

2013 HOUSE HUMAN SERVICES

HB 1253

2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

HB 1253
January 23, 2013
17589

Conference Committee

Jocelyn Gallagher

Explanation or reason for introduction of bill/resolution:

Relating to reimbursement of costs incurred in complying with smoking restrictions in public places and places of employment.

Minutes:

attached testimony 1, 2

Chairman Weisz: Opened the hearing on HB 1253.

Rep. Blair Thorenson: Introduced and supported the bill (0.26.-2:18) (no written testimony). There are costs incurred with signage and compliance with the laws dealing with smoking. There are some negative impacts on the businesses in the state and this would provide a vehicle for businesses to be made whole in some way for the costs incurred. I hope you will give a favorable recommendation on HB 1253.

Rudy Martison, Executive Director for ND Hospitality Association: testified in support of the bill.(3:23-4:36) (no written testimony)

Rep. Looyen: Can you expand on the cost?

Rudy Martison: I don't have a total for all dollars spent to come into compliance with this over the years. Initially many spent money to put up a wall to divide smokers and non-smokers. Then when it moved outside people spent thousands of dollars to put up smoking shelters and we can't use those anymore.

Rep. Fehr: How many business and what may be an average cost per business in terms of the signage relating to this bill?

Rudy Martison: The way I read this bill it doesn't just affect hospitality businesses; it affects every business that has employee's needs to put this kind of signage. I couldn't put an average cost on that in terms of how many entrances do you have, how big facility is, is it a plastic sign or paper printed sign, etc.

Rep. Mooney: Did they provide signage for you?

Martinson: I think it varies from public health district to public health district. The ones I have seen are a small temporary paper sign that came with a letter saying eventually you will have to buy more permanent signage.

Rep. Mooney: So the directive was eventually the permanent signage would come through the facility itself?

Rudy Martison: That was my understanding.

Lisa Hixson Moltzen: (7:45) (No written testimony) Here in support of this bill. My father is a bar owner of three establishments in Bismarck. He wanted to let you know some of the expenses he has spent on this. He spent approximately \$12,000 creating the butt huts per the city vote at one place and over \$40,000 at another place.

Rep. Mooney: The huts initially created were in response to local voting. Now you can't use those huts?

Lisa Hixson Moltzen: He will have to make changes to both places' huts.

Rep. Mooney: Signage not so much a concern, his primary concern would be the huts?

Lisa Hixson Moltzen: They have taken care of all the signage, I can't tell you what they've spent on that. But there will be more costs incurred to the huts.

Mike Rud, represent the ND Petroleum Marketers and ND Retail Association: (10:17) (No written testimony) We are in support of 1253. The truck stop arena has spent up to \$150,000 to \$250,000 to comply with the 2007 law. We have always complied and don't have any trouble with voters in ND but we need a clear regulatory path on this issue so we aren't continually spending money to comply with the changing laws.

Tom Balzer, ND Motor Carriers Association: (11:40) (No written testimony) Represent a number of trucking companies and truck stops in the state. The cost to comply and the amount of these signs that need to go up are astronomical and the reasonableness is just not there. If you continue on this path there needs to be some financial support offered to these businesses in order to comply. The way this language is written the amount of stickers necessary to comply is unbelievable.

Dwight Wrangham, The Coin and Tavern Association: (13:02) (No written testimony) We represent taverns across the state. Please support the bill.

Chairman Weisz: Further support on HB 123? Opposition to HB 1253?

Andrew Hetland: Ear, Nose, Throat, Head, Neck surgeon in Bismarck: (13:47) (No written testimony) Testified in opposition of the bill. I know a lot about regulation and compliance. A lot is regulated in the health care industry and also the restaurant and bar industry. This bill is about safety and I don't think financially it is called for to support these businesses. I have to keep up in my business with the industry regulations at all times.

Kimberlee Schneider, represent the American Lung Association: (15:22) (No written testimony by Kimberly) I have been asked to read on behalf of two different people who were unable to attend today. (Kimberlee read written testimony #1 from Chesey Matter and #2 from Angela MacAdams)

Jeanne Prom, Executive Director of the ND Center for Tobacco Prevention and Control Policy: (17:23 - 31:57) (See Testimony #3) testified in opposition of the bill.

Rep. Fehr: (32:00) What would it minimally take to make the law to accomplish permanent signage outside?

Jeanne Prom: Maybe a laminated sign that isn't highly expensive but I'm sure the business would try to do this in a way that is reasonable and within their budget.

Rep. Porter: We have never allowed smoking in our business. With this new law, I have to put a sign up now? Explain to me the rational of putting signs up on their building if there was never smoking allowed there in the first place?

Jeanne Prom: There were many places that were smoke free before. It is easier from the enforcement stand point if everyone has to do the same thing.

