

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1337

2005 HOUSE POLITICAL SUBDIVISIONS

HB 1337

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1337

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date January 20, 2005

Tape Number	Side A	Side B	Meter #
1		x	30.1 to 45.4
Committee Clerk Signature			

Minutes: **Rep. Devlin, Chairman** opened the hearing on HB 1337, A Bill for an Act to amend and reenact subsection 2 of section 28-32-10 of the North Dakota Century Code, relating to notice of administrative agency rulemaking to members of the legislative assembly who were sponsors of legislation to be implemented by rules; and to provide an effective date.

**Rep. Boehning** representing district 27 and a prime sponsor of HB 1337 explained that his reason for bringing forth the bill was that it is his intent to keep the legislators in the loop. When a legislator has gotten a piece of legislation passed and the agency is about to or has implemented the rules pursuant to that legislation -- the legislator at least is advised of the fact. It is surprising sometimes to find that the rules come out so different than what the intent was when the legislation was drafted. At least the legislator would have some input into the outcome.

**Rep. Ekstrom** ( 32.7 ) I agree with this and believe most legislators would do this for free. But, was there any discussion about a per diem for a legislator to follow up on this?

**Rep. Boehning** : The idea was that we would be furnish a copy of the proposed legislation (?rules) . There has been some discussion of that in the past. This designed to keep us informed.

**Rep.Devlin, Chairman** ( 33.8 ) this bill doesn't require you to come out here to do anything but just requires the agencies to send you a copy of whatever they are coming up with or promulgated as the result of your bill.

**Rep. Boehning** : Correct. To have things E-mailed to us or sent to that we can go on the webb site to get the information -- isn't what I have in mind because we don't always get to check our E-mail but if we can get a hard copy to read is what I am looking for.

**Rep. Wrangham** ( 34.8 ) Would this involve a lot of extra work for the agencies or the legislative council or whoever would have to do this?

**Rep. Boehning** : I don't see it as anything extra -- we would automatically be put on the mailing list for their distributions. It would be a maximum of six sponsors an any bill.

**Rep.Devlin, Chairman** : ( 35.5 ) One of the first concerns I had was the language which said " or otherwise affected by the proposed rule". That could be everybody in the legislature or the public --- if the intent is only the sponsors that is not so broad.

**Rep. Kretschmar** ( 36.1 ) Assuming an agency was changing the rules on some legislation that was passed five years ago --

**Rep. Boehning** : Maybe an amendment would be in order to limit to the last -- past legislative session.

There was no testimony for nor against HB 1337; however,

**Bruce Hicks**, representing the State Industrial Commission Oil and Gas Division asked to testify

from a neutral position on the bill. We had some concerns which several of the committee have already hit upon. First we note that this places the burden on the agency and we believe it should perhaps be on the Legislative council. They know the procedure. Again a question of the "otherwise effected" language. It does appear twice. We think it could be stricken without destroying the intent of the bill.

**Rep. Koppelman ( 39.5 )** When you look at the process of making administrative rule I don't think this would be onerous at all.

**Bruce Hicks :** I do agree that it is a good idea that the sponsors should notified.

**Rep. Wrangham ( 43.8 )** In regard to who would send this out -- it does specify that agency shall send it out. Since this is something the agency would send out so it would be only adding a couple of more names to the mailing list.

There being no further testimony, **Rep.Devlin, Chairman** closed the hearing on HB 1337.

( 45.4 )

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1337 b

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date January 20, 2005

Tape Number	Side A	Side B	Meter #
4	x		8.2 to 9.7
Committee Clerk Signature <i>Laurie L. Zink</i>			

Minutes: In work session **Rep. Devlin, Chairman** opened the discussion for action on HB 1337.

**Rep. Koppelman** moved a 'Do Pass' motion for HB 1337. **Rep. Wrangham** seconded the motion. On a roll call vote the motion carried **9 ayes 1 nay 2 absent**. **Rep. Wrangham** was designated to carry HB 1337 on the floor. End ( 9.7 ).

Date: January 20, 2005  
Roll Call Vote: HB 1337

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1337

House POLITICAL SUBDIVISIONS

Committee

☐ Check here for Conference Committee

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

Action Taken

Do Pass

Motion Made By

Koppelman

Seconded By

Wrangham

Representatives	Yes	No	Representatives	Yes	No
Rep. Devlin, Chairman	✓		Rep. Ekstrom	✓	
Rep. Herbel, Vice Chairman	✓		Rep. Kaldor	✓	
Rep. Dietrich	✓		Rep. Zaiser	A	
Rep. Johnson	✓				
Rep. Koppelman	✓				
Rep. Kretschmar		✓			
Rep. Maragos	A				
Rep. Pietsch	✓				
Rep. Wrangham	✓				

Total (Yes) 9 No 1

Absent 2

Floor Assignment

Rep. Wrangham

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

**REPORT OF STANDING COMMITTEE (410)**  
January 21, 2005 12:48 p.m.

**Module No: HR-14-0861**  
**Carrier: Wrangham**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1337: Political Subdivisions Committee (Rep. Devlin, Chairman) recommends. DO PASS (9 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). HB 1337 was placed on the Eleventh order on the calendar.**



2005 SENATE POLITICAL SUBDIVISIONS

HB 1337

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1337

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 3, 2005

Tape Number	Side A	Side B	Meter #
1	X		0 - 936
Committee Clerk Signature <i>Shirley Borg</i>			

Minutes:

**Chairman Cook** called the Senate Political Subdivisions to order. Roll call was taken with five members present and one absent.

