

2013 HOUSE POLITICAL SUBDIVISIONS

HB 1137

2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

HB 1137
January 18, 2013
Job # 17398

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to audits of occupational and professional boards.

Minutes:

Testimony #1, 2

Chairman N. Johnson: Opened the hearing on HB 1137.

Rep. Toman: (See testimony #1). This bill amends section 54-10-27 of the Century Code pertaining to occupational and professional boards and raising the receipt amount to trigger an audit from \$10,000 to \$100,000.

Rep. Maragos: Do you know what the costs of these audits are and what we would be saving for these entities if we did not require them to have an audit?

Rep. Toman: I don't have exact figures but a ball park figure of about \$1500 or an independent audit or more.

Rep. Kathy Hogan: It seems like a huge jump from \$10,000 to \$100,000.

Rep. Toman: We just took that number times ten. I would be opening to lowering that number.

Rep. J. Kelsh: How are they handled when they get to the auditor's office?

Rep. Toman: That would be my hope that they are currently examining those annual reports.

Rep. Klemin: If there are 40-45 such entities and we would not require the audit from 18-20 so a little less than half the professional boards would not be audited. Why do you want to do this?

Rep. Toman: I want to relieve the burden of the government while still maintaining responsibility by submitting the annual report rather than an audit.

Rep. Klemin: Do you know how much the costs of these audits are and how they are paid for?

Rep. Toman: I don't have those numbers.

Rep. Muscha: On line 15 it says may submit so these boards wouldn't be required or is there a different legal term? I take may as optional.

Rep. Koppelman: It you look at the end of line 7 it says that they shall provide for an audit ones every two years by a CPA or they may is one option. They can ask the State Auditor to do it or if they are less than \$10,000 of annual receipts they can just submit the annual report so I think that is the may be part.

Marge Ellefson, Executive Secretary for the ND Board of Counselor Examinators: (See testimony #2). We are having an audit done now and the cost is \$2100 or 7% of our revenue.

Rep. Koppelman: What are the gross receipts of your particular board?

Marge Ellefson: Our CPA that does our audits and we were at \$37,000 so when I called to find out if we were under it we were not.

Rep. Koppelman: What is the audit costing you?

Marge Ellefson: This year it is \$2100. We do run on a tight budget.

Rep. Hatlestad: Did you have trouble finding someone to do an audit because you are somewhat small?

Marge Ellefson: No we don't.

Opposition: None

Neutral:

Rep. Kathy Hogan: How many audits are you doing for these various boards and does this threshold make sense to you?

Gordy Smith, State Auditor's Office: Currently the auditor's office is only doing one or two of those. We don't have a feeling for or against that from an auditor's standpoint. The more entities that don't get an audit the more likely something could happen. Rep. Porter had asked me to get some information for him so I went through 40-45 of these reports just looking at the receipts so I could get some sort of idea and it is a huge variance. There are some in there with over \$200,000 worth of receipts and some are small and obviously don't even have to have an audit now since they are under \$10,000.

Rep. Kathy Hogan: If the threshold is \$100,000 and they just submit an annual report does anyone look at the report?

Gordy Smith: Yes we have two individuals who use to work for us in the political subdivision office and they retired so we hire them on a part time basis to come and there are a number of small political subdivisions that have those types of reports. A city under 500 does the same type of thing.

Rep. Kathy Hogan: What is the threshold for cities that just need to do an annual report?

Gordy Smith: For cities it is those under 500. School district it would be if you have under 100 students.

Rep. J. Kelsh: If they submit an outside audit they have to pay someone in your office to go over that, don't they?

Gordy Smith: The maximum fee is \$50.

Rep. J. Kelsh: Would it make any sense to stretch out the time to maybe three years and put this at \$50,000 or is that too long to wait between audits. Do you have trouble with the boards?

Gordy Smith: I cannot say that we have had any trouble that I am aware of with the boards. Typically in state government the way the audits work the usual is once every two years. That is state agency and political subdivisions so I think that probably should stay where that is at but certainly if the committee decided to find some common ground between \$10,000 and \$100,000 that fine too.

Rep. M. Klein: What would your response be if we modified that to \$50,000?

Gordy Smith: Strictly from an auditors standpoint you lower that amount; you lower the risk that something could happen. When there is fraud that goes on it is in the smaller entities because there is only one or two employees and they can control everything. Also the smaller ones would be getting out of it and they wouldn't be paying 15% or 20% of their budgets for the audit but certainly you would lower the risk of something happening.

Rep. L. Meier: What is required to be in the annual report when these entities submit to you?

Gordy Smith: Typically what is on this report it is pretty simple; they put on there we want your receipts and if you have different types show us that, tell us where your expenditures are; then they will go and grab some balance sheet items just to say are you still solvent so they would just add this information in there. The biggest difference is someone independent like an auditor isn't looking at it. We basically call it a desk audit. You have the information in front of you and you take a look at it and see if anything looks unusual or compare it to the last time to see if it had a big change and then we would call them.