Rep. Porter: I own an ambulance service and as I look further into the law it says I have to remove the ashtrays from the ambulance and put stickers in its place. Can you explain how that fits into your program?

Jeanne Prom: We have asked for clarification on the factory installed ashtrays and they won't be expected to be removed. You operate a business and I think this was just about being uniform with the law.

Rep. Porter: I have a tractor on my farm and an employee and I have a tractor that has never been smoked in and who is going to enforce this law?

Jeanne Prom: If you have an employee and you happen to be a farmer then the rules would apply to you. If an employee tells that another employee smoked in the tractor then the local law enforcement would call Public Health.

Rep. Anderson: What is penalty for non-compliance to stickers?

Jeanne Prom: The penalty for an individual not complying is \$50 fine to smoker and owner gets \$100 for first violation.

Rep. Damschen: Your organization promoted a smoke free measure and I remember seeing ads but never saw one promoting the measure on signage and ashtray removal and you referred to the strong support. Do you feel the support might not have been as strong if we had been aware of these requirements?

Jeanne Prom: The full text of the law was available when signatures were being gathered to put this on the ballot and 20,000 people signed that. It is the responsibility of the people to read about laws and vote accordingly.

Rep. Damschen: You didn't advertise the fact of the signage. It is true it was not promoted on that basis of the required signage and ashtray removal?

Jeanne Prom: Our agency had ads on costs of tobacco and the dangers of second hand smoke. Anything specifically related to this particular measure that was advertised or promoted was done by Smoke Free ND so maybe someone from Smoke Free ND could answer your questions.

Rep. Mooney: Since we have to put stickers up aren't taxpayers paying for this anyway?

Jeanne Prom: Yes, to the extent that this law applies to state, local, and other governments.

Chairman Weisz: Further questions? Further opposition on HB 1253? Closed hearing on HB 1253.

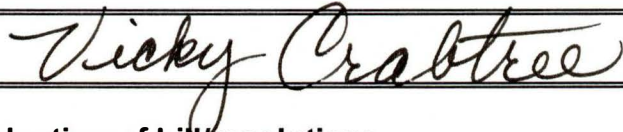
2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

HB 1253
February 11, 2013
Job #18657

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to reimbursement of costs incurred in complying with smoking restrictions in public places and places of employment.

Minutes:

Chairman Weisz: We will look at 1253. Rep. Porter can explain the amendments?

Rep. Porter: HB 1253 on page 2 is where we are looking to put the amendment. I didn't like the language that was in there that someone could go out and buy gold plated signs and turn a bill into the committee. I don't disagree that the committee can be the repository for the signage. The amendment says that if a business wants to get their signs from the committee they can put in a request and the committee will then mail the signs out to them. It also takes out the components of the huts and any previous costs that may have been incurred by the vote of the people. It takes out the reimbursement component and makes the committee pay repository for legal signs if requested from a business or someone who wants signs or stickers.

Rep. Mooney: Nobody would be reimbursed under the amendment?

Rep. Porter: That is correct.

Rep. Mooney: If I call the state I can request stickers or signs and they would supply it to me?

Rep. Porter: That is correct.

Rep. Oversen: It is my understanding that the signs are already available. Are we concerned they will run out or not provide them any longer to put that into law?

Rep. Porter: No. It was more a concern that the expense to the businesses. There is money in the account and it is a CDC best practice and that is what the money is for. The signage is part of the law and they can have them available if a business requests them.

Rep. Porter: I move the motion to adopt the amendment.

Rep. Fehr: Second.

VOICE VOTE: MOTION CARRIED

Rep. Mooney: Do we do this in any other areas of the state where signage can be provided from the state to our business people?

Rep. Silbernagel: I don't think so. We are regulated in many industries and typically you pay for your signage. We are receiving dollars to educate and inform the public the hazards of smoking and this could be looked at a further way to educate and expand that effort.

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

Rep. Anderson: Second

Rep. Mooney: I'm not a fan of all these signs. I will not be voting in favor of this because it is opening up precedence for the future.

Rep. Silbernagel: Initially when the bill came to us, I was opposed to it. With the amendments this is opportunity to further educate. I will support it.

Rep. Hofstad: I think you can make the case that this is in the interest of the public good. The public has spoken and they want us as citizens to stop smoking and this helps the cause without putting an undue burden on any business out there. I like the amendment.

Chairman Weisz: At least you will have uniformity of signage.

Rep. Oversen: There will be an unknown fiscal impact because of the signage and postage. How do we deal with that?

Chairman Weisz: If this passes they will have to come up with another fiscal note and it may say the same thing. I think it will be easier for them to come up with something now. We will take a roll call vote on a Do Pass as amended. It has a blank fiscal note and if it comes back with a dollar amount then the floor will re-refer to Appropriations.

Rep. Silbernagel: Can't the Tobacco dollars go to fund this?

