

**2013 HOUSE POLITICAL SUBDIVISIONS**

**HB 1120**

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee Prairie Room, State Capitol

HB 1120  
January 17, 2013  
Job #17332

Conference Committee

Committee Clerk Signature



### Minutes:

Testimony #1

**Chairman N. Johnson:** Opened the hearing on HB 1120.

**Greg Wilz, Deputy Director, Department of Emergency Services and Director of the Homeland Security Division for the state of North Dakota:** (See testimony #1). We did have a bill last session to provide evacuation authority and it passed the House; went down in the Senate. That authority at that time was geared towards incident commanders having that authority and we had asked that authority be provided at that level because we thought within the plans those people could be well identified who had that authority and it didn't make it. After the session last year and what occurred in numerous communities including Minot last year I had a few legislators come back to me and say yes we see what you mean now; could you please bring the bill back. They want elected officials at the senior level put into the bill. That is what we did it this time around. It is difficult and confusing when you are in these high stress situations like last year and we believe local officials can should this responsibility.

**Rep. Kathy Hogan:** What happens when there is a mandatory evacuation order and somebody doesn't evacuate?

**Greg Wilz:** We did not build any penalties in here. If you recall just a month or so ago when Sandy hit out east there were a lot of people that did not heed mandatory evacuation orders. It put a lot of people in harm's way and unfortunately that is going to happen. We had people brag in 97 in Grand Forks when evacuations were ordered by the Governor how they stayed back. Had they got in trouble it would have put more people in harm's way. The governor has the authority to compel the evacuation.

**Rep. Kathy Hogan:** If the Governor and local officials have the authority if there is a conflict that carries the weight?

**Greg Wilz:** The Governor has the strongest authority.

**Rep. L. Meiser:** If there is a mandatory evacuation issued by the mayor in a city does that mayor then have the authority to call in the National Guard?

**Greg Wilz:** No he does not have that authority. That is reserved for the Governor. What we are trying to do here is cut down a very lengthy process where if at some moment's notice we need to get people out of harm's way quickly.

**Rep. J. Kelsh:** What you are saying is the governor could resend the cities declaration of an emergency or evacuation if he thought that was wrong. Is that what you were saying?

**Greg Wilz:** No I don't believe the Governor has the authority to rescind a local order unless it is unlawful. Where the Governor still retains his power with this law is if there is for some reason a local commission chair or mayor would not execute it the governor can step in and issue that order.

**Rep. Hatlestad:** What is the state penalty if the Governor issues you get out and you don't what is the state penalty?

**Greg Wilz:** I think it is an infraction.

**Rep. Koppelman:** That is correct so it is pretty minor. Does the Governor have the authority to overrule a mayor's order 37-17.1-05. Subsections 1 and 2 it says the Governor is responsible to minimize or advert the advertise effects of a disaster or emergency. Under this chapter the governor may issue executive orders and proclamations and amend or rescind them. Did you talk about that at all?

**Greg Wilz:** We did not look at the perspective. We did not believe that the Governor would have the authority to unissued an order made by a local official. We did not even see that as a possibility.

**Rep. Koppelman:** If this does pass and I carried the one last time we need this question answered before we proceed. If he can suspend an order then maybe this would need to be strengthened if the intent is to say a local official will have authority that supersedes that so I think we should look into that first.

**Rep. Hatlestad:** Since you have no penalties in this law could you attach to the declaration or whatever; you don't move we don't come if you need help?

**Greg Wilz:** We heard a lot about that with Sandy. It is a dilemma because at some point I will tell you that he is what it will come down to. By saving people would we likely loose people and the decision is going to be made do we send responders in based on that and we will always do the humane thing and try to rescue people even though they made stupid decisions. At the end of the day the risk analysis is going to be by trying to save this person would we lose others and I can't give you a yes or no. That is how the decision would be made.

**Rep. J. Kelsh:** If you drive around a gate in the highway there is a stiff fine and a cost if somebody has to go out there but they do go out and help you if they can. They do go out and help right?

**Greg Wilz:** We lived this in 2010 when we had a couple of ice storms and one was during session and effective many of you. While some gates were up many gates went up while there were still people on the road and we did our very best to respond and get people off the road. In some cases it took nearly 10 hours. The answer is we did not go out immediately because we would have put people in greater harm. They were safer staying in their car and following the standard survival directions at the time. We make those decisions based upon can we get to them; what is our risk and liability of getting to them so it is not a science it is more an art.

