

2013 SENATE POLITICAL SUBDIVISIONS

SB 2308

2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee
Red River Room, State Capitol

SB 2308
February 7, 2013
18500

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the regulation of cesspools, septic tanks, and privies to provide a penalty; to provide an effective date; and to declare an emergency

Minutes:

You may make reference to "attached testimony."

Chairman Andrist opened the hearing on SB 2308. All senators were present.

Senator Bill Bowman District 39, sponsor of this bill. This bill has to do with septic systems, the people that service septic systems, deals with the penalties. I didn't bring this bill forward; I just sponsored it because they needed a sponsor for it. But I also know that there has been some real misuse of this up in the Williston area where people have taken and disposed that material on lands that they shouldn't have done it. We don't need that in North Dakota at all. The penalty is fairly severe in this particular bill. I didn't write it, or recommend it, that is up to your board to decide. But I do know that we cannot continue to tolerate people that misuse our system dealing with this issue.

Chairman Andrist One of the questions I am going to ask and it may be better for someone else, but I'm wondering if this is just a little bit of overkill? It looks pretty onerous when I read through all of hoops that are there, but you may comment if you want before you leave. **Senator Bowman** replied that perhaps the Board of Health will be down testifying. But I do know there have been some problems out west where people have misused what their supposed to do and have gotten caught and it's not a nice situation for the people that own the property or their dumping the sewage.

Senator Judy Lee I am glad to hear you say the Health Department may come, just to point out that this is exactly why we need to expand the abilities of the Public Health Units to respond to this. We are in desperate need of environmental officers out there who can handle this terrible pressure that is being place because we don't enough inspectors. It is a really important factor. We can't just be punishing people for having done it after its done, we've got to make sure that there is a way to intercept this stuff as it's going on. Please consider these kinds of needs because it's one the absolute top of the list things that the Public Health Units and the Regional Public Health ability would be able to help address. That is a critical component here.

Senator Bill Bowman replied that it is an issue that we have to address because as we've seen the growth out there, and all of the man camps that caused these kinds of problems to come, if we get on top of this before it gets to be a real serious problem, then we're all winners. That's how I look at it.

Senator Stan Lyson Ditto from the first one. We've had a terrible time in Williams County. I've called the Health Department many times and they've sent people out when people are out dumping sewage in pastures, areas where it's running down in toward the Little Muddy River; and it's just a mess. If we can get this bill passed and get something going, maybe we can get that straightened out. One of the doctors called me one day with his concerns about an epidemic just from the odor from all the stuff that is going out.

Chairman Andrist I can see the problem. But when I look at a licensing bill it seems overly onerous and I wonder if we're going to still be able to find the people to do that work? It's not the most delightful occupation I would think.

Senator Stan Lyson I didn't help write the bill, I was just asked to sign on to it. But I can tell you those people are already licensed that haul out that sewage. They get a permit from the county to give them permission to haul that, so there is already something there. But the problem is.....**Chairman John Andrist:** Are they licensed by the county? **Senator Stan Lyson** I don't if its license or if they come in and just get a permit to be able to dump. But the problem is you've got good ones and bad ones whenever you do these things. That is where the problem comes in. When you're putting out gray water and you see condoms and things like that in there, that is not gray water. That is when we start calling the Health Department to come out there and get something done. And they've come out and done a good job. They are short staffed.

Senator Howard Anderson I think to a certain extent we're looking to solve the problems for the Western and North West North Dakota and we maybe shooting the rest of ourselves in the foot. (Example cited 7:27- 8:20) **Senator Stan Lyson** Right now we do have some rules. It says they can dump it out there where you told them too, but then it's your responsibility to cultivate that. I want to know how you're going to cultivate a pasture. That is what our law is right now. If you're going to dump it out there you have to cultivate it.

Senator Luick District 25. This testimony is the same as a sister bill that this topic has here this morning. I am using basically the same testimony because it is addressing the very same issue. See Testimony #1. (Lengthy explanation 10:18-13:13)

Vice Chairman Ronald Sorvaag You had talked that one of the problems you saw in Minnesota if I understood is because of the soil types, the one rule one size fit all. Are we going to run into that problem if we start writing the state because obviously we have the same issues, many different soil types throughout our state; many different geography and stuff? Does it concern you that if the state writes rules that you could run into the same problem that Minnesota did?

Senator Luick replied I agree and that's why I am hoping that the legislation comes down to a more local control for the systems that are under 25 which is basically a residential size

unit. Then the state would get involved if needed if the locals were not comfortable with (example cited (14:19-17:54)).

Chairman Andrist Tell us a little bit. I am finding out there is a lot about septic systems that I don't know. I thought that most septic system included a holding tank where all the sewage water went and then it was pumped out, until we would talk about an appropriate place to put it. Does some of the sewage flow through the holding tank right into the ground there? Tell us how that works?

Senator Luick replied as it always has been, typically the holding tank itself has the purpose of holding this raw sewage coming out of your house for an indeterminate amount of time basically to let the anaerobic bacteria eat up the nitrogen, eat up the pathogens, and chloroform that the anaerobic bacteria can take care of. It liquefies also the solids in that tank, so there are baffles in these tanks that let the liquid go out of that tank, into what's called a treatment area, drain field. Those drain fields are very important when it comes to the soil types that Senator Sorvaag was referring to earlier. If you let that water go out into a drain field that has too fast a percolation then that untreated aerobic bacteria that lives in there not anaerobic, so that's where the pathogens and the chloroform are taken care of out there also. If it is not designed properly, and at the wrong elevation in the soil, you don't get the proper treatment. Years ago it used to be (example cited 19:56- 20:41) When it comes to the holding tank that you we're talking about, there are places where you cannot design a system that can put in a leech field or a drain field because maybe you don't have enough physical space to put it in, or soil types are not right, or with construction, disturbed soil. There are reasons that you cannot put in a drain field for these systems. In those cases you would put in a holding tank and when that got full you put in an alarm so that they have a certain amount of capacity of use after that tank is at a certain level; then it would need to be pumped out and hauled away. It depends upon your location, soil types. There are many things that can be restrictive that can determine whether you put in a full system where you have septic tank there; the drain field - pipe and rock trench system, there's gravelous pipe, chamber systems (underground) at grade systems and raised mound pressurized mound systems of several heights; all determined by the design of the system in the soil types that you're working with.

