

FISCAL NOTE
Requested by Legislative Council
01/10/2017

Amendment to: HB 1274

- 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.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 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).*

The bill provides guidance as to claim activity that may result in benefit charges to employers relating to unemployment insurance claims of past employees who were separated from employment due to court imposed restrictions limiting their ability to work.

- 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.*

The bill does not provide for any revenues, expenditures, or appropriations.

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.*

No revenues will result from the bill.

- 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.*

No expenditures will result from the bill.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

No appropriation is associated with the bill.

Name: Darren Brostrom

Agency: Job Service North Dakota

Telephone: 701-328-2843

Date Prepared: 01/13/2017

FISCAL NOTE
Requested by Legislative Council
01/10/2017

Bill/Resolution No.: HB 1274

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2017 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1274

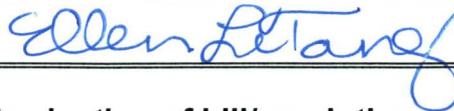
2017 HOUSE STANDING COMMITTEE MINUTES

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

HB 1274
1/17/2017
27009

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Disqualification from unemployment insurance benefits for individuals with court imposed work restrictions.

Minutes:

Attachment 1, 2

Chairman Keiser: Opens the hearing of HB 1274.

Ben Koppelman~Representing District 16, West Fargo: Attachment 1 is testimony.

3:50

Ben Koppelman: Attachment 2, is the amendment for the bill.

Chairman Keiser: Anyone else here to testify in support, opposition, neutral?

8:45

Darrin Brostrom~ND Job Service of ND: We have worked very close with Rep Koppelman & the Dept of Labor on a few variations. They are in favor of this type of legislation, but struggled to come up with language that met the law & was conforming with federal law. What we have now with this particular amendment, changes things drastically, it's now a different area. The situation ends up non-charging the employer in these situations.

There are a few areas in the bill that needs massaging. The added newly imposed to the whole situation. The reason they cited that is you can't work on a pre-existing condition as far as the disqualification or even in an experienced writing for an employer.

The word "separation", in talking with Rep Koppelman, it shouldn't be an issue.

Rep C Johnson: The word "separated", if it were given a "leave of absences", it would soften the term a little bit.

Brostrom: When someone's job is attached, it's a temporary/seasonal layoff, they are still considered separated from employment for purposes of receiving unemployment insurance. This is a similar situation to that, it's just consistent language. I would prefer we didn't change the language from separated because it would get out of continuity with the rest of statute, but it's something we certainly discuss.

Chairman Keiser: The additional language, will you help me understand because "newly imposed" or "modified" is so broad. The court can still do this, right?

Brostrom: The intent going into this with the language we proposed to the Dept of Labor, didn't say "newly imposed", it was a pre-existing situation. The employer was aware of the court imposed restrictions. The Dept of Labor came back to us saying, because the employer is aware, they are not allowed to disqualify an individual or a no charge of a benefit automatically blanketly. They then added the "newly imposed or modified", now there are saying that's a new situation so now it's actionable. Does that answer your question?

Chairman Keiser: It does, but I don't know if it really answers it. What DOL is saying is that the employer has to be aware that you are an ex-felon, you have been released, I don't have the ability I would be charged court I'm not sure how this is going to help, how does this help?

Brostrom: You hit the nail on the head for the situation. The Dept of Labor in fact, said they recognize that this goes against or defeats the intent. They couldn't identify a way to actually make this happen for us?

Chairman Keiser: Are payroll officers' extensions of the court?

Brostrom: We would have to do some research. We could add a section to put a restriction to help in this bill.

Chairman Keiser: Anyone else here to testify in the neutral position? Closes the hearing.

Rep Laning: It's difficulty for an inmate, that is they can't find a job when they get out.

Chairman Keiser: This is transferring the liability to the fund. I'm not happy to pay other people's premium as an employer.

Rep Dobervich: Housing & unemployment are the biggest issues for recidivism, but I have no solution.

2017 HOUSE STANDING COMMITTEE MINUTES

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

HB 1274
1/30/2017
27607

- Subcommittee
 Conference Committee

Committee Clerk Signature

Ellen Petang

Explanation or reason for introduction of bill/resolution:

Disqualification from unemployment insurance benefits for individuals with court imposed work restrictions.

