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OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

20094

2007 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2094

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2094**

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **January 8, 2007**

Recorder Job Number: **#744**

Committee Clerk Signature

Debra Linkel *Revised*

Minutes:

A BILL for an Act to amend and reenact section 46-02-15 of the North Dakota Century Code, relating to resident bidder preference for public printing.

Written testimony presented by Sherry Neas, State Procurement Manager

S. Andrus: [former printer] In today's world a lot of actual press work is done outside printing, they bidding the work or doing the work, do all the prep work, then they email the job to a press facility someplace, in essence, we think of "printing" as being the press work. Most of the printing is probably still done in state.

S. Klein: Have we had a glitch along the way? A problem with an adjacent state, Fargo-Mhd, GF?

Sherry N: S. Andrus mentioned that there are some printers who do not do all the work in house, so we started asking, where is all the work being done, and we found that sometimes they are outsourcing a portion of it and it really complicates the process.

S. Klein: So you feel this will give the ND Printers a leg-up, this will cover them and not create any more confusion instead of having out-of-state printers have the upper hand.

Sherry N: We're defining a resident printer as having a bonified place of business. It will help those ND printers that own other interests out of state or outsourcing a piece of it, but the contract will be awarded to the ND business. This Preference Law right now, 75% of our printing is being awarded to ND vendors, and this will help and especially simplify the process for both the printers and for the public entity.

S. Wanzek: The way the law is being proposed as, the change, it still allows for exception if it's not practical

Sherry N: That is true. There is flexibility in this law where applicable, you could do something else.

S. Klein: Any more questions for Sherry? Anyone else in favor of SB2094?

Jack McDonald: ND Newspaper Association

Supports this bill, takes out glitch that says where exactly all the printing is done, right now the important thing is to get the bid to a ND bidder where that bidder has to take it to another state is really beside the point. We would appreciate the passage.

S. Behm: Does this pertain to the state printing that the state has to do for their own work, or does it apply to anybody in the state of ND?

J. McDonald: It is public printing that is done by the state.

S. Wanzek: Possible that you can have a potential printing company that is owned by non-resident, who lives outside the state, but the business is located in the state? There might be ND people working there, but the owner is in Mpls?

J. McDonald: Yes, that could easily happen as in any other business. The state law defines a bidder or seller contract that can maintain a bonified place of business within the state for at

least one year, so it's just maintaining a place of business in the state for one year, it doesn't necessarily say that the owner has to be a resident, it's just that their business/residence, so yes, it could happen.

S. Klein: Anyone here to testify in favor? Anyone in opposition. Hearing none, we will close.

S. Hacker: I've actually had experience with a company with a company that is located in the State, ND resident, they use a 4-color press in Canada and they cannot do state jobs. They are very talented individuals, the problem was the 4-color press that they use was also much cheaper for the state and could supply the state, the state was going to save money.

S. Wanzek: We're talking about business residence, filed with the Secretary of State, even though they might do work outside the state, that would business would not be excluded.

S. Klein: If someone in Mpls opened a shop in Jamestown and under this definition.

S. Wanzek: If their business is here they're registered through the Secretary of State, they're considered a resident business of ND

S. Potter: Question: What if they were resident business in some other line of business and just opened a print shop? Walmart has been here a year, opens a print shop, would they still qualify? I assume they would.

S. Klein: Under that definition.

S. Behm: As long as the print shop is owned in ND and they send their printing out in Canada, as long as the profit comes back to ND, I think it would be alright.

Senator Hacker made a motion for a **Do Pass**. Second by **Senator Potter**.

Roll call vote 7-0-0. **Passed**. Floor carrier is **Senator Hacker**.

SB 2094 was placed on the eleventh order on the calendar.

Date: 1-8-06

Roll Call Vote: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2094

Senate INDUSTRY BUSINESS & LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass

Motion Made By Hacker Seconded By Patler

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Arthur Behm	✓	
Vice Chair Nicholas Hacker	✓		Senator Joel Heitkamp	✓	
Senator John Andrist	✓		Senator Tracy Potter	✓	
Senator Terry Wanzek	✓				

Total Yes 7 No 0

Absent _____

Floor Assignment Sen. Hacker

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

REPORT OF STANDING COMMITTEE (410)
January 8, 2007 12:57 p.m.

