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ROLL NUMBER

DESCRIPTION

1388

2007 HOUSE TRANSPORTATION

HB 1388

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1388

House Transportation Committee

Check here for Conference Committee

Hearing Date: 02-01-2007

Recorder Job Number: 2551

Committee Clerk Signature

*Lisa M Thomas*

Minutes:

**Chairman Weisz opened the hearing on HB 1388. All representatives were present.**

**HB 1388 relates to a logo sign program.**

**Rep. Dosch** introduced the bill. See written testimony.

**Rep. Kelsch:** The first part of your testimony, I believe you stated in there that "potentially, Newman signs would be able to develop these signs". Isn't that in fact erroneous because aren't these signs made by the DOT?

**Rep. Dosch:** The state has the option of doing it themselves or contracting it out. Newman signs can do it, they currently produce our highway signs.

**Rep. Weisz:** Based on the language, you would see this bill working from the standpoint of X gets a bid for x amount of dollars to get the contract, then they have to go out and sell enough advertising space to make money on it and whatever they make, the state gets x amount and the contract is up at a specific time and at that time, the DOT has the ability to decide the length of contract, etc, or how do you?

**Rep. Dosch:** You are right, the bill calls for the subcontracting of this out. There are companies across the U.S. that do this, such as Newman Signs, from the DOT standpoint and I believe if you look at the fiscal note on it, the DOT according to how it is done in other state,

can actually pick up and make a few dollars on this venture as well. It's a win win for the department and the business.

**Rep. Ruby:** You mention that the cost of a billboard can be ten thousand dollars, do you have any idea of what kind of cost it would be for a logo on these other signs?

**Rep. Dosch:** It is my understanding that in other states and again, it depends on how it is priced out, but right around fifteen hundred dollars a year to get a logo sign put up. It varies depending on the vendor. They take volume into account on particular roads to help set their fee schedule, but on average that is it.

**Rep. Ruby:** In your testimony, you did talk about some access to the signs, and who would get access to the signs if there is a limited number and apparently you wouldn't be able to get on there if you don't have a logo that people recognize? Is there small town stores that could use this?

**Rep. Dosch:** Those guidelines, and regulations there is no requirement that only the big franchises can put their logos on here.

**Rep. Delmore:** Is there a limit of signs by each exit?

**Rep. Dosch:** There are some limitations on that, I'm not familiar with what those are.

**Rep. Thorpe:** We've heard this before, and these logo signs are mostly for hospitality industry use, or can a welding shop be on there?

**Rep. Dosch:** It is limited to food, lodging, and attractions and camping.

**Rep. Owens:** Is there one for services such as gas?

**Rep. Dosch:** Yes, that is included.

**Bill Shalhoob,** Motel and Restaurant owner, spoke in support of the bill.

**Shalhoob:** This is a customer issue. I chaired the GND Sunday opening committee and I can tell you that I have not been in a shopping center on a Sunday, on the other hand, I had my

guests who were telling me that they wanted to shop on Sunday and when enough of them tell you this, you try to do it. I think this is the same issue.

**Terry Harzinski**, Executive Director of the Bismarck-Mandan Convention and Visitors Bureau, spoke in support of the bill. See attached testimony.

**Rep. Kelsch:** The way that the bill is written, you wouldn't be able to have a sign that said the Bismarck-Mandan Convention and Visitors Bureau, would you?

**Harzinski:** I don't think so.

**Robert Harms**, Hospitality Association, spoke in support of the bill.

**Harms:** We always talk about the tourism industry being second to energy industry in ND, but one of the most important industries in our state, you have a number of bills in front of you this session, there is millions of dollars each year to promote the state to the rest of the country.

We think that HB 1388 is a good tool to help us accommodate our guests once they get here. It just seems to make sense and it's time has come to be passed.

**Rep. Ruby:** Are these signs only on interstate?

**Rep. Dosch:** No, any highway system.

**Nicki Weismann**, ND Hospitality Association, submitted written testimony. See attached.

**Chairman Weisz allowed for opposition at this time.**

**Harold Newman**, owner of Newman Signs spoke in opposition to the bill.

**Newman:** I have been in the business for fifty years that means that I was in the business in 1964, when the ladybird act was passed. I was very active in the bill. I don't think it's productive to go through all the details. In any event, it is going too heard twelve times between the Senate and the House to go through the same issue and basically study it again.

