

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1161

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1161

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1161

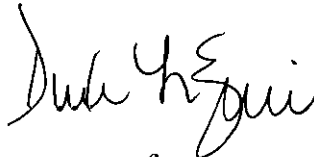
House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 1/14/05

Tape Number	Side A	Side B	Meter #
1	x		1.1-17.3

Committee Clerk Signature



Minutes: HB 1161 Disciplinary measures for persons engaged in private investigative service/private security service; and to provide a penalty. 13 members present, 1 absent.

**Russell Hons, Chairman, North Dakota Private Investigation and Security Board-For
-Testimony Attached.**

Chairman Haas: Where do most of what you consider violations occur, within the private investigator service or with in the private security service.

Russell: I believe that it is probably equal, our executive director is here and she can testify a lot better to the specifics to where she has the most problems on a daily basis with these issues.

Chairman Haas: What type of violations occur?

Russell: I think and again I will defer to Frantina to some of that, because she deals with that on a daily basis, so I will let her do that.

Rep. Klemin: Why do you want to increase it from a class b to a class a misdemeanor, we got all these other things going on too, if the prosecutors aren't prosecuting class b misdemeanors when you file a complaint, what makes you think they are going to prosecute a class a misdemeanor.

Russell: I think that one of the problems with the States Attorneys office going forward with these is that it is only a class b misdemeanor and obviously it is pretty much lowest crime and they are just not taking it seriously. I think if it was a class a misdemeanor, it just brings a little more seriousness to the issue and it is our hopes that the States Attorneys office would pay a little more attention to it and then possibly charge these people, then we don't have to worry about seeking an injunction or going after citations for them, because the States Attorneys would handle the matter.

Rep. Klemin: On line 21 you refer to a court may impose a civil penalty pursuant to section 2 of this act and then on section 2 deals with the citation for unauthorized practice and section 3 deals with the 2500 dollar monetary penalty, so on line 21 is the reference to section 2 correct or should it be referred to section 3, instead.

Russell: I believe that we are dealing with two separate issues, section 3 is the disciplinary action for the people that are already listened by our board, so those are people that are already registered and that we have a problem with, so that is section 3. Section 1 and section 2 are dealing with unlicensed activity and giving us the ability to get that injunction or issue a citation and so on, obviously if it goes to the courts they can issue a civil penalty and of that stuff, so as a board we don't have to go forward with any of those issues, this is just giving the board some options if the courts decide not to take it, then our board can go after them. Section 2 does with the unauthorized, unlicensed activities. Section 3 is for the licensed.

Rep. Klemin: Following up on this same line, line 21 refers to this as a civil penalty, page 2, line 1 refers to it as administrative fine, line 9 it refers to it as administrative fee, you are calling it three different things here, what should it be.

Russell: I would have to look , if I may just have a moment to read through exactly what we are looking at, you said line 21 of page 1, it has a civil penalty may be imposed, correct. Your second issue was page 2, line issuance of citations and then administrative fee.

Rep. Klemin: It is just a question of terminology.

Russell: I think we are also kind dealing with two different issues, because up in where line 1 is referring to, that is referring to an injunction, if the board goes to the court and seeks a civil injunction to stop these people from doing what they are doing, then at that point, the court can also assess a civil penalty, during the issuance of that injunction.

Rep. Klemin: It say pursuant to section 2. Section 2 doesn't really filing with the court at all.

Russell: We have our attorney hear, may I have him, this is Edward Erickson from the Attorney Generals office, may he comment on that.

Edward Erikson: I see what your point is, I see where Rep. Klemins points civil penalty administrative fines, administrative fee, I think what we could do is just prepare a simple amendment just to harmonize with language, on some of these provisions were pulled from different states, other state laws that have already been passed, so I think I can just clarify it by using the same language at all places. I could get an amendment back to the committee before noon.

Chairman Haas: We are going to have some committee members absent later on this morning, so we will not be taking any action on any of the bills that we are hearing today, so that will

actually be coming next Thursday afternoon, so that would give you time, if you could get that information to me by Tuesday or Wednesday of next week, we could proceed then with our deliberations.

Rep. Amerman: Just to try to get a better handle on the situation, you have private investigators that are licensed and then there are an x amount that operate without being listened with the board, can you give the advantage or disadvantage of being listened and unlicensed and say you have a private investigator licensed and they violate something and you revoke their license, can they just keep going out and practicing without a license or how does this work.

Russell: Right now if a person is licensed as a private investigator and has their license revoked for misconduct or not renewing their license or whatever and they go out and continue to practice, then they would be breaking the law, the problem we have right now is when they do that, we have very little enforcement action. I think our executive director will also testify that in other states, that their private investigative board that regulates the industry are departments of the state, they are under the state patrol or under the Attorney General's Office, so they have that enforcement action. We are an individual, separate board from that, so we don't have the state enforcement action, so that is what we are after, to be able to give our board some of the ability to do this.

