

2011 SENATE HUMAN SERVICES

SB 2097

2011 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

SB 2097
1-24-2011
Job Number 13304

Conference Committee

Committee Clerk Signature <i>[Handwritten Signature]</i>
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Explanation or reason for introduction of bill/resolution:

Relating to criminal history record checks of counselors.

Minutes:

Attachments

Senator Judy Lee opened the hearing on SB 2097. She reported that the president of the Board of Counselor Examiners was not able to be present. His written testimony was submitted for the record.

Attachment #1 is the written testimony from Paul Millner, Chairman of the ND Board of Counselor Examiners.

There was no further testimony.

This has no state fiscal impact but a potential in the increase in the fees to the licensees. The board would determine that need.

The hearing on SB 2097 was closed.

Senator Spencer Berry moved a **Do Pass**.

Seconded by **Senator Gerald Uglom**.

There was discussion that the only cost would be to new applicants. New applicants would be required to have a background check - renewals only if the board requires it.

Renewal fees were discussed. Renewal fees were more than the first time. There was confusion and it was suggested to contact the board for an explanation on the difference.

The **Do Pass** motion was **withdrawn** and the meeting adjourned until the committee could get clarification on the fee difference.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

SB 2097
1-31-2011
Job Number 13744

Conference Committee

Committee Clerk Signature

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Explanation or reason for introduction of bill/resolution:

Minutes:

Attachments

Senator Judy Lee called the committee to order to discuss SB 2097.

She received information from the board explaining that if one is getting the Licensed Clinical Counselor License they are actually getting two licenses. The board was looking to raise the fee by \$50 for each license. Attachment #2. After discussion with Senator Judy Lee they decided not to specify any numbers. Senator Judy Lee suggested, instead, just enabling the board to set the fees. Sen. Lee put it before the committee for consideration to allow the board the latitude through rule to change the fees.

After a short discussion that this is being done with other groups there didn't seem to be a problem with going this way. Rules still require legislative oversight.

Senator Judy Lee presented an amendment for consideration. Attachment #3

Senator Gerald Uglen moved to **accept the amendment**.

Seconded by **Senator Dick Dever**.

Roll call vote 5-0-0. **Amendment adopted**.

Senator Dick Dever moved a **Do Pass as Amended**.

Seconded by **Senator Gerald Uglen**.

Roll call vote 5-0-0. **Motion carried**.

Carrier is **Senator Dick Dever**.

FISCAL NOTE

Requested by Legislative Council
12/22/2010

Bill/Resolution No.: SB 2097

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 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.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 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 will allow the NDBCE to increase current fees if needed, however, this Board does not anticipate an increase in the immediate future.

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:	Marge Ellefson	Agency:	NDBCE
Phone Number:	701-391-5371	Date Prepared:	01/21/2011

January 27, 2011

JL
2-6-11

PROPOSED AMENDMENTS TO SENATE BILL NO. 2097

Page 1, line 13, overstrike ", not to exceed"

Page 1, line 13, remove "two"

Page 1, line 13, overstrike "hundred"

Page 1, line 13, overstrike "dollars,"

Page 1, line 14, overstrike ", not to exceed"

Page 1, line 15, remove "two"

Page 1, line 15, overstrike "hundred"

Page 1, line 15, remove "fifty"

Page 1, line 15, overstrike "dollars,"

Renumber accordingly

Date: 1-31-2011

Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2097

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number 11.8006.01001

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Sen. Uglem Seconded By Sen. Dever

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee, Chairman	✓		Sen. Tim Mathern	✓	
Sen. Gerald Uglem, V. Chair	✓				
Sen. Dick Dever	✓				
Sen. Spencer Berry	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment _____

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

Date: 1-31-2011

Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2097

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number 11.8006.01001 Title 02000

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Sen. Dever Seconded By Sen. Uglem

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee, Chairman	✓		Sen. Tim Mathern	✓	
Sen. Dick Dever	✓				
Sen. Gerald Uglem, V. Chair	✓				
Sen. Spencer Berry	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen. Dever

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

REPORT OF STANDING COMMITTEE

SB 2097: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2097 was placed on the Sixth order on the calendar.