Chairman Weisz: No one can spend a penny of money with authorization from Appropriation. An agency can't spend grant money from the feds unless Appropriations gives them the authority. These funds come from the legislation that was passed in 2009. When the initiated measure was passed, a percentage of those funds fell into this group.

ROLL CALL VOTE: 10 y 2 n 1 absent

MOTION CARRIED - DO PASS AS AMENDED

House Human Services Committee

HB 1253

February 11, 2013

Page 3

Bill Carrier: Rep. Anderson

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Bill/Resolution No.: HB 1253

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **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 amends the new smokefree law to allow the owner, operator, manager, or other person in control of a public place or place of employment to be reimbursed by the Tobacco Prevention & Control Executive Committee for actual costs incurred in complying with signage and enforcement requirements.

- 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.*

It is not possible to fully determine the fiscal impacts that would occur as a result of the legislation. It is not known the number of owners, operators, managers, or other persons in control of a public place or place of employment where smoking is prohibited by this Act will submit receipts for reimbursement of actual costs incurred in complying with the signage and enforcement requirements. There is no way to determine the cost of each sign and the number of signs each owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Act will submit. Additionally, there is no way to determine what would be submitted for the cost of enforcement for each owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Act. The N.D. Center for Tobacco Prevention and Control Executive Committee provides templates for signs that can be printed off the Center website at www.breathend.com. The Center has referred all callers to its website for these free templates.

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: Jeanne Prom

Agency: Tobacco Prevention and Control Executive Committee

Telephone: 701.328.5130

Date Prepared: 01/21/2013

February 11, 2013

VK
2/11/13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1253

Page 1, line 2, replace "reimbursement of costs incurred in complying" with "securing the necessary signage required to be in compliance"

Page 2, line 9, replace "submit receipts to" with "request from"

Page 2, line 10, remove "for"

Page 2, remove line 11

Page 2, line 12, replace "person in control of the public place or place of employment in complying" with "the signs necessary to comply"

Page 2, line 13, remove "and enforcement"

Page 2, line 26, replace "The executive committee shall reimburse the actual costs incurred by" with "Upon the request of"

Page 2, line 28, remove "in complying with the signage and enforcement requirements of"

Page 2, replace line 29 with "where smoking is prohibited under section 23-12-10, the executive committee shall provide the signs necessary to be in compliance with the signage requirements of"

Renumber accordingly

Date: 2-11-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1253

House Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep. Porter Seconded By Rep. Fehr

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ			REP. MOONEY		
VICE-CHAIRMAN HOFSTAD			REP. MUSCHA		
REP. ANDERSON			REP. OVERSEN		
REP. DAMSCHEN					
REP. FEHR					
REP. KIEFERT					
REP. LANING					
REP. LOOYSEN					
REP. PORTER					
REP. SILBERNAGEL					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Voice Vote
Motion Carried*

Date: 2-11-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1253

House Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

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

Motion Made By Rep. Porter Seconded By Rep. Anderson

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	✓		REP. MOONEY		✓
VICE-CHAIRMAN HOFSTAD	✓		REP. MUSCHA	A	
REP. ANDERSON	✓		REP. OVERSEN		✓
REP. DAMSCHEN	✓				
REP. FEHR	✓				
REP. KIEFERT	✓				
REP. LANING	✓				
REP. LOOYSEN	✓				
REP. PORTER	✓				
REP. SILBERNAGEL	✓				

Total (Yes) 10 No 2

Absent 1

Floor Assignment Rep. Anderson

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

REPORT OF STANDING COMMITTEE

HB 1253: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1253 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "reimbursement of costs incurred in complying" with "securing the necessary signage required to be in compliance"

Page 2, line 9, replace "submit receipts to" with "request from"

Page 2, line 10, remove "for"

Page 2, remove line 11

Page 2, line 12, replace "person in control of the public place or place of employment in complying" with "the signs necessary to comply"

Page 2, line 13, remove "and enforcement"

Page 2, line 26, replace "The executive committee shall reimburse the actual costs incurred by" with "Upon the request of"

Page 2, line 28, remove "in complying with the signage and enforcement requirements of"

Page 2, replace line 29 with "where smoking is prohibited under section 23-12-10, the executive committee shall provide the signs necessary to be in compliance with the signage requirements of"

Re-number accordingly

2013 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1253

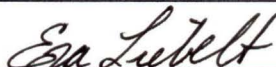
2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

HB 1253
March 13, 2013
Job Number 19844

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to securing the necessary signage required to be in compliance with smoking restrictions in public places and places of employment

Minutes:

Testimony Attached

Representative Thoreson: Introduced the bill and explained the bill.

Senator Andrist: Asked if he has any constituents that find this requirement onerous or is this mostly a philosophical thing.

