

2001 HOUSE APPROPRIATIONS

HB 1007

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1007

House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date January 10, 2001

Tape Number	Side A	Side B	Meter #
1/10/01 tape #1	0 to 4454		
Committee Clerk Signature <i>Kelli Hall</i>			

Minutes:

The committee was called to order, and opened the hearing on HB 1007, the appropriations budget for the Labor Commissioner.

Mark Bachmeier, Commissioner of Labor: Had prepared written testimony. He notes that the most noteworthy activity at the Labor Department has been the development of a new housing discrimination program. The department was given the responsibility to receive and investigate complaints of discriminatory housing practices under a law passed in the 1999 legislature. The department has had HUD review the law for equivalency with Federal Fair Housing Act and negotiated a work-sharing agreement to investigate complaints for the federal agency. They have also hired 2 investigators, developed administrative procedures for investigating complaints, and attended training on enforcement.

To educate the public about our new law and new responsibilities, we have created brochures, added information to our web site, and spoken to many groups. The program is going well as to its implementation.

In a related area in June of 2000, the department announced the creation of a Human Rights Division within the department. The intent of the creation of that division specifically by that name was 2-fold. One, it was to create something that by name would be the obvious place that someone would bring a concern that they felt they had been discriminated against in some area. One of the things that was a question about that new responsibility at the Dept. Of Labor, was how logical it would be for people to call the Dept. of Labor if they felt they had been discriminated against in housing. So we wanted to work on that, and felt that a division within the department called the Division of Human Rights to appear in the phone directories so that people would have a logical place to call. Secondly, it was to say that if people called us with concerns that were not within our jurisdiction, either in the areas of housing or employment discrimination, that we could then help get them to the proper place with referrals. So that took place in June of this year.

In addition to those responsibilities we have continued to carry out our traditional function at the department, listing highlights of program activities on page 2 of the written handout. They investigated 200 claims for unpaid wages and collected \$56,133 for workers; they negotiated 19 additional informal settlements in wage disputes and collected \$5,299.51 for workers; they issued 1,612 Employment and Age Certificates (work permits) to 14 and 15 year olds; closed 86 employment discrimination cases, including 10 negotiated settlements totaling more than \$338,000; provided presentations on labor and anti-discrimination laws; licensed 19

employment agencies in the state; mailed 992 packets of posters and brochures to employers, and received nearly 14,000 telephone and walk-in inquiries from state citizens.

In addition there were a number of changes and improvements made during the biennium. They made major implementation of technology upgrades, including the purchase of a file server and operating system upgrade; they created a new web site and made significant improvements to the quality of material provided throughout the state; they improved their fiscal accounting methods and internal budget reporting; and developed and implemented an agency logo.

The executive budget recommendation for the department contains a proposed general fund increase of \$91,104, over our current appropriation, excluding the compensation package. The increase is a product of two specific items. First we are projecting a decrease of \$21,724 in federal funding for housing discrimination, because they will be past the 3-year new program higher funding. It then goes to a per-case pay basis. It is projected that the caseload will not generate the same level of funding previously received, and therefore request \$19,000 in additional general funds to offset the decrease in federal funding and maintain roughly the current overall level of funding.

Rep. Skarphol: With regard to this issue of federally funding and the first three years, then they fund this for three years, and after this first three years it becomes a per-case basis. Is that correct.

Response: That is essentially correct. It is just that the funding of a new agency is different with an agency with a caseload. They do not have anything to base a per-case contract on when the agency first starts up. A new agency needs to develop a caseload and history of resolving cases, and also they want to provide enough funding at first to be able to set up.

Rep. Skarphol: Was this program federally mandated?

Response: The federal government had already handled this, and has for years, and the logic behind the creation of the state law was to allow a state location for residents to seek remedy, much more quickly for our claimants. The respondents in previous cases also reported a desire to have the state investigate the complaints. The state law has to be substantially similar to the federal law, so there is no overlapping.

Rep. Skarphol: Is this per case basis going to cover all the costs?

Response: No, not all the costs. Not all the costs of housing discrimination or wage discrimination are covered by the federal funds.