**Jerry Hjelmstad, ND League of Cities:** The cities wanted to have someone locally that had the authority to issue an evacuation order as Mr. Wilz mentioned last session there was a bill relating to the incident commander and it was felt that someone who was answerable to the public such as the mayor would be better to substitute for the person to issue the evacuation order so for that reason we support HB 1120.

Opposition: None

Neutral: None

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee Prairie Room, State Capitol

HB 1120  
January 24, 2013  
Job 17713

Conference Committee

Committee Clerk Signature



(Amendment #1)

### Minutes:

**Chairman N. Johnson** reopened the hearing on HB 1120. This bill was about mandatory evacuations and the individual that could require them.

**Rep. Koppelman:** Handed out the proposed amendment #1 and went over it. The concern that some of us had was that this basically could supersede the Governor's authority to declare the emergency and we didn't intend for that. Three members of the committee: Rep. Looyen, Rep. Toman and I talked to the Legislative Council about that and what the amendment would do is removes the overstrikes on line 7 and 8; gets ride of the additional term notwithstanding in line 8. It means that this does not trump the Governor's authority. The Governor would still be the one declaring the disaster; however this also allows for what the bill seeks. On line 9 the word only is removed as well because the Governor can do this and the principal executive officer of the county or city could as well under the bill.

**Motion Made by Rep. Koppelman to move the amendment; Seconded by Rep. Hatlestad:**

**Rep. Kathy Hogan:** Did you get a chance to run that by Greg Wilz with EMS?<sup>2</sup>

**Rep. Koppelman:** We did discuss that during the hearing and asked if it was their intent to trump what the governor did and he said it wasn't and I think the bill language does.

**Rep. Toman:** We are adding mandatory evacuation?

**Rep. Koppelman:** Yes. The bill is to allow the principal executive officer of a county or city; who could be the chairman of the county commission or the mayor to declare a mandatory evacuation order. Now the governor might not want to declare an evacuation order for a county, but there might be a city where it is necessary. We want to make for sure the governor maintains what he or she has under law but that the locals also have the authority they did not previously have.

**Chairman N. Johnson:** During last session we had a bill in that let the incident commander be in charge of making an evacuation orders and we rejected that because we are saying that person has not responsibility to the electorate in that area.

**Rep. Koppelman:** That bill did pass the House nearly after we amended it and softened it a bit here and it failed in the Senate. I think if we leave the authority of the locals to trump the Governor this bill would be in peril as well.

**Rep. J. Kelsh:** In 2009 there were cars heading West and I don't know how it got stopped; goes this give the governor the authority to trump those folks or not?

**Rep. Koppelman:** No. I don't think this changes if we amend it the way we suggested it does not change the governor's authority at all. What we are doing here is giving the authority to a mayor so then the question is we are going to evacuate and the governor says oh no you are not; what would happen? I don't know if the governor has authority elsewhere in law to contradict an order by a local official? That is beyond the scope of this bill.

**Rep. Kathy Hogan:** In 2009 the governor ordered an evacuation of Fargo and the mayor protested and literally they closed the highways down for about two hours while they negotiated and the evacuation order was withdrawn. Those of us who lived in Fargo could not go east across the river since the highway was closed. Everyone was supposed to go to Bismarck.

**Rep. Koppelman:** I think if the mayor wants an evacuation he or she could do it under this bill.

**Voice Vote Carried.**

**Do Pass As Amended Motion Made by Rep. J. Kelsh: Seconded by Rep. Maragos:**

**Vote: 14 Yes 0 No 1 Absent Carrier: Rep. Looyen:**

Closed.

:

1/17/13  
COUNCIL

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1120

Page 1, line 6, after "**disasters**" insert "**mandatory evacuations.**"

Page 1, line 7, remove the overstrike over "~~Unless so declared in accordance with the provisions of subsection 4~~"

Page 1, line 8, remove the overstrike over "of"

Page 1, line 8, remove "Notwithstanding"

Page 1, line 9, remove the overstrike over "only"

