

2013 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2051

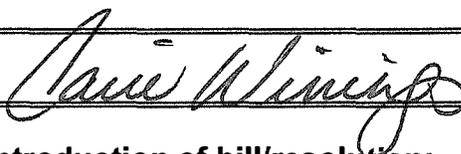
2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2051
01/17/2013
Job Number 17356

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to chiropractic licensure fees.

Minutes:

Vice Chairman Berry: Opened hearing on SB 2051.

Carol Winkler, President of North Dakota State Board of Chiropractic Examiners: See Attached testimony #1 in support.

(4:00)Vice Chairman Berry: Any questions from committee? I am wondering, it mentions the payment, there is a cap set by rule for the application and then also to take the examination, and there is one each year which are renewal fees; what are those current fees?

Carol Winkler: \$200, at the cap. That is why I am here. That was put in place in 1991.

Vice Chairman Berry: You mentioned that that was sufficient enough until 2011 when the case overreached funds available; can you explain what the fees that are collected are used for and why in this case did they overreach?

Carol Winkler: The fees are general used for operating the board and for disciplinary actions, processing and licensing fees, and that sort of thing. Occasionally when we have a disciplinary action, the money that we have in reserve is sufficient to care for that, whether we go to a hearing or not. We have not had that problem. This particular case was strung out over a number of years and resulted in ultimately resulted in an administrative hearing

that was sort of fighting tooth and nail and ended up costing us a great deal of legal fees and expert testimony fees which far surpassed what we had in reserve. Not because of not budgeting but because it was way over. For instance, in 2011 our estimated expense in that legal situation was \$88,000 and our total expense was nearly \$140,000. That was during the litigation time and we had dealt with that case for two more years previous to that. It was kind of a perfect storm. Legislative Council asked me how was I going to prevent that from happening again, and I don't know that you would. It is one of those cases where you have the job to protect the citizens and to deal with that disciplinary action and it just was a case that went that far that long.

Vice Chairman Berry: So what I am hearing you say is that this was something that is a very rare occurrence. This is something that obviously can occur but yet you don't anticipate it on a regular basis.

Carol Winkler: I would hope that that would not occur again. That in keeping, we live in a world where we are seeing, I have been on the board 10 years, and I have seen way more complaints and things we have to deal with as a board compared to when I first started.

Vice Chairman Berry: Again it is handled by administrative rule which I tend to think is a good idea because you have an idea of what you need. If you set a cap, the goal is not to change how the money is used, just put more in reserve and pay this back?

Carol Winkler: Correct. The goal here in raising it is to retire our debt from this case and continue to run the board and then to put back in reserve for the time when we would need it.

Vice Chairman Berry: how many chiropractors are there in the state? And have you heard from them?

Carol Winkler: 371, and not quite all of them. Our board puts out a newsletter and we have let them know. The disciplinary action was posted in that newsletter and let them know about our budgetary situation and that we needed to raise our renewal fees. Honestly, for the most part, it was fine.

Vice Chairman Berry: So you have not heard a lot of negativity?

Carol Winkler: I don't think anyone likes fees going up, but they do. It is not our intention to place a burden on licensees. It is \$100 for their renewal fee that is not a lot.

Vice Chairman Berry: Any other questions from the committee? Any other testimony in support?

Ken Tupa, North Dakota Chiropractic Association: We support this bill and see the need for it. We are ok with it from the association perspective.

Vice Chairman Berry: Any further testimony in support? opposition? neutral?

Closed hearing in SB 2051.

Senator Nelson: Moved a Do Pass.

Senator Marcellais: Seconded.

Vice Chairman Berry: Any discussion by the committee?

A Roll Call Vote Was Taken: 7 yeas, 0 nay, 0 absent.

SB 2051 passed.

Senator Marcellais: Carrier

FISCAL NOTE
Requested by Legislative Council
12/21/2012

Bill/Resolution No.: SB 2051

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues		\$35,000		\$40,000		\$45,000
Expenditures		\$0		\$0		\$0
Appropriations		\$35,000		\$40,000		\$45,000

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill is requesting an increase for the annual license renewal fees and the license application fees for the ND State Board of Chiropractic Examiners.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Current law maximizes annual license renewal fees and license application fees at \$200.00. The Board is requesting this cap to be raised to \$500.00 for each section to give the Board more flexibility for necessary increases in the future. At this time, the Board's intention is to only raise the fees by \$100.00 each in the Administrative Rules. These changes are necessary to cover the increasing costs of general operation and expenses of past and future disciplinary proceedings.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The revenue amounts would be exclusively from the annual license renewal fees and new license application fees. The general operational fund of the Board would be affected. No amounts are included in the executive budget.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

This bill does not include any expenditure amounts.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The appropriations for this bill will be used for general operation and debt reduction of the Board of Examiners. The Board needs to reestablish the previous reserve funds depleted by past disciplinary proceedings in order to function and maintain the ability to protect the public. No amounts are included in the executive budget.