Chairman Haas: Put some teeth into it.

Russell: Exactly.

Rep. Horter: What does a person have to do to become a private investigator.

Rep. Amerman: So what you are saying now, the ones that are practicing without a license are breaking the law.

Russell: That is correct.

Francione Johnson-Executive Director for the Private Investigation and Security

Board.-For

Francione: I handle the licensing and the administrative duties for this licensing board, a couple of areas that I would like to address that were brought up for Mr. Hohn, in order to be a licensed investigator in the State of North Dakota you have to meet the minimum requirements. You must be a high school graduate, two thousand hours of investigative experience, criminal background search, federal and state search, criminal record free, once you have meant those standards, you have to take an exam that is administered by this board, pass the exam and then you have to have proof of insurance or bonding, before license division, so there is a minimum standard requirement before you can get a license. This particular bill that we are proposing not only addresses some of the issues that we have in the license holders, but it is the unlicensed holders that we don't have any piece in prosecuting. Many times when we have a violation in unlicensed activities, are board does not have enforcement powers, we do not have compliance officers in place, no auditor that go out and check, we rely on our industry members as well as the general public to report someone who is doing security work or private investigative work without a license and I believe there was a question earlier about what the balance is. It is fairly equal in the security and private investigation industry, we have unlicensed activity in the security field with an individual thinking my brother-in-law having a dance, I better provide security for that public dance for him. He can't do that without a license. In the private investigative industry, unlicensed activities falls into the same realm of someone thinking I have got a domestic issue with my soon to be ex-husband or ex-wife and I am going to conduct surveillance to see what kind of activities

they are involved in and they will tell their relative they can do that. This is the kind of things we don't want them doing without proper licensing.

Chairman Haas: Are there requirements for licensing in the security area similar to those in the investigative area.

Francione: Very similar, again they still have to meet the minimum standard requirements of the high school education.

Rep. Froseth: How do they acquire the 2000 hours of experience, is there a prentice ship program or do they work under a someone who is liscened. How do they gain that much experience.

Francione: There is a process and we also have equivalency standards, we not only have license holders, we also have registered investigators, which they are employees of already established licensed holder, so you can get it a number of different ways. If you have been an investigator for insurance company for example, prior law enforcement experience, which a lot of our investigators are, these are equivalent to 2000 hours.

Chairman Haas: How many violations in either the investigative or security realm do you have in a year, by either licensed or unlicensed, or maybe separate that for us. How many reported unauthorized activities are there.

Francione: With in a year, with private and security, that we now of, that are reported to us, I would estimate 15 or 20.

Chairman Haas: That is the unliscened.

Francione: Correct.

Chairman Haas: What about those that are licensed that are not being ethical?

Page 7

House Government and Veterans Affairs Committee

Bill/Resolution Number 1161

Hearing Date 1/14/05

Francione: Within a years time we get several complaints, I would estimate, probably between 30 and 40 throughout the year. Somebody isn't either in the investigative field or the security field isn't doing what they are suppose to be doing and the protocol that has been handled for this point and time is a letter of reprimand and it is a lengthy process to get them into compliance.

Rep. Froseth: How do you discover these 20 complaints, are they citizens complaints or professional complaints.

Francione: It is the members telling on their cohorts, it can be clients, or the general public.

Rep. Potter: Could you remind us again what the difference is between a class a and a class b.

Rep. Klemin: Class b misdemeanor is subject to 30 days in jail, thousand dollar fine or both, class a misdemeanor is one year in jail or two thousand fine or both.

Chairman Haas: Thank you, anymore testimony for house bill 1161. Any testimony against house bill 1161. We will close the meeting on HB 1161.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1161

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 1/20/05

Tape Number

2

Side A

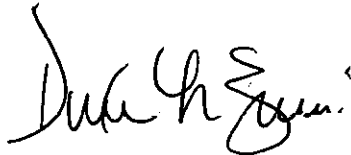
x

Side B

Meter #

0-35.6

Committee Clerk Signature



Minutes: Disciplinary measures for persons engaged in private investigative service and private security service; and to provide a penalty.

Discussion and voting:

Chairman Haas: We will look at HB 1161. What is the committees wishes on the amendment, Rep. Grande moves the amendment, seconded by Rep. Sitte, any further discussion on the amendment, if not we will do a voice vote on the amendment, all in favor say I, oppose say no, amendment carried. Rep. Grande moves a DO PASS as AMENDED on HB 1161, is there any further discussion, if not we will ask the clerk to take the roll.

