

2015 HOUSE INDUSTRY, BUSINESS AND LABOR

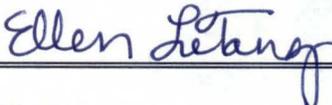
HB 1047

2015 HOUSE STANDING COMMITTEE MINUTES

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

HB 1047
1/13/2015
21930

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Licensing employment agents and agencies

Minutes:

Attachments 1-4

Alan Knudson~Legislative Council Staff: Introduces the bill. Page 2 for an exemption for Human Services.

4:00

Trina Gress~Vice President of Employment Services at community Options, Inc.: (Attachment 1).

6:15

Representative Kasper: What problem does this bill solves?

Gress: Currently, Community Options has chosen not to be licensed with the Department of Labor as it's considered an employment professional organization because of the pay back requirements. If we were licensed, according to the current code, we would have to pay that client back if they privately pay us.

Representative Kasper: Pay the client back if they privately paid you?

Gress: Question came up in interim, why we weren't privately charging for employment services. If someone had the likelihood and would choose to privately pay for their services, we would have to pay the client back.

Chairman Keiser: I still don't understand. I choose not to go through the Medicaid system, I come to your organization, how are you licensed.

Gress: We are licensed through the department of human services developmental disability's unit. We have to be accredited.

Chairman Keiser: You're accredited but not licensed? Do you go to the Secretary of State as a business?

Gress: Yes.

Chairman Keiser: You get licensed as what?

Gress: As a community rehab provider.

Chairman Keiser: What is the advantage to become license through the North Dakota Department of Labor?

Gress: It would be another entity coming in to audit us.

Chairman Keiser: If you weren't going through the Department of Human Services, then you would have to be license?

Gress: Correct.

Chairman Keiser: You are asking for an exemption, which is a change in the law, so you are you operating illegally?

Gress: No. Everything that I have do right not, I have never once charged a client.

Representative Frantsvog: What money do you have to pay back?

12:04

Gress: If someone came to me and said that I would like to hire you. If I applied to be a licensed provider out of the Department of Labor, I could begin to privately charging. If I did that and that person lost their job, there are some requirements according to the current code our agency would have to pay that individual back and it might not be our fault.

Representative Ruby: Is Community Option a local or national company?

Gress: It's a state agency.

Representative Ruby: Do you have a fee structure?

Gress: We have not worked on a fee schedule.

Representative Ruby: The concept is you have never offered the service because it's illegal and second of all, you would take big risk by doing it all for nothing and having to pay back.

Gress: You are right.

Representative Becker: The provision in the law as it stands now, it's consumer protection? Would there not be concern where a client is not going to be able to adapt and be rehabbed. They go through a number of jobs. Is there a point in time in which a service as you to continue to encourage at a cost to the family, but will never be independent?

Gress: I suppose, if it's only a brain injured person, they might be at risk. Different departments oversee the brain injured person.

Chairman Keiser: I like the concept but I do have a reservation. I would like to amend it. The intent is that you are able to provide the service that you currently provide, I support that. But when I read this is that if all you need to do is get certified as a provider and if you are, this does not limit you to providing services to a clientele that meets requirements. You could provide service to anybody. Is that not correct?

Gress: I had never thought of that.

Chairman Keiser: That would bring the employment agencies, who have to be licensed back here saying, this is an unlevelled playing field.

Gress: How can you help me?

Barb Murry~Executive Director of the North Dakota Association of Community Providers: Was not in attendance but provided testimony for the record. (Attachment 2).

Troy Seible~Labor Commissioner with the North Dakota Department of Labor & Human Rights: Gives an overview of how 34-13 works in regards to employment agencies.

Representative Laning: What risk do you see for a potential bad operator coming under this exemption?

Seible: Risk is low, but it's a possibility.

April Fairfield~Executive Director of the Head Injury Association of ND: (Attachment 3). We stand in support if there is an amendment.

Chairman Keiser: Is there anyone else here to testify in support of HB 1047, opposition, neutral?

Russ Cusack~Director of Vocational Rehabilitation of the Department of Human Services: (Attachment 4).

Representative Ruby: Would it be possible for someone to usurp the requirements of the pay back and could get through your certification procedures and quality?

Cusack: I have never experience that.

Gress: Our current cost to bring in CQL in from a national level every two years is \$24,000.

Kate Gross~North Dakota Protection and Advocacy Project: People with disabilities on SSDI or disability insurance, can use job coaching as an impairment work related expense.

Chairman Keiser: Closes the hearing. We will take this bill up tomorrow morning in a work session.