David Glatt Chief of the Environmental Health Section for the North Dakota Department of Health. See Written Testimony #2. Support for bill 2308. Mr. Glatt replied to the former questions of the committee: 1) As its related to overkill. This really is providing more hoops for what's necessary. What we found out, prior to the oil boom really wasn't much of an issue. We knew there was some illegal disposal going on but it kind of goes to Senator Anderson's comment about the farmstead onetime application and is this really a problem? I would tell you no; it is not. What we've gone from is a situation where we've got those single farmsteads to where we have operators out there dealing with waste on a weekly basis that is more than the many of our small communities up to 500,000 gallons per week, applying on pieces of land over and over again and saturating that land that just cannot assimilate that type of waste. We're also seeing they are not treating it and kill some of the pathogens some of the harmful bacteria, they are just dumping it out there. What we're trying to do is what gets measured gets done. They need to identify where they get the waste, where they dispose of it and they can keep a record of that. So that as a health department we can come up, look at their records. You want to know where its generated

and where it ends up. Land application is not high on our list because of the limited controls because of our winters it's tough to get out there in the fields when there's two feet of snow. We're still saying you can still land apply, but you need to do it correctly and you need to maintain records to make sure that you not over applying and that we can monitor that to make sure of any problems or potential problems that could arise we can check that out and catch it. 2) We are looking at a one- time application to a farmstead situation in a rural residence and a multiple land application situation. We've talked about this internally, within the Health Department and this would allow us to develop rules. We are looking up at setting up a two tiered system, one for the smaller type generators or operators that deal with the farmsteads to allow that one time application. Those that handle volumes similar to what small communities have and we need to have some controls there or we are going to see some major environmental and public health issues.

Chairman Andrist You say David that your intention will be to provide rules which won't be onerous for the Howard Anderson's but might be for the man camps? **David Glatt** replied that's correct. I wouldn't say onerous, it's what they should be doing. We ask our rural communities to build structures to handle the waste to treat it, and before they let it out into the environment to test it to make sure it isn't going to harm the environment. We don't ask that of our septic tank haulers. For the most part they are handling very untreated waste which has a bigger potential impact.

Senator Judy Lee I understand how this works. I do want to know if you would propose somehow, do we want to have someplace proposed in the bill what you're engaged in would be with the counties? How do we know that there will be any local involvement here to address exactly the kind of things that Senator Sorvaag was talking about with the extraordinary differences in soil types.

David Glatt replied as far as land application it comes down to the assimilative capacity of the soil. I can see in my head already a table like in clay soils you can apply so much per square foot or gallons per acre that type of thing; for sandier soil it's a different number so you can kind of gauge that out. It's not one of those things you're going to come out and be exact. It comes down to giving them some guidelines that there are limits and soils are different. You cannot put ten thousand gallons on this soil, but you may be able too. So there will be some differentiation and I see that in the rules.

Senator Judy Lee We don't really have a whole lot of laying it out on top of the soil in Cass County at least in the Metro area, but lots of drain fields. The soil doesn't hardly perk at all. (Example cited 34:11-34:37). My point is its' the drain field issue. You talked about it briefly. The lots have got to be big enough if you're in a residential subdivision to be able to have a decent drain field and that really is determined in our area with the size of the lots have to be in rural subdivisions that are not connected to some kind of public sewer system in some way. Do you care to make any observations about that?

David Glatt replied we're almost talking about two different things but they are connected. It deals with sewage at the end of the day and how do we take care of that appropriately. As it relates to the design of septic tanks and drain fields, the SB 2307 that is looking at having the Health department work with developing a level playing field across the state. Certifying operators in that type of thing; that control over the small rural systems is still

going to stay with the local level. We want that because as a state we can't be out there at every site, every soil conditions, and that will handle it at the local level. How they deal with what they pump out of the septic tank that will be more at the state level because this stuff can cross county lines and all that type of thing. So I see that at the smaller systems will be at the local level, that 2307 does identify systems that deal with 25 people or greater; the state would review and approve. But those at 24 or less would be at the local level, so there is that local component.

Senator Judy Lee I am looking at the amendment you proposed and one of them obviously was eliminating the emergency clause but could you talk about their must've been some thought put into the effective dates on this and tell us why you don't need it. I mean that is okay, I am just curious? And also what the repealer is?

Dave Glatt replied when we were first getting into this we were right in the middle of this septic tank issue. We were dealing with illegal disposal and we wanted to get this going as quickly as possible. We looked at drafting some rules but we are just not there yet. So by the time it gets to the Legislative process we don't gain anything.

Senator Judy Lee So that applies also to Section 8 with the effective dates that you don't need those other effective dates? **Dave Glatt**: That's correct. **Senator Judy Lee** The one of which talks about that the action becomes effective after you adopt the rules? Do you think this will all fall okay? **Dave Glatt**: I think they all will be okay.

