

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

13992

2007 HOUSE POLITICAL SUBDIVISIONS

HB 1392

2007 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1392

House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: January 25, 2007

Recorder Job Number: 1877, 1947

Committee Clerk Signature



Minutes:

Chairman Herbel opened the hearing on HB 1392.

Representative D. Johnson explained the bill that the townships asked me to introduce. The bill would raise the fine to \$2000 from \$500.

Larry Syverson: (see testimony #1). In support of the bill.

Rep. Chris Griffin Is this one time fine or assessed a number of times.

Larry Syverson: I understand it is an annual assessment. I am referring to neighboring townships.

Larry Syverson: I do know a zoning ordinance only affects anything that is done after the enactment of the ordinance. You can not make a law against something that already exists and enforce it.

Rep. Nancy Johnson: Current law says the township has the authority to get the project cleaned up and if not put a lean on their property.

Larry Syverson: When you have 20-30 acres covered several feet deep it would cost tens of thousands of dollars to clean it up. It could be a monumental task for a township to take it on and fund it until they can get the money for it.

Rep. William Kretschmar In your township or county has there been an occasion where you have used this sanction and fined some land owner for violation of it?

Larry Syverson: Not in my township, but I know there are two townships in another county that has extensive problems with salvage yards. Exactly how they worked them I am not sure.

Barb Knutson: McKenzie ND township officer: (see testimony #2).

Chairman Herbel Do you have any areas that you know of that you have had to work with?

Barb Knutson: Not in our area, but do have one in Burleigh County that was a disaster for years and it kept changing hands so it was really hard to track. At \$500 they just ignored it.

Rep. Kari Conrad Is the fine large enough?

Barb Knutson: Actually I don't think it is large enough, depending on the situation.

Rep. Kim Koppelman Is this problem common in ND?

Barb Knutson: Yes, it is common. Sometimes it is something that has been left in small towns. It could be a junkyard.

Rep. Kim Koppelman Current law allows a township to go in and make improvements that need to be made an assess the property. Has that been done?

Barb Knutson: Not really; they don't have the money. It costs allot of money to clean up so that is part of the problem.

Rep. Nancy Johnson: Do you have some funds that you could charge the cost to and then reimburse that fund when you collect?

Barb Knutson: They might charge them once, but then not follow-up?

Rep. Pat Hatlestad: Was there any discussion in your December meeting that maybe your assessment goes up?

Barb Knutson: I don't remember that there was?

Rep. Kim Koppelman: Statues seem to deal with general health and safety and that kind of thing. Junk yards in the state could be considered a health and safety hazard.

Barb Knutson: Yes, they would be. The farmstead building could be considered one too.

Opposition: None

Hearing closed.

Chairman Herbel reopened HB 1392. Job #1947.

Chairman Herbel explained the bill.

Rep. Dwight Wrangham First how many times can they charge the \$500. Do they give them 30 days or what.

Chairman Herbel was asked and I believe they said once a year.

Rep. Kim Koppelman: That was the answer we got, but I am not sure that is correct. The statue does not have a time limit so I don't know why you could not do something more.

Rep. Dwight Wrangham would like to know the answer to that.

Chairman Herbel Larry, do you know if it is a one time assessment or what?

Larry Syverson: I believe that is the practice of once a year.

Chairman Herbel decided to hold the bill.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1392

House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 1, 2007

Recorder Job Number: 2605

Committee Clerk Signature



Minutes:

Chairman Herbel reopened the hearing on HB 1392. This would change the penalty for none compliance from \$500 to \$2000.

Rep. Dwight Wrangham introduced the amendment. (See amendment #1). Put language in there so the penalty can be reassessed each thirty days of noncompliance. The legislative counsel was not sure whether they could assess the penalty more than once a year. I don't know if the 30-days are something the committee wants to talk about?

Do Pass As Amended Motion Made by Rep. Kari Conrad Seconded By Rep. Steve Zaiser

Discussion:

Rep. Lawrence Klemin: Discussed the 30 day issue. After 30 days do they have to go through a hearing again? **Rep. Dwight Wrangham** Do you have an answer for that?

Rep. Chris Griffin My concern is if you build a garage or some sore of structure that violates this, would that put this person in a position of and what is significant progress?

Rep. Kim Koppelman The bill would increase the penalty four fold; maybe 30 days is too short. If we adopted the amendment of 90 days it would equal the same as the 30 days and it would give them more reasonable time.

