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ROLL NUMBER

DESCRIPTION

1361

. 2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1361

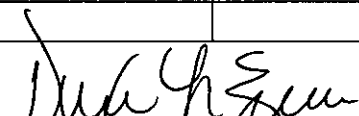
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1361

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/3/05

Tape Number	Side A	Side B	Meter #
1	x		0-22.7
Committee Clerk Signature 			

Minutes: HB 1361 Relating to confidentiality of teachers' fund for retirement records.

14 members present, 0 members.

**Rep. Meier-District 32-for-Bill** is on communication.

**Bill Kalanek-North Dakota Retired Teachers Association-for-Testimony Attached**

**Rep. Amerman:** Does this include PERS.

**Bill:** This is just for TFFR.

**Rep. Amerman:** We would be treating one organization different then the other?

**Bill:** The stipulation is the same under PERS right now, this affects retired teachers, this only concerns TFFR.

**Rep. Froseth:** TFFR has to approve the members list and probably would be helpful to know which members list has been approved by PERS. Which other organizations are there.

**Bill:** I can't speak on behalf of the other organizations, I can only speak about the teachers.

**Rep. Klemin:** What you really want to do is recruit, right. You want to be able to get there name and address, so you can send them information and know where they live, so you can recruit them, to join your organization.

**Bill:** That would be a by product of this legislation.

**Rep. Klemin:** That is really what this bill is all about, we have seen this bill before and I am sure Tom Tuppa and hearing Tom Tuppa say that is really want we want to do.

**Bill:** Yes, that is something we would benefit from.

**Rep. Klemin:** How does that differ from any other organization problem keeping up with there members? All organizations have to keep up with there member list, so they don't have to go to the government to help you out.

**Rep. Conrad:** What other services do you provide and how do you publish the workshops now?

**Bill:** Through mailing.

**Rep. Conrad:** So if someone isn't on your mailing list, they wouldn't get the information about the workshops.

**Bill:** Most of the information that we send out is informational.

**Fay Kopp-Deputy Executive Director ND Retirement and Investment Office-For**

**Chairman Haas:** Confidentiality of records, information and records may be disclosed under rules adopted by the board, does the board currently have rules for that and if this were to pass would you have to establish additional rules.

**Fay:** Yes, the board does have rules as it relates to confidentiality, we have rules and we have policies, we have contracts with these third party entities, a lot of it is already defined, however we would need to revamp that somewhat, to allow this to happen.

**Chairman Haas:** How cumbersome would it be for your agency to have a policy, or when a teacher retires, how cumbersome would it be to make an election process and to have each teacher say, yes I agree to have my information shared with the retired teachers association and then with computer systems the way they are, you could certainly screen the ones out that don't want it and those that want it could be on that list. It could be a result of a board policy.

**Fay:** I don't believe it would be a huge undertaking to provide that to type of election to our members who are getting ready to retire. We provide our teachers who are getting ready to retire with information packet.

**Chairman Haas:** Have you had any retired teachers complain to your agency about their personal information being shared or being available to other organizations or they got something they didn't expect and then concluded the information must have come from TFFR.

**Fay:** In the eighteen years I have been with TFFR, I can recall one incident that came directly to me and I did visit with the person they actually decided they were happy to get the information, but they were surprised that someone did have access. They were surprised and they were inquiring about it. I believe they were complaining.

**Rep. Klemin:** Complaints, certainly you wouldn't get complaints about TFFR disclosing participants name and address, because you are not allowed to that now. This would allow you to do that and I can see why you wouldn't be getting any complaints. I can see why you are not getting complaints, because of something you are not allowed to do, but if you are allowed to do this, that might change the whole thing quite a bit. We have a major thing in state and federal law that doesn't allow them to disclose those things.

**Chairman Haas:** Thank you very much. Any more questions?

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House Government and Veterans Affairs Committee

Bill/Resolution Number 1361

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The hearing will be closed on HB 1361.