Senator Jim Dotzenrod Are the sewer pumpers, these local ones, are they currently licensed? **Dave Glatt** responded yes they are. They are supposed to be licensed and their licensed with an annual fee and all that type of thing. There are some very general requirements. In the past the way we've regulated them is pursuant to complaints. **Senator Jim Dotzenrod** Are they licensed by local units, counties or is all through the state? **Dave Glatt** replied through the state. **Senator Jim Dotzenrod** On page 2 of the bill on line 10 there is reference to a servicing septic systems, someone in that business must have a permit. Is that going to be like a permit that has an expiration date or they have to demonstrate something to get the permit, that they are capable? Then you'll charge them a fee for that permit? **Dave Glatt** replied the way I envision it that permit will be similar to the licenses. Once they go through the training they will be required training and that they will have to take a test that they understand that they just can't dump waste down a valley or into the river. Once they get that they will get a permit from us to operate, and it would say to comply with the rules. There would be a fee associated with that, but if there is currently a license fee on an annual basis. So that permit would go year by year. **Senator Jim Dotzenrod** In looking through this bill, is there anything in here that by itself, would prevent application of septage to farmland or is it for subject to review? **Dave Glatt** replied I don't see anything in here that would prohibit that, but they would need to maintain records of where they dumped the sewage. **Senator Howard Anderson** They would have to get preapproval. **Dave Glatt** replied that is for the smaller ones, I don't see that preapproval. If they are a onetime application on some farmland that you own, that isn't draining right into a river I don't see that preapproval. What I do see preapproval if there handling 500,000 gallons a week and they want to do multiple applications on one piece of land I see us doing a preapproval there. **Senator Jim Dotzenrod** Certain kinds of manures is kind of valuable. I could imagine this sewage that you're talking about that comes from bulk and

volume and there's lots of it could have a value to a land owner. The landowner may want that, I don't know if he'd be willing to pay to get it. But it's a market driven thing. Do you see farmers wanting this and going to be competing with each other to get it? **Dave Glatt** replied I don't know because when you talk about hog farms it's more of a consistent waste coming out of there. When you talk about human waste you get all sorts of stuff. I don't know how beneficial that would be.

Senator Jim Dotzenrod On the sections you don't need as far as you're concerned there is really no downside if we left them in; it is just from your point of view it is not important.

Dave Glatt replied it is just one less headache to have an emergency clause and it raises the expectations on that.

Chairman Andrist You suggested to me that its not very onerous if we could do the amount in appropriations. **Dave Glatt** replied that's correct. We did get under the Governor's Executive Budget recommendation an additional staff member to help with septic tank affluent. We have them working in the oil patch also knowing that it is a state wide issue.

Senator Howard Anderson Do we allow for example right now for a septic tank disposal operator here to make an agreement with the local subdivision to dump the sewage into their lagoon system? **Dave Glatt** replied we do and what happens and there is some communities that will have extra capacity and will allow that to come in. We allow that to happen then once they dump it into the lagoon it becomes a responsibility of that community, because they have to make sure they meet all the permit conditions in their discharge will meet the limits that we establish for them.

Chairman Andrist Out west they were happening a lot but their happening less and less all the time because of the growth. **Dave Glatt** replied the infrastructure hasn't been able to keep up with the demand. That's why we can't eliminate land application altogether.

Senator Jim Dotzenrod Back on the effect of this bill, on these local small operators that do the farm to farm sewer pumper operation, on line 23 and down (p2) that require the preapproval of land application to require record keeping and reporting to require evidence of financial responsibility; do you see anything in this bill that is going to maybe increase the burden on them to the point where they say it's not worth it. **Dave Glatt** replied you may always get some of that on any type of regulation, but what I have seen on the smaller operators is we've had some cases come through from EPA. (Example cited 45:24). I believe by requiring the record keeping that is liability protection for them. I do think there has to be a two tiered system here.

Keith Johnson Administrator of the Custer Health based in Mandan. Strongly in support of the bill. 2319 was the section that covered this bill and it was pretty old when I started in the field of environmental health in 1977 and it has not been amended since.

Chairman Andrist closed the hearing for SB 2308 delete sections 8&9.

Senator Judy Lee moved to move the amendment

2nd Senator Ron Sorvaag

Roll call vote on amendment 6-0-0

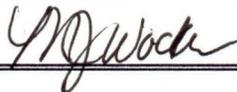
2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee
Red River Room, State Capitol

SB 2308-2
February 14, 2013
18928

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the regulation of cesspools, septic tanks and privies to provide a penalty; to provide an effective date; and to declare an emergency

Minutes:

You may make reference to "attached testimony."

Chairman Andrist opened the committee to discuss SB 2308. All senators were present.

Senator Judy Lee referred to David Glatt's last page of his testimony where he said the emergency clause is not needed and we proposed deleting Sections 8 & 9.

Chairman Andrist He said he didn't need the emergency clause. **Senator Judy Lee** replied that would be section 8. I mean section 9 and section 8 would have different effective dates and if he doesn't need the emergency clause they don't need the different effective dates it will just all go into place on the traditional date. So that would've been his recommendation. **Chairman Andrist** Did we ask why the repeal of Section 7? **Senator Judy Lee** replied that regulates cesspools, septic tanks, and privies and this replaces it. **Chairman Andrist** So we would be open to a motion to delete sections 8 and 9. **Senator Judy Lee** We actually did that the day of the bill hearing. I have that. I had moved and Senator Sorvaag seconded and we voted 6-0 to amend but we didn't act on the bill, all we did was act on the amendments.

Vice Chairman Ronald Sorvaag I just have written Do Pass amended 6-0 but I don't think we acted on the bill. I think that was the amendment and not the bill. We did act on that amendment.

Senator John Grabinger Some of us wanted to talk to our local operators and see how this would affect them. I talk with them and I got no comments.

Chairman Andrist May I have a motion please?

Vice Chairman Ronald Sorvaag I move a do pass on 2308 as amended

2nd Senator Jim Dotzenrod

Committee Discussion

Senator Jim Dotzenrod You know on page three we moved the fine from \$5,000 per day for violation to \$12,500 per day for violation. But it seems to me in the newspaper when the Health Department when they fine those people out in Western North Dakota for dumping that sewage, I think the fine was like \$500,000. Did they get that big of fine because they took the \$5,000 as we have in current law and then multiply that by the number of times they violated the law, how did that happen that we got such a big fine out of it? Especially when the law says \$5000 that ended up being a big fine.

