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2003 HOUSE AGRICULTURE

HB 1157

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Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1157

House Agriculture Committee

Conference Committee

Hearing Date 1--17--03

Tape Number	Side A	Side B	Meter #
A	1		30.0 to 6.9
Committee Clerk Signature <i>Edward D. Elmer</i>			

Minutes:

CHAIRMAN NICHOLAS : Committee Members, we will open on HB 1157. Who would like to be first to testify in favor of HB 1157.

JON MIELKE: Good morning Chairman Nicholas and Committee Members. My name is Jon Mielke. I am the Executive Secretary of the Public Service Commission. I work with the Licensing division. Also I have with me Bill Benick. He's our council. And Commissioner Wefald. HB 1157 was introduced at the request of the commission. It addresses a wide variety of issues related to the agency's of grain warehouses and grain buyers. {{{{PLEASE SEE PRINTED TESTIMONY AS TO JON MIELKE TESTIMONY.}}}}

JON MIELKE: Mr. Chairman, I would like to point out that we have shared all of these proposals with Grain Dealers association and I am not aware of any opposition from them. I just want to let you know that we have made the industry aware. That concludes our testimony. I will answer any questions you might have.

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CHAIRMAN NICHOLAS : Representative Mueller.

REP. MUELLER : Jon, I am not sure I'm totally understanding what you are doing with "Section 4" The Condominium Storage. I am taking that to mean should a farmer come in lease four bins at the end of the driveway. Is your intent that that will come under the Licensing process and protection. Is that what it is saying?

JON MIELKE: The way it works presently. We tell someone that they cannot lease or sell Ben space on their complex to someone else for nonpublic use unless it is physically disconnected. So if they had some tanks on the other side of their complex. They could sell or lease those just by deleting from their physical capacity. We just adjust our insurance and they no longer show up. They are controlled by someone else. But the elevator would not have the ability to do that if those bins could not be physically disconnected. If there was a row of tanks that can't disconnect. And the Mandan situation was a perfect example of that. They had a row of tanks that they just could not disconnect. Or if they have some bins right in their tower that they wanted to lease out. You can't physically disconnect those if you got into a solvency situation, we would have a real mess. So you can't lease that out or sell it. Now with this change you would be able to do that. But if it was not physically disconnected. They would still have to license and bond. We would still be in the same situation if we got into a solvency situation. How do you discern one from the other with grains moving back and forth. So if you have condominium storage, it's in your main complex. It has to be licensed and bonded. Treated just as if it's company owned or elevator grain if we do get into one of those insolvency situations. So, it is going to create some opportunities for warehouse men that they don't have

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today. We also want to make sure that we maintain those protections so that the people dealing with the elevator or publicae warehouse space.

REP. MUELLER : If I may continue. Mr. Chairman. The meaning with that circumstance You are talking potentially of commingling of grains. So if I have grain in a bin and there is an insolvency issue can I go in and take my grain out.

JON. MIELKE: Mr. Chairman and Rep. Mueller. That is correct. If there is an insolvency or a proceeding underway. If you had condominium storage in that main complex or one of the bins in the tower or one of the connected bins or tanks and there was an insolvency you could not go in and take your grain out. There is a chance that your grain was commingled with company grain. But, even though you did not have that ability you are going to have protection. And you are going to be entitled to any other protection would have. We are kind of trying to have it both ways. You will have the same protection as any other patron of the elevator. Again, if you can't disconnect the bins you can't lease them. If you have fifteen producers out there and they have an elevator, they don't need a license from us because it is not by definition a public warehouse. Some of those facilities are not licensed and we don't think that is a problem. The Condominium storage facilities can go either way. The can license and bond or they don't have to. If they license and bond they put restrictions on themselves.

REP. MUELLER : If I am renting a bin why would I not make sure my grain is no commingled?

JOH MIELKE: When you are unloading the grain, you are trusting that the grain handler is Putting the grain in the right bin. What if, by mistake, he put your grain in bin 10 instead of 8.

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Now there is an insolvency situation and you come in and say all of the grain in that bin is mine
Now you have a problem. This bill would make sure you have protections for those kind of
mistakes.

CHAIRMAN NICHOLAS: Any further discussion.. The Chair will entertain a motion.

REP. MUELLER: MADE MOTION FOR DO PASS

REP. KREIDT: SECONDED THE MOTION.

ROLL CALL VOTE WAS TAKEN.

13 YES 0 NO 0 ABSENT

BILL WAS CARRIED BY VICE CHAIRMAN POLLERT.

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FISCAL NOTE
 Requested by Legislative Council
 01/02/2003

Bill/Resolution No.: HB 1157

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

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	(\$6,000)	\$0	(\$6,000)	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Grain warehouse and grain buyer licenses run from August 1st through July 31st. Statutory license fees are not prorated for licenses that obtain part way through the year. To eliminate related business start-up problems and expenses, this bill proposes to grant licensees a first year license of up to 14 months if they commence operations in June or July. It is expected that this change will positively impact up to six licensees per year. It will also eliminate timing problems for licensees and the Commission's staff since it would not longer be advantageous to time the start-up of new business to exactly coincide with the start of a new license year.

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

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

It is estimated that the change proposed by this statute would reduce general fund income by about \$6,000 per biennium. Conversely, it would positively impact about six new licensees per year

(\$500 per licensee x 6 licensees per year = \$3,000 per year or \$6,000 per biennium).

This revenue loss may be partially offset by the late filing fee proposed by this bill (\$100). It is expected, however, that this disincentive penalty will result in more prompt compliance filings and few penalty payments.

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.*

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None.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

None.

Name:	Jon Mielke	Agency:	Public Service Commission
Phone Number:	328-4082	Date Prepared:	01/06/2003

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