Rep. Skarphol: What part are federal funds, what part is state funds?

Response: Housing is 80% federal; employment is maybe 50%.

Rep. Skarphol: Do you have the ability to renegotiate the funding?

Response: No, not on the per-case basis. There are set up for all cases the same. We will be able to cover more costs with federal funds in housing discrimination.

Rep. Koppelman: Wasn't there also a private nonprofit organization that dealt with claims and concerns of the public before your housing discrimination division was established.

Response: There is a nonprofit organization in North Dakota that provides assistance for persons in helping persons to file a complaint of housing discrimination - the North Dakota Fair Housing Council. This council informs the public, and HUD helps fund private organizations, whose mission is to provide education and outreach. They are funded separately from our department.

Rep. Koppelman: They have taken some cases to court also, haven't they?

Response: They have certainly filed some legal actions, yes. Those were primarily in those actions where protection existed under state law, but not under federal law. There are 3

such protections that exist under state law, but not under Federal Fair Housing Act. They have filed complaints with the Dept. Of Labor recently, and hopefully they will stay out of court now.

Rep. Koppelman: Why is HUD funding both a nonprofit organization and cutting your funding of the state department?

Response: The federal funding is not being cut - it is just a different level of funding after the first 3 years start up period. Why they fund the no-profit organization, is because we have two separate purposes. One to inform and one to investigate and enforce.

Rep. Glassheim: Is the one additional FTE being requested by the EEO division?

Response: Yes, that is correct.

Rep. Glassheim: Does the division of Human Rights include the housing division, what is the staffing of the division of human rights.

Response: The department has historically had 1 FTE assigned to employment discrimination. We were authorized 2 to staff the housing discrimination. We have tried to shift staff, as best we could. We also have the deputy for administration support and supervision.

Rep. Glassheim: There is a continued push for a Human Rights Commission. Will this be to replace your division, or will your housing division be placed in this Commission.

Response: I have seen no bills on this this session. Previous versions in previous sessions would have done that yes.

Rep. Huetter: Fargo has a Commissioner of Human Rights - do you still handle their cases - or are we duplicating things?

Response: That commission is advisory only, and we are the only entity that can enforce any complaints.

The remainder of the total increase of \$72,104 is to fund an additional FTE for our Equal Employment Opportunity Division. Attached to the written testimony are charts illustrating the employment discrimination cases opened and closed per month, and the trend in pending caseload over the last five years. We need additional staff to close the steadily increasing outstanding cases per year. The passage of the American with Disabilities Act (ADA) has created new caseloads, not originally foreseen in establishment of staff in 1983. During the last five years we have closed an average of 86 cases, but have received an average of 98 new complaints in each of those years.

We have had to reorganize existing staff duties to provide some level of assistance to the division. However, that remains hurting one program to help another. They feel that adding one additional staff person in their only solution. One or the other program falls behind in work completed.

Rep. Byerly: Are there any barriers from federal funding or training precluding the investigators from housing to help in assisting investigators from EEOC?

Response: No barriers from federal funding. There are some training issues, but we think they are helping each other as much as possible. We do expect caseloads in each division to keep the FTE's busy.

Rep. Byerly: The EEO persons seem to be very busy investigating their complaints. I am concerned more with the housing investigators, and what they are going to be doing if they have only 25 cases in the next year.

Response: We project more like 35 cases in the next year for housing, so based upon available numbers and projections, we project more like 70 cases over the next biennium for housing discrimination.

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Rep. Koppelman: The trend seems to be closure problems, would adding additional staff solve this problem?

Response: As to the trend, after the passage of the ADA, the caseload has grown more and more, but the averages remain the same and the rate we are falling behind remains constant.

Rep. Carlisle: Does the local entity in Bismarck refer cases to you?

Response: If you are referring to the ND Fair Housing Council, then yes they do.

Rep. Carlisle: What does the deputy director Deena do, investigate or what?

Response: She does public training, disbursing information to the public, and she may do some investigation assistance.

Rep. Byerly: Your department is looking for an EEOC investigator extra?

