

2013 SENATE NATURAL RESOURCES

SB 2274

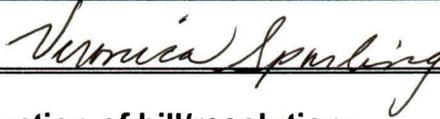
2013 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2274
January 31, 2013
18080

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the southwest water authority and relating to the southwest pipeline project; to provide an appropriation; and to provide for application.

Minutes:

Testimony attached

Chairman Lyson opened the hearing on SB 2274.

Senator Grindberg, District 41, introduced the bill. He presented written testimony in favor of SB 2274 which would fund the completion of the Southwest Water Project. It is important to finish the projects that have been ongoing for a number of years. He presented the explanation of the bill that Legislative Council prepared for him. See attachment # 1. (Ends at 5:40.)

Opposition:

Larry Bares, Chairperson of Southwest Water Authority, spoke in opposition to SB 2274. See attachment #2. He is not opposed to the concept in SB 2274, but feels SB 2233 is much more workable. (Ends at 11:25)

Mary Massett, Managing CEO for Southwest Water Authority, spoke in opposition to SB 2274. She feels SB 2233 is a better approach.

Senator Murphy asked what the basic differences are between the two bills.

Ms. Massett said SB 2274 provides a more immediate transfer and with SB 2233 there would be time to do a study and go through the documents that are in place so they could make the best choice for the state and the people they serve.

Neutral:

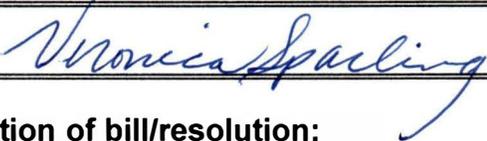
Chairman Lyson closed the hearing on SB 2274.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee
Fort Lincoln Room, State Capitol

SB 2274
February 7, 2013
18533

Conference Committee

Committee Clerk Signature	
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Explanation or reason for introduction of bill/resolution:

Relating to the southwest water authority and relating to the southwest pipeline project; to provide an appropriation; and to provide for application

Minutes:

No attachments

Chairman Lyson opened the discussion on SB 2274.

There was discussion about Senator Grindberg's comment that he wanted the committee to kill this bill.

Senator Murphy: Do Not Pass

Senator Laffen: Second

Roll Call Vote: 7, 0, 0

Carrier: Senator Lyson

Date: 2-7-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2274

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 Murphy Seconded By Laffen

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

Total (Yes) 7 No 0

Absent 0

Floor Assignment Lyson

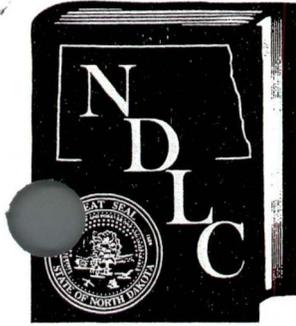
If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2274: Natural Resources Committee (Sen. Lyson, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2274 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

SB 2274



North Dakota Legislative Council

STATE CAPITOL, 600 EAST BOULEVARD, BISMARCK, ND 58505-0360

#/

Jim W. Smith
Director

Jay E. Buringrud
Legal Services
Division Director

Allen H. Knudson
Legislative Budget
Analyst & Auditor

Jason J. Steckler
Administrative Services
Division Director

John Walstad
Code Revisor

January 15, 2013

Honorable Tony Grindberg
State Senator
4755 Douglas Drive South
Fargo, ND 58104-4402

Dear Senator Grindberg:

This letter is in response to your request for a description of a bill draft [13.0313.02000] on the transfer of the Southwest Water Project from the State Water Commission to the Southwest Water Authority. Below is a section-by-section analysis of the bill draft.

Section 1 - Removes the subsection that provides for the payment of principal and interest on bonds issued for the continued construction of the Southwest Pipeline Project. Because the project is being transferred to the Southwest Water Authority with an appropriation to pay off the bonds, this section is not needed.

Section 2 - Removes the reference to North Dakota Century Code Chapter 61-24.3, relating to the Southwest Pipeline Project. This chapter is being repealed as part of the transfer of the project to the Southwest Water Authority.

Section 3 - Changes the definitions for Chapter 61-24.5 relating to the Southwest Water Authority. In particular, the definition of the Southwest Pipeline Project is changed to acknowledge that the State Water Commission started the project and it is now under the control of the authority; and what it is and what it will be are under the control of the authority.

Section 4 - Adds powers to the board of the Southwest Water Authority relating to the Southwest Water Authority. These powers were moved from the repealed Section 61-24.3-10. In short, the powers of the State Water Commission related to the project were given to the authority.

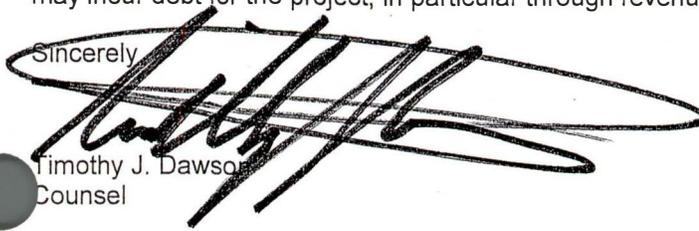
Section 5 - Sections 61-24.3-03.1, 61-24.3-11, 61-24.3-12, 61-24.3-13, 61-24.3-19, and 64-24.3-20, which are being repealed, are moved from the area of law relating to the State Water Commission and the Southwest Water Project to the area of law relating to the Southwest Water Authority.