Rep. Koppelman: What is the status of finding auditors?

Gordy Smith: I believe the farther out west they are going people will have more trouble finding auditors. The federal government has piled all this regulation and an auditor has to do; then they have things like they have to have a peer review every three years. You have to have so much CPE. They have all this cost; a small operator if he does two or three school districts in a city or small town, they have just decided that it isn't worth the effort unless they do more. Brady Marks have picked up several of them, but they are hesitant to increase their staff to see how that goes. Our political subdivision is located in Fargo and they do some audits out this way. Not any farther west than Beulah or somewhere in that area. We do what we can to see if we can get to them if they call us.

Rep. Koppelman: How does that relate to the type of audit this bill address?

Gordy Smith: The auditors that do this type of work typically it will not take a great deal of time. They don't get any federal funds so those requirements are gone. If they are CPAs they obviously have to meet the yellow book type of rules for a CPA but they are much less stringent on the CPA that performs that audit.

Rep. J. Kelsh: Do you have any idea what an audit like that would cost the state auditor?

Gordy Smith: One of the parts of the costs would be that we have our office in Fargo so there is obviously going to be some travel if the board isn't somewhere close to Fargo that we would have travel costs in there. Typically the hourly rates of the auditor's office is as high as the highly rates of privates.

Rep. Klemin: When you do this desk audit based on the annual report that is submitted is there any way that you have a way of verifying the information that is on there?

Gordy Smith: No. Even the federal government on reports that the state send in they do desk reviews and they are able to find some things, simply because they are not put in the right way or the right information isn't present but there is no way short of actually conducting an audit that you would know for sure.

Rep. Klemin: Are these people who submit these annual reports of these boards bonded or insured against fraud?

Gordy Smith: I am not sure. I would expect that they would bond them because some of them are so small.

Rep. Klemin: My experience with small boards where there are only two people in the office there is a risk where there is embezzlement and sometimes those people are insured or not. I think the people doing this should be bonded. If a board with under \$100,000 of receipts and half of these boards are just submitting a report forever basically we really would have no way of knowing what is going on unless they find it internally by their board of directors.

Gordy Smith: I think it would be extremely difficult to catch it if it is a real small shop; one or two people filing that report. If they actually had an onsite audit and he did his job he would be trying to match receipts received so that is why there is that risk. If I am the only

one receiving the money I take half the money and put it in my pocket and the other half I take into the bank and deposit it; if I make a receipt list, which I don't in most cases I just make sure it is equal to what I deposited in the bank and you are going to struggle. If somebody came in and said we have 100 people licensed this year and it is \$10 a piece then we should have gotten \$1000 if they looked at the bank deposits and only had \$800 you know something is wrong.

Rep. Klemin: The situation I know of involved a bookkeeping in the office writing checks to themselves and cashing them and when the checks came back from the bank they would change it so it wasn't to themselves anymore, it was to some other real party that looked legitimate.

Gordy Smith: That does happen and you would not catch it unless you did something more in depth there.

Rep. Klemin: Maybe we should do this audit every four years then at least that would reduce their expense by half and we would still have some method for public trust in the process. We are dealing with public money and you have to be sure.

Gordy Smith: That is certainly one option of the legislature would be to do this. That would cut their audit costs in half and maybe you would adjust the \$100,000 so you still could move it down a little bit so the smaller boards aren't burdened.

Rep. Maragos: Are you a paid director and is that probably the largest expense?

Margie Ellefson: Yes, I am.

Rep. Maragos: Is that the case is most of the smaller boards that you know of if that the case that the expense is usually one or two employees?

Margie Ellefson: Yes. I would like to address the issue of fraud. I have a profit and loss statement from last year and we were at a loss. There are no money to miss spend. There is no money extra and our board watches our budget. I think that is the responsibility of the board's themselves.

Rep. Maragos: Are you required to be bonded or an insurance policy?

Margie Ellefson: Not to my knowledge.

Hearing closed.

2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

HB 1137
January 24, 2013
Job #17708

Conference Committee

Committee Clerk Signature



Minutes:

Proposed Amendment #1

Chairman N. Johnson reopened the hearing on HB 1137. This is regarding the audits where every two years it could go from \$10,000 to \$100,000 thresh holds. Maybe we could have some discussion on that.

Rep. J. Kelsh: Maybe a \$100,000 was a little too much. Rep. Looyesen have you had any more thoughts on that?

Rep. Looyesen: Rep. M. Klein mentioned me might propose an amendment to change it from every other to four years instead of raising the dollar rate. I would prefer raising the receipt amount and change that amount to 40,000 or \$35,000.

Rep. J. Kelsh: I think that would be good to go to \$40,000 and go to four years.

Rep. Klemin: We have not had an issue that was brought to our attention about embezzlement which is really the concern here. In my experience with situation involving very small offices usually two people that is where the embezzlement happens. In the larger ones there is more control, over site and activity you don't see that sort of thing so often. I think we are leaving it open more if we say they don't have to have an audit. They are not bonded so that would be my concern.

