

2001 HOUSE APPROPRIATIONS

HB 1008

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1008

House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date January 15, 2001

Tape Number	Side A	Side B	Meter #
01-15-01 tape #1	0 - 6222	0 - 1455	
Committee Clerk Signature <i>Patricia Hall</i>			

Minutes:

The committee was called to order, and opened the hearing on HB 1008, the budget appropriation for the Public Service Commission.

Jon Mielke, Executive Secretary, Public Service Commission: Had written testimony handed out. Commissioners present. He will be presenting all testimony, but the others present are here to support him. He read the written testimony. With one exception the general fund portion of the executive budget recommendation is a status quo budget. The exception involves a weights and measures inspector position that was cut. The Commission asked that this position be restored, and it was, but no funding was provided to allow that inspector to conduct in-state inspections during the new biennium. The Commission requests \$51,000 for this need. The Commission's jurisdiction (duties) are listed on page 2 of the written testimony. The Commission has a 1999-2001 operating budget of \$9.2 million, of which 39% is general fund dollars (\$3.6). All the federal money is used to fund work related to reclamation activities in ND

active and abandoned mines. The Commission is an agency in transition - it no longer regulates trucking and its role in regulating rail industry has changed drastically because of federal preemption. Competition is finding its way into the telecommunication industry, including slamming and disputes between carriers. Changes are occurring in the electric industry. Computers have allowed the Commission to do more with less, doing inspections on computer and information is sent by computer and stored on disk.. The agency has redesigned in response to these changes, going from 60 to 41 employees in 20 years. The Commission handles over 1,200 cases per biennium, with over 96% processed without a formal hearing. There are however instances where a formal hearing cannot be avoided. In these cases the Commission functions like a court, and issues orders after holding formal hearings with presentations from all interested parties. Pages 4 and 5 list recent proceedings. There continues to be a vital need for the services that the agency provides. Pages 5 and 6 list comments from other agencies regarding the PSC.

The executive budget recommendation is a status quo proposal. It calls for the continuation of programs at continuing FTE levels. However, the Commission has reorganized and eliminated one federally funded FTE. The FTE authorization may be reduced to 41. The executive budget contains a 12.7% increase in travel. This is mainly used for travel related to grain elevator inspections, the certification of weighing and measuring devices, inspections at coal mines and related reclamation work, and monitoring contract work at abandoned mine sites. Remember that the executive budget restored a weights and measures inspector, but did not provide for travel expenses of this position. Travel costs are about \$23,500 per biennium. This travel and inspection generates about \$83,500 in general fund revenues. Fleet Services also advised agencies to budget 15-30% more to cover increased travel costs. The Commission

expects that it will experience an increase at the upper end of this range because of the vehicles used. The Commission's general fund inspection programs, through October of 2000, have cost \$190,000 for travel, and the expectation is that the biennial total will be \$285,000. The budget recommendation is only \$262,000, and it anticipated that there will be an additional \$51,000 in travel expenses, for the restored FTE travel and increased costs overall. The Commission has introduced two bills in this session that would increase license fees associated with the inspection programs. These fee increases would increase general fund revenues by \$93,000.

There were two other supplemental requests that were left out of the budget recommendation. The first was for an information officer position. This person would develop educational materials and programs. The Commission requested \$75,000 for this position, \$66,000 in general funds. The second was a request for \$100,000 in general fund money to pursue relief from monopolistic railroad practices. ND rail rates on grain are the highest in the country. It costs more to send grain from ND to Seattle than it does to ship grain from Iowa to Seattle. It costs more to ship wheat from ND to Portland than it does to ship wheat from Kansas or Nebraska to Portland. The Commission estimates that ND's annual transportation bill could be as much as \$100 million lower if we had effective competition for grain shipments. Page 9 continues to discuss the railroad issue. Page 10 summarizes the Commission's requests. They first seek the additional \$51,000 in travel costs.

Rep. Glassheim: You say that this is a status quo budget, but it's some 5% more than the last biennium. Why?

Response: The increases are due to the salary increases of staff and elected officials, inflation and travel costs.

Rep. Thoreson: Has the public been complaining about the increased heating costs.

Response, Illona Jeffcoat-Sacco, Public Utilities Director: They have had a lot of public contact to increased costs and the department is trying to get more information to the public. There is not a lot the department can do to regulate the prices, but they have tried to help the utilities to get better information and additional information to the public as to why the costs are up and how to save.

Rep. Thoreson: You said you are distributing materials, do you have something you have printed up to show us?

Response, Illona Jeffcoat-Sacco: Yes, I can get this to you. We have some information on the web site, and information collected from the utilities. (A packet of information was later provided to the committee members).

