

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1074

2007 HOUSE FINANCE AND TAXATION

HB 1074

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1074 A

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 8, 2007

Recorder Job Number: 714 06min 33sec

Committee Clerk Signature *Mickie Schmitt*

Minutes:

Chairman Belter: We'll open the hearing on HB 1074. We're ahead of our schedule. We may have to delay this until 10:30 am because that's when it's scheduled to be heard. We want to make sure that the sponsors and other people can be here to testify. Close the hearing on HB

1074.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1074 B

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 8, 2007

Recorder Job Number: 715 33min 02sec

Committee Clerk Signature

Mickie Schmidt

Minutes:

Chairman Belter: We'll call the committee to order. Was there anyone who wanted to testify on HB 1073? We got a little behind and wanted to make sure if there was anybody who wanted to testify, I'd give them the opportunity. If not we will open the hearing on HB 1074.

Myles Vosberg, Director of Tax Administration for the office of State Tax Commissioner:

Testimony in support for HB 1074. (See attachment #1)

Chairman Belter: Seems to me that we had a Bill like this a few sessions back. They're very similar.

Myles: I don't believe so, not in regard to special events.

Chairman Belter: What constitutes a special event?

Myles: If there is a particular entity or individual that is organizing the event, we need to find them and ask them are you organized or a promoter. If there was no organization to it and for some reason vendors got together and decided to set up shop, that wouldn't be included. But generally events are like the Downtowners Assoc. where they organize an event in the fall and have street vendors and so on, fairs and carnivals; you have trade shows, business shows.

Representative Weiler: Obviously some of this is not being done, how big of a problem is this?

Myles: It's not a big problem, but there are so many events going on. It's become such a popular area and it's really hard for us to get a handle on who's here and who's not here.

Representative Weiler: Is there a dollar amount? I don't see any fiscal for that. Obviously you're expecting some additional revenue off of something like this.

Myles: We didn't establish dollar amounts as far as x number of sales occurring. That would be difficult to do. We do anticipate that we will have better compliance.

Representative Schmidt: Every fall they have a craft show. When you cook something, you have a sales tax, the next booth they might be selling squash. Do they need a permit?

Myles: The organizer of that event would be required to identify who's there. It doesn't necessarily mean the individual who sets up his shop and sells squash would be required to get a permit because those food products would not be subject to tax.

Representative Schmidt: Maybe he doesn't sell squash. Maybe he sells woodwork products, but he doesn't have a sales tax permit.

Myles: That's the point here. If someone is in the business of making woodwork products and selling them at retail, they should have a permit and be collecting tax on these products.

Representative Schmidt: The man that's charging sales tax, he sells those products year around, so he has a permit. These other guys got a little hobby, and once a year he brings his little tractors in that he's made in his spare time. Who knows who's coming in there? We're going to have to make that man who has a hobby get a sales tax permit?

Myles: Under the existing law, even a hobbyist who chooses to sell their products even once or twice a year is required to collect a tax on those products.

Representative Kelsh: My question has been answered.

Representative Froseth: It seems to me that you're opening a can of worms that's going to be hard to police. How are you going to be able to do this with the same amount of staff for

one thing? There are so many small rummage sales, craft sales and so on going on. That would be pretty hard to police it. Maybe if there was an annual sales dollar amount that specifies that would be a cleaner way of policing it. Another thing is the confidentiality of the list of names that the organizer collects or submits.

Myles: As far as the confidentiality goes, there are a lot of these events that we are concerned about. Someone who's trying to organize events and trying to getting vendors and so on to attend their shows or competing shows can use the Tax Dept.'s information to compete against other shows to draw vendors. We didn't want the organizers of the shows to have any concerns regarding security of the information provided. As far as your comments regarding difficult to administer, it is going to take a certain amount of time, education and effort on our part to get the word out that this is a requirement that the promoters provide us with that information.

Representative Headland: You said that vendors are already responsible to submit the sales tax. How can you penalize the organizer or the promoter, because he may not know who the vendor's going to be until he shows up? You're penalizing the wrong person.

Myles: Our experience is that the organizers know who's there. He might not know until the very last day who all's going to be there. That's why we provide the twenty days for the organizer to provide the list. Basically they know who's there. The penalty is so that they comply.

Representative Headland: So it is your experience that they have tried to get this list from promoters?

Myles: We have gotten lists from a lot of them. There are not very many that refuse to do this.

Representative Weiler: Rep. Froseth brought up a good point, could a rummage sale be considered a special event?

Myles: No, a rummage sale or multi party rummage sale is not considered a special event, unless they are selling property.

Representative Weiler: There's been a couple of comments saying they don't even know who's there until they show up, but the way I read it is says a couple of days following a special event. So you will know who was there.

Myles: That is correct.

Representative Wrangham: Do we have any definitions for promoters, organizers and what a special event is and what the legislative rules are?

Myles: The definitions are what we have provided here in the Bill. We would anticipate that we would need a lot of clarification.