Rep. J. Kelsh: I agree with Rep. Klemin, but it does take about 15 - 20% of their budget to do this. We have to raise it some at the very least.

Rep. M. Klein: I recall a number of session ago one of the committees that a business had gotten really gotten way out of hand and had their annual meeting in Hawaii and by the time it was caught it was too late and most of them were off the committee and we never could press charges against them. I think what Rep. Klemin is say is right. When you get these smaller groups it is much easier to get away with something.

Rep. L. Meier: I am not objecting to having it every four years and lowering the amount down to \$40,000 so maybe we could have an amendment prepared and at least have it introduced to the committee.

Chairman N. Johnson: I thought maybe we should just lower it to \$50,000, but still require every two years so there are some options out here.

Rep. Beadle: I am OK either way. Gordy Smith stated in his you lower the trigger threshold; you lower the risk that is involved. \$100,000 trigger threshold does lead some risk in there. \$40,000 might have been an improvement on risk and \$100,000 might have been additional risk. All these boards and commissions do have to provide annual reports that are reviewed through the auditor's office anyway.

Rep. M. Klein Moved to amend on line 14 from two years to four years; Seconded by Rep. L. Meier

Discussion:

Chairman N. Johnson: We also need to think of line 8 too. Would that also be every four years?

Rep. M. Klein: That is correct.

Rep. Klemin: \$100,000 going to stay the same then? What should this amount be?

Rep. M. Klein: I think we wanted to leave that at \$10,000.

Chairman N. Johnson: So it would be to require an audit every four years for any organization, occupational or professional board that has \$10,000 in receipts for more.

Rep. Kathy Hogan: Would we be saying audit reports that would have over \$10,000 would go four years now so the big companies would have an audit every four years and that is concerting to me because they have large budgets and I am not sure we should move them from two to four.

Rep. Klemin: I agree with Rep. Kathy Hogan. Large boards that deal with a lot of money maybe should have an audit more often than every four years.

Rep. Beadle: I read it that you wouldn't be able to just change one of those two years without changing the bill that would stimulates separate tiers for board's size level. The only place we will be able to do it or the easiest way to do it is to leave it at the two years so we still have the larger boards have their audits every two years, but have the threshold to increase it so the smaller boards aren't burdened with the audit as frequently.

Chairman N. Johnson: We do have a motion on the floor; if we were looking at leaving the two years in everywhere but changing it to say \$40,000 that would mean all the larger boards would be required every two years; those that collect receipts of \$40,000 or less would still be required to submit an annual report, but at no point would they ever have to submit an audit.

Rep. J. Kelsh: I think we would be better off raising the threshold to \$40,000 or \$50,000 and still have to have their biannual audit. The ones under would have to submit annual reports to the state auditor.

Rep. Klemin: If you are embezzling you can fake the numbers on the report you submit. He told a story about a two person office that is embezzling money. Would not be found by looking at a financial statement because of the way the checks were changed.

Rep. Maragos: Would passage of this bill in its current form stop that, do you think?

Rep. Klemin: I don't think it would have since the current law requires them to have an audit where they go in an actually look at the checks and that sort of thing.

Rep. Maragos: Even the current law did not stop that.

Rep. Kathy Hogan: For these small boards maybe we should have them provide an annual report to the state auditor and have an audit every four years? At least at four years if they have under \$40,000 it wouldn't get too big and raise the threshold.

Rep. Maragos: I think this is a good bill and I don't think it even needs to be changed. I think we should just raise the threshold to help the smaller boards to save money. You don't get much for \$100,000 anymore.

Rep. Kathy Hogan: are we having an inconsistency in the audits with line 8? Maybe that would be all right.

Chairman N. Johnson: Rep. M. Klein motion said that every governing board and professional occupational board would have to have an audit every two years unless they have less than \$100,000 of annual receipts and then it would be every four years they would be required to have an audit.

Rep. Klemin: I would like to see that in writing.

Rep. M. Klein withdrew his motion; Seconded withdrawn by Rep. L. Meier.

Chairman N. Johnson: We will get that amendment in writing and proceed from there. We can't change the 2 on line 14 because it doesn't work with the two up above so I suggest that we go to \$40,000 and below could submit an annual report. That would be leaving the two years in both places.

Rep. Hatlestad: Why from \$100,000 to \$40,000?

Chairman N. Johnson: I think reducing it to \$40,000 cuts some of the risk out. The woman that came in and testified said their receipts were \$38,000 so I have no heartburn about the number \$40,000 or \$50,000.

Rep. Kathy Hogan: I prefer \$50,000 because I think there are a number of those that are in the \$30,000 to \$45,000 range now and I think that is a group we might not want to do audits on now and your percentage of income for audits is a little lower.

Rep. W. Hanson: Do we have data on what a vast majority of these groups under \$40,000 or \$50,000 so we could be exempting them and making their lives easier at a certain rate?

Chairman N. Johnson: I don't think we got the data on the receipts amounts. So it says 40-45 such entities that have \$10,000 or less in annual receipts.

