

2009 HOUSE POLITICAL SUBDIVISIONS

HB 1338

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1338

House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 5, 2009

Recorder Job Number: 8755 , 8756, 8876

Committee Clerk Signature



Minutes:

Chairman Wrangham opened the hearing on HB 1338.

Rep. Glasheim: This bill has come out of 15 years of personal experience of being involved in the land fill sites process. (handed out proposed amendment #1). The bill is trying to resolve problems we have with landfills. The conflict comes out of federal stations many years ago subtitle B would put useful and needed, but very stringent requirements on landfills in order to take care of environmental problems. Many small landfills which had existing in ND have closed because they cannot afford to live up to the requirements of Federal Sub Title B. Essentially we have evolved mostly into regional landfills that are operated by larger cities and 5% penalties for solid waste. They rely on to process solid waste. Explained how now the landfills are in the middle of cities due to growth. No one wants a landfill next to them and you have to have a landfill to process solid waste. In the process of trying to get a landfill sited you have a situation where a township of 100 people can prevent it through zoning can prevent the landfill for a 100,000 people. I feel sorry for smaller entities, but a landfill has to go somewhere and it is more reasonable to have it somewhere out in the country. This bill is an attempt to set up a neutral board which would review applications for sighting a landfill for purposes of zoning. Went through the amendment and the bill and explained it.

Rep. Klemin: I don't understand the reason for two public hearings?

Rep. Glassheim: I think it is more of a guarantee that all local concerns are recognized.

Rep. Klemin: We had one hearing and 14 days later you do it all over again?

Rep. Glassheim: At least 15 days between them. It could be a month or two months. It takes people time if they want to consult a lawyer. We want to give them as much time as possible to make sure their views and concerns are heard.

Rep. Jerry Kelsh: If those multiple subdivisions have a zoning; will this override that? Would they determine the compensation to the people that were going to lose the land, how would that all work?

Rep. Glassheim: Yes it would give exclusive jurisdiction to the state for the purpose of sitting landfills. In terms of the actual land used there is no eminent domain here so the applicant would have to purchase land from a willing seller. People are concerned that their land would lose value around a landfill. I have read that in fact it does not, but it is a fear people have.

Rep. Conrad: I don't see the criteria for what is a good site. The Health Department would make the determination on what is a good site.

Rep. Glassheim: They do have pre screening criteria for what is an accepted site. Clearly if it is on a flood plain then they can't do that.

Rep. Conrad: Who would bring the issues to the board; would it be the company that would be putting in the landfill?

Rep. Glassheim: This is only for municipalities to apply. Private companies would not be covered in this. The city would bring the request to the state zoning board.

Rep. Conrad: for a private company does the local zoning process work?

Rep. Glassheim: The private company pertains to local zoning process.

Rep. Kretschmar: Is Grand Forks legal to negotiate with some land owners?

Rep. Glassheim: I think they would negotiate with political subdivisions. For the time being we have zoning privileges in extra territorial territory. I am not so sure this is for Grand Forks. I think Grand Forks is in process of getting theirs. It is more of a method to solve problems that will come up again.

Rep. Koppelman: On line 15 you begin and say no withstanding a home rule charter. That is pretty absolute power. Is the state in the zoning business in any other fashion right now?

Rep. Glassheim: I don't know. We need the city to resolve this issue. You could create regional landfills so that counties would own the land, but I think that would be difficult to manage. Another expense of the landfills; the cities have 80 years with the liability. Thirty years after the closing the city is still responsible for anything that goes wrong. So this is a very expensive operation. This does give exclusive jurisdiction. I could not think of any other way to do it besides giving some body the ability to do something.

Rep. Koppelman: The court did away with sovereign immunity awhile back in ND. Someone brought up the liability issue. You brought up the issue of value and what a landfill does to that. Now I think you could sue the state over sovereign immunity?

Rep. Glassheim: It seems to me a private operator would be more liable to sue on those things. There is a possibility, but if they accept the conditions of the zoning permit and someone said it isn't fair.

