



Minnesota State Representative Frank Hornstein

Legislature 'a hierarchy, not a co-op'

A Civic Caucus Legislative Process Interview

September 15, 2017

Present

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Summary

In this interview from September 2017, State Representative Frank Hornstein (DFL-Minneapolis) says Minnesota's legislative process is more difficult and troubling than at any time during the 15 years he has served in the Legislature. And he believes efforts at reform, such as those made by Rep. Gene Pelowski (DFL-Winona), have largely fallen on deaf ears.

Hornstein says big decisions get left till the end of the session and then deals are made by three people: the Senate majority leader, the speaker of the House and the governor. Along with key decisions being made behind closed doors, Hornstein lists three other major problems in the legislative process: (1) Conference committees aren't meeting at the end of the session; (2) Huge bills are brought to the floor when legislators have not had time to study them; and (3) It's unclear whether amendments are allowed.

He blames the corrosion of the legislative process on procrastination, the nature of negotiations and partisanship. He notes the State Constitutional requirement that every bill be restricted to one subject and decries the combination of bills into large, sometimes thousand-page omnibus bills that are brought up at the very end of the session.

Hornstein says the increasing concentration of power in the legislative leadership has diluted the role of committees in settling issues before a bill is presented to the whole House or Senate. He says he's learned that the Legislature is "a hierarchy, not a co-op." He believes the Legislature will not change its process until there is a real constituency for change.

Biography

Rep. Frank Hornstein (DFL-Minneapolis) is serving his eighth term in the Minnesota House of Representatives. Hornstein serves House District 61A, which includes parts of downtown and southwest Minneapolis.

During his legislative tenure, Hornstein has championed issues related to public transportation, environmental justice, human rights and economic opportunity. He has served as chair of the House Transportation and Transportation Policy Committees. He is currently the DFL party lead on the Transportation Finance Committee and also is a member of the Transportation Policy Committee, Environment and Natural Resources Policy and Finance Committee, and Ways and Means Committee.

In addition, Hornstein is adjunct professor at the University of Minnesota and served as the director of the Environmental Sustainability Program at the Higher Education Consortium for Urban Affairs.

Prior to his election to the Legislature, Hornstein served as a member of the Metropolitan Council, worked as a community organizer and served as executive director of several nonprofit organizations, including Jewish Community Action, Alliance for Metropolitan Stability, Clean Water Action, the Jackson Heights (Queens, N.Y.) Jewish Council and Minnesota COACT.

He earned a B.A. degree in environmental studies and history from Macalester College and an M.A. degree in urban and environmental policy from Tufts University.

Background

Continuing its focus on Minnesota's competitiveness, since September 2015, the Civic Caucus has been undertaking a review of the quality of Minnesota's past, present and future public-policy process for anticipating, defining and resolving major community problems. On Nov. 27, 2016, the Caucus issued a report based on that review,  *Looking Back, Thinking Ahead: Strengthening Minnesota's Public-Policy Process*.

Continuing that focus on Minnesota's public-policy process, in May 2017, the Civic Caucus began a review of Minnesota's legislative process. The Caucus interviewed State Rep. Frank Hornstein in September 2017 for his perspectives on what works and what needs improvement in the legislative process.

Discussion

The legislative process is more difficult and troubling than at any time during the last 15 years. Minnesota State Rep. Frank Hornstein (DFL-Minneapolis) made that statement about the 15 years he's served in the Legislature. "Bad process leads to bad policy," he said. "When people are left out of the process—including some legislators—we really have problems."

Efforts at reform have largely fallen on deaf ears. "Things have been done in a certain way for many years and they continue to be that way," Hornstein said. He noted that the issue of improving the legislative process is not new and that several thoughtful people in the Legislature, including Rep.

Gene Pelowski (DFL-Winona), have been grappling with it for at least a decade. See Civic Caucus Sept. 29, 2017, interview with Pelowski, "[Anything you want Legislature' needs limits.](#)"

The end of the 2017 legislative session is a case study on what has been building for many years. Hornstein said some of that has to do with partisan gridlock, although not all of it. We have a Democratic governor and a Republican-controlled Legislature. "One would think the Legislature could get things done, but that's not what happened in 2017," he said.

