

2013 HOUSE ENERGY AND NATURAL RESOURCES

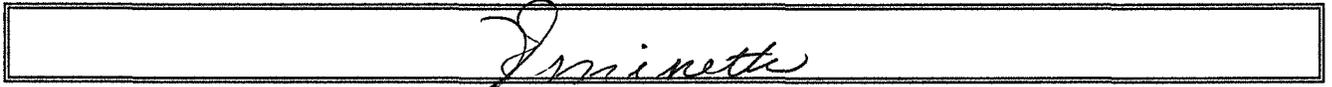
HB 1030

2013 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources Committee Pioneer Room, State Capitol

HB 1030
January 18, 2013
17390

Conference Committee



1 testimony

Provide that the present use and disposal of coal combustion of residues is acceptable in North Dakota

Minutes

Rep. Porter: We will call HB 1030 to order.

Tim Dawson: I am with the Legislative Council and here today because I staff the Energy Development Transmission Committee during the interim I am here to explain this bill. Not with standing any provisional law the Legislative Assembly deems the present use and disposal of coal combustion residues to be acceptable and that present regulation allows for the beneficial use in concrete and other construction applications and for state safe disposal without being regulated as hazardous waste. I think the reason for this that may be federal regulations relating to coal combustion residues and they are looking regulating it as EPA as hazardous waste and the thought is that if they provide an exception to laws in effect before the effective date of the federal regulations that we have this law in affect.

Rep. Porter: Can you give us a brief legal summary of what that does for us with that status going forward?

Tim Dawson: If they provide for some sort of exception for state laws that are in effect and they have done that before and can do that again and so this gets it in before they get their regulation in.

Shane Goettle: I am representing MDU Resources supports the idea of turning a waste product into a commercial product and adding value to it. We don't have to go very far to see the use of the coal residue in the commercial use in North Dakota. We drive on it, go over to the Bismarck Energy Center of Excellence and see that it has been put into a commercial building. What use to cost the company a considerable sum of money to dispose of is now a product that has some value. As this plays out at the federal level we support the idea of putting into law our states intentions with regards to the continued use of this product. What we are proposing is that we add (See testimony1).

Dale Niezwaag: I represent Basin Electric Power Cooperative on this measure. I can speak for the Energy Lignite Council as well that we are both in support of the bill as amended.

David Straley: I am with North American Coal operating two large coal mines in the state of North Dakota and am also in support of HB 1030 and the amendments.

Rep. Anderson: Although there are several types of coal in our country are they still lumping them as one group as far as the regulations go?

David Straley: Depending on the regulation it depends on which category some we have split off and have a set category for lignite specifically others we aren't so fortunate and we get lumped in with the rest.

Rep. Porter: Committee we have HB 1030 in front of us

Rep. Hofstad: I move the amendment offered by Mr. Goettle.

Rep. Porter: We have a motion made by Rep. Hofstad and seconded by Rep. Mock voice vote carried we have an amended bill in front of us. We have a motion from Rep. Keiser to move a do pass as amended on HB 1030 seconded from Rep. Schmidt. Motion carries Rep. Schmidt will carry

Yes 12 No 0 Absent 1 Carrier Rep. Schmidt

13.0020.02001
Title.03000

Adopted by the Energy and Natural Resources
Committee

January 18, 2013

WHP
1/18/13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1030

Page 1, line 8, after "concrete" insert ", for"

Page 1, line 9, after "applications" insert ", and for other innovative uses"

Page 1, line 9, after "and" insert "allows"

Renumber accordingly

Date: 1-18-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1030

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Voice vote

Motion Made By Rep. Hofstad Seconded By Rep. Mock

Representatives	Yes	No	Representatives	Yes	No
Chairman Todd Porter			Rep. Bob Hunsakor		
Vice Chairman Chuck Damschen			Rep. Scot Kelsh		
Rep. Jim Schmidt			Rep. Corey Mock		
Rep. Glen Froseth					
Rep. Curt Hofstad					
Rep. Dick Anderson					
Rep. Peter Silbernagel					
Rep. Mike Nathe					
Rep. Roger Brabandt					
Rep. George Keiser					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Amended motion Carried

Date: 1-18-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1030

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number Do pass as Amended

Action Taken _____

Motion Made By Rep. _____ Seconded By Rep. Schmidt

Representatives	Yes	No	Representatives	Yes	No
Chairman Todd Porter	✓		Rep. Bob Hunsakor	✓	
Vice Chairman Chuck Damschen	✓		Rep. Scot Kelsh	✓	
Rep. Jim Schmidt	✓		Rep. Corey Mock	✓	
Rep. Glen Froseth	✓				
Rep. Curt Hofstad	✓				
Rep. Dick Anderson	✓				
Rep. Peter Silbernagel	✓				
Rep. Mike Nathe	✓				
Rep. Roger Brabandt	✓				
Rep. George Keiser	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep Schmidt

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

Do pass amended

REPORT OF STANDING COMMITTEE

HB 1030: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1030 was placed on the Sixth order on the calendar.

Page 1, line 8, after "concrete" insert ", for"

Page 1, line 9, after "applications" insert ", and for other innovative uses"

Page 1, line 9, after "and" insert "allows"

Renumber accordingly

2013 SENATE NATURAL RESOURCES

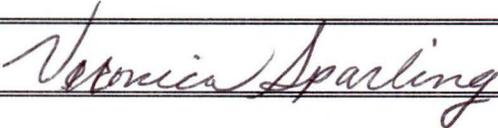
HB 1030

2013 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee Fort Lincoln Room, State Capitol

HB 1030
March 14, 2013
19933

Conference Committee



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide that the present use and disposal of coal combustion residues is acceptable in North Dakota

Minutes:

attachments

Chairman Lyson opened the hearing for HB 1030.

