

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1155

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1155

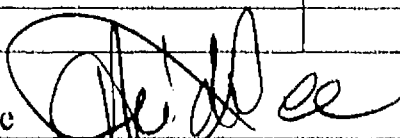
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1155

House Industry, Business and Labor Committee

Conference Committee

Hearing Date Jan. 16, 2001

Tape Number	Side A	Side B	Meter #
2	X	X	A12.19-B28.84
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Chairman Berg: Let's open the hearing on HB 1155.

James Fleming: *Assistant Attorney General* representing the Board of massage.

Basically we would like to expand the board from three members to five. Overall the bill clarifies the definitions you see on page one and two. I think we should clarify the entire act and make it shorter and easier to use if we can. Mostly it's just wording changes such as section three that has a lot of unneeded language that could be substituted with "this does not apply to anyone engaged in a profession for which the license by another board". In section two it prohibits people from engaging in the practice of massage and conducting massage. It needs to be clarified what is okay and what isn't okay. Section four is the main reason for proposing the bill, it would increase from three members to five. The board has no staff and is in charge of inspecting the

members. Three members that are licensed massage therapists would serve three years terms and cycle every year and the two the new members would serve two year terms and cycle every other year. One of those new members could not be a licensed massage therapist. The last member of the board is completely up to the Governors discretion. In section six, there is nothing that states rule making authority so we added some in to view.

Rep Froseth: Is there any requirement about the place of business being licensed?

Fleming: Right now we only regulate the profession, not the place.

Rep Klein: How often is "periodically" inspect?

Fleming: It is not defined but the board is currently working on getting to every year.

Mary LeMay: *Current President of the Massage Board* right now with only three inspectors we are only at two years but would like to increase to every year.

Fleming: Page 6, addresses nonresidents licensing and clears up out dated laws. Sections 43-25-11 and 12 are to be repealed because they are outdated, we'd like to replace them with " any hearing regarding a disciplinary action or denial of license must be held pursuant of to chapter 28-32". The board is still required to hold hearings.

Rep Froelich: Does the board fix their own pay?

Fleming: Yes. The board receives \$50 per day or per portion of a day. This has potential for abuse. The board wanted the rule making authority to figure out based on what they do now without staff to best decide how to allocate that \$50 per portion of day where they may miss an appointment but not spend the whole day on board activities. Want flexibility in how they should be compensated for their time.

Rep Ruby: I would prefer to see a fee cap in place.

Page 3

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1155

Hearing Date Jan 16, 2001

Rep Klein: How many members are presently in the organization?

Fleming: Over 400 now.

Rep Klein: What are the fees and renewals?

Mary LeMay: It is \$50 for a renewal license fee and \$150 to take your state exam set by Board Rule.

Rep Keiser: What is the reserve in your account?

Fleming: Roughly \$20,000.

Rep Klein: Is the board audited annually?

Mary LeMay: Every two years by the State Auditor.

Fleming: Fees are currently set by Administrative Rule. The caps on those fees would be a good approach but it also could cause a problem by having to wait two years every time a need arises.

Chairman Berg: What would you feel is fair for a fee cap?

Fleming: We will get together and look at what we can come up with. Going on, the records of all fees paid and usage of which can be supplied at anytime for a ten dollar fee. We would like to add the authority to bring an injunction to enjoin violations of this chapter. Instead of asking the States Attorney to take their time for a class B misdemeanor, we'd like to give the board the option to go to court on their own and bringing an injunction.

Rep Ruby: Why is the fee for out of state licenses struck out?

Fleming: It was took it out in an effort to take out all dollar values and leave it by rule.

Rep Lemieux: On page 10, line 20 Does this mean we can get an injunction if we don't like somebody for whatever reason?

Fleming: The board has it in there so that they can get into court with standing so if someone is doing something destructive we can get an injunction before someone gets hurt.

Keith Goline: *Director of Sister Roselind School of Massage* **written testimony in favor of bill**

Rep Froelich: What is reflexology?

Goline:

Gayle Hoydon: *Self-employed Licensed Massage Therapist* **written testimony in favor of bill**

Dralinn Koenig: *LMT* **written testimony in favor of bill**

Lisa Van Berkom: *IMS-Bismarck* **written testimony opposed to bill**

Rep Klein: Does this group have access to an annual report as to what was taken in and what was expended and why?

Lisa: No, I have never seen one and I don't feel that's right.

Fleming: The open records law would require the board to give any records that they have that are asked.

Rep Klein: If you are a member of the group you shouldn't have to go through the long process of going through open records. Do you make it available to your members?