Senator Judy Lee The only that I see in his testimony is that \$5000 per day it was so obviously continued to violate that would be my expectation. I am not the expert.

Vice Chairman Ronald Sorvaag I am not the expert either but I know some of the situations out when they talk to the senators and stuff from out in those area, it was an extended period of time. Nobody was addressing the problem, so that might be a multiplier of days.

Senator Jim Dotzenrod So that \$500,000 fine under the provisions of our bill would turn into a \$1.25 million dollar fine. It doesn't affect my vote on the bill. I am supporting the bill. Mr. Glatt was pretty clear when he spoke that they were not very sympathetic at all to the complaints from the violators about the fine being too high or that the feeling they were out of line as a state insisting that they follow some rules. I think they've got the right attitude in the department, the way it seems to me.

Chairman Andrist I am partly motivated. I don't feel that David Glatt is a hard-nosed regulator either. I think he understands that regulations have consequences and he doesn't frivolously propose them I don't think. Unlike some of his predecessors in that department who would like to throw their weight around.

Roll call vote 6 Yea, 0 No, 0 Absent
Carrier Senator Ron Sorvaag

FISCAL NOTE
Requested by Legislative Council
01/29/2013

Amendment to: SB 2308

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

The Bill further defines terms related to the regulation of septic system servicing, increases the civil penalties for violations and repeals similar language in chapter 23-19.

- 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 have a fiscal impact as the Department is already completing the inspections and issuing permits for this septic system servicing. It is difficult to determine the fiscal impact of increased penalties as we are unsure to what extent penalties would be assessed.

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: Brenda M. Weisz

Agency: Department of Health

Telephone: 328-4542

Date Prepared: 01/31/2013

FISCAL NOTE
Requested by Legislative Council
01/29/2013

Bill/Resolution No.: SB 2308

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

The Bill further defines terms related to the regulation of septic system servicing, increases the civil penalties for violations and repeals similar language in chapter 23-19.

- 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 have a fiscal impact as the Department is already completing the inspections and issuing permits for this septic system servicing. It is difficult to determine the fiscal impact of increased penalties as we are unsure to what extent penalties would be assessed.

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: Brenda M. Weisz
Agency: Department of Health
Telephone: 328-4542
Date Prepared: 01/31/2013

13.8254.01001
Title.02000

Adopted by the Political Subdivisions
Committee

February 14, 2013

2/14/13
TD

PROPOSED AMENDMENTS TO SENATE BILL NO. 2308

Page 1, line 6, after the first semicolon insert "and"

Page 1, line 6, remove "; to provide an effective date; and to"

Page 1, line 7, remove "declare an emergency"

Page 3, remove lines 7 through 12

Renumber accordingly

Date: 2-14-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2308

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.8254.01001

Action Taken: Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider

Motion Made By Senator Sorvaag Seconded By Sen. Dotzenrod

Senators	Yes	No	Senator	Yes	No
Chairman John Andrist	✓		Senator Jim Dotzenrod	✓	
Vice- Chairman Ronald Sorvaag	✓		Senator John Grabinger	✓	
Senator Judy Lee	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Ron Sorvaag

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

REPORT OF STANDING COMMITTEE

SB 2308: 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). SB 2308 was placed on the Sixth order on the calendar.

Page 1, line 6, after the first semicolon insert "and"

Page 1, line 6, remove "; to provide an effective date; and to"

Page 1, line 7, remove "declare an emergency"

Page 3, remove lines 7 through 12

Renumber accordingly

2013 HOUSE POLITICAL SUBDIVISIONS

SB 2308

2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

SB 2308
March 14, 2013
Job 19943

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

Relating to the regulation of cesspools, septic tanks, and privies; and to provide a penalty.

Minutes:

Testimony #1

Chairman N. Johnson opened the hearing on SB 2308.

David Glatt, Chief of the Environmental Health Section for the ND Dept. of Health: (See testimony #1) Introduced the bill. This bill sets a new law in Chapter 61-28 on water pollution control and my testimony goes through that. 0:30 - 04:50

Rep. A. Maragos: If you have sewage system is it possible that if you have an approved sewage system and all the regulations and something happens that damages the water would the person that owns that septic tank be liable then under this law?

David Glatt: No not under this law. This law deals with people that pump out the tank and how they handle that afterwards. If it is designed correctly you shouldn't have any problems with water systems.

Rep. Klemin: Over 20 years ago I had a rural home five miles north of Bismarck. I had a septic tank there. Once in a while I would have to have somebody come out and service it. Does this apply to that person who came out and pumps these tanks?

David Glatt: It would. We have issues now in the oil patch where we have big installations. These drilling pads have 25-35 people 24/7 there and generate as much waste as a million gallons a week. That has to be handled somehow. That is a lot different than an individual home owner. When you get these big amounts of waste it is very hard to allow land application without some really stringent oversight. People are just dumping in ditches and over cliffs untreated waste water which we cannot allow to happen. This would apply to that type of situation as well where a guy comes in and pumps out your system.

Rep. Klemin: What about around town during a parade route?

David Glatt: Anybody who would pump out septic waste and have to haul it someplace that would apply to make sure the appropriate handle it, treat it, and dispose of it.

Rep. Klemin: On Section 3 the definition of septic system servicer names these types of systems and similar devices that recede domestic waste water. On the last example I just mentioned where they pump out this toilet at street parade site; does that receive domestic waste water.

David Glatt: It is a sanitary waste that has to be appropriately handled. Domestic waste water is showers, baths, washing dishes is the grey water.

Rep. Klemin: In those you are not flushing anything. They are just setting there?

David Glatt: Yes it is a sanitary waste that has to be handled appropriately. It is defined in our laws in 61-28.