Section 6 - Repeals the law on the Southwest Water Project. The necessary provisions are moved to Chapter 61-24.5, which relates to the Southwest Water Authority.

Section 7 - Appropriates \$65 million from the resources trust fund to the Southwest Water Authority for construction, operation, and maintenance of the Southwest Pipeline Project.

Section 8 - Reiterates that the bill transfers the whole Southwest Pipeline Project from the State Water Commission to the Southwest Water Authority. This transfer is intended to have the authority start with no debt, but the authority may incur debt for the project, in particular through revenue bonding.

Sincerely,



Timothy J. Dawson
Counsel

TJD/SA

PRIVATIZATION OF THE SOUTHWEST PIPELINE PROJECT

This memorandum discusses the steps necessary to privatize the Southwest Pipeline Project. The project is state-owned and administered by the State Water Commission. The project transports raw water from Lake Sakakawea to Dickinson where it is treated and delivered to the project's customers in southwest North Dakota and Perkins County, South Dakota. The Southwest Water Authority is responsible for the operation and maintenance of the project. The authority is a political subdivision established by the Legislative Assembly in 1991 to manage, operate, and maintain the project.

North Dakota Century Code Section 61-24.3-10(5) provides that the State Water Commission may:

5. Sell, transfer, or exchange property acquired for the southwest pipeline project provided the commission determines the property is not necessary for the operation, maintenance, or construction of the southwest pipeline project. For a period of sixty days, the property must first be offered for sale, transfer, or exchange to the current owner of the surrounding property from which the property was obtained. Any parcel of property sold, transferred, or exchanged under this section may not exceed two acres [.81 hectare]. Sections 54-01-05.2 and 54-01-05.5 do not apply to the sale, transfer, or exchange of property pursuant to this subsection.

Presumably, the Legislative Assembly could amend this subsection to authorize or direct the State Water Commission to sell the project under such conditions as it may enact. These conditions may include the procedure, whether by auction or bid; the minimum price; and may even authorize the State Water Commission to hire an investment bank to find a purchaser and finance the purchase of the pipeline. If land were to be involved, the Legislative Assembly could exempt the transaction from the requirements of Sections 54-01-05.2 and 54-01-05.5 governing the sale of state-owned land.

A copy of the *2010 Southwest Water Authority Annual Operating Report* is attached as an appendix.

ATTACH:1

#2

Testimony by Larry Bares, Chairperson, Southwest Water Authority
On behalf of
Southwest Water Authority
to the
Natural Resources Committee
Hearing on Senate Bill 2274

Bismarck, ND
January 31, 2013

Good morning Mr. Chairman, members of the committee. My name is Larry Bares, I am the Chairperson of the Southwest Water Authority Board of Directors. I will present my testimony with three points:

1. Transfer of the Southwest Pipeline Project.

The Southwest Water Authority is not opposed to the concept of transferring the Southwest Pipeline Project from the State Water Commission to the Southwest Water Authority. That is a legislative policy decision that will not jeopardize the purpose of the project; which is to provide quality and quantity water throughout southwest North Dakota.

2. Benefits of the Southwest Pipeline Project.

The Southwest Pipeline Project serves 31 communities, more than 4,600 rural-service locations, 22 contract customers, two crew camps, 21 raw customers, and two rural water systems. The project has taken a long time only because the funding was very limited over a 20-year period. We have customers who have been waiting for water for more than 25 years. The Southwest Pipeline Project has provided incredible benefits to southwest North Dakota, in terms of economic growth, job opportunities, quality of life, tax revenues, and growth in population. The investment the state has made in the Southwest Pipeline Project is also starting to return big dividends, with revenues exceeding 5 million dollars each year being paid back to the Resources Trust Fund. We anticipate repayment to the Resources Trust Fund exceeding \$7 million each year in the very near future. To date, we have received \$78 million in state funding, \$70 million of which is Resources Trust Fund money. Southwest Water Authority easily expects to repay the entire state contribution over the next 20 years, including state appropriations for the Project in this and the next biennium. On behalf of everyone in southwest North Dakota, we would like to express our deepest gratitude to the North Dakota legislature and the Governor for creating the Resources Trust Fund and authorizing this Project to provide quality water throughout southwest North Dakota.

3. Approach.

While we are not opposed to transferring the Southwest Pipeline Project, we are deeply concerned about the approach set forth in Senate Bill 2274. We believe the approach in Senate Bill 2233 is more careful, more thorough, and more reasonable. We have water service contracts, construction contracts, construction bonds, liabilities, engineering design, and other issues; all of which are impacted by an immediate transfer. The approach set forth in Senate Bill 2233 allows us to work with the State Water Commission over the next interim, prepare appropriate contract documents, amendments, and other requirements, and present to the next legislative assembly a plan and method to accomplish such a transfer. Senate Bill 2274 will certainly cause a delay in construction, as we make sure everything is in place to proceed with construction contracts.

Mr. Chairman and members of the committee, we believe the approach in Senate Bill 2233 is much more workable, and we urge a do not pass on Senate Bill 2274.

Thank You

Southwest Pipeline Project

