

2017 SENATE POLITICAL SUBDIVISIONS

SB 2296

2017 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Red River Room, State Capitol

SB2296
2/2/2017
Job #27781

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to records of securities

Minutes:

Written testimony # 1 Senator Burckhard

Chairman Burckhard opened the hearing for SB 2296. All senators were present.

Chairman Burckhard, District 5, Minot, introduced SB2296. Written testimony #1.

Donnell Hushka, Association of Counties, my auditors and treasurers thought I represent in the counties they requested this bill be put in and as stated before I have Stutsman County Casey Bradley, from the Auditor's office here to answer any technical questions.

Casey Bradley: This is really just a housekeeping bill that brings law in line with current practices. Right now, in Stutsman county we have a third party collateral agreement. We do deposits with Wells Fargo, and we have a collateral agreement with the Bank of New York Mellon, so every day at 5PM our collateral changes to match our balance and bring it in line with state law. So, that happens pretty much across the state. It's in the smaller banking institutions may have more static collateral, but that is verified. It is in law the treasurer to verify that and make sure we are adequately coverage. There is also the annual audit that requires they perfect the collateral as well. So, we're covered in a couple of different places and what we're trying to do is eliminate a law that if we for some reason them missing a piece of legislation that really doesn't do anything.

Senator Anderson: Is collateral that is required is that above the 250,000 dollars that FDIC insured?

Casey Bradley: Your correct. That would be anything over FDIC coverage as required to have the 110% collateral under state's statute.

Senator Dotzenrod: What you're doing it looks like in this bill on page 1, is essentially is the current section of the law and it appears what your doing is really not changing anything. You've overstruck on line 9, you crossed off public corporation and then you just said after that, treasurer of a public corporation, so that looks like there is no, you're just restating to try

and improve the grammar there is what it looks like, but the public corporation there be, are you thinking like one of the subdivisions of the state, county, city or township? Is that what the public corporation would be?

Casey Bradley: That is correct. What we did, we look at the laws that existed now, and if you look at the very end on page 3, there, we're looking at 21-04:11, the requirement of going into the board and what we wanted to make sure was that the law was still applicable to everyone, so this verbiage that we're inserting here is actually in 21:04, it's one of the earlier parts of that chapter. It explains the Treasurer of the Public Corporation and every other individual legally charged to be the custodian of public funds. We want to make sure that we caught everyone and no one was left out by eliminating the verbiage in Section 11 there.

Senator Dotzenrod: if you had said instead of public corporation, of the subdivisions, political subdivisions of the state, would that have left out some other public corporations that are not

In that category of being one of the subdivisions. I don't know if I understand that universe, the public corporation, what does all that entail?

Casey Bradley: We took the existing language, we didn't change the language, so what we're trying to make sure that it caught everyone and my interpretation of that looking at public corporation we would be looking at something like the Jamestown/ Stutsman County Development corporation. They are public funds we want to make that there still required by statute to follow there.

Senator Judy Lee: 23-04-11 The title is Record of Securities re-approval semi-annually and it reads, " the board of the public corporation upon the acceptance of any securities as a pledge for repayment of deposit, will make a complete and detailed record of such acceptance, and approval, and shall preserve the same with its other records. Such securities must be reapproved by the board at least semi-annually." That is the whole thing.

Chairman Burckhard: so who would disagree with something like this? What would be the reason to be opposed to a bill like this?

Casey Bradley: I do not know. What we did was we looked it was what are we effectively changing and it's just basically taking it to the board twice a year and by the time it gets to the board at a meeting the collateral has changed 3 or 4 times already anyway. So, in our opinion it doesn't eliminate this law doesn't take away from public security or public funds. We've got it covered multiple times in other area, so any opposition to this, I don't why we would have that.

Senator Dotzenrod: Does this repeal, does this save any money or travel time, or any expense that we're or it something that we are really provisions in this section are probably not followed anyway.

Casey Bradley: We do follow this because it's law. But the thing is, every day every treasurer is supposed to be verifying that they have the proper collateral on public funds, so it's just a procedural step that going through the board and having them approve the list of collateral that isn't even current, is in our opinion irrelevant. All of our auditors of all public agencies

verify collateral of invested public funds or funds that have pledged security against them, so we're doing it already and requiring it in law that the treasurers do this, so the act of taking it the board twice a year. If they want to do that they can, and they can make an internal policy, but what we're looking at is on a state wide.

Chairman Burckhard asked for opposition and neutral testimony on this bill. No one came forward so the chairman closed the hearing on SB 2296.

Senator Judy Lee: I move do pass on SB2296.

2nd Senator Dotzenrod

Roll call vote: 6-0-0

Carrier: Senator Kannianen

Date: 2.2.17
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2296

Senate Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Judy Lee Seconded By Sen. Dotzenrod

Senators	Yes	No	Senators	Yes	No
Chairman Randy Burckhard	✓		Senator Jim Dotzenrod	✓	
Vice-Chairman Howard Anderson	✓				
Senator Jordan Kannianen	✓				
Senator Diane Larson	✓				
Senator Judy Lee	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Kannianen

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

REPORT OF STANDING COMMITTEE

SB 2296: Political Subdivisions Committee (Sen. Burckhard, Chairman) recommends
DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2296 was placed
on the Eleventh order on the calendar.

2017 HOUSE POLITICAL SUBDIVISIONS

SB 2296

2017 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee

Prairie Room, State Capitol

SB 2296
3/16/2017
Job # 29354

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Cameron Hickley

Explanation or reason for introduction of bill/resolution:

Relating to pledge of security in place of depository bond; relating to records of securities

Minutes:

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Chairman Klemin: Opened the hearing on SB 2296.

