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ROLL NUMBER

DESCRIPTION

1358

2005 HOUSE EDUCATION

HB 1358

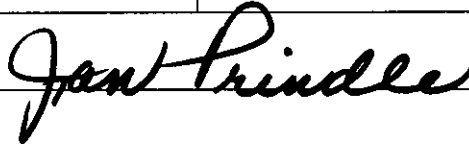
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1358**

House Education Committee

☐ Conference Committee

Hearing Date **24 Jan 05**

Tape Number	Side A	Side B	Meter #
	x		0 - 3429
2		x	0 - 293
Committee Clerk Signature 			

Minutes:

Chairman Kelsch opened the hearing on HB 1358.

Rep. Herbel introduced the bill. It provides for a non-continuing contract for those teachers and administrators hired after January 1 each year. At semester time, the pool of candidates are often less than desired to make a long-term choice. There are times when no one even applies, leaving the district to fill the position in-house. This can lead to situations that do not work for the applicant or the school district. If the candidate is not doing a good job, the district should have the ability to non-renew the contract without going through a lengthy review process.

Paul Stremick, superintendent of Grafton Public Schools, testified in favor of the bill.

(Testimony attached.)

Rep. Hanson: This bill wouldn't fit your situation because your principal died in Dec. and this states Jan. 1. You can't offer contracts now that would terminate at the end of the school year?

Stremick: After he passed away it takes weeks, even a month to get the advertisement out, get applications. No, I cannot offer a contract that would terminate at the end of the year. Had we been able to, we would have done that. And, had he done a good job, we'd probably just walked him into the position the next year.

Rep. Hanson: What do you do if you fill a position that some has a leave of absence for only one year. That's only a one year contract.

Stremick: If they are on leave of absence it's not an opening and there are no continuing contracts.

Bev Nielson, NDSBA, testified in favor of the bill. Late hires are not necessarily the most attractive candidate pool and non-renewal hearings become one of the things that we get involved in as school boards.

Dean Bard, Small Organized Schools, testified in favor of the bill. It gives districts more freedom in hiring when it must be done late.

Nancy Sand, NDEA, testified in opposition to HB 1358. NDEA works with people who are notified of non-renewal and checks process against school district's RIF policy. NDEA does not defend poor teachers, they do defend the process, look at files, evaluation and see if supervisor worked with person, etc. This legislation opens door for school districts to non-renew without cause. Teachers hired after the first of the year may be young, inexperienced, just moved into the community, they are not just people who cannot get jobs. Through the process of evaluation we must give new people the right to improve.

Rep. Mueller. In a lot of business there is a probationary period. This is no different. It is an incentive to do well and do all that is necessary to retain their job.

Sand: All teacher contracts, except those to replace someone temporarily, are one year contracts so they are on probation all the time.

Rep. Herbel: I'm sure you want schools to have the best qualified people they can get. Would you say the pool of candidates in January is as good as when contracts are originally given. I can understand where you're coming from, but I want my kids to have the best and brightest and most enthusiastic teachers available because I know what kind of influence they have on their lives. I do know there is a better pool of those people available when contracts are issued than there are after January 1 and that's my point.

Sand: I don't know the number of people available. In my opinion I think there are good candidates available in January.

Rep. Haas: Don't you think there are extenuating circumstances sometimes that a board or administrator is faced with that where something should be an exception to allow them flexibility to do what's best for the kids. Are there never, never extenuating circumstances.

Sand: I believe administrators have a tremendous responsibility to their students and it comes through the evaluation process

Rep. Haas: You didn't answer my question.

Sand: I believe concerns could be cared for in the evaluation process. Incentive to improve is there.

Chairman Kelsch: If the bill said "show cause" as to why a person is let go, would that make you more comfortable.

Sand: I'm not sure how you would work that into the bill except leave it alone because that's basically what it says now. Would I be satisfied with just the person being able to know the

reason without an opportunity to meet with the board? I would like the opportunity to meet with the board.