Representative Pinkerton: That seriousness to produce some sort of equity between the local merchant who is collecting sales tax and that these special events like gun sales where they can do tens of thousands of dollars worth of business in state and then they leave without paying sales taxes?

Myles: It does create equity to those who are registered and not registered. It's a tool for us to use.

Representative Pinkerton: What is the penalty for the vendor if they fail to pay sales tax?

Myles: Under the existing law it is a Class A Misdemeanor to not comply with the Bill.

Chairman Belter: I was looking at your definitions. A local church may have a church dinner and then they sell baked goods, are they going to fall under this?

Myles: On page 2 of the Bill, starting with line 5, section 2; we did build in a provision that would exempt non profit organizations. There is an exemption in the sales tax law where the organization and the baked good sales or the benefit of a charitable institution are exempt from

tax. It is built into this sub section here which will prevent those types of events from having to report to us.

Chairman Belter: Isn't Lamoure where they have the annual toy show? I would assume that that's the type of event you're probably talking about? And are you now currently having a problem with that particular group?

Myles: Yes. Yes. I don't know if there's a problem but that is the type of events we're looking at.

Chairman Belter: Currently does the Tax Dept. occasionally send somebody out to some of those bigger shows?

Myles: We do for some of the larger shows. But with the number of them it's difficult to do that, unless we get a complaint or concern from someone, we generally do not. We do it sporadically.

Chairman Belter: Can some of these bigger shows be sponsored by a non profit organization?

Myles: It could be but the way we've written this, exclusion of all of the net proceeds from all of the vendors at the fair need to go to the benefit of that non profit organization.

Representative Froseth: You referred to the fiscal note that there's no physical effect but I would think that when you start collecting sales tax on one of these small shows, there's going to be some physical effect.

Myles: That's probably true. We're really not imposing tax on additional sales or services that have been taxable in the past. They are able to obtain a higher level of compliance.

Chairman Belter: Is there further testimony in support? Any oppositional testimony? Any neutral testimony?

Christopher Dodson, Director of the North Dakota Catholic Conference: Neutral testimony. We're not opposed to the intent of the Bill but it is a little too wide here. We're concerned about how this affects churches. We have youth rallies and educational conferences which sometimes are entertainment and selling religious articles or music. These are organizations or companies outside of the church organization. The one's I'm most familiar with are the youth rallies. It's difficult to put those on because you don't want to put extra burdens on the Diocese of the parishes who put these together. The other problem is the not for profit exception. It's not unusual for a not for profit church to have an event that maybe somebody's selling something for another separately incorporated not for profit. You have an event like a big dinner and some other church says by the way we are selling some books over there and those proceeds would go to something else and not to the organizing not for profit.

I'd like to work with the dept. to see if we could come up with some language that will address some of these not for profits.

Representative Weiler: In that last analogy that you gave, there may be a vendor there that if proceeds are going to another church that would be covered under this exemption, would it not?

Christopher Dodson: Not exactly because as I read it all the net proceeds from retail sales inure to the benefit of the non profit organization on whose behalf the event is being held, which would be the organizer. I've seen this at churches various times.

Representative Froseth: I'm puzzled about the fact that there's no physical escrow whatsoever. Are we losing millions of dollars a year, are we losing thousands of dollars a year or what? We need some kind of clarification, some kind of a number. Can the Tax Dept. come up with this?

Myles: We can take another look at it and see if we can come up with some type of a number; it's really difficult to do. But if you feel comfortable with that, we will see what we can come up with. Regarding Mr. Dodson comment, he has an excellent point. We did write this so that the exclusion applied if this was only for the benefit of that particular organization. We would be glad to work with him on that issue.

Representative Headland: It seems to me if you know that there are organizers who have been unwilling to submit the list of vendors and count those, then you could put together some kind of numbers just from that.

Myles: We would know those events but we don't know who's there, so we don't know how many are registered and how many are not registered.

Vice Chairman Drovdal: You said that you have gone out and done some checking on some of the vendors. Are there a lot of vendors that have not gotten a permit and are not filing a tax return?

Myles: We have found some. We've also had situations where someone was here and said they are not coming back and don't want to register and so we collect from them at that time.

Vice Chairman Drovdal: Is that a low percentage or high percentage of the total number of penalties?

Myles: Probably a fairly low percentage. One difficulty that we deal with is if the vendor calls in and says I'm registered and collecting tax because I'm told so and it's not fair. We need to find a law and apply that law uniformly, so that everyone complies.

Representative Wrangham: Do we have licensed promoters or organizers? Is there some way to penalize if they don't supply the list?

Myles: The penalty within the Bill is \$250.00. We do not have a registration requirement.

Representative Vig: I haven't heard yet the potential number of violations of vendors not paying sales tax. Do you know how many violations are occurring?

Myles: I don't know if I could put a number to the number of vendors out there that are selling. Some are so small, that's why it's difficult to come up with a number.

Chairman Belter: How are you going to notify these organizers of that \$250.00 penalty if they don't apply?

