MICROFILM DIVIDER

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

ROLL NUMBER

DESCRIPTION

1094

2007 HOUSE POLITICAL SUBDIVISIONS

HB 1094

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1094

House Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: January 5, 2007

Recorder Job Number: 649

Committee Clerk Signature

Minutes:

Chairman Herbel called the meeting to order on HB 1094.

David Glatt, chief of the Environmental Health Section for the ND Department of Health testified. (See attached testimony #1)

Rep. Kim Koppelman: I noticed that when you went to change the bill you referred to the act that you talked about and wondering if there is a way we can make a general reference so that we do not have to go back and do this each time?

David Glatt: I think there is some concern about the legality about adopting federal reference, but there may be some concern that any law changes that are made with the legislature that they would still want to take a look at that. The original rules were established in 1988; now we are here many years later so it is not something that happens on a routine basis.

Rep. Lawrence Klemin: Am I reading this correctly, if our regulations are more stringent than federal regulations we would not get their participation.

David Glatt: Your questions is, if the state decides to go further than EPA requires would EPA still participate. They would. What they are saying is we have to be at least as stringent as their requirements are. If the state chooses to go beyond that they can, but EPA will fund what

they have identified in the law. Now if the state wants to go way beyond that then the state would have to fund that portion of the cost.

Rep. Lee Kaldor: It is my understanding that regulations adopted by the department may not be more stringent than the requirements of federal resource conversation and recovery act, and now you are saying that you want to be surer that the state and not the US EPA continues to administer the program. It seems like a contradiction?

David Glatt: If the state does not adopt these new rules from EPA than we would be considered not to be in compliance with theirs and then EPA would step in and do the oversights. If we adopt just what EPA has put out there as being the acceptable practice than the state if OK.

Rep. Lawrence Klemin: When this was originally adopted there was a concern the health department was proposing a number of areas to adopt regulations that were more stringent than the federal laws required; which was certainly permitted under federal law. Is that not the reason for this legislation that basically says that the health department cannot make regulations that are more stringent than the federal laws require.

David Glatt: I think that was a concern back then that we would go way beyond what the federal requirements are. That is part of the reasons the law is there to require that we stay under the federal standards.

Rep. Lawrence Klemin: At the time this program started there were quite a few gas stations that had to close because they could not afford to replace their tanks or couldn't afford the insurance and how is it doing now?

David Glatt: Discussed the underground tanks and that problem that went with changing them and cleaning up underground water and there were people that could not update their

tanks and want out of business. We have gone pass that now and the tanks we have now are meeting requirements with EPA.

Rep.Dwight Wrangham: How far do we need to go with this and what would be the consequences if we did not pass this bill and we were not in compliance with the federal act?

David Glatt: right now what the department does is monitoring the tanks and sections of the tanks making sure the operators are up to date on the regulations and what they need to do and what they have to provide by regulation. If we did not adopt that we would run the risk that the state would no longer do that. That would be done by a federal organization; probably out of Denver to run and do these types of activities in addition to doing the operator training and certification, prohibition and delivering our product. I feel you don't believe you get that from the federal government.

Rep. Lee Kaldor: Sounds to me like you are giving the local operator a benefit working with the state government on a daily basis with the owners and operators letting them know the consequences, if they don't follow the regulations and the liabilities that would come out of it. David Glatt discussed this and how they do enjoy this working relationship.

Rep. Kim Koppelman: Do other states have a problem with this or how do they do it.

David Glatt: I do not know. I think they would want the local control because it is such a benefit. EPA has direct oversight of those programs on the reservations.

Rep. Pat Hatlestad: My understanding is the operator in the state would have to comply with the federal regulations regardless of whether we did it or not and the question is who will administer the program?

David Glatt: that is correct.

Mike Rudd, President of the ND Petroleum Marketers Assocation: (See attached testimony #2) I am in support of HB 1094.

No opposition.

Discussion: General on state and federal regulations and how they have worked in the pass.

This is just updating the state regulations to not be more stringent than the federal laws.

Do Pass Motion made by Rep. Kari Conrad; Seconded by Rep. Nancy Johnson

Bote: 13 Yes 0 No 1 Absent Carrier: Rep. Lee Kaldor

Date: 1-5-07
Roll Call Vote #:

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1094

House **Political Subdivisions** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken DO PASS

Motion Made By Rep. Kari Conrad Seconded By Rep. Nancy Johnson

Representatives	Yes	No	Representatives	Yes	No
Rep. Gil Herbel-Chairman	X		Rep. Kari Conrad	X	
Rep. Dwight Wrangham-V. Chair	X		Rep. Chris Griffin	X	
Rep. Donald Dietrich	X		Rep. Lee Kaldor	X	
Rep. Patrick Hatlestad	X		Rep. Louis Pinkerton	X	
Rep. Nancy Johnson	X		Rep. Steve Zaiser	--	--
Rep. Lawrence Klemin	X				
Rep. Kim Koppelman	X				
Rep. William Kretschmar	X				
Rep.Vonnie Pietsch	X				

Total (Yes) 13 No 0

Absent Rep. Steve Zaiser

Floor Assignment Rep. Lawrence Klemin

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

REPORT OF STANDING COMMITTEE

HB 1094: Political Subdivisions Committee (Rep. Herbel, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1094 was placed on the Eleventh order on the calendar.