Rep. Hatlestad: Two three years ago in western North Dakota farmers were renting their pastures and land application of huge amounts of sewage and the health department did not seem to respond to issues. Is that legal what they were doing?

David Glatt: It is permissible to do land application of sewage. It is rare sewage and has to be treated for the pathogens and bacteria and that kind of thing. You can't over apply. Ten years ago it was not a problem. What we are seeing with the oil boom with these man camps there is so much waste being generated and there is just limited areas where they have excess to this land. They just kept going over and over and saturated it. That became a problem for us because the crops or vegetation doesn't take it up so it runs off and becomes a problem or a ground water issue.

Rep. M. Klein: Do you train and control all of these septic tank operators?

David Glatt: They are required to be licensed with us. There is money in the liquid gold and we need to do more outreach and training in this.

Rep. Kretschmar: Does your department have the authority to go after people who are violating the laws with regard to septic tank waste?

David Glatt: Recently we had a \$700,000 fine related to two septic tank pumpers that were disposing of their waste illegally. We have a problem catching them. There is a lot of that going out there and so we want to send a message that we want you to handle this appropriately and we don't want you to dump on North Dakota.

Rep. A. Maragos: Currently when a person runs a septic disposal do they have to take it to a place that they control to put it into a natural sewage system or dump station somewhere?

David Glatt: There are a couple ways that works. They can go to a city and pay a fee to deposit the waste. They can build their own system to handle the waste they pump out or they could land apply following the regulations.

Rep. A. Maragos: If they build their own lagoon do they add the chemicals themselves?

David Glatt: If they run their own treatment system eventually they are going to have to discharge and then they would have to come under the state requirements as relates to appropriate treatment and discharge.

Opposition: None

Neutral: None

Hearing closed.

Do Pass Motion Made by Rep. A. Maragos; Seconded by Rep. M. Klein:

Vote: 13 Yes 0 No 2 Absent Carrier: Rep. Hatlestad:

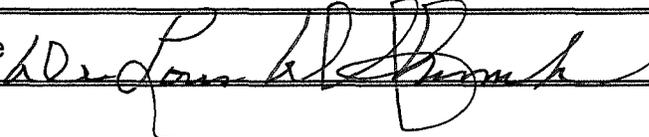
Closed.

2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

SB 2308
March 28, 2013
Job # 20623

Conference Committee

Committee Clerk Signature 

Proposed amendment #1

Chairman N. Johnson opened the meeting on SB 2308.

Rep. J. Kelsh: Made a Motion to Reconsider 2308; Seconded by Rep. Koppelman:

Voice vote carried

Rep. Hatlestad: (See proposed amendment #1) introduced the proposed amendment #13.8254.02003. **I would like to add to the amendment on the first line after the word insert in adopting its rules the department shall apply different standards. Seconded by Rep. A. Maragos.**

Discussion:

Rep. J. Kelsh: We give no direction of what the size should be? I am assuming you talked to the health department and they have a good idea where it should be.

Chairman N. Johnson: In the part where we are adopting its rules so that would go through the traditional rule making process then?

David Glatt, State Health Department: Yes that is correct. That would go through the typical regulations before they become finalized.

Rep. Koppelman: You mentioned approval from the Health Council. How does that work?

David Glatt: Any time we propose any new rules we need to propose them to the Health Council to get approval to go out for public comment even to proceed.

Rep. Koppelman: Who makes up the Health Council?

David Glatt: It is statutory and it has some representatives in industry, medical etc.

Rep. Klemin: I was expecting something a little more suffocated than this?

David Glatt: The regulations were developed in the 1950s. If you are a non-licensed pumper and you dump waste in a field we may not have any regulations to deal with that. If you are licensed the only thing we could do is pull your license; there is no fining so we put you out of business. What this would put this into our existing state law that there is a due process and fines associated with that and rules would be established that if you are licensed and you dump sewage in some body's front yard we would have some recourse there. Currently we might not.

Rep. Klemin: This would ordinarily become into effect August 1, but you are not going to have rules in place by then are you?

David Glatt: No, we are working on the rules as we speak allowing for differentiation between size and qualities. That will take time; at least six months.

Rep. Klemin: Maybe we should have a delayed effective date on this because we have a repealer on here that is going to be effective August 1.

David Glatt: If somebody would discharge and it would reach waters of the state we would.

Rep. Klemin: Yes but in other cases it may be more difficult. If we had a delayed effective date what should we have?

David Glatt: End of the year that would give us 6 - 7 months to get this done.

Rep. Klemin: Why wouldn't we just continue 23-19 and have that apply to your smaller farm home situations?

David Glatt: It isn't consistent with the due process that we currently have under our existing regulations. It was developed back in the 1950s when the Health Department really wasn't into this type of situation. As it relates to the small operators; actually the individual who wants to pump their own septic tank they would still be able to do that under these regulations.

Rep. J. Kelsh: There was concern about porter potty and campers on the floor. Do these amendments do anything to ease these concerns?

David Glatt: This deals with the licensing of people who pumps, but it is what happens after it is pumped out. Where do you take the sewage from the camper or port a potty? That is what we are concerned about. Campers would create a whole host of issues for us out in the west because we are seeing campers pop up on abandoned farm yards 2-3 at a time with no controls.

Rep. M. Klein: We are not concerned about one privy. You are not planning to have rules on him are you?

David Glatt: At the end of the day and if I had a privy and dumped it myself and it does not create a public health. We don't want a public health issue created. If we get complaints from people we will investigate.

Rep. L. Meier: How many complaints are you getting currently?

David Glatt: Depends on the weather. When we are really wet people have a tendency to deal with their septic tanks a little bit differently.

Rep. Koppelman: There regulatory landscape has changed in the last couple of years. I want to commend the departments because there are many difficult issues happening out there now.