Myles: Most of those promoters we are aware of. We search various records, publications, tourism to get a hold of them.

Chairman Belter: Any other testimony on 1074? If not, we will close the hearing on 1074.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1074 C

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 8, 2007

Recorder Job Number: 716 03min 47sec

Committee Clerk Signature *Mickie Schmitt*

Minutes:

Committee Work:

Chairman Belter: Ok committee, we'll not act on HB 1074. They want to look at some amendments. We will adjourn.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1074 D

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 9, 2007

Recorder Job Number: 796 01min 57sec

Committee Clerk Signature

Mickey Schmidt

Minutes:

Chairman Belter: I'll call the committee back to order. We'll open the hearing on HB 1074.

This is the Tax Department's Bills dealing with the sales tax of organized or unorganized events. I'm not sure what we're trying to do here. We may be trying to solve a problem that doesn't exist. I don't know if anybody's interested in any amendments or if you're comfortable with the Bill as is. We won't act on it today but I just wanted a little direction as to whether anybody was interested in any amendments. If you are, you need to get them drafted.

Vice Chairman Drovdal: The committee gave some direction to the person who testified in neutral, Mr. Christopher Dodson and the Tax Department.

Representative Owens: I believe they're already putting something together.

Chairman Belter: We'll hold this and close the meeting on HB 1074.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1074 E

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 10, 2007

Recorder Job Number: 913 00min 57sec

Committee Clerk Signature *Mickey Schmidt*

Minutes:

Committee Work:

Chairman Belter: Let's look at HB 1074. What are the committee's wishes, do you want to try to fix it a little?

Representative Grande: I move a Do Not Pass.

Representative Brandenburg: I second it.

Chairman Belter: Rep. Owens, did you wish to try and fix it?

Representative Owens: I was just going to say that supposedly, they were going to get something together and bring it back to us. These sponsors, so do we want to act now or wait and see?

Chairman Belter: If you'd like to, we can wait.

Representative Grande: I'll withdraw.

Chairman Belter: OK. We'll close the meeting on HB 1074 and adjourn.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1074 F

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 16, 2007

Recorder Job Number: 1224 33min 15sec

Committee Clerk Signature

Mickie Schmidt

Minutes:

Chairman Belter: I'll call the committee back to order. We'll open on HB 1074.

Dan Rouse, Council to State Tax Commissioners Office: I am passing out an amendment.

This deals with the special events Bill. **(See attachment #1)** I have another attachment that

Rep. Froseth made a good point that we should get some numbers. We were also asked as you can see from the amendments to get together with the non profit interests in the State. We

talked to Chris Dodson, and we did some research and here's what we did come up with.

Hopefully we can alleviate some concerns about this Bill and highlight why we need the Bill.

We are reprimanding as part of our amendments first and foremost on pg. 1, line 8, after

"event" insert "at which ten or more special event vendors participate"; where we would put a floor on special events. So this doesn't include very small events. Chances they are not going

to have the responsibility for a sales and use tax permit. One of the other concerns was

numbers, the dollar amounts or participant amounts. **(See attachment #2)** It seems to be a

better choice to go with the minimum number of participants. The second amendment that we

are proposing here is on pg. 2, line 7; It's very simple, we're just changing the word "the" to "a"

and replace "on whose" with an underscored period and striking the rest of the language on

that sub section 2. Chris Dodson from the ND Catholic Conference pointed out a very good

point in his testimony. There may be a non profit organization who doesn't have the responsibility of filing a report with us related to the special event. Regardless of who the beneficiary of the dollars earned as a special event, if it's hosted by a non profit or the people at the tables are non profit, then we're not interested. Those gross receipts from those type of activities are exempt. The last concern is related to the very last provision. If and when there would be an imposition applied to the organizer who failed to cooperate with us. What we're looking for is another tool to get additional information from which we can determine whether or not tax collectivity took place based upon failed tax laws. We don't want it to be a tool where there's this penalty always hanging over the head of the organizer or the promoter. So we backed it off to say that you "may" be subject to a penalty. In the Tax Code there's language in there saying "which may be waived by the Commissioner for good cause shown". Our objective here is to get additional information because there are tax dollars rightfully so we believe that are not being collected, or if they're being collected they are not being remitted. **(See attachment #2)** This handout was put together by Myles Vosberg. We believe that we're getting about 14% of the information that we ought to be getting right now. The fact of the matter is that there're a lot of these special events that take place out there and we don't know about them. We would engage in a serious education campaign to get the word out to the special event vendors that our intent is; here is this information. Help us understand whose participating. **(Referred to attachment #2)** This positive fiscal impact, in using this tool will let us gather the information from the special event promoters; compare it with that list of people who shouldn't have sales tax permits. Hopefully we can see a positive revenue impact. This will not increase our budget, doesn't cost us or you or the State any more money. It gives us an opportunity to educate the promoters in a non offensive manner.

Representative Grande: What is the definition of vendor?

