

Walstad, John M.

From: Erickson, Edward E.
Sent: Thursday, September 12, 2013 11:47 AM
To: Devlin, Bill R.; Armstrong, Kelly; Boehning, Randy G.; Boschee, Joshua A.; Frantsvog, Robert; Heller, Brenda A.; Koppelman, Ben; Koppelman, Kim A.; Owens, Mark S.; Schatz, Mike A.; Silbernagel, Peter F.; Thoreson, Blair; Toman, Nathan P.; Weisz, Robin L.; Andrist, John M.; Heckaman, Joan M.; Klein, Jerry J.; Triplett, Constance T.
Cc: 'NDPISB' (ndpisp@midco.net); 'Bill Butcher' (bill.wtba@midconetwork.com); Walstad, John M.
Subject: Private Investigative and Security Board Rulemaking

Chairman Devlin and Members of the Administrative Rules Committee—

Thank you for hearing the North Dakota Private Investigative and Security Board's proposed administrative rulemaking earlier today. I apologize if you did not receive the Board's response to the eleven questions that Mr. Walstad posed concerning these rules. Although Mr. Walstad offered to review his files to locate the Board's response, I thought it would be more convenient for me to answer these questions on behalf of the Board rather than delay the Committee's consideration and action on these rules.

I am copying the questions below, followed by answers based on my notes in red.

With respect to the rules published in the October 2013 supplement, the committee is interested in and would like you to testify before the committee concerning the following matters:

1. Whether the rules resulted from statutory changes made by the Legislative Assembly. No, the first two of these rules were drafted at the request of the regulated community and the third was to address administrative costs by the Board.
2. Whether the rules are related to any federal statute or regulation. If so, please indicate whether the rules are mandated by federal law or explain any options your agency had in adopting the rules. No, these rules do not relate to federal law.
3. A description of the rulemaking procedure followed in adopting the rules, e.g., the type of public notice given and the extent of public hearings held on the rules. The Board followed the notice and hearing procedures specified in the Administrative Agencies Practice Act, N.D.C.C. ch. 28-32.
4. Whether any person has presented a written or oral concern, objection, or complaint for agency consideration with regard to these rules. If so, describe the concern, objection, or complaint and the response of the agency, including any change made in the rules to address the concern, objection, or complaint. Please summarize the comments of any person who offered comments at the public hearings on these rules. No comments were received concerning these rules during the promulgation process, but the first two rules were drafted in consultation with the regulated community.
5. The approximate cost of giving public notice and holding any hearing on the rules and the approximate cost (not including staff time) of developing and adopting the rules. Unfortunately, I do not have precise numbers, but publishing the public notice cost \$1,856.04 and the Attorney General's review likely cost between \$200 and \$400.
6. An explanation of the subject matter of the rules and the reasons for adopting those rules. The first two changes were designed to ease the existing qualifying agent requirement by allowing the qualifying agent for a security or a detective firm to be an employee or manager of the firm instead of restricting the qualifying agent to only being an officer, director, or owner of the firm. The third change is to raise the fee for an armed security certificate by \$5 (from \$20 to \$25) to account for additional administration costs for monitoring training or other requirements.

7. Whether a regulatory analysis was required by North Dakota Century Code (NDCC) Section 28 32-08 and whether that regulatory analysis was issued. Please provide a copy. A regulatory analysis was not requested or required.
8. Whether a regulatory analysis or economic impact statement of impact on small entities was required by NDCC Section 28-32-08.1 and whether that regulatory analysis or impact statement was issued. Please provide copies. The Board is exempt from these requirements as an occupational or professional licensing authority under N.D.C.C. section 28-32-08.1(5).
9. Whether these rules have a fiscal effect on state revenues and expenditures, including any effect on funds controlled by your agency. If so, please provide copies of a fiscal note. A fiscal note was provided separately to the Committee. However, the changes concerning qualifying agents are not expected to have any fiscal effect on the State nor on the regulated community. The fee increase is expected to have a fiscal effect of \$890/year or \$1780/biennium. The fee increase will not take effect for renewing licensees until the license renewal period in 2014.
10. Whether a constitutional takings assessment was prepared as required by NDCC Section 28 32 09. Please provide a copy if one was prepared. These rules do not limit the use of private real property; therefore a takings assessment was not required.
11. If these rules were adopted as emergency (interim final) rules under NDCC Section 28-32-03, provide the statutory grounds from that section for declaring the rules to be an emergency and the facts that support that declaration and provide a copy of the Governor's approval of the emergency status of the rules. If these rules were adopted as emergency (interim final) rules, what steps were taken to make the rules known to persons who can reasonably be expected to have a substantial interest in the rules? These are not emergency rules.

Thank you for your consideration. Please feel free to call or email me if you have any questions or concerns.

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