Doug Johnson, ND Council of Educational Leaders, testified in opposition to the bill.

First of all we want you to know that we want to have the best administrators you can possibly ever hire in every school. However, there are time when for whatever reason, administrators may not fulfill that obligation. We represent people to make sure the due process rights are there and play both sides of the issue. We work with principals and administrators so they can improve their skills. If they cannot do that we go through that hearing process and let the chips fall where they may from the process. I agree there needs to be something that helps to find better people after Jan. 1. The pool is not always as good but there are other alternatives that may be looked at that have not been considered. I get many calls asking me who is out there that is recently retired. We can hire those that are retired to work those positions, they can only work for more than half of a year and then can recruit.

Rep. Norland: Do you keep a list of retired administrators?

Johnson: Yes, and a list of those that would make themselves available.

Rep. Hunsakor: This is a two-sided issue and I tend to lean to the side favoring the bill for the following reasons: (1) teachers not pulling their weight should not continuing rights. (2) If they are really serious about staying in the school, they will work with their administrators to do the job .

Johnson: That's what the process of evaluation is for. If they're not pulling their weight, those need to be addressed by whoever is supervising that individual.

Rep. Haas: This bill does not deny rights. If you take the job, you know. The contract is terminated at the front end and you enter knowing that.

Johnson: The fact is that you terminate the contract without going through the evaluation procedure and that's what we are uncomfortable with.

Chairman Kelsch closed the hearing on HB 1358

Chairman Kelsch opened discussion on HB 1358 at 11:30

Rep. Hanson (to Rep. Herbel): Why did you leave out superintendents?

Rep. Herbel: Different laws apply to superintendents.

Rep. Hawken: Would it be helpful if we put something in like "there is a reason given for the dismissal"?

Rep. Herbel: Then you're back to a continuing contract.

Rep. Wall: My problem with the bill is that I think the mechanism is in a place already. If you have a bad hire, be it administrator or teacher, whether we pass this bill or if we non-renew them. The only thing this bill does is avoid due process. It doesn't get the teacher or the administrator out any sooner. I've been through a lot of non-renewal hearings, it's not fun, it's not pretty, but I think it's very necessary. I think this is redundant, everything we need is in place right now.

Rep. Norland: I move a Do Pass:

Rep. Herbel: I second.

Rep Herbel: I kind of agree on with what Rep. Wall said, except this is a different circumstance because the pool of candidates that is available January 1 until contract renewal takes place is much more limited than it is once contracts are issued because you may get tied to a particular person that you don't want because you don't want to go through the ugly process you and I

know exists. I think that's unfair to the kids because they become the losers. This is a mechanism that has the opportunity to treat people fairly because as Rep. Haas said, "If they're a good candidate, I'm going to hire them again." There is a shortage of teachers in practically every area, but this is a mechanism that gives the best opportunity for kids to have the best people and that's my concern.

Rep. Hanson: I see it as a different situation. Say someone graduated in the middle of the year to teach physics. You had to pay him a lot of money to get them there, you want to get rid of them so you can hire someone cheaper next year. This bill would do that.

Rep. Herbel: How would you hire expensive people if they just got out of school. Districts have a schedule they have to follow.

A Roll call vote on the Do Pass motion was called:

Yes: 9 **No:** 5 **Absent:** 0 **The motion carried.**

Rep. Herbel will carry the bill.

Date: 24 Jan
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1358

House Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass

Motion Made By Norland Seconded By Herbel

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch		✓	Rep. Hanson		✓
Vice Chairman Johnson		✓	Rep. Hunsakor	✓	
Rep. Haas	✓		Rep. Mueller	✓	
Rep. Hawken		✓	Rep. Solberg	✓	
Rep. Herbel	✓				
Rep. Horter	✓				
Rep. Meier	✓				
Rep. Norland	✓				
Rep. Sitte	✓				
Rep. Wall		✓			

Total (Yes) 9 No 5

Absent 0

Floor Assignment Herbel

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

REPORT OF STANDING COMMITTEE (410)
January 24, 2005 12:42 p.m.