Rep. J. Kelsh: With these amendments and with the repealer of 23-19 if someone dumped a tanker load of sewage into a water way they would be in trouble, but if they dumped it in the road ditch that was dammed by an approach so it couldn't get in the water way they would be alright and you couldn't do anything about it if this bill passed this way?

David Glatt: If the bill doesn't pass we would have difficulty with a non-licensed pumper that went on your land and you didn't give them authority and they dumped it out there and we couldn't prove that it would impact water quality we would have a difficult time taking any action against that person. We could attempt to try and bring in the waste management's rules, but after talking to our attorney's they said that might be difficult. This law would bring it into our existing water quality standards and we would develop rules so it would take care of that loop hole.

Chairman N. Johnson: In this bill with the amendments who are we regulating now and how does this add in?

David Glatt: Now we license septic tank pumpers. In the oil patch we are seeing oil companies with 20 plus trucks so how do we regulate these big guys? The small guys will stay the same. I want to know where that waste goes.

Rep. Klemin: Delayed effective date; if you did need adopt temporary or emergency rules to handle the interim between getting the permanent rules finished would a delayed effective date hamper that?

David Glatt: I don't know. If we can go to the governor we probably don't need the delayed rule.

Rep. Klemin: Maybe only on Section 7?

Rep. Koppelman: Do you think it would work to make the delayed effective date the date the rules authorized in the act are approved?

Rep. Klemin: It is a floating date. We don't want to have no law.

Rep. Koppelman: I would move to amend the motion on the floor to also include on page 3, line 4 after the word repealed insert, effective October 31, 2013. Seconded by Rep. A. Looyen.

Discussion:

Rep. Kretschmar: I think we should stretch it out till the end of the year. I think October is a little bit too soon.

Rep. Koppelman: We could do that. I was trying to think about the length of the rule making process is a six month process.

Rep. Klemin: That assumes they are going to request emergency rules, which seems to me like that is something to consider and if they don't do that then what?

Rep. Koppelman: If they don't do that then I would probably gone with a December 31 date.

Rep. Klemin: Makes it mandatory they have emergency rules then.

Rep. Koppelman: I don't have any problem with December 31.

Rep. Kathy Hogan: I am not sure getting emergency rules versus what they would already be doing?

Rep. Koppelman: Normally it is an easy process. It is something that there is a public need or public emergency and I can't think of one that would be more prevalent than the one we are talking about.

Rep. Kathy Hogan: How typical is it that we do emergency rules before we do full?

Rep. Koppelman: Actually I think we are dealing with a situation here that deals with public health and safety that is brought on by the oil boom and sometimes the wheels of government turn slowly.

Rep. J. Kelsh: I am summing there is a conflict between what we are proposing and 23-19. If we went to the end of the year doesn't the last bill have precedence over anything else? Isn't that the normal way it is?

Rep. Koppelman: You are right. The last bill passed this would supersede; however statue supersedes rules. Then the law would still govern. Is there anything in 23-19 that would cause problems in terms of conflicts with your rules?

David Glatt: I am not aware of any. The rules would be more comprehensive.

Rep. Koppelman: If the secondary would agree I would withdraw my motion and I would replace it would a motion for changing the date to December 31, 2013. Seconded by Rep. A. Looyen

Chairman N. Johnson: Then we would have a motion to amend the .02002 would be to put in an effective date for Section 7 of December 31, 2013.

Voice vote carried.

Chairman N. Johnson: Further discussion on Motion Made by Rep. Hatlestad: Seconded by Rep. A. Maragos.

Voice vote carried.

Do Pass As Amended by Rep. A. Maragos; Seconded by Rep. J. Kelsh:

Vote: 15 Yes 0 No 0 Absent Carrier: Rep. Hatlestad:

Closed.

FISCAL NOTE
Requested by Legislative Council
01/29/2013

Amendment to: SB 2308

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

The Bill further defines terms related to the regulation of septic system servicing, increases the civil penalties for violations and repeals similar language in chapter 23-19.

- 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 have a fiscal impact as the Department is already completing the inspections and issuing permits for this septic system servicing. It is difficult to determine the fiscal impact of increased penalties as we are unsure to what extent penalties would be assessed.

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: Brenda M. Weisz

Agency: Department of Health

Telephone: 328-4542

Date Prepared: 01/31/2013

FISCAL NOTE
Requested by Legislative Council
01/29/2013

Bill/Resolution No.: SB 2308

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

The Bill further defines terms related to the regulation of septic system servicing, increases the civil penalties for violations and repeals similar language in chapter 23-19.

- 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 have a fiscal impact as the Department is already completing the inspections and issuing permits for this septic system servicing. It is difficult to determine the fiscal impact of increased penalties as we are unsure to what extent penalties would be assessed.

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: Brenda M. Weisz

Agency: Department of Health

Telephone: 328-4542

Date Prepared: 01/31/2013

March 28, 2013

3/28/13
CWS

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2308

Page 1, line 6, remove the second "and"

Page 1, line 6, after "penalty" insert "; and to provide an effective date"

Page 2, line 26, after "3." insert "In adopting its rules the department shall apply different standards based on the size of the septic system servicer, on the type of the service provided, quantity of septage handled, and number of units. The department may not require preapproval of a land application site for an application from a rural single-family residence on property owned or leased by the owner or lessee of the single-family residence.

4."

Page 2, line 28, remove ", the provisions of this chapter, and the rules and regulations"

Page 2, line 29, remove "authorized herein"

Page 2, line 29, after the underscored period insert "Nothing in this section removes the duty of any person to comply with applicable public health standards."

Page 3, after line 4, insert:

"SECTION 8. EFFECTIVE DATE. This Act becomes effective January 1, 2014."

