

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1371

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1371

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1371

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-26-05

Tape Number	Side A	Side B	Meter #
4		xx	4.3--5.5
Committee Clerk Signature <i>Pam Dever</i>			

Minutes: **Chair Keiser:** Let's look at HB 1371. This is an old friend. This will not help state employees, but political subdivisions employees will have collective bargaining available to them.

Rep. Ruby: I move a DO NOT PASS HB 1371.

Rep. Vigesaa: I second.

Rep. Amerman: I will have to oppose this.

VOTE: 9 - YES, 4 - NO, 1 - AB, PASSED

Rep. Nottestad will carry the bill.

FISCAL NOTE STATEMENT

House Bill or Resolution No. 1371

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

John Walstad
Code Revisor

Date: 1-26-05

Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1371

House

INDUSTRY, BUSINESS AND LABOR

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Not Pass

Motion Made By

Rep. Ruby

Seconded By

Rep. Vigesaa

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman		X
N. Johnson-Vice Chairman	X		Rep. T. Boe		X
Rep. D. Clark	X		Rep. M. Ekstrom		X
Rep. D. Dietrich	X		Rep. E. Thorpe		X
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes)

9

No

4

Absent

(1) Kasper

Floor Assignment

Rep. Nottestad

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

REPORT OF STANDING COMMITTEE (410)
January 27, 2005 7:39 a.m.

Module No: HR-18-1151
Carrier: Nottestad
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1371: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends DO NOT PASS (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING).
HB 1371 was placed on the Eleventh order on the calendar.

2005 TESTIMONY

HB 1371

House Bill 1371
Industry Business and Labor Committee
January 24, 2005

Chairman Kaiser and Members of the House IBL Committee,

My name is Tim Mathern. I am the Senator from District 11 in Fargo. I speak in support of HB 1371.

There is a right for working people to organize inherent in democracy, people making decisions in common about their future. There is a right to organize that comes from the belief that all persons have intrinsic worth, respecting this worth includes people making decisions about themselves and how they interact with their environment. In this case it is about their working environment.

HB 1371 institutionalizes this right to organize and promotes the intrinsic worth of people. I urge a do pass recommendation for HB 1371. Thank you.



NORTH DAKOTA
PUBLIC EMPLOYEES ASSOCIATION

3333 EAST BROADWAY AVE, SUITE 1220
BISMARCK, NORTH DAKOTA 58501-3396

701-223-1964
1-800-472-2698

AMERICAN FEDERATION
OF TEACHERS LOCAL 4660 AFL-CIO



EMAIL: comments@ndpea.org
WEBSITE: www.ndpea.org

TESTIMONY IN SUPPORT OF HB 1371

**Before the House Industry, Business and Labor Committee
North Dakota Public Employees Association, American Federation of Teachers, #4660
AFL-CIO
January 24, 2005**

Chairman Keiser, members of the House Industry, Business and Labor Committee, my name is Chris Runge and I am the Executive Director of the North Dakota Public Employees Association, AFT Local #4660. NDPEA supports HB 1371, a bill which would bring collective bargaining rights to political subdivision employees, a right now enjoyed by all other workers in the state of North Dakota.

But first, let me tell you what this bill does not do. This bill does not permit strikes. This bill does not repeal the right to work provisions of state law and this bill does not force the Legislature to spend more money outside the money appropriated by the Legislature. This bill does not take away the power of the Legislature to manage the resources of government nor does it place employers and employees in an adversarial position.

The right to association in the workplace is a right afforded to all workers in North Dakota except public employees and in this case, political subdivision employees. Collective bargaining, quite simply, is a democratic process of determining wages, hours of work, and working conditions with our employer. Collective bargaining will give public employees a real voice in the decisions that affect our jobs by allowing us to negotiate as equals with the state in determining our salary, benefits, and working conditions.

Quality Services from Quality People

Testimony

Collective bargaining for public employees is allowed in every state surrounding North Dakota and then some. Approximately twenty-eight states allow for collective bargaining for political subdivision employees. Some of the most innovative and effective worker involvement programs in this country are in the organized workplace. If the state, as our employer, wants to empower employees, if you want employees to be involved in discussions on how to make government more efficient, more responsive and more customer driven, then it is necessary for you to allow the employees to vote for meaningful representation through the process outlined in HB 1371.

Today, the political subdivision employees are asking you to afford them the same workplace rights afforded to those in the private sector, federal employees and K-12 educators; the right to choose through free and open democratic elections whether to be represented by a labor organization in order to negotiate employment contracts. I challenge you to open government up to workers and apply the law of the land to political subdivision employees.

