

1999 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2260

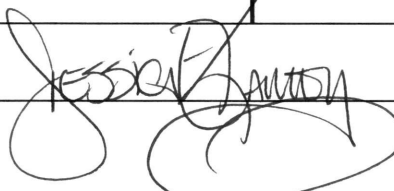
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2260

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 27, 1999

| Tape Number | Side A | Side B | Meter # |
|--------------------------------------------------------------------------------------------------------------|--------|--------|---------|
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| Committee Clerk Signature  | | | |

Minutes:

Senator Mutch opened the hearing on SB2260. All senators were present.

Senator Heitkamp introduced the bill. He said that due to weather conditions the person he had planned to have testify could not make it to the hearing.

Mark Bachmeier testified in a neutral position to the bill. His testimony is included.

Senator Thompson asked him if he would be opposed to the written request part of the bill. Mr.

Bachmeier said that he did not want to say what he felt about that question. Senator Heitkamp

asked him. Senator Heitkamp asked Mr. Bachmeier if our labor department if they had an

official position on whether or not an employee should or should not be aloud access to his or her

personal file. Bachmeier said that he did not believe that to be a relevant issue. Senator Mutch

Mr. Bachmeier if it would be questionable under the law to do this. His reply was that currently

they do not.

Ron Ness, President of the North Dakota Retail Association., testified in opposition to SB2260.

He said that he felt that the law was unenforceable and that many employers don't keep files on their employees.

Senator Mathern asked Mr. Ness what his recommendation would be in the cases where the employers will not share the information. Mr. Ness said that you cannot legislate this in a fair way. If the employer doesn't want the information to be seen by the employer then they simply won't file that information in the employees record. They would keep it somewhere else.

Senator Thompson asked Mr. Ness to show him where in the language of the bill that it said that this would be a mandate. Mr. Ness replied by saying that he felt lines 10 & 11 would make it a mandate.

Senator Mutch closed the hearing on SB2260.

Committee discussion took place on January 27, 1999.

Senator Sand motioned for a do not pass recommendation on SB2260. Senator Klein seconded his motion. The motion carried with a 4-3-0 vote.

Senator Sand will carry the bill.

Date: 1/27/99
 Roll Call Vote #: 2260

**1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO.**

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS

Motion Made By ~~SAUNDERS~~ SAND Seconded By KLEIN

| Senators | Yes | No | Senators | Yes | No |
|-------------------|-----|----|----------|-----|----|
| Senator Mutch | X | | | | |
| Senator Sand | X | | | | |
| Senator Klein | X | | | | |
| Senator Krebsbach | X | | | | |
| Senator Heitkamp | | X | | | |
| Senator Mathern | | X | | | |
| Senator Thompson | | X | | | |
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Total (Yes) 4 No 3

Absent 0

Floor Assignment SAND

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

REPORT OF STANDING COMMITTEE (410)
February 4, 1999 4:00 p.m.

Module No: SR-23-1955
Carrier: Sand
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2260: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2260 was placed on the Eleventh order on the calendar.

1999 TESTIMONY

SB 2260

State of North Dakota



State Capitol
600 East Boulevard - 6th Floor
Bismarck, North Dakota 58505

North Dakota Department of Labor

Testimony on SB 2260 Prepared for the Senate Industry Business & Labor Committee

January 27, 1999

Chairman Mutch and members of the Committee, good morning. For the record, my name is Mark Bachmeier and I am the Interim Commissioner at the Department of Labor.

My purpose in appearing before you this morning is not to offer an opinion on whether employees should or should not be allowed access to their personnel files but to raise a number of questions related primarily to the enforcement provisions of SB 2260.

First, by requiring employers to allow their employees access to their personnel files, does the bill also require employers to maintain such files in the first place? And, does it further require such files to include the specific items to which it provides employee access? If it does not, are its provisions enforceable? How would we distinguish situations in which access to information is being denied from those in which the information is simply not maintained by the employer?

Secondly, the bill provides for the assessment of civil penalties up to \$100 for each violation by an employer. The civil penalties could be assessed either by a court in a civil proceeding or by the commissioner through an administrative hearing pursuant to chapter 28-32. Assuming that the choice of civil action versus an administrative hearing would be at the election of a claimant and that the civil action would need to be taken by the claimant on his or her own behalf, the bill would encourage the election of administrative hearings. Currently, the Department of Labor does not hold administrative hearings for any other purpose and the cost of holding such hearings exclusively for this purpose would far exceed the penalties assessed. Moreover, neither this bill nor chapter 28-32 contain provisions for the collection of assessed penalties or the disposition of collected monies.

I am concerned about the potential impact of the bill on the Department of Labor and about our ability to assess what that impact would be. There are 340,000 employees in North Dakota. How many of them would request access to their personnel file upon the enactment of this law? How many such requests would be denied? How many reported violations would the Department of Labor receive? What would our investigative process entail? How many administrative hearings would we have to hold? What would be the cost of the hearings to the department? What would be the impact on staff?

In short, I think the enforcement provisions of this bill are sufficiently general as to potentially create an impractical and possibly unenforceable situation for the Department of Labor.

Thank you for your time. I would be happy to answer any questions you may have.