

2011 HOUSE POLITICAL SUBDIVISIONS

HB 1251

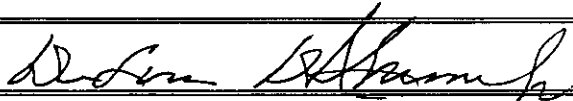
2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

HB 1251
February 10, 2011
Job # 14339

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill:

Relating to the joint exercise of police powers and cooperative agreements among peace officer agencies.

Minutes:

Testimony #1, 2

Chairman Johnson: Opened the hearing on HB 1251.

Rep. Koppelman: This bill was introduced at the request of the West Fargo Police Department and also at the request of some other law enforcement entities in our part of the state. Sometimes when joint powers agreements have been entered into sometimes there are questions to the authority of the people coming from somewhere else and operating in an area beyond their jurisdiction. Liability protection is also in question. We are particularly talking about people from other states and that seems to be where the rub seems. I don't think there is a problem with joint powers with entities within our state as far as I know. If the Cass County sheriff's department calls the Clay County Sheriff's department from Minnesota or the Moorhead police department from Minnesota in to help with something; the sheriff's opinion is he has to deputize them to make sure they have the authority they need and also the liability protection. I have talked to the ND Attorney General's office about changes in the bill. I believe they have an amendment that they want to present so I would certainly consider a friendly amendment. That will put the bill that was lifted from language from Minnesota law into the ND statute we would want to us. I would like to also add an emergency clause because with the impending threat of floods and other potential disaster this spring I think it would be really nice to have this authority in place.

Mike Reitan, Assistance Chief of the West Fargo Police Department: (See testimony #1).

Rep. Klemin: The way this bill is written it sounds like the Chief of Police of West Fargo could enter into an agreement with some other entity to do these things, but I am wondering if he is really the appropriate person to be entering into multijurisdictional type agreements. Would it be more appropriate if the governing body of the community was doing that instead of someone who is the head of a department?

Mike Reitan: When we write the MOU we do have the mayor and city administrator sign that and the county has the county administrator and the chairman of the board. So following the MOU model that was developed by the state; we do have the legislative body our representative government making that decision.

Rep. Koppelman: Mr. Reitan, you deal mostly with Minnesota when we are talking about other states. You also mentioned South Dakota and Montana. We mentioned the fact we have reciprocity with Minnesota. Who about those other states?

Mike Reitan: I have not checked with South Dakota to see if there was a reciprocity type agreement.

Rep. Shirley Meyer: When a jurisdiction calls in the others in a situation who ends up being the boss. Just relating to having been involved in a huge fire one time. One of the problems that kept cropping up was who the boss was. Whoever is in charge can delegate all the paperwork to the guys who aren't in charge. When you call someone in are you the boss?

Mike Reitan: Under the ICS and that is basically how these MOU's are written, the local jurisdiction maintains control of what is going on. Even when the SWAT team goes out into Barnes County it is the Barnes County Sheriff's office that has the control of the situation. It is their jurisdiction and the SWAT team is a tool in the sheriff's bag. A number of years that is who it did end up so now these agreements are much better. They may defer control to somebody that is more qualified.

Rep. Shirley Meyer: Who is responsible for the paperwork?

Mike Reitan: It follows the jurisdiction much like FEMA. Our wages are bills where the incident is happening as per the agreement. They in turn attempt collection through FEMA.

Rep. Hatelstad: You have a SWAT team; I assume you have a chain of command. Someone has to be in charge of the SWAT team. Let's say they come from Fargo to West Fargo are you still in command or do you turn it over to the SWAT commander?

Mike Reitan: West Fargo maintains control of that incident. The SWAT team commander has operational control of his team.

Rep. Zaiser: Many departments would be involved in a major occurrence. That could mean the police chief, fire chief or SWAT commander. How do you tell which group is in charge?

Mike Reitan: Depending on the nature of the incident it falls back to the appropriate area of expertise. Under the ICS there is a higher archery as far as roles and responsibilities. It could change thorough out that incident. Maybe it started out has a has mat incident, it was a derailment and the fire fighters are there to take care of that and the fire fighters are there to take care of that. Once they have taken care of that now we realized that someone had strapped a derailed onto the rail; that was a criminal act so now the control shifts toward that criminal investigation.