North Dakota Century Code 34-12-02 provides, "Employees have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other lawful concerted activities for the purpose of collective bargaining or other mutual aid or protection, and also have the right to refrain from any or all of such activities and are free to decline to associate with their fellows and are free to obtaining employment wherever possible with interference or being hindered in any way." This is the law of the land for all citizens of North Dakota unless you happen to be a public servant. It is time to open the door to the democratic process for all public employees of North Dakota who provide quality services to our citizens.

NDPEA supports HB 1371 and urges a DO PASS. You will find attached a section by section explanation of the bill and I would be more than willing to go through each and every section of the bill if the committee would like. Thank you for the opportunity to testify in support of collective bargaining rights for political subdivision employees and I am available to answer any questions you may have.

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HB 1341 BILL EXPLANATION

Section 1 is the definitions section of the bill. Enclosed in this section are the definitions of those terms used throughout the legislation. It is in this section that an employee is defined.

Section 2 addresses an employee rights. This section specifically protects employees in their decision to either join or not join an employee organization.

Additionally, this section identifies as the exclusive representative that organization which has been recognized as the representative of the majority of employees.

Finally, this section provides that the exclusive representative shall bargain for all employees in the unit with respect to wages, hours and other conditions of employment even if those employees don't hold membership in the employee organization.

Section 3 addresses the duty to bargain. It is under this section, that the employer and the exclusive representative are required to meet and negotiate, in good faith, with respect to wages, hours, terms and other conditions of employment.

Section 4 is the management rights section. Under the provisions of this bill, management is protected from having to bargain over certain matters of inherent management policy. This section identifies those matters that the employer shall not be required to bargain including: overall budget levels, the direction of employees and the selection of new employees.

Section 5 Establishes the employment relations board.

Section 6 relates to the duties of the employment relations board. The employment relations board shall be responsible for carrying out the provisions of this Act. Some of the duties include: determining appropriate bargaining units, conducting representation elections, develop rules and regulations as necessary to carry out the board's functions and hold hearings and issue orders to enforce the board's rules.

Section 7 relates to elections and possible recognition of an exclusive representative. This section provides for a democratic process of elections to determine if employees want an employee organization to represent them for the purposes of collective bargaining. Employees are guaranteed the option of "no representation" on the secret ballot election.

Section 7 also outlines the procedure necessary to remove an employee organization as the exclusive representative of the employees. The removal of an exclusive representative is conducted through the same democratic secret ballot election process used to certify an agent.

Section 8 relates to unit determination for purposes of collective bargaining. This section sets into place guidelines to assist the employment relations board in determining appropriate bargaining units. The board, in their decision, is to take into account such things as: community of interest; administrative structure; the negative effect of over fragmentation; and wages, hours and other working conditions of the various employees.

Section 9 requires a grievance resolution process be part of the negotiated agreement to address disputes that may arise regarding the administration or interpretation of the agreement.

Section 10 identifies those activities that are unfair labor practices for both the employer and employee organization. It is this section that specifically prohibits strikes, work stoppages or slowdowns.

Section 11 sets into place the procedures to be followed by the employment relations board in investigating and dealing with charges of unfair labor practices.

Section 12 outlines the various time frames involved in negotiating an employment contract. If the Legislature is in session when the contract is ratified by the employees and negotiators, the Legislature will vote to either approve or reject the request for funds needed to implement the contract. If the Legislature is not in session, the request for funds will be submitted to a committee designated by the Legislative Council and that committee shall either approve or reject the request for funds necessary to implement the contract.

If the Legislature or Committee designated by the Legislative Council rejects the monetary funding requirements, the parties may reopen the contract and continue negotiations.

Section 13 relates to a mediation process. If after approximately four months of negotiating, an agreement is not reached, the parties involved may request or the employment relations board may appoint a mediator to assist the parties in reaching an agreement.

Section 14 relates to the arbitration process. If after fifteen days of mediation, an agreement is not reached, either party may request the assistance of an arbitrator. The arbitrator, after holding a hearing, shall issue an order and that order shall be binding on both the employer and the exclusive representative.

However, the Legislature, if it is in Session, or a committee designated by the Legislative Council, shall have final authority over the funds necessary to implement an agreement. If the Legislature determines, that there are insufficient funds to implement the arbitrator's award, the matter is returned to the parties for further bargaining.

Section 15 simply says that if the Legislature has not rejected the arbitrator's award, then the contract is implemented and the state shall fund the contract.

Section 16 states that this Act and collectively bargained agreements shall take precedence.

Section 17 makes it very clear that strikes, work stoppages and slowdowns are prohibited at all times.

Section 18 protects employees from having to work in unsafe work environments and allows individual employees to make decisions regarding continued employment with the state.

Section 19 allows the employers and exclusive representative to negotiate multi-year agreements.