Rep. Zaiser: I like your concept; it is very much needed. The logistics don't seem to work out. This is a super board with a huge amount of authority. They are lacking the ability to purchase property. What good is this if they cannot get good property that meets the requirements?

Rep. Glassheim: I did not want to give them eminent domain.

Rep. Jerry Kelsh: You have been talking about eminent domain. Does the city of Grand Forks, Fargo or anyone have power in these situations? Would it be implied under this bill? There would have to be a good price paid for the property; can eminent domain work?

Rep. Glassheim: It doesn't specifically. Right now they have no eminent domain power outside their jurisdiction which is within the city limits. You could take land for land. I don't believe this would give them that power. If it needed to be amended so they don't have it I would certainly be for that.

Chairman Wrangham: Rep. Conrad brought up a good point. Apparently private landfills don't have this problem. Have you considered just making landfills private?

Rep. Glassheim: No I have not considered that.

Connie Sprynczynatky: We have some public works directors here from Minot, Bismarck, Dickinson and Grand Forks that have information on how they work. We were not sure whether to testify pro con or neutral. Discussed landfill history and how they are so hard to manage properly. This is a very complicated issue. I think you will hear some support for Rep. Glassheim has but I am going to suggest you do a study over the interim.

Scott Radig, Division of Waste Management for the ND Dept. of Health: (see testimony #2).

Allen Walter, Director of Public Works, City of Minot: this concept has already been used. In 1992 when we started fighting a large landfill the city had meeting with people to discuss the use of our landfill. They were opposed to where our landfill was going to be located. It was 500' from the edge of the valley of the Souris River and the questions was what are you going to do in 100,000 years when they want it back? If I would have been thinking I would have said the city of Minot will take care of it. When we site our landfill are they going to be telling

us that our landfill is going to be 50-60 miles away? That would be a major concern for cities because of the costs involved.

Rep. Conrad: What are the criteria for landfills?

Allen Walter: There should be some words in here that says there is not an exclusive right that landfill. It should be that they have to work with the city or entity.

Rep. Corey Mock: doesn't the application take care of that?

Allen Walter: With that site for the city of Minot we got all kinds of opposition and this board says no there is no opposition and we are going to site it. If they have exclusive jurisdiction so if they cannot find another site, whether it is 50-100 miles away. That would be a concern.

Rep. Klemin: If I read the bill the applicant would have a location in mind and come to this board to get zoned so they could put it there.

Allen Walter: I think the way it is written it gives them exclusive jurisdiction and that is why it needs a little more studying.

Ken Kussy, Public Works Janitor in the city of Dickinson: We support the concept here. I think for as complicated of an issue that it is maybe it needs additional work. I can speak for all the public works people that one of our biggest concerns is the ability to site new landfills. We have seen the \$1000's of dollars that can be spent just to site the landfills.

Rep. Zaiser: Do you think a study would help?

Ken Kussy: I could certainly support that concept. This will affect the whole state and so I need there are a lot of issues that need to be discussed.

Jeff Hentz, Public Works Director, Bismarck, ND: I support the concept, but I think it could use further study. Concerned about landfill volume and the length of time that is remaining with a lot of landfills in the state. We need to understand that we need to be able to have the

ability to keep using landfills since the waste will not go away. Landfill operation has changed so much recently and this bill needs further study.

Curt Kreum: City Council of the City of Grand Forks: (see testimony #3). We think it would be good to study the intent.

Chairman Wrangham: I am considering a study resolution.

Rep. Jerry Kelsh: What does a landfill do to a county? Is it taxable or what?

Curt Kreum: If it is owned by the city we do not have to pay the tax on it. We have offered to pay those taxes; payment in lieu of taxes. We made that offer and we were in agreement with that particular township at their meeting. Their bylaws say anyone can make a motion off the floor. There was a motion made by the group that they could no longer negotiate with us so we have not completed it. We are going to pay for those; we are still going to make sure there is a communication and have a regular meeting between the township and the city so the concerns and problems can be brought up regularly. Even if they do not want it.

