost for our clothing and gas. I am surprised that were even reaching to this level and getting involved in this.

Date: 3-15-13  
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1346

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

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

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt  
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen. Sorvaag Seconded By Sen. Grabinger

Senators	Yes	No	Senator	Yes	No
Chairman John Andrist	✓		Senator Jim Dotzenrod	✓	
Vice- Chairman Ronald Sorvaag	✓		Senator John Grabinger	✓	
Senator Judy Lee	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Anderson

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

**REPORT OF STANDING COMMITTEE**

**HB 1346, as engrossed: Political Subdivisions Committee (Sen. Andrist, Chairman)**  
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1346 was placed on the Fourteenth order on the calendar.

**2013 TESTIMONY**

**HB 1346**

Madam Chair and members of the Political Subdivisions Committee, I am Bob Hunskor, Representative from District 6, which includes all of Bottineau, Renville and McHenry counties.

In cities operating under the council form of government, restrictions on members of the council are listed as follows in NDCC section 40-08-09: "no member of the city council shall: '(a) be eligible to any other office the salary of which is payable out of the city treasury, (b) hold any other office under the city government or (c) hold a position of remuneration in the employment of the city.' Provided, however, that "a member of the city council may serve as an ambulance driver, employed by the city and be remunerated for those services."

H.B. 1346 would amend subsection 2 of section 40-08-09 of the Century Code to allow a member of the city council to serve as a volunteer firefighter for the city and be compensated for attending training or responding for fire calls or may be reimbursed for expenses incurred in attending training or responding for fire calls. The proposal allows compensation for service or expenses -- it does not mandate.

The North Dakota Firefighters Association gave unanimous support for this proposal. They feel this is a small compensation for folks on a city council who would volunteer their services to their local fire department who may very well be in need of an extra hand in answering fire calls in the rural areas of our state.

Madam Chairperson, that concludes my testimony and I will try to answer questions your committee may have.

#1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1346

Page 1, line 1, after "40-08-09" insert "and section 40-09-17"

Page 1, line 2, after "firefighter" insert "or ambulance driver"

Page 1, line 3, after "council" insert "or city commission"

Page 1, line 9, after "firefighter" insert "or ambulance driver"

Page 1, line 10, replace "fire" with "emergency"

Page 1, line 11, replace "fire" with "emergency"

Page 1, after line 11, insert:

**"SECTION 2. AMENDMENT.** Section 40-09-17 of the North Dakota Century Code is amended and reenacted as follows:

**40-09-17. Restrictions on members of board.**

No

1. Except as provided in subsection 2, a member of the board of city commissioners shall~~may not~~:
4. ~~a.~~ a. Be eligible to any other office the salary of which is payable out of the city treasury;
2. ~~b.~~ b. Hold any other office under the city government; and
3. ~~c.~~ c. Hold a position of remuneration in the employment of the city.
2. A member of a board of city commissioners may serve as an ambulance driver employed by the city or under a contract with the city and be remunerated for those services or as a volunteer firefighter or ambulance driver for the city and be compensated for attending training or responding to emergency calls or may be reimbursed for expenses incurred in attending training or in responding to emergency calls."

Renumber accordingly



Representative Hunskor

Chairman Andrist and members of the Political Subdivisions Committee, I am Bob Hunskor, Representative from District 6, which includes all of Bottineau, Renville and McHenry counties.

In cities operating under the council form of government, restrictions on members of the council are listed as follows in NDCC section 40-08-09: "no member of the city council shall: '(a) be eligible to any other office the salary of which is payable out of the city treasury, (b) hold any other office under the city government or (c) hold a position of remuneration in the employment of the city.' Provided, however, that "a member of the city council may serve as an ambulance driver, employed by the city and be remunerated for those services."

H.B. 1346 would amend subsection 2 of section 40-08-09 of the Century Code to allow a member of the city council to serve as a volunteer firefighter for the city and be compensated for attending training or responding to fire calls or may be reimbursed for expenses incurred in attending training or responding to fire calls. The proposal allows compensation for service or expenses -- it does not mandate.

The North Dakota Firefighters Association gave unanimous support for this proposal. They feel this is a small compensation for folks on a city council who would volunteer their services to their local fire department who may very well be in need of an extra hand in answering fire calls in the rural areas of our state.

Chairman Andrist, that concludes my testimony and I ask your committee to give H.B. 1346 a DO PASS.