Rep. J. Kelsh: There is a governing board of those folks they hire so I would be happy to leave it at two years and \$50,000 and have them send in their report every year. They are bonded so the folks that pay the dues are protected somewhat.

Rep. Klemin: I understood these boards and commissions were not bonded and the testimony from Marge Ellefson is that she is not bonded.

Rep. M. Klein: Most of these boards are not bonded.

Rep. J. Kelsh: I misunderstood Rep. Klemin when he said they were bonded but they do have boards that control if they have an employee or someone that is taking care of their finances and they have that right to audit too and I would think that would be part of their judiciary responsibility to make sure that person that is working for them would do it the right way.

Rep. L. Meier moved to amend on line 15 down to \$50,000. Seconded by Rep. Beadle:

Rep. Beadle: I think \$50,000 is a good number. It is the cost to do an audit ends up being 7%-10% of the total revenue. This would drop is down half and make it less of a financial burden.

Voice vote carried.

Do Pass As Amended by Rep. J. Kelsh: Seconded by Rep. L. Meier

Rep. Klemin: I am going to vote in favor of the motion because this is optional for the small board of commission. If the governing board wants to have a CPA audit done they can still do that and maybe it is advisable they do it once in a while.

Rep. J. Kelsh: They have to do one or the other if they are a small business. It says on line 14 instead of providing for an audit every two years of occupational professional board that has less than \$50,000 of annual receipts may submit so it is may.

Chairman N. Johnson: To not do the audit they can submit an annual report in place of the audit.

Vote: 13 Yes 0 No 2 Absent Carrier: Rep. W. Hanson

Closed.

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Title.02000

Adopted by the Political Subdivisions
Committee

January 24, 2013

*CONF
4/24/13*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1137

Page 1, line 15, replace "one hundred" with "fifty"

Renumber accordingly

Date: 1-24-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1137

House Political Subdivisions 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. Klein Seconded By Rep. Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Ben Hanson		
Vice Chairman Patrick Hatlestad			Rep. Kathy Hogan		
Rep. Thomas Beadle			Rep. Jerry Kelsh		
Rep. Matthew Klein			Rep. Naomi Muscha		
Rep. Lawrence Klemin					
Rep Kim Koppelman					
Rep. William Kretschmar					
Rep. Alex Loosten					
Rep. Andrew Maragos					
Rep. Lisa Meier					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

2 - 4 years - line 14

Withdrawn

Date: 1-24-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1137

House Political Subdivisions 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. L. Meier Seconded By Rep. Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Ben Hanson		
Vice Chairman Patrick Hatlestad			Rep. Kathy Hogan		
Rep. Thomas Beadle			Rep. Jerry Kelsh		
Rep. Matthew Klein			Rep. Naomi Muscha		
Rep. Lawrence Klemin					
Rep Kim Koppelman					
Rep. William Kretschmar					
Rep. Alex Loosten					
Rep. Andrew Maragos					
Rep. Lisa Meier					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Line 15 - \$50,000
Voice
Vote
carried!*

Date: 1-24-13
 Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1137

House Political Subdivisions 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. J. Kelsh Seconded By Rep. Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Ben Hanson	✓	
Vice Chairman Patrick Hatlestad	✓		Rep. Kathy Hogan	✓	
Rep. Thomas Beadle	✓		Rep. Jerry Kelsh	✓	
Rep. Matthew Klein	✓		Rep. Naomi Muscha	✓	
Rep. Lawrence Klemin	✓				
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Alex Looysten	✓				
Rep. Andrew Maragos	✓				
Rep. Lisa Meier	✓				
Rep. Nathan Toman	✓				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep. Hanson

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

REPORT OF STANDING COMMITTEE

HB 1137: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1137 was placed on the Sixth order on the calendar.

Page 1, line 15, replace "one hundred" with "fifty"

Renumber accordingly

2013 SENATE POLITICAL SUBDIVISIONS

HB 1137

2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee
Red River Room, State Capitol

HB 1137
March 7, 2013
19552

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to audits of occupational and professional boards.

Minutes:

You may make reference to "attached testimony."

Chairman Andrist opened the hearing on HB 1137. All senators were present.

Representative Nathan Toman District 34. HB 1137 is pretty simple. It raises the receipt amount to trainer or audit for professional boards from \$10,000 to \$50,000 as amended by the House Political Subdivision Committee. The original bill had proposed raising it from \$10,000 to \$100,000 of annual receipts. The reason being for it raising is for the smaller boards. An audit can cost \$2100 more or less, so that is a big portion of their annual receipts to be paying for an annual audit.

Senator Judy Lee Would you like to see it go back to the original number?

Rep. Toman I don't know that I would be opposed to that, but I sit on the House Political Subdivisions Committee and I agreed that \$50,000 was a prudent amount.

Senator Judy Lee Was it better than what you had?