Renumber accordingly

Date: 1-24-13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1120

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Koppelman Seconded By Rep. Hatlestad

| Representatives                 | Yes | No | Representatives   | Yes | No |
|---------------------------------|-----|----|-------------------|-----|----|
| Chairman Nancy Johnson          |     |    | Rep. Ben Hanson   |     |    |
| Vice Chairman Patrick Hatlestad |     |    | Rep. Kathy Hogan  |     |    |
| Rep. Thomas Beadle              |     |    | Rep. Jerry Kelsh  |     |    |
| Rep. Matthew Klein              |     |    | Rep. Naomi Muscha |     |    |
| Rep. Lawrence Klemin            |     |    |                   |     |    |
| Rep. Kim Koppelman              |     |    |                   |     |    |
| Rep. William Kretschmar         |     |    |                   |     |    |
| Rep. Alex Loosten               |     |    |                   |     |    |
| Rep. Andrew Maragos             |     |    |                   |     |    |
| Rep. Lisa Meier                 |     |    |                   |     |    |
| Rep. Nathan Toman               |     |    |                   |     |    |
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Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Voice  
Vote  
Carried*



Date: 1-24-13  
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1120

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

| Representatives                 | Yes | No | Representatives   | Yes | No |
|---------------------------------|-----|----|-------------------|-----|----|
| Chairman Nancy Johnson          | ✓   |    | Rep. Ben Hanson   | ✓   |    |
| Vice Chairman Patrick Hatlestad | ✓   |    | Rep. Kathy Hogan  | ✓   |    |
| Rep. Thomas Beadle              | ✓   |    | Rep. Jerry Kelsh  | ✓   |    |
| Rep. Matthew Klein              | ✓   |    | Rep. Naomi Muscha | ✓   |    |
| Rep. Lawrence Klemin            | ✓   |    |                   |     |    |
| Rep Kim Koppelman               | ✓   |    |                   |     |    |
| Rep. William Kretschmar         | —   |    |                   |     |    |
| Rep. Alex Looysten              | ✓   |    |                   |     |    |
| Rep. Andrew Maragos             | ✓   |    |                   |     |    |
| Rep. Lisa Meier                 | ✓   |    |                   |     |    |
| Rep. Nathan Toman               | ✓   |    |                   |     |    |
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Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep. Looysten

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

**REPORT OF STANDING COMMITTEE**

**HB 1120: Political Subdivisions Committee (Rep. N. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1120 was placed on the Sixth order on the calendar.

Page 1, line 6, after "**disasters**" insert "**mandatory evacuations,**"

Page 1, line 7, remove the overstrike over "~~Unless so declared in accordance with the provisions of subsection 4~~"

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Page 1, line 8, remove "Notwithstanding"

Page 1, line 9, remove the overstrike over "only"

Renumber accordingly

**2013 SENATE POLITICAL SUBDIVISIONS**

**HB 1120**

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee  
Red River Room, State Capitol

HB 1120  
February 21, 2013  
19331

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to authority to issue mandatory evacuations during emergencies.

## Minutes:

You may make reference to "attached testimony."

**Chairman Andrist** opened the hearing for HB 1120. All senators were present except for Senator Dotzenrod and Senator Grabinger.

**Chairman Andrist** were going to reschedule most of the testimony for this. Is there anybody here right now who would like to appear who will not be able to come back later at 10:45 AM.

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee  
Red River Room, State Capitol

HB 1120  
February 21, 2013  
19354

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to authority to issue mandatory evacuations during emergencies.

## Minutes:

You may make reference to "attached testimony."

**Chairman Andrist** opened the hearing on HB 1120. All senators were present except for Senators Dotzenrod and Grabinger.

**Greg Wilz, Deputy Director, Department of Emergency Services.** See written testimony #1. Strongly in support of HB 1120.

Last session the bill that was presented to the Legislature would have had evacuation authority tied to incident commanders within the response plan. That was a stretch. We made it through the House, and was denied by the Senate. After the 2011 floods I had a number of your friends come to me and said we understand the difficulty with the evacuation orders, Mr. Wilz, if you would care to bring a bill back before the legislature which ties this responsibility to two senior elected officials we think we can work with you. So, that is what we've done here. We are asking for this authority to be placed out there locally. It would be right into the law where local mayors and commissions have other authorities and would essentially allow the commission and the mayor to declare an emergency evacuation. If he was going to extend that for a period of time, he would have to go to the full commission.

**Vice Chairman Ronald Sorvaag** They don't have the authority to mandatory now? Yes that is what this is doing? That's all this is about, nothing else because they can order them now. I remember the hearing when it was in Judiciary.