Rep. Lee Kaldor: Is there a process if they are in non-compliance and how does that all work.

Worried about wording of significant progress?

Rep. Pat Hatlestad I am concerned about where the weather fits into this. What if I get a blizzard and the snow doesn't melt until April. I could have a pretty healthy bill by then.

Chairman Herbel said we need to try to make this amendment the best possible without making it a problem for the owner, but at the same time, we want the assessment to be such so that it will get something accomplished.

Rep. Kim Koppelman It does say building and structure into compliance so that would mean more than a junk yard. I would hope most officials would be reasonable.

Rep. Donald Dietrich \$2000 is substantial for property owners. I am going to resist the amendment because the amount could become excessive.

Rep. Steve Zaiser What is significant? Usually there is tension that exists between the government entity and the individual. I think they are not going to give too many people the benefit of a doubt. I am concerned about significant and I think that is allot of money also.

Allot of discussion on problems with enforcing this law and the wording of significant progress and the.

Rep. Kim Koppelman made a subsequent motion to amend the amendment to read as follows: with striking the words with significant progress in bringing so it would read if the property owner fails to bring the property into compliance, each thirty-day to ninety day and with those changes I move the motion.

Do Pass As Amended on Subsequent Motion Made By Rep. Kim Koppelman Seconded By Rep. Lee Kaldor

Vote: 5 Yes 6 No 3 Absent Failed

Action on original proposed amendment #2,

Do Pass As Amended Motion Made By Rep. Kari Conrad Seconded by Rep. Steve Zaiser

Motion failed by voice vote.

Do Not Pass on original bill.

Motion made By Rep. Kim Koppelman Seconded By Rep.Dwight Wrangham #3

Discussion:

Rep.Dwight Wrangham Maybe we should kill this bill since there are laws now in force where they could take care of this.

Rep. Lee Kaldor I think the testimony indicates they do need to leave the bill as is because this bill is a good tool if utilized properly.

Vote 5 Yes 6 No 3 Absent Failed

Do Pass Motion Made By Rep Griffin Seconded By Rep. Donald Dietrich (#4)

Discussion:

Rep.Dwight Wrangham I am going to oppose the do pass motion. So often we hear of a few instances where that happen and all the other people in that same box have to suffer. This gives the authorities more power in personal disputes and I think we are giving too big a penalty to those people.

Rep. Lawrence Klemin The way I look at it there is a maximum. It does say up to. Beings the county and township officers are elected to exercise their authority and we are just increasing the range.

Chairman Herbel I tend to agree with Rep. Lawrence Klemin and they do have discussion; the township officers so I am going to change my vote and support the bill.

Rep. Kim Koppelman I agree with Rep.Dwight Wrangham. I think we have allot of bills this session where I instance or two instances cause this bill and we change the law and this could have an affect on everyone. There are other things in the statues now without having more for

just a few bad apples. We can use the laws now in force. We found out it is not limited to a one time penalty. I am going to appose this bill.

Rep. Lee Kaldor: We need to be mindful of the second part of this bill Property owners can be charged a lien against the property. They do have a heavy lever now We do need to assume that our boards are elected officials and will do the right thing.

Rep. Steve Zaiser: I will support the bill because of 2.

Vote: 8 Yes 3 No 3 Absent Carrier: Rep. Lee Kaldor

Hearing closed.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1392

Page 1, line 10, remove the overstrike over "~~five hundred~~" and remove "two"

Page 1, line 11, remove "thousand" and after the period insert "If the property owner fails to demonstrate significant progress in bringing the property into compliance, each thirty-day period of noncompliance after the assessment of a civil penalty constitutes a separate violation subject to a civil penalty under this section."

Renumber accordingly

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1392**

House Political Subdivisions Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Subsequent Motion Do Pass As Amended

Motion Made By Rep. Kim Koppelman Seconded By Rep. Lee Kaldor

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

Total (Yes) 5 No 6

Absent 3

Floor Assignment _____

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

Failed..

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1392**

House Political Subdivisions Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Rep. Kari Conrad Seconded By Rep. Steve Zaiser

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

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Failed by voice vote

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1392**

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Rep. Kim Koppelman Seconded By Rep. Dwight Wrangham

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

Total (Yes) 5 No 6

Absent 3

Floor Assignment _____

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

Failed

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1392**

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Chris Griffin Seconded By Rep. Donald Dietrich

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

Total (Yes) 8 No 3

Absent 3

Floor Assignment Rep. Lee Kaldor

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

Failed

REPORT OF STANDING COMMITTEE

HB 1392: Political Subdivisions Committee (Rep. Herbel, Chairman) recommends DO PASS (8 YEAS, 3 NAYS, 3 ABSENT AND NOT VOTING). HB 1392 was placed on the Eleventh order on the calendar.