Hornstein said the big decisions get left till the very end of the session. "In a negotiation, each side feels they can get an advantage when they're up against a deadline," he said. "No work gets done until the end of the session."

Normally, in the course of a legislative session, Hornstein said, there will be some noncontroversial bills for awhile. In April, the Legislature works on the large budget bills. Those get passed and then there's a conference committee to work out the differences. Legislators vote on the conference committee reports and then send the bills to the governor.

"Where we've gotten caught the last few years is that as a negotiating tactic, the majority is holding the budget bills to the end," he said. "Then they're all sent to the governor. In 2017, they were sent to the governor knowing he'd veto them. They contained all kinds of crossing of red lines that he had said he wasn't going to accept."

Hornstein said the governor vetoed all of them. Then the Legislature had a week to re-pass the bills and give them to the governor again. At this point, he said, legislators can talk to their base about what they passed and then blame it on the governor if he vetoes those things.

"Now, we're back to square one, but with much, much less time," Hornstein said. "Then the negotiations start in earnest. This is the part that I think is extremely troubling." He's the House Democratic lead on transportation finance and transportation has been one of the top issues over the last few years, he said. But he and Senator Scott Dibble (DFL-Minneapolis), the Senate Democratic lead on transportation issues, were never invited into the room where the negotiations were going on.

"I fault the governor and the Republicans for that," Hornstein said. "We didn't know anything that was going on." He noted that when former Governor Tim Pawlenty was in office, he insisted that the leads be in the room during negotiations.

He said the transportation bill—both policy and budget items—and other huge bills that contain hundreds of pages were rolled out on the House and Senate floors, when no conference committees had met to discuss and negotiate on them.

Hornstein listed major problems with the process used by the Legislature today: (1) Key decisions are made behind closed doors; (2) Conference committees aren't meeting at the end of the session; (3) Huge bills are brought to the floor when legislators have not had time to study them; and (4) It's unclear whether amendments are allowed.

Hornstein said he did not see the 2017 transportation bill until 5:30 a.m.—after he'd been at the Legislature all night—and the House speaker brought the bill up for a vote at 7 a.m. It was subsequently laid over till 2 p.m., which was a little better, he said.

"We debate these bills for a few minutes and then they're passed into law and signed," Hornstein said. "It was a deal made with three people: the Senate majority leader, the speaker of the House and the governor. Big, big decisions. Things that were never publicly discussed in committees or conference committees find their way into these bills."

The capital-bonding bill, which authorizes about \$1 billion in spending, is always held to the end of the session. The bill, Hornstein said, must have 81 votes out of the 134 House members to pass, a 60 percent majority. Generally, he said, the majority needs the minority to agree, so lots of "horse trading" goes on and the bill is always held to the end.

Even though the bill involved \$1 billion of spending on infrastructure and other capital projects, Hornstein didn't see the 2016 bill until 11:20 p.m. and the Legislature had to adjourn at midnight.

The legislative process is corroded as never before. Hornstein blames the corrosion on procrastination, the nature of negotiations and partisanship. "What that means is that you elect me to make decisions and when the decision-makers don't have the information, that's a real problem," he said. "It's even worse that the public gets no information."

The State Constitution includes a single-subject rule, which requires that legislative bills be restricted to one subject. But now, Hornstein said, the Legislature is putting everything into big omnibus bills. During his earlier years in the Legislature, he said, there used to be a separate bill for transportation policy and another bill for transportation finance. There'd be a separate bill for education policy and another bill for education finance.

"Now, they're just combining them," he said. "So, you have these mega, hundred-page, sometimes thousand-page bills. No one knows what's in it. It was bad enough if you had an omnibus policy bill before. That's even a slippery slope. But at least we separated out policy and finance. At least there were conference committees that met before. They would entertain amendments and there would be public hearings."

