

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
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ROLL NUMBER

DESCRIPTION

1407

2005 HOUSE POLITICAL SUBDIVISIONS

HB 1407

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1407

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date January 27, 2005

Tape Number	Side A	Side B	Meter #
1	x		0.2 to 20.8
3		x	29.9 to 39.2
Committee Clerk Signature <i>Lauren L. Fife</i>			

Minutes: **Rep. Devlin, Chairman** opened the hearing on HB 1407, A Bill for an Act to create and enact a new section to chapter 54-06 of the North Dakota Century Code, relating to a limitation on the expending of state funds to lobby the legislative assembly and the legislative council; and to provide a penalty.

Rep. Wesley Belter representing District 22 and prime sponsor on this bill introduced and spoke in support of HB 1407. The subject is a difficult subject to discuss and unravel. A week before when Rep. Belter returned to his home upon opening his mail Rep. Herbal, Vice Chairman had received a letter from a state official (whom he declined to identify). The letter was sent out to support a particular piece of legislation. In that letter there were statements asking him to garner support; we invite you to attend the hearing in support of this vital legislation; we encourage you to ask your legislators to support this bill; we also hope you will share this information with everyone you know who is interested in building a stronger North Dakota economy. No place on the letter was there a statement "Not paid at state expense". Nowhere on the envelope was there

"Not paid at state expense". That is, not to imply that it was paid with state funds but there was no disclaimer to that effect. His concern is that if state officials can send a mailing out -- whether 10 letters -- a 1000 or 10,000 letters --- but from a policy stand point -- if a state official can send out letters a state expense --- how do you as a policy maker overcome that type of lobbying effort? We (as legislators) have some self imposed rules. If we as legislators want to send out more than a given number of letters we have to get approval from leadership. There is a possibility of abuse. In know way do I intend to stop lobbying, to prevent press releases, to infringe on any speech rights -- if a state official wants to send out information about a given bill at their own expense --- that's fine. I wanted to bring this to the attention of the legislative branch for discussion.

Rep. Kaldor (4.0) Legislators obviously would not under this provision if it were passed -- I am wondering -- we often as legislators -- receive letters on legislation persuading us a particular way to vote or a note laid on our desk -- would these be a violation?

Rep. Belter : No

Rep. Ekstrom (4.8) We receive several tons of information on all issues -- Information Technology sent out a very slick piece of literature --- cost to the tune of \$14,000 to persuade us to put money into that kind of operation. I had a similar kind of objection to that kind of money being expended to --- any number of agencies may do that but is there any other way to get at this?

Rep. Belter : I don't think the issue is how much departments lobby us -- but my concern is if a state official uses public funding to lobby the general public -- you as a policy maker here in Bismarck and you are either for or against a bill --- and all of a sudden uou find out that a 1000

letters have been sent into your district that may support or may be opposed to your point of view and it is sent by a state official -- what recourse do you have as a policy maker to overcome that lobbying effort that was paid for with state expense. That is my concern because you as a legislator cannot send out a 1000 letters to explain your position at state expense.

Rep. Zaiser (6.7) I understand where you are coming from but how do you draw the line? -- between I don't see anything in this legislation -- would that include the use of a paper clip, --?

Rep. Belter : I am not sure -- it is within the infinite wisdom of this committee as to how to address that. If nothing else this bill is a 'shot across the bow'.

Rep. Koppelman (7.8) Looking at the provision of the bill that has to do with the clarification on line 11 having to do with -- about this bill is not intended to prohibit state officials to stay in place when appearing before a committee as long as they are asked to do that by a legislator or a committee to provide information --- do they do that on their own time? ?state time?

Rep. Belter : No problem with state officials coming up to lobby , state employees coming up and lobbying -- my issue the mass mailing targeted to certain group by a state official -- my thought as a state legislator are they doing that at state expense how do I as a policy maker respond to that political pressure that may be place on me because I can't respond at state expense.

Rep. Maragos (10.0) Is there a distinction between lobbying and promoting an issue? Is there a line there that gets pretty vague because they need to promote an issue when it is in the public good?

Rep. Belter : You make a valid point . I guess that in the 11 sessions that I have been here -- I can never recall receiving a letter from a state official in support of a particular piece of

legislation . I think in this particular case this was not a letter of information -- it was a letter of advocacy. I am not sure using state funds to advocate a piece of legislation from your department at state expense is necessarily good public policy -- I am concerned that it is dangerous public policy because you are using state funds. I don't have any problem with that state official if he is in Fargo, North Dakota and your are asked to speak and gets up and say may department sponsored a bill but it was the mail that concerned me.