2007 SENATE POLITICAL SUBDIVISIONS

HB 1392

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1392

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: March 2, 2007

Recorder Job Number: 4285 and 4287 (Committee Work)

Committee Clerk Signature	<i>Shirley Borg</i>
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Minutes:

Chairman Cook called the Senate Political Subdivisions Committee to order. All members (5) present.

Chairman Cook opened the hearing on HB 1392 relating to the penalty for violation of zoning regulations in townships.

Representative D Johnson, District 15, Ramsey County and South half of Towner County, introduced and testified in support of HB 1392. This bill was introduced for the townships.

What the bill does is the zoned townships have had problems with the structures being built to close to the right away. The fine is so small there really is no incentive to follow the law and stay back on the set back. The purpose of this bill is to raise that fee to encourage them to build as the zoning says they should build.

Senator Warner: A one time probably wouldn't be as effective as a recurring fine.

Representative Johnson: It would probably get their attention.

Larry Syverson, Chairman of Roseville Township of Trail County, and Director of the ND Township Officers Association testified in support of HB 1392. (Attachment #1)

Senator Olafson: Does this cover all zoning regulations? Is the \$2000 going to be enough of an incentive to deal with some of those messes?

Larry: Yes it does. We worked on the approach of increasing a penalty. The house did not like that idea.

Chairman Cook: If you clean up the property, you can put the bill for cleaning it up on the property owner's property tax bill as an assessment. The property owner has five years to pay the bill or you own the property.

Larry Syverson: That is correct but one of our concerns is that the cost of clean up is probably in excess of the property. We would like to encourage the property owner to clean it up on their own.

John Walstad appeared to clarify HB 1392.

Chairman Cook : is it correct that we have organized, then organized townships that are zoned and then we have organized townships that are in a county.

John Walstad: If there is an organized township, that township would have the zoning control, not the county.

Chairman Cook: The board of supervisors right now in code may impose a civil penalty up to \$500 dollars against the property owner and the property in violation of these two sections.

What can the county do?

John Walstad: I will look that up and get back to the committee.

Chairman Cook: The other question I have is it says that the Board of Township Supervisors may also assess the property owner for all cost of the township in brings the property into compliance. Who is levying the assessment, is the county levying the assessment or is the township?

John Walstad: The township makes the levy according to the terms of this and it says it is done like property taxes. So they would certify the amount to the county auditor who in turn certifies it to the treasurer and it goes on as a tax obligation against that property and if it is not

paid it then goes on to the list of the property on which there are delinquent unpaid taxes if it remains unpaid and it gets to that point a tax deed goes to the county. It would be handled just like a tax payment. This would have to be paid in one year.

No further testimony in support or opposed to HB 1392.

Chairman Cook closed the hearing on HB 1392.

3-2-07 HB 1392 Job # 5 Recording 4287 Committee Work

John Walstad appeared to explain townships.

An organized township can surrender its zoning authority to the county.

Counties do not have a civil penalty for townships. They enforce their zoning regulations through court actions by injunction. Violation of county zoning regulations is a Class B misdemeanor, which is a fairly substantial offence.

Senator Anderson: Once that fine is levied there is nothing you can do. If the problem is not cleaned up within a year, is there any way another fine could be levied.

John: The statute is not clear on that but I do not see why not.

Senator Olafson: Couldn't we add an amendment to it that the penalty could be added every year until it is cleaned up or remedied.

Larry Syverson: When the township is at this point they are working in conjunction with the States Attorney as much as they will help them. In most cases it seems to be applied annually. In talking with my attorney he is of the opinion that we could impose it as often as we want to. There is a difference in opinions.

John Walstad: I think there is a legal problem as the statute is not clear. So what is the time period?

Chairman Cook closed the discussion on HB 1392 and asked Senator Olafson and Senator Anderson to look into some amendments.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1392

Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: **March 22, 2007 (Action)**

Recorder Job Number: **5441**

Committee Clerk Signature

Shirley Borg

Minutes:

Chairman Cook called the Senate Political Subdivision committee to order. All members (5) present.