Rep. Zaiser: that seems to be a lot of gray area as to when that would change.

Mike Reitan: Under the ICS there is a formal change of command.

Ken Sorenson, Ass't Attorney General of ND: I helped prepare these amendments to this bill. (See proposed amendment #2). Went over the amendment.

Rep. Koppelman: Should this be broader? What about other public safety like fire departments or ambulances?

Ken Sorenson: With peace officers you can have that post board license but your jurisdiction is limited to your employing agency so if you are a Bismarck police officer your jurisdiction is the city of Bismarck and 1.5 miles out on a high speed pursuit. Beyond that you are acting in a capacity as a citizen.

Rep. Koppelman: If there is a big fire in West Fargo and the Fargo and Casselton Fire department come to help and those things happen regularly there is no question on the authority of liability or any of these other things we are talking about.

Ken Sorenson: I think under our joint powers they could deal with that. It is nice because it does address the requiring approval of a governing body and who is in charge.

Rep. Koppelman: for this to operating would an MOU have in existence between the respective parties or would this statute allow it to just trigger in emergency circumstance regardless if there is one or not?

Ken Sorenson: This bill is going to peace officer authority because we want to give an officer from another jurisdiction the same authority as an officer in the jurisdiction in which they shall be assisting. We don't have EMS jurisdictional issues that we do with law enforcement.

Rep. Koppelman: If you are a neighboring law enforcement entity and you are called in to help a neighbor this bill if it becomes law would facilitate that, but would you still need to have MOU with the neighboring body to say if this ever happens this is how that is going to work?

Ken Sorenson: That is part two of the bill. It does use the language and established policies and enter into agreements.

Rep. Koppelman: Would you need to do that or you could do that if you wanted to?

Ken Sorenson: I think they could still respond without it by policy. Maybe we should say policies or agreements. I have policies and agreements. This bill won't do us a whole lot of good if doesn't come into effect until August 1 so an emergency clause is advisable.

Chairman Johnson: The AG's office is coming in support of the bill with the amendments.

Ken Sorenson: We are in favor of the bill as amended but we would take a neutral position on it.

Rep. Klemin: The language that you are amending that goes into Section 1 says that you may enter into an agreements with the approval of the governing body etc. I just thought I heard you saying in Section 2 you don't need those agreements; you can just go ahead and do it.

Ken Sorenson: I am trying to take both sections of this bill; one had the formalized joint powers type language and part two is the interagency cooperation. The joint powers goes as high as the governing bodies; more formal long term agreements. Part two is again taken from a Minnesota statue for a more immediate response type of situation or emergency as opposed a long term standing arrangement. I read section 2 of the Minnesota statue to deal with that. You get a call; can you be here type of situation. We have a number of other statues covering police responses with highway patrol but this part two just carries out the other part of the code. It says peace officers can respond at the request of other agencies in violations of the law.

Rep. Klemin: that being the case why do we need Section 1? When would this come up other than in a singular event?

Ken Sorenson: It is more a long standing; not a singular emergency type of response. Part 2 deals with the more singular type of response. Maybe a onetime situation.

Rep. Hatelstad: Does this apply to reservations as well?

Ken Sorenson: Working with the reservations is a whole different area. We do have in our peace officer standards and training statue and in another part of the code provisions for contracting with tribal authorities and providing for tribal peace officers to get licensed and enforce ND law. This does not address that at all.

Chairman Johnson: In my local area do they have a joint powers agreement? The SWAT team from Bismarck and Minot came in when we had an incident. Did those entities had they prior put together those joint powers agreement?

Ken Sorenson: I am not sure what they have done. Maybe without an agreement may be the sheriff used a special deputy authority or how they did that. We do have the statue that says singular instances and officer from another district can come and assist.

Mike Reiten: Rep. Klemin you questioned why it was that we needed section 1. A number of areas in the state have joint task force dealing with drugs or other serious crimes and when they enter into those agreements whether it is here in Burleigh County or Cass County the sheriff is cause to deputize them to give them that statutory authority and we are not quite sure that is a clean way to do it where this Section 1 of the amended portion of the bill here would provide that authority for those joint task forces that operate on a daily basis throughout the state whether it is the Northwest Drug Task Force. It would be for those joint operations to be able to go to the different parts of the state now.

