

2017 HOUSE INDUSTRY, BUSINESS, AND LABOR

HB 1113

2017 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1113
1/4/2017
26574

- Subcommittee
 Conference Committee

Ellen Letang

Explanation or reason for introduction of bill/resolution:

Criminal history record checks for plumbers, water conditioning contractors & installers, and sewer & water installer. Temporary licenses for plumbers pending criminal history record checks.

Minutes:

1 Attachment

Chairman Keiser: Opened the hearing on HB 1113.

1:25

Brent Beechie~ND State Plumbing Board: Attachment 1.

Rep Boschee: When talking to Mr Erickson, did he talk about "may" to "required"?

Beechie: There is a lot of questions from the 5 members of my state plumbing board, exactly who do we want to test. All new applicants, go back & do everybody. My question is, can we just do background checks coming into ND from out of state? The board wants to know who can do it.

Rep Kasper: On line 15 you say the board may, which means your guessing on who should do a background check & who shouldn't. How do know who you should & shouldn't?

Beechie: We haven't decided that yet.

Rep Kasper: What is the liability if you guess wrong given the authority of this bill.

Beechie: As long as we don't skirt anything & do our due diligence, we would not be liable.

7:10

Rep Becker: Page 2, lines 8-10, it says that the temporary permit can't be longer than 60 days, at which time it will expire, is it possible that you wouldn't have criminal background

check completed? Yet the person would have their temporary license expired, you're not ready to grand and be in limbo?

Beechie: We added some verbiage. Maybe we can grant another temporary license upon review.

Rep Becker: What are the costs on lines 23-24. Does the applicant know what the limits are for the cost to you?

Beechie: Roughly \$45 to \$75 & that would be criminal history background check & fingerprinting. Talks about situations about licensing.

Chairman Keiser: How do you discriminate who is ok?

11:55

Beechie: The board would have to set a policy & they can't pick & choose. We would confer with the attorney general's office on that policy.

Rep Ruby: Was the intent to be permissive that you can do it when you are ready & once you did, it would be across the board.

Beechie: Whenever the board wants to do it & very few boards are doing it right now. So we are saying "you may require an applicant", you can pick & choose different people. The intent of the bill is that it's permissive that you may do it in the future. Then you decide then it would be across the board. If that was the case, you would need it to be reworded.

13:18

Chairman Keiser: I don't like language that's doesn't state what you intend to do. Let's change the language to say that you will do them when you are ready to do them. Let's not discriminate.

Rep Lefor: How many boards currently have this in place the "may" require. What is the thought process behind of the may require? I think the committee's feeling that if you are going to do it, you're going to do it. How does your board feel about that?

Beechie: There is mixed feeling about this. I will say, if this passes & do criminal background checks, of course it will probably be the same all across the board.

Rep Louser: Procedurally, do you go before the administrative rules committee in the interim for approval?

Chairman Keiser: Yes.

Chairman Keiser: Anyone here to further testify in favor of HB 1113, opposition, neutral?

Chairman Keiser: Closes the hearing on HB 1113.

2017 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1113
1/11/2017
26804

- Subcommittee
 Conference Committee

Eileen Letang

Explanation or reason for introduction of bill/resolution:

Criminal history record checks for plumbers, water conditioning contractors & installers, and sewer & water installer. Temporary licenses for plumbers pending criminal history record checks.

Minutes:

[Empty box for minutes]

Chairman Keiser: Reopens the hearing of HB 1113.

Beechie: You were concerned with the shall & may. You had some good questions.

Chairman Keiser: On the issue of discrimination, does this create & don't use "may" universally, can anyone complain that we are using it discriminately?

Edward Erickson~Representing the Attorney General's office: The Attorney General is not taking any position on this bill. In terms of the actual practicality of this, my understanding, the board would want to use criminal history record checks for new applicants moving forward & for existing licensee's only in a case relating to a complaint or we hear of a criminal complaint. Explains situations where they would need a criminal background check. We would look at anything that is relevant for existing background checks.

5:25

Rep Kasper: Why wouldn't we consider amending this bill to state, all new plumber applicants & currently licensed or apprentices upon action of the board for information that may lead to concern that you may do a criminal background check? I don't think this bill does that.

