

2009 HOUSE POLITICAL SUBDIVISIONS

HB 1049

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1049

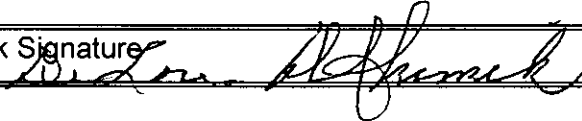
House Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: January 16, 2009

Recorder Job Number: 7122

Committee Clerk Signature



Minutes:

Chairman Wrangham opened the hearing on HB 1049.

Greg Wilz Deputy Director, Dept. of Emergency Services: The agency has no position on the bill. (see testimony #1).

Rep. Hatlestad: when they talk about special operations units does every county have this special operation or is it basically for big cities.

Greg: Not every county has the special operations teams. I believe there are six SWAT teams across the state. There are 3 or 4 dive teams. That is why mutual aid is so important so that teams are in place and most counties do not have a variety of expertise.

Rep. Zaiser: Is the original of this bill initiated by the legislative counsel?

Greg: The bill comes from a study that the task force did at the request of the interim public safety committee.

Opposition:

Paul Laney, Sheriff, Cass County: (See testimony #2)

Rep. Zaiser: How would this make this possible?

Paul Laney: The bill in consultation with the DTI these minimum standards would be set. We have already done that. Our requirements are very restrictive. The VCI has set the minimum

standards for SWAT. A four person team cannot come in and say they are a SWAT team. The standards are set and they are high.

Rep. Zaiser: Backing up a step, if you say this is working well and why would this have been drawn up?

Paul Laney: I do not know why it was drawn up. I know that there was law enforcement there, but I don't think there were any special operations there. It also affects canine and dive teams. This would affect the existing teams that we have in the state. We could not use them anymore then. We have volunteer groups and they could not be used anymore because they won't meet minimum standards.

Rep. Koppelman: On one hand you are saying the standards would be too strict and on the other hand you are saying low. Which is it?

Paul Laney: The standards are there for SWAT. They are there in the law enforcement community. The minimum standards are there and they are governed by the state and VCI. Explained use of people and funds and how they work throughout the state. Special Operations Units are working well throughout the state and are on call all the time. SWAT teams have special training.

Rep. Zaiser: The law doesn't allow SWAT teams or whatever to adapt to the situations that are small town vs. large town?

Paul Laney: Discussed what this would do to our smaller towns due to the strict requirements.

Rep. Headland: Do you believe the passage of this bill would impede local rural peace officers and recruiting and maintaining their workforce as needed?

Paul Laney: I think it would since the requirements are too strict and costly to get them certified. I think they would have to move to larger areas to get the SWAT team training and

cause problems with smaller communities. Said we do not have a problem so why create one.

Rep. Klemin: Discussed certified training and requirements. Seems like all the stuff that has been addressed is already covered in law? Under this advisory board in regards to special operations.

Paul Laney: You are trying to set minimum standards for us in small areas and you can't do that. We said no we are not setting minimum standards for when you should train. We are saying that to excess state or federal funds you have to reach this level so it just doesn't become another add on money. So it was brought before the post board and from the results they said we are not going to set these standards and tell smaller sheriff's what they can and can't do. Our Post board does a great job setting our standards and keeping us certified.

Rep. Hatlestad: The swat teams; you divided the state into six regions; is that right?

Paul Laney: We have only got six and they are: Red River, Fargo; Grand Forks Set Team; Minot team, West Dakota Swat, James River Team and the Dickinson team so we are pretty spread out throughout the state. Discussed various incidents and how they were handled.

Rep. Koppelman: Did you use mutual aid agreements to allow you to go into other areas and help and the only money available is at the state level?

Paul Laney: We utilize the mutual aid situation for incidents. We have had no issues with using this agreement.