Page 1, line 13, overstrike ", not to exceed"

Page 1, line 13, remove "two"

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Page 1, line 15, remove "fifty"

Page 1, line 15, overstrike "dollars,"

Re-number accordingly

2011 HOUSE JUDICIARY

SB 2097

2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

SB 2097
March 2, 7 & 8, 2011
15011, 15084

Conference Committee

Committee Clerk Signature

Minutes:

March 7, 2011, Job #15011

Chairman DeKrey: We will open the hearing on SB 2097.

No one appeared on behalf of this bill. The bill was recessed.

March 8, 2011, Job 15084

Chairman DeKrey: We will reopen recessed bill SB 2097.

Paul Millner, Chairman of ND Board of Counselor Examiners: Support, explained the bill (see attached 1).

Rep. Delmore: How common is it for people to just decide that they will set a reasonable fee. I think most of the time it's set in statute. Can you tell me if you have a fee in mind, and what other groups are charging for similar services.

Paul Millner: We have not adjusted our fees in the 14 years of licensure. We had recommended a \$100 increase with the three tiers of licensure. Presently, it's \$150 application fee, which we also recommended that we be allowed to raise up to \$100. That specific language was in the original bill that was struck in the engrossed version allowing us to make the changes via administrative rule, rather than having to come back to this body.

Rep. Delmore: What is your practice now, do people have to go through a similar check at this time, and we're just cleaning it up.

Paul Millner: You're referring to the background checks. At the present time we are not doing any background checks. We feel that since other Boards are doing that, we have a fiduciary responsibility to do that.

Rep. Koppelman: You indicated that this change would allow you to set the fee by administrative rule, but it doesn't say that in the Bill, it just says that you can set it.

That leaves me to wonder if that leaves it open that you could just do it by resolution. Would you object to language that clarified that you set it by administrative rule.

Paul Millner: We certainly wouldn't object to that. All of our processes currently are being changed by administrative rule; that was our assumption as to how this would need to occur.

Rep. Koppelman: Regarding the criminal history checks, how many of these applications do you process in a year; how many checks do you anticipate being run.

Paul Millner: Currently we have about 42 new licenses that we issue per year. We have approximately 340 total counselors. They come in two year cycles, so that would be additionally 150 per year for the renewals of those licenses. The language in the bill was that we would do all new applicants; current licensure we may, at our discretion, do the check.

Rep. Koppelman: We have, in the past few years, either required or allowed various boards and groups to do criminal background checks for various types of people, applicants, etc. in ND for good reason. One of the pressures that it creates is the processing of those applications. I know that you've got in the bill that the applicant would bear the cost of the check; however, the AG's office has to run those, because if they are a federal check they have to go through those. Have you consulted with the AG's office or the BCI to see if this puts any kind of staff burden on them that they didn't anticipate.

Paul Millner: Bill Peterson was instrumental in terms of advising us to write this bill. Mr. Peterson works for the AG's office; but we did not specifically inquire as to whether additional volume would impact those offices.

Rep. Koppelman: As long as that's the case and there is no fiscal note on the bill, we'll trust that is taken care of.

Rep. Klemin: Going back to section 2 again on the fees. This bill will become effective August 1, 2011. When we amend this section to delete the amount of the fee and you haven't yet had a rule-making proceeding to set the fee, what's the fee going to be on August 1.

Paul Millner: The fee will be at its current rate and through our administrative rule process we will initiate that beyond August 1 to make any adjustment. We intend to retain the fees as established.

Rep. Klemin: I understand that, but if we amend this to say that the fee is not in the statute and you have to set the fee by rule, and you haven't acted on a rule by August 1, you may not have any fee.

Paul Millner: We have several administrative rule changes that we're proposing, and we certainly can accelerate to have the fees in place so that we do have numbers.

Rep. Klemin: I was just pointing out that if you don't act quickly there might be a lapse.

Paul Millner: I appreciate that.

Rep. Delmore: The way it is worded in the bill "except criminal history, record licenses need not be made unless required by the Board". Obviously, you're doing that with new applicants. Is this setting it up so you can decide is person A will have the background check, person B I'm not worried about. How will the Board carry through on that because again, that's a pretty broad license you have to say who will need a check, you don't need a check.

