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PRIVATE EMPLOYMENT AGENCIES



STAFF REPORT

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Minnesota. LEGISLATIVE RESEARCH COMMITTEE

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The Legislative Research Committee is a joint committee of the legislature, meeting quarterly at the State Capitol and giving advance consideration to problems expected to confront the next legislature.

The Committee (1) acts as a clearing house for current legislative problems by receiving proposals for research studies; (2) determines and directs the study and research necessary for proper consideration of all proposals; (3) disseminates advance information on these problems to other legislators, the governor and the public by means of committee and research reports; and (4) reports to the legislature one month in advance of the regular session.

The Research Department of the Legislative Research Committee is organized to provide an unbiased, factual source of information with regard to problems which may be acted upon by the legislature. This department is engaged in objective fact finding under the general supervision of members of the Committee.

MINNESOTA LEGISLATIVE RESEARCH COMMITTEE

STAFF REPORT

PRIVATE EMPLOYMENT AGENCIES

Research Report issued pursuant to Proposal No. 129

A PROPOSAL that the Legislative Research Committee conduct a study of the operations and charges of private employment agencies operating in Minnesota.

Minnesota and 43 other States, the District of Columbia and Puerto Rico have laws regulating private employment agencies. The present Minnesota law was passed in 1925 and has remained substantially unchanged since that time. In Minnesota the Industrial Commission of the Department of Labor and Industry has the responsibility of administering the Employment Agency Law. The most comprehensive of these laws have seven major provisions. These are requiring each agency to obtain a license; post a surety bond; provide for the regulation of placement fees; prohibit certain undesirable practices; establish standards for records and reports; require posting of the license, the fee schedule, and the text or a summary of the law; and authorize an administrative authority to issue rules and regulations and to enforce the law. The Minnesota law contains provisions covering six of these items; lacking only a provision for the regulation of placement fees. However, only 16 States do have maximum placement fees set by statute or administrative authority. In another three States, the schedule of fees must be approved by the administrative agency.

In the States where a license fee is required, the majority have set the license fee as a flat sum, and many others have the fee vary depending on the population of the city in which the office is located. Minnesota has an unusual provision in that the license fee rates vary, depending upon whether the agency places females only, males only, or both. Minnesota has three classes of licenses; Class 1 covering laborers, unskilled workers, domestics and servants, and like pursuits; Class 2 covering the technical, clerical and executive pursuits; and Class 3 covering theatrical agencies. The annual license fee for each class of license is \$75.00 if the agency places only females; \$100.00 if the agency places only males; and \$150.00 if the agency places both males and females. Thus, an agency holding both Class 1 and 2 licenses and placing both males and females would be required to pay an annual license fee of \$300.00.

It is the conclusion of the committee that if additional funds are needed to enforce the act license fees should be increased.

A bond of \$2,000.00 is required for each class of license in Minnesota. A filing fee of \$5.00 must be paid with each bond. In those States that require a bond, it could be possible for an agency to furnish a smaller bond in 30 States and a larger bond in 11 States than the agency would be required to furnish in Minnesota. In Table I, certain provisions of the State laws relating to employment agencies are shown.

TABLE I
 VARIOUS PROVISIONS OF STATE LAWS REGULATING
 PRIVATE EMPLOYMENT AGENCIES

<u>State</u>	<u>Amount of Annual License Fee Required</u>	<u>Amount of Bond Required</u>	<u>Maximum Placement Fee is Set by Law or Regu- lation, or Fee Schedule is Subject to Approval</u>
Alabama	No Law		
Alaska	\$10 ^a	\$1,000 to \$10,000 ^b	Yes
Arizona	\$25 to \$150 ^c	(d)	Yes
Arkansas	\$200 ^e	\$1,000	(f)
California	\$25 to \$100 ^g h	\$1,000	
Colorado	\$10 to \$50 ⁱ	\$1,000 ⁱ	(f)
Connecticut	\$37.50 ^j	\$2,500	
Delaware	\$10 ^k	(1)	
District of Columbia	\$100	\$1,000 or less	
Florida	\$50 or \$100 ^m n	\$3,000	Yes ^o
Georgia	\$100	\$1,000	
Hawaii	\$25	\$3,000	Yes
Idaho	(p)	\$5,000	
Illinois	\$50 to \$200 ^q	\$2,000 or \$5,000	
Indiana	\$50	\$1,000	
Iowa	\$50	\$2,000	Yes
Kansas	\$10 or \$25 ^g	\$500	(r)
Kentucky	\$25	(1)	
Louisiana	\$50 or \$500 ^s	\$5,000	Yes
Maine	\$100	\$1,000	Yes
Maryland	\$100 ⁿ	\$2,000	
Massachusetts	(t)	(1)	
Michigan	\$50 to \$200 ^g	\$1,000	
Minnesota	\$75 to \$150 ^u	\$2,000 ^v	
Mississippi	No Law		
Missouri	\$25 or \$50 ^g	\$500	
Montana	\$5	\$3,000	Yes
Nebraska	\$50	\$2,000	
Nevada	\$50 ^w	\$1,000	Yes
New Hampshire	\$2 minimum ^b	(1)	
New Jersey	\$30 to \$120 ^g	\$1,000	Yes ^o
New Mexico	No Law		
New York	\$50 to \$100 ^x	\$3,000	Yes
North Carolina	\$100 to \$500 ^g	(1)	
North Dakota	No Law ^y		
Ohio	\$100	\$1,000	Yes
Oklahoma	\$50	\$500	
Oregon	\$25 to \$100 ^g	\$1,000	