Representative Thoreson: Said he has had conversation with several people that live in his district and others within the business community. They are very supportive of this saying they have incurred cost of tens of thousands of dollars in the past. That is not part of the bill any longer but what is left standing here, the business community and the citizens of North Dakota think this might be a good way to do it. If we are going to try and keep people from smoking on the premises and hopefully reduce smoking, this is a fair use of the dollars.

Discussion (3:54-7:55)

Mike Rud, President of the North Dakota Petroleum Marketers and Retail Association: They stand in support of 1253. It is a good and fair bill. They had a lot of members who incurred a lot of cost over the last five or six years. They had folks that spent up to ¼ of a million dollars on no smoking areas and with the passage of this measure those places are obsolete and they are out that money. There is a penalty if you don't comply with the law.

Rudie Martinson, Executive Director of the North Dakota Hospitality Association: Said they are in support of 1253. It was covered verily well but wants to echo Mike Rud's point. They as an industry have incurred some pretty significant cost to hit a constantly moving target over the last five or six years on this issue. They would like the people who were in favor of this regulation and imposed this regulation to fund their mandate a little bit.

Dr. Kermit Lidstrom, Member of the Tobacco Prevention and Control Advisory Committee: Written Testimony Attached (1) and Signage Attached (2).

Senator Andrist: Asked if the control committee would find it to be of some benefit in supplying signs that they thought were more effective than the signs someone might put in their business.

Dr. Kermit Lidstrom: Said they had long discussions on those issues at the center and the signage they showed is the signage that was agreed on and they sent out thousands of those.

Chairman Klein: Asked if there was an easy way for them to get a hold of those signs and may be they could be supplied through the associations.

Dr. Kermit Lidstrom: Said they would maybe have to do some communicating after the bill is passed.

Jack McDonald, American Lung Association of the Upper Midwest and the North Dakota Society for Respiratory Care: Written Testimony Attached (3).

Chairman Klein: Closed the hearing.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

HB 1253
March 18, 2013
Job Number 20088

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to securing the necessary signage required to be in compliance with smoking restrictions in public places and places of employment

Minutes:

Discussion and Vote

Chairman Klein: Opened discussion on HB 1253.

Discussion

Senator Andrist: Moved a do pass.

Senator Unruh: Seconded the motion.

Roll Call Vote: Yes - 7 No - 0 Absent - 0

Floor Assignment: Senator Andrist

FISCAL NOTE
Requested by Legislative Council
02/13/2013

Amendment to: HB 1253

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

The bill amends the smoke-free law to allow the owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited may request from the Tobacco Prevention & Control Executive Committee the signs necessary to comply with the signage requirement.

- 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.*

It is not possible to fully determine the fiscal impacts that would occur as a result of the legislation. It is not known the number of owners, operators, managers, or other persons in control of a public place or place of employment where smoking is prohibited by this Act who will request signs. It is not known how many signs may be requested per public place or place of employment. It is not known how many repeat requests may be made from the same owner/operator/manager/person in control of a public place or place of employment, necessary to comply with the signage requirements, nor the frequency of these repeat requests. The language of the bill does not address if the N.D. Center for Tobacco Prevention and Control has discretion over what kinds of signs will be provided. Additionally, the language of the bill does not address any range or limits to the mandatory fulfillment of signage requests. Presumably, the number of requests and amount of each request are unlimited, and the fiscal obligation does not sunset. The N.D. Center for Tobacco Prevention and Control Executive Committee provides templates for signs that can be printed off the Center website at www.breathend.com. The Center has referred all callers to its website for these free templates.

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: Jeanne Prom

Agency: Tobacco Prevention and Control Executive Committee

Telephone: 701.328.5130

Date Prepared: 02/14/2013

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Bill/Resolution No.: HB 1253

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **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 amends the new smokefree law to allow the owner, operator, manager, or other person in control of a public place or place of employment to be reimbursed by the Tobacco Prevention & Control Executive Committee for actual costs incurred in complying with signage and enforcement requirements.

- 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.*

It is not possible to fully determine the fiscal impacts that would occur as a result of the legislation. It is not known the number of owners, operators, managers, or other persons in control of a public place or place of employment where smoking is prohibited by this Act will submit receipts for reimbursement of actual costs incurred in complying with the signage and enforcement requirements. There is no way to determine the cost of each sign and the number of signs each owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Act will submit. Additionally, there is no way to determine what would be submitted for the cost of enforcement for each owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Act. The N.D. Center for Tobacco Prevention and Control Executive Committee provides templates for signs that can be printed off the Center website at www.breathend.com. The Center has referred all callers to its website for these free templates.