No Opposition.

Neutral:

Larry Siverson: We like the last amendment and we like the home rule policy. We don't like the absolute power part of this bill.

Rep. Zaiser: what about the acquisition of property. If they have found a location where the landfill can be but the property owner will not sell unless they get a lot of money. What alternatives do they have?

Larry Siverson: we would have to look elsewhere.

Hearing closed.

Hearing closed.

Job #8756

Chairman Wrangham reopened the hearing on HB 1338.

Rep. Koppelman: discussed a proposed amendment to turn this into a study.

Motion Made on Amendment by Rep. Koppelman: Seconded by Rep. Pietsch

Chairman Wrangham: so we are amending to turn this into a study resolution.

Rep. Klemin: I do not want to act until I see the amendment.

Rep. Koppelman withdrew the amendment.

Job 8876

Chairman Wrangham: reopened the hearing on HB 1338.

Rep. Koppelman: (presented his amendment).

Rep. Corey Mock: Does this include any kind of waste production?

Rep. Koppelman: I don't think the committee said that and the bill doesn't say that and I don't think the committee would be precluded for putting that in their deliberation.

Motion Made By Rep. Koppelman to accept .0103. Seconded By Rep. Pietsch

Voice vote carried.

Do Pass Motion Made By Rep. Hatlestad: Seconded By Rep. Headland:

Vote: 12 Yes 0 No 1 Absent Carrier: Rep. Corey Mock

Hearing closed.

FISCAL NOTE
Requested by Legislative Council
02/09/2009

Amendment to: HB 1338

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1338 provides for a Legislative Council study of solid waste management with an emphasis on the siting and zoning of landfills.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

There is no fiscal impact relating to this bill.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Allen H. Knudson	Agency:	Legislative Council
Phone Number:	328-2916	Date Prepared:	02/09/2009

FISCAL NOTE
Requested by Legislative Council
01/13/2009

Bill/Resolution No.: HB 1338

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$348,000		\$348,000	
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1338 would establish a landfill siting board with membership from the State Health Department (2 positions), state engineer and state geologist. The board would review relevant information, conduct 2 public hearings and make a decision on the appropriate location for a landfill.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill does not differentiate between the different types of landfills and therefore is assumed to include private, public municipal waste landfills; inert landfills and industrial landfills.

Section 2 which would require participation on a landfill siting board would have the greatest fiscal impact. Technical review, data collection and review-response to public comments would require significant time for each of the involved agencies. Assume 1 month salary per landfill site application, legal representation up to \$5,000; and up to 3 landfill applications per year (6 per biennium) if all landfill types are included. The actual number of permits may be more or less depending upon the year.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

We assumed the following in preparing this fiscal note:

Assume:

\$9,500 per agency employee (4) per landfill application (9,500 x 4 x 6 = 228,000)

\$5,000 legal fees per agency (3) per landfill application (5,000 x 3 x 6 = 90,000)

Non state member compensation and travel expenses for all members (30,000)

3 landfill applications per year

3 agencies, 4 state agency employees involved.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Would require additional general funds to address increased work load, unknown if additional FTE's would be required due to the uncertain nature of the number of landfill applications to be addressed.

Name:	Kathy J. Albin	Agency:	Health Department
Phone Number:	328.4542	Date Prepared:	01/29/2009