Minutes:

Attachment 1

Chairman Keiser: Reopens the hearing of HB 1274. Rep B Kopplemen, is this all new language or existing?

Rep Ben Kopplemen~District 16-West Fargo: Amendment 01002 was pretty much hog house the bill. Attachment 1.

Chairman Keiser: Is this all new amendment?

Rep Ben Kopplemen: Yes, the goal here is to get more ex-inmates back to work after they are rehabilitated. It's trying to balance that for employers, due to no fault of their own, can't have the people work where they are at. Where the Dept of Labor finally cave for in the compromising language was to say that if the employer wasn't aware & the employees didn't disclose it. If they wanted this protection, they would have to ask in the job description if the employee believes he can perform.

Rep Ruby: If this was because of a background check, they would need to have working on a certain site & if they didn't disclose, they wouldn't be able to past that because of a past conviction. That is what is protecting the employer being charged to his account?

Rep Ben Kopplemen: The intent & I mainly wrote this bill for the construction industry, I don't believe a there would be a permanent separation, but Job Service law would call it separated. It would be more like a temporary laid off, short term. Darrin Brostrom was contacted job service & they wrote the language.

Chairman Keiser: Further discussion on the amendment? One clarification, these existing sections of law, I believe excludes people for even qualifying for unemployment. If you look at part B, for example, if you have an employee who leaves you voluntarily & then gets laid

off, they can't come back to you. If they don't like their work environment, that's great, I don't pay for it. These exclusions here apply to that.

Another problem with this bill is that we are rewarding people to lie. If I don't disclose it, do I get coverage?

Rep Ruby: The intent, if they did lie, it would exclude them.

Chairman Keiser: Rep Louser will you follow up with job service. Again, if somebody qualifies for unemployment insurance & if they are covered, there are two options. One, the previous employer is paying it & goes into the reserve, it is being paid directly or indirectly by the employer. As far as I can tell, is targeted for sex offenders.

Rep Laning: Didn't turn on the mike.

Chairman Keiser: You have to qualify for it. When you find someone in this position, typically you are even through your base period. So if you are going to pay, it's going to come from the reserve, not the employer.

Rep Louser: I agree; this is targeted for sex offenders & we have a law at what different levels of what you can & can't do as a registered offender. Now we are looking at employer protection for something the employer may already researched. It looks like we are offering some protection for the employer on information they received when they hired that individual.

Chairman Keiser: It is the fault of the sex offender that they are in the position they are in.

Rep Becker: What I can tell, it would make sense to take up the amendment.

Rep Becker: Moves to adopt the amendment 17.0772.01002.

Vice Chairman Sukut: Second.

Voice vote-motion carried.

Chairman Keiser: Further discussion, what are the wishes of the committee?

Rep Laning: Everything on the front page is a mute issue.

Rep Laning: Moves a Do Pass as Amended.

Rep Becker: Second.

Chairman Keiser: Further discussion.

Roll call was taken on HB 1274 for a Do Pass as Amended with 5 yes, 8 no, 1 absent, motion failed.

Chairman Keiser: Motion failed, is there an alternative motion?

Vice Chairman Sukut: Moves a Do Not Pass as Amended.

Rep Bosch: Second.

Chairman Keiser: Further discussion?

Rep Laning: The way I'm reading it; it's protecting the employer. It's protecting him from information that was not disclosed, even though the employer requested it.

Chairman Keiser: If there was language that if you were a convicted sex offender & it limits your availability, you simply don't qualify for unemployment.

Rep Louser: Are we now suggesting that the employer will have a job application with the line item that says "are you a registered sex offender"?

Chairman Keiser: We do ask if they have been convicted of a felony, not just sex offenders. Then we say explain.

Rep Louser: We've narrowed this down the scope of this is & we not said that is "not disclosed when requested", that brings us back to the request. The request should be pretty specific. Now, we are suggesting, anybody that's hiring, if they have work that may be precluded because of imposed restriction in any industry, they should have something on the job application that says, "are you a registered sex offender"? I don't know how else to do it.

Rep Ruby: If you look on 2B3, on the amendment. It's covered there & on the back; I agree with Rep Laning, it's ok.