**Greg Wilz** replied they can issue a voluntary evacuation orders right now, but once they are a Home Rule Charter community that has an ordinance that allows that authority they can't issue mandatory, only the Governor can and his language is slightly different. He drives his power out of the different section of 37:17. He can both direct and compel and that will stay in place as the bill says. So the Governor is there and he will back up those mayors if the mayor is gone, for whatever reason not present for duty, he still has that authority. It is confusing at best when you're dealing with the kinds of events that North

Dakota has had in 2009-2011 to have this to be grey. We really need to be able to make quick decisions to save people's lives.

**Chairman Andrist** Greg is there a penalty for refusal to evacuate? **Greg Wilz** replied there would be no penalty tied to this. But there is penalty tied to the Governors' executive order and it's an infraction, a \$500 fine. It is not much. This isn't about having the ability to go in and forcibly remove people. This is about people understanding there is a big difference between a mandatory and a voluntary evacuation order and when we really are serious about getting people out. If you issue a voluntary one and we have seen it before, and most recently you've even seen mandatory evacuation orders on a national scale with Hurricane Sandy that hit where people just didn't do it. It puts a lot of people in harm's way.

**Senator Howard Anderson** I think I understand all of dynamics related to these things, but my personal preference would be to say that we have/can issue voluntary evacuation orders and we can say the police and the fire department aren't going to come and get you if you ignore the order. I would rather have it that way. But I understand the reason for this too. I don't like mandatory evacuation orders at all.

**Senator Judy Lee** having lived in I understand where Senator Anderson is coming from. But I do have a question about mentioning if the mayor isn't in place, if the mayor is out of town or some such thing, can the vice-mayor or the second person that is elected make this or is it only the elected chief official of the city or county that can make this determination?

**Greg Wilz** replied we really retained to that to the senior elected official level. We did not delegate it. It is because we do have a backup. The Governor can back that up. The idea here and I hate to be the doom and gloom guy but what if the mayor was dead. What if beyond being out of town disasters can strike and can incapacitate people and local officials.

**Vice Chairman Ronald Sorvaag** asked if the mayors out of town, like in Fargo they call it a Deputy Mayor, that is actually the serving mayor at that time I would think this authority would still end up with the Deputy Mayor, if the mayor isn't around or he died.

**Greg Wilz** replied you're getting a little bit beyond my legal ability to discern what that legitimate lawful chain of command would be. But I guess if those laws are in place that says this guy is deceased, this guy automatically becomes the mayor, yes, what title he's wearing it probably would work. But our intent was to just get it established initially at the mayor or the commission level.

**Chairman Andrist** I suppose it would hinge on whether or not he has to be sworn in and I don't know whether the mayor has to be sworn in or not.

**Bill Wocken City Administrator for the City of Bismarck.** Testified in favor of HB 1120. See written testimony #2.

This bill answers the question that we had to ask a lot during that ice jam emergency and that is how can we make people leave their homes? How can we force them out when we

know that there is imminent danger? That was not the case in the most recent flood the Missouri River channel flood. We believe that we had it covered there so that we didn't have to make a mandatory evacuation but we did offer advice that people should take a look at evacuating, but we did not make it mandatory. We did not have to take that step. Local governing officials don't want to make that mandatory declaration any more than the rest of us. There is an awful lot baggage that goes along with it, asking people to abandon their homes where they come back later and say how we could've saved them etc. But there are times when we know that there in imminent danger and we do feel that it is necessary to have this power. The local political subdivision I think will feel this very intensely if it is ever utilized. The City of Bismarck does support this bill and we ask for your favorable consideration.

**Chairman Andrist** closed the hearing on HB 1120.

**Vice Chairman Ronald Sorvaag** Why didn't you put an emergency clause? Was that discussed at all? Do either one of you know?

**Greg Wilz** replied we had discussed it, we thought if we could just get the bill without an emergency clause it would be great. I would feel very comfortable if you would put an emergency clause on it, but, I will leave that up to you. We're just happy to finally get this language in a position that would make it through the Legislature. It's the right thing to do from our opinion.

**Vice Chairman Ronald Sorvaag** Our city just upped the chance of major flooding to 80% with the recent snowfall. Of course major flooding in Fargo doesn't mean major as you perceived but I mean were a few snowstorms and a rainstorm from having a major flood in our community again, but anyway, I was part of the discussion with Judiciary and that was the concern and why we killed it. It was an elected officials, we were putting police chiefs, fire chiefs, whoever but with being said I do like this idea.