2015 HOUSE STANDING COMMITTEE MINUTES

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

HB 1047
1/19/2015
22127

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Licensing employment agents and agencies.

Minutes:

No Attachments

Chairman Keiser: Opens the hearing on HB 1047. The amendment cleans up the bill but the relevant one is page 2, line 12.

Representative M Nelson: Moves to adopt the amendment.

Representative Devlin: Second.

Voice roll call was taken to adopt amendment 15.0311.01001, motion passed.

Chairman Keiser: The amendment is on the bill and I will entertain a motion.

Representative Laning: Move a Do Pass as Amended.

Vice Chairman Sukut: Second.

Chairman Keiser: Further discussion?

Roll call was taken for a Do Pass as Amended with 14 yes, 0 no, 1 absent and Representative Laning is the carrier.

8/1-19/15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1047

Page 1, line 9, overstrike "person" and insert immediately thereafter "individual"

Page 1, line 12, overstrike "person" and insert immediately thereafter "individual"

Page 1, line 13, overstrike "person" and insert immediately thereafter "individual"

Page 1, line 15, overstrike "means" and insert immediately thereafter: ":

a. Means

Page 1, line 15, overstrike "person" and insert immediately thereafter "individual"

Page 1, line 18, overstrike "a." and insert immediately thereafter "(1)"

Page 1, line 18, overstrike "Persons" and insert immediately thereafter "Individuals"

Page 1, line 19, overstrike "persons" and insert immediately thereafter "individuals"

Page 1, line 21, overstrike "b." and insert immediately thereafter "(2)"

Page 1, line 21, overstrike "person" and insert immediately thereafter "individual"

Page 1, line 21, overstrike "who" and insert immediately thereafter "that"

Page 1, line 23, overstrike "person" and insert immediately thereafter "individual"

Page 2, line 1, overstrike "The term "employment agent" or "employment agency" does" and insert immediately thereafter:

"b. Does"

Page 2, line 1, overstrike "any person" and insert immediately thereafter ":

(1) An individual"

Page 2, line 3, overstrike "person" and insert immediately thereafter "individual"

Page 2, line 7, overstrike "The term "employment"

Page 2, line 8, overstrike "agent" or "employment agency" does not include a person" and insert immediately thereafter:

"(2) An individual"

Page 2, line 10, replace "; or a person" with: ":

(3) An individual"

Page 2, line 10, after "company" insert an underscored comma

Page 2, line 12, after "services" insert ", to the extent the employment-related services are being provided for the clientele identified by the department in the issuance of the license or certificate"

Renumber accordingly

Date: Jan 19, 2015

Roll Call Vote: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1047

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: 15.0311.01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider _____

Motion Made By Rep Nelson Seconded By Rep Devlin

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice vote motion carries

Date: Jan 19, 2015

Roll Call Vote: 2

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1047**

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Laning
Rep Nelson Seconded By Rep Sukut
Rep Devlin

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	x		Representative Lefor	x	
Vice Chairman Sukut	x		Representative Louser	x	
Representative Beadle	x		Representative Ruby	x	
Representative Becker	x		Representative Amerman	x	
Representative Devlin	x		Representative Boschee	x	
Representative Frantsvog	Ab		Representative Hanson	x	
Representative Kasper	x		Representative M Nelson	x	
Representative Laning	x				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep Laning

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

REPORT OF STANDING COMMITTEE

HB 1047: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1047 was placed on the Sixth order on the calendar.

Page 1, line 9, overstrike "person" and insert immediately thereafter "individual"

Page 1, line 12, overstrike "person" and insert immediately thereafter "individual"

Page 1, line 13, overstrike "person" and insert immediately thereafter "individual"

Page 1, line 15, overstrike "means" and insert immediately thereafter: ";

a. Means

Page 1, line 15, overstrike "person" and insert immediately thereafter "individual"

Page 1, line 18, overstrike "a." and insert immediately thereafter "(1)"

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Page 2, line 10, after "company" insert an underscored comma

Page 2, line 12, after "services" insert ", to the extent the employment-related services are being provided for the clientele identified by the department in the issuance of the license or certificate"

Re-number accordingly

2015 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1047

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee

Roosevelt Park Room, State Capitol

HB 1047 Engrossed

3/11/2015

Job Number 24658

Subcommittee

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to licensing employment agents and agencies

Minutes:

Attachment

Chairman Klein: Opened the hearing.

Alex Cronquist, Legislative Council Staff: He went over the bill. (:04-1:34)

Chairman Klein: Asked what the genesis of the bill was. What were the issues that needed to be corrected?