Module No: SR-04-0303
Carrier: Hacker
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2094: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2094 was placed on the Eleventh order on the calendar.

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2094

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2094

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: February 21, 2007

Recorder Job Number: 3531

Committee Clerk Signature

Stephanie J Thomas

Minutes:

Chair Keiser opened the hearing on SB 2094.

Sherry Neas, OMB: See written testimony #1.

Rep. Zaiser: Does this run into any violations of the Commerce Clause, in terms of fairness instate verses out of state?

Sherry: Generally speaking public procurement frowns upon preference laws. In most other instances, we would normally testify against a preference law.

Rep. Keiser: On lines 8 and 9 it says must be awarded, have you had any discussion on the differential in price that might be involved, so it must be awarded?

Sherry: This law is fairly loose, and usually preferences do have a percentage so you can find out whether it's a good decision or not. OMB has to promulgate rules related to public printing, and we've defined practicable as when the ND printers are not capable of providing the required printing services at a reasonable price, or meet the required delivery schedule, or whether it's a lack of qualified ND printers. So, it is very loose, because there's no percentage, and it's really left up to the discretion of the purchasing agency whether or not it's too expensive to awarding state, or out of state.

Rep. Thorpe: Where it says must, it seems pretty strong there, the must contract with an instate printer. How does this fit, in relation to if there's a bid coming from an out of state contractor for less money for the total contract? In other words, you wouldn't be able to contract with the lowest bidder, is that right?

Sherry: If it will, it will be if practicable. It's a pretty broad loophole. If you find that the price received is not reasonable, then that if practicable would maybe be determined not practicable. This is honestly a difficult law to apply, because it's not a normal preference law, it's really a set aside. The way this law is written is we will purchase from ND bidders, unless there's some reason that we don't. So, what we try to do in this procurement arena is to find out if it's determined upfront that this needs to be awarded to ND printers, and we'd normally reject bids from out of state printers, unless the prices received from instate bidders are not reasonable, or we don't get any.

Rep. Thorpe: OMB makes that decision then?

Sherry: Some printing is delegated back to the agency, so the agencies could be making that. What OMB does is we have publicized rules, then we have a guideline, and then we like templates, but a lot of it is ultimately left down to the decision of the purchasing agency, whether in their opinion they have a reason that's not practicable to work instate, or they determine that the price received is not reasonable.

Rep. Thorpe: This must be seems pretty solid to me. I understand, and instate businesses should have preference, but I'm wondering if you wouldn't consider this too strong of language?

Sherry: You have to go back to that if practicable it only must be if it's practicable. That's fairly consistent with other sections within the state procurement law.

Rep. Amerman: Are there any printers that just have a residency, but they really don't do hardly any printing within the state, maybe they just have an office or anything nicer. Are there any of those that are manning the state?

Sherry: Yes. There are businesses in ND that really outsource all the printing. The way the current law is written is that we would no longer jeopardize this, because none of the work is done in the state.

Rep. Gruchalla: Is this exclusiveness common with the way other states treat our printers?

Sherry: Most states, about 35 out of the 50 have reciprocal preference laws. The way a preference law works is that if a state has a preference law, and they're big in another state, they usually will add that percentage. In looking at the other laws, it's true that we are definitely a minority of the states that still have preference laws for printing.

Rep. Thorpe: I'm wondering the reasoning why this bill is here with that language?

Sherry: OMB drafted the bill, and it was introduced at our request. This is an existing law that is in the books, but has been problematic for us. So, we were trying to brainstorm something that would be easy for us to apply without legating the intent of our forefathers, if you will.

Rep. Zaiser: The other portions of my question are in terms of percentages. Are you opposed to using that percentage penalty, or using the set aside? This is the way you'd like to go, obviously.

Sherry: We hadn't played with the idea if we were going to look at a percentage, we'd like the opportunity to meet with the committee, and discuss that as a possibility. It would make it easier to apply, but it wouldn't be a complete set aside the way it is right now.

Rep. Clark: Wouldn't it be better if there were no preference law? Do other states have no preference law?

Sherry: From the state procurement perspective, that truly would be the best situation, because then you have fair and open competition, which is really the defining principal of public procurement.

Rep. Amerman: Do you have a list, or could you get a list of printers that do all their printing in state, and the outsourcing printers?

Sherry: We don't have anything like that, and to do that we really have to do a lot of serving of the printers. It depends on what is being printed.