Hornstein said there are rules in committee during January, February and March that amendments must be posted 24 hours ahead of when they're introduced. That rule is also true during the regular session. It allows public debate about the bill and the amendments. "But all of that goes out the window at the end of the session, when it matters most," he said.

The Civic Caucus is one of the *amici* on the section of *Rebecca Otto v. Wright County* that deals with the single-subject rule. The case is now before the State Supreme Court.

We're in a real danger zone if this type of legislative process continues. Hornstein said the Legislature never ends on time during a budget year and ends up in special session. "The Constitutional deadline doesn't matter," he said. "We really have until June 30 before the government runs out of money."

He noted that in 2011, there was a three-week state government shutdown. And in 2015, things were settled just 10 days before a shutdown.

He said many people have asked why Governor Mark Dayton signed the omnibus tax bill at the end of the 2017 session, when it contained lots of things he didn't like. But the bill also contained funding for the Revenue Department, which should have been in the operations bill, and Dayton didn't want to be responsible for shutting down the Revenue Department. Hornstein believes that was because Dayton was very concerned for state workers during the 2011 shutdown, when they were getting no paychecks, and was similarly concerned about the near-shutdown in 2015. "It was on his shoulders," Hornstein said. "This time he didn't want to go through that at all."

Dayton signed the tax bill, but then line-item vetoed funding for the Legislature in an attempt to get the Legislature to come back to renegotiate the bill. A lawsuit ensued and the lower courts found Dayton's veto unconstitutional. The Supreme Court decided not to take a position in the case and said the governor and the Legislature should work with a mediator to figure things out. Dayton is now ready to sign a bill to fund the Legislature as soon as it passes.

"I would fault the governor for signing the 2017 tax bill, because he had the opportunity to veto it," Hornstein said. "If he wants to negotiate with the Republicans, the process is to veto it. But he knew that they would take it all the way to the end and maybe shut down government. He didn't want to deal with that. But I'd fault the Republicans for putting the Revenue Department funding in the bill in the first place."

Something's happening now in politics that's raw and polarized. Hornstein made that statement in response to an interviewer's question of whether the way candidates are selected and financed now has moved the concentration of power from the political parties to the leaders in the Legislature—the speaker and minority leader in the House and the majority and minority leaders in the Senate.

The interviewer said if a candidate is recruited by the House speaker, who then helps get the candidate elected, that person might not be willing to ever challenge the speaker on issues or rules. A legislator who feels dependent on the legislative party caucus to get elected, the interviewer said, might be inclined to be extra loyal to that caucus.

The increasing concentration of power in the legislative leadership has diluted the role of committees in settling issues before a bill is presented to the whole House or Senate. Hornstein said the legislative committees do the detailed, bread-and-butter work, but the big issues in the House are ultimately decided by the speaker. "I found out the hard way that the Legislature is a hierarchy, not a co-op," he said. The speaker has two constituencies: the people in the speaker's district and the members of the speaker's party caucus, Hornstein said.

The Republican Party in Minnesota is very different from Republicans in other places, who are raising the gas tax. Hornstein said Iowa, South Dakota and Nebraska have all passed gas tax increases. "But one of the red lines in the Republican party here is that under no circumstances, for any reason, will you raise a tax on any level for anything," he said.

The Legislature should transparently make decisions that improve the state of Minnesota and people's lives. "We have a very simple mission," Hornstein said.

Legislators will only respond to an issue if there are mass numbers of constituents who want a change. Hornstein made that statement in response to an interviewer's comment that legislators continue to operate the way they do because there's not a big enough groundswell on how the Legislature is legislating. "There's not a real constituency for this," Hornstein said. "People are very, very busy and they're not as engaged. They're just trying to get through the day."

He noted that when Rep. Paul Thissen (DFL-Minneapolis) was House speaker, he initiated a rule that no one can bring an amendment to the House floor unless it's been posted 24 hours ahead of time. Hornstein called that a "significant reform."

"Significant change can happen," Hornstein said. "But unless there is a constituency demanding this constantly, things aren't going to happen."