Module No: HR-15-0913
Carrier: Herbel
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1358: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS
(9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1358 was placed on the
Eleventh order on the calendar.

2005 SENATE EDUCATION

HB 1358

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1358**

Senate Education Committee

☐ Conference Committee

Committee Hearing Date March 1, 2005

Tape Number	Side A	Side B	Meter #
1	x		0-2300
1		x	4098-5200
Committee Clerk Signature <i>Patty Wilkins</i>			

Minutes : Relating to the applicability of teacher and administrator contracts.

Chairman Freborg opens the hearing on **HB 1358**

Representative Herbel - Introduced the bill - This bill based on a circumstance that his district ran in to. They had the misfortune of having their principal die of cancer last fall. The pool of candidates that are available especially during a semester is very difficult. He told of a situation when they had to hire a teacher because of a vacancy and the teacher they hired was on a different salary schedule and they did end up hiring him but it didn't work out but because he was on a continuing contract he wanted to go through the entire process of a hearing. It is a very uncomfortable process. They are now asking that anyone hired after the first of January up to June thirtieth will not get the continuing contract that the other people do. He thinks this will be more prevalent in the future.

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Senate Education

Bill/Resolution Number **HB 1358**

Hearing Date March 1, 2005

Senator Lee - Asked if the repeal section has something different.

Senator Freborg - Said it does repeal the process.

(meter #359)

Paul Stremick - Superintendent of Grafton Public Schools - See written testimony.

(meter #626)

Senator Seymour - Asked how their system works for evaluations.

Stremick - He said when they start in January they by law must conduct an evaluation by March 15th. He said to do an adjustment on a person in 2 months is very difficult.

Senator Taylor - Asked if under the provisions of this bill the job would possibly be reopened following the school year.

Stremick - Replied, yes and if the person did a good job they would have an inside track to get the position.

Senator Lee - Asked if they would open up the job again and they would be one of the applicants in the pool or you would offer the position to them.

Stremick - Said their board policy is that they would open up the position but when they go to evaluate people they are given an inside track.

Senator Seymour - Asked what is the downside of this new law your proposing.

Stremick - Said he believes the downside would be for the individual to have to prove themselves and do a good job.

(meter #893)

Bev Neilson - School Board Association - In support of this bill. She said non-renewals are the most litigious thing that school boards get involved with. She said they have no problem with

telling the person when they don't offer them another contract, but its making the deadlines so its in the files so they don't come back and sue.

(meter #1000)

Opposition

Doug Johnson - Assistant Executive Director of the ND Council of Educational Leaders -

See written testimony.

(meter #1266)

Senator Taylor - Asked in his experience how many times this comes up in schools in ND.

Johnson - Replied not often but it does happen. In his 2 years maybe 4 times. Two to three times a year.

(meter #1345)

Nancy Sand - NDEA - Opposed to this concept. She is very concerned when she listens to the reasons for it. One of the reasons stated was because the pool of candidates is not good, she disagrees as says the pool is just much smaller. She wondered why an administrator that is unsure of an individual is not sitting in on a classroom early on watching and helping that person. She said if that administrator is waiting till March 15 to make an evaluation then there is something lacking. She said when they represent their members in hearing situations they talk to the member to find out what the issues are that leads an administrator to recommend a possible non-renewal for cause. She said they check the individuals files and what the individual with the assistance of the administrator tries to improve. She said they advise the individual what the hearing process is. She thinks the simple form of due process and would be disappointed if this

comes out a do pass. Administrators and boards should be allowed to avoid those duties because it may be uncomfortable or long.

Senator Taylor - Asked if she sees it happen often where midyear graduates, new teachers come in and be hired.