Chairman Keiser: Further discussion.

Roll call was taken for a Do Not Pass as Amended on HB 1274 with 7 yes, 6 no, 1 absent & Rep Louser is the carrier.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1274

Page 1, line 1, replace "52-06-02" with "52-04-07"

Page 1, line 2, remove "disqualification from unemployment insurance benefits for individuals"

Page 1, line 3, replace "with court imposed work restrictions" with "relief from charging of benefits paid to accounts of base-period employers that discharge individuals from employment due to undisclosed court-imposed work restrictions"

Page 1, replace lines 5 through 24 with:

"SECTION 1. AMENDMENT. Subsection 2 of section 52-04-07 of the North Dakota Century Code is amended and reenacted as follows:

2. Notwithstanding subsection 1, an employer's account may not be charged for any of the following:
 - a. With benefits paid to an individual for unemployment that is directly caused by a major natural disaster declared by the president pursuant to section 102(2) of the Disaster Relief Act of 1974 [Pub. L. 93-288; 88 Stat. 143; 42 U.S.C. 5122(2)], if the individual would have been eligible for disaster unemployment assistance with respect to that unemployment but for the individual's receipt of unemployment insurance benefits.
 - b. With benefits paid to an individual who:
 - (1) Left the employment of the base-period employer voluntarily without good cause or with good cause not involving fault on the part of the base-period employer;
 - (2) Was discharged from employment by the base-period employer for misconduct; or
 - (3) Was separated from employment with the most recent employer for reasons directly attributable to domestic violence, stalking, or sexual assault.
 - c. As provided under section 52-06-29.
 - d. With benefits paid to an individual who is in training with the approval of job service North Dakota.
 - e. With benefits paid to an individual who is subsequently determined not entitled to receive the benefits.
 - f. With benefits paid to an individual who is currently employed part time with that employer when the hiring agreement between the individual and the employer has not changed since the individual commenced work for that employer. This subdivision does not apply to an employee of a temporary help firm.

2/3/17 DA 20f2

- g. With benefits paid to an individual who was separated from employment with the most recent employer for reasons directly attributable to court-imposed probation or parole restrictions that limit the ability of the individual to perform services and that were undisclosed by the individual upon request by the employer at the time of hire."

Renumber accordingly

Date: Jan 30, 2017

Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1274

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or Description: 17.0772.01002

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 Rep Becker Seconded By Rep Sukut

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Rep Laning		
Vice Chairman Sukut			Rep Lefor		
Rep Beadle			Rep Louser		
Rep R Becker			Rep O'Brien		
Rep Bosch			Rep Ruby		
Rep C Johnson			Rep Boschee		
Rep Kasper			Rep Dobervich		

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____ Voice vote ~ Motion carried

Date: Jan 30, 2017

Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1274

House 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 Rep Laning

Seconded By Rep Becker

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Rep Laning	X	
Vice Chairman Sukut		X	Rep Lefor		X
Rep Beadle	Ab		Rep Louser		X
Rep R Becker	X		Rep O'Brien		X
Rep Bosch		X	Rep Ruby	X	
Rep C Johnson		X	Rep Boschee	X	
Rep Kasper		X	Rep Dobervich	X	

Total (Yes) 5 No 8

Absent 1

Floor Assignment _____

motion failed

Date: Jan 30, 2017

Roll Call Vote #: 3

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1274

House _____ 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 Rep Sukut

Seconded By Rep Bosch

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep Laning		X
Vice Chairman Sukut	X		Rep Lefor	X	
Rep Beadle	<u>Ab</u>		Rep Louser	X	
Rep R Becker		X	Rep O'Brien	X	
Rep Bosch	X		Rep Ruby		X
Rep C Johnson	X		Rep Boschee		X
Rep Kasper		X	Rep Dobervich		X

Total (Yes) 7 No 6

Absent 1

Floor Assignment Rep Louser

REPORT OF STANDING COMMITTEE

HB 1274: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (7 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). HB 1274 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "52-06-02" with "52-04-07"

Page 1, line 2, remove "disqualification from unemployment insurance benefits for individuals"

