

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

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ROLL NUMBER

DESCRIPTION

2377

2001 SENATE NATURAL RESOURCES

SB 2377

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2377

Senate Natural Resources Committee

Conference Committee

Hearing Date 2-9-01

Tape Number	Side A	Side B	Meter #
1	X		29.0 - end
2-15-01	X		5.0 - 5.9
Committee Clerk Signature <i>Jamie James</i>			

Minutes:

SENATOR FISCHER opened the hearing on SB 2377.

SENATOR AARON KRAUTER, of District 53 introduced SB 2377, A BILL RELATING TO THE APPOINTMENT AND CONFIRMATION OF THE DIRECTOR OF THE GAME AND FISH DEPARTMENT. He presented information in regards to gubernatorial appointments and fiscal information of the Game & Fish Dept. (See attached testimony). The constitution does not require confirmation hearings, but has been set up in statute and developed over time for certain agencies. These hearing processes has given the people's branch of government an understanding of the direction of those who have received appointments and then can decide on those appointments. SB 2277 directs this choice of the Game & Fish director because this agency is very valuable to the entire state. Looking at the appropriations of this agency, it is a special funds agency, no general funds and should be looked at closely. The thought process and objectives of its director should be understood and voted upon by the 49 members of the senate.

SENATOR CHRISTMANN: asked about the timing of the appointment and confirmation.

SENATOR KRAUTER the process is the same as any other confirmation hearing. It is in code that by a certain date appointment and confirmation.

BILL PFIEFER, representing the North Dakota Chapter of the Wildlife Society, testified in a neutral position but wanted to be on record that it very important that the candidate who is appointed have a biological background along with business and management.

There was no testimony in opposition of SB 2377.

SENATOR TOLLEFSON closed the hearing on SB 2377.

FEBRUARY 15, 2001

SENATOR FISCHER reopened discussion on SB 2377.

SENATOR FREBORG made a motion for a "DO PASS" of SB 2377.

SENATOR EVERY second the motion.

SENATOR FISCHER called for a roll vote of SB 2377. The vote indicated 6 YAYS, 0 NAYS AND 1 ABSENT.

SENATOR FREBORG will carry SB 2377.

REPORT OF STANDING COMMITTEE (410)
February 15, 2001 2:01 p.m.

Module No: SR-28-3541
Carrier: Freborg
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2377: Natural Resources Committee (Sen. Fischer, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2377 was placed on the
Eleventh order on the calendar.

2001 HOUSE NATURAL RESOURCES

SB 2377

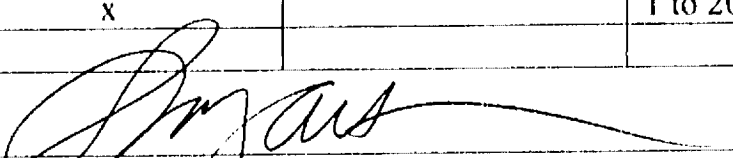
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2377

House Natural Resources Committee

Conference Committee

Hearing Date March 8, 2001

Tape Number	Side A	Side B	Meter #
1		x	3915 to end
2	x		1 to 2000
Committee Clerk Signature 			

Minutes:

Chairman Earl Rennerfeldt, Vice Chair Jon O. Nelson, Rep. Brekke, Rep. DeKrey, Rep. Drovdal, Rep. Galvin, Rep. Keiser, Rep. Klein, Rep. Nottestad, Rep. Porter, Rep. Weiler, Rep. Hanson, Rep. Kelsh, Rep. Solberg, Rep. Winrich.

Chairman Rennerfeldt: I will open the hearing on SB 2377.

Sen. Krauter - District 35: Before you is a piece of legislation that I think is very, very sincere and very, very serious. It is a process that happens in the ND Legislature whereby individuals who are appointed to a position are then confirmed by the Senate. In looking at the face of this I need to let you know, the intent here is very serious and very sincere. Hunting and fishing and all issues related to that are very protected in this state and we want to uphold them and honor them and make sure we can keep that type of environment out there. What the intent is to bring the peoples branch of the government into the confirmation process. Whereby the Governor makes

an appointment and then the people's branch of government can say yes, this is a good appointment. The peoples branch of government is the one that is elected across the entire state. 49 legislative districts then have the ability to sit down and make a vote that says yes, or no. What I have handed out to you is the history of appointments and confirmations in the state. I want to go through that with you. (see testimony and fiscal note). There is nothing devious behind this, it is a process where we can get the people's branch of the government behind appointments. If you look at what we need in a Game and Fish Commissioner in the State of ND, we need someone who has a good understanding of those issues in the state. What better way to make it not political as it is currently as an appointment by the Governor. Let's spread it out so it is broad based so that we have the legislative approach to the commission. That is the intent. I will stand for any questions.

Rep. Nottestad: We are saying to start out with that the people are certainly interested in this. But I cite to you that the Director of Highways, people are interested in that - Human Services, people are affected all over by that. Why not encompass all of these? That way, you would have then input from all the people on all of these. I certainly feel that our Game and Fish Commissioners that have been appointed are very strong. For the most part very well supported by the public. So why not include all of these then? Have them all get Senate approval?

Sen. Krauter: If that is your direction with this legislation you can do amendments all you want. I think with the cosponsors, it was the direction of adding another one to the confirmation hearings. With the treacheries we see with some of these issues to bring the legislative branch into the process is the direction of this piece of legislation. There is no intent to add more.