Dan Rouse: If you look at the Bill, we've defined special event on line 20 of the Bill, page 1.

Representative Grande: And you've exempt churches. If my new group decides to sell t shirts to the people of my church we're not going to have to deal with tax?

Dan Rouse: That's correct. As amended this would exempt any non profit.

Representative Grande: Say we go to a baseball game and some guy's taking pictures and sells pictures of the kids to the parents. Is he a vendor?

Dan Rouse: He may or may not be a vendor, depends on the nature of his business is. With the purposes of this Bill, absolutely not.

Representative Weiler: You said this is not going to cost the State any more money and that you will be able to do this without that, how is that possible?

Dan Rouse: What we want to do is reach out in newsletters, e-mails, ads, county newspapers to try to educate the general public and the particular special event vendors and promoters that this is out there. We believe that we can do this with the current staffing that we have.

Representative Weiler: It's a breath of fresh air to know that there's an agency in State government that can actually do more work and not need a budget increase because of it, thank you!

Representative Headland: In looking at your amendments and it looks like we're going to give the Tax Commissioner authority to be a judge and am just wondering if you'd comment on or give me an example of what would amount to an event that the Tax Commissioner would raise the tax because of good cause?

Dan Rouse: There are a number of spots within title 57, income, corporate income, sales and use, fuel tax, etc...where we bill our areas where we have to make a subjective determination, a judgment call if you will. There are situations where it is right and you all have given us that authority to make that subjective determination. We had a gentleman who was in the physic-

iatric ward of the hospital for six months, we didn't know that. Yet he continued to receive generated bills which increased the interest which is associated with unpaid taxes. So we have that discretion in situations like that.

Representative Grande: The little league baseball team is having a tournament. The parents calls around and asks do you want to take pictures and can you sell your baseball jewelry? Who's responsible to get the taxes together, the parents club, the youth team, or each individual person selling them?

Dan Rouse: Each individual vendor would be ultimately responsible to pay the tax and file the report for themselves.

Representative Wrangham: Are all non profit organizations tax exempt?

Dan Rouse: If they meet the tax internal revenue code and qualify under section 501C, they are tax exempt.

Representative Vig: Looking back at your amendment, an event with ten vendors or more. How are you going to monitor if there's ten or twelve vendors and how strict you're going to be on that?

Dan Rouse: That's a good question. That goes back to our definition, whose that person organizing or promoting that event. We're looking at for the people who are setting up and organizing recurring events. That is our main focus. We strongly believe that there are a wide number of people that we are missing. We feel it's our responsibility as we understand the law right now to try and reach out and find the information and validate this. That's what this tool is for.

Representative Froseth: The first amendment, do you wish to withdraw that?

Dan Rouse: I was afraid that that question was going to come up. The reason we promoted it in the first place was this; we perceived that these lists could have a market value that could be

used in a predatory or a retaliated fashion. Or they could use a list from other predators who solicit participation by these special event vendors. These could be held confidential for use by the Tax Dept.

Representative Froseth: Was there any conflict between the two?

Dan Rouse: No sir.

Chairman Belter: Any other questions? Thank you! Committee, do you wish to act on this?

Representative Headland: Can we move both amendments at the same time?

Representative Froseth: I would prefer that you move one amendment at a time.

Chairman Belter: Ok. I'll entertain a motion on one amendment at a time

Representative Wrangham: I'll move a Do Pass on the original set of amendments that provides for the secrecy.

Representative Grande: I'll second it.

Chairman Belter: We have a motion and a second to amend the amendments that were proposed by Myles Vosberg. Any questions or comments?

Representative Froseth: I would urge a no vote on that first amendment. If I was a vendor, I would want as many organizers as possible to get my name so I could attend their shows. I don't see the object for secrecy there. It certainly can't be in the best interest of the vendor. I don't see where it's going to harm any organizer. I think in the long run it will be a loss in sales and sales tax collection in the State of North Dakota.

Representative Wrangham: I would hope that you would support this amendment. If I am the person who is putting on these shows and I travel throughout the country, going to different venues to line up people to come and be at my event and probably spent tens of thousands of dollars in putting together this show. I don't think it should be so easy to call the Tax Commissioner and all of my proprietary information be shared.

Chairman Belter: Any other comments? If not, all of those in favor of the proposed amendment signify by saying aye? Opposed? The motion carries 13-y, 1-n. Are there any more amendments?

Representative Grande: I'll move the second set of amendments

Representative Vig: I'll second it.

Chairman Belter: Is there any discussion? If not, all those in favor of the propose amendment signify by saying aye? Opposed? The motion carries 14-y, 0-n. I would entertain a motion on HB 1074.

Representative Pinkerton: I move a Do Pass as Amended

Vice Chairman Drovdal: I second it.

Chairman Belter: Is there any discussion?