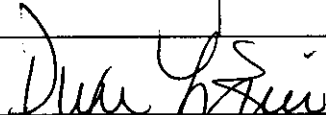
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO.HB 1361

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 2/10/05

Tape Number	Side A	Side B	Meter #
1	x		26.9-34.2
Committee Clerk Signature 			

Minutes: HB 1361 Relating to confidentiality of teachers' fund for retirement records.

14 members present, 0 absent.

Voting and Discussion:

**Chairman Haas:** Rep. Meier has an amendment that she would like to present at this time. Rep.

Meier are you moving the amendment for purposes of discussion.

**Rep. Meier:** I am moving the amendment for purposes of discussion.

**Chairman Haas:** Rep. Meier moved the amendment that you are receiving, to HB 1361, Rep.

Sitte did you second the motion.

**Rep. Sitte:** Yes

**Chairman Haas:** Seconded by Rep. Sitte, all in favor of the motion say I. What the amendment does it leaves the bill the way it is, so TFFR could provide participation name and address, but it puts some qualifiers on it. Discussion.

**Rep. Klemin:** I don't think the amendments really do anything here that is not already is being done, there is an agreement that they all sign now, that does exactly this. The thing is that they came in here and said well, we want to follow up on members we have lost or we can't get there address, but they acknowledged the real reason is they want to get name and addresses of people who are not members for recruiting purposes and I think it is one thing to say, well I don't have the address for Jane Doe could you give it to me and incidentally well you are at it, give the address of the other 2400 people we don't have. That is really going much to far, I think, I think the first responsibility of a member is to keep the organization notified of the change of address. I don't think the amendment adds anything that is already being done and it leaves it open for them to do exactly what I am concerned about.

**Chairman Haas:** Any more discussion.

**Rep. Meier:** Well, the amendments that I had drafted took care of the concerns that were expressed, I was hoping that these amendments would address the concerns.

**Chairman Haas:** Any further discussion? If not we will try a voice vote on the amendments, all in favor of the amendments to HB 1361, please signify by saying I, oppose say no, the motion carried. We now have the amended bill before us. What are your wishes.

**Rep. Kasper:** On line 7 of the bill, where it says the members participation, does this bill allow the organization to receive all of the members of TFFR, even if they are not participating in there organization, is that what that means?

**Chairman Haas:** Yes, that is correct, of TFFR.

**Rep. Kasper:** We have the organization, that maybe has a percentage of these retired people.

**Chairman Haas:** Exactly, it goes along with Rep. Klemin was saying.



**Rep. Kasper:** This is opening it up.

**Chairman Haas:** Absolutely, is there anymore questions, further discussion.

**Rep. Klemin:** I believe this is invasion of privacy, this allows them to get all the information, whether they are retired, who they are, where they live, even if that person doesn't want that information released, this will say, so what. We have gone a long way in protecting the privacy of the individuals and this is 180 degree turn around in that respect, to make this information available on request, when people don't want this. I think if there was a consent, but this statute that we are amending already has a provision in it calling for a consent. I have copies of that here, this statute relates to confidentiality of records and you can see under this statute, you only have subsection 7 of this bill, lets look at number 1, the information records may be disclosed under the rules adopted by the board, only to: 1. the person to whom the teacher has given written consent to have the information disclosed. What number 7 will do under this bill is say number 1 doesn't really apply anymore, because we are going to give that information without your consent, and in fact we are going to give that information despite your opposition.

**Chairman Haas:** The two sections conflict with each other.

**Rep. Klemin:** They do, there is nothing that says, certainly when someone retires, they can be asked, do you want to consent to the release of this information, or when they recruit a member for one of there organizations they could say, would you consent to us updating our records from time to time if we lose track of you. There are things like that, that could be done. They don't have to give them the names and addresses and the participation of everyone else, who is not there members and who doesn't want that information released and who has not consented under section 1.