Rep. Keiser: As I listen to your argument I agree with many of the points you made. The ones I disagree with most is I can't think of any appointed official who is less political. Although it is a

political appointment, of all the people now the Senate confirms, whether it is the Gaming Commissioner or the Securities Commissioner, how many investors talk directly to the Securities Commissioner, for example. The Game and Fish Director, who ever that person may be, they may have one of the tougher jobs in the state. They are constantly in the field, going to Ducks Unlimited dinners, or Pheasants Forever, or this local group or that local group. I think it is one of our success stories. The stake holders of our state, our citizens, our constituents, they are the ones that are directly talking to him. If they have a problem with any Game and Fish Commissioner and it is a significant one, there will be statements made to their elected officials and their Governor. That person would be gone, I think. I just see putting the Senate or any political party in between the Governor and this individual who is so responsive to the citizens of our state really does politicize this act. Do you agree or not?

Sen. Krauter: No, I do not agree.

Rep. Porter: Was there any discussion on the Senate side as this bill was put together regarding how the dates of this particular appointment works since the Governor starts in December, the Game and Fish Commissioner's term expires in July and that would actually be a year and half before a Senate confirmation could be heard on a new appointee. Was there any consideration given to changing that term of office to coincide with the rest of the cabinet? So that the person wouldn't be in the job for a year and half and then all of a sudden be up for a confirmation hearing?

Sen. Krauter: No, there was no discussion on that, but the comments were made from the standpoint of that is how those scenarios happen today. That happens with the appointments of Higher Ed, the Banking Commissioner and to all the existing appointments. The appointments are made and as soon as the legislature is in place, that is when we make the confirmation.

Rep. Porter: On the other appointments, other than the part time job of Higher Ed, the appointments coincide directly with the expiration of the term of the Governor so that December 15 when the new Governor takes over, so goes the Commissioner of Banking, etc. Then the Senate is meeting in January, so the person is on the job for fifteen days and has a confirmation hearing. In this case the person is on the job for a year and one half before they would even know if they had the job and have the confirmation hearing.

Sen. Krauter: That is correct.

Rep. Porter: You don't see a problem with that?

Sen. Krauter: That is the process we have been working under for many years. I think now is the time to make some of those changes. If you're a proponent of annual sessions, that is your prerogative.

Rep. Porter: It doesn't have anything with whether you want an annual session or not, it has to do with whether or not you want to have someone in the position for a year and a half before you have the confirmation hearing. That is what I am wondering? Either the term of the Commissioner needs to change to coincide with the term of the Governor, if we are going to go to a confirmation hearing, or not go to a confirmation hearing at all. Because it is a year and one half after a person is appointed to the confirmation hearing.

Vice Chair Nelson: Of the six areas that are subject to Senate confirmation now, let's take the State Board of Higher Education out because it is a part time position, has the Senate ever denied a confirmation applicant?

Sen. Krauter: During my 11 years now, we have not denied any. But there are times it has happened.

Rep. Galvin: I wonder, how does the same system work, like a mid term termination of a position. How would that work?

Sen. Krauter: I apologize for not explaining this in detail, that is probably my fault, for being a Senator and having experienced confirmation hearings and set them up versus not having that type of thing. When appointments are made, they are made according to these and they are appointments until they are finally confirmed. We have had two confirmation hearings this session. The first two we appointed, they were appointed two years ago, so the when the next legislature meets we make the confirmation hearings. We do not call ourselves in, it happens the next time we meet. So if there is a vacancy and there is an appointment, that appointment is made and then when the Senate is in session that is when the confirmation is made.

Rep. Galvin: What I was getting at is how do you terminate somebody? There should be some reason you have to end this job?

Sen. Krauter: The Senate only confirms them, if it is an appointment by the Governor and the person is not doing their job and the Governor terminates them, that is the Governors responsibility.

Rep. Galvin: He can do that?

Rep. Nottestad: Going back to the comments that Rep. Porter brought up about the differentiation in time, most of these other positions are within the state. Not too many are appointed out of state. Game and Fish Commissioner is done with nation wide searches. You feel that someone coming in knowing that they have to be confirmed a year and a half later is going to affect finding the better and the best?

Sen. Krauter: Confirmation hearings are held in other states also. If a person is accepting the job or interviewing for the job they may understand what the requirements are. That is the process.

Chairman Rennerfeldt: Any further questions of the committee? Anyone else here to speak in favor of SB 2377? Opposed?

Bob Harms - Council to Governor Hoeven: I will speak briefly on SB 2377. The Governor does oppose the bill and I will give you several reasons why. First of all, the bill infringes upon the Governor's discretion with respect to appointments. Right now the Game and Fish Director, per law, provides that it is a four year term. It begins July 1 and the Commissioner cannot be removed except for cause by the Governor. Adding an additional layer of steps, further impedes upon the Governor's discretion making that appointment. Number 2, it is really unnecessary. I don't think there has been a case made as to why additional steps should be imposed upon the appointment process thus far. I have been here, five sessions, and to my knowledge, of all the appointments that Sen. Krauter mentioned that are confirmed by the Senate, none during the Schaffer Administration have been rejected by the Senate. It is not necessary in that regard and has not had an affect on the appointment process since I have been in this position. The other thing I would add is on Higher Ed appointments specifically, and how it works in terms of appointments because the Senate may not be in session for 18 months following the appointments. On Higher Ed appointments, by the Constitution and Title 15, that is expressly provided for in the law that the appointment is made continues to be effective until considered by the Senate. It is expressly provided for in the Constitution. The other thing the bill does is reduces accountability. Right now, I will give you four or five examples.....adding an additional confirmation to this list actually reduces the Governor's ability to influence his cabinet and reduces his accountability to the tax payers. The precedent we are looking at is also a concern. Yes, Game and Fish is a 35 million dollar budget, but the Department of Human Services is a 300 million dollar budget. Game and Fish is special funds, yes, that is true, so is Workers Comp -

