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OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1253

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1253

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1253

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 17, 2007

Recorder Job Number: 1251

Committee Clerk Signature

Stephanie N. Thomas

Minutes:

Chair Keiser opened the hearing on HB 1253.

Marilyn Foss, ND Bankers Association: See written testimony #1.

Rep. Zaiser: Why exclude the Department of Human Services?

Marilyn: The Department of Human Services makes many requests, and I gathered that it was an item of negotiation in 1981. I have had conversations with them about cost incurred by banks, and honestly they tell me that if they had to pay they would require significant amounts of money in their budget, so we decided not to take them on and try to undo an arrangement that was established in 1981.

Rep. Zaiser: From my perspective with the bank employee, the cost is no less, no more for the bank employee to do the human services request as it is for a member of the Commerce Department, for the Highway Department, the County Clerk of Court, or whoever it might be.

Marilyn: I agree that there is a lack of internal consistency there, but the reality is we just decided to live with the deal that was made in 1981.

Rep. Amerman: This deals with the rate that banks charge government entities going from \$10 to \$30 for requests. Do you get requests from driving entities, and what's the charged rate?

Marilyn: When banks get requests for interest from private entities, there isn't a regulated amount that can be charged, and they do charge for services to their customers. Yes, banks do charge for requests for record searches, and that kind of thing.

Rep. Keiser: Is there any defensible basis with the banking and the financial institutions, have you looked at what the actual cost is, and is this actual cost?

Marilyn: I'm telling you what my bankers told me their costs are in that range. I would say that the industry of banking is regulated to the point of micromanagement.

Rep. Zaiser: It might be that the \$25 an hour might be a direct cost factored in like everything else.

Marilyn: I'm assuming that's true.

Rep. Dietrich: Do you have a handle on approximately how many government inquiries there may be in a year's period of time?

Marilyn: I actually have tried to get some information; it's fairly a bigger burden on a smaller bank, because they tend to be in smaller communities where probably more people are receiving social services. They tend to be requesting for advert verifications in connections with the applications in social services.

Rep. Dietrich: The reason I ask is I'm looking at the fiscal note, and it doesn't show an outlay of what the state agencies maybe paying in fees. If there's been a burden, there must be numerous requests on \$20 that may be a little more than \$300.

Marilyn: My understanding about the fiscal note is that they were trying to figure out state costs, and the exceptions of the Department of Human Services. Most of their requests are related to county social service board request for advert verification, so that's why the fiscal note is the way it is.

Greg Tschider, Mid-America Credit Union Association: See written testimony #2.

Rep. Thorpe: With the credit unions, are there a lot of other agencies out there besides Human Services that would be impacted by the increase?

Greg: It's been our general experience that the counties are going to be bearing more of a cost than the state normally does, because that's where the criminal aspects come from. The investigation on criminal activities that occur is going to be at the county level, it's normally not at the state level.

Rep. Zaiser: I move a do pass.

Rep. Johnson: Second.

Roll call vote was taken. 14 Yeas, 0 Nays, 0 Absent, Carrier: Rep. Zaiser

Hearing Closed.

FISCAL NOTE
Requested by Legislative Council
01/10/2007

Bill/Resolution No.: HB 1253

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	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$300	\$300	\$300	\$300
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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).*

This bill allows financial institutions to charge state agencies for record searches. Currently banks can charge for record searches. This would allow credit unions to charge as well. The rate per hour that can be charged is increasing from \$10 to \$30 per hour.

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.*

The Office of Management and Budget is unaware of any state agencies that request financial institution record searches.

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.*

OMB made a number of phone calls in an effort to determine if state agencies request record searches from financial institutions. We were unable to identify any agencies, therefore OMB is assuming any expenditure impact would be minimal.

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:	Sheila Peterson	Agency:	OMB - Fiscal Management
Phone Number:	328-4904	Date Prepared:	01/11/2007

Date: 1-19-07
Roll Call Vote #: _____

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1253

House Industry Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Rep Zaiser Seconded By Rep Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep. Amerman	X	
Vice Chairman Johnson	X		Rep. Boe	X	
Rep. Clark	X		Rep. Gruchalla	X	
Rep. Dietrich	X		Rep. Thorpe	X	
Rep. Dosch	X		Rep. Zaiser	X	
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigesaa	X				

Total Yes 14 No 0

Absent 0

Floor Assignment Rep Zaiser

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

REPORT OF STANDING COMMITTEE (410)
January 17, 2007 12:39 p.m.

