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ROLL NUMBER

DESCRIPTION

1268

2007 HOUSE POLITICAL SUBDIVISIONS

HB 1268

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1268

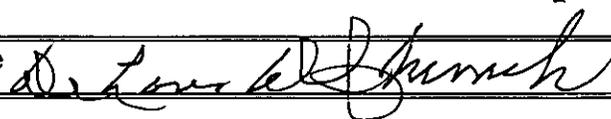
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: January 18, 2007

Recorder Job Number: 1366, 1402

Committee Clerk Signature



Minutes:

**Chairman Herbel** opened the hearing on HB 1268.

**Representative Carlson:** This bill deals with the Lake Agassiz water authority. Most of our water projects have been bonded in one way or the other. If the bond authority reviews the language they will require certain language in those bills so they meet all the requirements that they have for the bonding of the bill. What this bill does is changes the wording from operate to make certain and add operate in later and that language change requires that they are to make certain any project financed by the authority just makes sure that if they issue the bond they have to do the work. It is the first of three bills that will be dealing with Lake Agassiz water authority. We are just asking for the bonding authority language to be clarified so that the bonding can do what they need to.

**Chairman Herbel:** What affect will this have on the Garrison Diversion Conservancy?

**Rep. Carlson:** I will let Mr. Koland answer that. I am aware of the bonding issues, but when you get into the rest, I am not sure.

**Dave Koland:** (see attached testimony #1).

**Rep. William Kretschmar:** Is the Lake Agassiz water authority under legislative authority?

**Dave Koland:** Yes, the legislature set it up so that it has elected board members from the rural water commission and city council people from the cities in the valley. There are 10 members of that board; 5 of them are from cities including one from Moorhead and the other 5 are from rural water systems in the valley. We have been doing an EIS on the different alternative ways to deliver water to the Red River Valley and we have looked at several different options. To get input from the users is one thing Lake Agassiz has been doing. They have been representing the water systems that eventually will be customers of this project. So they have been meeting monthly taking in the information and commenting on the EIS and we have moved forward on what the needs are in the valley and how we are going to meet those.

**Rep. William Kretschmar:** Will this bill perhaps have some affect on the amount of interest that would be required to pay on the bonds?

**Dave Koland:** Yes, because the way this project is going to be financed is on a 1/3,1/3,1/3 basis. The total project is about \$600 million dollars and the local people are going to raise \$200 million dollars by bonding. They are going to issue bonding based on water service contracts that communities will sign with Garrison Diversion. They go out and borrow money on the bond market to do that. So we are doing as many things as we can to keep that interest rate that they will have to pay on the bond issue as low as possible.

**Rep. Lawrence Klemin:** Is this coming from bond counsel that analyzed this that determined that this is what needs to be done?

**Dave Koland:** Our bond counsel wrote of this and so when they reviewed this they said we need to fix this oversight in language. Thought they noticed it last session, but we were too far into the session to bring it in then.

**Rep. Steve Zaiser:** Minnesota stands to gain from this thing as well. What avenues will be looked to make sure that Minnesota might also share in the cost too?

**Dave Koland:** That is a good question. As we have developed a need for the project, we have looked at the Minnesota communities of East Grand Forks. Moorhead and Breckenbridge and now the Lake Agassiz Water Authority are examining different financial models of how they will share the costs. Their roughly \$200 million dollar share. As we develop the models, we have asked the Minnesota communities to pay their full proportionate share.

**Rep. Steve Zaiser:** Has the Minnesota side been receptive?

**Dave Koland:** Yes, from the very beginning particularly East Grand Forks and Moorhead have been very receptive. Moorhead particularly because the Red River goes dry and Moorhead has some limited ground water they can excess, but they are out of the competitive mode to conduct any future industrial development without another water supply. They face the same problem Fargo does. The Red River goes dry and they are in trouble. East Grand Forks is a little more complicated because Red Lake River is a major tributary of the Red River; however, there is a dam close to the Red Lake and that has a lot of tribal implications so there are a lot of uncertainties in their water supply also.

**Rep. Kim Koppelman:** You earlier said there is a three way split; \$200 million split three ways. How would this work on the Minnesota participants? Were you saying there would be a split as if there is no participation and the state portion of the ND side would subsidize the local portion? Do I understand that correctly?

**Dave Koland:** Essentially we have a \$400 million dollars project the first phase. We have a \$200 million dollars state contribution. So you can view that as a direct grant or as we have explained it to communities. The state gets a number of things for their \$200 million contribution; 22 ft.per second of streamflow augmentation provide applied benefits in the Cheyenne and Red River and they get 40% CFS of industrial water. We have offered the communities, if they make a 25% contribution to the cost of that portion of 40% CFS; then they

can have a say so where that industrial water is used. So we are asking Fargo and Grand Forks to do that. The ones that are absolutely going to run out of water the state is providing the 20% subsidy at this point to what the incremental cost is to provide water to either West Fargo or the dam. When we do that same allocation of what incremental costs is to provide costs for Moorhead we give them no subsidy. So they are paying 100% of their incremental costs.

