

2009 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2102

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2102

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 7, 2009

Recorder Job Number: 6657

Committee Clerk Signature

Eva Luebel

Minutes:

Darren Brostrom, Job Service of North Dakota: Testified in support on Bill# 2102.

Testimony attached.

Chairman Klein: We are talking about a fine increase, twenty five to fifty dollars if you are late, and you feel this will keep them from being late? We do send staff out to the chronically late payers?

Darren Brostrom: Correct, we do send staff out to see why it is not being paid.

Senator Andrist: Why not make the fine heavier for the chronic delinquent, instead of the ones that make a mistake?

Darren Brostrom: We do take that approach. Employers that are late once in a while, we wave them. It is the chronic ones we are concerned with, being able to increase the amount as time goes by.

Chairman Kline: So you could increase the chronic ones up to five hundred dollars a year?

Darren Brostrom: Correct. Penalties are a minimum of fifty dollars or five percent of what is due.

Senator Potter: Do you need to determine actual wage to know the weekly benefit amount per individual?

Darren Brostrom: Yes, we need a quarterly wage report for each individual to assess the benefit for them.

Senator Wanzek: What is the importance of minimum? Targeting the chronic and raising maximum or percentage of the chronic should be more important. Leave the minimum low.

Darren Brostrom: That is when the ability to wave the penalty comes into play.

Chairman Klein: You want to increase the twenty five dollar minimum to fifty?

Darren Brostrom: Correct.

Senator Nodland: How many cases are delinquent?

Darren Brostrom: We have 5,120 delinquent reports. 1,266 employers have more than one delinquent.

Senator Nodland: Where does the money that you collect go?

Darren Brostrom: Funds go into the Fair account at Job Service. We don't have blanket authority to use it. It may be used to pay off Federal Loans or to pay leases for Job Service Buildings.

Senator Nodland: How much do you have?

Darren Brostrom: We have about 132,000 dollars in the fund.

Chairman Klein: When addressing chronic employers, what happens when they don't pay?

Darren Brostrom: The next step is legal. We subpoena records.

Senator Nodland: Is there an education process?

Darren Brostrom: We do try to educate, we have material we give out and a lot of resources that are available.

Chairman Klein: Anymore questions? Anyone else to speak in favor or opposition of bill # 2102?

Let this one rest and close on Senate Bill 2102.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2102

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 13, 2009

Recorder Job Number: 6894

Committee Clerk Signature

Eva Lubelt

Minutes:

Chairman Klein: We will reopen the hearing on Senate Bill 2102.

There was a previous discussion on the bill and decision to work with Job Service to find language they could work with.

Motion was made by Senator Andrist and Seconded by Senator Nodland to pass as amended.

Roll call vote was taken for the amendment. Yes 6 No 0 Absent 1

Roll call vote taken to pass as amended. Yes 6 No 0 Absent 1

Floor Assignment: Senator Andrist

Date: 1/13/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. 2061

Senate

Committee

Industry, Business and Labor

Check here for Conference Committee

Legislative Council Amendment Number 2102

Action Taken **Pass** **Do Not Pass** **Amended**

Motion Made By _____ Seconded By _____

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter		
Senator George Nodland	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Senator Andrist

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

Date: 1/13/09
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2061

Senate

Committee

Industry, Business and Labor

2102

Check here for Conference Committee

Legislative Council Amendment Number 2102

Action Taken Pass Do Not Pass Amended

Motion Made By Senator Andrist Seconded By Senator Nodland

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter		
Senator George Nodland	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Senator Andrist

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

REPORT OF STANDING COMMITTEE

SB 2102, as amended, Industry, Business, and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2102, as amended, was placed on the Sixth order on the calendar.

Page 1, line 11, remove the overstrike over "~~twenty-five~~" and remove "fifty"

Renumber accordingly

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2102

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2102

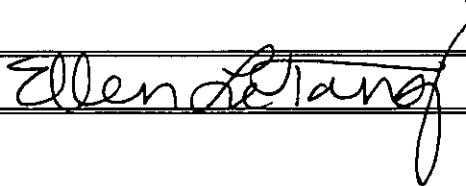
House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: March 3, 2009

Recorder Job Number: 10086

Committee Clerk Signature



Chairman Keiser: Opened the hearing on SB 2102 relating to the penalty for failure to submit employer contribution & wage reports & provide a penalty.

Darren Brostrom~Job Service North Dakota. See testimony attachment.