In defense to that, when you enter into a contract with the federal government, for this issue, you are giving up local control. You are not able to install these signs, whether it's interstate,

the primary system just any old place where you feel like it. Generally speaking, if you are in the ditches, the reason they are in the ditches is for safety, they are installed on breakaway posts, they are elaborately built they cost about five thousand four hundred dollar to build on that is ten foot high by sixteen feet long to accommodate these logos. Of course, we have talked previously about the fairness of the act as to not only the location, but the inability for any independent business that isn't paying a logo some twenty-five hundred to four thousand dollars a month to get that logo or flag and also to be able to put it on their sign. It is a costly program. Pennsylvania is an example that nineteen hundred dollars per month to get one logo put on their panel. South Carolina, which as far as we know is the highest, two thousand five hundred dollars per logo per month to be on that number one spot. What does a person pay for a business that isn't on the number one spot? Not a whole lot less. It is an expensive procedure. As to the so called "monopoly" issue, I would suggest to you that if you don't like to buy a billboard from a sign company, you can go down to the lumber yard and you can buy a four by eight sheet of plywood and you can put it up any place in North Dakota that is zoned commercial or industrial. That issue needs to be addressed. You can have your own sign, there are all kinds of way of doing it. Relative to what the state would get out of this, according to the fiscal note, it is virtually nothing. Our company, in 2006, paid land owners one million sixteen thousand dollars, total for the year and we think that is a substantial amount of money to pay them for the use of their property, but it works. I don't believe that to have a McDonalds or Perkins located before somebody else.

**Rep. Dosch:** You indicated that you would be giving up local control by going out of these logo sign programs, aren't your billboards under, is that local or federal control?

**Newman:** There is criteria for both of them. One of them is synonymous with the plywood, it has to be industrial or commercial location outside of the city.

**Rep. Dosch:** My question is, on the highway system, are your billboards subject to local control or is that federal guidelines?

**Newman:** The federal standards have to do with size, lighting and spacing.

**Rep. Dosch:** You indicated that you could go down to the lumber yard and put up your own sign, aren't there federal guidelines as far as the requirements of these?

**Newman:** You misunderstood it. You can build your own sign and put it up as long as it doesn't exceed six hundred square feet and isn't closer than five hundred square feet on the interstate, you can put your sign up.

**LaVern Berglof**, of Newman signs, spoke in opposition to the bill.

**Berglof:** Most of the ramps already have all of the signs you can fit in that area. That tells me that the first sign coming in there is going to be the sign that is prior to getting to the exit. The only other way they are going to get some more signs in those exit areas is to remove some and I'm wondering whose you are going to remove? They don't want their signs removed. Under this and federal law, they can only be one hundred feet on the ramp. That is going to limit the ramps. Bismarck, you can have one sign before Expressway, but when you get from expressway to Hwy 83, it is already full.

**Carol Hankin**, Newman signs, spoke in opposition to the bill. At this time, Hankin passed out a board game to Rep. Thorpe and had him play a game with her regarding who would be chosen for these signs.

**There was no further testimony. The hearing was closed. No action was taken at this time.**

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1388

House Transportation Committee

Check here for Conference Committee

Hearing Date: 02-02-2007

Recorder Job Number: 2696

Committee Clerk Signature

*Laura M Thomas*

Minutes:

**Chairman Weisz allowed committee discussion on HB 1388. All Representatives were present. HB 1388 relates to a logo sign program.**

**Rep. Owens:** I am trying to find in writing, one thing, in federal law that may affect my view and Rep. Kelsch assured me it was in the federal law, but I haven't been able to find it yet.

**Rep. Kelsch:** Did you look at the information that was at your desk?

**Rep. Owens:** No I have not yet. The comment that the business closest to the exit had to be in the number one position. That goes against the contracts that I am familiar with in other states. It's all part of the franchise and the company that allows them on how they market it. They position it according to who is willing to pay the most.

**Rep. Weisz:** Maybe those within that three mile get first dibs and if there is not enough, you can keep widening the circle.

**Rep. Kelsch:** It would be the nearest six to the intersection; technically it will be the ones nearest the intersection.

**Rep. Dosch:** But that doesn't, there could be fifteen businesses with that three mile radius and it doesn't mean that the first six closest get the sign.



