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ROLL NUMBER

DESCRIPTION

1096

2007 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1096

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1096

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 4, 2007

Recorder Job Number: 603

Committee Clerk Signature

Morgan Beine

Minutes:

Tim Porter: Testimony attached

Rep. Haas: Would you explain a little bit about the mechanics on how a small manufacturer will go through the procedure of working with you and actually issuing bonds.

Tim Porter: Mr. Chairman and members of the committee, a small issue manufacturer would first have to meet the IRS definition of a small industry manufacturer. And that is based upon 2007 law to have capitol expenditures less then 20 million dollars over a 6 year period. So there expectations are over that 6 year period that they will not exceed 20 million dollars. Then the project has to meet specific IRS guidelines. So it was to first meet that capitol expenditure requirement and secondly the project has to meet the IRS definition of small issue manufacturers.

Rep. Boehning: Has this been a problem, has there been manufacturers trying to borrow money then find out their statements are public record and then don't want the financing. When they know some of their stuff may be public record, how do they handle that? Do they just walk away from the whole project and borrowing from these guys?

Tim Porter: Mr. Chairman, Rep. Boehning. We have had two serious applications on this. One of the small issue manufacturers we actually issued their debt in September. The other one pulled out and it was more because they were so close to the IRS guidelines, they didn't want to mess with the IRS audit. They found some alternative financing that was comfortable as far as rates are concerned. We haven't had any come in and pull back because of the confidentiality portion but we have only had those two applicants.

Rep. Amerman: Thank you Mr. Chairman. Tim, In the bill it seems that it's pretty specific what is not included in confidential records. It says records require to be disqualified legal practice. Can you be more specific what would be confidential?

Tim Porter: Mr. Chairman, Rep. Amerman. The items that would be confidential that we are most concerned about protecting are personal financial statements, personal business strategies or business plans that the business wants confidential, the personal contact information, name of borrower, amount of loan, that type of thing.

Rep. Froseth: Thank you Mr. Chairman. Tim, is this also a change in the name of the municipal bond bank and public finance authority. Explain.

Tim Porter: The name change was effective the last legislative session. There was a bill that changed it from the Municipal bond bank to the ND Finance bank.

Rep. Froseth: So this just hasn't been updated in the ND Century Code from two years ago?

Tim Porter: Yes it has been.

Rep. Haas: But this section was not updated?

Tim Porter: That is correct. That once piece was not changed.

Rep. Boehning: Tim, so when I'm reading this testimony you put this in effect in 2005. There is 20 million available to which to borrow to and nobody's borrowed any money out of this yet or used it, except the two that have recently applied.

Tim Porter: Mr. Chairman, Rep. Boehning. We've had other inquiries and we have another one that is looking at it but up to this point we have issued 1,360,000 for one project.

Rep. Kasper: Mr. Chairman, Tim, what's impeding ND companies from using these dollars. Why haven't you had much activity?

Tim Porter: Mr. Chairman, Rep Kasper. The program is very specific for certain companies and we don't have a lot of them that would meet that definition. It is more to attract new manufacturers, but to help existing ones. The two people that we've had that have been interested were both in Dickinson, and Dickinson seems to be a hot bed for manufacturers. We also have a current inquiry from a Fargo company. It's very specific and a lot of lawyers get involved. Whether or not the expansion is going to fit with the IRS definition of small issue manufacturing so that would probably be the main reason.

Rep. Kasper: So, the problem is a definitional problem with the IRS or the problem that the ND law is too narrow, or is it both.

Tim Porter: The program is a federal program. They are the ones providing these companies to issue tax exempt debt. It would be more of a problem on the federal level than the state level. There is an organization, the Council for Development Finance Authorities that lobbies very hard to get the rules changed for these types of manufacturers that would expand the definition. Right now they are trying to get it to include technology companies. They were behind the legislation that took the capitol spending requirements from 10 million to 20 million. So they are very powerful in getting some of these changes made. But it's slow going when talking about some of these financial issues on a federal level.

Rep. Haas: Do you work with the Department of Commerce at all in publicizing this program in giving it more visibility in the state of ND?

Tim Porter: Yes we've actually sat in on some of the meetings with the Dept. of Commerce. They have been behind some of the inquiries we've had with this. We've also sat down with the Department and the local development authorities and gone over this program.

Rep. Haas: So that helped raise the visibility of the program?

Tim Porter: Yes

Rep. Amerman: As you stated, this is a federal program under the federal definition. Is the confidentiality in line with the federal level?