Sand - Replied that she doesn't keep numbers on that.

Senator Taylor - Asked if the death occurs later such as February or March, in those cases do they handle that internally rather than make a hire.

Sand - Replied, a school district could do that.

Senator Erbele - Asked if a sub could be hired for that period of time.

Sand - She said they usually view a substitute contract as replacing someone on more than temporary basis.

Senator Erbele - Asked about non-renewals, what is the justification for renewal.

Sand - Stated there is more than one kind of non-renewal. Performance non-renewal and discharge for cause, conduct unbecoming the professional. This bill is more about the performance kind.

Senator Erbele - Asked how bad does a person have to be.

Sand - Replied that is up to the judgment of the school board.

(meter #2305)

Closed the hearing on HB 1358

(Side B, tape 1, meter #4245)

Discussion on HB 1358

Senator Taylor - Doesn't know if there is enough experiences state wide to warrant this bill.

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Senate Education

Bill/Resolution Number **HB 1358**

Hearing Date March 1, 2005

Senator Lee - Said he thinks there is something missing. To say their going to put someone on temporarily in terms of an agreement up front then open the job up later.

Senator Freborg - Doesn't think they can do that.

Senator Lee - He thinks maybe this would be a valuable tool fro them to say we can do that then reevaluate rather than having to go through the whole renewal process.

Senator Freborg - Said it doesn't prevent the district from contracting with this person for the coming school year.

Senator Seymour - Said he agrees with Senator Taylor, seems to be a one time occurrence, a city in NE ND. He didn't know whether to redo public policy over this.

Senator Flakoll - Wondered if there are other occasions on this that we don't know about.

Also wondered what the downside of this would be.

Senator Lee motioned for a do pass

Seantor Flakoll seconded

No further discussion

Hearing None, Clerk took roll: Vote 4 Yea 2 Nay 0 Absent

Senator Lee will carry

(meter #5100)

Date: 3/1/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1358

Senate SENATE EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken motion for a Do Pass

Motion Made By Lee Seconded By Flakoll

Senators	Yes	No	Senators	Yes	No
CH- SENATOR FREBORG	✓		SENATOR SEYMOUR		✓
V-CH- SENATOR G. LEE	✓		SENATOR TAYLOR		✓
SENATOR ERBELE	✓				
SENATOR FLAKOLL	✓				

Total (Yes) 4 No 2

Absent 1

Floor Assignment Sen. Lee

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

REPORT OF STANDING COMMITTEE (410)
March 1, 2005 12:53 p.m.

Module No: SR-37-3828
Carrier: G. Lee
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1358: Education Committee (Sen. Freborg, Chairman) recommends DO PASS
(4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1358 was placed on the
Fourteenth order on the calendar.

2005 TESTIMONY

HB 1358

House Education Committee

Re: HB 1358 Continuing contract after January 1st.

Date: January 24, 2005

The Honorable RaeAnn G. Kelsch
State Representative
State Capitol Building
600 East Boulevard
Bismarck, ND 58505-0360

Madam Chairman and Members of the House Education Committee:

I am Paul Stremick, Superintendent of Grafton Public Schools. I am here to testify in favor of HB 1358. The passage of this bill provides school districts with flexibility when filling positions after January 1st.

At the beginning of this school year the Grafton High School Principal requested a short medical leave as he recovered from cancer treatments. Due to continued complications, the leave was extended on five different occasions. On November 30, 2004 we were notified the cancer had spread and was terminal. We started to search for an interim principal to fill the position for the remainder of the year while the current principal was on medical leave. On December 8, 2004 the high school principal passed away. When I contacted the North Dakota School Board's Association for advise on how to proceed, I was informed according to Century Code if I hired anyone to fill the "new opening" they would receive continuing contract rights for the following school year. At that time we proceeded with the job advertisement and reviewed applications.