Opposition: None

Hearing closed.

Rep. Koppelman made a motion to adopt the amendments presented by the Attorney General's office with the one change in the segment on Page 1, Line 22 replacing the and with an or. Also that we would add the emergency clause. Seconded by Rep. Beadle

Voice vote carried.

Do Pass As Amended Motion Made by Rep. Koppelman: Seconded by Rep. Beadle

Vote: 14 Yes 0 No 0 Absent Carrier: Rep. Zaiser:

Hearing closed.

February 10, 2011

VR
2/11/11
182

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1251

Page 1, line 1, replace "12-63" with "44-08"

Page 1, line 2, replace "44-08" with "54-40.3"

Page 1, line 2, remove "the joint exercise of police powers"

Page 1, line 3, remove "and"

Page 1, line 3, replace "peace officer" with "criminal justice"

Page 1, line 3, after "agencies" insert "; and to declare an emergency"

Page 1, remove lines 5 through 18

Page 1, line 24, replace "for" with "and a state or local criminal justice agency of this state may establish policies and procedures or enter agreements with other criminal justice agencies of this state to:"

Page 2, line 1, remove "Assisting other peace officers in the line of the other peace officer's duty and"

Page 2, line 2, replace "within the course of the other peace officer's employment" with "Assist other state and local criminal justice agencies"

Page 2, line 3, replace "Exchanging" with "Exchange"

Page 2, line 3, after "the" insert "criminal justice"

Page 2, line 3, after "another" insert "criminal justice"

Page 2, line 3, remove "or"

Page 2, line 4, remove "office"

Page 2, line 5, replace "The" with "A criminal justice"

Page 2, line 5, remove "or office"

Page 2, line 5, replace "agents" with "officers"

Page 2, line 6, replace "geographic area within the" with "criminal justice"

Page 2, line 7, remove "or office's"

Page 2, line 8, remove ", or to a parole"

Page 2, line 9, remove "or probation agent,"

Page 2, line 10, replace "appointive or elected agency or office" with "employing criminal justice agency"

Page 2, after line 18, insert:

"SECTION 2. A new section to chapter 54-40.3 of the North Dakota Century Code is created and enacted as follows:

Joint exercise of police power.

A state or a local criminal justice agency of this state, with the approval of its governing body, may enter an agreement in the manner provided in section 54-40.3-01 with another state or a political subdivision of another state, for the joint exercise of peace officer duties. A peace officer acting under an agreement pursuant to this agreement must be licensed under chapter 12-63, or if the peace officer is from another state, the officer must be licensed or certified by the other state's licensing or certifying authority. A peace officer acting under an agreement pursuant to this section has full peace officer authority in any jurisdiction that is a party to the agreement. Before an agreement entered under this section is effective, the governing body for each criminal justice agency must have approved the agreement and the attorney general must have determined the agreement is legally sufficient.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 2-10-11
Roll Call Vote #: 7

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1251

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt
Amendment

☐ Rerefer to Appropriations ☐ Reconsider _____

Motion Made By Rep. Koppelman Seconded By Rep. Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Kilichowski		
Vice Chairman Hatelstad			Rep. Shirley Meyer		
Rep. Beadle			Rep. Mock		
Rep. Devlin			Rep. Zaiser		
Rep. Heilman					
Rep. Klemin					
Rep. Koppelman					
Rep. Kretschmar					
Rep. Maragos					
Rep. Pietsch					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Voice
Vote
carried!*

Date: 2-10-11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1251

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Koppelman Seconded By Rep. Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Kilichowski	✓	
Vice Chairman Hatelstad	✓		Rep. Shirley Meyer	✓	
Rep. Beadle	✓		Rep. Mock	✓	
Rep. Devlin	✓		Rep. Zaiser	✓	
Rep. Heilman	✓				
Rep. Klemin	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Pietsch	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Zaiser

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

REPORT OF STANDING COMMITTEE

HB 1251: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1251 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "12-63" with "44-08"

Page 1, line 2, replace "44-08" with "54-40.3"