Rep. Dietrich: Often times you'll see the lowest best bid; would the lowest best be practical, and not just lowest?

Sherry: Right now if all things are equal, we already have existing laws.

Rep. Dietrich: Approximately, what is the amount of cost of printing that you do in the state of ND per year?

Sherry: It varies, but it runs about \$5 million a year, and that is just printing that is outsourced.

Rep. Keiser: I don't see how this does anything. You've said in your testimony at least 5 times if applicable, and that's your loophole. When is it not applicable, when is it applicable?

Sherry: This has presented us a challenge for a long time, and that's why when we promulgated rule, we tried to narrow that down when it is applicable. When ND printers are not capable of requiring the printed serves at a reasonable price, or leave their part delivery schedule, or when specialized printing is required, this is a lack of qualified working printers to provide those services. So, those are the circumstances right now in administrative rules under which you can exercise that loophole if you like.

Rep. Keiser: So, there is no definition there? I can interpret those quote rules any way you want me to, and so we still come back to if applicable. You're going to make the decision of whether or not to place the work instate or out of state.

Sherry: Yes, you're right. There's a lot of discretion here to make that determination.

Rep. Keiser: It is when you boil down to price.

Sherry: If you look at the historical expenditure 75% of the printing is staying instate, and 25% is out.

Rep. Keiser: 75% was a low bid, or a high bid?

Sherry: I wouldn't have any data on that. In our experience, it's not often that we waited, and allow a bid to go out of state, usually it's just specialized printing jobs, such as the tourism guide.

Rep. Keiser: So, I did the tourism guide, and my bid is \$5,000 less then the next bid. Are you going to give it to the second low bidder?

Sherry: Under the proposed amendments, whether or not the ND bidder outsources would not be a factor. It would just be whether or not they are a resident's bidder.

Rep. Keiser: So, you're still going to go on price?

Sherry: That would be the case. If the bidder was a resident to ND, it would just go down to price.

Rep. Zaiser: Identify maybe 7 items, and then you gradually go down if there's a tie on price, then you award promptness in delivery. Then the next item for discussion, maybe have 3 or 4 items, and then still there's no differentiation, you award the local bidder whether that be work done in state, or out state, or local contractor.

Sherry: That is the case right now. If there's a tied price, then it goes instate. As I mentioned before, we've got tie braking procedures where it goes instate approved or not, and then the rest is involved in tiebreaking procedures.

Rep. Zaiser: Is that codified then?

Sherry: Yes, that is in administrative rules.

Rep. Gruchalla: I think you said that you would prefer to have no preference bidding, and also that you'd rather have a percentage built in, correct?

Sherry: Generally speaking, state procurement frowns upon, or is not best practice to have printing law. One of our hopes would be to make it easier to apply, and the reason I brought up the percentage is because then it takes the guessing out of it, and you know exactly what the rate of preference is.

Rep. Gruchalla: Why didn't the bill identify, or go into those two issues?

Sherry: There's a proverb so you don't move the ancient boundary stone established by your forefathers, and that was what we were trying not to do. This has been on the books for a long time, and what we wanted to do is make it more workable. We did talk about a rate of percentage, but that actually lessens the effect of this, because as it is right now it is a set aside, you must use ND bidders, or ND printers, or the work must be done in ND unless it's not practicable to do so. A percentage is a lot less astringent than set aside, so we were trying to keep the intent of the original legislation.

Caitlin McDonald, ND Newspaper Association: Support SB 2094.

Rep. Kasper: Why would this be an issue at the ND Newspaper Association? Where is the tie?

Caitlin: We have several newspapers, for example the Fargo Forum, which is contracted out, and has had some of their printing done in Detroit Lakes, and the change awarded adheres more to the law.

Hearing closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2094**

House Industry, Business and Labor

Check here for Conference Committee

Hearing Date: **20 March 2007**

Recorder Job Number: **5323**

Committee Clerk Signature 

Minutes:

Chairman Kaiser opened the discussion of SB 2094. This is bill on resident bidders. It is presented to clear up the language. What this allows the in plant print shops at universities to do color process printing if they desire. This limits that just to universities,

Representative Zaiser: Did HB 1011 pass?

Chairman Kaiser: It has passed both houses and is signed. If we pass this, process color would go back to a limit and keep it in the private sector.