Name: Lisa Blanchard, Executive Director

Agency: ND State Board of Chiropractic Examiners

Telephone: 701-213-0476

Date Prepared: 01/16/2013

Date: 1/17

Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO.: 2051

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Senator Nelson Seconded By Senator Marcellais

Senators	Yes	No	Senator	Yes	No
Chairman Dick Dever	✓		Senator Carolyn Nelson	✓	
Vice Chairman Spencer Berry	✓		Senator Richard Marcellais	✓	
Senator Dwight Cook	✓				
Senator Donald Schaible	✓				
Senator Nicole Poolman	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Marcellais

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

REPORT OF STANDING COMMITTEE

SB 2051: Government and Veterans Affairs Committee (Sen. Dever, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
SB 2051 was placed on the Eleventh order on the calendar.

2013 HOUSE INDUSTRY, BUSINESS, AND LABOR

SB 2051

2013 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2051
March 11, 2013
Job 19669

Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to chiropractic licensure fees

Minutes:

Attachment 1

Committee called to order. Roll taken.

Hearing opened.

Dr. Carol Winkler, immediate past president of the North Dakota State Board of Chiropractic Examiners: Refer to written testimony, attachment 1.

3:45 Representative Kasper: What is the necessity of raising the cap to \$500 right now considering we will have future legislative sessions?

3:58 Dr. Winkler: This is the way it was done in the past. The current cap was put in place in 1990. We decided it is easier to go through administrative rule process in the future.

4:29 Representative Sukut: What is your current membership?

4:32 Dr. Winkler: We have licensees rather than a membership. Currently, we have 371 active chiropractic licenses and 43 inactive.

4:53 Chairman Keiser: Do you know how other boards have approached this?

5:00 Dr. Winkler: The podiatric board did this as well.

Chairman Keiser: They went from 100 to...?

Dr. Winkler: As far as the capping and the rule process, I don't know. They raised renewal and application fees

5:40 Representative Vigesaa: Why would there be a fiscal impact on the current biennium?

5:54 **Dr. Winkler:** Fiscal notes are new to us, so we put together what we thought would be correct in terms of the increase in our renewal fees and the potential increase in number of licensees. If we have them in the wrong biennium, that would be an error on our part.

6:30 **Representative M. Nelson:** Do the inactive people pay the full license?

Dr. Winkler: No, they do not. They pay, I believe, \$100.

Support:

6:51 **Bruce Murry, representing the North Dakota Chiropractic Association:** While nobody likes increased fees, we do support the legislation and wanting to maintain the supervision of our board.

7:13 **Representative Sukut:** Does your group have any problems with moving the cap to \$500?

Bruce Murry: Our association is comfortable with that authority resting with the board.

Chairman Keiser: How many serve on the board? Are they all chiropractors?

Bruce Murry: I believe it is five. They are all chiropractors.

8:15 **Representative Amerman:** If an increase in fees within the cap is required down the road, can the board do that, or do they ask for input from the licensees?

8:42 **Bruce Murry:** The board would have to go through the administrative rule making process. Provided details.

9:15 **Representative Kasper:** What is the annual budget?

Bruce Murry: I am not familiar with the annual budget.

Chairman Keiser: What was the reserve prior to the litigation?

9:51 **Dr. Winkler:** Provided figures for annual budget. Provided figures for the year when they had litigation. Provided figures of amount in reserve prior to litigation.

10:59 **Chairman Keiser:** Was there discussion of asking the legislature to approve a higher licensing fee to bring you back to where you were and then fall back to the lower licensing fee?

11:27 **Dr. Winkler:** Yes, we had that discussion. One of the questions we had before the review committee was what we will do to make sure the financial issues caused by the cost of litigation do not happen again. Essentially, this was a perfect storm. We decided that, given the realistic expenses we incurred, it would not be wise to fall back.

Opposition:

Neutral:

Hearing closed.

Motion for a **Do Pass** made by **Representative Sukut** and seconded by **Representative Kreun**.