Page 1, line 2, remove "the joint exercise of police powers"

Page 1, line 3, remove "and"

Page 1, line 3, replace "peace officer" with "criminal justice"

Page 1, line 3, after "agencies" insert "; and to declare an emergency"

Page 1, remove lines 5 through 18

Page 1, line 24, replace "for" with "and a state or local criminal justice agency of this state may establish policies and procedures or enter agreements with other criminal justice agencies of this state to:"

Page 2, line 1, remove "Assisting other peace officers in the line of the other peace officer's duty and"

Page 2, line 2, replace "within the course of the other peace officer's employment" with "Assist other state and local criminal justice agencies"

Page 2, line 3, replace "Exchanging" with "Exchange"

Page 2, line 3, after "the" insert "criminal justice"

Page 2, line 3, after "another" insert "criminal justice"

Page 2, line 3, remove "or"

Page 2, line 4, remove "office"

Page 2, line 5, replace "The" with "A criminal justice"

Page 2, line 5, remove "or office"

Page 2, line 5, replace "agents" with "officers"

Page 2, line 6, replace "geographic area within the" with "criminal justice"

Page 2, line 7, remove "or office's"

Page 2, line 8, remove ", or to a parole"

Page 2, line 9, remove "or probation agent,"

Page 2, line 10, replace "appointive or elected agency or office" with "employing criminal justice agency"

Page 2, after line 18, insert:

"SECTION 2. A new section to chapter 54-40.3 of the North Dakota Century Code is created and enacted as follows:

Joint exercise of police power.

A state or a local criminal justice agency of this state, with the approval of its governing body, may enter an agreement in the manner provided in section 54-40.3-01 with another state or a political subdivision of another state, for the joint exercise of peace officer duties. A peace officer acting under an agreement pursuant to this agreement must be licensed under chapter 12-63, or if the peace officer is from another state, the officer must be licensed or certified by the other state's licensing or certifying authority. A peace officer acting under an agreement pursuant to this section has full peace officer authority in any jurisdiction that is a party to the agreement. Before an agreement entered under this section is effective, the governing body for each criminal justice agency must have approved the agreement and the attorney general must have determined the agreement is legally sufficient.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2011 SENATE JUDICIARY

HB 1251

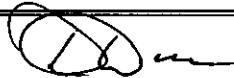
2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1251
3/9/11
Job #15190

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to cooperative agreements among criminal justice agencies

Minutes:

There is attached testimony

Senator Nething – Chairman

Mike Reitan – Assistant Chief, West Fargo Police Dept. – See written testimony.

Senator Nething – Asks if these agreements would be entered into annually or as needed.

Reitan – Says they are to be reviewed annually to make sure they are current. The Memorandum of Agreements within the state of ND would be entered on the agency level. Those between Minnesota, SD, Montana would have to go through a governing body for signatures and be approved by the Attorney General.

Senator Lyson – Ask if someone comes in from Minnesota to help in Fargo and they are cross-deputized by the Sheriff don't they have the same authority as any deputy sheriff in that county.

Reitan – Says as he reads that it is unclear. Cross deputization requires that the individual operate under the direct supervision of one of the officers with the department in which they have been cross deputized.

Senator Lyson – Doesn't see where the arguments are and wonders if we are not adding something that will bog down things.

Reitan – Responds saying he sees this as cleaning things up. He explains how it works and how they do it in emergency situations.

Senator Lyson – Asks if there are any other law enforcement people coming in to testify on the bill.

Senator Sitte – Asks if there has been problems or if this is being done in a precautionary mode.

Reitan - Responds that it is a question of current liability. It is more precautionary but also cleans up the way things are being done. He explains what it doesn't cover.

Senator Lyson – Says the liability for an officer sent from another city falls back to the home agency under this.

Senator Nelson – Asks about the people coming over from Minnesota, is the problem coming cross border.

Reitan – Replies the bill was fashioned after what is in existence from Minnesota that allows reciprocity with licensing. The Attorney General's office rewrote the bill that was introduced to move it into the Mutual Aid portion of the Century Code. He says the law is very specific in that the officer has authority within the jurisdiction to which they were sworn. It does not indicate anywhere that we can take that authority and move it to another jurisdiction and act like a licensed peace officer. He says there are some limited exceptions.

