

DRC WEEKLY LEGISLATIVE UPDATE

JANUARY 30, 2009

It was a busy week for staff and members, who testified on a total of 8 bills Thursday and Friday. Many thanks to members who made the trek to the Capitol, including Leo Walker and Jan Trautman, Maddock; Roger Brenna, New Town; Don Nelson, Keene; Dean Hulse, Fargo, and Marie Hoff, Derrick Braaten, Lindsey Aull and Verle Reinicke, all of Bismarck.

Hearings in the past week:

- **HB 1322 State Energy Policy Commission**(Representatives Porter, Brandenburg, S. Kelsh and Senators Flakoll, Triplett and Wardner) A bill that would create a new energy policy commission made up largely of industry reps, which would perform a study largely focused on advancing the state's lignite industry. The bill also directs the state water commission to study the state's water resources in order to maximize water use for energy growth. Cindy Klein testified for DRC in support of the concept of the bill but expressed concerns the priorities for water and the make-up of the commission, which does not include landowners. Member Verle Reinicke of Bismarck suggested that any commission should focus on reducing carbon emissions. The Bill was heard in the House Natural Resources Committee. The committee took no action.
- **HB 1352 State Energy Policy** (Representatives Porter, Brandenburg, S. Kelsh and Senators Flakoll, Triplett and Wardner) A sweeping bill that would create goals for a state energy policy. It emphasizes fossil fuels, short-shrifts efficiency and renewables and includes a provision to not support state energy mandates. Members Dean Hulse and Verle Reinicke and DRC staff Mary Mitchell testified before the House Natural Resources Committee with concerns about the opposition to mandates and urged more focus on energy efficiency and renewable energy. Other groups were also concerned about the mandate language. The committee took no action.
- **HB 1380 Surface Damage** (Representatives Onstad, Kempenich, S. Meyer and Senator Lyson) This bill creates and enacts a new section of 38-11.1 (Surface owner damage compensation) relating to compensation for loss of agricultural production and income caused by oil and gas production. It makes annual loss payments mandatory and also provides for a mediation panel for those parties who cannot come to terms on surface damages. Members Don Nelson testified before the House Natural Resources Committee in support of this bill. The committee took no action.
- **HB 1532 Recycling Infrastructure** (Representatives Zaiser, Hawken, S. Kelsh, Schneider and Senators Bakke and Potter). Member Marie Hoff testified in support of this bill before the House Government and Veterans Affairs Committee. It would require all state property and facilities to have a recycling infrastructure. The committee did not take action.
- **HB 1536 Waste Reduction Fund and Program** (Representatives Zaiser, S. Kelsh, Mock and Schneider), Staff Mary Mitchell testified in support of this bill, which would create a state waste reduction fund and program, funded by charges to landfills of \$1/ton, which can be passed on to landfill users. Grants would go out to poly subs for waste reduction programs. The committee did not take action.

- **HB 1543 Local Foods Procurement** (Representatives Vig, D. Johnson and Senators Flakoll and Taylor) DRC introduced this bill, which would allow state institutions and agencies to purchase locally-produced food even if it costs a bit more, as long as they can stay within their budgets. Members Derrick Braaten and Lindsey Aull testified in support before the House Agriculture Committee. North Dakota Farm Bureau and the State Office of Management and Budget opposed the bill. No immediate action was taken by the committee.
- **SB 2292 Water well notification** (Introduced by Sen. Mathern, Potter Introduced by Rep. Drovdal, S. Meyer, Mock, Onstad) DRC introduced this bill , which says that water permit applications must include, depth and the name of the impacted aquifer. It expands notice to two miles. Members Roger Brenna and Don Nelson testified in support before the Senate Natural Resources Committee. The committee took no action.
- **SB 2352 Building energy codes** (Introduced by Senators Wardner, Holmberg and Horne and Representatives Carlson, Klein and S. Meyer), brought by the ND Home Builders Association, would eliminate a requirement that state builders follow the American Building Officials Model Energy Code and directs them to follow the state code, however there is no specific state building energy conservation code. Staff Mary Mitchell testified in opposition to this bill, as did the North Dakota Alliance for Renewable Energy. The committee did not take immediate action.
- **HB 1277 Short Form Tax Credit for GeoThermal** (Introduced by Rep. Porter, S. Kelsh, Weiler Introduced by Sen. Cook, Triplett, Wardner) A BILL for an Act to create and enact a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to allowance of the income tax credit on the form ND-1 income tax return for installation of geothermal energy devices; and to provide an effective date. **1/20 House Committee Hearing 11:00 Committee Recommendation: Do Not Pass 7-6**
- **HB 1449** (Introduced by Rep. DeKrey) A BILL for an Act to create and enact a new subdivision to subsection 1 of section 49-22-08 of the North Dakota Century Code, relating to an application for siting an energy conversion facility; and to amend and reenact section 49-02-27 of the North Dakota Century Code, relating to the decommissioning of wind energy conversion facilities. **01/29 House Committee Hearing 02:00.** The committee took no action.