Pat Heinort, Burleigh Co. Sheriff: I am here to ask you to kill the bill. I was here during the post war and chairman of the Post Board for two years so I can speak to Rep. Klemin's questions

Rep. Klemin: Tell us about the post board and what it does.

Pat Heinort: The post board is set by statutes and the members are two members representing the Post Board; two members representing the police departments; one member representing the ND highway patrol; member from the League of Cities, Members of the ND Association of counties and a member for the school districts. They set all the standards for SWAT teams. They chose not to and that they would go through the ND Peace Officers Special Operations and tie it to if you want to seek reimbursement for being called out you have to meet those standards. I set up teams that I know are qualified to handle each incident.

Rep. Zaiser: Would this change the standards for SWAT teams and local law enforcement people?

Pat Heinort: The normal everyday staff in rural communities would probably not meet the new standards.

Rep. Jerry Kelsh: When counties have an agreement they can go two ways; they can be paid by the issuing county who uses them; where does that money go?

Pat Heinort: In Burleigh County we turn the money back to the county general fund so I have to budget it through my own budget for a little extra.

Keith Witt: Chief of Bismarck Police Department: The sheriff's have covered things very well. Mr. Wilz said it was the intent to define what a SWAT team is so that the jurisdiction would be that it covers. Somehow that moved from defining what they were to defining the certifications. My concern as a chief is we establish our own levels and canines too and the FBI certifies our SWAT team. We have our own certifications and they are very strict. We have done that so now the state comes with their certifications so I think it is not necessary. The City of Bismarck has the liability for these teams when they are doing something so we do certify and train them to the level we think. Another level of certification could create another level of liability.

Rep. Zaiser: When the interim committee met was you or anyone else there?

Keith Witt: I think the department did do a good job of getting a cross section of representation.

Rep. Zaiser: Why weren't your opposition there when the bill was being drafted?

Keith Witt: I do not recall what happened there.

Rep. Koppelman: Where are the standards of a bomb squad?

Keith Witt: All the standards are understood within law enforcement. Swat teams and bomb squads are specialized.

Bill Brown, Minot Police : I was on swat for 18 years and was the commander for two years.

I want to address this from a training stand point. The FBI does have standards for a bomb squad. They have to be able to take certain training and use certain equipment. If they do not meet the standards set forth by the FBI they are not eligible for that training or equipment.

Swat teams for example the National Tactical officers association may have standards but they are set more as guidelines because in rural ND police officers operate differently than another area.

No neutral.

Hearing closed.

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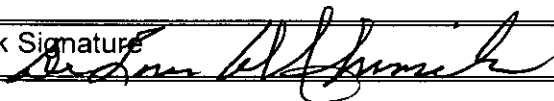
House Political Subdivisions Committee

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Hearing Date: January 22, 2009

Recorder Job Number: 7600

Committee Clerk Signature



Minutes:

Chairman Wrangham: reopened the hearing on HB 1049.

Do Not Pass Motion Made By Rep. Conrad Seconded By Rep. Klemin

Vote: 13 Yes 0 No 0 Absent

Carrier: Rep. Conrad

Hearing closed.

FISCAL NOTE
Requested by Legislative Council
12/08/2008

Bill/Resolution No.: HB 1049

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The POST Board receives no State appropriations.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Mark Sayler	Agency:	ND POST Board
Phone Number:	328-5509	Date Prepared:	12/09/2008

Roll Call Vote #: /

Date: 1-22-09

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1049

House Political Subdivisions

Committee

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Legislative Council Amendment Number _____

Action Taken

Do Pass

Do Not Pass

Amended

Motion Made By

Rep Conrad

Seconded By

Rep Klemin

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman	✓		Senator Kari Conrad	✓	
Rep. Craig Headland, Vice Chairman	✓		Senator Jerry Kelsh	✓	
Rep. Patrick Hatlestad	✓		Senator Robert Kilichowski	✓	
Rep. Nancy Johnson	✓		Senator Corey Mock	✓	
Rep. Lawrence Klemin	✓		Senator Steve Zaiser	✓	
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes)