Senator Sitte – States current law protects your authority and asks if this bill may have unintended consequences.

Reitan – Responds that the jurisdiction receiving the aid retains control of the situation. None of that has changed to remove any of the local authority from any type of incident.

Senator Olafson – Asks if there is cost sharing.

Reitan - Says under the mutual aid agreement they are following the draft of NDES that has steps set out for reimbursement either through a national emergency or when agencies work together and share the resources.

Senator Olafson – Asks if passing this bill would make that run more smoothly.

Reitan – Replies, yes it would. Having that agreement in place before the event happens would make it much easier.

Representative Koppelman – District 13 – He says there appears to be a need for this. Neighbors help neighbors and simply clearly outlined and cared for in the law.

Senator Sorvaag – Clarifies that this bill originated by local law enforcement, not just W. Fargo.

Rep. Koppelman – Said he first heard about the problem from Chief Lanney in Fargo. Local law enforcement is very supportive.

Ken Sorenson – Assistant Attorney General's Office – AG's office did work on amendments. He speaks of a problem dealing with Minnesota law. He says only a Sheriffs Dept. has the authority to make those special deputy appointments. It doesn't apply to city police or state wide law enforcement agencies. He breaks it down by section and explains.

He said there is no such thing as cross-duputization and there is no such thing. It is a special deputy appointment. This clarifies that peace officers going into another jurisdiction will have the same authority as an officer from that jurisdiction. He explains the sections of the bill and proposes an amendment.

Opposition – 0

Close the hearing on 1251

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1251
3/21/11
Job #15775

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to cooperative agreements among criminal justice agencies.

Minutes:

Senator Nething – Chairman

Committee work

Committee discusses the amendment brought in. Senator Lyson asks why this is needed and thinks it works as it is. He questions why no other law enforcement came in to testify. Senator Sorvaag said he was talked to by Sheriff Laney and they do want this to happen. Senator Nelson said they work with Minnesota and this would formalize the chain of command. Senator Olafson said this is a voluntary agreement and if some law enforcement agencies choose not to use it they don't have to.

Senator Nelson motions to adopt the amendment

Senator Sorvaag seconded

Verbal vote – all yes

Senator Olafson moves a do pass as amended

Senator Nelson seconded

Discussion

Senator Lyson reiterates that no one showed up.

Roll call vote – 4 yes, 2 no

Motion passes

Senator Sorvaag will carry

PROPOSED AMENDMENT TO HB 1251

Page 2, line 12, replace the second "agreement" with "section"

Date: 3/21/11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1251

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Nelson Seconded By Senator Sorvaag

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman			Carolyn Nelson		
Curtis Olafson - V. Chairman					
Stanley Lyson					
Margaret Sitte					
Ronald Sorvaag					

Total (Yes) _____ No _____

Absent _____

Floor Assignment Senator

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

Verbal - all yes

Date: 3/24/11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1251

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Olafson Seconded By Senator Nelson

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman	X		Carolyn Nelson	X	
Curtis Olafson - V. Chairman	X				
Stanley Lyson		X			
Margaret Sitte		X			
Ronald Sorvaag	X				

Total (Yes) 4 No 2

Absent _____

Floor Assignment Senator Sorvaag

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

REPORT OF STANDING COMMITTEE

HB 1251, as engrossed: Judiciary Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1251 was placed on the Sixth order on the calendar.

Page 2, line 12, replace the second "agreement" with "section"

Renumber accordingly

2011 TESTIMONY

HB 1251

Political Subdivisions
House Bill 1251 (2011)

Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

Good Morning

Chairperson Johnson, Vice Chair Hatlestad and members of the Committee, for the record my name is Mike Reitan, Assistant Chief of the West Fargo Police Department. I am testifying today in support of House Bill 1251.

Section one of the bill before you today would allow for the license or certification of a peace officer in one jurisdiction to transfer forward and allow the peace officer full and complete authority as a peace officer into another jurisdiction when specific conditions are met.

The two law enforcement jurisdiction must have first executed an agreement relating to the exercise of police powers. The individual peace officer must also have successfully completed a professionally recognized peace officer training program. And the individual peace officer must be licensed or certified in the jurisdiction from where they come.

