

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

24/12

2005 SENATE POLITICAL SUBDIVISIONS

SB 2412

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2412

Senate Political Subdivisions Committee

Conference Committee

Hearing Date March 25, 2005

Tape Number	Side A	Side B	Meter #
1	X		1693 - 2629

Committee Clerk Signature *Shirley Borg*

Minutes:

Chairman Cook opened the hearing on SB 2412 relating to electric service area agreements and relating to public service commission. All members (6) present.

Senator Bob Stenehjem, District 30, Bismarck ND introduced SB 2412. You may recall SB 2377 which commonly is referred to as the TIA bill which was withdrawn from the senate on February tenth. In that bill there was a section of legislation that deals with the service areas that the REC's and IOU's serve. What SB 2412 does is allows the REC's and IOU's to come together and make agreements on these service areas. One area may be in the jurisdiction of the RECs and meet with the IOUs and decide that it is better served by the IOUs or visa versa. I have worked with both since the tenth of February to come up with this agreement and it is my understanding both parties are in agreement with this bill. I hope the committee can endorse this issue.

David O'Connell, District 6, Lansford, ND testified in support of SB 2412. Senator Stenejhem pretty much covered the bill. Basically there is a feeling that we might be in violation of anti trust with out this bill. Both the IOUs and RECs have set down and went back and forth three or four times and hopefully it is a clean bill. His recommendation, if it stays clean, that it will be passed but if someone puts an amendment on it, lets kill it.

John Olson, Attorney representing Ottertail Power Company. We together with the other investor owned utilities and the rural electric cooperatives have had input into this legislation. It has been reviewed and I believe that I can speak for all of us, that we are in agreement. The real importance of this bill is to provide the cover that is needed for companies and RECs to get together to discuss these service areas and to talk about reaching an agreement. Strictly speaking the federal provisions and the anti trust act would technically prohibited us from even doing that. The bill contains definitions of the things that we are talking about, it contains approval by the public service commission or disapproval by the public service commission or it can be hearings. Those are the kind of provisions that are designed to provided the needed protection for our companies to engage in these discussions. It is a good start for the companies to get together and work out their differences.

Harlen Fuglesten, North Dakota Association of RECs, testified in support of SB 2412 on behalf of all of our electric cooperative association members. I would like to thank Senator Stenejhem and Senator O'Connell in bringing us together and also the other cosponsors of the bill. We think this is a positive step. It provides the frame work procedure necessary for us to sit down comfortably to see if we can work out agreements among ourselves to create operational efficiency and service the public more effectively than we are doing today. We think the

Territorial Act itself has provided a good frame work for the development of territorial. This bill is a positive step in further complementing the Territorial Integrity Act. We are completely in favor of this bill and ask for your approval.

Senator Dever: It occurred to me that with only one exception, I think that the RECs and IOUs and legislators are on one page as issues come together. The TIAs sometimes creates some separation that I feel uncomfortable with and I am wondering if this kind of thing will encourage greater cooperation between the IOUs and the TIAs to develop some of those areas of contention?

Harlen Fugelsten: That is our hope and expectation, that this will allow us to come together and really talk about creating a future through business relationships and creating win win situations that will lead to certainty in the future. I think it can help eliminate some points of friction that might have existed in the past.

Dennis Boyd, appeared on behalf of Montana Dakota Resources and Utilities Division in support of SB 2412. We would like to add our thanks to Senator Stenehjem, Senator O'Connell and Representative Berg and Representative Boucher who have sponsored this. This is an important first step in resolving service territory difficulties and addressing some of what we see as inequities in the current Territorial Integrity Act.

Kathy Aas, appeared representing Excel Energy and they are also in support of SB 2412. We feel it is a first step in the process.

Dale Niezwaag, representing Basin Electric appeared in support of SB 2412.

No further testimony in support or opposed to SB 2412.

Chairman Cook closed the hearing on SB 2412.

Page 4
Senate Political Subdivisions Committee
Bill/Resolution Number SB 2412
Hearing Date March 25, 2005

Senator Triplett moved a Do Pass on SB 2412.

Senator Fairfield seconded the motion.

Roll call vote: Yes 6 No 0 Absent 0

Carrier: **Senator Gary Lee**

FISCAL NOTE

Requested by Legislative Council
03/22/2005

Bill/Resolution No.: SB 2412

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill is not expected to have any significant fiscal impact.

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.*

See note above.

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.*

See note above.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

See note above.

Name:	Ilona Jeffcoat-Sacco	Agency:	PSC
Phone Number:	701-328-2400	Date Prepared:	03/23/2005

Date: 3-25-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2412

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Senator Triplett Seconded By Senator Fairfield

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield	X				
Senator Constance Triplett	X				

Total Yes 6 No 0

Absent _____

Floor Assignment Senator Gary Lee

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

REPORT OF STANDING COMMITTEE (410)
March 25, 2005 10:26 a.m.

Module No: SR-55-6187
Carrier: G. Lee
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2412: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2412 was placed on the Eleventh order on the calendar.

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2412

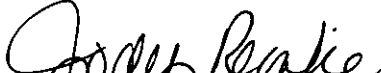
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2412

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-31-05

Tape Number	Side A	Side B	Meter #
1	x		0-23.
Committee Clerk Signature 			

Minutes:

Chairman Keiser: Opened the hearing on SB 2412.