Representative Ruby: What are typical fees for other boards?

13:10 **Chairman Keiser:** I know that \$100 is not unreasonable. Gave example of the podiatry board. I am not sure why we're making the leap to \$500, but I recognize that the board is made up of professionals who will pay that fee. It has flexibility. Up to the amount of the cap, it takes away the authority of the legislature and puts it back to administrative rule.

Roll call vote on Do Pass motion. Motion carries.

Yes = 12

No = 1

Absent = 2

Carrier: Sukut

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12/21/2012

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Name: Lisa Blanchard, Executive Director

Agency: ND State Board of Chiropractic Examiners

Telephone: 701-213-0476

Date Prepared: 01/16/2013

Date: 3-11-2013

Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2051**

House Industry, Business, and Labor Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider Consent Calendar

Motion Made By Sukut Seconded By Kreun

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser	✓		Rep. Bill Amerman	✓	
Vice Chairman Gary Sukut	✓		Rep. Joshua Boschee	✓	
Rep. Thomas Beadle	✓		Rep. Edmund Gruchalla	✓	
Rep. Rick Becker		db	Rep. Marvin Nelson	✓	
Rep. Robert Frantsvog		nb			
Rep. Nancy Johnson	✓				
Rep. Jim Kasper	✓				
Rep. Curtiss Kreun	✓				
Rep. Scott Louser	✓				
Rep. Dan Ruby	✓				
Rep. Don Vigesaa		✓			

Total Yes 12 No 1

Absent 2

Floor Assignment Sukut

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

REPORT OF STANDING COMMITTEE

SB 2051: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (12 YEAS, 1 NAYS, 2 ABSENT AND NOT VOTING).
SB 2051 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2051

Testimony on S.B. No. 2051
North Dakota State Board of Chiropractic Examiners

Good Morning Mr. Chairman and members of the Government and Veterans Affairs Committee,

My name is Dr. Carol J. Winkler, and I am president of the North Dakota State Board of Chiropractic Examiners. I am in full time practice here in Bismarck.

I am here today in support of SB 2051. This bill allows our board to raise both our renewal fees and application fees for licensure as a doctor of chiropractic in the state of North Dakota. This bill is a result of a budgetary shortfall that our board has experienced the last eighteen months. I testified before the Legislative Audit and Fiscal Review committee last June to explain our 2011 audit. Our 2012 audit is underway but is not yet completed. In 2011 we litigated a case that was infinitely more expensive than our original estimation. We were successful in this litigation, but it cost our board all of the reserve finances. We are still in debt to the North Dakota Attorney General's Office, but are making strides at reducing that debt. The LAFRC recommended an increase in licensing fees, as well as prudent management to overcome our current financial situation.

Our board members have foregone any per diem, traveling and meeting reimbursements since the middle of 2011 to reduce our expenses. In fact, the litigation in this case resulted in a week out of our offices, and we all paid our own travel expenses. The largest portion of our expenditure was in legal fees and expert testimony.

Our intention is to raise these fees one hundred dollars through administrative rule. That would be from the current two hundred dollars to three hundred dollars. The fee was capped in statute, and therefore we need to change it in statute. The reason for the cap increase from two hundred to five hundred dollars is to allow future boards to raise fees, if they deem necessary, through the administrative rule process.

It is not the intention of the board to place an extreme burden on the licensees. The one hundred dollar increase will not result in an immediate reduction of our entire debt load, but should within the next twelve months. After the debt load is retired, we will build up our reserves to continue to protect the citizens of our state.

I am happy to entertain any questions, and respectfully recommend a do pass on SB 2051.

Thank you very much for your time and attention.

Good Morning Mr. Chairman and members of the Committee,

(1)

My name is Dr. Carol J. Winkler, and I am the immediate past president of the North Dakota State Board of Chiropractic Examiners. I am in full time practice here in Bismarck.

I am here today in support of SB 2051. This bill allows our board to raise both our renewal fees and application fees for licensure as a doctor of chiropractic in the state of North Dakota. This bill is a result of a budgetary shortfall that our board has experienced the last eighteen months. I testified before the Legislative Audit and Fiscal Review committee last June to explain our 2011 audit. Our 2012 audit is complete and reveals that we have expended less than we budgeted, and have had a minor gain in our net assets. In 2011 we litigated a case that was infinitely more expensive than our original estimation. We were successful in this litigation, but it cost our board all of the reserve finances. The LAFRC recommended an increase in licensing fees, as well as prudent management to overcome our current financial situation.

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