Response: Yes.

The chairman closed the hearing on this bill.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1007

House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date January 16, 2001

Tape Number	Side A	Side B	Meter #
01-16-01 tape #2	3570-4836		
Committee Clerk Signature <i>Kathleen Hall</i>			

Minutes:

The committee was called to order, and opened the committee work on HB 1007, the Labor Commissioner.

Chairman Byerly: Asked if there was any comments or questions on this bill. Concerns as to the requested additional FTE.

Rep. Koppelman: He had discussed with the Labor Commissioner's office the fact that the Governor's office has asked for an additional \$18,000 not in the budget request, but for them to find elsewhere in their budget the deputy's salary. This was discussed to some extent. They also discussed the division of labor and the efficiency for their investigators. Most of the training has been of housing investigators and the Commissioner envisions 1 dedicated labor investigator and other investigative staff being able to handle either. There was a decrease in their HUD grant and they are asking for an increase in office equipment. They basically want to improve the looks of the office, and have most of their furniture from second hand sources. I asked him if he

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had to find some efficiency where he would find it, and he talked about the FTE and investigation of claims. There also is a national organization that they want to keep a part of, but if we had to start chopping, that would be one source, and some reference materials.

Traditionally the deputy has been involved in the fiscal matters in the office, and commissioner Bachmeier stated that he has some interest and knowledge in this area, that he wants to be involved in this area as director, which would free up the deputy to do other things.

Rep. Byerly: Some concern is the unfunded deputy money, and the HUD funding cuts, and the FTE..

Rep. Koppelman: Voiced same concerns in regard to the HUD money, and their funding of the nonprofit company.

(Discussed briefly the remodeling/furniture request in the budget, and the role of the committee on FTE's in general).

The chairman closed the committee work on this bill.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1007

House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date January 19, 2001

Tape Number	Side A	Side B	Meter #
01-19-01 tape #1	0 - 1540		
Committee Clerk Signature <i>Kathleen Hall</i>			

Minutes:

The committee was called to order, and opened committee work on HB 1007.

Chairman Byerly: Rep. Koppelman has worked on this budget, so he will enlighten the committee.

Rep. Koppelman: Notes that Rep. Carlisle has assisted him in this project, and they met with the Labor Commissioner twice and met with others to sort through the budget and figured it. In the final analysis the Labor Commissioner had proposed a good budget. However, I recommend that we cut the budget in the area of the one FTE that was requested, and the Labor Commissioner would like to get that person, but does feel that the department could live without the FTE, and will mean spreading out some investigative duties among the rest of the staff, do more cross training, and having the commissioner and deputy commissioner do some investigations themselves. Secondly, there was a fairly healthy line item increase in the office equipment area

and this was due to a request for some interior remodeling/decorating. Their office has definite needs for furniture. With the FTE removed, this is not an unreasonable budget request.

Rep. Koppelman: Moved that in the Labor Commissioner's budget we remove the new FTE and the funding for that position from the Hoeven budget.

Rep. Carlisle: Second the motion.

(There was some general discussion as to the budget, the motion, and how the committee was going to proceed)

Rep. Glassheim: Had some questions as to freeing up time for the commissioner and the deputy.

Rep. Koppelman: Explained the current staffing and investigation duties, and how the proposed change will affect the staff, and the commissioner's thoughts that there will be a floater investigator and that the commissioner will take on some duties that the deputy usually does, and that the deputy will be the director of the Human Rights Division, and will take some of those duties.

Rep. Glassheim: Refers to the Human Rights Commission, and whether or not this will have some affect.

Rep. Koppelman: Makes some references to last session, and the past history and how this may deal with the Human Rights Commission.

Rep. Huetter: Questioned if the department expects their caseload to increase?

Rep. Koppelman: They did discuss this, and the commissioner does not think that there will be a drastic increase, that the caseload will grow some, but they really do not know. Fargo now has a Human Rights Commission, and they are now referring cases to the state office.

Rep. Huetter: Noted a letter he received regarding a trailer court in Minot whose residents believe they are being treated unfairly, and wondered if this would make an impact.