Representative Kasper: I move adoption of amendment .0101.

Representative Ruby: I second.

Representative Zaiser: Just to be clear. This bill would allow both private sector and public sector to compete.

Chairman Kaiser: No. This language says "may not provide the following services. . ." I have great philosophical debates with my friends in government. Keep in mind that when they buy a piece of equipment, they have an appropriation to provide it. They don't have to make any money in advance to go buy a piece of equipment. There's no interest expense, there's no depreciation expense. They do pay \$7 psf as a fee. I would trade that in heartbeat for having to the have parking lot, bathroom, lunch room, security if that were my entire cost. It

Page 2

House Industry, Business and Labor

Bill/Resolution No **SB 2094**

Hearing Date: **20 Mar 07**

would be a sweetheart deal. So, do they, on paper, look like they are less expensive?

Absolutely.

Representative Boe: How many printers are they going to be competing with?

Chairman Kaiser: Probably about 50.

A roll call vote was taken: Yes: 13, No: 0, Absent: 1 (Thorpe) The amendment was adopted.

Representative Kasper: I move a Do Pass as Amended.

Representative Dosch: I second.

A roll call vote was taken. Yes: 13, No: 0, Absent 1 (Thorpe)

Representative Zaiser carried the bill.

**House Amendments to SB 2094 (78082.0101) - Industry, Business and Labor
Committee 03/20/2007**

Page 1, line 1, replace "section" with "sections" and after "46-02-15" insert "and 46-02-20"

Page 1, line 2, after "printing" insert "and services provided by in-plant print shops"

Page 1, after line 9, insert:

"SECTION 2. AMENDMENT. Section 46-02-20 of the North Dakota Century Code is amended and reenacted as follows:

46-02-20. In-plant print shops. Central duplicating services of the office of management and budget or by departments, institutions, state offices, and printing services under the jurisdiction of the board of higher education, with the exception of the state ~~school~~ college of science, the university of North Dakota, ~~and the North Dakota state university of North Dakota - Valley City, and Valley City state university,~~ may not provide the following services: printing or duplicating of all coated stock, continuous forms, snap-out forms, envelopes over twenty thousand, process color, and print or duplicate paper larger than eleven inches [27.94 centimeters] by seventeen inches [43.18 centimeters], excluding work done on plotters."

Renumber accordingly

Date: 3-20-07
 Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2094

House Industry Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendment 78082 - 0101

Motion Made By Rep Kasper Seconded By Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep. Amerman	X	
Vice Chairman Johnson	X		Rep. Boe	X	
Rep. Clark	X		Rep. Gruchalla	X	
Rep. Dietrich	X		Rep. Thorpe		
Rep. Dosch	X		Rep. Zaiser	X	
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigesaa	X				

Total Yes 13 No 0

Absent 1

Floor Assignment Rep. Zaiser

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

Date: 3-20-07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2094

House Industry Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS, as amended

Motion Made By Rep. Kasper Seconded By Rep. Dosch

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep. Amerman	X	
Vice Chairman Johnson	X		Rep. Boe	X	
Rep. Clark	X		Rep. Gruchalla	X	
Rep. Dietrich	X		Rep. Thorpe		
Rep. Dosch	X		Rep. Zaiser	X	
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigesaa	X				

Total Yes 13 No 0

Absent 1

Floor Assignment Rep Zaiser

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

REPORT OF STANDING COMMITTEE

SB 2094: Industry, Business and Labor Committee (Rep. Kelsner, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2094 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections" and after "46-02-15" insert "and 46-02-20"

Page 1, line 2, after "printing" insert "and services provided by in-plant print shops"

Page 1, after line 9, insert:

"SECTION 2. AMENDMENT. Section 46-02-20 of the North Dakota Century Code is amended and reenacted as follows:

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Renumber accordingly

2007 SENATE INDUSTRY, BUSINESS AND LABOR

CONFERENCE COMMITTEE

SB 2094

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2094 Conference Committee**

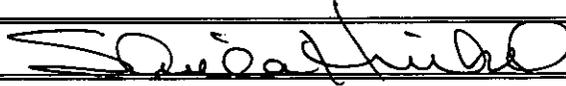
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **April 4, 2007**

Recorder Job Number: **5742**

Committee Clerk Signature



RE Printing projects relating to resident bidder preference for public printing.:

Conference Committee Weds. April 4, 2007 HB 2094 2:30 pm

All members present: Chairman Hacker, S Andrist, S Heitkamp

Rep. Dosch, Rep. Ruby, Rep Zaiser

OMB: Linda Belisle, Sherry Neas

S Hacker: The House made some amendments to the Senate bill. Please explain those.