Rep. Toman We discussed in committee embezzlement and malfeasance and so we thought, that if we raised it too far, than there is more money to be used inappropriately. We thought the \$50,000 was an accurate target and it hasn't been raised for a while so, we thought that was a good amount. But I wouldn't be opposed to it going back to the original and sending it to conference committee.

Marge Ellefson Executive Secretary for the North Dakota Board of Counselor Examiners. Written testimony #1.

Chairman Andrist Marge, how many licensee's does your board have? **Marge** replied about 380 current. **Chairman Andrist** I take it you're under the \$50,000 thresh-hold.

Marge Ellefson replied, we are. But over the ten, our revenue is \$30,000.

Vice Chairman Ronald Sorvaag Any idea how many boards we are talking about?

Marge Ellefson replied No, but I am going to check. I didn't get an exact figure but quite a few. Very few, I believe are under that \$10,000. I know there are some over the \$50,000. Social workers I believe have 1800 social workers throughout the state. They vary so much, the boards do.

Gordy Smith The total number, there is probably 40-45 total state boards or occupational boards. When the figure was \$100,000, I actually pulled all 45 of the most recently reports and went down and saw how many of them would've been dropped. At \$100,000 there would have been 19 or 20 boards that would've dropped off of the audit requirement. At 50, I guess I don't know but it would obviously be somewhat less than the 18 or 19 that I cited. I would say that typically there's always risk reward and the reward obviously is that these small boards aren't spending 20% or more on an audit. The risk is that generally speaking if we're going to find fraud or some kind of malfeasance it's going to be in the smaller organizations where only one or two people operate on staff and they are able then to perpetrate what they need. But, we have no objection if it stays at \$50,000 as we didn't have anyone at \$100,000.

Senator Judy Lee We do, don't we have some kind of provision for them to have not a full blown audit, so it isn't that these boards are going unaudited so to speak if there is such a word?

Gordy Smith replied what ends up being if you're not required to have an audit, we have a form that we've designed for all the smaller political subdivisions and the board then would fill out this form and send it in to us. We have a couple of people that review those kind of forms to make sure nothing looked out of whack like if your revenues are half of what they were the year before. So it really isn't an audit but it's where they are at least reporting what they have and when we look at that and compare to the year before to see if anything is different and then we may contact the board if something does.

Chairman Andrist Gordy do you ever find any significant issues in those audits. **Gordy Smith** replied typically no. In the smaller boards it may be redundant but getting a clean report every two years is a good thing. I understand why you don't why to take 20% of what your making from your members and spend it on an audit. But I would say typically no that a lot of that is not found.

Chairman Andrist Have you ever found anything? **Gordy Smith** I can't honestly answer that. The review we have done is by two people on the political subdivision side of our office, so I am not really sure. I would tell you that we've obviously found fraud at smaller political subdivisions but I can't say if it was a board or a commission.

Chairman Andrist Closed the hearing on HB 1137.

Senator Judy Lee Moved Do Pass on 1137.
2nd Vice Chairman Ronald Sorvaag
Role call vote 6 Yea, 0 No, 0 Absent
Carrier: Senator Sorvaag

Date: 3/7/2013
Roll Call Vote #: _____

**2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1137**

Senate Political Subdivisions _____ 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 Sen. Judy Lee _____ Seconded By Sen. Ron Sorvaag _____

Senators	Yes	No	Senator	Yes	No
Chairman John Andrist	✓		Senator Jim Dotzenrod	✓	
Vice- Chairman Ronald Sorvaag	✓		Senator John Grabinger	✓	
Senator Judy Lee	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Sorvaag

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

REPORT OF STANDING COMMITTEE

HB 1137, as engrossed: Political Subdivisions Committee (Sen. Andrist, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1137 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1137

Examples pertaining to HB 1137

The present law requires an audit be conducted if the entity has more than \$10,000 of "annual receipts". There are 40-45 such entities. If the amount that triggered an audit was raised to \$100,000 it would mean approximately 18-20 of these entities would no longer be required to receive an audit.

Examples of entities that would be affected include:

- a) The North Dakota Board of Physical Therapy received an audit for fiscal years 2012 and 2011. It received approximately \$91,000 of program revenues in fiscal year 2012. Thus if its program revenues remained similar for fiscal year 2013, it would not be required to have an audit if the "trigger" was changed to \$100,000.
- b) The North Dakota Board of Optometry received an audit for fiscal year 2012. It received approximately \$38,000 of program revenue during fiscal year 2012. Thus if its program revenues remained similar for fiscal year 2013 it would not be required to have an audit if the "trigger" was changed to \$100,000.
- c) The North Dakota Board of Dietetic Practice received an audit that includes fiscal year 2011. It received approximately \$20,000 of program revenue for fiscal year 2011. Thus if its program revenues remained similar for fiscal year 2012, it would not be required to have an audit if the "trigger" was changed to \$100,000.

#2

Good morning. Thank you for having me here.

