

Testimony
Senate Bill 2205 – Department Of Human Services
House Human Services Committee
Representative Clara Sue Price, Chairman
February 28, 2007

Chairman Price, members of the House Human Services Committee, I am Mike Schwindt, Director of the Child Support Enforcement Division of the Department of Human Services. I am here to present the Department of Human Services' perspective on reengrossed SB 2205.

The issue of moving to state administration of the child support enforcement program has surfaced frequently in recent years including, most recently, in the 2005 session. Again, the Department is neutral on the bill since it is not in the Governor's budget.

Programmatically, state administration presents a unique opportunity to reorganize the state child support enforcement program to help our customers in 54 states and territories, a number of foreign countries, and on Indian reservations. When the current regional structure was created over thirty years ago, no one knew what a "mature" child support enforcement program would be doing. Today, there are many potential benefits in moving to a state administered program. These include improved enforcement in state and tribal cases through specialization, consistency of services, targeting cases for criminal prosecutions, improved locating of parents, and better communication throughout the program. Specialization will also continue our customer service improvements.

Financially, as a result of the 1997 SWAP legislation, the cost of administering the child support enforcement program at the local level is

funded by the counties, either through mandatory reinvestment of federal incentives or property taxes. By covering these costs, the counties are not simply paying for child support enforcement. This is the way, under SWAP, that the counties fund their share of the costs of all economic assistance programs delivered in the counties.

In the intervening years, federal changes have prescribed many mandatory components of the program thereby reducing our options to operate the program as we have in the past. Consequently, the program has shifted to where the county role is to fund and operate the eight Regional Child Support Enforcement Units (RCSEU) within the narrowing federal rules.

Last session, consensus could not be reached on fiscal issues so SB 2301 was enacted which, among other things, required the Department to create a task force to "...study the organizational and programmatic structure of the child support enforcement program to determine how to enhance service delivery, improve performance, and increase efficiencies." (2005 SB 2301, Section 5). Committee membership consisted of

- Two legislators,
- Three county commissioners,
- Four CSSB directors,
- Three court representatives,
- A tribal representative,
- A representative of the Association of Counties,
- Three RCSEU staff, and
- Two Department/CSE staff.

The bill before you is the result of the efforts of the task force which unanimously recommended state administration. The final vote on the bill draft was 16-2 with the remaining point of conflict being Section 15 relating to the payment and transfer of unused leave.

In broad terms, the bill would transfer the existing RCSEU staff from the eight host counties to the Department effective July 1, 2007, along with the unexpended county funds budgeted for the county fiscal year. Currently, there are 122.6 positions in the eight RCSEUs. Incentives, which normally would be paid out to the RCSEUs, will also be retained at the State and reinvested back into the program as the federal rules demand.

There would be no ongoing maintenance of effort required of the counties – the biggest sticking point from last session. County fiscal exposure would be limited to a one-time projected \$385,000 payment in 2008. This would fund the estimated impact of transferring annual and sick leave balances to the Department as provided in Section Fifteen of the bill. The payments would be deposited in the state general fund and the Department would incur the costs in the normal course of business, using existing appropriations when the leave is actually used.

Turning to the bill, Sections One, Two, Three, Four, Five, Six, Seven, Eight, Nine, Eleven, Twelve, Thirteen, and Eighteen make the technical changes in state law necessary to transfer administration of the child support enforcement program from the counties to the State. Section Six adds child support enforcement to the list of programs administered by the Department of Human Services; Section Seven removes child support enforcement from the list of programs administered by the counties.

For the committee's information, the current law that would be repealed under Section Thirteen states:

50-09-34. Administration of child support enforcement activities. The state agency shall identify any activity of the child support enforcement program the state agency believes may be administered more effectively, efficiently, or consistently through an agreement between two or more child support agencies or through an agreement for centralized administration under section 50-09-33 and shall direct a child support agency to enter an agreement to perform that activity on terms prescribed by the state agency. The department may not pay any incentive funds to a county or a child support agency that does not enter an agreement under this section. Any attorney performing an activity under this section represents the state and shall obtain an appointment from the attorney general under section 54-12-08.

This section was enacted last session after 2005 Senate Bill 2301 was amended to no longer provide for state administration of the program, and successfully led to the formation of a centralized unit for outgoing interstate cases in Grand Forks.

Section Ten enacts a new section to the code regarding the attorneys who are currently employed locally by the child support enforcement program. Since the State, rather than the counties, would employ those attorneys, the new section provides that these attorneys would be employed by the Department and appointed by the Attorney General. We understand that Attorney General Stenehjem does not object to this provision after the

Senate adopted two amendments to further clarify the roles and responsibilities between DHS and the Attorney General's office. This section follows the general rule of having assistant attorneys general and special assistant attorneys general serve at the pleasure of the Attorney General.

Under Section Fourteen, all employees of the eight RCSEUs would be transferred into the state merit system as employees of the Department at their existing salaries. In addition to protecting current positions and salaries, any salary increase that an RCSEU employee was scheduled to receive during Calendar Year 2007 would still occur after the transfer. For purposes of retirement and accrual of sick and annual leave, the employees would receive credit for years of county service. Finally, there would be no gap in health insurance coverage for the employees at any RCSEU; their existing coverage would continue until the State's coverage started one month after the transfer.

The Department strongly supports these "hold harmless" provisions for employees – the key to continued success for our program is to retain these experienced employees. By avoiding a wholesale change in employees, transition to state administration can be less traumatic.

All equipment, furnishings, and supplies in the control and custody of an RCSEU on July 1, 2007, would be transferred to the Department. This, too, is important for a smooth transition and continued operations.

Section Fifteen pertains to payment and transfer of leave. As a general rule, when the Department hires an employee from a county social service agency or from an RCSEU within the state merit system, the

Department accepts a transfer of the employee's unused leave at no charge to the former employer. Once the leave hours transfer to the Department, the State incurs the cost of those hours - either in the form of lost time or as a payout of unused hours when the employee stops working for the State. This cost to the State exists whether or not the current county employer reimburses former employees for unused leave.

The bill gives RCSEU employees the choice of transferring some or all of their unused leave hours, or obtaining reimbursement for those hours from their current county employer based on the employer's policies (some counties offer reimbursement, others do not). Because the transfer of employees in this bill is outside the normal course of business, the members of the task force, by a vote of 16-2, felt that the cost to the State of assuming the transferred leave hours should be paid by the employing counties as a one-time settlement. The payment would be due February 1, 2008 under the formula in Section Fifteen.

The effective date of this bill would be July 1, 2007, while counties budget on a calendar-year basis. Section Sixteen provides the appropriation authority for the Department to accept and use the unexpended Calendar Year 2007 county funds. Thus, the property taxes assessed for operating the eight RCSEUs would be used for that purpose.

The Senate added \$12.8 million in special funds in Section Seventeen, consisting of federal (\$5.6 million) and Permanent Oil Tax trust funds (\$7.2 million), to pay the costs transferred to the state from the counties.

With federal performance measures, greater competition for federal incentive funds, a growing caseload, and arrearages of \$260 million, we

have much work to do before all reasonable efficiencies are achieved. As they occur, the savings can either be reinvested in the program to keep pace with the growing caseload, implement new federal requirements, or reduce the outlay of state funds.

Relieving counties of the costs of administering the child support enforcement program would be a substantial form of property tax relief. Additionally, the Deficit Reduction Act of 2005 eliminated the ability to use incentive funds as match, shifting more costs to the state.

Madam Chairman, we believe the North Dakota child support enforcement program is a worthwhile investment of taxpayer dollars.

This concludes my testimony. I would be happy to answer any questions the Committee may have.