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Dorinda Halliwell
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10/3/03
Date

2003 HOUSE TRANSPORTATION

HB 1372

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1372

House Transportation Committee

Conference Committee

Hearing Date January 31, 2003

Tape Number	Side A	Side B	Meter #
1	x		41.6 to end of side A
		x	1.3 to 36.1
2	x		11.4 to 18.1

Committee Clerk Signature

Lauren Fisher

Minutes:

Rep. Weisz, Chairman opened the hearing on HB 1372 , a bill for an Act to create and enact a new section to chapter 60-02 of the North Dakota Century Code, relating to local emergency personnel notification regarding roadways blocked by unit trains; and to amend and reenact section 49-11-19 of the North Dakota Century Code, relating to blocking of roadways by unit trains.

Rep. Johnson: Representing District 15 introduced this bill on behalf of some of the townships in his area. More and more of these units trains in the rural areas are loading at local elevators blocking road crossings and it really becomes a safety issue. Section provides how to deal with blocked crossing for up 8 - 10 hours.

Rep. Weisz, Chairman When a train is load at approximately the middle of the train and they are blocking a crossing --- approximately how long is it going to take for the elevator to get that train off the tracks so that en emergency vehicle can get through.

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Rep. Johnson: (45.1) The purpose of this legislation is to notify emergency personnel in case that they are probably at the front car and have the whole length to go or maybe they have gotten to the middle but maybe the crossings are or are not blocked but the purpose of the call is to notify emergency personnel that the train is there. At least they would know ahead of time to plan an alternate route.

Rep. Weisz, Chairman : I guess my question is if you have only one route where the elevator is for you to get where you are going -- and the train happens to be in the middle of the crossing --- how long is that going to take -- especially when there is no alternate route?

Rep. Johnson: They are folks who are better able to answer that. There are cases where they have built alternate routes where one had not existed.

Rep. Ruby: Normally don't they now separate the trains to allow crossing when they are loading --I am familiar with some towns in my area which don't have another access into town if the one crossing is blocked?

Rep. Johnson: If you have those arrangements OK but the one I am familiar with the 110 cars trains don't break, they load from one end to the other on tie move. It takes them up to 10 hours.

Rep. Galvin : You say they don't break those trains down but they can break those trains anywhere they want can't they?

Rep. Johnson: They can break it anywhere one end to the other but when they are loading the train keeps moving and doesn't break. Its up to the railroad.

Rep. Severson: (50.6) I appear only to support this bill. It is needed. I do have some friendly amendments. He passed them out. a copy is attached. He related how the community of Finley had built an alternate access road.

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Rep. Ruby: (1.6) This bill not only requires the notification but if enacted would allow the trains to remain there for up to ten minutes. Up until if they have been blocking the road for ten minutes they were in violation to the present law.

Rep. Weisz, Chairman: It is the law now that they may not block a crossing for ten minutes. If they are going to break the law why are they going to notify someone that they are doing that?

Rep. Severson: That's a very good question and I was unaware this would have that effect.

Rep. Delmore: How often do these trains come in and block the tracks?

Rep. Severson: About every two weeks -- a least once a month -- at about 5:30 in the morning. And the railroad company will come in and pick them up the next morning.

Brian Bjella: Representing the North Dakota Grain Dealers Association. He was speaking in a qualified support of the bill. They support section 1. They do have some concerns about section 2 in regards to notification to be given by the elevator -- there concern is the issue of liability, especially if the elevator manager has no control over the train or when it is under control of the railroad company. Also the bill lacks a definition of what is a unit train.

Rep. Weisz, Chairman: Since when does the railroad load the cars - - I thought that the elevator loaded the cars ?

Brian Bjella: I was just told before this meeting the it depends at what stage they are in the loading -- if near the end of the loading when the trains is moving or moving out they may be blocking the crossing and the train is totally under the control of the railroad company.

Rep. Delmore: How many sites are effected by this -- certainly these unit trains don't go to every single elevator in North Dakota?

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Brian Biella: Certainly not -- there are perhaps 15 -20 of the shuttle loaders but there are many 50 car loaders which do cause the same problems.

Rep. Schmidt: (6.7) On that liability issue the engineer bring the cars right up to the elevator and they sit and move the cars right?

Brian Biella: So the elevator isn't liable and it seems to me they are making the money and they should be able to make the calls and we could make them liable and not the elevator.

Rep. Price : If the elevator has to move these trains or the trains can't block the crossings now -- it seems to me they have a huge liability right now if they are blocking the roads for more than 10 minutes.