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: Jeanne Prom

Agency: Tobacco Prevention and Control Executive Committee

Telephone: 701.328.5130

Date Prepared: 01/21/2013

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. Engrossed 1253**

Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

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

Motion Made By Senator Andrist Seconded By Senator Unruh

Senators	Yes	No	Senator	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Laffen	x		Senator Sinner	x	
Senator Andrist	x				
Senator Sorvaag	x				
Senator Unruh	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Andrist

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

REPORT OF STANDING COMMITTEE

HB 1253, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1253 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1253

H

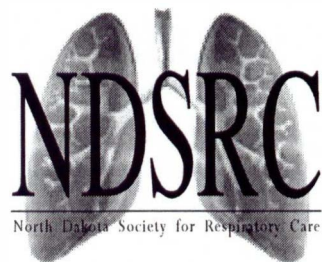
Testimony in Opposition to House Bill 1253
Human Services Committee
10 am, Wednesday, January 23, 2013
Smoke Free North Dakota

Good morning, Chairman Weisz and members of the Human Services Committee. I am Chelsey Matter, chair of Smoke Free North Dakota. Smoke Free North Dakota was formed by an active group of volunteers dedicated to clearing the air for all North Dakotans. I am here to testify in opposition to House Bill 1253. House Bill 1253 states that any employer, owner, operator, manager, etc that incurs costs to comply with the law can submit a receipt to the executive committee for reimbursement.

Please note that signage requirement can be fulfilled by requesting signage from The Center for Tobacco Prevention and Control or printed off the Center's website. If additional resources are being employed to comply with the law they may be unnecessary. Smoke-Free North Dakota encourages businesses that are having implementation questions to reach out to their local public health unit to discuss the situation and come to a resolution.

The state's local public health units are working hard to support and educate businesses as they adjust to the new law.

Please oppose House Bill 1253. Thank you for your time.



Angela MacAdams, NDSRC President
801 North Broadway Route 207
Fargo, ND 58102

January 22, 2013

The North Dakota Society for Respiratory Care (NDSRC) represents the body of roughly 460 respiratory therapists in our state. Our professionals see, each and every day, the devastation tobacco causes in the majority of our patient population and their families who are left to cope.

North Dakota can be very proud in its smoke free support and funding of tobacco prevention and control programs. Measure 4 passed with a majority by every county in our state. Looking at the state's previous support for Measure 3, it is clear that the residents of our state want smoke-free efforts, programs to prevent our kids from starting the dangerous habit of tobacco use, and help for individuals who want to quit.

HB 1253 will take money away from these efforts and the NDSRC strongly opposes this bill. Signage responsibilities are already in place for business owners...fire exits, human resource notifications, etc. Why should smoke-free signage be any different? To help support business owners who are affected, signage that meets Measure 4's requirements is readily available for printing on the BreatheND website.

Please, for the good of our state and out of respect for its residents, do not pass HB1253.

Respectfully yours,

Angela MacAdams, RRT
President
North Dakota Society for Respiratory Care



North Dakota Tobacco Prevention and Control Executive Committee

#3

Center for Tobacco Prevention and Control Policy

4023 State Street, Suite 65 • Bismarck, ND 58503-0638

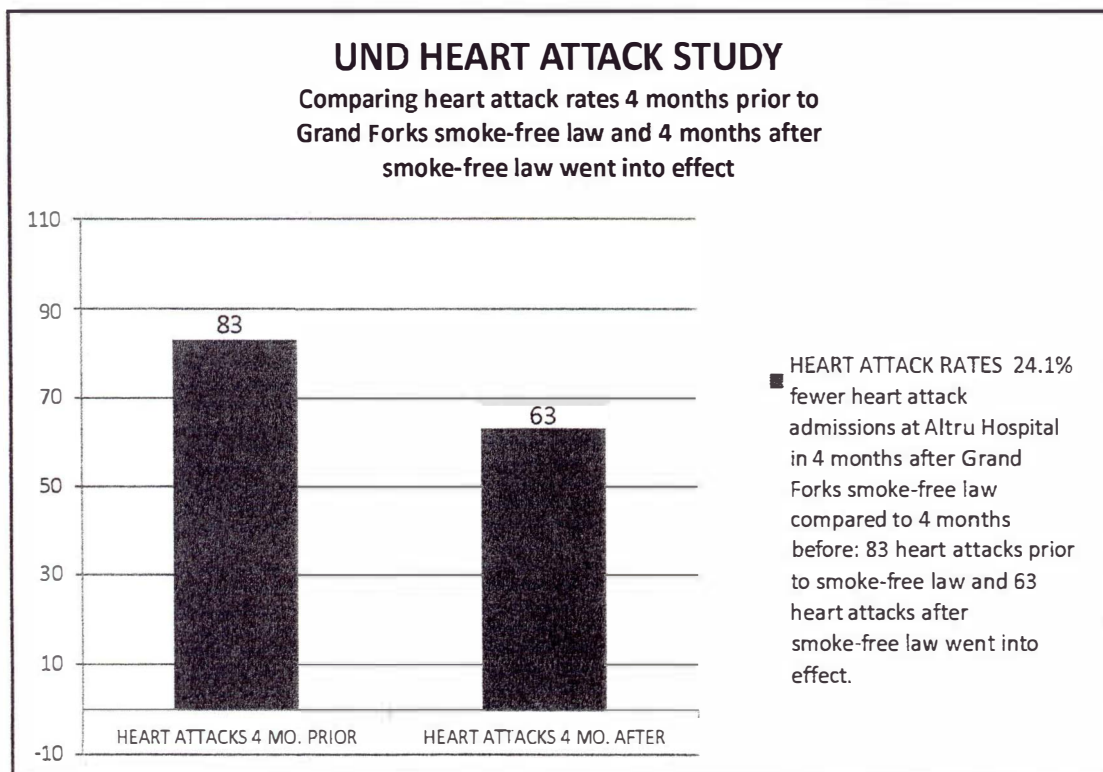
Phone 701.328.5130 • Fax 701.328.5135 • Toll Free 1.877.277.5090

