

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

Thursday, January 24, 2013
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Dan Ruby, Chairman, called the meeting to order at 4:00 p.m.

Members present: Representatives Dan Ruby, Tracy Boe, Patrick Hatlestad, Keith Kempenich, Gary Kreidt, Andrew G. Maragos, David Monson, Chet Pollert, Robert J. Skarphol; Senators Joan Heckaman, Jerry Klein, Judy Lee, Terry M. Wanzek

Members absent: Representatives Dick Anderson, Corey Mock

Others present: Jeff Delzer, State Representative, Underwood

Mark A. Dosch, State Representative, Bismarck
Roscoe Streyle, State Representative, Minot
Adam Mathiak, Legislative Fiscal Intern, Bismarck
See [Appendix A](#) for additional persons present.

It was moved by Representative Kempenich, seconded by Representative Maragos, and carried on a voice vote that the minutes of the December 19, 2012, meeting be approved as distributed.

WATER APPROPRIATIONS DIVISION PERFORMANCE AUDIT

Mr. Charles Turley, Auditor, KPMG, LLP, presented the report ([Appendix B](#)) entitled *Performance Audit of the Water Appropriations Division of the North Dakota Office of the State Engineer*. He said the objective of the audit was to provide an assessment of the industrial water use monitoring and reporting policies and procedures used by the Water Appropriations Division.

Mr. Turley said the performance audit contains 17 recommendations ([Appendix C](#)). Based on the performance audit, he said, KPMG determined that the Water Appropriations Division executes reporting and monitoring practices to adhere to laws, regulations, and policies. However, he said, the practices are not formally documented and are primarily manual in nature, which may result in inconsistent application of policies and procedures. He said improvements are needed with the establishment of standard operating procedures, the development of online reporting tools, and the use of technological enhancements.

In response to a question from Representative Skarphol, Mr. Turley said annual reporting is mandated by state statute. He said the Water Appropriations Division initiated a monthly reporting requirement for certain permits associated with areas of potential concern.

In response to a question from Representative Streyle, Mr. Turley said the State Water Commission agrees with the recommendation to implement new technology. He said the commission currently maintains a complex database of information.

In response to a question from Representative Skarphol, Mr. Turley said the State Water Commission has a review process to monitor self-reporting. He said the commission expressed concern about an electronic self-reporting system in which users would input data directly into the database without commission staff review. He said the recommendation incorporates the commission's current practice of review to allow safeguards even with an electronic system.

In response to a question from Representative Delzer, Mr. Turley said the Water Appropriations Division uses reviews, random verifications, and public inquiries to detect violations.

Representative Skarphol suggested that when the State Auditor's office conducts its followup audit, that it examine the monitoring process used at the Water Appropriations Division, and compare, from random sampling, sales by water users to meter readings reported to ensure reporting is being done accurately.

Mr. Bob Shaver, Director, Water Appropriations Division, State Water Commission, presented testimony regarding the performance audit. He said the Water Appropriations Division has documented some of its standard operating procedures, but others are not formally documented. He said the commission has been considering integrating more technology into its operations, but has concerns if users input data directly into the database without commission staff review. He said the Water Appropriations Division will maintain a review process before electronic submissions enter the database. He said the commission will implement an electronic reporting system by next year. He does not believe

there are any large-scale, widespread cases of violations. He said when incidents occur, the commission works with the violators to reach a resolution.

In response to a question from Representative Skarphol, Mr. Shaver said the State Water Commission could require all self-reporting be done electronically and could implement a fine for noncompliance. He said the current self-reporting system may need to be used in conjunction with an electronic system to allow those who do not have the ability to submit information electronically to still self-report.

In response to a question from Representative Skarphol, Mr. Jon Patch, Assistant Director, Water Appropriations Division, State Water Commission, said the annual self-reporting forms are unique to each customer. Mr. Patch said state statute requires the State Engineer to furnish the form to the customers. He said each form contains technical information unique to each water user that must be provided by the commission.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

It was moved by Representative Skarphol, seconded by Representative Kempenich, and carried on a roll call vote that pursuant to North Dakota Century Code Section 54-35-02.2 the committee accept the performance audit report of the Water Appropriations Division of the State Engineer's office. Representatives Ruby, Hatlestad, Kempenich, Kreidt, Maragos, Monson, Pollert, and Skarphol and Senators Heckaman, Klein, Lee, and Wanzek voted "aye." No negative votes were cast.

No further business appearing, Chairman Ruby adjourned the meeting at 5:05 p.m.

Becky Keller
Senior Fiscal Analyst

Allen H. Knudson
Legislative Budget Analyst and Auditor

ATTACH:3