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Dennis Halliwell
Operator's Signature

10/3/03
Date

2003 HOUSE TRANSPORTATION
HB 1403

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Demetrius Hall
Operator's Signature

10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1403

House Transportation Committee

Conference Committee

Hearing Date February 6, 2003

Tape Number	Side A	Side B	Meter #
3		x	13.4 to 28.8
		x	50.1 TO 53.7
Committee Clerk Signature <i>Lawrence J. Fisher</i>			

Minutes:

Rep. Weisz, Chairman opened the hearing on HB 1403 a bill for an Act to amend and reenact section 49-09-04.2 of the North Dakota Century Code, relating to the sale of railroad right of way.

Rep. Wrnagham representing District 8 introduced HB 1403. Adds a paragraph to the Century Code. The intent is at present when the railroads abandoned line there is are steps for them to go through in disposing of the real property. The purpose of this bill is that when a railroad wants to dispose of surplus property that is parallel to the railroad -- if they wanted to sell it this provides a way for them to do so -- that is to treat it as abandoned land and use the same steps as for abandoned line.

Mark Seitz (sp?) representing the North Dakota Farmers Union spoke in support of the bill and the additional language. Their policy speaks to the adjacent land owners having first opportunity to buy the land.

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Brian Kramer representing the North Dakota Farm Bureau spoke in support of this legislation stating that their policies are the same as the Farmers Union in the regard.

Opposition:

Dan Kuntz representing the Burlington Northern Sante Fe Railway Company introduced the legal counsel for BNSF.

Brian Sweeney legal counsel for the BNSF stated they oppose this legislation for a number of the same reasons that many communities, cities and businesses would oppose this legislation. If enacted the bill could open a whole can of worms of unintended consequences. It could ultimately thwart economic development, could block expansion and relocation of businesses, and it is also vague in some of the terms. We are concerned that it could not only become unworkable but could create a cloud on the title to a lot of real property. It will put a burden on inexpensive property thus thwart sales. The existing 1979 statute grew out of the Milwaukee Railroad bankruptcy. Then the property was sold or distributed to many different hold companies who raised the rents, terminated leases and sold land and many of the people had made improvements on that land had no protection so the 1979 law came about to protect those had made investments which they need to protect. The law would put a whole new category of property into the category where there is existing rail service. The would put an existing, a new business, or an expanding business way down the list of who could be purchasers of the property. They could block a new business or one that wanted to expand. The terms are vague -- what is a public purpose? They are first in line. Is that all units of government or does it include charitable organizations, public service organizations, or it is somebody who qualifies for

Dennis Haldrup
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Bill/Resolution Number HB 1403
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eminent domain proceedings? What happens if you have competing interests? This bill can thwart business, sales, economic development, and raise more questions than it answers. This bill also compounds the problems when considered with HB 1291. We urge you not to pass this legislation.

Rep. Weisz: You brought up sales -- the example is the Tioga development -- do you categorize that as surplus property -- would that have been the case that that would have fallen under this bill?

Brian Sweeney: Yes it would -- I specifically checked with our real estate people and our industrial development people before I used that reference.

Rep. Schmidt: You have talked about towns and economic development but in our area it is farm land and desert -- it would not be economic development for the farmers if they could buy that land and control the weeds on it --- but where farm land runs \$400 an acres -- it could be a rock pile and you guys would want \$800 an acre.

Brian Sweeney: Rep. Schmidt -- you must remember that is has rail access. Seriously, this may be some thing we will have to evaluate in rural areas and I will talk to our people about their pricing policies.

Thomas Kelsch: Representing the North Dakota Railroads -- we support the BNSF in their opposition to this legislation.

There being no other persons wishing to testify for or against HB 1403, Chairman Weisz closed the hearing.

End (28.7)

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Hearing Date February 6, 2003

Action **Tape 3 side B (50.1)** Rep. Weisz, Chairman opened the discussion for committee action on HB 1403. Rep. Bernstein moved a 'Do Not Pass' motion for HB 1403.

Rep. Hawken seconded the motion. On a roll call vote the motion carried 9 Ayes 3 Nays 1

Absent and not voting. Rep. Thorpe was designated to carry HB 1403 on the floor.

End of record (53.7)

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1403b

House Transportation Committee

Conference Committee

Hearing Date February 13, 2003

Tape Number	Side A	Side B	Meter #
3		x	5.2 to 13.1
Committee Clerk Signature			

Minutes:

Rep. Weisz, Chairman opened the discussion for committee action. We brought this back. WE have amendments which are being distributed to each of you. The language mirrors the language of the bill we passed on the floor today on HB 1291. They are not my amendments but I like them because they answer the objections we had.

Rep. Hawken moved the amendments be approved and adopted. Rep. Headland seconded the motion. The motion carried on a voice vote.

Rep. Price moved a 'Do Pass as Amended' motion for HB 1403. Rep. Zaiser seconded the motion.

There was some discussion of the cost of reclamation.

On a roll call vote the motion carried 8 Ayes 5 Nays 0 Absent.

Rep. Weisz will be the carrier for HB 1403 on the floor.

End (13.1)

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1403 c

House Transportation Committee

Conference Committee

Hearing Date February 18, 2003

Tape Number	Side A	Side B	Meter #
1	x		0.1 to 4.3

Committee Clerk Signature

Minutes:

The committee was called to order to consider some amendments to HB 1403 which was recalled back to committee on the floor this date. The clerk called the roll. Chairman Weisz explained that a significant phrase had been erroneously omitted from the previous amendments. Basically the amendment should had provided and it was originally intended that in lieu of reclamation of surplus or abandoned real property the railroad companies could sell or donate or gift property.

Tim Dawson counsel read the amendment.

First, Rep. Thorpe moved to reconsider the previous action. Rep. Hawken seconded the motion.

The motion carried on a voice vote.

The motion as read -- the first sentence shall read when service is discontinued on any railroad right of way in the state the railroad shall reclaim the right of way unless the railroad sells or donates the property.

Rep. Hawken moved the adoption of the amendment. Rep. Headland seconded the motion.

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Hearing Date February 18, 2003

The motion carried on a voice vote.

Rep. Hawken moved a 'Do Pass as Amended engrossed bill HB 1403. Rep. Schmidt seconded the motion.

On a roll call vote the motion carried 6 Ayes 5 Nays 2 Absent and not voting.

Rep. Weisz was designated to carry HB 1403 on the floor.

End record (4.3).

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10/3/03
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Date: 2-6-03
 Roll Call Vote #: _____

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1403

House TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Bern Seconded By Hawken

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	✓	✓	Lois Delmore	✓	
Kathy Hawken - Vice Chairman	✓		Arlo E. Schmidt		✓
LeRoy G. Bernstein	✓		Elwood Thorpe	✓	
Mark A. Dosch	✓		Steven L. Zaiser		✓
Pat Galvin	✓				
Craig Headland	✓				
Clara Sue Price	✓				
Dan J. Ruby	A				
Dave Weiler	✓				

Total Yes 9 No 3

Absent 1

Floor Assignment Rep. Thorpe

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

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Dennis Hall Operator's Signature 10/3/03 Date