Erickson: I think the board wants to wait until they are ready to start doing all the applicants. If we add the shall, we would have to start immediately. Is that correct?

Beechie: Correct, but they are still divided on how to do it, but the board would like a little bit of time to decide what to do.

Rep Kasper: To a degree it does. You have testified that there are bad actors, so why wouldn't we want to try to close that probability as much as possible, the new ones, at this point in time. Board doesn't know who is the bad actors, how do you judge?

Beechie: Another angle the state plumbing board members are looking at is there is no other states that we have reciprocity agreements with that require criminal history background check. Another one of their concerns is, if we start requiring it, are they just going to cut the entire reciprocity agreements with South Dakota, Montana & Minnesota? I'm hoping not. The board sure how they want to go. If we start getting the influx again,

Chairman Keiser: How many states do require a background check?

Beechie: None of them, but do have a box to check if they have criminal history.

Chairman Keiser: We are the policy makers for the state & there are several boards that do not require background checks. What's the risk to the citizen to not have background checks, is this the right threshold?

Rep Dobervich: When would the board begin the background check? My understanding is when the bill became law, is that correct or is the board still thinking, in limbo? I'm wondering the state date or time frame?

Beechie: Our board feels that it's important also. It would be nice to have this in our back pocket so we can implement this when we want to instead of coming back in 2 years. I do know other states are not concerned.

Rep Louser: The research about 40 boards, how many board have the "may" or "shall"?

Erickson: I don't have that research but talking with Dennis Pathroff, intern, about half.

Chairman Keiser: We have HB 1113 before us, what are the wishes of the committee?

Rep Ruby: Moves a Do Pass.

Rep Laning: Second.

Rep Ruby: After hearing the issue, they know how to address the concerns to prevent the discrimination's aspect. I feel comfortable giving them the discretion.

Roll call was taken on HB 1113 for a Do Pass with 11 yes, 1 no, 2 absent & Rep Dobervich is the carrier.

Date: Jan 11, 2017

Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1113

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation

- Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Refer to Appropriations
- Place on Consent Calendar
- Other Actions Reconsider _____

Motion Made By Rep Ruby Seconded By Rep Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Rep Laning	X	
Vice Chairman Sukut	X		Rep Lefor	X	
Rep Beadle	X		Rep Louser	X	
Rep R Becker	<u>Ab</u>		Rep O'Brien	X	
Rep Bosch	X		Rep Ruby	X	
Rep C Johnson	X		Rep Boschee	X	
Rep Kasper	<u>Ab</u>		Rep Dobervich	X	

Total (Yes) 11 No 1

Absent 2

Floor Assignment Rep Dobervich

REPORT OF STANDING COMMITTEE

HB 1113: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (11 YEAS, 1 NAYS, 2 ABSENT AND NOT VOTING).
HB 1113 was placed on the Eleventh order on the calendar.

2017 TESTIMONY

HB 1113

Brent Beechie

North Dakota State Plumbing Board (NDSPB) is requesting the authority to do criminal history background checks. Bill is drafted in such a way that it is a permissive authority, and not a mandated authority, so the NDSPB may do

background checks when they are ready or desire to.

Applicant would be responsible for paying the fees for the background check as well as fingerprinting, and most background checks are completed in approximately 2 weeks.

It was explained to the NDSPB by Edward Erickson from the Attorney Generals office that there were very few boards and licensing commissions that had the authority to do background checks until after an incident that happened at Valley City state university. He stated that an individual was hired as a security guard directly by the university, therefore was not required to be licensed by the Private Investigation and Security Board. Mr. Erickson added that because he was a direct hire, no criminal history background check was done by the Private Investigation and Security Board or by the University. He said that unfortunately the individual was a violent criminal who raped and murdered a student. After that incident there was a considerable amount of boards and licensing commissions that began seeking authority to perform criminal history background checks.

We feel the NDSPB has credible reasons to request authority to do criminal history background checks. We recently revoked the license of an individual from Jamestown who would go in peoples homes, often times the people were not home but tell him how to get in, or where the key was hidden, or the garage door code. He would then rob those people. This individual had previous felonies that we did not know about.

Vulnerable people.
Violent CRIMES.

Brent Beechie

Chief Inspector

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