

2011 HOUSE POLITICAL SUBDIVISIONS

HB 1383

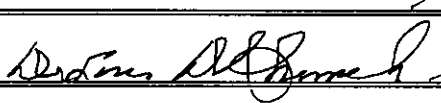
2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

HB 1383
January 27, 2011
Job #13587

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to campaign contribution and expenditure reporting requirements; and to provide a penalty.

Minutes:

Chairman Johnson: Opened the hearing on HB 1383.

Rep. Kaldor: This bill is an effort to bring more transparency to the political process and our political campaigns. The ultimate goal is to enhance public trust and make candidates accountable for their financial decisions and behavior. In the election process similar to any other transactional process where there are two parties or entities that are seeking to come to some kind of term like I would like your vote it is critical just as it is in any kind of business transaction that full information be available to both the voter and to the candidate or business person purchasing a service. That exchange of information is valuable because it can tell us something about the person and about what they can be expected to do. What this legislation does in two sections; in Section 1, subsection 4 it adds the candidate for legislative office under the statewide candidates and other candidates and the requirement that we already have to present as part of the record our contributions that we receive in excess of \$200 and when they reach \$200 this legislator also adds expenditures. The expenditures made to any person and the name of the person, mailing address, date of the most recent expense to that person and the purposes for which the aggregated expenditure total was dispersed. I can see there needs to be some improvement here because it could be a person or a corporation or maybe an individual. Whatever you are paying your campaign expenditures to so we would have disclosure of how we spend our money. On Section 2 contributions that are used for home use would be prohibited. This is a situation that has risen in New Jersey in particular. There is a law there that says you can't use your campaign contributions to either pay rent or to pay for part of your living expenses in your home. That is what this clause is intended to do. The reason why these two issues are important and why I think they merit favorable consideration is because we have a very wide open and trusting system in ND. We can be proud of that; there have not been allegations of abuses. Even if there were abuses none of us in the room or anywhere else in this state would ever know because we don't have to disclosure how we spend our money. I have been involved in two statewide races in 14 years. I have without question seen circumstances where the opportunity would it would have been very easy to make an expenditure that would have been considered personnel under other circumstances. I think

we need to address that so we assure that public trust is there. So when we run for office we are being wide open to the public. It will be an added responsibility for us all. We already have reminders that we have to have our contributions forms submitted before the end of this month with the Secretary of State's office.

Rep. Shirley Meyer: Starting on line 18 did you mean to include newspapers, televisions and everything that you spend on them or just the money you expend to a person?

Rep. Kaldor: It was my intention to list the expenditures and whatever their purpose is and to whomever they are paid. I did not intend to restrict it to just a person.

Chairman Johnson: A person can mean an individual or a company.

Rep. Koppelman: What problems do we have in ND that you are aware of that this is attempting to address?

Rep. Kaldor: I don't know. There is no way of knowing. I do know political campaigns track the purchases of advertising time with radio and TV. They are very free with that information because if you buy they want to tell me so I do that same thing.

Rep. Koppelman: The media keeps track of this and you can get the information about how much they paid.

Rep. Kaldor: There are some areas where that kind of disclosure is not made. TV and radio are pretty wide open. They are heavily regulated by the federal government as to what they must do. I have had questions asked of me of other vendors who sell services to political parties or candidates on both sides and whether they are paying the same rate. I have been told yes you are paying the same rate, but I don't know that. There is no place to see that. Literally you could run for office repeatedly and loose and still get quite a bit of cash in that process and there is nothing in state law that tells you how you can spend that money that I am aware of.

Rep. Koppelman: On page 1 it says name of the person and mailing address etc. and the purposes for which the aggregated expenditure total was disbursed to the person. Are you looking for a term like printing or what?

Rep. Kaldor: I am looking for a simple printing yard signs and that kind of thing.

Rep. Heilman: My concern is say I am a printer and I may know both candidates on both sides of the isle but I may not want them to know I do business with both sides of the isle just because I might loose on or both of them if they find out I am doing more for one than the other or whatever. From the business side as a vender I am not sure I would want to disclosure or have the candidates disclose how much business they did with me even if the rates were the same. Can you address that?

Rep. Kaldor: I considered your point. For the most part they all know who we do business with. I understand that perspective but I think it is important for the public know. It could work in reverse and maybe we will do more business with each others.

Rep. Heilman: Is there a danger if there is a printer who only does business with a political party they might be a big danger after the disclosure to lose a lot of business from people who are on the other side of the isle. Just because now it is all open record and that is a concern I have.

Rep. Kaldor: I think that is an interesting thing. I think it is a means to get transparency.

Rep. Klemin: Every campaign you have to get stationary, printing and signs etc. Now this is all going to have to be reported; when, where and how?

Rep. Kaldor: I don't know if it is a problem. It is not public. There may be a way to remedy that. It is extensive and probably a little bit of overkill in that paragraph and we can probably modify that to reduce or change the dollars levels. What I am really looking for is expenditures that might tend to be for personnel purposes or somebody who is not necessarily providing services to the campaign.

Rep. Klemin: When you get all done with it; then you want to know what money we have left over. Why do you want to know that? We are talking about small campaigns compared to federal campaigns.

Rep. Kaldor: These are relatively small campaigns but I don't think is an over burdensome requirement. It is full disclosure.

Rep. Hatelstad: Section 2 on page 2; I don't generate that much money in my campaign to be able to afford a downtown office so I think I have some legitimate campaign expenses generated by maybe taking a spare bedroom for 6-8 weeks and I think this would be an unfair restriction on me because I am legitimate expenses in using that room and I think this is going to penalize me.

Rep. Kaldor: It may penalize you.

Rep. Maragos: I am very troubled by this. After having gone through a few campaigns where it went negative I can see where this could set up a very awful partisan problem and it is the amount of information being given out by someone who wishes to use it in a partisan way. They can say whatever they want and it is the other person that has to defend himself. Ordinarily in my first 14 years in the legislature it was never a problem, but as I relate to my own particular situation I can see especially as busy as I am with all the boards that I set on and the businesses I am involved in and if I make one little mistake and somebody gets to say oh look what he did and uses it for partisan purposes and then you have to get into a totally distracting debate.

Rep. Kaldor: It is not my intent that it be used that way. I had not learned until just recently the restrictions we have on federal campaign disclosure. You have other legislation that will talk about statements of interest. I feel openness is better than being closed.

Rep. Kretschmar: During an election campaign I am driving allot in my district. I am required to keep records of the gas etc for my car in addition to that during campaign years

and during non campaign years too. In the fall of the year down in my area there are a series of very good church dinners; in a way I am not doing anything political but saying hello to people. Do I have to keep track of all my gasoline for 5 counties to do that?

Rep. Kaldor: Part of what we do for expenses that we are reimbursed for each month are these expenses that we incur. I have never been tested by the IRS, but in a sense we should be able to substantiate what we do. There might have to be some limitations of how far we go on this. Maybe \$200 is way too low.

Rep. Koppelman: On Page 2, Section 2; I found that a little unusual that was here. Is this a problem that you are aware of if your broader goal was to prohibit misuse of campaign funds or diversion of campaign funds for personnel use even though that is legal now? Why the home office part?

Rep. Kaldor: It came up as a question when we were drafting the bill.

Rep. Klemin: How do three people working together on a campaign report their expenditures?

Rep. Kaldor: that would be a campaign expense by district and it probably is not addressed appropriately in this legislation but that is an important point. That would be reported as pooled rather than individuals.

Rep. Klemin: Who does the reporting?

Rep. Kaldor: The campaign treasurer or manager does it now with disclosure contributions.

Rep. Klemin: If I go down to the cash on hand part and I as a legislator does not have cash on hand because it is in the hands of the campaign treasurer?

Rep. Kaldor: Then you report zero.

Chairman Johnson: During my campaign I had the college republicans deliver fliers because my knee is bad, but I didn't give them the money, I gave it to the college republicans. Was I in error?

Rep. Kaldor: I don't believe so. That is a campaign expense.

Chairman Johnson: But I didn't give it to the people that did the labor. I gave it to an organization they belonged to.

Rep. Kaldor: I guess that would be in the eye of the beholder and it would be appropriate.

Rep. Koppelman: I wonder what the intent is because the public does not seem to care.

Rep. Kaldor: The public interest is having complete knowledge about their candidates and insuring that they are open and honest. It would put a little control on us knowing we would

have to be careful how we expend those dollars. I did not say that I knew of a problem. I only said we do not know. We are now only getting half of the story.

Rep. Mock: There are some things I do want to add to this bill. The majority of what is in this bill is existing law. The candidate runs for statewide office. They are already required to disclose individual contributions either in a single donation or aggregate of more than \$200 to the Secretary of State by listing the individual. They also have to disclose the aggregate amount of donations that are \$200 or less as seen on line 16 & 17. This would open that up and require the same type of reporting for legislative candidates. It is amazing if you run for the legislative office in ND and if you receive not a single donation of more than \$200 you can fund your entire campaign with zero. That is how the public sees that. If you receive one donation of more than \$200 that is the only donation I have to disclose. The purpose of that part of the bill is to disclose the total amount of funds raised by a candidate. You do not disclose the name or individual that donates for less than \$200. The cash on hand is also required on all statewide candidates. If an individual running for the Attorney Generals position leaves the end of the year and the end of the year has \$5,000 left on hand they report that to the Secretary of State's office. The reason I signed onto this bill was that thought it was critically important that we expect the same level of reporting from our legislative candidates as we do our statewide candidates. I find it amazing we can have a campaign and put up signs and not have a single dollar come into their campaign account because we do not require them to disclose the total amount of donations that come into their account. To answer one of the questions raised by Rep. Klemin; if District 47 for example, has one campaign account that is the committee to elect the District 47 candidates they are the individuals doing the reporting. The expenditures would merely be reported if it is paid from a campaign account. If a district decided to have three individual accounts or and a district account all reporting would have to be done for each account as it is paid out. When I have run for office my friends have been astounded to realize that we do not require the disclosure of expenditures. It is not the paper clips we worry about, it is the trips and plane tickets; the \$5000 consulting fee. There are numerous expenses that could arise that the public does not know about and without disclosing those expenses the public is none the wiser. We as elected officials owe it to our constitutions to disclosure not only the funds that we bring in but how we spend that money. This is a reasonable bill. With some work we could make this bill that really speaks to the integrity of our elected positions.

Rep. Maragos: Why don't you do that now?

Rep. Mock: There is nothing stopping an individual from disclosing that. I don't see any incentive for a candidate to disclose that information whose opponents will not. That did not work at the federal level.

Rep. Klemin: I was out of state one time and met some legislatures from other states and compared their population base for their district and one state Senator I talked to said he had a campaign of about \$1 million to get elected as a state Senator. That kind of blew me away. I haven't taken any plane trips around District 47 lately or hired any consultants or paid any fees and I can see where maybe that might happen in a large metropolitan area in another state where they have big money campaigns. I don't see that in ND.

Rep. Mock: You are absolutely right. Our state is small and very rural. We don't know so that is why this is an important piece of legislation.

Opposition: None

Neutral:

Al Jaeger, Secretary of State: Person is defined very specifically as an individual, a political committee, association, corporation, cooperative corporation, limited liability company or any other organization or group of persons.

Rep. Shirley Meyer: If I had massive donations and ended up not spending it all. Under ND law can I just keep it?

Al Jaeger: Yes

Rep. Shirley Meyer: Do I have to disclose anywhere that I had funds left over?

Al Jaeger: Under state law right now the only the statewide candidate has to disclose the beginning balance and the ending balance of their campaign account. Legislators do not have to do that.

Rep. Beadle: Do any other states have restrictions on what candidates do?

Al Jaeger: No I don't. I do know in the area of lobbying some states are exceedingly strict. ND law seems to be comfortable at this level.

Hearing closed.

2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

HB 1383
February 4, 2011
Job # 14022

☐ Conference Committee

Committee Clerk Signature



Minutes:

Chairman Johnson: reopened the hearing on HB 1383. It prohibited the use of home office.

Rep. Mock: During the hearing some of the major concerns were related to Section 2 in its entirety. Also the complication with reporting expenditures. At the end some of the co sponsors thought there may be a better way of doing it and something we probably cannot address right now. The changes in line 14 and 15 to extend the filing disclosure requirements that are already required for a statewide candidate to legislative candidate was still something that was important to them. I would like to offer an amendment to 1383 to remove the language in lines 18-21 and remove Section 2 of the bill and renumber as appropriate.

Chairman Johnson: what would the bill do then?

Rep. Mock: The bill would then require all candidates statewide and legislative candidates to comply with current law, which is all contributions, received in excess of \$200; the gross total of all contributions received of \$200 or less and the cash on hand and the filers account at the start enclosed reporting period. It is currently what statewide candidates do; it would just extend it to legislative candidates.

Chairman Johnson: It would add for legislative candidates to disclose cash on hand.

Rep. Mock: yes and the total contributions of all received of \$200 and less. You do not have to disclose the individuals; it would be just the quantity.

Seconded on the amendment: Rep. Kilichowski

Discussion:

Rep. Kilichowski: would we have to delete something on line 3 & 4 too?

Rep. Mock: You are correct. The description of the bill would have to be fixed.

Chairman Johnson: The amendment would delete lines 18-21 and delete Section 2.

House Political Subdivisions Committee

HB 1383

February 4, 2011

Page 2

Roll Call Vote: 4 Yes 7 No 2 Absent Failed

Do Not Pass Motion Made by Rep. Maragos: Seconded by Rep. Klemin:

Vote: 10 Yes 1 No 3 Absent Carrier: Rep. Maragos:

Hearing closed.

Date: 2-4-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1383

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. Mock Seconded By Rep. Kilichowski

| 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 | | | | | |
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Total (Yes) 4 No 7

Absent 2

Floor Assignment _____

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

3 added 1

Date: 2-4-11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1383

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. Maragos Seconded By Rep. Klemin

| 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 | ✓ | | | | |
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Total (Yes) 10 No 1

Absent 3

Floor Assignment Rep. Maragos

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

REPORT OF STANDING COMMITTEE

HB 1383: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **DO NOT PASS** (10 YEAS, 1 NAYS, 3 ABSENT AND NOT VOTING). HB 1383 was placed on the Eleventh order on the calendar.