Representative Wrangham: My intention is to vote no on the Do Pass. I think we're reaching out here to people who are possibly putting on little events, in a lot of cases for the welfare of the community and so forth. We're putting a lot of work on these promoters and organizers. And I'm not sure what the benefit will be. We don't license those promoters; we don't have any way of regulating them. I don't know we can demand them to participate in the job of collecting the taxes. I appreciate and respect the Tax Departments' work at trying to make sure that all taxes should be collected are collected. But I think this is one case where we're going to have to air on the side of the occasional vendor who is going to be penalized.

Vice Chairman Drovdal: I couldn't disagree more. We did eliminate the little events. We pass the laws and say what's taxable and they should pay those taxes. The law shouldn't be just for those who wish to comply and those who don't care. I don't think its imposing or burdening.

We're giving a tool to our dept. that we asked to administrate our tax that's all we're doing.

Page 7

House Finance and Taxation Committee

Bill/Resolution No. 1074 F

Hearing Date: 01-16-07 pm

Chairman Belter: Is there any other discussion? If not will the clerk read the roll for a **Do Pass as Amended**. Motion passes; 8-y, 4-n, 2-absent. Rep. Pinkerton will carry the Bill. We'll close the hearing on HB1074.

FISCAL NOTE

Requested by Legislative Council
12/27/2006

Bill/Resolution No.: HB 1074

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 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.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1074 requires that certain information be furnished to the Office of Tax Commissioner to assist in administering sales tax laws. The bill does not alter any sales tax that is due, and has no fiscal impact.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/05/2007

#1 HB 1074 1-16-07

PROPOSED AMENDMENTS TO HOUSE BILL 1074

Page 1, line 8, after "event" insert "at which ten or more special event vendors participate"

Page 2, line 7, replace the third "the" with "a" and remove the words "on whose"

Page 2, remove line 8

Page 2, line 10, replace "is" with "may be" and after "event" insert ", which amount may be waived by the tax commissioner for good cause shown"

Renumber accordingly

January 16, 2007

**House Amendments to HB 1074 (78198.0101) - Finance and Taxation Committee
01/17/2007**

Page 1, line 3, after "laws" insert "; to amend and reenact subsection 1 of section 57-39.2-23 of the North Dakota Century Code, relating to the confidentiality of sales and use tax information"

Page 1, line 8, after "event" insert "at which ten or more special event vendors participate"

**House Amendments to HB 1074 (78198.0101) - Finance and Taxation Committee
01/17/2007**

Page 2, line 7, replace the third "the" with "a" and replace "on whose" with an underscored period

Page 2, remove line 8

Page 2, line 10, replace "is" with "may be" and after "event" insert ", which amount may be waived by the tax commissioner for good cause shown"

Page 2, after line 10, insert:

"SECTION 2. AMENDMENT. Subsection 1 of section 57-39.2-23 of the North Dakota Century Code is amended and reenacted as follows:

1. The commissioner or ~~a person~~ an individual having an administrative duty under this chapter may not divulge or make known in any manner whatever the business affairs, operations, or information obtained from any person under any reporting requirement of this chapter, or by an investigation of any person, corporation, or limited liability company in the discharge of official duty, or the amount or sources of income, profits, losses, expenditures, or any particulars set forth or disclosed in any return, or permit any return or copy or any book containing any abstract of particulars to be seen or examined by any ~~person~~ individual."

Renumber accordingly

Date: 1-16
Roll Call Vote #: 1074

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House Finance & Tax Committee

Check here for Conference Committee

Legislative Council Amendment
Number

Action Taken Rep. Pinkerton Do Pass AS Amended

Motion Made By Rep. Pinkerton Seconded By Rep. Drovdal

Representatives	Yes	No	Representatives	Yes	No
Chairman Belter	✓		Rep. Froelich		✓
Vice Chairman Drovdal	✓		Rep. Kelsh		
Rep. Brandenburg	✓		Rep. Pinkerton	✓	
Rep. Froseth		✓	Rep. Schmidt	✓	
Rep. Grande	✓		Rep. Vig	✓	
Rep. Headland	✓				
Rep. Owens					
Rep. Weiler		✓			
Rep. Wrangham		✓			

Total (Yes) 8 No 4

Absent 2

Floor Assignment Rep. Pinkerton

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

REPORT OF STANDING COMMITTEE

HB 1074: Finance and Taxation Committee (Rep. Belter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (8 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). HB 1074 was placed on the Sixth order on the calendar.

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Page 2, after line 10, insert:

"SECTION 2. AMENDMENT. Subsection 1 of section 57-39.2-23 of the North Dakota Century Code is amended and reenacted as follows:

1. The commissioner or ~~a person~~ an individual having an administrative duty under this chapter may not divulge or make known in any manner whatever the business affairs, operations, or information obtained from any person under any reporting requirement of this chapter, or by an investigation of any person, corporation, or limited liability company in the discharge of official duty, or the amount or sources of income, profits, losses, expenditures, or any particulars set forth or disclosed in any return, or permit any return or copy or any book containing any abstract of particulars to be seen or examined by ~~anyperson~~ individual."