Renumber accordingly

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

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2308**

House Political Subdivisions 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 Rep. Maragos Seconded By Rep. Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Ben Hanson	✓	
Vice Chairman Patrick Hatlestad	✓		Rep. Kathy Hogan	✓	
Rep. Thomas Beadle	✓		Rep. Jerry Kelsh	✓	
Rep. Matthew Klein	✓		Rep. Naomi Muscha	✓	
Rep. Lawrence Klemin	✓				
Rep Kim Koppelman	—				
Rep. William Kretschmar	✓				
Rep. Alex Looyen	✓				
Rep. Andrew Maragos	✓				
Rep. Lisa Meier	—				
Rep. Nathan Toman	✓				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep. P. Hatlestad

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

Date: 3-28-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2308

House Political Subdivisions 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 Rep. J. Kelsh Seconded By Rep. K. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Ben Hanson		
Vice Chairman Patrick Hatlestad			Rep. Kathy Hogan		
Rep. Thomas Beadle			Rep. Jerry Kelsh		
Rep. Matthew Klein			Rep. Naomi Muscha		
Rep. Lawrence Klemin					
Rep Kim Koppelman					
Rep. William Kretschmar					
Rep. Alex Looyen					
Rep. Andrew Maragos					
Rep. Lisa Meier					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Vote carried!

Date: 3-28-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2308

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.8254.02003

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

Motion Made By Rep. P. Hatlestad Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Ben Hanson		
Vice Chairman Patrick Hatlestad			Rep. Kathy Hogan		
Rep. Thomas Beadle			Rep. Jerry Kelsh		
Rep. Matthew Klein			Rep. Naomi Muscha		
Rep. Lawrence Klemin					
Rep Kim Koppelman					
Rep. William Kretschmar					
Rep. Alex Looyen					
Rep. Andrew Maragos					
Rep. Lisa Meier					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

#1
Vote carried!

Date: 7-28-13
 Roll Call Vote #: 3

2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2308

House Political Subdivisions 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 Rep. K. Koppelman Seconded By Rep. Looyen

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Ben Hanson		
Vice Chairman Patrick Hatlestad			Rep. Kathy Hogan		
Rep. Thomas Beadle			Rep. Jerry Kelsh		
Rep. Matthew Klein			Rep. Naomi Muscha		
Rep. Lawrence Klemin					
Rep. Kim Koppelman					
Rep. William Kretschmar					
Rep. Alex Looyen					
Rep. Andrew Maragos					
Rep. Lisa Meier					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Pg 3, line 4 insert ^{Oct 31, 2013 - changed} Dec. 31, 2013

Vote carried!

Date: 3-28-13
 Roll Call Vote #: 7

2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2308

House Political Subdivisions 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 Rep. Maragos Seconded By Rep. J. Kelsh

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Ben Hanson	✓	
Vice Chairman Patrick Hatlestad	✓		Rep. Kathy Hogan	✓	
Rep. Thomas Beadle	✓		Rep. Jerry Kelsh	✓	
Rep. Matthew Klein	✓		Rep. Naomi Muscha	✓	
Rep. Lawrence Klemin	✓				
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Alex Looyen	✓				
Rep. Andrew Maragos	✓				
Rep. Lisa Meier	✓				
Rep. Nathan Toman	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep. P. Hatlestad

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

REPORT OF STANDING COMMITTEE

SB 2308, as engrossed: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2308 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2308, as engrossed: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2308 was placed on the Sixth order on the calendar.

Page 1, line 6, remove the second "and"

Page 1, line 6, after "penalty" insert "; and to provide an effective date"

Page 2, line 26, after "3." insert "In adopting its rules the department shall apply different standards based on the size of the septic system servicer, on the type of the service provided, quantity of septage handled, and number of units. The department may not require preapproval of a land application site for an application from a rural single-family residence on property owned or leased by the owner or lessee of the single-family residence.

4."

Page 2, line 28, remove ", the provisions of this chapter, and the rules and regulations"

Page 2, line 29, remove "authorized herein"

Page 2, line 29, after the underscored period insert "Nothing in this section removes the duty of any person to comply with applicable public health standards."

Page 3, after line 4, insert:

"**SECTION 8. EFFECTIVE DATE.** This Act becomes effective January 1, 2014."

Re-number accordingly

2013 TESTIMONY

SB 2308

Mr. Chairman and committee, my name is Senator Larry Luick, district 25.

SB 2307 is a bill coming to us from the Department of Health in an effort to get a better handle on the problems of faulty, failing, old, ill-designed, no-designed, leaking, broken, too small, no treatment, eminent health hazards of septic systems and the handling of septage. This problem is not only a problem in the western areas of North Dakota, but is state wide.

Behind me are individuals that can explain the bill but I would be very willing to try to answer any questions you may have regarding septic systems and the importance of better controls of this very unhealthy problem.

I ask you to consider a do pass recommendation for this bill.

Testimony
SB 2308
Senate Political Subdivisions Committee
February 7, 2013
North Dakota Department of Health

Good morning Chairman Andrist and members of the Senate Political Subdivisions committee. My name is David Glatt, Chief of the Environmental Health Section for the North Dakota Department of Health. The Environmental Health Section is responsible for the implementation of many of the environmental protection programs in the state, including the regulation of septic tank servicing businesses. I am here to express support for SB 2308. The potential for environmental impact from the disposal of untreated or undertreated septic tank and domestic wastewater has increased over the past few years. Much of the impact in the oil development counties has been primarily related to improper land application of waste or inadequately designed sewage collection and treatment systems. In addition, long-standing laws and rules regulating the handling and disposal of septage are no longer adequate to address the increasing volume of waste generated by oilfield development activities and associated population growth. We believe SB 2308 will help address these concerns in the following ways:

- It will repeal NDCC 23-19, originally approved more than 40 years ago, and place the responsibility for the regulation of licensed septic tank pumper operations in NDCC 61-28 Water Pollution Control Law. NDCC 61-28 is the primary legislation authorizing the Department of Health to protect water quality and regulate activities that could potentially impact water quality throughout the state. It will also ensure that a consistent enforcement process is applied to all waste dischargers who violate rules developed to protect water quality.
- It will provide the department the authority to require training and certification of licensed septic tank pumpers/haulers and their employees. After the completion of several recent enforcement cases, it has become apparent that some operators lack an understanding of the rules and proper waste disposal/treatment alternatives.
- It will provide the department the authority to establish: (1) rules requiring land application monitoring, record keeping and spill reporting; (2) criteria for the sanitary management of septage; and (3) reasonable fees for permitting septic system service providers.