Tim Porter: The confidentiality portion of this would be more in line with what the state has implemented before with the Bank of ND for private borrowers.

Rep. Kasper: Have you identified how many ND companies based on the federal criteria qualify for the financing now, if so how many do we have?

Tim Porter: I really don't have a number as far as the companies that will qualify.

Rep. Kasper: Estimate?

Tim Porter: Not even a good estimate.

Rep. Kasper: Under 50 or over 50?

Tim Porter: Rep. Kasper the larger projects do not qualify. The new construction for ethanol plants, crystal sugar, Melroe do not qualify so I would say be under 50.

Rep. Froseth: When we have a program like this why isn't it used more. We have a lot of small manufacturers in the state that struggle to find financing. Doesn't the word get out that these programs are available? It just seems odd that there isn't a large demand of funds on a program like this.

Rep. Porter: I think that since it is somewhat new legislative that is part of it. The word is getting out. We've had more inquiries as time has gone on. Really it has only been on the books for 1 year because it started August 1, 2005. Incidentally that is when the name change took place too. So when this was originally written we were still the Municipal Bond Bank. So I think as time goes on there is potential that this will be used more frequently. We do look at these credits very closely. Because of the risk involved, this is an area that is more similar to commercial credit than the political subdivision credit we are used to underwriting. We take advantage of our relationship with the Bank of ND and look at these projects very closely. I don't know if this keeps businesses from looking at this or not because they do have to make sense the project does have a cash flow.

Rep. Froseth: Are you located in the Bank of ND and do you get any contacts or requests for this program. Do they come through the bank of ND or straight to you?

Tim Porter: Yes we are. They come directly to us. We do work with the bank as far as utilizing the bank to market this program. I sat down with the lending committee there so they are aware of it. They are usually involved in some other portion of the credit, equipment, etc.

Rep. Kasper: This is a federal program but the state is issuing the bonds. What is the liability of the state of ND for a default in these bonds?

Tim Porter: The moral obligation is used to enhance these credits. That is how we get the same credit rate. Basically if we have a default under this program and we have to tap the reserves which are the bank of ND letter of credit. During the next legislative session we bring that to the legislature to cover that deficiency. Most of our debt carries at moral obligation.

We've never had to come to the legislature. We do have some reserves that will cover small losses. If we would have a large loss under this program, that is why limits were put into place

as 2 million per project, and 20 million per program. The state wanted to limit the exposure for these types of loss.

Rep. Kasper: So the liability in the default is the state of ND, not the federal government?

Tim Porter: There is no federal grant that would kick in to cover a default. It would be either the state in some form. Whether it would be the public finance authority using our reserves or coming to the legislature to cover those.

Rep. Haas: Do you collateralize your debt?

Tim Porter: when we look at a project, they have to have a certain amount of equity. We then hold the mortgage on that product. On a 1,360,000 loan the building is appraised at quite a bit more than that. If we sold the building for 1,000,000, our exposure is that 360,000.

Rep. Haas: Any other testimony in favor of HB 1096? Is there any opposition to 1096?

Jack McDonald: Testimony attached.

Rep. Amerman: I would just like to get Mr. Porter's reaction on the amendment.

Tim Porter: I don't have a problem with it.

Rep. Haas: Is there any other testimony in opposition or in a neutral form on HB 1096. If not we close the hearing on HB 1096. We will not act on this bill until Rep. Grande gets back.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1096

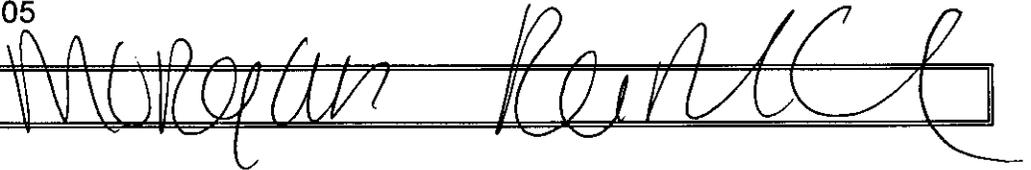
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 4, 2007

Recorder Job Number: 605

Committee Clerk Signature



Minutes:

Rep. Haas: At this time we are going to go back to 1096. Is there any motion to amend the bill?

Rep. Froseth: I will move to amend it.

Rep. Haas: Rep. Froseth moves the amendment as presented by Mr. McDonald. Is there any discussion? All in favor of the amendment say I, Opposed say no. Amendment is carried. At this time we will open debate on the bill as amended. Is there any discussion on the bill as amended? We will be open for discussion.