Shane Goettle, representing MDU Resources in its capacity as a member of the Lignite Energy Council, introduced the bill. It is a matter of state policy that we deem coal residue as a safe product, not a hazardous waste. There is a discussion at the national level to consider coal by-products as hazardous waste and we want to maintain our state primacy on this issue. He cited examples of where the product has been used as building materials. He presented an amendment to maintain the state primacy. See attachment #1. Some companies have turned their cost of disposal into a revenue stream.

There was some discussion about the uses of the by-products. (Ends at 4:48)

Senator Murphy mentioned that in the IBL committee they have been considering a resolution to implore the federal government on this issue.

Senator Hogue mentioned that these by-products have also been used by the federal government so he was wondering if there was need for concern.

Mr. Goettle said we want to be vigilant, and to have it in law sends a strong statement. There seems to be a bias against further coal development.

Sandi Tabor, Vice President of Lignite Energy Council, spoke in support of HB 1030 with the amendment. She addressed the EPA's proposed regulations that might affect the use of by-products. The rules have not been finalized. There was a risk assessment that was due last December and the results of that are not yet in. (08:20 to 10:00)

Rachel Retterath with Great River Energy spoke in favor of the bill. She said Great River Energy has used fly-ash since 1996. Rather than it being an expense it is now a source of income. It has been used as a building material and as a replacement for Portland cement.

David Glatt, Chief of the Environmental Health Section for the Health Department, spoke in support of HB 1030 with the amendment. He said he would have concerns if the bill were passed without the amendment. We need to have primacy as a state in case the federal government comes in with a mandate.

Senator Hogue asked if we have primacy on how municipal waste is incinerated.

Mr. Glatt said we would regulate that ash as we would any other special waste ash. We do test ash to make sure they don't exceed any hazardous waste thresholds.

Senator Hogue asked if the Department of Health has jurisdiction over regulating fly-ash from municipal waste.

Mr. Glatt said they would have that jurisdiction but it is not an issue in the state right now.

There was some discussion about the properties of the various types of fly-ash and the uses of each. They want to make sure that the alternate uses of them are beneficial uses and that the chemicals in them are stabilized when they are used in those ways. (13:40 to 16:50)

Senator Triplett asked if this bill is even necessary because fly-ash is already well regulated by the State Health Department.

Mr. Glatt understands the sentiment behind it. The EPA may come out with a determination that isn't based in science and fact. Several studies have come out and said that fly-ash is not hazardous. That is on the record. EPA has approached this issue several times over the years. This is primarily in response to the TVA incident. That was a terrible incident that was run by the federal government and not a state agency. They are being pushed to give it a hazardous designation when the science says it shouldn't be there. That is our concern.

Senator Triplett mentioned that in some places the fly-ash has different characteristics and has more heavy metals and does not have the characteristics that cause it to set up. In those places it may need to be managed and disposed of at a higher level of care for ground water and such. It is arguable that some fly-ash from some coals in some parts of the country maybe should be regulated.

Mr. Glatt agreed that you have to look at the site specific characteristics. ND has very good regulations in place. He doesn't want to add another whole layer of bureaucracy.

More in favor: No

Opposition: None

Neutral: None

Chairman Lyson closed the hearing for HB 1030.

Senator Unruh: Motion to adopt amendment.

Senate Natural Resources Committee

HB 1030

March 14, 2013

Page 3

Senator Triplett: Second

Discussion: None

Amendment adopted by voice vote.

Senator Triplett still felt it was an unnecessary bill. The fact that so many uses have been made of the fly-ash she felt spoke more loudly than a phrase stuck into a statute.

Senator Laffen: Do Pass as Amended

Senator Burckhard: Second

Roll Call Vote: 6, 1, 0

Carrier: Senator Unruh

13.0020.03001
Title.04000

Adopted by the Natural Resources Committee

March 14, 2013

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1030

Page 1, line 10, after the underscored period insert "If a federal law or regulation is adopted pertaining to the use and disposal of coal combustion residues, this section does not prohibit the state from seeking state primacy of the federal program."

Renumber accordingly



3/14/13

Date: 3-14-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1030

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Unruh Seconded By Triplett

Senators	Yes	No	Senators	Yes	No
Senator Lyson			Senator Triplett		
Senator Burckhard			Senator Murphy		
Senator Hogue					
Senator Laffen					
Senator Unruh					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: *carried by voice vote*

Date: 3-14-13
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1030

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended^{as} Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Laffen Seconded By Burckhard

Senators	Yes	No	Senators	Yes	No
Senator Lyson	✓		Senator Triplett		✓
Senator Burckhard	✓		Senator Murphy	✓	
Senator Hogue	✓				
Senator Laffen	✓				
Senator Unruh	✓				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Unruh

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

REPORT OF STANDING COMMITTEE

HB 1030, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1030 was placed on the Sixth order on the calendar.

Page 1, line 10, after the underscored period insert "If a federal law or regulation is adopted pertaining to the use and disposal of coal combustion residues, this section does not prohibit the state from seeking state primacy of the federal program."

Renumber accordingly

2013 TESTIMONY

HB 1030

PROPOSED AMENDMENT TO HOUSE BILL 1030

Page 1, line 9, replace "applications" with "applications, other innovative uses,"

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PROPOSED AMENDMENT TO HOUSE BILL 1030

Page 1, line 10, after "waste." insert "In the event federal laws or regulations are adopted pertaining to the use and disposal of coal combustion residues, nothing in this section shall prohibit the state of North Dakota from seeking state primacy of the federal program."