Representative Ruby: Are these generally the small employers?

Brostrom: It's really spread out amongst all employers. There are a number of small employers, who run into this, but this is usually a onetime deal and they fix it after that.

Representative Ruby: Was there any consideration to have that in relation of the amount that they would have to pay or report?

Brostrom: That's the way it's structured now and will be structured. This changes the minimums. It's a 5% or \$25, which is ever greater.

Representative Amerman: The engrossed bill, what was amended?

Brostrom: The change in the Senate was we had originally requested that the minimum for the first was \$50 but there was concern that this small employer would take a hit with that. So, the compromise that we really were after were the delinquent employers that had multiple reports in a year. So we left that first offense at \$25.

Vice Chairman Kasper: 6.3% equals how many employers?

Brostrom: We had 6.3% is about 24,000 employers and we end with 1,900delinquencies.

Vice Chairman Kasper: How many are in state?

Brostrom: One hundred twenty two are out of state and the remainders are in state.

Vice Chairman Kasper: What have you done with the delinquent employers to find out why they are delinquent?

Brostrom: We have a lot of time with our field staff to get out and identify the problems. We've tried to teach them how to file their quarterly reports on time. So, we have definitely tried to make an effort, we are not hearing any consistent briefing as to why the reports are delinquent.

Representative Gruchalla: Did you do a comparison analysis of how our fees compared to other states?

Brostrom: We went with in state government of North Dakota; we didn't look a lot outside of the state. I couldn't give you a real good number.

Representative Thorpe: Are there any large farm operations in state that opt in to this program?

Brostrom: There are many large farming organizations, absolutely.

Chairman Keiser: Is there anyone to testify in opposition to SB 2102, neutral, what are the wishes of the committee.

Representative Ruby: Moves a Do Pass on SB 2102.

Thrope: Second.

Chairman Keiser: Discussion.

Vice Chairman Kasper: In light of the down turn in the economy and this is going to be an increased cost to employers and we don't have any evidence on what causing it other than they are late, I'm going to resist the motion.

Chairman Keiser: Unemployment compensation is somewhat guarantee and if an employer doesn't pay it and the person was working, you think they would be able to collect unemployment. They have to come from other part of the fund is there isn't adequate participation. The unfortunate, this is kind of critical to get people to pay in so that their employees need to use the fund, there will be an opportunity to support that effort.

Representative Thorpe: I think I heard Darren mentioned that they were having problem with someone using Job Service to do their calculating for them rather than hiring an actuary.

Voting roll call was taken on SB 2102 for a Do Pass with 12 ayes, 1 nay, 0 absent and Representative Thorpe is the carrier.

Date: Mar 3, 2009

Roll Call Vote # 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2102

House House, Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass As Amended

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman	✓	
Vice Chairman Kasper		✓	Representative Boe	✓	
Representative Clark	✓		Representative Gruchalla	✓	
Representative N Johnson	✓		Representative Schneider	✓	
Representative Nottestad	✓		Representative Thorpe	✓	
Representative Ruby	✓				
Representative Sukut	✓				
Representative Vigesaa	✓				

Total (Yes) 12 No 1

Absent 6

Floor Assignment Thorpe

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

REPORT OF STANDING COMMITTEE (410)
March 3, 2009 4:30 p.m.

Module No: HR-38-3985
Carrier: Thorpe
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2102, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **DO PASS** (12 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed SB 2102 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2102

**Senate Bill 2102
Testimony of Darren Brostrom
Job Service North Dakota
Before the
Senate Committee On
Industry, Business and Labor
Senator Jerry Klein, Chair
January 7, 2009**

Penalty for Failure to Submit Employer Reports

Mr. Chairman and members of the committee, I am Darren Brostrom, the Unemployment Insurance Director for Job Service North Dakota. I am here today in support of Senate Bill 2102.

Job Service North Dakota (JSND) is responsible for the collection of wage information and unemployment insurance taxes to ensure that unemployment insurance claims can be processed for workers who become unemployed through no fault of their own. Part of that responsibility passes through to employers who are required to file quarterly reports providing the names and wages paid to each of their employees.

The collection of wage information is a critical activity within the unemployment insurance program. Without timely wage information, JSND is unable to calculate the appropriate unemployment insurance benefit amounts that individuals are eligible to receive. Inaccurate, unavailable, or incomplete information can cause significant delays in benefit payments to unemployed individuals.

