

2013 HOUSE JUDICIARY

HB 1340

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1340
January 28, 2013
Job 17815

☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

Records filed with the Secretary of State; and to amend and reenact subsection 1 of section 35-13-02, subsection 6 of 41-09-73, and subsection 7 of section 54-09-04 of the North Dakota Century Code, relating to confidential information in the possession of the Secretary of State and fees collected by the Secretary of State.

Minutes:

Testimony 1

Chairman Koppelman: Opens.

Rep Klemin: I introduced HB 1340 on the request of the Secretary of State's Office; Clara Jenkins is here in behalf of Al Jaegar.

Clara Jenkins, Secretary of State Office: Testimony 1.

Rep Steiner: On this amount where he wants flexibility will that be known to the public so there won't be a lot of push back?

Clara: We don't expect the cost to be different but yes we would have an explanation to how the costs were derived. I think the public will be much more satisfied with the new way.

Rep Klemin: You are just passing on what the charge is from ITD?

Clara: That is correct, the charges or the costs to develop those lists.

Chairman Koppelman: SSN issue? Do you think that has been cleared up?

Clara: I think we have it done, yes.

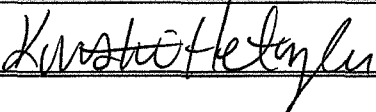
Chairman Koppelman: Closes.

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1340
January 28, 2013
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Explanation or reason for introduction of bill/resolution:

Records filed with the Secretary of State; and to amend and reenact subsection 1 of section 35-13-02, subsection 6 of 41-09-73, and subsection 7 of section 54-09-04 of the North Dakota Century Code, relating to confidential information in the possession of the Secretary of State and fees collected by the Secretary of State.

Minutes:

Chairman Koppelman: Opens.

Rep Hogan: Moves a Do Pass.

Rep Brabandt: Second.

Discussion:

Rep Boehning: The only real reservation I have with this is in section 3 where we are lifting the \$35 fee and they have no idea what the fee is going to be, a dollar cap should be put in there.

Chairman Koppelman: Good point.

Rep Klemin: Part of the issue here is ITD is billing for this and Secretary of State office, if we say it's going to be \$50 and ITD bills Secretary of State office \$60, they would have to eat the difference, we don't want that result.

Chairman Koppelman: Rep Klemin has a point previously could have been \$35 plus the cost and now we are stating language that allows them to recover the actual cost.

Rep Boehning: I have never seen this with anything else, ITD could state whatever amount they want.

Rep Klemin: This is really a reduction in the cost, under the existing law it \$35 plus the actual cost. Now under this amendment it's just going to be the actual cost.

Rep Delmore: I think the reason for the \$35 in addition has a lot to do with the work was being done by hand because computer system wasn't set to handle it.

Rep Steiner: Maybe you want to sub it so we can look at it next time and make sure it is not unreasonable.

Rep Klemin: What a minute, if we want to put a sunset on here just put it on section 3 do not put it on the rest.

Rep Delmore: If it becomes unreasonable one of will take it back, sunset clause makes sense for some things but with this we will hear from Joe public. I agree with Rep Klemin, \$35 is automatically taken off there, it is going to be less expensive now then what it was then.

Chairman Koppelman: Motion for do pass.

Yes: 10

No: 2

Absent: 2

Carried by: Rep Paur

Date: 1-28-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB1340

House Judiciary 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. Hogan Seconded By Rep. Brabandt

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore	/	
Vice Chairman Lawrence Klemin	/		Rep. Ben Hanson	/	
Rep. Randy Boehning		/	Rep. Kathy Hogan	/	
Rep. Roger Brabandt	/				
Rep. Karen Karls	/				
Rep. William Kretschmar	/				
Rep. Diane Larson	/				
Rep. Andrew Maragos					
Rep. Gary Paur	/				
Rep. Vicky Steiner		/			
Rep. Nathan Toman					

Total (Yes) 10 No 2

Absent 2

Floor Assignment Rep. Paur

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

REPORT OF STANDING COMMITTEE

HB 1340: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends DO PASS
(10 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). HB 1340 was placed on the
Eleventh order on the calendar.

2013 SENATE JUDICIARY

HB 1340

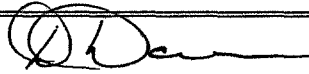
2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1340
3/20/2013
Job #20225

☐ Conference Committee

Committee Clerk Signature



Minutes:

Attached testimony

Relating to records filed with the Secretary of State

Senator David Hogue - Chairman

Al Jaeger - Secretary of State - See written testimony (1). He explains the changes that are being made by section. Senator Nelson asks for a definition of inadvertently missed. Senator Hogue points out if it isn't inadvertent it is intentional so this bill would still authorize liability if someone intentionally discloses confidential information.
No other testimony.