Renumber accordingly

2007 SENATE FINANCE AND TAXATION

HB 1074

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1074

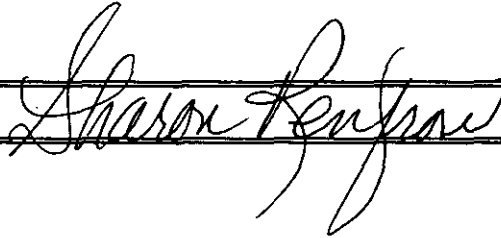
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 26, 2007

Recorder Job Number: 3824

Committee Clerk Signature



Minutes:

Sen. Urlacher opened the hearing on HB 1074, bill relating to the information reporting responsibilities of special events promoters or organizers under the sales tax laws to the confidentiality of sales and use tax information. All members (7) were present.

Myles Vosberg, Director of Tax Administration for the Office of State Tax Commissioner, testified in favor of the bill. See attached testimony.

Sen. Urlacher- those that don't have to remit or have to file would they be subject to the penalties if they didn't?

Myles Vosberg- the penalty applies only to the organizer.

Sen. Cook- these 576 vendors unaccounted for, you have their name and address though is that correct?

Myles Vosberg- we do and we are contacting those.

Sen. Cook- vendors that come in and attend an event in ND and they sell their goods here and they also have a website where North Dakotans can come out any time, and anything that they sell on their website they are suppose to collect?

Myles Vosberg- that's correct.

Sen. Cook- and that goes to display only vendors? These vendors the reason that they are displaying is because they only bring sample items of what it is they sell and then they give out their card with their information so that people can call their location. The fact that they were here on display is that not a requirement to nexus?

Myles Vosberg- it depends on the type.

Sen. Anderson- what do you do in the case that lets say in October someone pulls up to a market or something with a truck full of pumpkins, what do you do in a case like that?

Myles Vosberg- pumpkins are considered food, but we do have other situations.

Sen. Anderson- How do you get this information out to the cities so that they can tell their organizers?

Myles Vosberg- that is the most difficult task for us, we do make an effort now to contact the major events.

Sen. Oehlke- how do your vendors report?

Myles Vosberg- under our current policy and under the law these companies are required to register and so they would be scheduled on a regular filing schedule based on the type of activity they have and that they are informing us on their application we would set up an appropriate schedule.

Sen. Cook- you said that you received lists from 56 events in 2005, those are events that did so voluntarily on their own?

Myles Vosberg- we have been attempting to get lists so they are ones that are familiar with our policy.

Sen. Cook- I am looking at the penalty and I understand how you are going to administer that, would you have problems if we just took out fails or so it just says who refuses to comply at least for the first biennium?

Myles Vosberg- I would not have a problem with that.

Sen. Triplett- because you were indicating that you have been struggling with this for awhile trying to figure out how to get it done, have you looked at other states on how they handle it?

Myles Vosberg- not a lot.

Sen. Urlacher- ones that come in after the 20 days how are they going to be handled?

Myles Vosberg- the reporting is 20 days after the event so they should have time to add that.

Sen. Urlacher- so they have to report who is present and who isn't?

Myles Vosberg- correct. I would like to go back to Sen. Cooks question on the penalty you would want to change it how?

Sen. Cook- maybe it could be who refuses to comply and have a thing that in 2 years it goes to who fails or refuse, we can talk about it.

Myles Vosberg- the last portion does say the amount may be waived by the tax commissioner for a good cause.

Caitlin McDonald, on behalf of State Association of Non-Public Schools, The Arc of ND, and the YMCA's of ND, testified in favor of the bill. See attached testimony.

Sen. Cook- we are generally talking food vendors at these events?

Caitlin McDonald- I believe that the vendors that they are talking about are small.

Dan Rouse, Council of the Tax Commissioners office, testified in favor of the bill.

Dan Rouse- Just wanted to touch on one thing to provide a little bit more depth with regard to the area with this bill where if it was enacted would impose a penalty, we had a lot of conversation with my clients and the tax commissioner on this and it is not our intention to come out of the gate pushing people. Our efforts are going to be first and foremost on getting the word out that this responsibility on the organizers exists in the first place. That is going to be our primary effort.

Sen. Oehlke- the form that you are requiring the organizer to send in I suspect for the vendors that you want the name, social security, number or tax id number or is there more information that you require? Would any of this be difficult for them to obtain?

Dan Rouse- this has been ongoing for a number of years, it is not difficult. We are basically looking at name, address, telephone number so that we can reach out and contact them.

No opposition to the bill.

Sen. Urlacher closed the hearing.

Sen. Cook motioned for a Do Pass and was seconded by **Sen. Oehlke**, roll call vote 1: 7 yeas, 0 nays, 0 absent. **Sen. Cook** was designated to carry the bill to the floor.