R Dosch: My understanding the set of the amendments that the house made basically was to reinstate section 2. Another bill had previously passed that dealt with in-plant print shops, in that bill, what was slid through that wasn't realized at the time, is, they took out as an exemption, the words "process color" that was missed when it went through the House and it was caught and I guess it raised a lot of concern which is why R Kaiser had it amended back onto the bill. By eliminating the words, "process color," it opened up the door to state agencies and government to get into the color processing/copying business. So that was the reason House put it back in.

S Hacker: Because this would be the last bill filed?

R Dosch: Yes The understanding is the last bill that gets filed is the way it ends up.

S Hacker: Was the other one already signed by the Governor?

R Dosch: Yes, through the process, but maybe not signed,

S Andrist: *Discussed what process color was, brought a newspaper and showed what "spot" color and "process color" were, and what the difference is. Suggested put the color back in. Commented on doing 100 copies on computer printers. I don't know how you're going to stop this if you do 100-200 copies per copy. When you do 100-200 copies, it is cheaper to do it on a computer printer and they all have that equipment and capability. It eliminates coated stock, which is a highly glossy paper. We need to limit it to 100 or 200 copies. I can go either way.*

Rep Zaiser: I like S Andrist's idea, but have a little twist on it, rather than have a number, you could have a small number, put a number and put just put "commercial printers." If someone prints 1000 of something, so be it, so that the process color can be for themselves, but if you hire someone to do it.....

S Hacker: I think this is the procurement process. I spoke with a few individuals, the problem is they're trying to print up a small brochure, 20, 50, 200, before they are forced to get 3 bids, bid-out and have a commercial printer print them up. I've seen them, and they're not that great, it's not the coated stuff.

S Andrist: It is the shiny stock. That's prohibited.

R Ruby: I think the fear is, that when they can step it up and get higher quality, and bigger machines, it wouldn't be feasible on what they can do and can't do. If you are keeping some kind of control on what the line is. If you allow 100 copies, 500 copies, if you get better printers, once you have invested, once you have the investment, why can't they do it for all their needs? The idea is to make sure the state doesn't put investments in equipment that, there are advantages to the government buying equipment over what the private entity can. I noticed that certain taxes are incurred and office space being taken care of at the office, to have the

printers pay for their space. The concern was to not get the nose of the camel under the tent too far.

S Andrist: I fought this battle as a printer for 30 years myself. I guess I could accept the amendments, I'm wondering if the agencies assume that they can run them on color laser printers, they do the same quality as 4 color printing, but aren't really printing. Toner is extremely expensive, it is not cost effective. I was thinking, if we make an exception to 100 copies, we may define them, if it represents color printing. They may do 1000 copies on the printer and say, "This isn't color printing, it's just a color copy."

S Hacker: Sometimes the Legislators are frustrated when agencies are ignoring the law, they are printing things currently, they will continue to print those things anyway. We need to make progress, 100, 200 copies, we need to get it done commercially. Technology is already at the agencies. I hate to deny anybody access to new technology, you age yourself by not providing the opportunity.

R Ruby: My concern is setting the limit for one, with 20,000 listed for envelopes, by putting a number on one type of processing, is that going to be for all types of processing? Are we going down the road of identifying each type we have?

S Andrist: The 20,000 is just for envelopes. If we put 100 or 200 for color printing. Color printing done on a computer printer. I can go either way. I know the frustration of local contractors are seeing themselves eaten-up by state agencies doing things in house that may not be cost effective.

S Heitkamp: Is there any evidence that committee members have that these state agencies are doing it for a profit other than their own needs?

S Hacker: Nothing that I would know of.

S Heitkamp: So they're really doing it for their own needs? So if they're doing it in-house, they have to answer the question if it is cost effective or not. They may be doing it and not realize it is not cost effective.

S Andrist: They have the paper supply, computer, printer, loaded, they have no idea what the cost is. It is extremely expensive if you do short runs..