After a couple of weeks we began to get phone calls and applications for the position. Most of the inquiries were about the position for next year since many of the prospective applicants were under a current contract. However, three individuals were available to start immediately. We were concerned about the small pool to choose from and also about the quality of the applicants. We had interviewed one of the applicants in the past and decided he was not what we were

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looking for and the other two applicants had resigned mid-year from their current administrative positions. Due to the red flags that were raised, we decided not to fill the position with a qualified applicant and to cover the duties internally along with the help of a non-credentialed person.

In the short term, the approach we took was not the best for the students of Grafton High School, but the long term effects of the decision were educationally sound. We did not want to hire a high school principal with continuing contract rights for the following school year from the existing applicant pool.

The passage of HB 1358 gives school districts the flexibility to hire an individual to finish the school year when a tragedy does strike without providing continuing contract rights. In the long run, this flexibility will help all the professions (teachers and administrators) in education.

Nothing good comes from hiring a sub-par teacher or administrator. The effects of non-renewing an employee can have a rippling effect in the school and community. The students of North Dakota deserve the right to have the best possible teacher or administrator.

Thank you for the opportunity to submit this testimony. If I can respond to any questions, or if I can provide any more information that may be useful to you, I would be most happy to do so.

Testimony on HB 1358

By

Dr. M. Douglas Johnson, Assistant Executive Director—NDCEL

Chairman Freborg and members of the Committee, my name is Doug Johnson and I am the assistant executive director of the ND Council of Educational Leaders which represents North Dakota's school leaders. I am here to testify in opposition to HB 1358.

There are several reasons why the NDCEL opposes this bill. First, we believe that current law provides ^{for} ~~of~~ the non-renewal of those teachers and administrators hired after January 1st. The only difference between current law and HB 1358 is that current law requires the administrator to appropriately evaluate the administrator or teacher and, based on that evaluation determine whether or not to recommend to the board for renewal or non renewal of the individual's contract.

Current law, under 15.1-15.03 provides a process for non renewal which we think is fair and appropriate. It requires an evaluation upon which to base the non-renewal of an administrator. Further, it allows for the school board, based on a closed hearing of the proposed non renewal, to enforce the recommended non renewal. The passing of HB 1358 simply eliminates the evaluation process in the termination of an administrator's contract. What this means is that an administrator does not have to be evaluated during the period of the contract and is, essence, being released from the contract without ever there being a reason given for the why the contract was not renewed for the following year. It is our belief that all individuals should be given a reason for their non renewal, be allowed the right to a hearing process before a school board and have their non renewal based on that evaluation process.

It is our understanding that the basis of this bill is to allow schools to compensate for the lack of an appropriate pool of candidates when they have to hire an administrator or teacher on short notice after the first of January. It is our belief that is bill may have the opposite of its intended intent which is to allow districts time to fill a position by increasing the number of individuals in the hiring pool. Those applying for short term contracts may reconsider submitting their application if

they know they have no legal right to a release from their contract without cause and a hearing. This would actually decrease the number of applicants applying for positions which open after January first.

Mr. Chairman and members of the committee this completes my testimony. Thank you for your attention and I encourage you to give HB 1358 a Do Not Pass recommendation. I will be happy to answer any questions that you might have regarding this testimony.

Senate Education Committee

Re: HB 1358 Continuing contract after January 1st.

Date: March 1, 2005

The Honorable Layton W. Freborg
State Senator
State Capitol Building
600 East Boulevard
Bismarck, ND 58505-0360

Mr. Chairman and Members of the Senate Education Committee:

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looking for and the other two applicants had resigned mid-year from their current administrative positions. Due to the red flags that were raised, we decided not to fill the position with a qualified applicant and to cover the duties internally along with the help of a non-credentialed person.

In the short term, the approach we took was not the best for the students of Grafton High School, but the long term effects of the decision were educationally sound. We did not want to hire a high school principal with continuing contract rights for the following school year from the existing applicant pool.

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