Paul Millner: It is our intent that new applicants will have the background check. If there is anything that is reported in the application process for renewal, that would trigger the expectation that the current licensee participate in a background check. Because of the financial burden to our licensees, we did not, in our discussions, believe that all current licensees across the board had to have background checks. We felt that we could evaluate those on a case-by-case basis at time of renewal.

Rep. Delmore: So you see grandfathering most of those current licensees unless there is a reason to do a background check.

Paul Millner: So to speak.

Chairman DeKrey: Thank you. We will close the hearing. Let's take a look at SB 2097.

Rep. Koppelman: I move that on lines 13 and 14, after the word "set" insert ", by rule" in both places.

Rep. Boehning: Second the motion.

Chairman DeKrey: We take a voice vote. Motion carried. We now have the bill before us as amended. What are the committee's wishes.

Rep. Boehning: I move a Do Pass as amended.

Rep. Beadle: Second the motion.

13 YES 0 NO 1 ABSENT DO PASS AS AMENDED

CARRIER: Rep. Boehning

March 8, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2097

Page 1, line 13, after "Set" insert ", by rule."

Page 1, line 14, after "set" insert ", by rule."

Renumber accordingly

Date: 3/8/11
 Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2097

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number 11.8006.02001 .03000

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Boehning Seconded By Rep. Beadle

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin			Rep. Guggisberg	✓	
Rep. Beadle	✓		Rep. Hogan	✓	
Rep. Boehning	✓		Rep. Onstad	✓	
Rep. Brabandt	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Steiner	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Boehning

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

REPORT OF STANDING COMMITTEE

SB 2097, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2097 was placed on the Sixth order on the calendar.

Page 1, line 13, after "Set" insert ". by rule."

Page 1, line 14, after "set" insert ". by rule."

Renumber accordingly

2011 TESTIMONY

SB 2097

#1

**Testimony
Senate Bill No. 2097
Human Services Committee
Judy Lee, Chairman
January 2011**

Chairman Lee, members of the Human Services committee, my name is Paul Millner. I am the Chairman of the North Dakota Board of Counselor Examiners and I am here today to provide testimony in support of Senate Bill No. 2097.

This bill would enact a new subdivision, pertaining to the licensed counselors in the state of North Dakota, to an existing chapter of the North Dakota Century Code. Passage of this bill would provide authority for the Board of Counselor Examiners to require new applicants for counselor licensure to submit to a statewide and nationwide criminal history check and may require a licensee to submit to a statewide and nationwide criminal history check. The Board is unanimous in its conclusion that in order to more fully protect the public such a provision in our licensing standards is essential.

Additionally this bill amends and reenacts subsection 3 of section 43-47-03 of the North Dakota Century Code relating to fees charged to applicants and licensees. The bill will adjust the fee for filling an application for a counselor license and for the renewal of a license. In light of costs associated with maintaining the licensing process and financial integrity of the Board this increase appears reasonable.

Thank you for the opportunity to address this Committee and testify on this on behalf of the North Dakota Board of Counselor examiners. We appreciate you support in passage of this legislation. I will certainly address any questions this Committee may have.

#2

NDLA, Intern 02

From: Millner, Paul [Pmillner@primecare.org]
Sent: Tuesday, January 25, 2011 3:54 PM
To: Lee, Judy E.
Cc: NDLA, Intern 02; 'Marge'; 1Postmaster Local
Subject: FW: Senate Human Services Committee--SB 2097

Good Afternoon Judy,

Please see the explanation below as described by Marge. When a person renews, it will be at the LPC (Licensed Professional Counselor Level-current fee \$100) and possibly with the LPCC (Licensed Professional Clinical Counselor level- current fee \$50), making their total renewal, at present \$150.

We are asking that this amount be given the option to increase \$100, or broken down, \$50 per level.

Sorry about any confusion but we wanted to clarify due to the existence of the specialty license.