Testimony In opposition to House Bill 1253 January 23, 2013, House Human Services Committee

Good morning, Chairman Weisz and members of the Human Services Committee. I am Jeanne Prom, executive director of the Center for Tobacco Prevention and Control Policy. The Center, along with the North Dakota Department of Health, local public health units and other partners, we are charged with implementing North Dakota's comprehensive statewide tobacco prevention plan: Saving Lives – Saving Money.

The law this bill is proposing to amend was an initiated measure that passed by 67 percent. This strong public support for the law bodes well for the immediate compliance with the law. The new smoke-free law was drafted by a coalition of tobacco prevention advocates that believe in protecting the health of North Dakotans. The Center agrees with the principles behind the law's intent. It is related to our mission of educating the public on the risks of tobacco use: to prevent youth from starting to use tobacco, change attitudes about tobacco use, and encourage communities to support smoke-free and tobacco free policies. Together, these approaches also prompt tobacco users to quit.

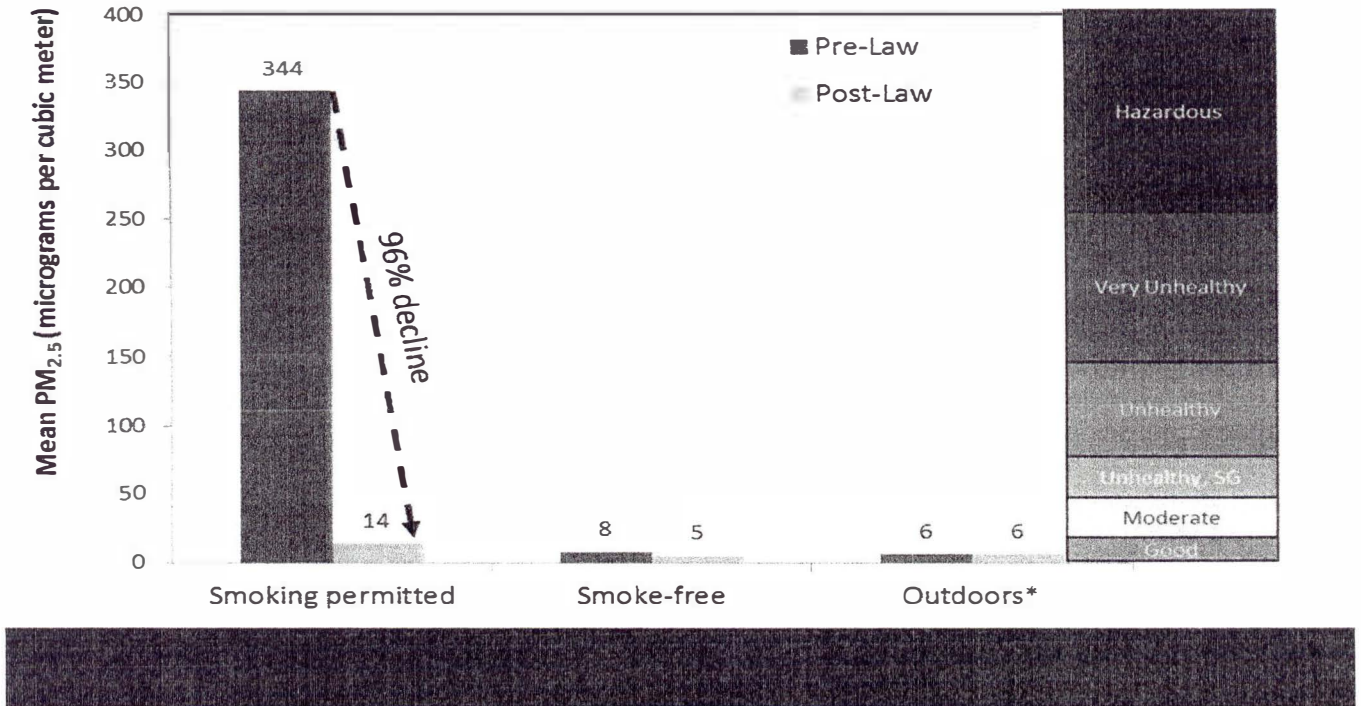
The new law will save lives. There is no safe level of exposure to secondhand smoke. Even very brief exposure causes blood platelets to stick together and may put one at risk of heart attack. This is why UND found that heart attack admissions to Altru decreased 24% in the four months after the Grand Forks smoke-free law took effect. The 20 fewer heart attack admissions were estimated to have saved \$156,620 based on an average cost of a heart attack admission (\$7,831/admit, according to recent N.D. Medicare costs) and \$860,000 total saved for all costs related to a heart attack episode (admit, follow-up, pharmacy, cardiac rehab and an average of \$43,000/all care, according to Blue Cross Blue Shield of Minnesota).



