

2019 HOUSE JUDICIARY

HCR 3012

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HCR 3012
2/27/2019
32927

- Subcommittee
 Conference Committee

Committee Clerk: DeLores D. Shimek

Explanation or reason for introduction of bill/resolution:

Relating to the members of the board of university and school lands; and to provide an effective date.

Minutes:

1

Chairman Koppelman: Opened the hearing on HCR 3012.

Rep. M. Nelson: (Attachment #1) The Attorney General is still on a couple of boards and commissions; specifically, what they call the land board, which is the board of university and school lands and the Industrial Commission. This resolution would change the land board so the attorney general would be replaced by the tax commissioner.

Rep. Vetter: Didn't we just have a bill in GVA that was killed that did the same thing you are asking for right now?

Rep. M. Nelson: This is the constitutional amendment; the land board was there from the earliest part of our statehood. The other one was changing the laws; which with the Industrial Commission that was not there at the earliest part of state hood; so it would only require a change in the law to remove the Attorney General and replace him on the Industrial Commission and that bill and this one can stand on its own and this one has to be a change in the constitution and would have to go with the vote of the people in order for any changes to be made.

Rep. Magrum: Do you know when they put the Attorney General on these boards?

Rep. M. Nelson: I think at the early part of statehood. The Industrial Commission; that was the non-partisan league in 1919 created the Industrial Commission and put their three big office holders on there. That is why the Industrial Commission is not in the state constitution because it didn't exist until then. This is not an attack on a person. Just like Bob Peterson made the case that an auditor shouldn't be serving on a board and auditing a board. We have under law that the Attorney General serves on the Industrial Commission but also in law is that he is the Industrial Commissions attorney. If you see the Attorney General and the Governor talking about Industrial Commission work; is the Governor talking to his attorney or is the Governor and the Attorney General having a legal industrial commission meeting? On

the land board it is probably less of a problem because they have five members. The land board is doing things like oil leases etc. Here you have this board who takes votes and positions; now if they have a question who do they ask a legal opinion from? They ask the Attorney General. So you are asking the Attorney General to give a legal opinion on whether the action he voted on is proper or correct? This would take him off that board so there is no apparent or real conflict of interest. The Attorney General has ruled he has violated the open meeting rules on the Industrial Commission. It is not necessarily where he is not going to give a proper opinion, but that is a bad position to put him in. This is the only one that is constitutional and would have to go to a vote of the people.

Rep. Magrum: Has there been a problem?

Rep. M. Nelson: If you see the Attorney General and Governor talking at a meeting; there is a potential of conflict.

Rep. Paur: It looks like the members of the land board were elected. Why did you pick the tax commissioner over the land board?

Rep. M. Nelson: The Ag Commissioner is already on the Industrial Commission with the Attorney General and Governor is on the water board. I felt he had enough. There was nothing personal there. I did not think we should have a board overlap.

Rep. Paur: He would be the only other one eligible for that wouldn't he be?

Rep. M. Nelson: Yes, probably.

Chairman K. Koppelman: The Attorney General has been on a lot of boards in this state for a long time. In the old days I suppose the Attorney General would have been the only attorney in that office way back when. Is not arm's length enough in your opinion if there is a question of the Attorney General's office that comes up with something about the land board for the Attorney General to recuse him or herself or ask the appropriate staff member in that office to handle it. Isn't that the way it works in the practical sense?

Rep. M. Nelson: The Attorney General has already taken a public position. That is part of what I don't like about it. It actually sets him up; what happens if we start having an Attorney General that it comes out that publically that he is voting in ways that is not correct under the law; that creates a problem in itself. Some of these questions are complex and really putting him in that position and putting him in that board and motion is made it really does that a few months of research to find the right legal answer. When this started out we didn't have oil and gas or much coal. We didn't have a State Bank or a State Mill so all of these different things have happened. Now in the last few years we have billions of dollars of oil flowing. Legal questions then become really important. That is why I would like to see this fixed.

Chairman K. Koppelman: Is it your concern when Attorney General's opinions are requested or might not be requested because of that concern or is it more legal work or legal counsel? I don't know what it would mean fiscally if the board had a different makeup and they would have to request and the Attorney General's office would still be an attorney for

the board to represent that state so they would have to go to that office requesting legal work to be done; would that involve and increased cost?

Rep. M. Nelson: I think if you take the Attorney General off the board; that doesn't remove his expertise.

Chairman K. Koppelman: What about legal dispute? Wouldn't that be the same thing now if that occurred on this board?

Rep. M. Nelson: I think it is more likely that a conflict would occur with the Attorney General setting on the board rather than providing legal help to the board.

Opposition: None

Neutral: None

Hearing closed.

Do Pass Motion Made by Rep. Paur; Seconded by Rep. Rick Becker

Discussion:

Vice Chairman Karls: I was the carrier for the bill when we had it in GVA so I did quite a bit of research. The AG has been on the land board since statehood. There have been no problems. I think this is a solution looking for a problem.

Rep. McWilliams: How many resolutions do we want on the ballot? If it is not a problem.

Roll Call Vote: 6 Yes 8 No 0 Absent Failed

Do Not Pass Motion Made by Rep. Jones; Seconded by Rep. Vetter

Discussion:

Roll Call Vote: 8 Yes 6 No 0 Absent Carrier: Vice Chairman Karls

Closed.

2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 3012

House Judiciary 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 Parr Seconded By Becker

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman		✓	Rep. Buffalo	✓	
Vice Chairman Karls		✓	Rep. Karla Rose Hanson	✓	
Rep. Becker	✓				
Rep. Terry Jones		✓			
Rep. Magrum	✓				
Rep. McWilliams		✓			
Rep. B. Paulson		✓			
Rep. Paur	✓				
Rep. Roers Jones		✓			
Rep. Satrom		✓			
Rep. Simons	✓				
Rep. Vetter		✓			

Total (Yes) 6 No 8

Absent _____

Floor Assignment _____

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

Failed

Date: 2-27-19
 Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 3012

House Judiciary 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 Jones Seconded By Vetter

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	✓		Rep. Buffalo		✓
Vice Chairman Karls	✓		Rep. Karla Rose Hanson		✓
Rep. Becker		✓			
Rep. Terry Jones	✓				
Rep. Magrum		✓			
Rep. McWilliams	✓				
Rep. B. Paulson	✓				
Rep. Paur		✓			
Rep. Roers Jones	✓				
Rep. Satrom	✓				
Rep. Simons		✓			
Rep. Vetter	✓				

Total (Yes) 8 No 6

Absent 0

Floor Assignment Rep Karls

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

REPORT OF STANDING COMMITTEE

HCR 3012: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **DO NOT PASS** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HCR 3012 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

HCR 3012

#1
HCR 3012
2-27-19
B.)

Chairman Koppelman and members of the House Judiciary Committee.

I am Representative Marvin Nelson from District 9.

HCR3012 is a constitutional amendment to replace the Attorney General with the Tax Commissioner on the Board of University and School Lands.

If approved it become effective on Jan 1, 2023 and that is after the next general election where those positions would be elected.

The idea being to get the AG off boards and commissions and have him be the legal advisor and attorney. A similar thing was done a few years ago with the state Auditor. Since he oversees the finances of the state, he did serve on some things but this was fixed. The AG is still on just a couple of boards or commission, specifically what we call the Land Board for short and the Industrial Commission.

This resolution would change the Land Board.