Brian Biella: I would agree they may have a liability now but adding the requirement for them to make the calls places a greater liability on them.

Rep. Ruby: Correct me if I am wrong -- but when the railroad places the cars -- they will leave so as not to block the roadways. Some of the elevators have their own switch engine and some use old tractors to jockey the cars around. How can the railroad be responsible when it is the elevator that is moving them?

Brian Biella: I am not familiar with all the aspects of these operations but it appears that some times it is the elevators responsibility and sometimes it is the railroads.

Rep. Weisz,Chairman: To clarify -- sometimes the railroad will arrive to take the train out and the elevator is still loading --- the train is moving but the rate depends on how fast the elevator is able to load -- so the control overlaps.

Rep. Delmore: (10.1) Do know how often those trains block the crossings if the elevators would become liable?

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Brian Bjella: I don't know.

Norm Andreson: Representing the North Dakota Association of Counties and I am also a Dickey County Commissioner. We appear in support of this bill. If you concur in some suggested changes -- we would like to see in line 5 on the backside to change that to radio dispatcher as many areas don't use the state radio.

Rep. Weisz, Chairman: Why would support this as it is going backwards from what the law now is?

Norm Anderson: Our recent experience is with these 110 car unit trains and they do block the crossings more than 10 minutes -- a train that long can -- even if it is moving can block a county road a half mile west and the state highway a half mile east of the loading facility. I have served on an ambulance for 10 years and we did have an experience where a derailment blocked the crossing for some time -- we negotiated a radio call arrangement that worked real well for that situation.

Ken Yantes: Representing the Township Officers Association. He appeared in support of HB 1372. A copy of his written testimony is attached.

Rep. Weisz, Chairman: Why is this an improvement --- while ignoring current law ?

Ken Yantes: There are areas in North Dakota where it takes more than 12 miles but the emergency vehicles aren't going to drive up there and find the crossing blocked. I think it would work.

Robert Fode: (sp?) Representing the Township officers Association. Appeared in support of the bill. These trains don't get up to speed enough so that they don't block the crossings.

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Our best day was about 400 semi trucks unloaded in one day and when the trains block the state highway it they were allowed would be quite a back up of trucks.

Rep. Zaiser : (21.4) If you are breaking the law -- why would anybody call some body to admit that he was breaking the law?

Robert Fode: (sp?) We are not asking them to break the law -- we are trying to help the emergency vehicles avoid those who may be breaking the law.

Rep. Ruby: If they are breaking the law -- with this law they will be allowed to block the road ways --- why pass it to allow it? --as long as they notify you.

Some give and take discussion between Mr. Fode and Rep. Ruby followed.

Noel Wescom: From the Finely, North Dakota area. He didn't want to get into the foray but wanted to explain the elevator constructed by-pass and how it worked out well in Finley.

Opposition testimony:

Tim Horner: Director of Transportation Programs for the ND DOT. In its original form we were opposed to the bill. We are in the business of moving traffic across the state. We can accept the bill with Rep. Seversons amendments.

Rep. Price: What would the DOT's position be is "f" I line 17 were eliminated?

Tim Horner: It would be acceptable so long as it doesn't open the door to blocking a state highway.

Connie Sprzynatyak: Representing the League of Cities. We would oppose this bill as we don't believe it is in the public interest to allow blockage of crossings in town any more than on state highways.

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Rep. Price: (32.0) I realize that this may be a survival issue for these smaller communities because of the unit trains taking business from the smaller communities -- have the cities discussed that aspect of it?

Connie Spryzynatyak: The cities are for commerce in this state and that is where you get the sales tax for the state. We haven't talked about the pedestrian issue -- we don't have an amendment and don't know the solution to it but if you add another tens to closing crossings, that is the cities concern.

There appeared no persons wishing to appear either for or against HB 1372, the chairman closed the hearing. (36.2)

Tape 2 side A (11.4)

Rep. Weisz, Chairman opened the discussion on HB 1372. Apparently after the hearing closed, some of the Township Officers expressed concerns about legislating to allow unit trains to block road crossings. Following discussion of the testimony, Rep. Price moved to amend HB 1372 by removing line 17 on page 1; on page 2, remove 911 in line 5 and add Emergency Service Communications System in place of 'local'.

Rep. Ruby seconded the motion for the amendments.

The motion carried on a voice vote.

Rep. Headland: Moved a 'Do Pass as Amended' motion for HB 1372.

Rep. Thorpe seconded the motion.

On a roll call vote the motion carried 12 ayes 0 nays 1 Absent and not voting.

Rep. Bernstein was designated to carry HB 1372 on the floor. End (18.9)

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