TABLE I (cont.)

<u>State</u>	<u>Amount of Annual License Fee Required</u>		<u>Amount of Bond Required</u>	<u>Maximum Placement Fee is Set by Law or Regulation, or Fee Schedule is Subject to Approval</u>
Pennsylvania	\$150		\$1,000	
Puerto Rico	\$25		(b)	Yes
Rhode Island	(b)		(1)	(z)
South Carolina		No Law		
South Dakota	\$10		\$2,000	Yes
Tennessee	\$50 to \$150 ^g		\$1,000	
Texas ^{aa}	\$150		\$5,000	Yes
Utah	(bb)		\$1,000	Yes
Vermont		No Law		
Virginia	(1)		(1)	(cc)
Washington	(1)		(1)	
West Virginia	\$200 ^{dd}		(1)	Yes ^o
Wisconsin	\$25 to \$150 ^c		\$1,000	Yes ^o
Wyoming	\$10 to \$25 ^e		\$500	

- (a) In addition, under the Alaska Business License Act, there is a \$25 annual charge, and a tax based on receipts on agencies with gross receipts in excess of \$20,000.
- (b) Subject to the discretion of the administrator.
- (c) The amount of the license is based upon the receipts of the agency.
- (d) A \$500 cash deposit is required.
- (e) Non-fee-charging agencies are specifically exempt from license provisions.
- (f) Section of law setting maximum on applicants' fees has been invalidated by state court. Arkansas in 1928; Colorado in 1959; the Colorado decision has been appealed.
- (g) The amount of the license fee varies with the population of the city in which the agency is located.
- (h) In addition, there is a \$25 fee for each branch office.
- (i) In addition, a municipal license, at a cost not to exceed \$100 and a municipal bond, in the amount of \$2,000, are required. (Subject to municipal ordinance.)
- (j) The law provides for a \$75 biennial fee.
- (k) At the discretion of the commission. An occupational tax of \$20 is also imposed by the State Tax Department.
- (l) No express provision.

- (m) The license fee for agencies placing babysitters and domestic servants only is \$50; for other agencies, \$100.
- (n) The cost is for each place of business.
- (o) In these States, the maximum fees are not set by law or regulation, but the schedule of fees must be approved by administrator.
- (p) Written permit required, for which there is no fee.
- (q) The license fee varies with the population of the city in which the agency is located and with the number of counselors employed.
- (r) A maximum registration fee is set. No placement fee is permitted.
- (s) Agencies which solicit only by written, telegraphic or telephonic communication pay \$50; others pay \$500.
- (t) Licenses are granted by local authorities.
- (u) If the agency places females only, the license fee is \$75; if males only, \$100; if both males and females, \$150.
- (v) In addition, there is a filing fee of \$5 for filing the bond.
- (w) In addition, an initial fee of \$50 for filing the application is required.
- (x) The license fee varies with the number of placement employees.
- (y) However, North Dakota does have an enabling act which authorizes municipalities to regulate private employment agencies.
- (z) The administrative agency is authorized to make rules and regulations governing fees.
- (aa) Texas has two laws with separate coverages; the table is applicable to both. Under the private employment agency law, the license is good for only one office. Under the labor agent act, a separate license is required for each county.
- (bb) State and local licenses are required; the cost is determined by the issuing agency.
- (cc) The registration fee is regulated. This is defined as a fee for filing an application for, or obtaining, employment or help.
- (dd) The fee for nurses registries is \$25.

SOURCE: U. S. Department of Labor, State Laws Regulating Private Employment Agencies, Bulletin 209 (Jan. 1960).

Shown in Table II are the receipts from employment agency license fees in Minnesota for the last five fiscal years. The Minnesota law requires that one-half of the license fees collected be apportioned to the local units of government in which the employment agency offices are located. The portion of the license fee retained by the State is deposited into the General Revenue Fund and would represent a very minor portion of State revenue.