Grand Forks reported a 92% decline in fine particle air pollution in bars after enactment of their 2010 smoke-free city ordinance. Air quality improved from “unhealthy” to “good.” Fine particles (smaller than 2.5 microns in diameter) are released in significant amounts from burning cigarettes, are easily inhaled deep into the lungs, and cause a variety of adverse health effects including cardiovascular and respiratory morbidity and death).

Bismarck reported a 96% decline in fine particle air pollution in bars after enactment of their 2011 smoke-free city ordinance. Before the Bismarck ordinance took effect, employees in workplaces allowing smoking were exposed to air pollution 6 times higher than safe annual levels, and 57 times higher than the level of outdoor air in Bismarck.

Figure 1. Effect of Bismarck Smoke-free Air Law on Indoor Air Pollution



The Bill appears to be worded in a way that would allow an unlimited amount of money to be paid by the government to businesses and private citizens. Specifically, Section 1 of the Bill states:

“The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Act may submit receipts to the executive committee of the tobacco prevention and control advisory committee for **reimbursement of actual costs incurred** by the owner, operator, manager, or other person in control of the public place or place of employment in complying with the signage and enforcement requirements of subsection 1.”

A key phrase of Section 1 is the statement about the “...reimbursement of **actual** costs incurred...”: Page 2; Line 11. Note that this language does not require the proprietor’s costs to be within a certain reasonable range. Proprietors could intentionally or unintentionally incur substantial “actual costs” that would go beyond the scope of their duty, and go beyond what is reasonable or practical.

Section 2 of the Bill goes on to explain:

The executive committee **shall reimburse the actual costs** incurred by the owner, operator, manager, or other person in control of the public place or place of employment in complying with the signage and enforcement requirements of subsection 1 of section 23 - 12 - 10.4, upon receipt of a request for reimbursement under subsection 2 of section 23-12-10.4.

A key phrase of Section 2 is that “The executive committee ***shall*** reimburse actual costs incurred...”: Page 2; Line 25. This language appears to eliminate any discretion the Executive Committee might exercise in evaluating the costs submitted by a proprietor. Instead it appears that the Executive Committee must reimburse all costs submitted by a proprietor regardless of the dollar amount or the extravagance of the signage.

The Bill would result in costs incurred by the government—costs that might be substantial—but are not possible to accurately determine.

The Duty Placed on Proprietors

The law’s signage provision was written in a way that:

1. Provides the public with notice of no-smoking areas, and
2. Does so in a way that places minimal burden on a proprietor.

Section 23-12-10.4 of the law specifically states:

The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Act shall:

1. Clearly and conspicuously post no smoking signs or the international no smoking symbol in that place.
2. Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited.
3. Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Act.

A proprietor can easily meet this duty with very minimal burden:

1. They could handwrite the words: “No Smoking” on a piece of paper and place it in the appropriate location.
2. They could print off a template sign that the Center for Tobacco Control has made available online, and post that sign.

This duty could be met with the most limited of effort and cost; a bit of ink, some tape, and a piece of paper. Yet as noted, this Bill would allow all “actual costs”—cost that could go far beyond the law’s minimal requirement—to be reimbursed in full.

Passage of this Bill would appear to sets a new precedent. Generally speaking, private citizens bear certain burdens in order to comply with laws, and businesses are expected to pay for the costs of doing business—which includes the cost of meeting the requirements of laws that apply to them.

This Bill seems to change that idea. It would allow businesses and private citizens to pass the costs of compliance with a law onto the government. What could this lead to?

If a pesticide is outlawed by a future law, a pesticide business might seek an appropriation requiring the government to reimburse the business for economic costs of lost inventory that it can no longer use because of the law.

State law requires drivers to maintain auto insurance. The principle supported by this Bill would support the idea that the Insurance Commission should be required to reimburse citizens for the actual cost of their insurance premiums.