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1338

- Page 1, line 2, replace "siting" with "zoning"
- Page 1, line 8, after "subdivision" insert "or a privately owned and for-profit facility"
- Page 1, line 14, replace "siting" with "zoning"
- Page 1, line 17, replace the first "siting" with "zoning", after "has" insert "the", after "jurisdiction" insert "of the political subdivision that would otherwise have jurisdiction", and replace the second "siting" with "zoning"
- Page 1, line 19, after "subdivision" insert "or is a privately owned and for-profit facility. The department maintains all other jurisdiction over the siting of a landfill as provided under this chapter"
- Page 1, line 20, replace "siting" with "zoning"
- Page 1, line 21, replace "The state health officer" with "An employee or commissioner with expertise in land reclamation appointed by the public service commission"
- Page 2, line 9, replace "state health officer" with "director of the environmental health section of the state department of health"
- Page 2, line 14, after "exclusive" insert "zoning"
- Page 2, line 15, replace "siting" with "zoning" and after the underscored period insert "A zoning permit is required before the department may issue a permit for construction of the landfill."
- Page 2, line 21, replace "the application" with "a recommendation that the site is suitable based upon the preconstruction site review" and remove "the site is"
- Page 2, line 22, remove "compatible for the siting of a landfill," and remove the second underscored comma
- Page 2, line 23, after "measures" insert "in the form of conditions on the zoning permit"
- Page 2, line 24, remove "in addressing compatibility, the board shall consider scientific evidence of"
- Page 2, remove line 25
- Page 2, line 26, remove "address those concerns."
- Page 2, after line 31, insert:
- "8. A zoning permit terminates within two years of the permit's issuance if the department has not issued a permit to allow construction of the landfill."

Renumber accordingly

VR
2/6/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1338

Page 1, line 1, after "A BILL" replace the remainder of the bill with "to provide for a legislative council study of solid waste management, with an emphasis on the siting and zoning of landfills on a statewide or regional level while allowing adequate protection for political subdivisions and property owners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY OF SOLID WASTE MANAGEMENT. During the 2009-10 interim, the legislative council shall consider studying solid waste management, with an emphasis on the siting and zoning of landfills on a statewide or regional level while allowing adequate protection for political subdivisions and property owners in the siting and zoning process. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1338 HB

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Koppelman Seconded By Rep. Kelsh

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman			Rep. Kari Conrad		
Rep. Craig Headland, Vice Chairman			Rep. Jerry Kelsh		
Rep. Patrick Hatlestad			Rep. Robert Kilichowski		
Rep. Nancy Johnson			Rep. Corey Mock		
Rep. Lawrence Klemin			Rep. Steve Zaiser		
Rep. Kim Koppelman					
Rep. William Kretschmar					
Rep. Vonnie Pietsch					

Total (Yes) _____ No _____

Absent _____

Carrier: _____

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

Job # 10 voting
Study Resolution
→ withdrawn
2/5/09 #2

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO.**

House Political Subdivisions Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Koppelman Seconded By Rep. Pietsch

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman			Rep. Kari Conrad		
Rep. Craig Headland, Vice Chairman			Rep. Jerry Kelsh		
Rep. Patrick Hatlestad			Rep. Robert Kilichowski		
Rep. Nancy Johnson			Rep. Corey Mock		
Rep. Lawrence Klemin			Rep. Steve Zaiser		
Rep. Kim Koppelman					
Rep. William Kretschmar					
Rep. Vonnie Pietsch					

Total (Yes) _____ No _____

Absent _____

Carrier: _____

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

*voice
 vote
 carried*

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1338

House Political Subdivisions Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Hatlestad Seconded By Rep. Headland

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman	✓		Rep. Kari Conrad	✓	
Rep. Craig Headland, Vice Chairman	✓		Rep. Jerry Kelsh	✓	
Rep. Patrick Hatlestad	✓		Rep. Robert Kilichowski	✓	
Rep. Nancy Johnson	✓		Rep. Corey Mock	✓	
Rep. Lawrence Klemin	✓		Rep. Steve Zaiser	○	
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 12 No 0

Absent 1

Carrier: Rep Mock

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

REPORT OF STANDING COMMITTEE

HB 1338: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1338 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "to provide for a legislative council study of solid waste management, with an emphasis on the siting and zoning of landfills on a statewide or regional level while allowing adequate protection for political subdivisions and property owners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY OF SOLID WASTE MANAGEMENT. During the 2009-10 interim, the legislative council shall consider studying solid waste management, with an emphasis on the siting and zoning of landfills on a statewide or regional level while allowing adequate protection for political subdivisions and property owners in the siting and zoning process. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

