

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2107

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Yuberead. Lee

10-16-03

2003 SENATE JUDICIARY

SB 2107

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10-16-03
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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2107

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 01/28/03

Tape Number	Side A	Side B	Meter #
1		X	7.9 - 22.2
Committee Clerk Signature <i>Marie L. Solberg</i>			

Minutes: **Senator John T. Traynor, Chairman**, called the meeting to order. Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with testimony on the bill:

Testimony Support of SB 2107

Laurie Sterlotti Hammeren, SPHR Director of Central Personnel Division, A Division of the Office of Management and Budget (meter 8.0) Read Testimony Attachment #1

Discussed "retaliation" portion of bill (meter 10.7). Senator Thomas L. Trenbeath asked about the three types of records-open, exempt and confidential.

Chris Runge - Executive Director of ND Public Employees Assoc. (meter 13.5) Discussed her support.

Senator John T. Traynor, Chairman asked how prevalent the retaliation portion is. Not often but it is used.

Bill Gume- Professional Mediator (meter 17.2) Discussed being a mediator.

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Senate Judiciary Committee
Bill/Resolution Number SB 2107
Hearing Date 01/28/03

Testimony in opposition of SB 2107

None

Testimony Neutral to SB 2107

John Empter - Discussed problems with confidentiality.

Discussion: of mediation and the process. Senator Thomas L. Trenbeath discussed how important it is to be an open and honest public society. There are times that issues need to be brought out with out the fear of retaliation.

Motion Made to DO PASS SB 2107 by Senator Stanley W. Lyson, Vice Chairman and seconded by Senator Thomas L. Trenbeath.

Roll Call Vote: 6 Yes. 0 No. 0 Absent

Motion Passed

Floor Assignment: Sen. Dever

Senator John T. Traynor, Chairman closed the hearing

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10-16-03
Date

Date: January 28, 2003
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2107

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken DO PASS

Motion Made By Senator Stanley W. Lyson, Seconded By Sen. Trenbeath

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	X	
Sen. Stanley Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) SIX (6) No ZERO (0)

Absent Zero (0)

Floor Assignment Senator Dick Dever

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

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10-16-03
Date

REPORT OF STANDING COMMITTEE (410)
January 28, 2003 1:02 p.m.

Module No: SR-16-1188
Carrier: Dever
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2107: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO PASS**
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2107 was placed on the
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-16-1188

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10-16-03
Date

2003 HOUSE JUDICIARY

SB 2107

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10-16-03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2107

House Judiciary Committee

☐ Conference Committee

Hearing Date 3-10-03

Tape Number	Side A	Side B	Meter #
2	xx		18.1-26.3
Committee Clerk Signature <i>APemrose</i>			

Minutes: 12 members present, 1 member absent (Rep. Galvin).

Chairman DeKrey: We will open the hearing on SB 2107.

Bill Gumeringer, Mediator, Central Personnel Division: Support (see attached testimony of Laurie Sterioti Hammeren).

Rep. Grande: Could you tell me how its presently handled in the private sector.

Mr. Gumeringer: In the private sector, it is handled more like arbitration. I don't really know how they handle it at the present moment.

Rep. Grande: As far as closing the records and having it all confidential, is that how it is handled in the private sector.

Mr. Gumeringer: In the private sector, it is subjected to the open records law, like it is here.

Rep. Kretschmar: When mediation is completed, are the parties generally satisfied with the results?

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10-16-03
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House Judiciary Committee
Bill/Resolution Number SB 2107
Hearing Date 3-10-03

Mr. Gumeringer: Good question. They certainly are. I would say that the satisfaction level of the parties is around 98%. The comments I received at closing are usually good. They have a voice and speak face-to-face with the other party.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition.

Neutral testimony. We will close the hearing. What are the committee's wishes in regard to SB 2107.

Rep. Kretschmar: I move a Do Pass.

Rep. Maragos: Seconded.

12 YES 0 NO 1 ABSENT DO PASS CARRIER: Rep. Boehning

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10-16-03
Date

Date: 3/10/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2107

House Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Kretschmar Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Vice Chairman Maragos	✓		Rep. Eckre	✓	
Rep. Bernstein	✓		Rep. Onstad	✓	
Rep. Boehning	✓				
Rep. Galvin	AB				
Rep. Grande	✓				
Rep. Kingsbury	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. Wrangham	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep. Boehning

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

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10-16-03
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REPORT OF STANDING COMMITTEE (410)
March 10, 2003 12:00 p.m.

Module No: HR-42-4324
Carrier: Boehning
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2107: Judiciary Committee (Rep. DeKrey, Chairman) recommends **DO PASS**
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2107 was placed on the
Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-42-4324

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2003 TESTIMONY

SB 2107

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10-16-03
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Att #1

**TESTIMONY BEFORE THE JUDICIARY COMMITTEE REGARDING
CONFIDENTIALITY OF CENTRAL PERSONNEL DIVISION
MEDIATION RECORDS
SB 2107**

**JANUARY 28, 2003
CENTRAL PERSONNEL DIVISION
LAURIE STERIOTI HAMMEREN, SPHR, DIRECTOR**

Some given to House

Good Morning, Mr Chairman, and Members of the Judiciary Committee. My name is Laurie Sterioti Hammeren, Director of Central Personnel Division, which is a Division of the Office of Management and Budget.

I appear before you to urge passage of Senate Bill 2107. This bill presents an opportunity to address confidentiality concerns inherent to alternative dispute resolution proceedings, specifically mediations. It would facilitate more open communication, which is essential for effective mediation of workplace disputes arising in the public sector.

Mediation is a voluntary confidential process that allows two or more disputing parties to resolve their conflict with the aid of a neutral third party, a mediator.

Since the initiation of mediation services, the demand for mediation services has grown. Within the current biennium, Central Personnel Division has completed thirteen mediations – up from an average of six in previous biennia. We believe the increase can be attributed to mediation's effectiveness in addressing workplace conflict. However, there remains a cloud over the mediation process – a concern among those participating in the process that personal information they choose to share will be open to public inspection. Because mediation is not exempt from open records statutes, the concern is legitimate.

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Mediation is unique in that the mediator is professionally obligated to maintain the confidentiality of those participating in the process. Mediators are trained not to betray confidence disclosed by the parties during the mediation.

Open mediation records pose a barrier to public employees who want to seek the services of a mediator because they know that any personal information they disclose is open to public scrutiny. Under the current open records law any written personal information that a person shares with a mediator today could be printed in any newspaper tomorrow. This is despite the fact that conversations conducted in the course of mediation do not necessarily concern matters of public policy. We believe that employees in government service would be more likely to seek out mediation as a means of resolving workplace disputes if there are assurances that privacy of their communication will be protected.

Workplace conflict is inevitable. If utilized properly, mediation permits the parties themselves to resolve such conflict. It empowers the parties, allowing them to determine the outcome and bring harmony to their workplace. However, until the participant's privacy is ensured, mediation's potential for resolving workplace conflict in the public sector will never be fully realized. Mediation services are a win for employees, a win for management and a win for government because conflict can be resolved more efficiently and cheaper than litigation.

Mr. Chairman and members of the Committee, it is my pleasure to appear before you today and present this information, and I respectfully urge your favorable consideration of Senate Bill 2107.

I'd be happy to answer any questions you might have.

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