Module No: HR-11-0693
Carrier: Zaiser
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1253: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1253 was placed on the Eleventh order on the calendar.

2007 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1253

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1253

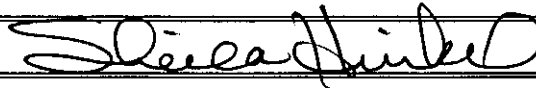
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **February 12, 2007**

Recorder Job Number: **3339**

Committee Clerk Signature



Financial Institution Record Search

Marilyn Foss - ND Bankers Association - In Favor

TESTIMONY # 1

Covered testimony.

Increase the amount of \$10 to \$30 the amount which a financial institution can charge for employee time when the employee time when doing a record search in responding to certain state and local government agency requests for information about the bank's customers.

S Klein: The Dept. of Human Services is exempt?

M Foss: Yes. They are the only entity, they have a different system to get information.

S Klein: Does this exclude county Social Services?

M Foss: No, it does NOT exclude county social services. The search is in quarter hour increments, requests can take 1/2 hour or more. Government does not get their gas free, it's stationary for free. Gets nothing free or below cost. Banks shouldn't have to subsidize and have to do this without being compensated.

S Hacker: Who pays this fee? Bank customer, or department, or they pass that cost on?

M Foss: Country Social Services pay that and I don't think they pass it on as it generally to verify income for those applying for assistance.

S Andrist: Who wouldn't have access to this information other than a government entity?

M Foss: With ND privacy laws, without consent of the customer, there are exceptions, as a practical matter, without the consent of the customer, nobody can.

S Andrist I presume the IRS has access to it, would they have to pay the fee too?

M Foss: The IRS is one of the agencies that can get this information. The way the statute is drafted, it suggests they SHOULD pay for it, but as a matter of fact that when there is an IRS subpoena, they do not pay for it.

S Potter: there is no fiscal not, is there no impact?

M Foss: That's correct, because of the exclusion. No material impact.

S Potter: If there is no fiscal impact, why are we doing it?

M Foss: The statute says \$10, that limitation is no longer practical for the cost of the service.

S Wanzek: Doesn't the bill refer to state agencies?

M Foss: Private citizens aren't addressed. We did not try to change the language.

S Potter: Who pays the fee?

M Foss: County Social Services. Greg Tschider also is in Favor of this bill.

S Heitkamp: If the County Social Services board is the board that takes the brunt of it, shouldn't there be a fiscal note?

M Foss: the office of management and budget called me and they did their searches for state entities and they felt it was immaterial.

Don Forsberg – Independent Community Bank - In Favor

"Me too" testimony. It was at \$10 and hour in 1981, and hope you do pass this bill.

S Heitkamp: How much of this stuff do your banks do?

D Forsberg: When I polled my membership, there weren't a lot of strong feelings on this, but when they did encounter it, they said, "this is beyond what our normal expectations are for our

institutions. Something we don't do a lot of, but when we do spend the time and effort, it takes away from normal routine and have to dedicate toward this and ultimately get back into this."

[S Hacker took over temporarily as chair]

S Heitkamp: My point, should we have this into the code then? If these folks and it's on a limited bases, do you even need this? This is such a narrow scope, it isn't like the private citizen is requesting.

D Forsburg: Certain memberships account for more of this than ours. It is more burdensome to some than others. Since 1981, it is keeping up with benefits.

S Potter: I'm hung up on the county Social Services. Aren't they connected to County Human Services?

D Forsberg: I don't feel qualified to answer that question.

CLOSED by S Hacker

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1253 B**

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **February 12, 2007**

Recorder Job Number: **3401**

Committee Clerk Signature

Minutes:

Motion Do Pass by S Andrist

2nd – Wanzek

Roll on HB 1253 – 5-1-1 (nay – Potter)

Carrier: Andrist

Date: 2-12-07

Roll Call Vote: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1253

Senate INDUSTRY BUSINESS & LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO. PASS

Motion Made By Andrist Seconded By Wanzek

Senators	Yes	No	Senators	Yes	No
Chairman Klein, Jerry	✓		Senator Behm, Arthur		
Senator Hacker, Nick VC	✓		Senator Heitkamp, Joel	✓	
Senator Andrist, John	✓		Senator Potter, Tracy		✓
Senator Wanzek, Terry	✓				

Total Yes 5 No 1

Absent 1

Floor Assignment Andrist

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

REPORT OF STANDING COMMITTEE (410)
February 13, 2007 9:58 a.m.