**Rep. Kim Koppelman:** In other words, you take a \$600 million dollars pie; you cut out \$200 million which you hope will be the federal participation, take the \$400 million that is left and divide it among those communities and then you say the state of ND is going to help the ND side communities by plugging in \$200 million from the state.

**Dave Koland:** We are asking some communities to wait until phase II of the project before they get a direct benefit for the availability of water and they get a higher subsidy; a higher portion of that \$200 million toward providing them water. We have looked at two places in Minnesota to get water: Lake of the Woods and the ground water supplies 30 miles east of Fargo, Moorhead area and a little south. The Lake of the Woods option it was a definite no. On the groundwater they were not very receptive from the local people since you would lower the ground level. When Dale Krimp and I meet with state of Minnesota officials. They had a long discussion and we explained what was going on and and someone asked; do we have a problem there? Everyone agreed Moorhead was especially having a problems and other official said do we have a solution and everyone said no. Then maybe we should let them solve the problem then. I would not see Minnesota participating.

**Rep. Kim Koppelman:** They will not let us tap their water; will they participate financially?

**Dave Koland:** We have not asked them to participate. In our view that will be a task for the Moorhead people.

Opposition: None

Hearing closed.

**Chairman Herbel** reopened the hearing on HB 1268. Job #1402

**Motion Made By Rep. Steve Zaiser Seconded by Rep. Louis Pinkerton**

**Discussion:**

**Rep. Nancy Johnson:** Checked wording.

**Vote: 12 Yes    0 No    2 Absent            Carrier: Rep. Steve Zaiser**

**Hearing closed**

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. HB 1268**

House Political Subdivisions Committee \_\_\_\_\_

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep. Steve Zaiser Seconded By Rep. Louis Pinkerton

Representatives	Yes	No	Representatives	Yes	No
Rep. Gil Herbel-Chairman	X		Rep. Kari Conrad	X	
Rep. Dwight Wrangham-V. Chair			Rep. Chris Griffin	X	
Rep. Donald Dietrich	X		Rep. Lee Kaldor	X	
Rep. Patrick Hatlestad	X		Rep. Louis Pinkerton	X	
Rep. Nancy Johnson	X		Rep. Steve Zaiser	X	
Rep. Lawrence Klemin	X				
Rep. Kim Koppelman	<i>absent</i>				
Rep. William Kretschmar	X				
Rep. Vonnie Pietsch	x				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Steve Zaiser

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

**REPORT OF STANDING COMMITTEE**

**HB 1268: Political Subdivisions Committee (Rep. Herbel, Chairman) recommends DO PASS (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1268 was placed on the Eleventh order on the calendar.**

2007 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1268

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1268**

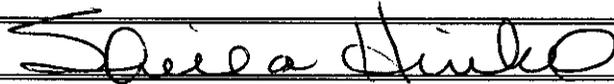
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **February 28, 2007**

Recorder Job Number: **4146**

Committee Clerk Signature



*Lake Agassiz – Water Authority:*

**Dave Koland – General Manager of Garrison Diversion Conservancy District - In Favor**

Secretary of the Lake Agassiz Water Authority.

Garrison Diversion is a political subdivision of the state created in 1955 to construct the Garrison Diversion unit of the Missouri River Basin Project as authorized by congress in Dec. of 1944. Amendments of 1986 and 2000 have changed Garrison Diversion from a million acre irrigation project into a multi-purpose project with an emphasis on development and delivery of rural water supplies. The Dakota Water resources act of 2000, an amendment to the 1986 act, authorizes 200 million dollars for the construction for the Red River Valley water supply project to meet the needs of the Red River Valley. The 2002 legislature created the Lake Agassiz water authority to oversee the delivery of water provided by the Red River Valley water supply project.

Attorney's have called attention to technical correction that needs to be made to the powers of Lake Agassiz. ND Century Code currently says that Lake Agassiz must operate any project that is financed by the Authority, when in fact, Garrison Diversion will build and operate the pipeline that will be the first phase of the project. Having the language on line 7 will make it clear that someone else may operate the pipeline.

**S Klein:** They're throwing the towel in on the New Rockford Canal? The Canal splits my county right down the middle.

**Dave K:** It is true for the time being. It is not functional now, nor will it be in the foreseeable future.

**S Klein:** Plan now is the pipeline.

**Dave K:** The current plan is the pipeline from N of McClusky Canal to Lake Ashtrebulah.

**S Behm:** Will this pipeline be gravity flow or will be pumped water?

**Dave K:** This will be gravity flow, once water is out of the treatment plant, it will go by gravity to Ashtrebulah.

**S Potter:** Voting in favor of this makes this more like that the Missouri River water will go to Fargo?

**Dave K:** Yes, it certainly helps that process.

**S Potter:** Then I'll be voting, "no."

**S Heitkamp:** By Fargo, he's meaning the chief economic engine of the state right now, where jobs are being created and we're a little short of water and with more we can pay a LOT more taxes in that committee. Is that what you assume?