2009 HOUSE APPROPRIATIONS

HB 1338

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1338

House Appropriations Committee

Check here for Conference Committee

Hearing Date: February 11, 2009

Recorder Job Number: 9239

Committee Clerk Signature



Minutes:

Chairman Svedjan: The next bill we have up is HB 1338. This one comes to us from Rep. Wrangham's committee.

Rep. Wrangham: District 4. HB 1338 was engrossed and turned into a study.

Chairman Svedjan: What you are saying is there is no reason for this bill to be here any longer.

Rep. Wrangham: That would be my assumption.

Chairman Svedjan: It came out of your committee with a "do pass"?

Rep. Wrangham: "Do pass". 12-0. As amended and it calls for a study.

Chairman Svedjan: So there are no financial implications on this bill any longer?

Rep. Wrangham: None.

Chairman Svedjan: What are your wishes? It has been sent down here so we need to act on it.

Rep. Glassheim: I move a "do pass as amended".

Rep. Kaldor: Second.

Rep. Berg: There is no fiscal impact, right? Why don't we just not act on it and send it back to.

Chairman Svedjan: We can just motion it back, can we not?

Rep Berg: I think so. It gets confusing on the calendar.

Chairman Svedjan: I need clarification on that because I just don't know for sure.

Rep. Kaldor: Would it be appropriate if a motion was made on the floor to reconsider our floor action whereby we rereferred it to appropriations and brought it back to the eleventh order?

Chairman Svedjan: Or could we not just motion it here to send it back to the floor?

Rep. Berg: Was this bill amended on the floor in the sixth order?

Chairman Svedjan: The committee amended it. Rep. Wrangham, you can take the podium. It was amended in your committee so the amendment was adopted on the sixth order and rereferred down here.

Rep. Wrangham: I am not sure, Mr. Chairman. I assume it was.

Chairman Svedjan: I think it was and I think it was mistakenly.

Rep. Glassheim: I would say if it was a mistake, we should not take any action on it. Either

Rep. Vigesaa can rerefer it; it would go back on the eleventh order then I think. My advice would be to not act on it. I withdraw my motion.

Chairman Svedjan: Withdraw the second. So that is what I will do. I will speak to the assistant leader on this bill and we will take no action.

Date: 2/11/09
 Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1338

Full House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass as Amended

Motion Made By Glassheim Seconded By Kaldor

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Rep. Skarphol			Rep. Kroeber		
Rep. Wald			Rep. Onstad		
Rep. Hawken			Rep. Williams		
Rep. Klein					
Rep. Martinson					
Rep. Delzer			Rep. Glassheim		
Rep. Thoreson			Rep. Kaldor		
Rep. Berg			Rep. Meyer		
Rep. Dosch					
Rep. Pollert			Rep. Ekstrom		
Rep. Bellew			Rep. Kerzman		
Rep. Kreidt			Rep. Metcalf		
Rep. Nelson					
Rep. Wieland					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Withdrawn RR to Pol. Subs.

2009 SENATE POLITICAL SUBDIVISIONS

HB 1338

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1338

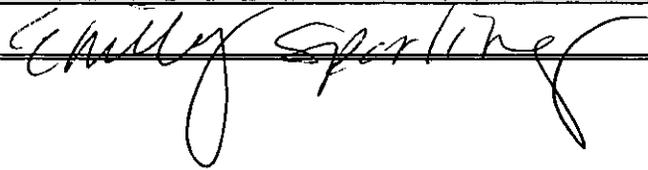
Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: 03/06/2009

Recorder Job Number: 10370

Committee Clerk Signature



Minutes:

Chairman Andrist Opened the hearing on HB 1338

Representative Eliot Glassheim District #18. Introduced HB 1338. The bill has changed to a study resolution on how to site public landfills. Gave a bit of the history of the bill. He supports the bill and suggests that the language be changed from "shall consider" to "shall study."