VOTE: YES 13 NO 0 ABSENT 1 DO PASS AS AMENDED

REP. SITTE WILL CARRY THE BILL.

FISCAL NOTE
Requested by Legislative Council
01/03/2005

Bill/Resolution No.: HB 1161

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

None of these areas apply because we do not receive any funds or appropriations. We are a self-sufficient board that is solely supported by the industry we regulate. The fiscal impact does not apply, therefore there is no fiscal impact.

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.*

Not applicable.

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.*

Not applicable.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Not applicable.

Name: Francine Johnson
Phone Number: 222-3063

Agency: NDPISB
Date Prepared: 01/07/2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1161

Page 1, line 21, replace "a civil penalty pursuant to" with "an administrative fee consistent with"

Page 2, line 1, replace "fine" with "fee"

Renumber accordingly

VR
1/21/05

HOUSE · AMENDMENTS TO HOUSE BILL NO. 1161 GVA 1-24-05

Page 1, line 13, remove the overstrike over "~~B~~" and remove "~~A~~"

Page 1, line 21, replace "a civil penalty pursuant to" with "an administrative fee consistent with"

HOUSE AMENDMENTS TO HB 1161 GVA 1-24-05
Page 2, line 1, replace "fine" with "fee"

Renumber accordingly

Date: 1/20/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1161

House House Government and Veterans Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass As Amended

Motion Made By

Rep Grande

Seconded By

Rep Sitte

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas	✓		Rep. Bill Amerman	✓	
Bette B. Grande - Vice Chairman	✓		Rep. Kari Conrad	✓	
Rep. Randy Boehning	✓		Rep. Louise Potter	AB	
Rep. Glen Froseth	✓		Rep. Sally M. Sandvig	✓	
Rep. Pat Galvin	✓				
Rep. Stacey Horter	✓				
Rep. Jim Kasper	✓				
Rep. Lawrence R. Klemin	✓				
Rep. Lisa Meier	✓				
Rep. Margaret Sitte	✓				

Total (Yes)

13

No

0

Absent

1

Floor Assignment

Rep Sitte

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

REPORT OF STANDING COMMITTEE

HB 1161: Government and Veterans Affairs Committee (Rep. Haas, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1161 was placed
on the Sixth order on the calendar.

Page 1, line 13, remove the overstrike over "B" and remove "A"

Page 1, line 21, replace "a civil penalty pursuant to" with "an administrative fee consistent with"

Page 2, line 1, replace "fine" with "fee"

Renumber accordingly

2005 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1161

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1161**

Senate Government and Veterans Affairs

Business and Conference Committee

Hearing Date February 25, 2005

Tape Number

1

Side A

x

Side B

Meter #

4215-5418

Committee Clerk Signature



Chariman Krebsbach opens hearing on **HB 1161**

Relating to disciplinary measures for persons engaged in private investigative service or private security service.

Russell Hons - Chairman of the ND Private Investigation and Security Board - See written testimony.

Senator Syverson - Asked if individuals representing themselves as private investigators are numerous.

Hons - Said it wasn't numerous but happens on a regular basis.

Senator Syverson - Asked if the information that they discover is admissible in court.

Hons - Replied that a lot of work private investigators do never reaches court. If it did reach the court and it was found out it was obtained illegally it would probably be thrown out.

Page 2

Senate Government and Veterans Affairs

Bill/Resolution Number **HB 1161**

Hearing Date February 25, 2005

Senator Lee - Asked if the security firm has to be licensed or each of the people working for them.

Hons - Said the security agency is licensed and as they hire they register those individuals. So they have to have background checks plus some classroom training and field training.

Senator Lee - Said so it is the company's responsibility to make sure each of its employees are registered and trained.

Hons - Stated, that was correct.

Senator Krebsbach - Asked how many licensed private investigation offices they are.

Hons - Was not sure but will get the information.

(meter #5467)

Closed the hearing on HB1161

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1161**

Senate Government and Veterans Affairs

Business and Conference Committee

Hearing Date March 17 , 2005

Tape Number

1

Side A

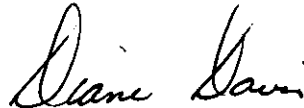
Side B

x

Meter #

1716-1900

Committee Clerk Signature



Committee work

(meter #1716, tape 1, side B)

Senator Brown - moved do pass

Senator Lee - seconded

Senator Lee will carry

(meter 1900, tape 1, side B)

Date: *3/11/05*
Roll Call Vote #: *1*

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *1161*

Senate **Government and Veterans Affairs**

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Moved to pass*

Motion Made By *Senator Brown* Seconded By *Senator Lee*

Senators	Yes	No	Senators	Yes	No
Karen K. Krebsbach, Chairman	<i>X</i>		Carolyn Nelson	<i>X</i>	
Richard L. Brown, Vice Chairman	<i>X</i>				
Judy Lee	<i>X</i>				
John O. Syverson	<i>X</i>				

Total (Yes) *5* No *0*

Absent *0*

Floor Assignment *Senator Lee*

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

REPORT OF STANDING COMMITTEE (410)
March 17, 2005 2:27 p.m.

