

2013 HOUSE JUDICIARY

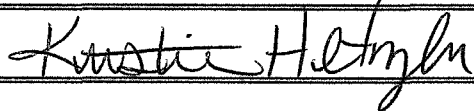
HB 1417

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1417
January 28, 2013
Job 17819

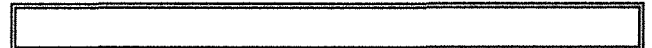
Conference Committee



Explanation or reason for introduction of bill/resolution:

Relating to limits on small claims court actions.

Minutes:



Chairman Koppelman: Opens.

Rep Klemin: Small claims court jurisdictions, under current law action can be commenced with the amount and controversy does not exceed \$10,000. What this bill does is increase it to \$15,000. It does the same in a counter claims case. The reason is because of the major work load within the courts. No one is required to use small claims court; any size case can go to district court.

Rep Paur: Do you have any idea how long it has been at \$10,000?

Rep Klemin: Since 2009.

Chairman Koppelman: Are we increasing too rapidly? I'm concerned about not being able to appeal, final discussion. Some districts are heard by judges and others have referees and sometimes there are issues with this?

Rep Klemin: If an individual has worries about that, there is nothing stating that they have to bring it to small claims court. The point is you don't have to be in small claims court unless you want to be?

Rep Paur: What time frame would they have to request it goes to district court instead of being heard in small claims?

Rep Klemin: If a plaintiff chooses to file with small claims court, the defendant can request that it go to district court.

Allen Hofstad, ND Association for Justice: Supports HB 1417. It will be a benefit to business and residents. The cost of hiring an attorney is a major concern to most people that choose to go with small claims court.

Chairman Koppelman: I am not necessarily against this but my concern is that the individuals that are not happy with small claims outcomes will claim they didn't have a judge, but instead got a referee.

Allen: Neither side have an attorney, most of them usually consult with an attorney and understand the process. Attorneys would like to be able to refer smaller dollar amount cases to small claims and take on the bigger ones.

Chairman Koppelman: Closes.

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1417
January 28, 2013
Job 17868

Conference Committee

Kristi Helms

Explanation or reason for introduction of bill/resolution:

Relating to limits on small claims court actions.

Minutes:

Chairman: Opens.

Rep Delmore: Moves a Do Pass.

Rep Hanson: Second.

Discussion:

Rep Maragos: Was there any testimony on when we increased it in the past?

Chairman Koppelman: Last session it went from \$5000 to \$10,000, prior to that it was from \$2500 to \$5000.

Rep Maragos: Is \$15,000 enough to keep the pressure off the district court. I would like to amend the bill to make it \$20,000.

Chairman Koppelman: We do have a Do Pass motion on the floor. I do have a concern about no appeal process.

Rep Hanson: Is there a warning to the individuals about there being no appeal process?

Chairman Koppelman: There is, they are told and paper the work states it as well.

Rep Maragos: Who pays the cost if the defendant kicks it up to district?

Chairman Koppelman: The defendant.

Rep Klemin: If the plaintiff files in small claims court, then there would be no other cost to them besides the initial one they paid.

Rep Maragos: How hard is it to drop the action if the defendant takes it into district court?

Rep Klemin: It takes an agreement to settle, a lot of the cases get settled without going to trial anyway.

Rep Maragos: Small claims court with prejudice?

Chairman Koppelman: Dead issue after small claims court, cannot be retried.

Rep Larson: Are there cases that you are told no district court, go to small claims?

Chairman Koppelman: You might be advised of the availability of small claims court but not forced to. MN has an appeal process in their small claims court cases.

Yes: 13

No: 0

Absent: 0

Carried by: Maragos.