**Rep. Kelsch:** However, the priority is those fifteen businesses with in the three mile radius would have priority.

**Rep. Dosch:** I suggest we hold this until Monday.

**Rep. Kelsch:** Why wouldn't we have to do it if there is a fiscal note on there? There is a fiscal note, hello.

**Rep. Weisz:** Maybe we should act on it and get it to appropriations.

**Rep. Owens:** I can look up the information I want anyways.

**Rep. Owens moved a DO PASS. Rep. Dosch seconded.**

**Rep. Kelsch:** A couple of things to clarify, I think it was, the discussion was pretty pointed at one company inferring a monopoly in the state, which it is NOT, and just wanted to clarify for the record that there are following our billboard companies that do business in North Dakota: Lamar Outdoor, Swiftlock, Franklyn, Delight, they mostly operate on the eastern border of North Dakota. There is Houston signs, Keith signs, and another one out of Miles City Montana which owns ten billboards in the Dickinson are and they are in the process of selling to Houston, and Cooke signs also have a lot of signs in North Dakota and also as a point of interest, there are currently three states that are in the process of amending their statutes to take out the logo signs based on the fact that the federal highway guidelines are concerned about the fact that you have logo signs. People turn off to these businesses and the they do not operate twenty four hours a day. There have actually been by travelers into the states have threatened lawsuits against the state because the stores are not twenty four hours a day. That is information that I received. I do want to say that I think that when we testify in committees we need to be careful when we are pointing directly to an individual or specific company because I think that there was some pretty hard feelings yesterday and it was expressed by

several people in the halls to legislators that felt as though the testimony yesterday was a little bit disrespectful.

**Rep. Dosch:** You talk about disrespectful, anyone can agree or disagree with me, but there were many facts yesterday that were simply not true, given from the other side and that is very frustrating and talk about disrespectful. As far as these sign services not being open twenty four hours a day, (Rep, Kelsch is working on her phone at this time), this logo sign service is contracted out to a private entity that does this as a business, so there is no liability to the state any more than when you drive down the highway system and you see a sign that says services, that someone is going to get sued because someone is going to turn off the interstate and they are not open. It is more of this misinformation. This system is working in forty-six other states.

**The question is called.**

**Roll Call Vote for a DO PASS motion: 3 yes. 10 no. 0 absent.**

**Motion failed. Rep. Kelsch moved a DO NOT PASS. Rep. Delmore seconded.**

**Roll Call Vote: 10 yes. 3 no. 0 absent.**

**Carrier: Rep. Kelsch**

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/15/2007

Bill/Resolution No.: HB 1388

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>				\$50,000		\$100,000
<b>Expenditures</b>				\$2,000		\$2,000
<b>Appropriations</b>				\$2,000		\$2,000

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

HB 1388 requires the NDDOT to establish a logo program by contract with a qualified business.

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.*

NDDOT studied a similar bill during the 2003 legislative session. During this study, it was found that the majority of states contract their logo signing operation to a consulting/contracting company. As a result, costs to the state are minimal. We determined that Montana and Minnesota receive approximately \$50,000 per year from a similar arrangement in the infancy of their programs. Those revenue estimates were used as a basis for this fiscal note.

A few states own their own signs (South Dakota for example) and charge for individual signs. We have no projection of income from that example.

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.*

Based on the experience of Montana and Minnesota, we estimate we would receive approximately \$50,000 of income from signing contractors per year. It's assumed that it would take a year to get the program into place should this bill be enacted, thus only one year of the next biennium would see additional revenue.

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.*

It is assumed that a contractor would need to be selected through a "Request for Proposal" process, which would result in a printing and advertising costs. One or more public meetings may also be needed. It is assumed that the contractor would handle the majority of the logo implementation process as well as the ongoing costs of maintaining the program.

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.*

The DOT would need an additional \$2,000 to implement the provisions of this bill.

<b>Name:</b>	Brad Darr	<b>Agency:</b>	NDDOT
<b>Phone Number:</b>	328-4443	<b>Date Prepared:</b>	01/24/2007





**REPORT OF STANDING COMMITTEE**

**HB 1388: Transportation Committee (Rep. Welsz, Chairman) recommends DO NOT PASS**  
(10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1388 was placed on the  
Eleventh order on the calendar.

2007 TESTIMONY

HB 1388



Rep Dosch Intro

**HB 1388**  
**TRANSPORTATION COMMITTEE**  
**R. WEISZ, Chairman**

Mr. Chairman and members of the Transportation Committee, for the record my name is Representative Mark Dosch District 32. I come before you today in support of HB 1388.

This bill is about highway logo signs. For those you don't know, here are some examples of what we will be talking about this morning.

Who can also tell me what is wrong with this picture (see Logo Map sign)? That's right; ND sticks out like a sore thumb as one of only two states in the contiguous US that do not have a logo sign program.

One of the challenges we face in North Dakota is how do we get people traveling through our State to pull off our interstates and into our communities?