**Chairman Cook** opened the hearing on HB 1337 relating to notice of administrative agency rulemaking to members of the legislative assembly who were sponsors of legislation to be implemented by the rules.

**Representative Randy Boehning**, District 27, SW Fargo ND introduced HB 1337. It is a bill which will help legislators, constituents and the like. It will allow legislators the opportunity with out having too check with agencies to see if they are working on rules which pertain to their newly approved legislation. What this bill will do is help keep us informed of the progress and the intent of our legislation. It will supply the legislators with up to date information with out having to ask for it

**Senator Hacker:** Is there going to be an opportunity to deliver a copy by E-Mail?

**Rep. Boehning:** We are recognizing E-Mail as an official form of communication. I wouldn't have any problem with E-Mail.

**Chairman Cook:** Do we have a problem out there that we are trying to take care of?

**Rep. Boehning:** I think sometimes bills and laws that we are ready to pass are probably some times not getting some of the intent and this allows us to take a look at them before they go to administrative review and every thing gets approved. This way we can get a copy of them and check our intent.

**Senator Triplett:** My concern is that sometimes you have up to six sponsors on a given bill and maybe only one really cares about it and the others are doing it as a favor. Won't this end up being a lot of paper and effort to make sure everyone gets a notice.

**Rep. Boehning:** I guess right now anyone of us can ask for copies of legislative rules. This would basic allow the bill sponsors to make sure they do get a copy of the bill so we can take a look at them.

**Senator Hacker:** Would you want to put a sunset clause on here to look at it in two years?

**Rep. Boehning:** That was not the intent of it but if the committee so chooses than we can see how it works.

**Bruce Hickes,** Assistant Director of the North Dakota Industrial Commission Oil and Gas Division. The commission is not opposing. As an administrative agency we are very concerned. The part we have a problem with is where it says "or otherwise affected by". We believe that could be interpreted to mean that if you have an existing rule out there and you are amending it, maybe the rule was implemented around twenty years ago, that you would have to go back and find some sponsors. We have been told before that this was only going to be for those rules that

have been implemented but we think this opens the door for a lot of controversy and this could be very ownerous of us if we were having to notify all these other parties. That is our main concern. The sunset clause maybe would be a good idea as far as we are concerned.

**Senator Dever:** Would your concerns be relieved if we amended it to say in the most recent legislative session.

**Bruce Hixes:** I believe if you struck "or if otherwise affected by", that is in there twice, that would do it or by also saying some language as you suggest would also work.

**Tom Tuppa,** appeared neutral, representing several regulatory boards that they work with, social workers being one of the biggest ones. We have some of the same concerns that were eluded to by the previous speaker. Cosponsor and sponsor, we don't know how far back that goes. One of the boards that we work for is twenty five years old, do we have to go back to that original sponsor that introduced the legislation twenty five years ago? Of course we have the same concern as was earlier identified "or other wise affected".

**Senator Gary Lee:** Does the date on the bottom, after July 31, 2005, effect that at all in terms of your concern.

**Tom Tuppa:** Perhaps it would this time around but if it stays in there, ten years from now would you have to apply it retroactively back to 2005. Legal council would probably have to make some determinations on that.

No further testimony.

Chairman Cook closed the hearing on HB 1337.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1337

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 10, 2005

Tape Number	Side A	Side B	Meter #
X		X	570 - 1286
Committee Clerk Signature			

Minutes:

**Chairman Cook** opened the discussion on HB 1337. All members present.

**Senator Gary Lee** said this was the bill that had to do with sending notice to bill sponsors during the administrative rule process. There was some questions about who would need to be notified and how far back they would need to go in terms of reporting that information. In talking with the prime sponsor Representative Boehning and Sandy Tabor from the Attorney Generals Office, I have some amendments that were suggested. (See attachment #1) The intent of the bill was to just provide notices to those who were on that bill. The intent of this amendment was to answer some of the questions that came up.. There was a question of using E-Mail and all felt that it would include E-Mail.

**Senator Gary Lee** moved the amendments.

**Senator Triplett** seconded the motion.

Discussion:

Page 2

Senate Political Subdivisions Committee

Bill/Resolution Number HB 1337

Hearing Date March 10, 2005

**Senator Dever:** I would like to ask how this would apply?

**Senator Gary Lee:** This would be for the people that are on your bill this time. They would be notified and not the people in prior years. This would be on the new legislation that is being implemented.