My name is Marge Ellefson and I have been the executive secretary for the NDBCE for 13 years now. A brief history of who we are and what we do: Our Board licenses professional counselors in the state of ND. Our Board's primary responsibility is to the citizens of North Dakota to ensure that the licensed counselors meet or exceed educational and ethical requirements, and stay current with ever-changing counseling needs and trends through required continuing education and instruction from the Board.

Please keep in mind that the opinions and facts I present today are based on my knowledge of the NDBCE, of which I am up close and personal, and although I can not directly speak for other boards, through visiting with representatives from other boards, we all face these similar concerns.

I am here today because a while back it was brought to my attention that there is a threshold for the requirement for state boards to have full blown audits done every two years. Being the Executive Secretary of a relatively small board I checked in to it and found the threshold to be exempt from these audits is a revenue of less than \$10,000. I feel this is a rather archaic or outdated threshold. In visiting with auditing bodies, the proposed \$100,000 figure appears reasonable.

I don't have the exact number, but not many boards fall below revenue of \$10,000. Our audit currently being done will cost over \$2,000, or 7% of our revenue.

Over the last 20 years our audit results have been consistently uneventful. This board, like many others, is feeling a budget shift or focus due to increased operational costs, and increased activities on the board that are unpredictable, yet necessary expenses. Three years ago the Board processed a complaint that cost over \$4,000, and complaint activity alone has steadily increased.

The last time this board initiated administrative rule changes, in 2001, the cost for publishing the hearing notice in the county newspapers was \$816.00. That same cost today is about double and we have administrative changes in the works. The increases in operating expenses such as those I mentioned are a sign of the times and forces us to look even further at spending we can reduce or cut.

State Boards face the same financial limitations and responsibilities that all state government has which is to cut unnecessary or redundant spending whenever possible. The fees for our licensed counselors are set to cover operational costs and no more. We run on a shoestring budget, as we are non-profit, of course, and try to keep the licensing fees we collect and operational expenses of the board relative and aligned.

These are just some of the examples and reasons why I am asking that the threshold of \$10,000 be seriously looked at and consideration be given to raising that threshold to revenue of less than \$100,000 to allow the moderate and small board the opportunity to eliminate the cost of a full blown audit.

Are there any comments or questions?

1. National Conventions for keeping current on ever-changing trends and networking
2. Cost of processing an increasing number of complaints
3. Membership dues to National Counseling Organizations (\$200-\$1000 in four years)

13.0160.01001
Title.02000

Adopted by the Political Subdivisions
Committee

January 24, 2013

#1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1137

Page 1, line 15, replace "one hundred" with "fifty"

Renumber accordingly

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Are there any comments or questions?

1. National Conventions for keeping current on ever-changing trends and networking
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SENGER, MAHLUM & GOODHART p.c.
CERTIFIED PUBLIC ACCOUNTANTS

JANUARY, 2013

NDBCE

Marge Ellefson

Phone/Fax: 667-5969

663-2271

391-5371

ndbce@btinet.net

DOCUMENTS ENCLOSED:

Renewal dates and deposits

Quicken records:

Deposits by category

Deposits by date

Register reports by fiscal year by category

Register reports by fiscal year by date

Register reports by audit period by category

Register reports by audit period by date

Cash flow by fiscal year

Balance Sheets by fiscal year

Two Year Budget

List of currently licensed counselors

New Licenses Issued, includes LAPC, LPC and LPCC

Quarterly and Annual Government Reports

Bank Statements

CD documents

Receipts

Meeting Minutes

Member vouchers for reimbursement

**NORTH DAKOTA BOARD
OF COUNSELOR EXAMINERS**

AUDIT REPORT

JUNE 30, 2002 AND 2001

NORTH DAKOTA BOARD OF COUNSELOR EXAMINERS
JUNE 30, 2002 AND 2001

TABLE OF CONTENTS

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Balance Sheets	2
Statements of Revenues, Expenditures and Changes in Fund Balance	3
Notes to the Financial Statements	4 - 5
Report on Compliance and on Internal Control over Financial Reporting Based on an Audit of Financial Statements Performed in Accordance With <i>Government Auditing Standards</i>	6 - 7
Management Letter	8



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INDEPENDENT AUDITOR'S REPORT

Governing Board
North Dakota Board of Counselor Examiners
Mandan, North Dakota

We have audited the accompanying general purpose financial statements of the North Dakota Board of Counselor Examiners, Mandan, North Dakota, as of June 30, 2002, and 2001, and for the years then ended, as listed in the table of contents. These general purpose financial statements are the responsibility of North Dakota Board of Counselor Examiners' management. Our responsibility is to express an opinion on these general purpose financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards*, issued by the Comptroller General of the United States. These standards require that we plan and perform the audit to obtain reasonable assurance about whether the general purpose financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the general purpose financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall general purpose financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion the general purpose financial statements referred to above present fairly, in all material respects, the financial position of the North Dakota Board of Counselor Examiners, Mandan, North Dakota, as of June 30, 2002, and 2001, and the results of its operations for the years then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued a report dated December 13, 2002, on our consideration of the North Dakota Board of Counselor Examiners' internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grants. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report considering the results of our audit.