Module No: SR-30-3005
Carrier: Andrist
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1253: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (5 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1253 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1253

TESTIMONY OF MARILYN FOSS
ON BEHALF OF THE NORTH DAKOTA BANKERS ASSOCIATION
HB 1253

Mr. Chairman, members of the House Industry Business and Labor Committee, my name is Marilyn Foss. I am general counsel for the North Dakota Bankers Association and am appearing before you this morning to urge a **DO PASS** for HB 1253. The bill increases from \$10 to \$30 per hour the amount which a financial institution may charge for when an employee is searching records and responding to certain state or local government agency request for information about a customer. I say "certain" agency requests because information requests by the department of human services are not covered by either the current law or HB 1253.

The bank charges the hourly rate in quarter hour segments. This bill will mostly apply to county requests for asset searches. Recognizing that it depending upon the type of request, I am told that, on average, it takes a bank employee about a half an hour to respond to such a request. So the bill would allow the bank to recover \$15 rather than \$5 for its work.

The \$10 per hour rate was established by the legislative assembly in 1981. Our members are asking for an increase simply because they believe they should be reimbursed for their costs of responding to government records searches at a rate that is more commensurate with 2007 costs than 1981 costs. I daresay there is not a person in this room who can seriously question the assertion that the costs incurred by a bank (or any other business, for that matter) has increased substantially over the past 26 years. This bill is premised on the theory that government agencies have no better right to obtain free services from a financial institution than they do to obtain free supplies from a

stationary store or free electricity from a utility. Financial institutions may be integral to certain government functions, but they can not and do not provide their services without incurring costs.

The president of one of our smaller member banks said it in a straightforwardly. He asked me why the bank could only charge \$10 per hour when it is paying \$25 per hour to the employee who was searching the records. The only answer I had was "that it's the law." He asked me if we could change it to allow the bank to recover more of its costs. That is what is intended by HB 1253. No more, no less.

Thank you.

Marilyn Foss, Lobbyist #76
North Dakota Bankers Association
701-223-5303
foss@btinet.net

TESTIMONY IN SUPPORT OF HOUSE BILL NO. 1253

GREG TSCHIDER, MID-AMERICA CREDIT UNION
ASSOCIATION

Mr. Chairman and Members of the House Industry, Business and Labor Committee, I am Greg Tschider and I represent the Mid-America Credit Union Association.

Section 6-03-76 of the North Dakota Century Code became law in 1981 and provided for compensation to Banks for record searches at the rate of \$10 per hour.

State and federal agencies request record searches from all financial institutions and therefore, all financial institutions should be compensated for the work performed as requested by the respective agencies.

Ten Dollars (\$10.00) may have been an appropriate hourly rate in 1981, however, as we are all well aware \$10 isn't what it used to be. Competent employees together with fringe benefits (especially health insurance premiums) have dramatically increased since 1981. The costs of doing business 25 years ago were substantially lower then the costs financial institutions bear now.

It is submitted that \$30 per hour to compensate for the costs of wages, fringe benefits, payroll taxes, and fixed operating costs is reasonable and fair.

Thank you.

TESTIMONY OF MARILYN FOSS
ON BEHALF OF THE NORTH DAKOTA BANKERS ASSOCIATION
HB 1253

Chairman Klein, members of the Senate IBL Committee, I am Marilyn Foss, general counsel for the North Dakota Bankers Association. I appear before you this morning to urge a DO PASS for HB 1253. This bill increases from \$10 to \$30 per hour the amount which a financial institution may charge for employee time when an employee is searching records and responding to certain state or local government agency requests for information about a customer. I say "certain" agency requests because information requests by the department of human services are excluded. From conversations with bankers, I understand that many of the covered searches of records are undertaken as part of the asset verification process for county social services boards.

The \$10 per hour rate was established by the legislative assembly in 1981. Our members are asking for an increase simply because they believe they should be reimbursed for their costs for responding to government records searches at a rate that is more commensurate with 2007 costs than is \$10 per hour. A reimbursement level that was reasonable in 1981 simply isn't 26 years later.

The president of one of our smaller member banks was straightforward about the issue. He asked me why the bank could only charge \$10 per hour when it costs the bank \$25 per hour for the employee who is actually searching the records. The only answer I had at the time was, "it's the law". He asked me if we could change the law to allow the bank to recover its costs. That is what we are trying to do with HB 1253.

Thank you.

Marilyn Foss, Lobbyist 76
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ND 1253