**Senator Hacker:** I no we talked about a sunset clause. Do you think that is necessary?

**Senator Gary Lee:** the sponsor said that he would rather not have a sunset.

**Chairman Cook** asked for roll call vote on HB 1337. **Yes 6 No 0 Absent 0**

**Chairman Cook** closed the discussion on HB 1337 and the committee will hold the bill until the committee hears the rest of the legislative rule bills.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1337

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 24, 2005

Tape Number	Side A	Side B	Meter #
1		X	5189 - 5459
Committee Clerk Signature <i>Shirley Borg</i>			

Minutes:

**Chairman Cook** opened the discussion on HB 1337. All members (6) present.

**Chairman Cook:** This is the bill that requires notifying a sponsor about a piece of legislation that will result in some administrative rules. An amendment was passed to amend HB 1337.

**Senator Gary Lee:** I think those amendments make the bill better and satisfies some of the needs that are out there but still think this is something that is not necessary in terms that if people want to get this information they can just put their name on the list again.

**Senator Gary Lee** moved a Do Not Pass as Amended

**Senator Dever** seconded the motion.

Discussion:

Roll Call Vote: Yes 5 No 1 Absent 0

Carrier: **Senator Gary Lee**

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1337

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 25, 2005

Tape Number	Side A	Side B	Meter #
1	X		303 - 1690
Committee Clerk Signature <i>Shirley Borg</i>			

Minutes:

**Chairman Cook** opened the discussion on HB 1337. All members (6) present.

**Chairman Cook** : I have the bill with the council amendments. They are a little bit different than we looked at. The legislative Council changed the amendments and put them in the proper form.

**Senator Triplett**: I am comfortable with the rewrite of the amendments.

Senator Gary Lee: In talking with John Walstad yesterday, he was surprised that we were recommending a do not pass. He thought it was a good bill with those amendments in terms of there has been occasion where legislators have not been notified of bills they sponsored and this would provide them some insurance of that. Right now there is no real good way to get notified. You will get notified after the rules are being promulgated but by that time it is a ways down the road for any direct input. He thought this was a reasonable way to do that. The agency involved would just need to provide notice to six more people if that was the sponsor list.



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Senate Political Subdivisions Committee

Bill/Resolution Number HB 1337

Hearing Date March 25, 2005

**Senator Gary Lee** moved that the committee reconsider their actions on which we send out HB 1337.

**Senator Triplett** seconded the motion.

**Chairman Cook** : We have a motion and a second to reconsider our actions in which we gave a Do Not Pass as amended on HB 1337.

Discussion: None

Voice vote: All members (6) in favor of reconsidering HB 1337.

**Senator Gary Lee** moved a Do Pass as Amended

**Senator Triplett** seconded the motion

Roll call vote: Yes 6 No 0 Absent 0

Carrier: **Senator Gary Lee**

March 24, 2005

*JB*  
3-24-05

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1337

Page 1, line 10, replace "that" with "enacted during the most recent session of the legislative assembly which" and remove "or otherwise affected"

Page 1, line 15, replace "that" with "enacted during the most recent session of the legislative assembly which"

Page 1, line 16, remove "or otherwise affected"

Renumber accordingly

Date: 3-10-05  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. #B 1337

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

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

Action Taken Amendment Moved

Motion Made By Senator Gary Lee Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield	X				
Senator Constance Triplett	X				

Total Yes 6 No 0

Absent \_\_\_\_\_

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

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

Date: 3-24-05  
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1337

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

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

Action Taken Do Not Pass As Amended

Motion Made By Senator Gary Lee Seconded By Senator Dever

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield		X			
Senator Constance Triplett	X				

Total Yes 5 No 1

Absent 0

Floor Assignment Senator Gary Lee

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

*Reconsidered  
3-25-05*

**REPORT OF STANDING COMMITTEE**

HB 1337: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1337 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "that" with "enacted during the most recent session of the legislative assembly which" and remove "or otherwise affected"

Page 1, line 15, replace "that" with "enacted during the most recent session of the legislative assembly which"

Page 1, line 16, remove "or otherwise affected"

Renumber accordingly

*Reconsidered  
3-25-05*

Date: 3-25-05  
Roll Call Vote #: 9

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1337

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

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

Action Taken Do Pass as Amended

Motion Made By Senator Gary Lee Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield	X				
Senator Constance Triplett	X				

Total Yes 6 No 0

Absent 0

Floor Assignment Sen Gary Lee

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

**REPORT OF STANDING COMMITTEE**

HB 1337: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1337 was placed on the Sixth order on the calendar.

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Page 1, line 16, remove "or otherwise affected"

Renumber accordingly

2005 TESTIMONY

HB 1337



PROPOSED AMENDMENTS TO HOUSE BILL NO. 1337

Page 1, line 8, after "each" insert "current"

Page 1, line 10, remove "or otherwise affected" and after "rule" insert "for the first time"

Page 1, line 14, after "each" insert "current"

Page 1, line 16, remove "or otherwise affected" and after "rule" insert "for the first time"

Renumber accordingly