- It also provides that the department may monitor septic system servicing activities, including the inspection of disposal sites at reasonable times to ensure compliance with state laws, rules and provisions of this new chapter.
- It increases the allowable per day penalty for law or rules violations from the current maximum \$5,000 per day to a maximum of \$12,500 per day for any water quality violation determined under NDCC 61-28.

We also note that there are two other bills currently being considered by the legislature that address some aspect of septic systems. First, SB 2307, which addresses the installation and operation of on-site sewage systems, contains a definition of “septic system” that is identical to the definition in Section 2 of this bill. The definition in SB 2307 would also be included in NDCC 61-28. Second, SB 2355, which addresses the State Health Council’s duties, seeks to amend NDCC 23-19 by removing the reference to “state health council” and replacing it with “state health officer.” The bill we are considering today seeks to repeal NDCC 23-19 and, if adopted, would make the SB 2355 amendment to NDCC 23-19 unnecessary.

The three bills are outlined in the charts below:

Bill No.	Senate Committee	Summary
SB 2307	Natural Resources	Septic System Installation
SB 2308	Political Subdivisions	Septic System Servicing
SB 2355	Human Services	Powers and Duties of State Health Council

Potential Overlap
SB 2307 & SB 2308: Both define “septic system.”
SB 2308 & SB 2355: SB 2308 repeals NDCC ch. 23-19, while SB 2355 amends NDCC 23-19-07.

Finally, the department proposes one amendment to SB 2308. Due to the timing and current level of development of the rules, the emergency clause is not needed and we would propose deleting Sections 8 and 9 of SB 2308.

SB 2308 will provide for more contemporary and consistent regulation and enforcement of septic system service providers, offer compliance outreach through the training and certification components of the bill, and require adequate record keeping to ensure waste is treated and disposed of properly throughout the state.

This concludes my testimony. I would be happy to answer any questions you may have on this matter.

#1

Testimony
SB 2308
House Political Subdivisions Committee
March 14, 2013
North Dakota Department of Health

Good afternoon Chairman Johnson and members of the House Political Subdivisions committee. My name is David Glatt, Chief of the Environmental Health Section for the North Dakota Department of Health. The Environmental Health Section is responsible for the implementation of many of the environmental protection programs in the state, including the regulation of septic tank servicing businesses. I am here to express support for SB 2308. The potential for environmental impact from the disposal of untreated or undertreated septic tank and domestic wastewater has increased over the past few years. Long-standing laws and rules regulating the handling and disposal of septage are no longer adequate to address the increasing volume of waste generated by oilfield development activities and associated population growth. We believe SB 2308 will help address these concerns in the following ways:

- It will repeal NDCC 23-19, originally approved more than 40 years ago, and place the responsibility for the regulation of licensed septic tank pumper operations in NDCC 61-28 Water Pollution Control Law. NDCC 61-28 is the primary legislation authorizing the Department of Health to regulate activities that could potentially impact water quality throughout the state. It will also ensure that a consistent enforcement process is applied to all waste dischargers who violate rules developed to protect water quality.
- It will provide the department the authority to require training and certification of licensed septic tank pumpers/haulers and their employees. After the completion of several recent enforcement cases, it has become apparent that some operators lack an understanding of the rules and proper waste disposal/treatment alternatives.
- It will provide the department the authority to establish: (1) rules requiring land application monitoring, record keeping and spill reporting; (2) criteria for the sanitary management of septage; and (3) reasonable fees for permitting septic system service providers.
- It also provides that the department may monitor septic system servicing activities, including the inspection of disposal sites at reasonable times to

ensure compliance with state laws, rules and provisions of this new chapter.

- It increases the allowable per day penalty for law or rules violations from the current maximum \$5,000 per day to a maximum of \$12,500 per day for any water quality violation determined under NDCC 61-28.

We also note that there is one other bill currently being considered by the legislature that addresses another aspect of septic systems. SB 2307, which addresses the installation and operation of on-site sewage systems, contains a definition of “septic system” that is identical to the definition in Section 2 of this bill. The definition in SB 2307 would also be included in NDCC 61-28.

The two bills are outlined in the charts below:

Bill No.	House Committee	Summary
SB 2307	Energy & Natural Resources	Septic System Installation
SB 2308	Political Subdivisions	Septic System Servicing

Potential Overlap
SB 2307 & SB 2308: Both define “septic system.”

SB 2308 will provide for more contemporary and consistent regulation and enforcement of septic system service providers, offer compliance outreach through the training and certification components of the bill, and require adequate recordkeeping to ensure waste is treated and disposed of properly throughout the state.

This concludes my testimony. I would be happy to answer any questions you may have on this matter.

7

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2308

Page 2, line 26, after "3." insert "*in adopting its rules* The department shall apply different standards based on the size of the septic system servicer, on the type of the service provided, quantity of septage handled, and number of units. The department may not require preapproval of a land application site for an application from a rural single-family residence on property owned or leased by the owner or lessee of the single-family residence."

4."

Page 2, line 28, remove ", the provisions of this chapter, and the rules and regulations"

Page 2, line 29, remove "authorized herein"

Page 2, line 29, after the underscored period insert "Nothing in this section removes the duty of any person to comply with applicable public health standards."

Page 3, after line 11 insert "**SECTION 8. EFFECTIVE DATE.** This Act is effective December 31, 2013."

Renumber accordingly