**Vice Chairman Ronald Sorvaag** moved a do pass

**Senator Judy Lee** If we amend it with the emergency clause we could send it back and I can't imagine that the House wouldn't concur. At which place it's over and then goes to the Governor and the Governor can sign it. Before there is major water problems at least we would have it, even if it was the first of April we're probably not going to have a need for it until the end of March or the early part of April. I think the emergency clause would be a shot.

**Vice Chairman Ronald Sorvaag** Withdrew his motion.

**Vice Chairman Ronald Sorvaag** make the amendment that we put an emergency clause on HB 1120.

**Chairman Andrist** 2<sup>nd</sup> to that motion- Senator Judy Lee

**Chairman Andrist** I don't know if they will pass this and how fast it can be facilitated, can we message it? Before I take the vote, I would like to ask Greg do you know if anybody appeared in opposition to this bill in the House.

**Greg Wilz** no, nobody appeared in opposition. We had bedded this really well in the emergency management community and through our departments' advisory committee or council, police, sheriffs; we share our draft bills with them all. They have all had an opportunity to look at it and make comment and we saw no opposition.

Roll call vote on the amendment for the emergency clause  
3 Yea 1No 2 Absent

**Chairman Andrist** This one will require a 2/3<sup>rd</sup> vote if the Senate doesn't get it, the bill still passes if it gets a majority, they will just take off the emergency clause. **Senator Judy Lee** replied, exactly.

**Chairman Andrist** is there a motion for

**Vice Chairman Ronald Sorvaag** moved HB 1120 as amended do pass  
2<sup>nd</sup> **Senator Judy Lee**

**Senator Howard Anderson** Just for the record, I am too much of a Libertarian to vote for this bill. **Chairman Andrist** I am a bit of one too. I registered hypocrite. **Vice Chairman Ronald Sorvaag** I don't know how I would respond to a mandatory; but I think we have to be realistic, our communities are getting big. **Chairman Andrist** I really don't think that anybody who disobeys the order would ever be prosecuted, particularly if they had a logical reason for it, and there could be a logical reason to ignore, maybe you've got the pets that you haven't dealt with, or maybe a prized pedigree or something and who knows.

Roll call vote 3 Yea 1 No, 2 Absent

Carrier: Chairman John Andrist



13.8074.02001  
Title.03000

Adopted by the Political Subdivisions  
Committee

February 21, 2013

2/21/13  
TS

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1120

Page 1, line 2, after "emergencies" insert "; and to declare an emergency"

Page 1, after line 16, insert:

**"SECTION 2. EMERGENCY.** This Act is declared to be an emergency  
measure."

Renumber accordingly

Date: 2-21-13  
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. H.B. 1120**

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.8074.02001

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt  
 Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Sen. Sorvaag Seconded By Sen. Judy Lee

| Senators                     | Yes | No | Senator                | Yes | No |
|------------------------------|-----|----|------------------------|-----|----|
| Chairman John Andrist        | ✓   |    | Senator Jim Dotzenrod  |     |    |
| Vice Chairman Ronald Sorvaag | ✓   |    | Senator John Grabinger | ✓   |    |
| Senator Judy Lee             | ✓   |    |                        |     |    |
| Senator Howard Anderson, Jr. |     | ✓  |                        |     |    |
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Total (Yes) 4 No 1

Absent 1

Floor Assignment \_\_\_\_\_

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

Date: 2-21-13  
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. H.B. 1120

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.8074.02001

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt  
Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Sen. Sorvaag Seconded By Sen. Judy Lee

| Senators                     | Yes | No | Senator                | Yes | No |
|------------------------------|-----|----|------------------------|-----|----|
| Chairman John Andrist        | ✓   |    | Senator Jim Dotzenrod  |     |    |
| Vice Chairman Ronald Sorvaag | ✓   |    | Senator John Grabinger | ✓   |    |
| Senator Judy Lee             | ✓   |    |                        |     |    |
| Senator Howard Anderson, Jr. |     | ✓  |                        |     |    |
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Total (Yes) 4 No 1

Absent 1

Floor Assignment Senator Andrist

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

**REPORT OF STANDING COMMITTEE**

**HB 1120, as engrossed: Political Subdivisions Committee (Sen. Andrist, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1120 was placed on the Sixth order on the calendar.