Rep. Dahl – I have one question and perhaps it has no consequence but twice in the bill it cites 2005 session laws. I was just curious as to why the language was proposed that way, and doesn't cite the actual code.

Rep. Boehning: I think that pertains only to the name change because we changed the names of the bond bank in 2005, and this section apparently hasn't been changed in the Century Code.

Rep. Haas: I think that is correct, did that answer your question?

Rep. Dahl: So the 2005 session laws would have been passed and codified, and if that is the case there is statute in the century code

Rep. Haas: It is my understanding that session law does not go into code.

Rep. Dahl: It would go in there in the sense that session laws would be passed by both chambers and codified.

Rep Grande: If the name was changed in 2005, why are we using 2007?

Haas: The date change extends the program for two more years. Are you comfortable if we act on the bill and get a clarification after that?

Rep. Dahl: We want to send it out in the best form possible and if that's the correct legal citation that's fine. I just wanted to make sure the bill is in the best form that it can be.

Rep. Haas: If that's the case we will act on the bill tomorrow. You will have to get the information you need and get back to us.

Rep. Froseth. This bill will have to be referred to appropriations.

Rep. Haas: that is right. It will happen automatically.

Rep. Boehning: The question I've got is that if we are changing this we are giving it two more years. The 20 million that is in there, if we issue 20 million in bonds this biennium and we come back when this would take effect again, would we be able to issue another 20 million in bonds so we'd be up to 40 million in bonds?

Rep. Haas: He said and 20 million dollars in total for July 2007.

Rep. Boehning: So 2 bienniums would be a total of 40 million?

Rep. Kasper: I think what he is saying is that if something happened between June 30, 2007, and they issued another 20 million, they would have 20 million plus another 20 million. (40 million).

Rep. Boehning. It could happen with the confidentiality issue.

Rep. Kasper: The reference was now until the end of this biennium, it is limited with the current legislation. With current statute as it is, 20 million could be issued between now and then. This is authorizing another 20 million even though it is most likely not going to happen.

Rep. Weiler. I think the wording in the fiscal note saying 20 million cumulative for the public finance authority's industrial development bonds program. That makes it clear to me that you can't exceed 20 million starting in 2005 until the program ends.

Rep Haas: We will get an answer to that. Any other discussion on HB 1096. We have passed the amendment and we will wait until Rep. Dahl gets an answer to her question.

2007 HOUSE STANDING COMMITTEE MINUTES

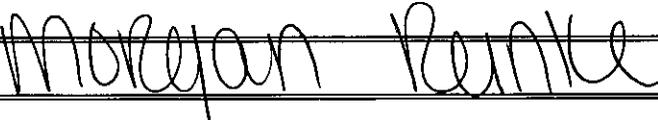
Bill/Resolution No. HB 1096

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 5, 2007

Recorder Job Number: 655

Committee Clerk Signature 

Minutes:

Rep. Dahl: I contacted council who drafted the bill and it is the correct legal citation contained in the bill. Because it is considered temporary law, which is common in things like appropriation bills which don't get printed in the century code. Specifically as it relates to this bill, usually you would have section 2 of the bill creating a brand new provision of temporary law, but since it is a bonding issue it is an issue of continuation and that is why they are in session law.

Rep. Haas: The other question we had was with regards to the limits and that question was, Is there \$20 million available for the '05-'07 biennium, and another \$20 million available for the '07-'09 biennium. The answer to that is no. If this program has issued bonds and created contracts with businesses the program is over until the legislature appropriates more money. I talked to Mr. Porter yesterday afternoon. At this time the chair would entertain a motion on HB 1096.

Rep. Boehning: Section 8 would change the Municipal Bond Bank to Public Finance Authority. Is that in any way going to affect the naming? Is it going to change the name or is it just going to be for this specific program?

Rep. Haas: My understanding from Mr. Porter's testimony from yesterday is that the Municipal Bond Bank name was actually changed last session. This was something that was missed and we are simply changing it to conform to what we did last session.

Rep. Boehning: They are still using the Municipal Bond Bank on the website.

Rep. Haas: They will have to change that, which is a matter of updating their daily practice with what the code says. From a practical standpoint, people who are used to the term Municipal Bond Bank would now assume and realize that those two terms are synonymous. Any other discussion? Chair will entertain a motion.

Rep. Froseth: I would move to do pass as amended.