Page 1, line 3, replace "with court imposed work restrictions" with "relief from charging of benefits paid to accounts of base-period employers that discharge individuals from employment due to undisclosed court-imposed work restrictions"

Page 1, replace lines 5 through 24 with:

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 - b. With benefits paid to an individual who:
 - (1) Left the employment of the base-period employer voluntarily without good cause or with good cause not involving fault on the part of the base-period employer;
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 - c. As provided under section 52-06-29.
 - d. With benefits paid to an individual who is in training with the approval of job service North Dakota.
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 - f. With benefits paid to an individual who is currently employed part time with that employer when the hiring agreement between the individual and the employer has not changed since the individual commenced work for that employer. This subdivision does not apply to an employee of a temporary help firm.
 - g. With benefits paid to an individual who was separated from employment with the most recent employer for reasons directly attributable to court-imposed probation or parole restrictions that limit

the ability of the individual to perform services and that were
undisclosed by the individual upon request by the employer at the
time of hire."

Renumber accordingly

2017 TESTIMONY

HB 1274

1/17/17- House Industry, Business, and Labor Committee

Mr. Chairman and Members of the Committee,

I am Rep. Ben Koppelman from West Fargo, representing District 16. I am here to testify in favor of HB 1274.

This bill is aimed at encouraging employers, such as those in the construction trades, to hire individuals that are returning to the workforce and society after being incarcerated. As many of you may be aware, individuals who have felonies and other convictions face a tough road trying to find quality jobs. I believe that employers may have a variety of reservations about hiring such individuals. Among those are whether or not the individual will be able to perform the job that they are assigned.

For some employers, such as commercial construction companies, the job requires travel and work at a variety of sites. Some of these sites include government installations or buildings, bars, schools, daycares, and medical facilities. In some cases, these type of projects come with background check requirements and/ or restrictions on who may be on-site. This may disqualify an individual with a felony or other offense from being allowed to work on the project. In addition, probation or statutory restrictions may further restrict that same individual from travel or being able to participate. If the employer does not have another project without those restrictions to assign the employee to, the employee is essentially temporarily laid-off. If the employee then files for unemployment, the employer's Job Service account may be charged, even though it is at no fault of the employer. This may lead to an increase in the employer's

rate. This then becomes a dis-incentive to hiring an individual coming out of jail or prison.

It is well documented that lack of quality employment upon re-entry into society is one of the reasons ex-cons return to criminal activity. This feeds into the cycle that has caused our prisons to be full as well as the cost of incarceration to continue to rise. As a Legislature, we will at some point have to figure out a solution to the long term "scarlet letter" phenomenon that is experienced by those who have a felony. We will have to decide when the debt to society has truly been paid and the individual may move on with their life like any other citizen.

In the meantime, this bill is a good first step by providing employment opportunity for these individuals by not allowing an employer's unemployment account to be charged for circumstances outside of their control. I believe this will remove one key reservation that some employers, such as those in the construction industry, may have, and will hopefully lead to more quality jobs for those who are committed to becoming a productive and law abiding member of society.

I worked with Job Service on crafting the language for this bill, and although I was later made aware that we may need to amend the language to be compliant with the US Dept. of Labor requirements, I am hopeful that we will come up with a good end product. I ask that you will assist me in achieving what I find to be a noble goal.

Thank you for taking the time to consider this proposal, and I would be happy to try and answer any questions that you may have.

Jan 17, 2017

2

17.0772.01001
Title.

Prepared by the Legislative Council staff for
Representative B. Koppelman
January 16, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1274

Page 1, line 1, after "section" insert "52-04-07 and subsection 2 of section"

Page 1, line 2, after "to" insert "benefits paid and"

Page 1, after line 4, insert:

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 - g. With benefits paid to an individual who was separated from employment with the most recent employer for reasons directly attributable to newly imposed or modified court imposed restrictions limiting the individual's ability to perform services."

Renumber accordingly

Jan 30, 2017

17.0772.01002
Title.

Prepared by the Legislative Council staff for
Representative B. Koppelman
January 27, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1274

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- g. Was separated from employment with the most recent employer for reasons directly attributable to court-imposed probation or parole restrictions that limit the ability of the individual to perform services and that were undisclosed by the individual upon request by the employer at the time of hire."

Renumber accordingly