Other Actions on bills:

- **HB 1033** (Legislative Council at the request of the Energy Development and Transmission Committee), would reduce the Public Service Commission’s timeframe for permitting transmission lines from 6 months to only 3 months. DRC testified on opposition to this bill, and the Public Service Commission was unanimous in its opposition. **Committee Recommendation: Do Not Pass—Failed on floor: 23-71**
- **SB 2140** (Senate Natural Resources Committee, at the request of the Public Service Commission), This bill would allow coal mining companies to use a 5 year revegetation period for lands that were mined prior to 1970 then re-mined, versus the 10 year period required for other mined lands. **Committee Recommendation: Do Pass—Passed Senate 28-18**
- **HB 1212** (Representatives Klein, Ekstrom and Senators Horne, Warner), This bill would require the state Department of Commerce and the Division of Community Services to adopt rules for public building construction standards that are at least as stringent as the requirements for a silver LEED certification. DRC supports this bill. House Industry Business and Labor Committee, Peace Garden Room, Monday, January 19, 8 a.m. **Committee Recommendation: Do Not Pass 9-2**

- **SB 2193:** (Senators Wardner, Christmann, Robinson and Representatives Hanson, Hofstad and Nottestad) A BILL for an Act to amend and reenact sections 61-24.5-01, 61-24.5-09, and 61-24.5-10 of the North Dakota Century Code, relating to the powers and duties and tax levy of the southwest water authority. It also declares it necessary to study and further develop water resources to provide adequate water supplies for energy, industrial, agriculture, and other opportunities in SW ND. Senate Finance and Taxation, Lewis and Clark Room, Monday, January 19 at 9:00 a.m. The committee took no action.

Hearings in the coming week:

- **HB 1456 Wind tax credit transfer** (Representative Vig, Belter, S. Kelsh and Senators Mather and Warner), Would allow the transfer of an income tax credit for the installation of a wind energy device to any taxpayer, not just the purchaser. House Finance and Taxation, Fort Totten Room, Tuesday, February 3, 9 a.m.
- **HB 1465 Organic program appropriation** (Representatives DeKrey, Nelson, and Weisz and Senators Klein, Robinson and Taylor), Would provide an appropriation to the agriculture commissioner for expanding organic food production and processing in the state. House Agriculture Committee, Thursday February 5 10 a.m.
- **HB 1338 Landfill siting** (Representative Glassheim), Would create a state landfill siting board and give it power to site landfills that supersedes the powers of the local political subdivision, unless the political subdivision owns the landfill and it is located within its zoning jurisdiction. House Political Subdivisions Committee, Prairie Room, Thursday, February 5, 8:15 a.m.
- **HB 1554 Extraterritorial Zoning** (Representatives Damschen, D. Johnson, and Wrangham and Senator Klein), would eliminate the extraterritorial authority of cities. House Political Subdivisions Committee, Prairie Room, Thursday, February 5, 2:30 p.m.
- **SB 2255 Eminent Domain for state water projects** (Senators Fischer, G. Lee and Nething and Representatives Kasper, Nelson and Nottestad), Would allow the use of eminent domain for state-funded water projects by water resource districts. Senate Agriculture Committee, Roosevelt Park Room, Friday, February 6, 9 a.m.
- **SB 2382 Landfill vote** (Senators Cook, Dever and Nelson and Representatives Kaldor and Wrangham), would allow governing bodies of political subdivisions to hold a special election to vote to approve or disapprove of a landfill permit. Senate Political Subdivisions, Red River Room, Thursday, February 5, 9:30 a.m.
- **SB 2413 Waste heat and flared gas exemption** (Senators Wardner, O'Connell, Bowman and Representatives Kempenich, Skarpohl and Wald), would give a sales and use tax exemption for equipment to generate electricity from waste heat or flared gas. Senate Finance and Taxation, Lewis and Clark Room, Tuesday February 3, 10:15 a.m.
- **SB 2427 Geothermal tax credit and energy building code switcheroo** (Senators Triplett, Grindberg and Schneider), would allow a short form tax credit for geothermal devices, require that the state follow the 2006 edition of the international energy codes and require that all cities, counties and townships administer and enforce energy conservation standards for new commercial building construction. **DRC supports this bill.** Note: This bill is likely a reaction to SB 2352 (see hearings in past week). Senate Finance and Taxation, Lewis and Clark Room, Tuesday, February 3, 8 a.m.
- **SB 2438 Sustainably Grown in ND program** (Senators Wanzek, Dotzenrod and Flakoll and Representatives Belter, Brandenburg and S. Meyer), would require the Department of Commerce to implement a program to promote sustainably grown North Dakota agriculture commodities. **DRC supports this bill.** Senate Agriculture Committee, Roosevelt Park Room, Thursday, February 5, 2:30 p.m.

Other bills of interest (no hearings yet scheduled):

- **HB 1522 Anti-comprehensive planning** (Representative Wrangham) No hearing has been scheduled as yet for this bill, which would appear to take away the ability of political subdivisions to develop comprehensive planning. **DRC opposes this bill.**
- **SB 2411 Drastic reduction in requirement for PSC siting** (Senators Christmann, Klein, Warner and Representatives DeKrey, Dosch and Kempenich), would reduce the requirements for PSC siting of electrical facilities from 100 MW to ½ MW. **SB 2417 Glass recycling plant** (Senators Fiebger and Potter), Would require that the ND DOT study the feasibility of constructing a glass recycling plant for the purpose of providing materials to be used in road construction and maintenance. **DRC supports this bill.**
- **Senate Resolution 4019 Introduced by Senators Wanzek and Taylor and Representatives Brandenburg and Froelich:** A Senate Concurrent Resolution to urge Congress to examine carefully the known and potential impacts of implementing a National Animal Identification System (NAIS) **This is a resolution introduced at the request of DRC**
- **Senate Resolution 4015 Introduced by Senator Mathern and Representatives Zaiser and J. Nelson:** A concurrent resolution directing the Legislative Council to study the potential cost impact of North Dakota Century Code Section 49-02-23 on the state's utility ratepayers and to the state's renewable electricity generation potential. **This is a resolution introduced at the request of DRC.**
- **Senate Resolution 4020 Introduced by Senators O'Connell, Grindberg and Wardner and Representatives Berg, S. Meyer and Skarphol:** A concurrent resolution to urge Congress to preserve the exemption of hydraulic fracturing from the provisions of the Safe Water Drinking Act and not to enact legislation that removes the exemption for hydraulic fracturing.