Rep. Haas: If you recall yesterday we did pass the amendment but left the bill until Rep. Dahl could get an answer to her question. Is there a second to Rep. Froseth's motion?

Rep. Wolf: I second that

Rep. Haas: Is there any further discussion? The motion passes 13-0-0. Is there a volunteer to carry the bill on the floor?

Rep. Schneider: I will take it.

FISCAL NOTE
 Requested by Legislative Council
 12/28/2006

Bill/Resolution No.: HB 1096

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues		\$10,000		\$28,000		\$15,000
Expenditures		\$20,000		\$0		\$0
Appropriations		\$0		\$0		\$0

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1096 renews the program limits of \$2,000,000 per project and \$20,000,000 cumulative for the Public Finance Authority's Industrial Development Bond Program. In addition, the bill creates new language pertaining to the confidentiality of certain Public Finance Authority records.

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 Public Finance Authority charges an issuance fee which varies with each project not to exceed one percent of the dollar amount being issued. The costs to develop the program which have already been incurred will be shared by the first three borrowers under the program.

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.*

For the 2005-2007 biennium, the Public Finance Authority issued \$1,360,000 of bonds under its Industrial Development Bond Program. The borrower paid an issuance fee of one-quarter of one percent (\$3,400) and covered one-third of the program costs (\$6,600). For the 2007-2009 biennium, we estimate revenues of \$28,000 which includes issuance fees of \$15,000 for 3 projects and reimbursement of program costs of \$13,000. For 2009-2011, we estimate issuance costs of \$15,000 for 3 industrial development projects.

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.*

The program costs to develop the Industrial Revenue Bond Program are estimated to total \$20,000. These costs will be divided and reimbursed to the Public Finance Authority over the first 3 projects.

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 is also included in the executive budget or relates to a continuing appropriation.*

Name:	Tim Porter	Agency:	ND Public Finance Authority
Phone Number:	(701) 328-7120	Date Prepared:	01/02/2007

78168.0101
Title.0200

Adopted by the Government and Veterans
Affairs Committee
January 5, 2007



Handwritten signature and date "1-5-7".

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1096

Page 1, line 13, replace the underscored comma with an underscored semicolon

Page 1, line 14, replace the first underscored comma with an underscored semicolon, after "name" insert ", address, and contact information", and replace the second underscored comma with an underscored semicolon

Renumber accordingly

Date: 1/5/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1096

Action Taken Do pass as amended

Motion Made By Rep Froseth Seconded By Rep. Wolf

Representatives	Yes	No	Representatives	Yes	No
Rep. C.B Haas Chairman	X		Rep. Bill Amerman	X	
Rep. Bette Grande V.P	X		Rep. Louise Potter	X	
Rep. Randy Boehning	X		Rep. Jasper Schneider	X	
Rep. Stacey Dahl	X		Rep. Lisa Wolf	X	
Rep. Glen Froseth	X				
Rep. Karen Karls	X				
Rep. Jim Kasper	X				
Rep. Lisa Meier	X				
Rep. Dave Weiler	X				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Schneider

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

REPORT OF STANDING COMMITTEE

HB 1096: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1096 was placed on the Sixth order on the calendar.

Page 1, line 13, replace the underscored comma with an underscored semicolon

Page 1, line 14, replace the first underscored comma with an underscored semicolon, after "name" insert ", address, and contact information", and replace the second underscored comma with an underscored semicolon

Renumber accordingly

2007 SENATE POLITICAL SUBDIVISIONS

HB 1096

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1096**

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: **2-23-07**

Recorder Job Number: **3747**

Committee Clerk Signature

Shirley Borg

Minutes:

Chairman Cook called the Senate Political Subdivisions Committee to order. Four members present and one absent.

Chairman Cook opened the hearing on HB 1096 relating to confidentiality of certain commercial or financial information held by the public finance authority; relating to program limits for the purchase or issuance of qualified small issue bonds or municipal industrial revenue bonds by the public finance authority.

Representative Tim Porter, Executive Director of North Dakota Public Finance Authority, testified in support of HB 1096. (Attachment #1)

Chairman Cook : Is it the fact that some of this information could become public is the reason you only had one follower under this program?

Representative Porter: I don't think that held anybody back from applying for the program but there was one company that applied that did not supply us with enough information and then pulled their information back. It could deter future applicants.

Chairman Cook: Are these requirements that you are allowing to have public the same as what the Bank of North Dakota has?

Representative Porter: It is basically the same.