Chairman Andrist We have heard a lot about this issue in this committee already.

Glassheim This bill will not really affect Grand Forks but may have serious implications for Fargo and Dickenson.

Senator Lee Would you be amendable to studying new trash technologies that might help save some landfills from needing to be sited?

Glassheim We are interested in those technologies but at the end of the day we still need a landfill. I have no objection to studying this but we do need a landfill now.

Discussion about siting methods and new technologies

Larry Syversan NDTOA and farmer. Spoke in support of 1338. I think that a study would be beneficial by taking the politics and emotions out of the bill. I did like some of the language in the original bill in regards to imminent domain. Spoke about his original objections to the bill.

Chairman Andrist Closed the hearing on HB 1338

Chairman Andrist I think the best thing to do would be to add a sentence such as "The study may also include incorporation of information dealing with new solid waste sciences that affect the overall issue of siting."

Senator Lee I think that is perfect and I also think we should consider changing "shall consider" to "shall study." I move the amendment of those two changes.

Senator Olafson Second

Senator Dotzenrod We are working on a deadline, so this is an important study to pass.

The Clerk called the role on the motion to move the amendments. **Yes: 6, No: 0, Absent: 0.**

Senator Lee I move **Do Pass as Amended.**

Senator Olafson Second.

The Clerk called the role on the motion to **Do Pass as Amended. Yes: 6, No: 0, Absent: 0.**

Senator Lee will carry the bill.

90334.0201
Title.0300

Adopted by the Political Subdivisions
Committee

March 6, 2009

93
3-6-9

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1338

Page 1, line 6, replace "consider studying" with "study"

Page 1, line 9, after the period insert "The study also may include the incorporation of
information dealing with new solid waste sciences that affect the overall issue of siting."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1338, as engrossed: Political Subdivisions Committee (Sen. Andrist, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1338
was placed on the Sixth order on the calendar.

Page 1, line 6, replace "consider studying" with "study"

Page 1, line 9, after the period insert "The study also may include the incorporation of
information dealing with new solid waste sciences that affect the overall issue of siting."

Renumber accordingly

2009 HOUSE POLITICAL SUBDIVISIONS

CONFERENCE COMMITTEE

HB 1338

2009 HOUSE STANDING COMMITTEE MINUTES

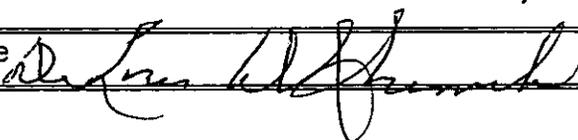
Bill No. HB 1338

House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: April 16, 2009

Recorder Job Number: 11902

Committee Clerk Signature 

Minutes:

Chairman Hatelstad opened the conference committee hearing on 1338.

Roll call was taken and all were present: Rep. Hatelstad, Rep. Koppelman, Rep. Kilichowski, Sen. Judy Lee, Sen. John Andrist, and Sen. Arden Anderson.

Chairman Hatelstad: The issue facing us today is the Senate amendment to HB 1338 and I would like to use a four step process if I may. I would ask the Senate to list the amendments that they have made to the House bill their reasons for the change and then if there are any questions that the House members may have relative to the statements of the Senate and then the discussion and then a resolution or scheduling new amendments if needed.

Senator Lee: I would like to draw your attention to HB 2417 which is similar and is a bill to consider studying waste management that has already been passed by both houses and that is a bill and she read the wording " the feasibility and viability of the state in facilitation the reduction in landfill waste in ND and to encourage coordination of public and private recycling programs and investigate potential for the development of processing of landfills for all generations. I think the two of these go together for two reasons. We are all aware of the

sighting issues with the landfill in Grand Forks and all those challenges we had with property rights and yet we need to look at needs. There are other ways to handle solid waste besides

landfills so the reason we look at including the information about new solid waste scientists that affect the overall issue of sightings is that it might be good for us as legislatures to become familiar not just with where we are going to put our junk, but what else we can do with our junk besides bury it. There are things that are practical and we need to make it possible to get better informed and help in this program.