Close the hearing on HB1340

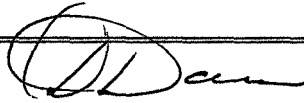
2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1340
3/27/2013
Job #20613

☐ Conference Committee

Committee Clerk Signature



Minutes:

Vote

Senator David Hogue - Chairman

Senator Armstrong moves a do pass
Senator Grabinger seconded

Discussion

Committee discusses this is about information that was disclosed and should have been redacted. This is an inadvertent disclosure.

Vote - 7 yes, 0 no

Motion passes

Senator Sitte will carry

Date: 3/27/13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1340

Senate JUDICIARY 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 S. Armstrong Seconded By S. Grabinger

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue	<input checked="" type="checkbox"/>		Senator Carolyn Nelson	<input checked="" type="checkbox"/>	
Vice Chairman Margaret Sitte	<input checked="" type="checkbox"/>		Senator John Grabinger	<input checked="" type="checkbox"/>	
Senator Stanley Lyson	<input checked="" type="checkbox"/>				
Senator Spencer Berry	<input checked="" type="checkbox"/>				
Senator Kelly Armstrong	<input checked="" type="checkbox"/>				

Total (Yes) 7 No 0

Absent 0

Floor Assignment S. Sitte

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

REPORT OF STANDING COMMITTEE

HB 1340: Judiciary Committee (Sen. Hogue, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1340 was placed on the
Fourteenth order on the calendar.

2013 TESTIMONY

HB 1340

HB 1340 1

ALVIN A. JAEGER
SECRETARY OF STATE

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SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

January 28, 2013

TO: Rep. Koppelman, Chairman, and Members of the House Judiciary Committee

FR: Clara Jenkins on behalf of Al Jaeger, Secretary of State

RE: HB 1340 – Confidential Information in Possession of Secretary of State and Fees Collected

I appreciate and thank Senator Klemin for introducing HB 1340 at the request of the Secretary of State.

Section 1, page 2, lines 1 through 4: This deletion removes the social security number (SSN) from the repairmen's lien provided for in N.D.C.C. § 35-13-02. This section was inadvertently missed when the 2011 Legislative Assembly unanimously passed SB 2249. The removal of the SSN on the repairmen's lien will minimize the possibility of identity theft and to standardize the programming for all liens filed in the Secretary of State's Central Indexing System (CIS). The only liens that retain the SSN are agriculture liens filed as Central Notice Filings (CNF), which is required by the Federal Food Security Act. While it is required for the filing, the SSN can only be used for search purposes and is not revealed on the monthly CD that is provided to subscribers.

Section 2, page 2, lines 13 through 18: This addition will limit the liability for the offices of County Recorders and the Secretary of State when a filer places a SSN or federal tax identification (FIN) number in an improper field on a form prescribed by the Secretary of State or "buries" the number in pages of a nonstandard CIS form or other records filed by the Secretary of State.

This is particularly critical now as the Secretary of State is developing new software that will enable online filing of CIS documents and many other business filings with the office. While the redaction tools of the new software will automatically redact the SSN/FIN from fields on the forms prescribed for these numbers, it cannot automatically redact those numbers if an "online" filer places the numbers elsewhere on the forms. While the County Recorders and the Secretary of State will continue to redact manually the SSN/FIN numbers when providing copies of records to the public, it is extremely challenging when non-standard or non-prescribed forms are used by the filers. This change in law would relieve the filing offices from civil or criminal penalties if numbers are entered incorrectly by the filer and inadvertently missed in the redaction process.

Section 3, page 2, lines 26 and 27: This change will allow the Secretary of State to set the amount charged for data lists based on the actual cost rather than have it set in state law. Now, the ITD rate for generating the lists is based on CPU time used on the AS/400, which is being phased out. The charges to generate the lists under the new software will not be known until the new software has been fully developed. Therefore, in order to recover the cost of list production, the Secretary of State requests the flexibility to establish the rates based on the actual cost charged by ITD, which could be more or less, than the \$35 currently set in state law.

Section 4, page 3, lines 1 through 9: The explanation is the same as it was for the same change in section 2.

Your favorable consideration is requested.

ALVIN A. JAEGER
SECRETARY OF STATE

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SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

March 20, 2013

TO: Senator Hogue, Chairman, and Members of the Senate Judiciary Committee

FR: Al Jaeger, Secretary of State

RE: HB 1340 – Confidential Information in Possession of Secretary of State and Fees Collected

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