Senger, Mahlum & Goodhart, P.C.

Senger, Mahlum & Goodhart, p.c.
Mandan, North Dakota
December 13, 2002

NORTH DAKOTA BOARD OF COUNSELOR EXAMINERS
BALANCE SHEETS
June 30, 2002 and 2001

	06/30/2002	06/30/2001
ASSETS		
CURRENT ASSETS		
Cash	\$ 19,858	\$ 10,093
Accounts Receivable	0	200
Total Current Assets	19,858	10,293
NONCURRENT ASSETS		
Certificates of deposit	10,773	10,375
TOTAL ASSETS	\$ 30,631	\$ 20,668
LIABILITIES AND FUND EQUITY		
CURRENT LIABILITIES		
Accrued payroll taxes	308	292
TOTAL LIABILITIES	308	292
FUND EQUITY		
Fund Balance - Unreserved	30,323	20,376
TOTAL FUND EQUITY	30,323	20,376
TOTAL LIABILITIES AND FUND EQUITY	\$ 30,631	\$ 20,668

The accompanying notes are an integral part of these financial statements.

NORTH DAKOTA BOARD OF COUNSELOR EXAMINERS
 STATEMENTS OF REVENUE, EXPENDITURES AND CHANGES IN FUND BALANCE
 For the years ended June 30, 2002 and 2001

	06/30/2002	06/30/2001
REVENUES		
License and renewal fees	\$ 23,720	\$ 15,170
Late fees	300	250
Extension fees	100	50
Test fees	3,130	2,300
Labels	200	200
List fees	125	80
Interest income	630	815
TOTAL REVENUES	28,205	18,865
EXPENDITURES		
Audit	0	775
Bank expense	13	0
Board expenses	1,157	2,364
Education	1,030	2,090
Insurance	937	0
Legal expenses	400	1,501
Newsletter	499	257
Other expense	0	153
Payroll tax expense	691	648
Postage	898	1,161
Printing	437	0
Refunds	640	350
Supplies and office expenses	867	795
Telephone and internet service	1,135	940
Test expenses	1,629	877
Workers Compensation	125	125
Wages	7,800	7,250
TOTAL EXPENDITURES	18,258	19,286
EXCESS (DEFICIENCY) REVENUES OVER EXPENDITURES	9,947	(421)
FUND BALANCE, BEGINNING OF YEAR	20,376	20,797
FUND BALANCE, END OF YEAR	\$ 30,323	\$ 20,376

The accompanying notes are an integral part of these financial statements.

North Dakota Board of Counselor Examiners

Notes to Financial Statements
June 30, 2002, and 2001

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

For financial reporting purposes, the accounting policies of the North Dakota Board of Counselor Examiners conform to generally accepted accounting principles applicable to governments.

A. REPORTING ENTITY - In accordance with Governmental Accounting Standards Board Statement No. 14 *The Financial Reporting Entity*, for financial reporting purposes the Board's financial statements include all funds, account groups and departments over which Board officials exercise authoritative oversight responsibility. Criteria indicating oversight responsibility includes board members that are elected by the public and have decision making authority to levy taxes, the power to designate management, the ability to significantly influence operations and primary accountability for fiscal matters. Based upon the criteria of Statement No. 14, there are no component units to be included within the Board as a reporting entity and the Board is not includable as a component unit within another reporting entity.

B. FUND ACCOUNTING - The accounts of the Board are organized on the basis of funds and account groups, each of which is considered a separate entity. The current operating fund (general fund) is used to account for all financial resources.

C. BASIS OF ACCOUNTING - This refers to when revenues and expenditures are recognized in the accounts and reported in the financial statements. All governmental funds are accounted for using the modified accrual basis of accounting. Revenues are recognized when received, except year-end adjustments are made for material revenues determined to be both measurable and available as current assets. Revenue sources susceptible to accrual include fees for services.

Expenditures are generally recognized under the modified accrual basis of accounting when the related fund liability is incurred. Exceptions to this general rule include: (A) Inventory type items are considered expenditures as the time of disbursement. (B) No recognition is given to prepaid expenses.

D. ENCUMBRANCE ACCOUNTING - Encumbrances are commitments related to unperformed contracts for goods and services that may be recorded for budgetary control purposes. The Board does not record encumbrances.

2. CASH AND CASH EQUIVALENTS

Cash includes amounts in demand deposit accounts held at the Bank of North Dakota.

3. CERTIFICATES OF DEPOSITS

All investments held by the North Dakota Board of Counselor Examiners are in certificates of deposit held with the Bank of North Dakota with interest rates ranging from 1.60% to 2.10% at June 30, 2002 and 3.80% to 5.10% at June 30, 2001. The certificates have terms of 180 days.

North Dakota Board of Counselor Examiners

Notes to Financial Statements
June 30, 2002, and 2001

4. DEPOSITS

In accordance with North Dakota statutes, the Board maintains deposits at depository banks designated by the governing board. All depositories are members of the Federal Reserve System.