**Dave K:** It is absolutely true, and given the opportunity, the economic impact of a draught in eastern ND is 2 billion dollars a year. The impact on 52% of the sales tax revenue of ND, is generated in the Red River Valley.

I know you're struggling with budget matters, 52% or 24%, or 3 or 400 million dollars a year, you will find out that's roughly the impact that will happen to ND if we have to go through a draught.

**S Heitkamp:** The ethanol plant that's been proposed in Casselton, is separate from the bill, but the city of Fargo is talking about taking affluent water back out to that. I know you've had to take a look at that. Are we THAT short in the valley that that is one of the issues to try to build a new ethanol plant there?

**Dave K:** Absolutely. The ground water in the valley is all appropriated at this point, so to have new industrial developments, send the people to western ND to build the ethanol plants while they're doing it. What the industry wants to do is locate where the crops are grown and that is the Red River Valley. For communities with not only industrial development, but for drinking water development, looking at waste water flow, that can be reprocessed and used by industry. Grand Forks depends on Fargo's return water flow, or GF is also in serious trouble.

**S Klein:** We've talked about the pipeline, is there a timetable already, or is this going to provide any water to Fargo any quicker than the canal did?

**Dave K:** If everything goes PERFECTLY, it would take 6 years to get out, no handy solution.

**S Heitkamp:** When the Minnesotans opposed bringing water from the Missouri, the Canadians opposed bringing water from the Missouri, and then we sat and looked at 7 or 8 of these plans, and we said, "you know what, maybe we can take water out of Lake of the Woods and bring it down to Fargo." The Minnesotans got on board with this and then the Canadians came along. The point is, there were 7 plans that were looked at before you came to the plan that you just described to the chair, were there not?

**Dave K:** Yes We looked at recycling water within the valley. Taking the water north of Grand Forks and running it back into Lake Ashtrebulah. Unfortunately It's not enough water during a period of draught. We looked at Lake of the Woods. They said, "over our dead body will you ever use Lake of the Woods water." Canada has had a different approach because they realize that if we don't solve this problem, there won't be water in the Red River. That's

important to Canada that there remain to be quality water in the Red River. We have arrived at what is a solution for treatable water that we take out of the Missouri Basin before we put it into the Red River Basin.

**S Klein:** We're just allowing Lake Agassiz to have additional authority?

**Dave K:** This project will be funded by the local users. They plan to use 200 million dollars in bonds by the local authority. The section of code deals with their bonding ability, and the restrictions they want on Lake Agassiz to make sure it gets built and operated in a manner that protects the investment of the local people. The bond attorney wrote this and made an error when reading the legislature and we need to change one word, from, "must operate," to "make certain" the pipeline is operated in a efficient way. That's a technical legal point. If they need to say that when they loan out that kind of money, I guess we need to.

**S Klein:** We hear attorney's today working on things.

**CLOSE**

**Motion for a DO PASS by S Heitkamp**

**Second by S Andrist**

**S Potter:** I think the flood in 1997 probably provided the Red River with all the water it needed if it would have captured some of it. This Missouri River water is the property of the Three Affiliated Tribes, they're the ones who have suffered through this. When THEY come in and say, "yes, send the water to Fargo," then I'll vote for it.

**Roll call on DO PASS ON HB 1268 – 5-1-1 Passed**

**Carrier: S Heitkamp**



**REPORT OF STANDING COMMITTEE**

**HB 1268: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (5 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1268 was placed on the Fourteenth order on the calendar.**

2007 TESTIMONY

HB 1268

#1

Testimony by Dave Koland, General Manager  
**Garrison Diversion Conservancy District**

To the

**House Political Subdivisions Committee Hearing on HB 1268**

Bismarck, North Dakota  
January 18, 2007

Mr. Chairman, members of the committee; my name is Dave Koland. I serve as the General Manager of Garrison Diversion Conservancy District. Garrison Diversion is a political subdivision of the state created in 1955 to construct the Garrison Diversion Unit of the Missouri River Basin Project as authorized by Congress on December 22, 1944. Amendments in 1986 and 2000 have changed Garrison Diversion from a million acre irrigation project into a multipurpose project with an emphasis on the development and delivery of municipal and rural water supplies. The Dakota Water Resources Act of 2000 (an amendment to the Garrison Diversion Reformulation Act of 1986) authorizes \$200 million for construction of the Red River Valley Water Supply Project to meet the needs of the Red River Valley.

The 2003 Legislature created the Lake Agassiz Water Authority to oversee the delivery of water provided by the Red River Valley Water Supply Project to their constituents and directed Garrison Diversion to provide administrative, technical, and legal support for the authority.

The bond attorneys have called our attention to a technical correction that needs to be made to the powers of LAWA. The ND Century Code currently says that LAWA must operate any project that is financed by the authority when in fact Garrison Diversion will build and operate the pipeline that will be the first phase of the project. Adding the language make certain will make it clear that someone else may operate the pipeline.

Mr. Chairman, members of the committee; this is a small but important piece of legislation that will enable this project to move forward.