FISCAL NOTE
Requested by Legislative Council
01/22/2013

Bill/Resolution No.: HB 1417

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill increases the jurisdiction of small claims court to include cases involving claims of \$15,000 or less. Small claims court currently may only handle cases when the amount claimed by the plaintiff or defendant does not exceed \$10,000.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of this bill would result in an increase in the number of cases filed in small claims court. The increase in small claims cases would be primarily offset by a reduction in cases filed in district court. The increase in small claims court cases and decrease in district court cases can not be determined. However, a transfer of cases to small claims court would result in a reduction of general and special fund revenue collections and increase county revenue collections. In 2012, there were 5,123 cases filed in small claims court. The amendment ties the maximum dollar amount for the counterclaim to the dollar amount for filing cases in small claims court.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Pursuant to North Dakota Century Code Section 27-05.2-03, the filing fee for a small claims action is \$10, which is credited to the county treasurer. The filing fee for district court civil cases is \$80, of which a portion goes to the indigent civil legal services fund and the remainder is deposited in the state general fund. The transfer of cases from district court to small claims court would decrease general and special fund revenue collections and increase county revenue collections. The impact on revenues can not be determined.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The impact on expenditures is expected to be minimal.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Don Wolf

Agency: Court System

Telephone: 328-3509

Date Prepared: 01/23/2013

Date: 1-23-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1417

House Judiciary 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. Delmore Seconded By Rep. Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore	/	
Vice Chairman Lawrence Klemin	/		Rep. Ben Hanson	/	
Rep. Randy Boehning	/		Rep. Kathy Hogan	/	
Rep. Roger Brabandt	/				
Rep. Karen Karls	/				
Rep. William Kretschmar	/				
Rep. Diane Larson	/				
Rep. Andrew Maragos	/				
Rep. Gary Paur	/				
Rep. Vicky Steiner	/				
Rep. Nathan Toman					

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. maragos

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

REPORT OF STANDING COMMITTEE

HB 1417: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends DO PASS
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1417 was placed on the
Eleventh order on the calendar.

2013 SENATE JUDICIARY

HB 1417

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1417
3/6/2013
Job #19490

Conference Committee

Committee Clerk Signature 

Minutes:

Relating to limits on small claims court actions

Senator David Hogue - Chairman

Representative Klemin - District 47 - Introduces the bill and explains the changes it makes in small claims court. He says in Section One it changes the limits from \$10,000 to \$15,000. Section Two does the same thing for counter claims in small claims court. He says the reason for doing this is that the courts are so backlogged and this could relieve some stress on the courts. Senator Hogue asks him if we can constitutionally require that the disputes under the \$10,000 threshold stay in small claims court, not permitting the defendant to remove that and seek a jury trial. Representative Klemin answered he does not think so because they have a right to jury trial. He relates some examples of territory law. Senator Armstrong mentions if it doesn't stay in small claims court and it moves and they lose they could be responsible for attorney's fees. Rep. Klemin explains moving a case to district court as a strategy to get the plaintiff to settle or quit. Alan Austad from the ND Association for Justice says they support this bill and this will lessen jury trials in many cases.

Opposition - none

Neutral - none

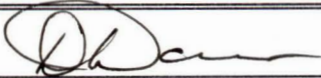
Close the hearing

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1417
3/11/2013
Job #no recording

Conference Committee

Committee Clerk Signature 

Minutes:

Vote

Senator David Hogue - Chairman

Committee work
Senator Armstrong moves a do pass
Senator Grabinger seconded

Discussion - none

Vote - 7 yes, 0 no
Motion passes
Senator Sitte will carry

FISCAL NOTE
Requested by Legislative Council
01/22/2013

Bill/Resolution No.: HB 1417

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Name: Don Wolf

Agency: Court System

Telephone: 328-3509

Date Prepared: 01/23/2013

Date: 3/11/18
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1417**

Senate JUDICIARY 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 S Armstrong Seconded By S Grabinger

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue	X		Senator Carolyn Nelson	X	
Vice Chairman Margaret Sitte	X		Senator John Grabinger	X	
Senator Stanley Lyson	X				
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment S Sitte

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

REPORT OF STANDING COMMITTEE

HB 1417: Judiciary Committee (Sen. Hogue, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1417 was placed on the
Fourteenth order on the calendar.