Paul D. Millner
Director Archway Mental Health Services
St Alexius Medical Center

900 East Broadway
PO Box 5510
Bismarck, ND 58506-5510

<mailto:pmillner@primecare.org>

Office Phone: 701-530-7374

From: NDBCE [mailto:ndbce@btinet.net]
Sent: Monday, January 24, 2011 11:18 PM
To: Millner, Paul
Subject: Fw: Senate Human Services Committee--SB 2097

Paul, in reading the message again, they are asking for the difference in fees between new applicants (counselors) and renewal applicants (counselors), the way I read it. They are mentioning the new counselor fees, so I think when you answer, make sure they understand that the new counselors making initial app are charged accordingly for one time admin fees, paperwork fees, review fees, and general fees attached to establishing licensure, where the renewal fees are attached to the renewal of already existing licenses. The "new counselor" fee covers admin fees (\$50) and two years of licensure(\$100), where the renewal fee (\$100 and \$150 respectively for LPC and LPCC covers two years of continuing licensure that has already been established. Then you can remind them that the current renewal fees for \$150 are actually for two licenses for those who advanced to the clinical practice. They may be wondering why it costs the same for new application and renewal, when actually they are two separate issues, as a new license has it's own set of expenses, and the renewal fee for LPC/LPCC involves renewing two licenses. Does that help? That's just the way I am reading it. I think they aren't understanding that the higher of our two renewal fees is for an advanced counselor, just like the various different levels the social workers have. I actually think they have four.

Marge

----- Original Message -----

From: NDLA, Intern 02

NDLA, Intern 02

From: Marge [marge@bis.midco.net]
Sent: Tuesday, January 25, 2011 4:52 PM
To: Lee, Judy E.; Millner, Paul
Cc: NDLA, Intern 02; 1Postmaster Local
Subject: Re: Senate Human Services Committee--SB 2097

Judy, currently the initial application fee is \$150. That covers the cost of review, approval and establishing the license for the applicant, and two years of licensure. The current renewal fee is \$100 for the LPC every two years, and \$150 if the counselor holds both the LPC and LPCC licenses. The LPC is the Licensed Professional Counselor. The LPC can choose to apply for the LPCC license if the LPC meets the clinical requirements. The LPCC is the Licensed Professional Clinical Counselor. This is a separate license that those trained in clinical mental health can hold. If the counselor holds an LPC, the renewal fee is \$100. If the counselor holds both licenses, the LPC and LPCC, the renewal fee is \$150.

#3

11.8006.01001
Title.

Prepared by the Legislative Council staff for
Senator J. Lee

January 27, 2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2097

Page 1, line 13, overstrike ", not to exceed"

Page 1, line 13, remove "two"

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Renumber accordingly

1


Testimony
Engrossed Senate Bill No. 2097
House Judiciary Committee
Duane DeKrey, Chairman
March 8, 2011

Chairman DeKrey, members of the House Judiciary committee, my name is Paul Millner. I am the Chairman of the North Dakota Board of Counselor Examiners and I am here today to provide testimony in support of Engrossed Senate Bill No. 2097.

There are two fundamental parts to Engrossed Senate Bill 2097.

First, this bill would enact a new subdivision, pertaining to licensed counselors in the state of North Dakota, to an existing chapter of the North Dakota Century Code. Passage of this bill would provide authority for the Board of Counselor Examiners to require new applicants for counselor licensure to submit to a statewide and nationwide criminal history check and may require a ^{licensed} licensee to submit to a statewide and nationwide criminal history check. The Board is unanimous in its conclusion that in order to more fully protect the public such a provision in our licensing standards is essential.

Additionally this bill amends and reenacts subsection 3 of section 43-47-03 of the North Dakota Century Code relating to setting and collecting fees charged to applicants and licensees. The Engrossed Senate bill will remove actual dollar references related to a fee for filling an application for a counselor license and for the renewal of a license. The Engrossed Senate Bill 2097 allows the present and future Boards to address fee changes through an Administrative rule change process rather than a Legislative process. The initial Senate Bill 2097 submission had language specific to application and renewal fee increases, which appeared reasonable to the Board in light of



costs associated with maintaining the licensing process and financial integrity of the Board. Changes identified in Engrossed Senate Bill 2097 were created by the sponsor and Senate Human Service Committee and are fully supported by the Board of Counselor Examiners as it will provide greater agility in terms of fiscal management by the Board.

Thank you for the opportunity to address this Committee and testify on this on behalf of the North Dakota Board of Counselor Examiners. We appreciate your support in passage of this legislation. I will certainly address any questions this Committee may have.

