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2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1212

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1212

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-14-03

Tape Number	Side A	Side B	Meter #
1		XX	14.5--end
2	XX		00--15.6
Committee Clerk Signature <i>Sam Dever</i>			

Minutes: **Chairmen Keiser:** Hearing is open for HB 1212. Testimony is being passed out.

Rep. Dosch: Support bill. I appear before you as a businessman. (SEE ATTACHED) I feel you will hear some opposition from various government agencies. I don't think they like this bill because it does step on some toes. It does take away some freedom to impose rules whenever they want. It will require them to do a little more work before they issue another rule. This bill is intended to do that. I would much rather have one agency take more time to consider the impact of what they are doing small business before a rule is issued; then to have hundreds of small businesses have to deal with the consequences after it is implemented.

Rep. Ekstrom: I am a co-sponsor. This bill is not intended to circumvent environment regulations, public health, and life safety that protect the overall environment. Right?

Rep. Dosch: Absolutely not. Purpose is to see what the burden is on small business to comply with the new rule that is coming out. We are not saying that small business should be exempt.

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Rep. Kasper: 20.0 Did you consider putting in this bill requiring the regulatory authority to review the current rules in effect that they might look at modifying them to benefit small business in our state?

Rep. Dosch: We did not do that. It would be a good idea.

Rep. Ruby: This would not exempt any rules and regulations that are federal?

Rep. Dosch: No, this deals with state rules.

Jim Henderson, SBA, Denver, CO: support HB1212. (SEE ATTACHED TESTIMONY)

Rep. Severson: Are there other state that have followed this program (Reg. Flex Act) ?

Jim: This is an on going effort. We have pushed it at some other state conferences before. This is the first time we have taken the content and molded model legislation. There are several states that have it in place: CT, OK, NY, NJ. Puerto Rico.

Rep. Ekstrom: I am a small business owner. Can you give us a percentage of how many small business in the region and overall employment? How many are small VS large?

Jim: I can get the number. I'm not sure what it is with our definition. 500 employees or less is small; 96% of firms fall under that. 80% in this state are 20 employees or less. I will get the other info for you.

Chairman Keiser: Would you explain the judicial review; process, authority, penalty? Why would you take it to court?

Jim: You don't go to court unless pressed to do that. The judicial review is important because it gives them an avenue, an independent party. At the federal level, we have repeatedly done that

Rep. Zaiser: In the states you have the model working, have you been able to see a success? I was a planning director in a city and we used a simple version of this within city codes. We

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found that it almost became counter productive in the time it took to adjust to fit the regulations, etc. Have you had any experience with that?

Jim: Each state has shown that there has been savings. I have found that businesses have felt it was counterproductive. I have found agencies that felt it was taking too much of their time. I'm sure you will hear from some agencies. One rule does not fit all.

Bill Butcher, NFIB: Support HB1212.(SEE ATTACHED TESTIMONY) I also bring a letter from Russell Henegard to share with you.(SEE ATTACHED) Please do pass. I would like to comment on judicial review. I called legal dept. in D.C. They told me of several cases in which the small business cases were referred back to agencies and told to start again. They did not have the small businesses best interest in mind. Another case, the agency was required to pay legal fees. So there can be penalty involved.

Dave McIver, Pres. Bis-Mandan Chamber of Commerce: In Support of HB1212. I talked to our members. They are extremely pleased with this bill. This bill makes more sense to them, than other legislation that has come down.

John Carlson, Fargo: Small business owner, run a catering business, and NFIB member. In support of bill. I deal with this everyday. I am here to talk about what is going on with the ND sales tax code. We have 92 cities in ND that have a local option tax in two counties. The bureaucracy of this system upon small business is unreal. It takes my and my general manager 2 hours each quarter just to figure out my spread sheet to get it right for the tax department. We also have to do it for MN. It only takes me ten minutes to do the MN one. They have neat classifications

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(end side B, tape 1)(begin tape 2, side A) I am going up to the Tax Dept. And telling this story again. It has to be fixed. My job is to push food, create jobs, send income to my house and your house.

David Glatt, ND Health Dept.: Neutral on bill. We are in support of small businesses. We try to minimize the impact of some of the regulations. I will address what is an adverse impact. Right now it can mean anything to anybody. The state has been very judicious in accepting federal requirements and turning back federal. There is an administrative process in our rule. If someone feels they are aggrieved, they can to administrative process prior to going to judicial review. May not want to jump right to a court hearing.

Ilona Jeffcoat-Sacco, PSC: (3.6) Opposed . I do have an amendment. (SEE ATTACHED) If you amendment this bill, then we will be neutral.

Rep. Froseth: (8.4) How do you determine if the impact will be greater then \$25,00 or \$50,000 by your analysis.

Ilona: I can't say that we quickly do. It is easier in some cases than others. I do most of the rule oversight. We had a rule about putting a different kind of a gate on a farm, a safety issue, so that you could get the weigh trucks in and out. You can find out by asking people in the industry, what the cost of the new gate or scale. You times the number of operators and you get an impact. In some cases, I can invision a telecommunications rule that may not impact the telephone companies by \$50,000, so I don't do a regulatory analysis. But is could impact your small businesses by \$100.00 each. Is this a hundred times whatever and figure that out. That's part of why we don't want to be forced to do it in every situation.

Rep. Thorpe: Is this bill different then SB2832?

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Illona: I don't see it as a lot different. In SB2832, without this bill, we have to look at all the same things. People are able to comment. We have to notice, get info, balance that info, and we have to explain how we did it. In our order, we have to explain.

Rep. Kasper: Your testimony is the exact reason we want this bill. I think the intent of this bill to change the mind set of the bureaucracy of our state to address the concerns of the small business people of the state. This will take time.

Rep. Ruby: There was no consideration of allowing some flexibility for each proposal to determine the cost. Does the small business go out of business to comply or if it's a small change then not. Did you talk to anyone to come up with a different number than \$25,000? Can there be some approach to flexibility.

Illona: I have no problem with that. It was hard to come up with a number at the last minute. I think the philosophy of a threshold might be a helpful thing. I would be willing to brainstorm with some people about what the number ought to be. I think it's overkill if you have to do it for everything.

Rep. Severson: If we did not put in a threshold at all, would you tell us in next session that we had to? Isn't it better to have the information enough to have a threshold?

Illona: Yes. We do have it in an informal way. We have a draft. I agree that next session we would have more info from all agencies as to where that line should be.

Hearing Closed

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