Alex Cronquist: Said that there are certain agencies that help with employment of individuals with disabilities and they couldn't provide services for private pay, they could only provide them for pay through the department of human services because they aren't licensed by the labor commissioner as an employment agency. The reason they didn't want to be licensed under the labor commissioner is, if an individual that they helped get employed was let go by a certain amount of time, they would have to reimburse the fee to the person they helped get employed. (1:40-2:35)

Senator Murphy: What is the difference between an individual and a person?

Alex Cronquist: I can't speak to that. It was a change made by our legal staff. They are trying to update language whenever they amend bills.

Chairman Klein: It is a new version and whenever they have an opportunity to change that word they do.

Trina Gress, Vice President of Employment Services at Community Options, Inc.: She addressed the issue of the, "Service Charge Refund". Written Testimony Attached (1). (3:54-7:13)

Chairman Klein: As I understand this, the agency takes a fee and gets someone a job and if that individual doesn't work long enough, doesn't make the 90 days, the agency has to return his money?

Trina Gress: Said they would have to return the money to the individual in excess of 20%. Our practice is we are a community rehab provider. We accept referrals from North Dakota Department of Human Services. We have not been a licensed employment agency because we have never accepted a private pay. All of our services are contractual basis, either individualized or through the department. We receive the funds through the department to provide employment or residential related services to individuals. There are some providers that would if the individual has the option or the ability to private pay, they would like that.

Chairman Klein: In general those folks that you have been helping are in need of help and you are being asked to refund the money back to the agency rather than the individual?

Trina Gress: Right now we get a flat fee from vocational rehabilitation or another department to find a person a job. It is usually one lump sum and it is per placement. For example vocational rehabilitation gives us one thousand and forty dollars for our job development and placement services for that group of people. They have to keep their job for so many days and then we get a final placement fee. Currently we are not practicing under the department of labor century code.

Senator Campbell: Asked if anybody is taking advantage and abusing the system?

Trina Gress: No they are truly in need of our services. If we have a situation where we are unable to place a person, we have a three or four month rule to start process and if I see a name is coming across my desk that often and not getting a placement, I will go back to my staff to say you need to talk to that vocational rehab counselor and tell them they need to do some better guidance at counseling. (10:21-12:52)

Chairman Klein: Asked Troy Seibel if they were okay with this and if they helped to clarify the rules.

Troy Seibel, Commissioner of the Department of Labor: Yes that's correct.

Chairman Klein: Closed the hearing.

Senator Poolman: Moved a do pass.

Senator Campbell: Seconded the motion.

Roll Call Vote: Yes-7 No-0 Absent-0

Senator Poolman will carry the bill.

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 HB 1047 Engrossed**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Senator Poolman Seconded By Senator Campbell

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Campbell	x		Senator Sinner	x	
Senator Burckhard	x				
Senator Miller	x				
Senator Poolman	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Poolman

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

REPORT OF STANDING COMMITTEE

HB 1047, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1047 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

HB 1047

**64th Legislative Session
Testimony
House Industry, Business, & Labor Committee
January 13, 2015**

Good afternoon Chairman Keiser and members of the Committee. My name is Trina Gress, I am Vice President of Employment Services at Community Options, Inc. Community Options asks this committee to support HB 1047.

HB 1047 is adding language to the existing ND Century Code 34-13-01 to allow agencies such as Community Options who are licensed by the ND Developmental Disabilities Division and are considered a community rehabilitation provider to be exempt from thee ND Century Code 34-13-01. Providing this exemption will allow agencies to accept private pays if the client is financially able to do so.

In conclusion, Community Options is asking for your support on HB 1047. Thank you for your time, are there any questions?

Sincerely Submitted,

Trina Gress

Jan 13, 2015

2

Trina Gress

From: Barb Murry <barbndacp@midco.net>
Sent: Monday, January 12, 2015 1:55 PM
To: gkeiser@nd.gov; gsukut@nd.gov; bamerman@nd.gov; tbeadle@nd.gov; rcbecker@nd.gov; jboschee@nd.gov; bdevlin@nd.gov; rfrantsvog@nd.gov; bwhanson@nd.gov; jkasper@nd.gov; vrlaning@nd.gov; mlefor@nd.gov; sclouser@nd.gov; menelson@nd.gov; druby@nd.gov
Cc: Trina Gress; 'Poolman, Nicole'
Subject: Support of HB 1047 Definition of Employment Agency

Chairman Keiser and members of the House IB & L Committee,

My name is Barbara Murry, and I am the Executive Director of the North Dakota Association of Community Providers (NDACP). We represent 29 providers of services to people with disabilities in 195 communities across North Dakota.