Section 52-04-11 of the North Dakota Century Code currently provides for penalty charges to employers who fail to submit timely contribution and

wage reports. Senate Bill 2102 proposes an increase in those penalty amounts.

If passed, Senate Bill 2102 will increase the minimum penalty assessed for failure to file a timely report from \$25 to \$50. It will also increase the maximum penalty for a past due report from \$250 to \$500. Lastly, when an employer has multiple delinquent reports within a calendar year, the minimum penalty will remain at \$50 for the first report, and will rise to a minimum of \$100 for any subsequent past due report; however, the maximum penalty for any report will not exceed five hundred dollars.

For the one-year period including quarters ending December 31, 2007 through September 30, 2008, approximately 93.7% of employers filed their reports timely each quarter. During this same period, approximately 6.3% of employers were delinquent at least once.

Even though the number of employers filing delinquent reports is relatively small, many of these employers consistently file their reports late, or not at all. 63.7% of delinquent employers have had at least one delinquent report in each of the last two years, and 38.5% of the delinquent employers have had at least two consecutive quarters of delinquent reports.

The collection of past due reports falls for the most part on our field staff. Each of our thirteen field staff spends approximately 40-50 hours per quarter collecting delinquent reports. Another staff member is responsible for working with out-of-state employers. Because of the difficulties associated with contacting out-of-state employers, this individual spends more time per account in attempting to gather the required information.

One of our top priorities at JSND is to provide outstanding customer service. For this reason, and to gather the information needed for unemployment insurance claims, our field staff often sit with the delinquent

employers and actually complete the required reports for them. Anecdotally, we have received feedback indicating that many employers feel it is more cost effective for them to incur a penalty of \$25 from JSND than it is to have an accountant, or one of their staff members, complete the report. While we certainly encourage our staff to assist employers in any way possible, this is not an effective use of JSND staff time.

The goal of this bill is to increase compliance with the filing requirements of unemployment insurance statute. Our hope is that this adjustment in penalty amounts will increase compliance to a level that will actually result in a reduction of the total penalties assessed. Increased compliance will also allow JSND to refocus staff effort on employer education and program compliance in other areas, and will further increase the timeliness of payments to unemployment insurance claimants.

The most recent adjustment to the penalty amount was in 1989 when the penalty was increased from a minimum of \$10 to a minimum of \$25. At that time, it was felt that the adjustment in penalties did bring increased compliance; however, we have no numbers to substantiate this.

In your consideration of this bill, please keep in mind that the requested change will only affect the 6.3% of employers that do not comply with established reporting requirements, and will have no affect on the remaining 93.7% of North Dakota employers.

Mr. Chairman, this concludes my testimony. At this time I would be happy to answer any questions from the committee.

Senate Bill 2102
Testimony of Darren Brostrom
Job Service North Dakota
Before the
House Committee On
Industry, Business and Labor
Representative George Keiser, Chair
March 3, 2009

Mr. Chairman and members of the committee, I am Darren Brostrom, the Unemployment Insurance Director for Job Service North Dakota. I am here today in support of Senate Bill 2102.

Job Service North Dakota (JSND) is responsible for the collection of wage information and unemployment insurance taxes to ensure that unemployment insurance claims can be processed for workers who become unemployed through no fault of their own. Part of that responsibility passes through to employers who are required to file quarterly reports providing the names and wages paid to each of their employees.

The collection of wage information is a critical activity within the unemployment insurance program. Without timely wage information, JSND is unable to calculate the appropriate unemployment insurance benefit amounts that individuals are eligible to receive. Inaccurate, unavailable, or incomplete information can cause significant delays in benefit payments to unemployed individuals.

Section 52-04-11 of the North Dakota Century Code currently provides for penalty charges to employers who fail to submit timely contribution and

wage reports. Senate Bill 2102 proposes an increase in those penalty amounts for employers that are delinquent more than once in a calendar year.

Under Senate Bill 2102, the penalty structure for an employer's first delinquent report in a year will remain as it currently exists, a minimum \$25 penalty. However, Senate Bill 2102 will increase the minimum penalty for subsequent delinquent reports within the year to \$100. Additionally, the bill will change the maximum penalty for a past due report from \$250 to \$500.

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Even though the number of employers filing delinquent reports is relatively small, many of these employers consistently file their reports late, or not at all. 63.7% of delinquent employers have had at least two delinquent reports in the last two years, and 38.5% of the delinquent employers have had at least two consecutive quarters of delinquent reports.

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