Date: 2-26-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1074

Senate Finance & Tax Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Cook Seconded By Sen. Oehike

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Anderson	✓	
Sen. Tollefson	✓		Sen. Horne	✓	
Sen. Cook	✓		Sen. Triplett	✓	
Sen. Oehike	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Cook

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

REPORT OF STANDING COMMITTEE (410)
February 26, 2007 12:47 p.m.

Module No: SR-36-3853
Carrier: Cook
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1074, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1074 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1074

1-8-07 HB # 1074

#1

TESTIMONY BEFORE THE HOUSE
FINANCE AND TAXATION COMMITTEE

HB1074

Myles Vosberg

January 8, 2007

Chairman Belter and members of the committee, my name is Myles Vosberg. I am the Director of Tax Administration for the Office of State Tax Commissioner. I am here to testify in support of HB1074.

If successful, this bill will be a new section to the sales tax law that will require individuals that organize and promote "special events" to provide the Tax Commissioner with a list of all the vendors that engage in sales and promotional activities at the event. The focus of this bill is to help the Tax Commissioner's Office obtain compliance in the areas of sales tax permit registration and collection of sales tax. I will also offer an amendment to this bill that will make the information provided under this proposal confidential.

Almost any week throughout the year, organized events are held throughout North Dakota where numerous vendors are invited to attend, display, and sell their products or services. Many of these events specialize in specific types of products or activities. For example, a special event may focus on arts and crafts, outdoor activities, agriculture, or antiques. The number of vendors at any event may range from just a few to as many as several hundred. The vendors attending these shows vary from small part-time sellers to large nation-wide businesses that each one of us recognizes. The business model of these companies varies from businesses that sell exclusively through special events to full-scale retailers that have developed distribution systems with an established network of dealers.

With the large volume of special events that occur, it is difficult for the Tax Commissioner's Office to identify all the vendors making retail sales and to verify compliance with the sales and use tax laws. This is especially true of vendors that operate part-time businesses or only for a limited time within the state. The purpose of this bill is to help identify all sellers, both in-state and out-of state, required to register for a sales and use tax permit and to assure that these sellers are complying with the sales and use tax laws. Retailers not collecting the applicable sales tax have a price advantage over those retailers that comply with the law. This bill does not require the organizer to take any action at the special event other than to provide a list of vendors.

In summary, the bill contains the following provisions:

- Requires the promoter or organizer to provide a list of the vendors within twenty days of the event.
- Defines promoter or organizer, special event, and special event vendor.
- Creates an exclusion for events where all the net proceeds go to the benefit of a nonprofit organization on whose behalf the event was held.
- Provides a penalty of \$250 for failure to comply.

In addition to the new language offered in HB1074, we offer the attached amendment, which will clearly make the information provided by special event promoters or organizers confidential. The Tax Commissioner recognizes the proprietary nature of all business records and wants to relieve any concerns an organizer may have regarding the security of the information provided under HB1074.

The Tax Commissioner's Office recommends a "do-pass as amended" on House Bill 1074. I will be happy to respond to any questions the committee may have. Thank you.

PROPOSED AMENDMENTS TO HOUSE BILL 1074

Page 1, line 3, remove the semicolon

Page 1, line 3, after "penalty", insert "; and to amend and reenact subsection 1 of section 57-39.2-23 of the North Dakota Century Code, relating to the confidentiality of sales and use tax information"

Page 2, after line 10, insert:

"SECTION 2. Subsection 1 of section 57-39.2-23 of the North Dakota Century Code is amended and reenacted as follows:

1. The commissioner or a person having an administrative duty under this chapter may not divulge or make known in any manner whatever the business affairs, operations, or information obtained from any person or entity under any reporting requirement of this chapter, or by an investigation of any person, corporation, or limited liability company in the discharge of official duty, or the amount or sources of income, profits, losses, expenditures, or any particulars set forth or disclosed in any return, or permit any return or copy or any book containing any abstract of particulars to be seen or examined by any person.

Renumber accordingly

#2 HB 1074
1-16-07

House Bill 1074

Re: Special event organizers to provide list of vendors

Prepared by Myles Vosberg

Office of State Tax Commissioner

January 16, 2007

The following data is from Special Events in 2005

- The Tax Commissioner's Office received vendor lists from 56 events
 - estimate 400 events per year
- 4,493 vendors attended the 56 events
 - Number of vendors is less than 4,493 because of vendors attending more than one of the 56 events
 - 1,589 vendors held sales and use tax permits
 - 1,287 vendors did not hold permits but reported on "Special Event" form
 - 1,041 vendors without permits did not report or remit tax
 - Display only vendors not making sales
 - Nonprofit sellers not required to register or remit tax
 - 576 vendors unaccounted for
 - Vendors attending more than one show
 - Display only vendors not making sales
 - Nonprofit sellers not required to register or remit tax
- \$245,594 remitted to Tax Commissioner on 1,287 "Special Event" forms
 - \$190 per year per vendor
- Recent activity by Tax Commissioner's Office
 - 103 letters sent two weeks ago to vendors inquiring about permits
 - From seven large events held this fall
 - 100 additional letters ready to send within next week
 - From 3 recent large events
- Estimate of potential revenue
 - 400 vendors
 - \$380 tax per vendor in 2007-09
 - Based on 2005 average of \$190
 - Estimate 75% of vendors will not report tax due/collected
 - \$114,000 potential revenue 2007-2009
 - [400 vendors X \$380 X 75% = \$114,000]