Senator Stenejhem: Appeared in support of the bill and also was a sponsor. What this bill will do is allow the REC's and the IOU's to negotiate service area agreements in areas on other side of the line whether it is an IOU line or an REC line they will be able to do that.

Senator O'Connell: Appeared in support of the bill and also was a sponsor. There was some question whether the two sides could actually sit down and talk to each other because of anti trust hopefully this will take care of any concerns of anti trust in case the courts become involved this should give them the authority to sit down and negotiate between the two of them.

Harlen Fugelsten, North Dakota Association of REC's: Appeared in support of the bill, we do feel this is a positive step forward, that will be beneficial to the utilities in working out their future together.

Representative Ekstrom: We are looking at a bill that in essence will intermingle, they will be overlapping service areas, not overlapping service, we have an emergency clause on this bill and obviously there is something in the works that will help this bill move quickly.

Harlen Fuglesten: First of all there aren't pure lines under the existing situation, we do have utilities that at some point have facilities that are adjacent to each other, and so going forward what this bill will help us to do is to identify where specifically utilities want and plan to serve in the future, with respect to your question, emergency clause, I think the idea here is that we might as well start sooner than later, and having the extra few months that the emergency clause will provide us would give us that much more opportunity to begin the process of sitting down and negotiating. There are 17 electric cooperatives 3 investor owned utilities, any combination of potential agreements in different areas that could be worked out, so I don't view this as a short term process but rather a long term process in one that would be done on a business like basis with each utilities, sitting down with their maps and ideas and trying to work out solutions that will be beneficial to the public as well as the utilities.

Representative Ekstrom: You and I have talked about over the years on willing buyer, willing seller, how does this bill fit into this concept?

Harlen Fuglesten: There is no specific provisions in here for willing buyer, willing seller, we just have to loosing the restrictions that cost currently in terms of serving urban territories that are part of the traditional service that the investor own utilities have we are not making any changes, however there is some flexibility and room for purchasing or selling facilities that are currently provided in law.

Representative Ekstrom: Does this dove tail at all with the transmission authority?

Harlen Fuglesten: The short answer is that it is separate from the transmission authority and the agreement that might be contained in terms of building transmission, that would be a joint venture.

Representative Keiser: On page three, lines 11 does it gives the city some additional authority, what is the intent of that subsection?

Harlen Fuglesten: Under current law the cities have the right to franchise public utilities and we do not want anything in this bill to compromise that or the authority, in my view what would be anticipated would be if you have an agreement that touched on the city limits, or involved areas within the city, the utilities would bring that agreement to the city as well to make sure that they have franchise authority of the city in place to take care of that agreement as well as to the PSC. And I think the city would be an important party in any proceeding with the PSC with respect to whether there was interest in approving any particular agreement they might touch on.

Representative Thorpe: What is each entity giving up?

Harlen Fuglesten: I think that we need to acknowledge that this is a voluntary agreement, there is no hammer coming down on either side if they choose not to negotiate or come to an agreement, I think it is a tool that is available for utilities to use who think they can make use of it productively.

Representative Kasper: If this is approved by the PSC, is that unlimited approval or do they have continuing oversight down the road.

Harlen Fuglesten: The way the bill is written the PSC can approve or disapprove the agreement they cannot unilaterally amend the agreement they do have continuing jurisdiction to settle service locations disputes that might arise.

Representative Berg: Appeared in support of the bill, my long term desire is to create an environment where we have abundant energy available, to lower costs if we possibly can.

John Olson, Otter Tail Power Company, and Excel Energy: Appeared in support of the bill.

Representative Johnson: Will you help me understand why the anti trust needed to be addressed.

John Olson: The big monopolies cannot discuss price with each other, or various things like that under federal law because of the opportunistic things that are available that may harm the public consumer interest, so this bill provides cover even for companies and cooperatives to get together and even discuss those issues.

Representative Johnson: so what were saying in our bill is that we can supersede federal law?

John Olson: We have to have an oversight on some government ability to provide that process to take place.

Dennis Boyd, MDU, Resources Group: Appeared in complete agreement with this bill, you need to understand that this bill covers only voluntary agreements and we fully expect that there will be plenty of areas where we will be able to enter into a voluntary agreement between an investor owned utility and a rural electric cooperative there may be areas where they are not in agreement and this bill, provides that cover only to voluntary agreements. This is a very important first step.

Dale Niezwaag, Basin Electric Power Cooperative: Appeared in support of the bill.

Representative Froseth: I move a **DO PASS** on SB 2412.

Representative Nottestad: I **SECOND** the motion for a **DO PASS**.

Motion carried **VOTE: 13-YES 0-NO 1-Absent (BOE)**

Page 5

House Industry, Business and Labor Committee

Bill/Resolution Number SB 2412

Hearing Date 3-31-05

Representative N. Johnson will carry the bill on the floor.

Meeting adjourned.

Date: 3-31-05

Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 242

House INDUSTRY, BUSINESS AND LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Froseth Seconded By Rep. Nottestad

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	A	A
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes) 13 No 0

Absent (1) Rep. Boe

Floor Assignment Rep. N. Johnson

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

REPORT OF STANDING COMMITTEE (410)
March 31, 2005 5:08 p.m.

Module No: HR-59-6928
Carrier: N. Johnson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2412: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2412 was placed on the Fourteenth order on the calendar.