**Chairman Haas:** Thank you Rep. Klemin for providing that information. Is there a motion on the amended bill.

**Rep. Klemin:** I move a Do Not Pass.

**Chairman Haas:** Rep. Klemin moves a Do Not Pass. Rep. Kasper seconded the motion, is there any further discussion, is there any further discussion. I would like to make a couple of comments. Number 1-We did have a conversation with Faye about the idea, when a teacher retires there is a lot of contact between the teacher and the TFFR board and our question to her was, how difficult would it be for you to put some type of consent clause on some papers that they deal with at that time. She said that that would not be too difficult. It would be manageable. The thing that would bring a little bit of difficulty would be if they had to go back and try to get a consent form from everybody that has retired, but it could be done a prospective fashion, the teacher could give or not give their consent and they could do that. Rep. Klemin has pointed out the law permits that. Number 2-I think it is important to note that we don't do this any other retirement program, it is probably a pretty good justification for maintaining consistency as a state with regard to what we do. Is there any other discussion on the Do Not Pass motion.

**Rep. Kasper:** The other thing that I think is important is that the organization could put some of their information, when the retired person retires in there and asking them if you want your names released, be sure to let the board know.

**Chairman Haas:** It would have to end up in the TFFR file, not in the organizational files. Any further discussion, if not we will ask the clerk to take the roll, on a Do Not Pass on HB 1361. The Do Not Pass motion, passes by a vote of 11 to 3 and none absent. Rep. Klemin will you carry this bill please?

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House Government and Veterans Affairs Committee

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**Rep. Klemin:** Yes.

**DISCUSSION ENDED.**

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House Government and Veterans Affairs Committee

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**Rep. Klemin: I move a Do Not Pass As Amended on HB 1361.**

**Rep. Kasper: I second.**

**VOTE: YES 11 NO 3 ABSENT 0 DO NOT PASS AS AMENDED**

**House Amendments to HB 1361 - Government and Veterans Affairs Committee**  
**02/11/2005**

Page 1, line 7, after "address" insert ", as provided in this subsection:

- a. Information and records may not be used to engage in any political activity or promote the candidacy of an individual or the adoption or defeat of a measure;
- b. Information and records may not be used to provide material to members of other organizations or entities;
- c. Information and records may be used only for the purpose for which they are requested and may not be used more than once per request; and
- d. Information and records may not be provided, sold, or otherwise disclosed by the member interest group to another entity"

Renumber accordingly

Date: 2/10/05  
Roll Call Vote #: 1

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

House House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50598.0101

Action Taken Do Not Pass As Amended

Motion Made By Rep KLEMIN Seconded By Rep KASPER

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas	✓		Rep. Bill Amerman	✓	
Bette B. Grande - Vice Chairman	✓		Rep. Kari Conrad	✓	
Rep. Randy Boehning	✓		Rep. Louise Potter	✓	
Rep. Glen Froseth		✓	Rep. Sally M. Sandvig	✓	
Rep. Pat Galvin	✓				
Rep. Stacey Horter	✓				
Rep. Jim Kasper	✓				
Rep. Lawrence R. Klemin	✓				
Rep. Lisa Meier		✓			
Rep. Margaret Sitte		✓			

Total (Yes) 11 No 3

Absent 0

Floor Assignment Rep Klemin

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

Klemin motion Do Not Pass Amendments

Kasper 2nd motion

**REPORT OF STANDING COMMITTEE**

**HB 1361: Government and Veterans Affairs Committee (Rep. Haas, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO NOT PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1361 was  
placed on the Sixth order on the calendar.

Page 1, line 7, after "address" insert ", as provided in this subsection:

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- d. Information and records may not be provided, sold, or otherwise disclosed by the member interest group to another entity"

Renumber accordingly

**2005 TESTIMONY**

HB 1361



**Testimony  
House Bill 1361  
House Government and Veterans Affairs Committee  
Bill Kalanek, North Dakota Retired Teachers Association  
Thursday, February 3, 2005**

Good morning Chairman Haas and members of the House Government and Veterans Affairs Committee. My name is Bill Kalanek and I represent the North Dakota Retired Teachers Association.