S Heitkamp: I would support the House amendment if there were some evidence that they were doing it for a profit or expanding business or anything like that. As it went over, it looked like common sense. The world's changed, you can do color printing on your printer easily.

R Ruby: When I was looking for printers for my business, I needed a printer for my statements and had color on my logo, and was looking for printers with color and with black, I could see it was very expensive, so I bought forms with pre-printing in color and printed on the pre-color documents. They probably have the printers do small runs, I wouldn't do 100 on my printer, I don't think that's cost effective for even that number. There may be printers where you would.

S Andrist: The nature of the business, they almost give away the printers, so they can get money for the color toner.

R Zaiser: Curious, can OMB come up and we can ask some question, the quantities, and our concerns.

S Hacker: *Asked Sherry Neas, Procurement Manager* Is this the marketing tourism 80 page booklet that they send out, or...?

Linda Belisle: Director Central Services Division, OMB

We are talking about a survey from the agencies, the process color, the two types of color.

There were very few agencies that run under 1000, they do it in large runs mostly, there were some, they provided samples. There are agencies, commerce has a series of work that they do, this work is designed and is bid out. Excellent prices. Excellent quality, coated stock. This

is not anything central duplicating printed. Our agencies, OMB, Pam Sharp's office, they do 130,000 copies of this, *shows document*, this has to be bid out, nor would it be wise for us to get the equipment. What we're talking about, *cover* for the budget book, it is professional, in order for this, we do the original books, we have to keep everything under lock and key before it goes out. Have to wait and merge the project on the covers. Then have to work with them at the last minute. We have to send out of house which is more expensive. We could have done this cover [*shows cover*] for \$229.00, and they paid out of house for \$300. Once it is sent out we have to wait for it to come back in, then we need to scramble to put it together at the last minute.

S Hacker: Was the design work by printer?

Linda B: Could be, I'm not sure.

R Ruby: Does it have to have that type with photos?

Linda B: I'm sure it wouldn't need to. Highway Patrol annual report brochure, do 100 pages, small quantities, short run copies. Agencies need to be able to do process color, they print color topography maps, they might do 20-30 of them, very expensive to do that on a printer. We can do them, for them, send them to central duplicating, do them electronically and get them back to them the SAME DAY and NOT cause a proliferation rather than desktop printers.

R Zaiser: Where do you see a common breakdown on the numbers, and there would be a number, where should it be?

Linda B: We understand the reason for restrictions in statute, and read why it is in there today, so it doesn't compete with state agencies, no agency can do it on a printer, color copier or 4-color press. No agency should do this.

R Zaiser: What is the number?

Linda B: We would be happy with 500.

R Zaiser: Do you know why certain universities, is that because of the training they've had?

Linda B: It's because of the curriculum that they had at the time of the law was enacted.

R Zaiser: So you think it's 500, and you couldn't live with a number less than that?

Linda B: Well, we could.

R Zaiser: That would be your ideal.

R Ruby: Let's say we went with 500 and at a later date, needed another 100, it wouldn't make sense to go to a printer for 100 more, do you understand the concern?

Linda B: If there is a legitimate need to print 100 or artificially splitting these orders, that is an audit issue, we strive to not let that happen. We don't want to buy a printer, the law says we can't, so we don't. OMB has in statute, chapter 46, the printing chapter, has responsibility for all printing. Why wouldn't central services have authority to manage & monitor all printing so there is a handle on it? We can keep a hand on costs. There is no centralization. We do have authority to buy and manage.

S Hacker: Balancing outsourcing, and watching costs, what is paying these costs, won't have time to have central time issues.

Linda B: It's up to the committee.

S Hacker: Giant leap. We'll talk about it in committee. Maybe by next session, we could talk about centralization and do it for next session.

R Dosch: We need common sense in all laws and don't expect if they need 120 copies, we know how things go in government, we never had color copiers and now the state needs color copiers, one thing leads to the next. If it's 100 copies or less, I think that would be reasonable. I don't agree that they need to get a bid for 50, it's a waste for everyone's time.

R Zaiser: I think we need to deal with the issue, they have an order and then amend the order, I think that could be addressed in statute as well.

S Hacker: Do you know the history about 20,000 envelopes? Has that number ever been moved?

Linda B: That number was decided upon when that statute was enacted in 1987.

CLOSE

Another Conference Committee will be set.