2007 SENATE POLITICAL SUBDIVISIONS

HB 1094

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1094

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: 4225

Committee Clerk Signature Shirley Borg

Minutes:

Chairman Cook called the Senate Political Subdivisions to order. All members (5) present.

Chairman Cook opened the hearing on HB 1094 relating to underground storage tank regulations.

Scott Radig, Director for the Division of Waste Management of North Dakota Department of Health, testified in support of HB 1094. (Attachment #1)

Chairman Cook: You indicated that there was funding from Federal Government, are there any other sources of funding for this?

Scott: At this point the petroleum marketers do not pay directly into the administration of the underground storage tank programs.

No further testimony in support, opposed or neutral.

Chairman Cook closed the hearing on HB 1094.

Senator Hacker moved a DO PASS on HB 1094

Senator Warner seconded the motion.

Discussion

Roll call vote: Yes 5 No 0 Absent 0

Carrier: **Senator Hacker**

Date: 3-1-07
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1094

Senate Political Subdivisions **Committee**

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Senator Hacker **Seconded By** Senator Warner

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X		Senator Arden C. Anderson	X	
Senator Curtis Olafson, ViceChair	X		Senator John M. Warner	X	
Senator Nicholas P. Hacker	X				

Total Yes 5 **No** 0

Absent 0

Floor Assignment Senator Hacker

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

REPORT OF STANDING COMMITTEE

HB 1094: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1094 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1094

#1

Testimony

House Bill 1094

Political Subdivisions Committee

Friday, January 5, 2007; 9 a.m.

North Dakota Department of Health

Good morning, Chairman Herbel and members of the Political Subdivisions Committee. My name is David Glatt, chief of the Environmental Health Section for the North Dakota Department of Health. I am here today to testify in support of House Bill 1094, which authorizes the North Dakota Department of Health to administer the Underground Storage Tank (UST) Program.

The UST Program, originally established in 1988, requires proper construction, maintenance, monitoring and inspection requirements for USTs greater than 1,100 gallons that store petroleum products. These rules have significantly reduced the incidence of leaking tanks and their resultant impact on the environment.

On August 8, 2005, President Bush signed the Energy Policy Act of 2005. Title XV, Subtitle B of this act is entitled the Underground Storage Tank Compliance Act of 2005. The new law affects federal and state underground storage tank programs and will require significant changes to the North Dakota UST Program.

The original legislation that created the UST program focused on replacement of aging equipment and cleanup of petroleum releases. In contrast, the new provisions of the federal Underground Storage Tank Complinace Act focus on preventing releases. In short, it expands eligible uses of the Leaking Underground Storage Tank Trust Fund to allow funding of state compliance activities such as inspections in addition to cleanups and includes provisions regarding the frequency of required inspections. The act also requires the development and implementation of operator training programs; regulations prohibiting the delivery of products to facilities not in compliance with the law; and regulations requiring that newly installed tanks be equipped with a second layer of protection to contain leaks or that tank installers and manufacturers carry insurance to cover the costs of any leaks that may occur..

The suggested changes to the North Dakota statute will allow the Department to amend the current UST rules pursuant to chapter 28-32 to reflect the changes necessary to comply with the Energy Policy Act of 2005. The suggested amendments will be no more stringent than federal requirements and are necessary to ensure that the state and not the U.S. Environmental Protection Agency continues to administer

the program in North Dakota and that the state continues to receive federal funding for implementation of the program.

I encourage your passage of House Bill 1094 and would be happy to answer any of your questions.

#2

Testimony HB 1094

January 5, 2007 – House Political Subdivisions Committee

Chairman Herbel & members of the committee, my name is Mike Rud. I'm the President of the North Dakota Petroleum Marketers Association (NDPMA). NDPMA is an association of service stations, convenience stores, truck stops, and bulk oil jobbers.

We appreciate the opportunity to offer our comments in support of HB 1094.

NDPMA has built a sound working relationship with the State Department of Health. HB 1094 will allow us to continue this relationship by allowing the Health Department to provide direct oversight on environmental regulations pertaining to the petroleum industry. Our marketers do not want to answer directly to the EPA. Our members would much rather work with state officials when environmental concerns arise. Passage of HB 1094 makes that possible.

Thank you for the opportunity to present this testimony. I can attempt to address any questions you might have at this time.

AH #1

Testimony

House Bill 1094

Senate Political Subdivisions Committee

Thursday, March 1, 2007; 2:30 p.m.

North Dakota Department of Health

Good morning, Chairman Cook and members of the Political Subdivisions Committee. My name is Scott Radig, director for the Division of Waste Management of the North Dakota Department of Health. I am here today to testify in support of House Bill 1094, which authorizes the North Dakota Department of Health to administer the Underground Storage Tank (UST) Program.

The UST Program, originally established in 1988, requires proper construction, maintenance, monitoring and inspection requirements for USTs greater than 1,100 gallons that store petroleum products. These rules have significantly reduced the incidence of leaking tanks and their resultant impact on the environment.

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I encourage your passage of House Bill 1094 and would be happy to answer any of your questions.