Vice Chairman Hatlestad: Introduced the bill.

Donnell Presky, Associations of Counties: (Time 1:25 to 1:50) This bill comes at the request of the auditor's association.

Casey Bradley, Chief Operating Stutsman County: (2:08 to 4:10) We are looking at eliminating the requirement of the treasurer to come before the board of any public corporation two times a year which is currently required. We are looking at repealing 21-04-11. It is addressed in law but collateral changes daily.

Chairman Klemin: Could you give us more background what this law does?

Mr. Bradley: Any public funds that is over the FDIC insurance coverage you are required in 21-04-09 to have 110% collateral on the balance. There is different securities and each day they change the amount of pledge collateral to make sure that they are meeting 110%. The securities they pledge change by the hour, by the day depending on the size of institution you are dealing with. State law requires that any change be given to the public corporations and it would then become the record of the public corporations. We are trying to eliminate that two times a year the treasure is supposed to come to the board and have the board review it and approve the collateral which is being done and perfected on a daily basis already.

Chairman Klemin: So you are covered up to the amount of the FDIC insurance then you have to have coverage for the additional 10% by some other means?

Mr. Bradley: If we have a \$100 that is not covered under FDIC insurance, we would have \$110 in securities pledged against that \$100.

Chairman Klemin: But the FDIC insurance takes care of how much? What is the limit now?

Mr. Bradley: Back down to \$250,000.

Chairman Klemin: FDIC would cover the first \$250,000 of \$300,00. The reason for this statute is you would need to have coverage for the other \$50,000 up to a 110% of that amount?

Mr. Bradley: Correct.

Chairman Klemin: That by the depository financial institution would have to provide some type of pledge of security?

Mr. Bradley: Correct, it is held by a third party custodian so the bank you are banking with cannot hold that money.

Vice Chairman Hatlestad: The treasure with this bill will not report to the board twice a year? Will there be reports to the board so you know everything's conforming?

Mr. Bradley: We still have it reviewed through the audit. Every agency is required to have an audit that takes in over a \$100,000. Right now the only time the board gets involved is just a review of looking at a list. There is not an extensive involvement at this point. There is not a relevance for the board to be involved because it is something we do not have control over.

Rep K. Koppelman: With the boards level of involvement maybe there is little or no involvement but now you are saying periodical there is at least in the reporting capacity, is that correct?

Mr. Bradley: That is correct, right now there is a requirement in law that the board of commissioners twice a year looks at this information.

Rep K. Koppelman: Is that in a different statute?

Mr. Bradley: That is what we are looking at eliminating. It is currently required by 21.04.11.

Chairman Klemin: No other testimony. Senate bill 2296 repeals 21-04-1. Closed the hearing.

Rep K. Koppelman: Made a move a do pass motion.

Rep. Beadle: Second the motion.

Chairman Klemin: It seems like there is oversight controls by other entities to make sure those funds are secure.

Rep. Longmuir: My years on the school board twice a year they would come with a list of CD's for the security. There is plenty of other ways to protect the public.

Rep. Pyle: I would get daily fax from the bank listing all the securities.

Rep. Ertelt: Although there are these frequent communications about the securities, I assume is generally only going to a specific individual. Is there any regular review by the entire board?

Rep. Pyle: That would be presented in the annual audit.

Rep. Longmuir: In our case with the school it was updated on the monthly basis.

Chairman Klemin: This would eliminate the requirement that the board has to reapprove these deposits twice a year.

Carried 15 yes, 0 no, 0 absent.

Rep. Beadle: Will be the carrier.

Date: 3-16-17
Roll Call Vote: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2296

House Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. K. Koppelman Seconded By Rep. Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin	/		Rep. Guggisberg	/	
Vice Chairman Hatlestad	/		Rep. Hanson	/	
Rep. Beadle	/				
Rep. Becker	/				
Rep. Ertelt	/				
Rep. Johnson	/				
Rep. Koppelman	/				
Rep. Longmuir	/				
Rep. Maragos	/				
Rep. Pyle	/				
Rep. Simons	/				
Rep. Toman	/				
Rep. Zubke	/				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep. Beadle

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

REPORT OF STANDING COMMITTEE

SB 2296: Political Subdivisions Committee (Rep. Klemin, Chairman) recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2296 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

SB 2296

Burckhard, Randall A.

From: Donnell Hushka <Donnell.Hushka@ndaco.org>
Sent: Wednesday, February 1, 2017 4:50 PM
To: Burckhard, Randall A.
Subject: SB 2296

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Sen. Burckhard,

SB 2296 will eliminate practices that are no longer relevant, it is a house keeping bill that brings law in line with actual practices.

A couple of talking points:

- Most commercial banking institutions utilize third party collateral agreements that has another bank pledging and holding securities against covered deposits. Those pledged securities change on a daily basis if not more frequently depending on the agreement.
- The current practice requires the board to review and approve collateral which is out of date from the time the collateral list was printed to the day the board meets.
- The protections are already in place and followed by every governmental entity in the state without having to have each board review an out dated collateral list twice each year.
- Pledge agreements generally state the statutory requirements that the third party custodian must comply with and collateral is verified as a part of the annual audit.

Casey Bradley from Stutsman County will be at the hearing to answer any technical questions the committee may have.

Thanks,

Donnell Preskey Hushka



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