This written testimony is in support of changes to HB 1047, exempting providers who are licensed or certified by the Department of Human Services to provide employment related services to people with disabilities. This bill will allow DD Providers, such as Community Options, to privately provide employment services to people with disabilities, and will increase the work opportunities for ND's citizens with disabilities.

More specifics will be given by Trina Gress, of Community Options.

I apologize for not appearing before you, but was just diagnosed with Influenza A, and advised to remain home until I have recovered.

Thank you for accepting this written testimony.

Barbara Murry
Executive Director
NDACP
PO Box 7037
Bismarck, ND 58507
701.220.4778
barbndacp@midco.net
www.ndacp.org

Creating Inclusive Communities

"Civility is the midwife of progress. With it, all things are possible. Without it, we dance the dance of charlatans and fools." Emerson Murry



Head Injury Association of North Dakota

January 13th, 2014

House Industry Business and Labor Committee

Chairman Keiser and members of the House Industry, Business and Labor Committee:

My name is April Fairfield and I am the Executive Director of the Head Injury Association of North Dakota. The Head Injury Association of North Dakota is primarily an advocacy organization whose mission is to raise awareness about head injury, support public policies that enhance the Traumatic Brain Injury (TBI) system of care in North Dakota and enhance the quality of life for individuals and their families who have been affected by head injuries.

I am here today in support of House Bill 1047 and urge a **DO PASS** recommendation.

Thank you for your consideration of this very important topic and public health need. It will help us move in the direction of a more comprehensive system of care for brain injury in North Dakota.

Head Injury Association of North Dakota
PO Box 1435 Bismarck ND 58502
1-877-525-2724 braininjurynd@gmail.com

Testimony
House Bill 1047 – Department of Human Services
House Industry, Business and Labor
Representative George Keiser, Chairman
January 13, 2015

Chairman Keiser, and members of the House Industry, Business and Labor Committee, I am Russell Cusack, Director of Vocational Rehabilitation of the Department of Human Services (Department). I am here today to provide information relating to licensing employment agents and agencies.

The Department licenses and certifies community rehabilitation providers (CRPs) that are contracted to provide employment-related services to individuals served by the Department. The quality standards included in licensing and certification is intended to establish program criteria for providers that serve clients of the Department. Core to the approval process for licensed or certified CRPs of the Department include: North Dakota business license, accreditation by the Commission on Accreditation of Rehabilitation Facilities (CARF) or the Council on Quality Leadership (CQL); proof of insurance to include worker’s compensation, comprehensive and general liability and comprehensive automobile insurance.

The monitoring of the quality of service received by the individual clients of the Department through certified and licensed CRPs occurs at the local human service center. Human service center staff are assigned to provide case management services that include referral to CRPs and monitoring to ensure employment related services provided to clients is of high quality and results in assisting the individual clients to obtain and maintain employment.

The Department's licensing and certification of CRPs while protecting individuals served by the Department does not extend to protect individuals that are not served by the Department.

I would be happy to answer any questions.

64th Legislative Session
Testimony
Senate Industry, Business, & Labor Committee
March 11, 2015

Good afternoon Chairman Klien and members of the Committee. My name is Trina Gress, I am Vice President of Employment Services at Community Options, Inc. Community Options asks this committee to support HB 1047 as a DO PASS.

HB 1047 (page 2, line16-20) is adding language to the existing ND Century Code (NDCC) 34-13-01 to allow agencies such as Community Options who are licensed by the ND Department of Human Services to be exempt from the ND Century Code 34-13-01. Providing this exemption will allow agencies to accept private payment for our employment related services.

Under the current NDCC 34-13, any agency who charges a client for employment related services must be licensed with the Department of Labor as a Licensed Employment Agent or Agency. It is not an issue for Community Options to attain a license, it is "Service Charge Refund" section of this ND Century Code 34-13-13.1 that is the issue. In the current NDCC, this section requires the "employment agency" to refund all services charges in excess of 20% of the gross wages received prior to termination.

The clientele that Community Options works with from ND Department of Human Services may include individuals with Intellectual Disabilities/Developmental Disabilities, individuals with Severe Mental Illness, individuals with Traumatic Brain Injury or individuals in living in poverty. This clientele may be terminated or laid off of their job and it may not be any fault of Community Options. For example, in Fargo we have placed a client in positions 8 different times over a 5 year period and in Bismarck we have placed a client in positions 5 different times over a 2 year period of time. In conclusion, Community Options is asking for your support on HB 1047 to exempt agencies who are licensed by ND Department of Human Services to provide employment related services to their respective clientele.

Please support HB 1047 as a DO PASS. Thank you for your time, are there any questions?

Sincerely Submitted,

Trina Gress

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