I have had nothing but positive comments in regards to the need for this Logo Sign program. You will find these logo signs in every state around us and across the country. South Dakota has them, as does Minnesota and Montana, in fact every state in the contiguous US with the exception of only ND and Vermont have a Logo Sign program.

**This bill is supported by small business across the state, as it is the only affordable avenue that most business has to advertise their business.**

The Beautify American Act of 1964 limited the amount of highway advertising that is allowed. Bill Boards that we currently see along our highway system are regulated by the federal government. What this means is that there is a limited number of bill boards that are available. In fact, many exit locations into most our major cities are full, with waiting lists, making advertising for most business simply unavailable. Because of the limited "supply and demand" nature of our current bill boards means that the cost to advertising is reaching astronomical amount. In many cases, the cost for a single bill board approaching our major cities can cost up to \$10,000 per year per sign, placing this option out of reach for most small to medium business in our state.

**Thus the ability to advertise one's business on our highway system is severely limited and cost prohibitive for most businesses**

But there is another option for our business and attractions across the state, and that is the Logo Sign program. This program is allowed by the Beautify American Act as an alternative and in conjunction with the bill board advertising. The Federal government realized that limiting the number of bill boards would adversely affect business ability to advertise on our highway system, has authorized this is Logo Sign program to work hand in hand with the billboards.

**This is why virtually every other state has BOTH a bill board advertising and Logo Sign program.**

Now I'm sure the question that everyone is asking your self is, why is ND one of only two states in the contiguous US not to have a logo sign program? Why does ND stick out like a sore thumb?

Unfortunately it has nothing to do with what is best for ND or ND business, rather it has everything to do with politics, and one man, and one company. Unfortunately this man holds a monopoly on highway advertising in this state.

It is an unbelievable frustration to talk to people who are excited about the Logo sign program, and the great things it can do for the people, business, attractions and tourism in our state. But in talking to these people they think it is a great idea... but... is how the conversation typically will lead to... your know who is going to try and get this defeated... one man and one company who's interest apparently come before that of the people of ND.

**Blocking the ability of business to advertise along the highway system has cost our businesses, our communities and tourism in this state millions of dollars each year in lost sales, and has resulted in substantial losses to the state in the form of lost sales tax revenue from those sales.**

You will hear from them (the opponents) today no doubt to once again try and defeat this legislation to assure that their monopoly and strangle hold continues on.

What will they tell you? Prepare for the smoke and mirrors.

They will tell you such things as the Logo program has far too many federal regulations for business to comply with. Funny thing is that apparently every other state can figure them out. (What are they implying about business in ND – were not smart enough?)

They will tell you other things like there are too many restrictions for business to comply with such as required distance to the intersection, opening and hours requirements, who gets first priority, and extremely complicated things like, what happens if a gas station sells gas and hot dogs, should they be on the Gas sign or Food sign? All extremely complicated things that apparently every other state can figure out but not ND?

They will also tell you that the program is “unfair and keeps the traffic on the interchange” Really! Apparently they do acknowledge that the signage does work and does in fact pull people off the interstate, the precise thing we want to accomplish. In fact, where do most of our communities have our Visitors centers? Close to the interchanges. This tells me that if we are in fact successful in pulling people off the interstate there is at least some chance that they may see our community and visitor center and perhaps check out what else we have to offer. Apparently they think it is better to let people just keep on trucking THROUGH our state. Each day on average 8000

vehicles travel between Montana and MN Just on I-94 and another 8500 on I-29 border to border both directions. That's 16500 lost advertising opportunities each day!

**Participating Business (Logo Sign Users) Survey**

- 44% of the respondents estimate that more than 50% of their business is derived from the target audience of the logo signs – that is: interstate travelers.
- When asked, has your business benefited from its participation in the logo signing program? 84% indicated YES.

**When motorist were surveyed.**

- Do you use logo signs to locate services when you are traveling?  
97% said YES.

Committee members, it is time we call a spade a spade. The only reason there is any opposition is because of one man and one company who <sup>wants</sup> what's to retain his monopoly.

It is important to note, that this legislation allows for ANYONE in the State to bid on this project and take lead on the Logo sign program. To me it seems like a perfect fit for let's say a ND company like Newman signs who is furnishing and running our current bill board program (and doing a great job I may add) to also offer this Logo sign program. An opportunity to expand their business. In fact, one of the companies that provides these signs in other states is in fact owned by a bill board company.