For my department, as an example, it is necessary to combine peace officers from several agencies to effectively staff the Red River Regional Special Operations Group. The teams within the group include Special Weapons and Tactics (SWAT); Bomb Squad; Hostage Negotiators; and Dive Rescue. We must draw upon peace officers from Minnesota and North Dakota to properly staff our teams or we could not do the mission.

Minnesota statutes allow currently licensed and sworn North Dakota peace officers to go into Minnesota under a mutual aid agreement and act as peace officers. In North Dakota, Cass County Sheriff Paul Laney deputizes the Minnesota peace officers. The peace officers become special deputies and are restricted in their law enforcement duties.

As chapter 12-63 of the North Dakota Century Code is currently written it appears a peace officer is restricted to perform peace officer duties only within the jurisdiction they are employed with a few limited exceptions. To restrict or prohibit the utilization of licensed and qualified peace officers is truly unnecessary. The new section of chapter 12-63 of the North Dakota Century Code created by this bill would remove the requirement of deputizing the peace officers and provide a bright line for a peace officer's authority.

Section two of the bill would grant the authority to a law enforcement agency to establish policies or enter agreements with another agency to assist in peace officer duties on a temporary basis. Agencies would be allowed to exchange peace officers with another jurisdiction to meet operational objectives of the receiving jurisdiction. Under the agreement, peace officers loaned to another jurisdiction would retain their powers as a fully licensed peace officer.

Section 44-08-20 subsection 3 of the North Dakota Century Code currently allows a peace officer to respond to requests from other agencies or officers for aid and assistance. Such a request from an agency or officer means only a request for assistance as to a particular and singular violation or suspicion of violation of law, and does not constitute a continuous request for assistance outside the purview of the jurisdiction of the law

Political Subdivisions

House Bill 1251 (2011)

Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

enforcement agency by which a peace officer is employed. Once the immediate emergency is done the assisting peace officer no longer has authority.

Recent events within North Dakota have taxed agencies and stretched available resources very thin. A flood event, a hazardous material spill, a major crime can divert resources to handle the particular event for hours, days and even weeks. Agency administrators are faced with the decision of what services normally provided they will need to cut.

Under the proposed legislation a group of Stark County peace officers could be loaned to the Williams County Sheriff on a temporary assignment to conduct an emergency response operation. They could provide for an increase in manpower during a surge in operations that would normally leave Williams County understaffed. The Stark County peace officers could also conduct routine peace officer duties for Williams County in the absence of the Williams County officers as they attend to other matters.

This bill is based on a strong North Dakota tradition. Neighbor agencies will be allowed to come to the aid of neighbor agencies with the manpower necessary to overcome any obstacle. Resources can be allocated and utilized to conduct the sustained operations of a unique event while still providing for the continuation of services in the community.

I respectfully ask for your support of House Bill 1251 and the recommendation from this committee of a do pass.

Thank you for your time this morning and I will take any questions you may have.

Assistant Chief Mike Reitan
West Fargo Police Department
800 4th Ave E
West Fargo, 58078
701-433-5500
fax 433-5508
mike.reitan@westfargond.gov
FBINA202

#2

PROPOSED AMENDMENT TO HOUSE BILL 1251

Page 1, line 1, replace "12-63" with "54-40.3"

Page 1, line 2, replace "police" with "peace officer"

Page 1, line 3, replace "peace officer" with "criminal justice"

Page 1, line 5, replace "12-63" with "54-40.3"

Page 1, after line 7, insert: A state or local criminal justice agency of this state, with the approval of its respective governing body, may enter into an agreement in the manner provided in Section 54-40.3-01 with another state or local criminal justice agency of this state, or with another state or a political subdivision of another state, for the joint exercise of peace officer duties. A peace officer acting under an agreement pursuant to this agreement must be currently licensed under chapter 12-63, or if the peace officer is from another state, the officer is currently licensed or certified by the other state's licensing or certifying authority. A peace officer acting pursuant an agreement under this section has full peace officer authority in the jurisdictions that are parties to the agreement. Before an agreement entered into under this section is effective, the respective governing body of each criminal justice agency must approve the agreement and the attorney general must determine the agreement is legally sufficient.