Senator Olafson: You said you have just one borrower under this particular program. I assume there are some other programs that are under your purview that your agency works with. Can you give us some sense of the entire scope of what your agency does.

Representative Porter: Our agency also primarily does work with municipalities. We carry a single bond rating so municipalities if they are doing street work or whatever can come through us to do the financing and get some more attractive rates. We also manage the financial side of the State Revolving Fund. This fund offers below market interest rates to municipalities and water districts that are doing water projects for water infrastructure. The rates on those are three percent fixed for up to twenty years.

No further testimony in support, opposed or neutral on HB 1096

Chairman Cook closed the hearing on HB 1096.

Senator Hacker moved a Do Pass on HB 1096.

Senator Olafson seconded the motion.

Discussion:

Roll call vote: Yes 4 No 0 Absent 1

Carrier: **Senator Anderson**

REPORT OF STANDING COMMITTEE (410)
February 26, 2007 2:34 p.m.

Module No: SR-36-3915
Carrier: Anderson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1096, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman)
recommends **DO PASS** (4 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed HB 1096 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1096

House Government and Veterans Affairs Committee
Testimony of Tim Porter
North Dakota Public Finance Authority
House Bill 1096
January 4, 2007

For the record, my name is Tim Porter and I am the Executive Director of the North Dakota Public Finance Authority. The Public Finance Authority is a state agency that operates under the supervision and authority of the Industrial Commission. It is a self-supporting state agency and receives no money from the General Fund. I am providing this testimony in support of House Bill 1096. House Bill 1096, if passed, would renew the program limits for the Public Finance Authority's Industrial Development Bond Program that were set last legislative session at \$2,000,000 per project and \$20,000,000 cumulative for the program. The bill also includes language that would provide confidentiality to commercial or financial information provided by a potential private-sector borrower to the Public Finance Authority as part of an application under the Industrial Development Bond Program.

During the 2005 legislative session, a bill was passed which allowed the Public Finance Authority to fund the purchase of qualified small issue bonds by issuing industrial revenue bonds. This legislation provided an opportunity to help qualifying projects take advantage of existing federal tax laws to obtain tax-exempt financing for long-term capital projects. In order to limit the State's exposure and create a diversified group of borrowers, the sponsors of the legislation in the 2005 session included limits of \$2,000,000 per borrower and \$20,000,000 for the entire program when the State's moral obligation is used as a credit enhancement. Although the legislation made the authority to issue/purchase industrial revenue bonds permanent law, the project and program caps were temporary session laws that require renewal during the 2007 legislative session.

Under the Industrial Development Bond Program, the borrowers are private companies that qualify under the IRS's definition for a small issue manufacturer. In order to do a complete credit analysis on these borrowers, we require an assortment of financial documents and other proprietary information including in some instances, personal financial statements of the owners of the business. It is important for potential borrowers under this Program to know that their competitors will not have access to their most sensitive business information.

House Bill 1096 continues a program that provides a unique financing tool for economic development within North Dakota. It allows manufacturers to take advantage of federal incentives to expand their facilities or purchase additional equipment. It also keeps North Dakota in line with the competition for new and existing manufacturers, as many states, including our neighbors on each border, have similar programs to assist qualifying projects to obtain tax-exempt financing.

Wale.

Thursday, January 4, 2007

HOUSE GOVERNMENT & VETERANS AFFAIRS COMMITTEE
HB 1096

CHAIRMAN HAAS AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing here today on behalf of the North Dakota Newspaper Association and the North Dakota Broadcasters Association. We are honored to be testifying on the first bill before your committee this session and look forward to many more such appearances.

We appreciate the concerns of the bill's sponsors and do not want to stand in the way of the successful operation of the state's bond bank. It's an excellent program for the state, and anything that helps our state's economy also helps my clients.

However, I think the public would want to know more than just the name of the contracting party. They would want to know some of the basics such as where it is located and maybe a little bit about the company. Our experience has been that state agencies adhere strictly to the letter of the law regarding open records and will only release exactly what the law states.

We oppose just a small portion of this bill in its current format and ask you to consider a teensy amendment to allow the basic contact information to be public. I've discussed this amendment with the Public Finance Authority and it says it has no objections to it.

Therefore, we respectfully request your favorable consideration of the amendment listed below. If you have any questions, I will be happy to try to answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION.

PROPOSED AMENDMENTS TO HOUSE BILL 1096

Page 1, line 14, after "name" insert ", address, and basic contact information"

Renumber accordingly