TABLE II
RECEIPTS FROM EMPLOYMENT AGENCIES LICENSE FEES
1956-61

<u>Fiscal Year</u>	<u>To State General Revenue Fund</u>	<u>Apportionment to Local Units of Government</u>	<u>Total Receipts</u>
1960-61	\$9,337.50	\$9,337.50	\$18,675.00
1959-60	9,125.00	9,125.00	18,250.00
1958-59	8,687.50	8,687.50	17,375.00
1957-58	9,112.50	9,112.50	18,225.00
1956-57	8,212.50	8,212.50	16,425.00

Shown in Table III are the local units of government which received this apportionment and the amounts received during the past three years. The reason one-half of the license fees are apportioned to the local units of government is not certain. This was one of the provisions of the Employment Agency Law of 1925 but no duties were imposed on the local units of government by this act. The local units of government receive this "wind-fall" because someone decides to operate an employment agency within their boundaries.

TABLE III
APPORTIONMENT OF LICENSE FEES TO LOCAL UNITS OF GOVERNMENT

	<u>1959</u>	<u>1960</u>	<u>1961</u>
St. Paul	\$2,025.00	\$2,525.00	\$2,350.00
Minneapolis	4,962.50	5,275.00	5,287.50
Duluth	312.50	200.00	237.50
Bloomington	375.00	--	300.00
St. Louis Park	187.50	262.50	300.00
Richfield	150.00	150.00	150.00
Rochester	150.00	112.50	112.50
St. Cloud	150.00	150.00	150.00
Moorhead	150.00	--	--
Mankato	75.00	75.00	75.00
Crystal	37.50	112.50	37.50
Mound	37.50	37.50	37.50
Roseville	37.50	37.50	112.50
White Bear Lake	37.50	37.50	37.50
Robbinsdale	--	150.00	150.00
	<u>\$8,687.50</u>	<u>\$9,125.00</u>	<u>\$9,337.50</u>

In the two year period ending June 30, 1960, approximately 175 telephone complaints were received, usually in respect to fees charged. Persons making telephone complaints were informed that the Commission would take no action unless the complaint was submitted in written form. During this period 67 written

complaints were received, or an average of less than three per month. After investigation these 67 written complaints resulted in 41 refunds or adjustments of agency fees favorable to the applicant. Similar figures were not available for prior years. The Commission also reported that most of the complaints were from persons who had accepted employment with a salary of under \$5,000 per year.

Although no accurate figures are available as to the total number of applicants that are placed in jobs by private employment agencies in a two year period, during a public hearing two different members of employment agencies indicated this would be some fraction of one percent. Many members of the profession that were present at the public hearing stated in their opinion the low level of complaints were indicative that the profession was well run and well regulated.

During the public hearing members of the profession testified that most of the applicants were persons that were already employed but for various reasons wished to find a different job. Members of the profession were also questioned as to whether some employers might be using employment agencies as a means of discrimination in employment. An employer, wishing to avoid any possible charges of discrimination, but still wishing to discriminate in employment, might place an order with an agency and indicate that applicants of certain races, colors or creeds were unacceptable. Representatives of the industry testified that they had no knowledge of any such practice and that no complaints had ever been made to the Minnesota Employment Agency Association of such practices.

The present bond requirement of \$2,000 was established in the 1925 Act. Since that time on only one occasion has the bond proved insufficient to protect the job applicant. In this one case several men were sent by an agency to another state for employment. Upon arrival at their destination the men discovered no jobs were available and there had been no order placed with the agency for men. The men sued the agency for expenses and loss of time. Judgment was entered and the amount of the bond covered only 58.7% of the judgment.

The commission has suggested three modifications of the present law which would clarify existing provisions, and not change the existing control. The three changes suggested are:

1) Amend Minnesota Statutes 184.08 to clearly set forth the authority of the Commission to suspend or revoke a license;

2) Clarify that portion of Minnesota Statutes 184.11 which permits an agency holding a class 1 license to serve those included under a class 2 license, under certain conditions, which is somewhat vague. Furthermore, a holder of a class 2 license cannot serve those included under a class 1 license, and;

3) Add a specific provision in the law that the attorney general has the power to request an injunction against any party violating the provisions of the law. In some cases it is not certain whether a particular action is in violation of the law, and at present the only remedy would be a criminal action. By granting the attorney general the authority to resort to the extra-ordinary remedy of an injunction where actions of an employment agency are questionable, a judicial determination may be obtained without instigating a criminal action. The Commission believes such authority may now exist but desires that it be specifically stated in the law.

The Commission also reported that in recent years there have been a few complaints involving finance companies. When the fee has been computed on the basis of the charge for a permanent position and the position becomes a temporary position there arises the question of a refund of a portion of the fee. The problem arises when the applicant signed a note for the fee which the agency has discounted to a finance company or when the applicant signed a note with a finance company to pay the fee. There apparently is some difficulty in getting the note and payments adjusted when it is held by a third party.