Rep. Maragos (12.5) you wouldn't have been so concerned if Rep. Herbal, Vice Chairman put the letter on his own stationery and lobbied you. There would be no egregious activity of concern?

Rep. Belter : That is correct -- as long as they were paying for it at their own expense.

Rep. Kaldor : I find it difficult to draw a distinction because the language say 'may not expend state funds' -- you know state agencies -- the Health Department for one is often criticized that they are an advocacy organization -- how about the governor's office advocating for Centers of Excellence -- I didn't object -- I think it is his job but if I read the literal interpretation of this that would not be allowed.

Rep. Belter : You make a good point but I said that this is difficult subject to address.

Rep. Zaiser (14.5) Getting into the gray area again -- what about the use of phones like we do from the house floor.

Rep. Belter : I would not know how to control something like that but I would be concerned about political phone banks out of their office. That would be pretty dangerous territory to be in.

Rep. Zaiser (15.9) to a certain extent when we communicate with our constituents when they call up or when they e-mail us -- would that be a violation?

Rep. Belter: May be that is the way the language reads but that certainly is not the intent.

Note: there was more discussion exchanged between Rep. Zaiser and Rep. Belter on this point.

Rep. Maragos : (17.6) Not to belabor the are you aware of any mass mailings by a government agency or department that has had a disclaimer that state funds were not expended in this effort? -- was the letter that you thought was egregious -- was that an exception or had you on an occasion had these letters on a regular basis?

Rep. Belter : I can not think of a single instance where I have received a letter from a state official that so directly supported a single piece of legislation -- it was an absolute advocacy -- it was not an informational letter -- that is what prompted this.

Rep. Kretschmar (19.0) Was the letter address to you personally or was it 'dear citizen' ?

Rep. Belter : It was : "Dear Friends Of".

Rep.Devlin, Chairman (19.6) It said support or don't support a specific bill ?

Rep. Belter: yes.

Rep.Devlin, Chairman (19.7) We share your concern but I am not sure that as great as the committee is that we will find the proper answer. My pet peeve in the legislature is that many agencies say they are going to testify as a 'neutral' and the testify anything but neutral.

Rep. Belter : We had case of that the other day an my response was 'Thank you for your not so neutral testimony'.

There being no other testimony either for or against HB 1407, **Rep.Devlin, Chairman** closed the hearing on HB 1407. End (20.8)

Tape 3 Side b -- Work Session Rep.Devlin, Chairman opened the discussion on HB 1407

Page 6
House Political Subdivisions Committee
Bill/Resolution Number HB 1407
Hearing Date January 27, 2005

for committee action. **Rep. Koppelman** proposed an amendment suggesting that this bill would apply to state officials who are not legislators by changing the language in line 8. **Rep.**

Wrangham seconded the motion for the amendment to get some discussion. Upon a voice vote

Rep. Koppelman 's motion failed. The discussion centered around questions of good public policy. **Rep. Herbel, Vice Chairman** moved a 'Do Not Pass' motion for HB 1407. **Rep.**

Kretschmar seconded the motion. On a roll call vote the motion carried 8 yeas 1 Nay 3 absent. **Rep. Kretschmar** was designated to carry HB 1407 on the floor.

End of record (29.8) .

Date: January 27, 2005
Roll Call Vote:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1407

House POLITICAL SUBDIVISIONS

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Motion Made By

Seconded By

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

Total (Yes)

8

No

1

Absent

3

Floor Assignment

Rep. Kretschmar -

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

REPORT OF STANDING COMMITTEE (410)
January 28, 2005 7:59 a.m.

Module No: HR-19-1282
Carrier: Kretschmar
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1407: Political Subdivisions Committee (Rep. Devlin, Chairman) recommends DO NOT PASS (8 YEAS, 1 NAY, 3 ABSENT AND NOT VOTING). HB 1407 was placed on the Eleventh order on the calendar.

2005 TESTIMONY

HB 1407

HB 1407

January 27 2005

For the record I'm State Representative Wesley R Belter of District 22.

We are asking you to help garner support for this important legislation ---

We invite you to attend the hearing to show your support for this vital legislation.

We encourage you to ask your legislators to support this bill. We also hope you will share this information with everyone you know who is interested in building a stronger North Dakota economy.

No place on the letter could the statement be found, NOT PAID FOR AT STATE EXPENSE