Sen. Andrist: We are getting fewer and fewer landfills and bigger ones and it has become a real issue. I think this study should be mandated.

Rep. Koppelman: Was the other study you referred to mandatory?

Sen. Lee: I would hope we incorporate both of those into one, but it is too late to do anything about 2417 because it has already passed both houses.

Rep. Koppelman: I noticed the language is permissive; it does say may also include. The major change was the mandatory versus optional study question. Council doesn't like mandates in bill form because then the council has to do that. I assume the Senate changed it that way is that you feel it is critical enough that we must study.

Senator Lee: yes that is exactly right. Grand Forks had such an issue and Fargo is filling up and we have concerned there. There is nothing more important than figuring out what we are going to do with this issue. I don't think it is an option.

Sen. Anderson: I recall we did talk a little bit about if you don't require the study too often it is put on the back burner because of all of these. For health reasons this is really important so as far as the sighting of it we thought it should be mandatory.

Rep. Kilichowski: Even if you mandate it with a shall it does not mean that the legislative council had to pick it.

Rep. Koppelman: We did get a reading on it from the Legislative Council and my understanding is that if a bill says shall it is shall so it becomes law so it must happen. If it is a resolution and it says shall the Council can still decide not to do it.

Chairman Hatelstad: Is there a way we can amend this to include that 2417 be included the study? The procedure then is the Senate would have to recede from its amendments and then we amend the bill with everything back in including this?

Rep. Koppelman: I think maybe the shall is warranted here in view of the fact this other piece of legislation is already passed with a may I think some language that would indicate that maybe at the end of this statement on line 9, the study may include; at the end of the word sighting on line 10 we could just add language and the provisions of engrossed Senate bill 2417 and that way they look at this in the shall they also trigger a look at that.

Rep. Koppelman moved that the Senate recede from its amendments and that the conference committee further amend with the language of engrossed SB 2417;

Seconded by Rep. Kilichowski.

Vote 6 Yes 0 No 0 Absent Carrier: Rep. Hatelstad

Hearing closed.

VR
4/16/09

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1338

That the Senate recede from its amendments as printed on page 957 of the House Journal and page 739 of the Senate Journal and that Engrossed House Bill No. 1338 be amended as follows:

Page 1, line 6, replace "consider studying" with "study"

Page 1, line 9, after the period insert "The study also may include the incorporation of information dealing with new solid waste sciences that affect the overall issue of siting, the reduction of landfill waste in North Dakota through the encouragement and coordination of public and private recycling programs, and the potential for development of methane processing from landfills for power generation."

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1338 (, as (re)engrossed):

Date: 4-16-09

Your Conference Committee Pol. Subs

For the Senate:

For the House:

YES / NO			YES / NO		
<u>Sen. J. Lee</u> ✓	✓		<u>Chair Hatelstad</u> ✓	✓	
<u>Sen. Andrist</u> ✓	✓		<u>Rep. Koppelman</u> ✓	✓	
<u>Sen. R. Anderson</u> ✓	✓		<u>Rep. Kilibowski</u> ✓	✓	

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) _____ - _____

_____, and place _____ on the Seventh order.

, adopt (further) amendments as follows, and place _____ on the Seventh order:

_____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: 4-16-09

CARRIER: Rep Hatelstad

LC NO. _____	of amendment _____
LC NO. _____	of engrossment _____
Emergency clause added or deleted _____	
Statement of purpose of amendment _____	

MOTION MADE BY: Rep Koppelman

SECONDED BY: Rep. Kilibowski

VOTE COUNT 6 YES 0 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1338, as engrossed: Your conference committee (Sens. J. Lee, Andrist, Anderson and Reps. Hatlestad, Koppelman, Kilichowski) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 957, adopt amendments as follows, and place HB 1338 on the Seventh order:

That the Senate recede from its amendments as printed on page 957 of the House Journal and page 739 of the Senate Journal and that Engrossed House Bill No. 1338 be amended as follows:

Page 1, line 6, replace "consider studying" with "study"

Page 1, line 9, after the period insert "The study also may include the incorporation of information dealing with new solid waste sciences that affect the overall issue of siting, the reduction of landfill waste in North Dakota through the encouragement and coordination of public and private recycling programs, and the potential for development of methane processing from landfills for power generation."

Renumber accordingly

Engrossed HB 1338 was placed on the Seventh order of business on the calendar.

2009 TESTIMONY

HB 1338

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Testimony
House Bill 1338
House Political Subdivision Committee
February 5, 2009; 8:15 a.m.
North Dakota Department of Health

Good morning, Chairman Wrangham and members of the Political Subdivision Committee. My name is Scott Radig, and I am director of the Division of Waste Management for the North Dakota Department of Health. I am here today to provide information about House Bill 1338.

The current system of waste management in North Dakota evolved from a statewide planning effort by communities, counties and businesses in the early 1990s. At one point in time, many communities operated and maintained dump grounds for their citizens and surrounding neighbors. However, due to the complexity of designing, operating, monitoring and closing landfills in an environmentally protective manner, the state actively evaluated and reduced the number of landfills from a high of 111 permitted municipal solid waste landfills in the 1980s to the current number of 13 regional or multicounty landfills. That will drop to 12 facilities when the Grand Forks landfill closes this summer. The last new regional landfill to be successfully sited was 20 years ago, in 1989.

Today's municipal solid waste landfill is a highly technical facility serving not just a single city but usually several counties and, in some cases, counties of adjacent states. Some communities haul their trash more than 100 miles. Longer hauling distances increase costs, which can be a detriment to economic development and can lead to increased illegal dumping. These landfills are needed to ensure the protection of public health and the environment in the state of North Dakota.

Siting municipal solid waste landfills can be difficult. In addition, communities and counties experience problems in locating smaller inert waste landfills for management of demolition waste from dangerous buildings, debris from disasters and emergencies, and waste materials from economic activities and development.

Landfills, in some form or another, are and will continue to be a necessity in our society. Even with innovative recycling or energy conversion methods, there always will be something left over that cannot be used beneficially.

The Department of Health had several questions about the bill as it was originally written, including how it would fit with our current permitting process. The amendments proposed by Representative Glassheim address those questions. We would also like to suggest that siting other solid waste facilities, such as a municipal solid waste incinerator, would be as problematic as siting a municipal landfill, and would be appropriate to include in the authority of the landfill zoning board.

This concludes my testimony. I am happy to answer any questions you may have.

TESTIMONY ON HOUSE BILL 1338

House Political Subdivisions Committee

**Curt Kreun
City of Grand Forks, ND**

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February 5, 2009

Mr. Chairman and members of the Committee, my name is Curt Kreun and I am on the City Council of the City of Grand Forks (City). I want to thank you for the opportunity to testify on House Bill 1338 and to provide the City's support of the bill and its intent to provide better and more comprehensive public policy.

The Grand Forks City Council passed a resolution in support of the bill and its intent to provide a better and more comprehensive public policy approach to the landfill siting process in North Dakota. The City has undergone several years of trying to site a solid waste landfill in Grand Forks County at much expense of time, labor, and money. The City is currently nearing the end of the North Dakota Department of Health (NDDH) solid waste landfill permit process thus this bill may not have an immediate affect on the City, but will provide for better and more comprehensive public policy in the future landfill cases. If the bill is not passed, the City supports an examination of an interim study on solid waste management issues in North Dakota.

It is for these reasons that I would ask for support for House Bill 1338.

Thank you for your consideration.