Page 1, line 2, after "emergencies" insert "; and to declare an emergency"

Page 1, after line 16, insert:

**"SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Re-number accordingly

**2013 TESTIMONY**

**HB 1120**

#1

TESTIMONY – HB 1120  
HOUSE COMMITTEE – POLITICAL SUBDIVISIONS  
JANUARY 17, 2013  
BY GREG WILZ  
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Ms. Chairman and members of the committee, my name is Greg Wilz. I am the Deputy Director of the North Dakota Department of Emergency Services (NDDDES) and Director of the Division of Homeland Security.

Language in HB 1120 seeks local authority to issue mandatory evacuation orders. It specifically places responsibility upon a principal elected executive officer of a county or city, normally the county commission chairman or city mayor. Current law grants authority to the governor and home rule charter cities that have adopted a mandatory evacuation ordinance.

As evidenced in the 2009 and 2011 floods, mandatory evacuation orders can be difficult and controversial. However, when a dire threat to public safety is imminent, there needs to be a well-defined expedient process in place. Actions taken by the Fargo and Minot Mayors in 2009 and 2011 respectively, are two poignant examples of local officials' ability to shoulder this crucial responsibility. One did not succumb to evacuation pressure while the other issued orders twice. In both instances, the decisions proved correct.

In contrast to a related bill defeated last session, language in this bill places initial authority upon the mayor or county commission chairman and provides extended authority with concurrence of commission or board members.

Fortunately, no loss of life has occurred in North Dakota due to inaction but as in the past, disastrous events will occur that require rapid evacuation decisions. Legal authority conferred upon specific locally elected officials will not just reduce risk to citizens but will have a profound effect on responder safety.

I strongly urge your support of HB 1120 and will endeavor to answer all questions. .

#1

13.8074.01001  
Title.

Prepared by the Legislative Council staff for  
Representative K. Koppelman  
January 17, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1120

Page 1, line 7, remove the overstrike over "~~Unless so declared in accordance with the provisions of subsection 4~~"

Page 1, line 8, remove the overstrike over "of"

Page 1, line 8, remove "Notwithstanding"

Page 1, line 9, remove the overstrike over "only"

Renumber accordingly

TESTIMONY – HB 1120  
SENATE COMMITTEE – POLITICAL SUBDIVISIONS  
FEBRUARY 21, 2013  
BY GREG WILZ  
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Mr. Chairman and members of the committee, my name is Greg Wilz. I am the Deputy Director of the North Dakota Department of Emergency Services (NDDDES) and Director of the Division of Homeland Security.

Language in HB 1120 seeks local authority to issue mandatory evacuation orders. It specifically places responsibility upon a principal elected executive officer of a county or city, normally the county commission chairman or city mayor. Current law grants authority to the governor and home rule charter cities that have adopted a mandatory evacuation ordinance.

As evidenced in the 2009 and 2011 floods, mandatory evacuation orders can be difficult and controversial. However, when a dire threat to public safety is imminent, there needs to be a well-defined expedient process in place. Actions taken by the Fargo and Minot Mayors in 2009 and 2011 respectively, are two poignant examples of local officials' ability to shoulder this crucial responsibility. One did not succumb to evacuation pressure while the other issued orders twice. In both instances, the decisions proved correct.

In contrast to a related bill defeated last session, language in this bill places initial authority upon the mayor or county commission chairman and provides extended authority with concurrence of commission or board members.

Fortunately, no loss of life has occurred in North Dakota due to inaction but as in the past, disastrous events will occur that require rapid evacuation decisions. Legal authority conferred upon specific locally elected officials will not just reduce risk to citizens but will have a profound effect on responder safety.

I strongly urge your support of HB 1120 and will endeavor to answer all questions. .



Engrossed House Bill 1120

Mr. Chairman and Senate Political Subdivision Committee members:

My name is Bill Wocken. I serve as City Administrator for the City of Bismarck. The City of Bismarck has asked me to testify in favor of this bill.

This bill is short but its concept is of immense importance. HB 1120 adds to the powers of the principal executive officer of a political subdivision the power to order a mandatory evacuation. For evacuations lasting more than seven days the order must be approved by the local governing body.

Emergencies come with limitations; the most notable being time constraints. When a river is rising rapidly due to an ice jam, a mandatory evacuation may be the only course of action which can be prudently pursued. If this is the case, to preserve lives, the principal executive officer of the political subdivision needs to have this power available without a lot of discussion or legal interpretation. This bill accomplishes that end.

The City of Bismarck asks for your favorable consideration of this bill.