Was set for Friday at 8:30 am, April 6.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2094 Conference Committee B**

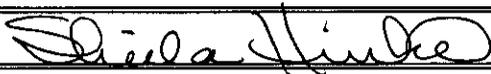
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **April 6, 2007**

Recorder Job Number: **5803**

Committee Clerk Signature



SB 2094 2

Process color

Present:

Chairman Hacker, S Andrist, S Heitkamp

Rep. Dosch, Rep. Ruby, Rep. Zaiser

S Hacker: Time to process the information.

R Dosch: What we have added is the underlined part of it, right after process color, [*finds spot on the bill*], means they can make 100 color copies of that sheet, they can, if they wanted to do 5 pages and 100 copies of that booklet, they can do that. It's a little bit of compromise. With projects at 500 can do that.

R Ruby: If someone could do 500 copies of a colored page, as colored book.

R Dosch: They could do 100 copies of that page, this would allow them to put the book together.

S Hacker: Clear this up, "continuous tone photocopies" – just a black copy.

Up to 100 copies per page.

R Dosch: If was a colored copy, you can make 100 copies of the page. If in a book, and all 5 pages were colored copies.

Jack McDonald: If you had 500 copies, booklet would be all 5 pages.

Some questioning on the wording on the amendment.

Jack McDonald: If there are 500 pages in the project.

S Heitkamp: We are going to work through this. What are we trying to fix? Technology has changed things. In my opinion it saves the state money. Don't handcuff these people so they can't get their work done. I hope we don't overdue the restrictions.

S Hacker: I agree with your thoughts.

R Dosch: We are trying to do a common sense thing. Don't want them to compete with the print shops.

S Heitkamp: If they did do that, it would be a tough next session. On those big documents, that is where business thrives. They know we're watching it.

S Andrist: My problem is if we're trying to figure this out, how can they figure it out?

Reads from the suggested wording he firmed up.

S Hacker: The procurement gals are good in their job and stated that there is a cost break, sooner or later you start to lose money. We're going to go to printers. We need to keep in mind what the procurement office does. They charge out all of these jobs. They are very well aware of printing jobs. Are there things going on that they shouldn't do?

R Dosch: I think they want some parameters to know. We can't take process color out of here, but if we keep it in, there has to be parameters. If there are 100 copies do we go with that and what to do we do with the rest of it?

R Ruby: I understand it they can have 1 color page, up to 500 copies of the page. If they had a booklet put together, cover and 4 chapters, then there are 5 color process pictures on it. Limit is 500 pages, it could be 100 copies, the number would be reduced.

Jack McDonald asked to the podium

S Hacker: When you do a printing run, when you look at the cost, is it easier to run without the process color?

Jack M: Some newspaper can do all the printing in color, some have to be printed elsewhere and put back into the book. You can argue numbers, the way that it was explained, you get less hung up on process and numbers.

S Heitkamp: Putting numbers in on the press, the high production, the industry themselves, you can do amazing things now.

Jack M: It's not cost productive to do 150 copies on large presses.

S Hacker: Do you understand how the printing division works, those agencies have to come down and pay for that. If they have a 500 color print run, wouldn't they farm that out?

S Andrist: On an order on 500 or less, he'll do it on the color copier too. *Reads from the wording on.*

R Dosch: Does that include color photo copiers.

S Andrist: Color printers, laser or ink jet. Not a photo copier

S Heitkamp: We're trying to prevent the state from using color photocopiers?

R Dosch: The original says process color.

R Ruby: His amendment says __

S Andrist: Give them a total of 500 image pages (2x250)

R Ruby: Talking about spot color.

S Andrist: I think it's quite restrictive myself.

Jack M: It accomplishes what it needs to do. It stops them from doing things they shouldn't do. Even if they want to do it, there will be a large cost.

S Hacker: If we didn't want to state that, then you should say you can't buy a press. They charge it out to that printing job. You don't have to just hit "print" and walk away.

S Andrist: The print shop, 500 11x17 copies would be \$500. It allows some profit above the toner.

R Dosch: Can you put in a motion?

S Andrist Amendment: After "process color," insert, "except for jobs generated on computer printers which do not exceed 11x17 inches and 500 total image pages."

Tries to do what we need to do. The process color is taken out.

R Dosch: It tries to do what our amendment does, I think it does the same thing, but is more clearly spelled out.