**If they do not wish to expand their business,  
It should not mean that no one else is given that opportunity.**

Your job is to see through all the smoke and mirrors and politics and to do what is right for ALL the people of ND.

I have supplied you (attached to my testimony) the list or regulations to qualify for the GAS, FOOD, LODGING, CAMPING, and ATTRACTIONS Logo signs. You will agree it is all quite simple.

Please, ask yourself the following questions in determining your vote in favor of this bill:

1. Do you support small business in ND?
2. Do you support Tourism in ND?
3. Do you support your local CVB?
4. Do you believe it is important to pull travelers off the interstate and into your communities?
5. Do you believe that more than just a few businesses should be allowed to advertise on our highway system?
6. Do you believe that it is reasonable to assume that if a Logo sign program is successful in 47 other states it will be successful in ND?
7. Do you believe that all people in ND deserve to be represented?

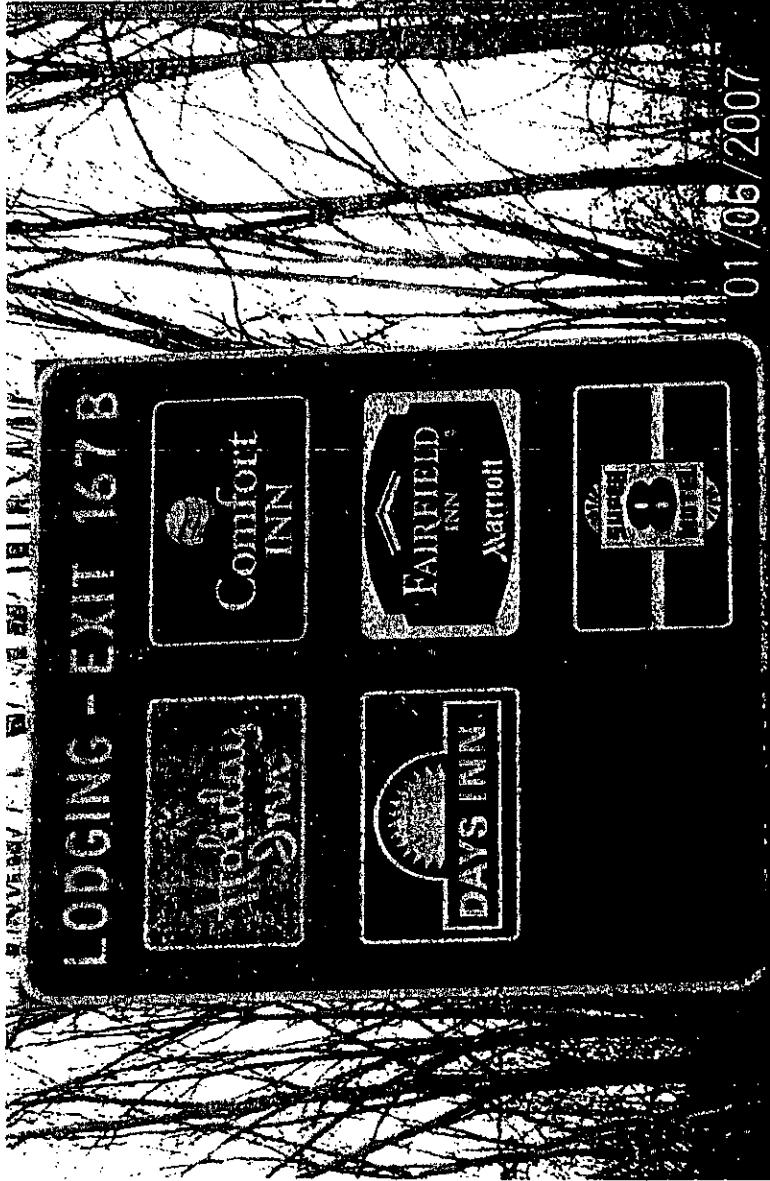
Mr. Chairman, and members, this is a very simple bill.

**This bill is about giving**  
**ND Business,**  
**Our ND communities,**  
**And our**  
**ND attractions**  
**The opportunity to**  
**advertise.**

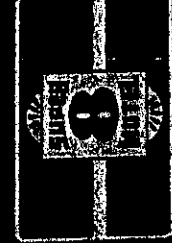
**It's as simple as that!**

*We have nothing to lose and everything to gain.*

Mr. Chairman and members of the committee, this ends my testimony and I respectfully request your support for a DO PASS recommendation. I will be happy to answer any questions.



LODGING - EXIT 167 B



01/06/2007

FOOD - EXIT 167 B



01/06/2007