Page 1, remove lines 8 through 18

Page 1, Line 22, replace "Any appointive or elective agency or office of peace officers, as defined in section" with "A state or local criminal justice agency of this state may establish policies and procedures and enter into agreements with other criminal justice agencies of this state to:"

Page 1, remove lines 23, 24

Page 2, line 1, replace "Assisting other peace officers in the line of the other peace officer's duty and" with "Assist other state and local criminal justice agencies"

Page 2, line 2, remove "within the course of the other peace officer's employment"

Page 2, line 3, replace "Exchanging" with "Exchange", after "the" insert "criminal justice". after "another" insert "criminal justice", remove "or"

Page 2, line 4, remove "office"

Page 2, line 5, replace "The agency or office" with "A criminal justice agency", replace "agents" with "officers"

Page 2, line 6, replace "geographic area within the" with "criminal justice"

Page 2, line 7, remove "or office's"

Page 2, line 8, remove ", or to a parole"

Page 2, line 9, remove "or probation agent,"

Page 2, line 10, replace "appointive or elected agency or office" with "employing criminal justice agency"

Renumber accordingly

Senate Judiciary Committee
House Bill 1251 (2011)
Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

Good Morning

Chairperson Nething, Vice Chair Olafson and members of the Committee, for the record my name is Mike Reitan, Assistant Chief of the West Fargo Police Department. I am testifying today in support of House Bill 1251.

The bill before you today will establish a clear authority for a law enforcement agency to enter into an agreement with another agency to conduct law enforcement duties in either jurisdiction. This authority is necessary to conduct operations such as Special Weapons and Tactics (SWAT), joint task force operations, to assist one another during an increased operations tempo or during periods when staff members of an agency would be unavailable for duty.

Section one of the bill would allow an agency to enter into an agreement with another agency to provide assistance and exchange officers on a temporary basis. An officer acting within the scope of the agreement would carry forward their law enforcement authority to the jurisdiction which they are assisting.

As chapter 12-63 of the North Dakota Century Code is currently written it appears a peace officer is restricted to perform peace officer duties only within the jurisdiction they are employed with a few limited exceptions. Recent events within North Dakota have taxed agencies and stretched available resources very thin. A flood event, a hazardous material spill, a major crime can divert resources to handle the particular event for hours, days and even weeks. Agency administrators are faced with the decision of what services normally provided they will need to cut. To restrict or prohibit the utilization of licensed and qualified peace officers is truly unnecessary.

Chapter 44-08-20 subsection 3 of the North Dakota Century Code currently allows a peace officer to respond to requests from other agencies or officers for aid and assistance. Such a request from an agency or officer means only a request for assistance as to a particular and singular violation or suspicion of violation of law, and does not constitute a continuous request for assistance outside the purview of the jurisdiction of the law enforcement agency by which a peace officer is employed. Once the immediate emergency is done the assisting peace officer no longer has authority.

Section two of the bill would allow an agency to seek approval from their governing body to enter into an agreement with an agency of a neighboring state for the joint exercise of peace officer duties. Using my agency as an example, the West Fargo Police Department shares officers with agencies in Cass and Clay Counties to form a drug task force and to staff a special operations unit consisting of a SWAT team, a bomb squad and a hostage negotiations team. Minnesota law clearly allows such a practice. In North Dakota, officers are cross deputized to provide some level of authority. It is our intent to establish a clear line of law enforcement authority for officers working in North Dakota.

Senate Judiciary Committee

House Bill 1251 (2011)

Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

This bill is based on a strong North Dakota tradition. Neighbor agencies should be allowed to come to the aid of neighbor agencies with the manpower necessary to overcome any obstacle. Resources must be allocated and utilized to conduct the sustained operations of a unique event while still providing for the continuation of services in the community.

I respectfully ask for your support of House Bill 1251 and the recommendation from this committee of a do pass.

Thank you for your time this morning and I will take any questions you may have.

Assistant Chief Mike Reitan

West Fargo Police Department

800 4th Ave E

West Fargo, 58078

701-433-5500

fax 433-5508

mike.reitan@westfargond.gov

FBINA202