R Kaiser: It's a little clearer, I think the key thing is...

S Hacker: The motion that is before us is to the House receding from its amendments to further amend as presented by S Andrist.

Senate accede to the House, and further amend?

Roll vote called on Amendments – 6-0-0 passed

Found later that the House actually had to recede and adopt amendments. Copies of the tentative amendment was viewed by S Andrist and S Hacker and a copy delivered to R Dosch for approval. [approx 10:00 am] Copy of proposed amendment was scanned in by Mary Janusz and emailed to S Hacker to forward to constituent, as per S Hacker request.

Bill was signed and checked in April 16.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2094

That the House recede from its amendments as printed on page 1041 of the Senate Journal and page 1113 of the House Journal and that Senate Bill No. 2094 be amended as follows:

Page 1, line 1, replace "section" with "sections" and after "46-02-15" insert "and 46-02-20"

Page 1, line 2, after "printing" insert "and services provided by in-plant print shops"

Page 1, after line 9, insert:

"SECTION 2. AMENDMENT. Section 46-02-20 of the North Dakota Century Code is amended and reenacted as follows:

46-02-20. In-plant print shops. Central duplicating services of the office of management and budget or by departments, institutions, state offices, and printing services under the jurisdiction of the board of higher education, with the exception of the state ~~school~~ college of science, the university of North Dakota, and the North Dakota state university of North Dakota Valley City, and Valley City state university, may not provide the following services: printing or duplicating of all coated stock; continuous forms; snap-out forms; envelopes over twenty thousand; process color, except a process that allows continuous tone photocopying on pages eight and one-half inches [21.59 centimeters] by eleven inches [27.94 centimeters] in size of up to one hundred copies per page with a maximum of five hundred copies per project; and print or duplicate paper larger than eleven inches [27.94 centimeters] by seventeen inches [43.18 centimeters], excluding work done on plotters."

Renumber accordingly

*except for jobs ~~done~~ generated
on computer printers which do not exceed
~~500 copies of 11x17 inches non-plot~~
~~paper size in excess of 11x17 inches~~
11x17 inches ~~and~~ and 500 total
image pages*

USED THIS AMENDMENT

REPORT OF CONFERENCE COMMITTEE

SB 2094: Your conference committee (Sens. Hacker, Andrist, Heitkamp and Reps. Dosch, Ruby, Zaiser) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 1041, adopt amendments as follows, and place SB 2094 on the Seventh order:

That the House recede from its amendments as printed on page 1041 of the Senate Journal and page 1113 of the House Journal and that Senate Bill No. 2094 be amended as follows:

Page 1, line 1, replace "section" with "sections" and after "46-02-15" insert "and 46-02-20"

Page 1, line 2, after "printing" insert "and services provided by in-plant print shops"

Page 1, after line 9, insert:

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Renumber accordingly

SB 2094 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

SB 2094

Testimony
SB 2094

*Same
given to
House*

Presented by: Sherry Neas, State Procurement Manager
OMB, State Procurement Office

Before: Senate Industry, Business, and Labor Committee
Senator Jerry Klein, Chairman

Date: January 8, 2007

Chairman Klein and members of the committee, my name is Sherry Neas. I am the manager of the Office of Management and Budget's State Procurement Office.

SB 2094:

1. Renames the section.
2. Removes the phrase "done in this state".
3. Inserts new language to state that printing must be "awarded to a resident North Dakota bidder as defined in section 44-08-02."

Currently, the law requires that, "Where practicable, all public printing...must be done in this state." In soliciting bids for printing, the State Procurement Office asks where the printing will be done. Often times a North Dakota printer may not own a specialized piece of equipment needed for a printing job, and they may need to have a portion of the work done out-of-state. In other instances, a North Dakota printer may own other print shops in an adjacent state. These North Dakota printers are at a disadvantage under the current law.

This amendment switches the focus of this preference law from where the work will be done to whether the bidder is resident in North Dakota. Section 44-08-02 defines resident bidder as "a bidder, seller, or contractor who has maintained a bona fide place of business within this state for at least one year prior to the date on which a contract was awarded.

This change will allow public printing contracts to be awarded to the North Dakota resident bidder with the lowest price. This will provide equal treatment of all resident North Dakota bidders and simplify the procurement process for public entities.

This concludes my testimony. I will be happy to answer any questions you may have.