Module No: SR-49-5299
Carrier: J. Lee
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1161, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1161 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1161

House Bill 1161
Before the House Government and Veterans Affairs Committee
Russell Hons, Chairman, North Dakota Private Investigation & Security Board
January 14, 2003⁵

Members of Committee :

C. B. Haas— Chairman
Bette B. Grande— Vice Chairman
Bill Amerman
Randy Boehning
Kari Conrad
Glen Froseth
Pat Galvin
Stacey Horter
Jim Kasper
Lawrence R. Klemin
Lisa Meier
Louise Potter
Sally M. Sandvig
Margaret Sitte

Chairman Haas and members of the committee, I am Russell Hons, chairman of the North Dakota Private Investigation and Security Board and we introduced this bill to give the Board some enforcement power over individuals conducting private investigations and private security without being licensed. I ask for a "Do Pass" on this bill. It will also give the Board the authority to issue monetary penalties against those individuals already regulated by the board.

The board feels that the maximum amount of the citations for unlicensed activity of \$250, \$500, and \$1000 for a third violation are reasonable. Currently when the board is made aware of an individual practicing without a license, our only recourse is to turn it over to the local States Attorney for prosecution. Over the past several years we have had numerous instances where this has been done, and the States Attorney's have decided not to prosecute because of limited time, resources, or other reasons. All due process protections will be awarded to an unlicensed individual issued a citation. This

has been an ongoing problem, with industry members wondering why they should have to be licensed if we don't do anything about those practicing without a license. So have indicated it might be worth the risk of going forward without a license.

Currently when a license holder violates one of the Board's rules or statutes, The board may refuse to renew, suspend, or revoke a license, or on the lesser end, place the license holder on probationary status, or issue a letter of reprimand. The Board feels that being able to issue a monetary penalty when a situation warrants it will further curtail violations, and give us something more severe than a written reprimand, but less severe than suspending or revoking a license. We feel that the maximum penalty amount of \$2500 is reasonable, and would be reserved for sever and repeated violations of the Board's rules.

I thank you for your time today and ask for you to vote "Do Pass" on this bill. I would be happy to answer any questions you may have.

#1161

House Bill 1161
Before the Senate Government and Veterans Affairs Committee
Russell Hons, Chairman, North Dakota Private Investigation & Security Board
February 25, 2008

Members of Committee :
Karen Krebsbach— Chairman
Richard Brown— Vice Chairman
Judy Lee
Carolyn Nelson
John O. Syverson

Chairman Krebsbach and members of the committee, I am Russell Hons, chairman of the North Dakota Private Investigation and Security Board and we introduced this bill to give the Board some enforcement power over individuals conducting private investigations and private security without being licensed. I ask for a "Do Pass" on this bill. It will also give the Board the authority to issue monetary penalties against those individuals already regulated by the board. The House Government and Veterans Affairs Committee voted 13-0 to give this bill a Do Pass recommendation, and the House voted 88-0 to pass this bill.

The board feels that the maximum amount of the citations for unlicensed activity of \$250, \$500, and \$1000 for a third violation are reasonable. Currently when the board is made aware of an individual practicing without a license, our only recourse is to turn it over to the local States Attorney for prosecution. Over the past several years we have had numerous instances where this has been done, and the States Attorney's have decided not to prosecute because of limited time, resources, or other reasons. All due process protections will be awarded to an unlicensed individual issued a citation. This has been an ongoing problem, with industry members wondering why they should have

to be licensed if we don't do anything about those practicing without a license. So have indicated it might be worth the risk of going forward without a license.

Currently when a license holder violates one of the Board's rules or statutes, The board may refuse to renew, suspend, or revoke a license, or on the lesser end, place the license holder on probationary status, or issue a letter of reprimand. The Board feels that being able to issue a monetary penalty when a situation warrants it will further curtail violations, and give us something more severe than a written reprimand, but less severe than suspending or revoking a license. We feel that the maximum penalty amount of \$2500 is reasonable, and would be reserved for sever and repeated violations of the Board's rules.

I thank you for your time today and ask for you to vote "Do Pass" on this bill. I would be happy to answer any questions you may have.