North Dakota laws require all public deposits to be protected by insurance, surety bond or collateral. The market value of collateral pledged must equal 110% of the deposits not covered by insurance or bonds. At June 30, 2002, and 2001, the carrying amounts of the Board's deposits (cash and certificates of deposit) were \$30,631 and \$20,468, respectively. The bank balances as of these dates were \$31,375 and \$21,707 respectively. The entire bank balance (including certificates of deposit) was held at the Bank of North Dakota which guarantees deposits in accordance with state law.

Authorized collateral includes bills, notes, or bonds issued by the United States government, its agencies or instrumentalities, all bonds and notes guaranteed by the United States government, federal land bank bonds, bonds, notes, warrants, certificates of indebtedness, insured certificates of deposit, shares of investment companies registered under the Investment Companies Act of 1940, and all other forms of securities issued by the state of North Dakota, its boards, agencies, or instrumentalities or by any county, city, township, school district, park district, or other political subdivision of the state of North Dakota, whether payable from special revenues or supported by the full faith and credit of the issuing body and bonds issued by any other state of the United States or such other securities approved by the banking board.

At June 30, 2002, and 2001, the deposits (cash and certificates of deposit) of the Board can be categorized to indicate the level of risk assumed. Category 1 includes bank balances that are insured or collateralized by insured or registered securities held by the government sponsored investment pool or its agent in the pool's name. Category 2 includes bank balances collateralized with securities held by the pledging financial institution's trust department or agent in the Board's name. Category 3 includes bank balances collateralized with securities held by the pledging financial institution, or its trust department or agent, but not in the Board's name. At June 30, 2002, Category 1 includes \$31,375. At June 30, 2001, Category 1 includes \$21,707.

5. LICENSE AND RENEWAL FEES

The Board's primary source of revenue is the license fees. Licenses are issued for a two-year period and are due on the anniversary date of the original license. Once paid, license fees are not refundable, therefore, no liability has been recorded for unearned license fees.

6. FIXED ASSETS

The Board has no fixed assets to capitalize. The Board pays the executive secretary for use of her personal computer and home office.

7. BUDGETS AND BUDGETARY ACCOUNTING

State law does not require a budget for the North Dakota Board of Counselor Examiners and none was adopted for the years ended June 30, 2002, and 2001. Since a formal budget was not adopted, a statement of budget to actual could not be prepared.



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REPORT ON COMPLIANCE AND ON INTERNAL CONTROL OVER FINANCIAL
REPORTING BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN
ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

Governing Board
North Dakota Board of Counselor Examiners
Mandan, North Dakota

We have audited the financial statements of the North Dakota Board of Counselor Examiners, Mandan, North Dakota, as of and for the years ended June 30, 2002, and 2001, and have issued our report thereon dated December 13, 2002. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether the North Dakota Board of Counselor Examiners' financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the North Dakota Board of Counselor Examiners' internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgement, could adversely affect the North Dakota Board of Counselor Examiners' ability to record, process, summarize and report financial data consistent with the assertions of management in the financial statements. The reportable condition noted is described below.

The North Dakota Board of Counselor Examiners has one person responsible for most accounting functions. This person collects monies, issues receipts, deposits monies, issues checks, sends checks to vendors, records receipts and disbursements on the software, maintains the general ledger, and prepares financial statements. Due to the size of the entity, it is not feasible to obtain proper separation of duties and the degree of internal control is severely limited. The board members should be aware that their active involvement is the best control available in this situation.

REPORT ON COMPLIANCE AND ON INTERNAL CONTROL OVER FINANCIAL
REPORTING BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN
ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe the reportable condition described above is not a material weakness.

This report is intended for the information of the audit committee, management and regulatory agencies and pass-through entities. However, this report is a matter of public record and its distribution is not limited.

Senger, Mahlum & Goodhart, P.C.

Senger, Mahlum & Goodhart, p.c.
Mandan, North Dakota
December 13, 2002



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MANAGEMENT LETTER

Governing Board
North Dakota Board of Counselor Examiners
Mandan, North Dakota

Our examination of the financial statement records of the North Dakota Board of Counselor Examiners, Mandan, North Dakota, for the years ended June 30, 2002, and 2001, has disclosed items which we believe should be brought to your attention:

1. Internal Controls: The board should be aware that the one-person staff prevents proper separation of duties and the degree of internal control is severely limited. The board's active involvement is the best control available in this situation.

The above comments are intended as constructive suggestions to improve the Board's accounting records and its compliance with North Dakota laws.

We would like to acknowledge the assistance of the executive secretary during our examination. We appreciated prompt attention to our questions and requests for information.

This letter is intended solely for the use of management and should not be used for any other purpose. This restriction is not intended to limit the distribution of this letter which, upon acceptance by the Governing Board, is a matter of public record.

Senger, Mahlum & Goodhart, P.C.

Senger, Mahlum & Goodhart, p.c.
Mandan, North Dakota
December 13, 2002