13

No

0

Absent

0

Floor Assignment

Rep. Conrad

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

REPORT OF STANDING COMMITTEE

**HB 1049: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends
DO NOT PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1049 was
placed on the Eleventh order on the calendar.**

2009 TESTIMONY

HB 1049

#1

TESTIMONY - HB 1049
HOUSE COMMITTEE – POLITICAL SUBDIVISIONS
JANUARY 16, 2009
BY GREG WILZ
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Mr. Chairman and members of the committee, my name is Greg Wilz. I am the Deputy Director of the Department of Emergency Services (NDDDES) and Director of Homeland Security for the state of North Dakota. Today I am here as a representative of the task force established at the request of the interim Public Safety Committee. The Public Safety Committee asked that the task force be established to request improvements to emergency services by adding organizational changes, system upgrades, process or protocol changes, and statutory changes to ensure the future viability and capability of emergency services in North Dakota. My intent is to provide background information as was discussed within the task force and not to take an agency position on HB 1049.

The task force spent considerable time studying key issues involved with improving response in North Dakota. In addition to better training, expanded access to training, and more sustainable funding models to support training, members felt establishing standards for special operation units is an important component in upgrading response.

Training to standards is a reasonable concept and aligns with the national incident management system established through Homeland Security Presidential Directive (HSPD) 5. Standards promote interoperability which allows teams to more seamlessly respond in unison, provide back-up, and serve in replacement roles during extended events.

One of the most important aspects of response resulting from incorporation of standards is trust. It inspires confidence in responders that the incident commander, with whom they are unfamiliar, is technically and tactically proficient and will safely deploy them and their equipment. Trust allows the incident commander, who assumes operational control of unknown responders, to position personnel in specific situations across jurisdictional boundaries with the confidence they will perform to certified capability levels.

The ability to successfully integrate human resource capabilities is the single most important element in achieving desired response outcomes. True integration is virtually impossible without certification of various standardized levels of performance.

Thank you, I will try to answer any questions you may have.

#2

TO: Political Subdivisions Committee
FROM: Paul D. Laney, Sheriff, Cass County Government
RE: HB 1049 Duties of the P.O.S.T Board to establish Special Operations Standards
Date: Friday January 16, 2009

Good Morning Mr. Chairman and Representatives of the Political Subdivisions Committee. I am Paul D. Laney and I am the Sheriff of Cass County and I am here to oppose this bill.

This bill is a bad bill for North Dakota Law Enforcement. The current minimum standards set forth by the North Dakota Peace Officers Association Special Operations Committee (NDPOA SOC) was designed to allow large agencies with SWAT teams to assist smaller agencies without SWAT teams but recoup their expenses through a state fund managed by the Attorney General's Office. The fund has worked very well. It allows smaller agencies to call one of the six teams in the state to respond to their incident and assist in solving their problem.

What the minimum standards doesn't do, is limit smaller agencies from training their officers and deputies in entry tactics, room clearing tactics and active shooter response. The ability for smaller agencies to train their personnel in SWAT tactics without maintaining a SWAT team is critical to their ability to respond to active shooter situations at a school or business. It also allows them to train to serve search warrants in drug cases or other situations where a quick entry is needed, but the skills and training of a full SWAT team are not needed. This bill would prohibit smaller agencies from developing these smaller squads of specially trained personnel. It would also prohibit the use of certain K9 units and Dive Teams from around the state.

The setting of minimum standards as a statute hurts law enforcement far more than it helps law enforcement. There currently isn't a need to change a process that is working very well. Smaller agencies have access to a fully trained SWAT team if they need them, yet they have the ability to train smaller groups of officers and deputies in SWAT tactics to further their response skills and train them to better prepare for a critical incident in their community. A statute that would make it illegal to do this is a setback for North Dakota Law Enforcement and their ability to provide for public safety.

I urge you to defeat this bill.