Legislative committees do significant work. Hornstein said often times a committee's work will be reflected in the final bill that the Legislature passes. But, he said, the big issues, like the gas tax or whether to ban drivers from using cell phones, are often decided at the top by the leadership.

Hornstein said committees are still relevant and are places where the public can weigh in the most. The press covers committees; they're important. But he said it's a problem that policy and finance are being combined in the same committee.

With increasing dysfunction in Washington, states are now the laboratory for all kinds of policies that can't get done federally. Hornstein said the same thing is happening with city governments taking on issues like the \$15 minimum wage and climate change that aren't getting done at the state level.

From where is the Legislature getting creative, progressive ideas? An interviewer asked that question and Hornstein said he gets good ideas from Fresh Energy, Growth & Justice, TakeAction Minnesota, the Citizens League and the Itasca Project. He said most legislators get ideas from outside the Legislature. "Few legislators can think this stuff up," he said. "We get thought-through proposals all the time."

The Republicans, he said, get a lot of their ideas from the Minnesota Chamber of Commerce and the Center of the American Experiment and the more conservative social organizations.

"It's very rare that we think this stuff up on our own," Hornstein said.

Lobbyists do not want a transparent legislative process. The Legislature is "crawling" with paid lobbyists, Hornstein said. "A good day for me," he said, "is when I have a group of constituents show up and I'm not dealing with these lobbyists. It's in the lobbyists' interest to keep the public out. They aren't open to having a transparent process."

There are incredibly smart legislators and staff people at the Legislature. "It's the most amazing job I've ever had," Hornstein said. "I run into so many smart people every day who are passionate and want to make the world a better place. Despite all of the Legislature's flaws, it is still an amazing institution. If we do half the reforms Rep. Gene Pelowski is proposing, it's going to be an even-more amazing place."

There is a new group of young, incredible leaders in the DFL Caucus at the Legislature.

Hornstein gave that response to an interviewer's question about how many young people in their 20s and 30s are getting involved in politics. "We have some young people in the DFL Caucus—primarily women, especially women of color—in their 20s and 30s, who are amazing," he said. "They have completely changed the institution. This is a sea change. They're throwing out convention and doing things their way."

He mentioned Representatives Ilhan Omar (DFL-Minneapolis), Peggy Flanagan (DFL-St. Louis Park), Jamie Becker Finn (DFL-Roseville), Liz Olson (DFL-Duluth), Erin Koegel (DFL-Spring Lake Park), and Fue Lee (DFL-Minneapolis). Hornstein said the Legislature still doesn't look enough like Minnesota looks, but the level of diversity and passion of these new people is changing the institution and politics.

He said young people will get involved in politics if someone is speaking authentically to them, like Senator Bernie Sanders did in the 2016 presidential campaign. "It's true that there's a lot of apathy among young people and they're not voting in the numbers that older people do," Hornstein said. "But that can be changed by having candidates and organizations that speak to their aspirations."

There is not nearly enough professional development available for legislators. Hornstein gave that response to an interviewer's question about training available for legislators—especially new legislators. There is mentorship and training, Hornstein said, but most of it comes from the outside, such as from the National Conference of State Legislatures (NCSL) or from interest groups.

Hornstein noted that there was a one-day *One Minnesota* Legislative Conference at the University of Minnesota's Humphrey School of Public Affairs before the 2017 legislative session began. The conference included presentations on the budget and the economic outlook, health care reform, challenges facing Minnesota businesses and building trust through civil discourse.

He said there is a two- or three-day retreat for new legislators after they're elected and some new legislators have formal mentors. "There are opportunities out there, but not nearly enough of them," he said.

Hornstein is not as down on the precinct caucus system for selecting candidates as some people are. If a candidate doesn't have money, Hornstein said, the precinct caucus system is the best option. But he believes Minnesota should have a presidential primary, rather than picking the president through the caucus system.

The issue of the legislative process doesn't have a constituency. Hornstein encouraged the Civic Caucus to raise the issue in the community, in the Legislature and in elections. "A group of people acting strategically can make a difference," he said .