Mary LeMay: Yes it can be available to you at anytime.

Rep Kasper: Did you state that you can not operate out of your home?

Lisa: As I understand it, they can basically come into your home at anytime and tell you that you can not operate in your home. They put a lot of extra pressures on to make it uneasy to operate. Other states don't add so much stress to LMS and this is somewhat of a push not to work in this state.

Rep Kasper: Do you perceive that you or other members have been unfairly looked at?

Lisa: I have no evidence of that, but the bill makes me feel like I have to concentrate on everything instead of giving all my attention to my client.

Rep Ruby: Did you have a problem with the way it was written before or do you have a problem with the changes proposed in it now?

Lisa: Mostly just the changes.

Rich Radspinner: *LMT at the YMCA* written testimony opposed to bill

Rep Klein: How do you get onto the board?

Radspinner: The Governor appoints and it's unregulated.

Rep Froseth: How many of the 400+ therapists belong to the ND Chapter?

Gail Hoyden: more than 300.

Rep Kasper: Do you receive a newsletter letting you know what's going on, any minutes from the state board?

Radspinner: No., We can call and ask for them but then we have to pay a \$10 fee.

Sharon Doctor: *Part-owner of the Institute of Massage Therapy (IMT)* I would like this bill put into a resolution study until every voice of massage therapists has been heard and knows what is going on here. If you are not a AMT member you have no voice and it is unfair to those that can't afford the membership fees. I feel a five member board is a good idea but I do not believe that LMT's should be a majority.

Rep Lemieux: Using the licensing fees, is it possible to send out a newsletter?

Doctor: Absolutely, that would be wonderful. All we want is to be informed.

Rep Koppang: What are other states doing?

Doctor: There are 19 states that have state testing but different areas have different rules.

Page 6

House Industry, Business and Labor Committee

Bill/Resolution Number HIB 1155

Hearing Date Jun 16, 2001

Chairman Berg: Are there anymore questions for Sharon? Is there anyone else who'd like to testify? We'll close the hearing on HIB 1155.

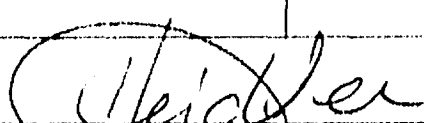
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1155

House Industry, Business and Labor Committee

Conference Committee

Hearing Date Jan 17, 2001

Tape Number	Side A	Side B	Meter #
2	X		15.46-52.80
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pletsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Closed Hearing

Rep Klein: Three areas where addressed. 1: The number and type of members on the board.

2: The amount each board member is to be paid, and 3: The amount of fees.

Rep Ruby: Can we change "and" to "up to" in terms of getting paid?

Chairman Berg: That would be compensating the same for a half day of work as a whole day.

Maybe what we could say could be \$62 per day or prorated for partial days.

Rep Keiser: What about maybe changing the language to say "attendance at meetings"?

Chairman Berg: We have a different twist here since the board members are required to inspect, but also anyone wanting reimbursement from this board is going to have to face their peers.

Rep Klein: We have to allow some leeway for drive time.

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1155

Hearing Date Jun 17, 2001

Rep. Koppang: Inspectors should be separated from the board. Who regulates this?

Chairman Berg: The state governs the board by setting rules and regulations and we leave it at that. We need to clean up the per diem and set the official duties.

We'll go on to another bill for now and maybe come back to this later on.

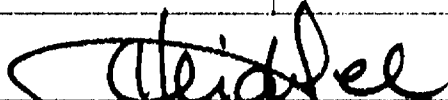
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1155 (C)

House Industry, Business and Labor Committee

Conference Committee

Hearing Date Feb 7, 2001

Tape Number	Side A	Side B	Meter #
2	X		4,6-10,5
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Rep M. Klein: Supplied final package of amendments.

Rep Ekstrom: I move to accept the amendments.

Rep Froseth: I second.

Rep Lemieux: I move a do pass as amended.

Rep Ekstrom: I second.

13 yea, 0 nay, 2 absent Carrier Rep M. Klein

FISCAL NOTE
 Requested by Legislative Council
 02/09/2001

Bill/Resolution No.:

Amendment to: HB 1155

1A. 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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 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

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

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.*

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.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Phil Relsenauer	Agency:	Massage Board
Phone Number:	225-3906	Date Prepared:	02/12/2001

FISCAL NOTE
 Requested by Legislative Council
 12/26/2000

Bill/Resolution No.: HB 1155

Amendment to:

1A. **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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 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

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

none

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.*

none

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.*

none

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

none

Name:	Phil J. Reisenauer	Agency:	State Board of Massage

