

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2080

2001 SENATE EDUCATION

SB 2080

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2080

Senate Education Committee

Conference Committee

Hearing Date 01/15/01

Tape Number	Side A	Side B	Meter #
I	x		0 - 25.4
		x	0 - 3.0
1 (01-17-01)	x		49.0 - end
		x	0 - 7.6
Committee Clerk Signature <i>Andrea Johnson</i>			

Minutes:CHAIRMAN FREBORG called the committee to order.

Roll call was taken with all members present.

CHAIRMAN FREBORG called the hearing on SB 2080 which relates to an exemption from the Administrative Agencies Practice Act for the state board for vocational and technical education; and relates to rulemaking authority of the state board for vocational and technical education.

Testimony in support of SB 2080:

RITA WILHELMI, a member of the State Board for Vocational and Technical Education (SBVTE), testified in support of SB 2080. (see attached testimony)

SENATOR KELSH asked if SBVTE had ever used the rulemaking authority given in chapter 28-32. She stated that policies have been established by SBVTE and the rules in 28-32 have agreed with the policies. This could be interpreted as establishing policies out of line.

SENATOR COOK asked if it was the 1997 Session that changes were made which required the SBVTE to establish rules under chapter 28-32. LeaAnn Schneider, AG - atty. for SBVTE,

stated the state board has never adopted rules through 28-32. The 1997 session set requirements for DPI to adopt rules of which SBVTE is not a part. SEN. COOK asked for the difference between a rule and a policy and what effect it has. She stated it is important to know if a rule is passed pursuant to 28-32. This is from the Administrative Agency Practices Act, which is the formal rulemaking process. This requires drafting the rules, sending out the notices, having a hearing, getting feedback in written form, commenting on the feedback in documented form, getting approval from the AG office as to the draft rules, file with the Legislative Council, and the following month the rules would become effective. In the case of SBVTE they go through the process of having feedback at their meetings. SEN. CHRISTENSON asked her to discuss the ramifications of a group that has exempted themselves from this policy. The significance is that you don't have to go through the formal process of rule making. Policies are not filed with the Legislative Council, and are kept in house with the agencies.

SENATOR COOK asked LEAANN SCHNEIDER to discuss any rules involved in notification of third party. The Board is not governed under the rules in 28-32, but they do give notice regularly to the Voc/Ed director and anyone interested. SENATOR COOK asked if there was a danger of someone who would be affected by the policies not being given notice. He feels it is important for the legislature to know what the process is for notification of third parties. The Board has authority under NDCC to adopt rules but has chosen not to but would rather make policies. She knows of no third party who is dissatisfied. The main purpose of the rules is to remove the process of 28-32 ruling which is not used by the Board.

WAYNE KUTZER, State Director of SBVTE, stated the information about Board meetings is sent to all state agency heads, posted on their web site, and sent to all vocational directors. The biggest issue they have is in funding and budgetary concerns. The Board needs to have

flexibility. SENATOR KELSH asked what the main reason is for the exemption. He stated the main issue is funding and the ability to deal with the funding rates on an annual basis.

SENATOR KELSH asked if the Board would be required to do anything different if this bill does not pass. LEA ANN SCHNEIDER replied the Board has been advised to follow the 28-32 rules when there are third parties involved. SEN. COOK asked if there is any way a school district can challenge a rule or policy of the Board. She stated in some instances the Board is required to make rules and those are under section 28-32. She also knows of no time where they have been challenged and feels this shows their willingness to work with third parties.

No Opposition.

Hearing Closed.

SENATOR COOK moved a DO NOT PASS on SB 2080. SENATOR FLAKELL seconded.

Roll Call Vote: 2 YES. 5 NO. 0 Absent. Motion Failed.

01-15-01 Tape 1, Side B, 0 - 3.0

LEA ANN SCHNEIDER discussed what is in law (NDCC) as to what the duties of the Board are. She feels the law suggests the Board should have rules (sec. 28-32) governing area Vo/Tech centers. The law states the Board has power and duty over post secondary institutions and therefore should have 28-32 rules over them. She does have concerns on the enforcement of these.

Bill to be held for further discussion.

01-17-01 Tape 1, Side A, 49.0 - end; Side B, 0 - 7.6.

SENATOR KELSH presented proposed amendments to SB 2080. (see attached proposed amendments). He also presented a list of post-secondary institutions. (see attached). The

1-17-01

amendments do not remove the rulemaking authority requirements from post secondary educational institutions. Present law gives the vocational board authority to hold 28-32 hearings on these institutions listed. He feels it is important to put post-secondary schools back under the authority of 28-32.

SENATOR KELSH moved the amendments. Seconded by SENATOR CHRISTENSON.

Discussion followed on the amendments.

ROLL CALL VOTE: 7 Yes. 0 No. 0 Absent. Motion Carried.

SENATOR WANZEK moved a DO PASS AS AMENDED. Seconded by SENATOR KELSH.

SENATOR COOK stated he wants to be sure third parties have due process for being heard and is not sure this bill gives that assurance. SENATOR KELSH stated the board meets every month and those parties who are interested can attend and voice their concerns. More discussion.

Roll Call Vote: 5 Yes. 2 No. 0 Absent. Motion Carried.

Carrier: SENATOR KELSH

FISCAL NOTE
 Requested by Legislative Council
 12/11/2000

Bill/Resolution No.: SS 2080

Amendment to:

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

There is no Fiscal impact on this bill.

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.*

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Wayne Kutzer	Agency:	State Board for Vocational Technical Education
Phone Number:	328 2259	Date Prepared:	01/09/2001

PROPOSED AMENDMENTS TO SENATE BILL NO. 2080

Page 2, line 6, remove the overstrike over "~~rules~~"

Page 2, line 7, remove the overstrike over "and"

Page 3, line 29, remove the overstrike over "rules" remove the overstrike over "~~promulgated~~", and remove "policies adopted"

Page 3, line 30, remove the overstrike over "~~Promulgate~~", remove "Adopt", remove the overstrike over "rules", remove "policies", and overstrike "and procedures"

Page 4, line 12, remove the overstrike over "rules", remove "policies", and overstrike "adopted" and insert immediately thereafter "promulgated"

Page 4, line 17, remove the overstrike over "rules"

Page 4, line 18, remove "policies"

Page 4, line 22, remove the overstrike over "rules" and remove "policies"

Page 5, line 3, after "to" insert "postsecondary educational institutions under chapter 15-20.4 and"

Renumber accordingly