State law requires businesses to comply with fire codes, which includes signage, fire extinguishers and alarm systems. The principle supported by this Bill would support the idea that the State’s Fire Marshall Division should be required to reimburse businesses for the cost of complying with fire codes.

Proposed Amendment to HB 1253

Page 2 Line 9 overstrike " submit receipts"

Page 2 Line 9 immediately after "receipts" insert "request from"

Page 2 Line 9 overstrike "to"

Page 1 Line 10 immediately after the second "committee" insert "the signs necessary to comply"

Page 2 Line 11 overstrike " for reimbursement for the actual costs incurred by the owner, operator, manager, or other"

Page 2 Line 12 overstrike "person in control of the public place or place of employment in complying"

2. Thus it would read:

The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Act may ~~submit receipts~~ request from to the executive committee of the tobacco prevention and control advisory committee for reimbursement for the actual costs incurred by the owner, operator, manager or other person in control of the public place or place of employment in complying the signs necessary to comply with the signage and enforcement requirements of subsection 1.

Section 2

Page 2 Line 25 immediately after "2". insert "Upon the request from the owner, operator, manager or other person in control of a public place of place of employment where smoking is prohibited under section 23-12-10,"

Page 2 Line 25 overstrike "reimburse"

Page 2 Line 25 immediately after "reimburse" insert "provide"

Page 2 Line 25 overstrike "the actual costs incurred by the owner, operator, manager, or other person in control of the public place or place of employment"

Page 2 Line 27 immediately after "employment" insert "the signs necessary"

Page 2 Line 27 overstrike "in complying"

Page 2 Line 27 after "complying" insert "to be in compliance"

Page 2 Line 28 overstrike "upon receipt of a request from reimbursement under"

Page 2 Line 28 overstrike "under receipt of a request for reimbursement under section 2 of section 23-13-10.4."

Thus it would read:

2. Upon the request from the owner, operator, manager or other person in control of a public place or place of employment where smoking is prohibited under section 23-12-10, the executive committee shall reimburse provide the actual costs incurred by the owner, operator, manager, or other person in control of the public place or place of employment the signs necessary in complying to be in compliance with the signage and enforcement requirements of subsection 1 of section 23-13-10.4 under receipt of a request for reimbursement under subsection 2 of section 23-13-10.4.

The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Act may request from the executive committee of the tobacco prevention and control advisory committee, the signs necessary to comply with the signage requirements of subsection 1.

And the 2nd section to look like this:

Upon request of the owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited under section 23-12-10, the executive committee shall provide the signs necessary to be in compliance with the signage requirements of subsection 1 section 23-12-10.4.

1253

Testimony
Neutral to House Bill 1253
March 13, 2013, Senate Industry Business and Labor Committee

Good morning, Chairman Klein and members of the Senate Industry Business and Labor Committee. I am Dr. Kermit Lidstrom and am a member of the Center for Tobacco Prevention and Control Advisory Committee and also serve on the Executive Committee. I am here to testify today on behalf of HB1253.

Although the Center neither opposes or supports HB1253, this type of bill, where a specific agency is assigned to provide materials, such as signage, sets a new precedence for future policy legislation. Private citizens bear certain burdens in order to comply with laws and are expected to pay for the costs of doing business and meeting the requirements of laws that apply to them. The cost of compliance is seen as a means of doing business.

For example, state law requires businesses to comply with fire codes, which includes signage, fire extinguishers and alarm systems. The principle supported by this bill would support the idea that agencies like the State's Fire Marshall Division should be required to provide businesses with illuminated fire exit signage, alarm systems, and fire extinguishers.

We don't believe this law to be a good precedent; however, the Center for Tobacco Prevention and Control Policy will supply signage pending the passage of this bill. The Center has, in good faith, already been supplying businesses and those impacted by the smoke-free law, with downloadable template signage from our website.

SmokeFree!

ENVIRONMENT

**Smoking prohibited
by law indoors & within
20 feet of entrances.**

N.D.C.C. 23-12-9 to 23-12-11

Wednesday, March 13, 2013

SENATE INDUSTRY, BUSINESS & LABOR COMMITTEE
HB 1253

CHAIRMAN KLEIN AND COMMITTEE MEMBERS:

My name is Jack McDonald. I am appearing today on behalf of two organizations, the American Lung Association of the Upper Midwest and the North Dakota Society for Respiratory Care. The latter is the organization for North Dakota's respiratory therapists.

We supported last summer's initiative that made North Dakota a no smoking state.

We do not believe that HB 1253, which amends some of the signage obligations of the new law, alters the basic intent of the initiated measure, and thus we do not oppose HB 1253 and urge you to give this a do pass without amendment.

If you have any questions, I will be happy to try to answer them.

THANK YOU FOR YOUR TIME AND CONSIDERATION.