Testimony

Senate Finance and Taxation Committee

House Bill 1074

February 26, 2007

Prepared by Myles Vosberg, Director, Tax Administration
North Dakota Office of State Tax Commissioner
Phone: 701-328-3471
E-mail: msvosberg@nd.gov

Chairman Urlacher and members of the committee, my name is Myles Vosberg. I am the Director of Tax Administration for the Office of State Tax Commissioner. I am here to testify in support of HB1074.

If successful, this bill will be a new section to the sales tax law that will require individuals that organize and promote "special events" with ten or more vendors to provide the Tax Commissioner with a list of the vendors that engage in sales and promotional activities at the event. The focus of this bill is to help the Tax Commissioner's Office obtain compliance in the areas of sales tax permit registration and collection of sales tax.

Almost any week throughout the year, organized events are held throughout North Dakota where numerous vendors are invited to attend, display, and sell their products or services. Many of these events specialize in specific types of products or activities. For example, a special event may focus on arts and crafts, outdoor recreational activities, agriculture, or antiques. The number of vendors at any event may range from just a few to as many as several hundred. The vendors attending these shows vary from small part-time sellers to large nation-wide businesses that each one of us recognizes. The business model of these companies varies from businesses that sell exclusively through special events to full-scale retailers that have developed distribution systems with an established network of dealers.

With the large volume of special events that occur, it is difficult for the Tax Commissioner's Office to identify all the vendors making retail sales and to verify compliance with the sales and use tax laws. This is especially true of vendors that operate part-time businesses or out-of-state businesses that enter North Dakota for a limited time. The purpose of this bill is to help identify all sellers, both in-state and out-of state, required to register for a sales and use tax permit and to assure that these sellers are complying with the sales and use tax laws. Retailers not collecting the applicable sales tax have a price advantage over those retailers that comply with the law. This bill does not require the organizer to take any action at the special event other than to provide the Tax Commissioner a list of participating vendors.

In summary, this bill contains the following provisions:

- Requires the promoter or organizer to provide a list of the vendors within twenty days of the event if ten or more vendors are participating at the event.
- Defines promoter or organizer, special event, and special event vendor.
- Creates an exclusion for events where all the net proceeds go to the benefit of a nonprofit organization.
- Provides a penalty of \$250 for failure to comply.
- Updates the confidentiality requirements of the sales tax law to make information provided by special event promoters confidential.

I believe this bill will assist our office to fairly and consistently administer our sales tax laws throughout the state. The Tax Commissioner's Office recommends a "do-pass" on House Bill 1074. I will be happy to respond to any questions the committee may have.

Thank you.

House Bill 1074

Re: Special event organizers to provide list of vendors

Prepared by Myles Vosberg

Office of State Tax Commissioner

February 26, 2007

The following data is from Special Events in 2005

- The Tax Commissioner's Office received vendor lists from 56 events
 - estimate 400 events per year

- 4,493 vendors attended the 56 events
 - Actual number of vendors is less than 4,493 because some vendors attended more than one of the 56 events
 - 1,589 vendors held sales and use tax permits
 - 1,287 vendors did not hold permits but reported on "Special Event" form
 - Special Event form no longer available
 - Vendors must register for sales tax permit
 - 1,041 vendors without permits did not report or remit tax
 - Display only vendors not making sales
 - Nonprofit sellers not required to register or remit tax
 - 576 vendors unaccounted for
 - Vendors attending more than one show
 - Display only vendors not making sales
 - Nonprofit sellers not required to register or remit tax

- \$245,594 remitted to Tax Commissioner on 1,287 "Special Event" forms
 - \$190 per year per vendor

February 26, 2007

SENATE FINANCE AND TAXATION COMMITTEE
HB 1074

SENATOR URLACHER AND COMMITTEE MEMBERS:

My name is Caitlin McDonald. I am appearing today on behalf of three non-profit organizations that will benefit from this legislation: The State Association of Non-Public Schools (SANS), The Arc of North Dakota, and The YMCAs of North Dakota. We strongly support Engrossed HB 1074 and urge a do pass.

This bill will relieve organizers of non-profit fund raising activities and events, many of which are conducted by parents, volunteers, or persons receiving assistance from the organizations, who are generally inexperienced in these matters, from the administrative burden of filing reports with the State Tax Commissioner concerning vendors who may have sold goods at the event. It also gives this break to organizers of small events who are not non-profit organizations.

This is good legislation that does not have a fiscal impact on tax collections, but will greatly assist non-profit organizations in North Dakota. We respectfully request your support.

If you have any questions, I will be happy to try to answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION.