

SENATE HUMAN SERVICES COMMITTEE
02/01/2021

TESTIMONY OF ALLYSON HICKS
OFFICE OF ATTORNEY GENERAL
SENATE BILL NO. 2336

Madam Chair, members of the Senate Human Services Committee.

I am Allyson Hicks, Assistant Attorney General in the Attorney General's State and Local Division. I appear on behalf of Attorney General Wayne Stenehjem to provide neutral testimony to Senate Bill 2336.

Sections 2 through 9 of the bill propose to allow the licensing boards to determine when compact commission rules are either inconsistent with the compact or negative affect the public's health safety and welfare and then effectively repeal the Century Code chapters which adopt the compact. The Legislature cannot delegate complete discretion to exercise legislative authority without any guidelines on the specific application of the authority. To do so may lead to a separation of powers issue as found in the recent case of N.D. Legislative Assembly v. Burgum, 916 N.W.2d 83. The Court in the Burgum case stated that the law must set forth reasonably clear guidelines to enable the appropriate body to ascertain the facts. The standards provided are relatively broad and discretionary, and therefore, may be an unconstitutional delegation.

Our office would recommend a simple fix to avoid possible legal challenges, whereas the board notifies the Legislature through Legislative Council that there are

issues with the compact commission's rules, and at that time the Legislature would be able to repeal the compact statute if it agrees with the analysis of the board.

Thank you for your time and consideration, and I would stand for any questions.