Rep. Carlisle: Are we looking at good, sufficient power supply for North Dakota?

Response, Illona Jeffcoat-Sacco: The utilities say that all is good. The utilities have informed the Commission as to where the problems are and why, and this should not affect this state. We should have no fears, but everyone should be learning from the California experience, as to what can go wrong without long term planning.

Rep. Koppelman: Do you see less of a problem (power distribution) in ND than even in Minnesota? As to generation, transmission, distribution, what is the role of the Commission?

Response, Illona Jeffcoat-Sacco: Minnesota has a lot greater load than ND has, and some transmission constraints. Regulators and policy makers have to be aware of how interdependent these issues are. The role is changing, and now the Commission does not have a great role in generation because no one under our jurisdiction is building any generation. If generation was being built, the Commission would deal with the siting of the power plant. The Commission

also has a role in an investor owned utility as to how they would recover the cost in rates. Much transmission is regulated by FERC, but we still have a role in siting, and have a role in a portion of the apportionment in the rates. Distribution is completely within the jurisdiction of the Commission except for cooperatives. We do have a big role in rates and where they go.

Rep. Koppelman: If alternative energy, like wind energy, is developed, how do you see that as having an impact on energy in our region and the Commission.

Response, Ilona Jeffcoat-Sacco: It can only be a good thing for ND. Economically its good, using a renewable resource and beginning to develop expertise in this would be good. The Commission would be involved in siting such facilities. We do have a siting application pending.

Chairman Byerly: Is there anything in the statutes of ND now that could cause us to end up like they are in California. I understand their legislature had passed some bills that decoupled generation from transmission and so on. Do we have anything like that hiding.

Response, Ilona Jeffcoat-Sacco: I don't think so, because it has been our opinion that we need legislation if we are going to restructure the electric industry in any way.

Rep. Skarphol: On the issue of wind energy, you mentioned a certain size. Do you regulate only a certain size?

Response, Ilona Jeffcoat-Sacco: The threshold is 50 megawatt and what we have had to date is much smaller than that. We do not regulate windmills on farms, like that. We have heard of two larger wind farm - one has filed a letter of intent.

Rep. Skarphol: There is some discussion in our Stanley area. I do not know the size, but are they below your threshold?

Response, Commissioner Wefald: Last week I attended the wind conference. She is aware of a project near Edgely. They are looking closely at their location. Each tower that generates wind is approximately 1 megawatt. So a 50 megawatt project would need about 50 wind turbines. You would need considerable amounts of land for this. The Edgely project would not be 50 megawatt, but maybe 20. If greater than 50 megawatts, the Commission would be involved in the siting. Ilona referred to one project bid by Excel, formerly NSP. They would be putting in an 80 megawatt project, north of the Casselton area.

The distance apart of each wind generator is due to efficiency, not ND regulation.

Jon Mielke: Dean Peterson handed me a couple maps, available in the great hall this afternoon, and one is a mid-area power map and the other is a map showing the distribution system in the western US.

Rep. Skarphol: Your supplemental budget that you are asking for over and above the governors recommendation is \$224,00.

Response, Jon Mielke: If we could prioritize the requests, our first request is \$51,000 in travel needs. We want you to be aware of the information officer requested. The Commission feels much more strongly about the railroad position, and we think that is a long-term need. We see a potential return on our investment.

Rep. Skarphol: Why the reason for the difference in the rates?

Response, Jon Mielke: Lack of competition. If you look at the rates, the rail rates from IA have competition from the barge rates down the river. We do not have the competition from ND.

Rep. Skarphol: How many IT persons in the office. And AML contractual services, what does that mean?

Response: 2 persons. AML is Abandoned Mine Land program, which is 100% federally funded. We have a relatively small staff, 4 full time and an administrative assistant, who develop plans and let bids to eliminate safety hazards at mine sites mainly in western ND. We use the federal funds to design programs, and rather than have the state do the work, we contract out on bids and the staff monitors their work.

Rep. Skarphol: Asks a question on phone company access charges. He is told ND is one of 7 states that have these charges. What are they and why?

Response, Ilona Jeffcoat-Sacco: All states have access charges I think, but ND may have high access charges. She has heard this comment before, and she doesn't know that this is completely true. ND is a small market, and there are some steep charges for some services. Rural ND may be more costly than urban ND. They providers cannot charge whatever they want, but access rates are price capped or rate of return, which means they are subject to the statutory price cap or our jurisdiction on rate of return as the company chooses. The cost to provide services is higher in the rural area, and the company recovers those costs from local service and from access. This has been around for a long time, the subsidies, to make sure the service has been available in all area, but these charges are now showing up in strange way. There is another component that is costly to companies, the cost charged by the local company to the long distance companies for billing and connection. The feds are not involved in intrastate access. They are somewhat involved in interstate access.