The NDRTA represents nearly 60% of the 5,000 plus retired educators in North Dakota receiving their annuity from the Teachers Fund For Retirement (TFFR). We are an independent, non-political association that centers around retirement and TFFR annuity issues. We do not provide nor do we sell our member database and we do not market products or services to our members.

House Bill 1361 would amend information disclosed to member interest groups approved and under rules adopted by TFFR to include the name and address of the member. Currently, we are limited to obtaining information concerning the members' death. We are requesting this change so we may better serve retired teachers by being able to update contact information according to the current TFFR record and send information to retirees in a more timely and efficient manner.

Because we do not have access to member names and addresses, we must work via a third-party to send information. TFFR provides contact information to the third-party processing contractor and we provide this third-party with our materials.

[www.aptnnd.com/rta](http://www.aptnnd.com/rta)  
P.O. Box 447  
Bismarck, ND  
58502-0447  
701-221-7766



*North Dakota Retired Teachers Association*

While we are able to send a general mailing to all retired educators, we do not know who they are or where they live. Additionally, NDRTA has 17 local retired teacher units located in ND. These local units have monthly meetings and seasonal educational workshops and would like to be able to contact all retired teachers in their areas to inform them of these events as well as contact and congratulate newly retiring educators. Local units often will contact NDRTA for this information, however we are unable to provide it since we cannot obtain or access the data from TFFR.

While we often send newsletters, educational materials and additional information (workshops, conventions, recruitment information) to all TFFR members including those who are not members of NDRTA, (using the data provided to the third party mailer), we also maintain our own membership database for regular mailing of information. Since TFFR is generally the first-source for retired educators updating their contact information, our members often think that updating their information with TFFR will also update NDRTA. Since we do not have access to TFFR member names and addresses, we cannot perform routine updates to our NDRTA database and therefore at times have incorrect member contact information, resulting in returned mail and members who did not receive our information.

HB 1361 will allow member interest groups approved by TFFR to better serve their members and all retired educators so they may remain informed and have access to educational and informational opportunities and the network of their peers.

Chairman Haas and members of the Committee, I thank you for the opportunity to testify before you this morning and ask you for a favorable recommendation on HB 1361.

## **HOUSE BILL 1361**

### **GOVERNMENT AND VETERANS AFFAIRS COMMITTEE**

**Fay Kopp, Deputy Executive Director  
ND Retirement and Investment Office  
February 3, 2005**

Under current state statutes, active and retired member retirement records are confidential and can only be disclosed to the member, a person the member has given written consent to, a person legally representing the member, or a person authorized by a court order. Limited disclosure of certain member information can also be provided to a member's participating employer, PERS, state or federal agencies, and member interest groups approved by the Board (death information only).

HB 1361 would slightly expand the exemption already provided to member interest groups approved by the Board and allow release of the TFFR member's name, address, and participation status (active, retired, deceased, etc.). Groups such as NDRTA, NDEA, and NDCEL would be able to receive mailing list information directly from TFFR.

The TFFR Board supports this bill.

### **15-39.1-30. Confidentiality of records.**

All records relating to the retirement benefits of a member or a beneficiary under this chapter are confidential and are not public records. The information and records may be disclosed, under rules adopted by the board, only to:

1. A person to whom the teacher has given written consent to have the information disclosed.
2. A person legally representing the teacher, upon proper proof of representation, and unless the teacher specifically withholds consent.
3. A person authorized by a court order.
4. A member's participating employer, limited to information concerning the member's years of service credit, years of age, employer and employee contribution amounts, and salary. The board may share other types of information as needed by the employer to validate the employer's compliance with existing state or federal law. Any information provided to the member's participating employer under this subsection must remain confidential except as provided in subsection 6.
5. The administrative staff of the public employees retirement system for purposes relating to membership and benefits determination.
6. State or federal agencies for the purpose of validating member eligibility or employer compliance with existing state or federal law.
7. Member interest groups approved by the board, limited to information concerning the member's death.

**Source:** S.L. 1987, ch. 224, § 1; 2001, ch. 169, § 5.