Chairman Cook asked the committee to go to HB 1392. This bill allows the board of township supervisors to impose a penalty of up to two thousand dollar instead of five hundred.

Senator Hacker: I recall us talking about possibly putting in annually impose a penalty up to two thousand dollars.

Senator Warner: I do like the idea.

Senator Hacker moved an amendment to add the word annually after may on line 10.

Senator Warner seconded the motion.

Voice Vote: All members in favor Yes 5 No 0 Absent 0

Discussion:

Senator Hacker moved a Do Pass as Amended.

Senator Warner seconded the motion.

Roll call vote: Yes 5 No 0 Absent 0

Carrier: **Senator Hacker**

Date: 3-22-07
Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1392

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Senator Hacker Seconded By Senator Warner

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X		Senator Arden C. Anderson	X	
Senator Curtis Olafson, ViceChair	X		Senator John M. Warner	X	
Senator Nicholas P. Hacker	X				

Total Yes 5 No 0

Absent 0

Floor Assignment Senator Hacker

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

REPORT OF STANDING COMMITTEE (410)
March 22, 2007 12:52 p.m.

Module No: SR-54-5896
Carrier: Hacker
Insert LC: 70632.0102 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1392: Political Subdivisions Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1392 was placed on the Sixth order on the calendar.

Page 1, line 11, after "dollars" insert "annually"

Renumber accordingly

2007 TESTIMONY

HB 1392

#1

In support of HB 1392

Good morning Chairman Herbel and members of the Political Subdivisions Committee.

I am Larry Syverson a farmer from Mayville; I am the Chairman and Zoning Administrator of Roseville Township of Traill County. I am also a District Director of the North Dakota Township Officers Association. NDTOA represents the six thousand township officers that serve our eleven hundred dues paying member townships.

At the county meetings of our association, I often hear about ongoing efforts to get junk or salvage yards cleaned up. Some of these salvage yards are no longer in operation but the mess remains, an eyesore by any community standard.

When the property owner will not comply with lawful orders to clean up his property and all other means fail to get results a fine is levied, currently a maximum of \$500.

Faced with a choice of cleaning up a mountain of junk on many acres of land or paying a \$500 fine quite often the property owner feels it is less expensive to pay the fine.

The membership of NDTOA hopes that increasing the penalty to \$2000 will convince such violators to comply with the zoning regulations and the membership passed a resolution at our December convention asking that this legislation be initiated. Therefore Chairman Herbel and Committee Members, I ask you to give HB1392 a do pass recommendation.

That concludes my prepared testimony now I will try to answer your questions.

2

Testimony on HB1392 House Political Subdivisions Committee

My name is Barb Knutson, from McKenzie North Dakota and I am a township officer in my township and serve as a NDTOA State Director from District # 5 and State Treasurer for the North Dakota Township Officers Association. I have come here this morning to support the passage of HB1392 which will increase zoning penalties for violation of township zoning ordinances from \$500 per violation to \$2000. I was present at the annual meeting when this resolution was passed by our membership to become our policy. I now ask you for your affirmative vote on HB1392 Which should help detour potential violators of our zoning regulations.

In support of HB 1392

Good morning Chairman Cook and members of the Political Subdivisions Committee.

I am Larry Syverson a farmer from Mayville; I am the Chairman of Roseville Township of Traill County. I am also a District Director of the North Dakota Township Officers Association. NDTOA represents the six thousand township officers that serve our eleven hundred forty one dues paying member townships.

At the county meetings of our association, I often hear about ongoing efforts to get junk or salvage yards cleaned up. Some of these salvage yards are no longer in operation but the mess remains, an eyesore by any community standard.

When the property owner will not comply with lawful orders to clean up his property and all other means fail to get results a fine may be levied, currently a maximum of \$500. Faced with a choice of cleaning up a mountain of junk on many acres of land or paying a \$500 fine quite often the property owner feels it is less expensive to pay the fine.

In some cases there are violations of set back regulations such as structures being placed too close to roads resulting in maintenance problems such as snow accumulation. Other setbacks requirements serve to separate conflicting uses such as feedlots next to residences, schools or churches.

The membership of NDTOA hopes that increasing the penalty to \$2000 will convince such violators to comply with the zoning regulations and the membership passed a resolution at our December convention asking that this legislation be initiated. Therefore Chairman Cook and Committee Members, I ask you to give HB1392 a do pass recommendation.

That concludes my prepared testimony; I will try to answer your questions.