Rep. Koppelman: I get constituents asking about what shows up on their phone bills. Is it a new trend to show all the taxes and charges on the bills? Is phone competition in ND growing?

Response, Ilona Jeffcoat-Sacco: It is a new trend since the Federal act in 1996, that required the charges to be disclosed, and unbundled. I believe that competition is growing, lots of

companies authorized to provide service, but not all are currently providing. New companies are beginning marketing. That looks like it will continue to develop.

Chairman Byerly: There are three bills to increase rates, one for auctioneers, one for weights and measures, and one for grain buyers. Will these funds flow back to agency or general funds.

Response, Jon Mielke: All proceeds go to the general fund. The revenue projections are not developed on these bills increases.

Chairman Byerly: On the \$100,000 to start working on the railroad transportation issue, has there been any talk of going to the commodity groups for help in funding. Is there any coordination on this issue.

Response, Jon Mielke: I am aware of some studies done, but they weren't on the litigation side, they were more geared toward trends in the transportation industry. As to the various groups, we have had meetings with some entities, and some of their representatives are here today. Most are not in any position to give major financial support either.

Chairman Byerly: On the AML grants, it shows no increase or decrease, is there anything going on with the federal government in that area. Are the major abandoned mines being taken care of.

Response: ND is a minimum funding state, so we get the same funding each year, which is the minimum allowed. They have identified 600 + mine sites and categorized as to their hazardous nature, and they haven't done anything outside of the top two categories. There is more than enough work to keep busy for a lot of years.

Chairman Byerly: As we go through these budgets we find a strange mix of jobs, like licensing of auctioneers. Is this a PSC issue. How do we identify these changes, and how much time you are spending on these things.

Response: The licensing of auctioneers doesn't take much time. We don't investigate many complaints. I do not know how it got to the PSC in the first place. Some of the jobs may overlap. The combination of overseeing grain elevators and railroads actually is a good mix. So sometimes it works out.

Rep. Glassheim: Could you say a word or two about the commission and the Internet activity and any regulation in the next few years. Is there any role now, or any seen in the future. Any complaints of privacy.

Response, Ilona Jeffcoat-Sacco: Currently the people who regulate the utilities are not regulating the Internet. And the Internet issues are like taxes and privacy, and outside the utility regulations. The providers are using telecommunication services and so the underlying provider to the Internet provider is a regulated or competitive telecommunications company. The problems that people call about, are not telecommunications issues. So today we are not regulating, but we are staying on top of it, in case it changes. As to privacy, we don't regulate, and I really cannot say. It depends on where the technology goes.

Rep. Skarphol: Makes some comments as to his local CO2 pipeline and the gas smell it generates.

Mike McNamee, North Dakota Grain Dealers Association: Had written testimony handed out. HE made the trip today to emphasize the Association's strong support for adding to the PSC budget the requested \$100,000 in general fund money to seek relief from, railroad rate and service abuse. His written testimony explains the problems they have with the railroad service. The Association will offer \$10,000 of their funds if the budget appropriation is made.

Jim Peterson, Marketing Director for the ND Wheat Commission: Had written testimony handed out. He is testifying to support the supplemental \$100,000 budget request. His written testimony explains the problems and they deal with in relation to the railroad issue, and why they believe the funding is necessary. Our board has not considered helping fund this need, they are heavily involved in the Canada Wheat Board investigation.

Rep. Koppelman: The request in the budget is for \$100,000 and its to file a lawsuit. Is that money to pay for outside legal fees, or inside staff, or who?

Response, Jon Mielke: Our expected use of those funds is for outside counsel, because this is very specialized law. We would certainly have our counsel involved. Part of that is for technical costs, working on rail rates.

Rep. Skarphol: The money seems to be to initiate the process. Do you have an opinion as to the overall cost that you would need down the road?

Response, Jon Mielke: Its really difficult to say, what it would cost. Montana had a case that drug on for 17 years. And if those same rules were in place, we would not consider this request. But the rules have changed, and no one has brought forward a complaint under the new rules. So we think it would be far less time consuming and far less expensive than what Montana got hit with. If we could negotiate a settlement that would be good, a lawsuit is a final resort.

Rep. Koppelman: Are there other states that are in similar positions as ND.

Response, Jon Mielke: One other area that is hit as hard as ND is eastern Montana.

Chairman Byerly: Since we have the coal industry and power plants, are there any plans for any additional generation plants in the state.