

2009 HOUSE POLITICAL SUBDIVISIONS

HB 1047

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1047

House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: January 9, 2009

Recorder Job Number: 6752

Committee Clerk Signature



Minutes:

Chairman Wrangham opened the hearing on HB 1047.

Roxanne Woeste, Legislative Counsel: Read and explained the bill. There is a revised fiscal note for this bill. The Governor's budget does provide a similar increase; that increase is the maximum fee for facilities from \$150 to \$475. That change is included in HB 1015 which is currently in House Appropriations. The governor is not changing the per chemical fee, but are changing the National fee per facility.

Rep. Headland: Who actually pays the fees? Is it the distributor and then the supplier or both?

Roxanne: I believe it is whoever has control of the storing of the chemical. I believe the department can address that issue later.

Rep. Conrad: Did they have a formula or a rational for raising the fees this amount?

Roxanne: I think that should be addressed to the task force.

Rep. Kretschmar: Why do we have a revised fiscal note? (Discussed it but not any real question on it except use the revised one.)

Greg Wilz, Deputy Director, Dept. of Emergency Services: (see testimony #1).(see testimony #2 from Dave Sprynczynatky.)

If this bill passes then pieces of HB 1016 needs to go away because we would be double dipping from the agency and that is not our intention. This bill does three things; it fixes the agencies problem with running in the red in the program; provide money for the counties and provides some money to train the fire fighters and other first responders. What sites are actually involved with this? In the state of ND we track about 4,000 different chemicals and there are approx. 3,000 facilities across the state of ND. They are owned by 900 different entities. The other facilities that would have that threshold to meet would be bulk plants, gasoline stations, propane and chemical supplier and distributors, concrete plants, sites with batteries that contain sulfuric acid; military sites, food processing plants, water and waste water plants and airports. It is in public law 99-499 and it is federally driven and the state has to have this program. I brought a copy of the Hazardous Program summary report to leave and letter that asked us to do this.

Rep. Headland: You mentioned 3-4,000 different sites. I think they are probably being charged fees at multiple locations. It does not seem appropriate to me. Explain to me how the risk of storing these chemicals has increased?

Greg Wilz: As far as fees that are collected either by federal or state, I am not aware of any other fees that a storage facility or a handler at a storage facility pays in relationship on having those fees on site within a local jurisdiction. When you think of \$25 to track these chemicals; for that fee I can bring any amount of chemical into the state. That is what caused the law 99-499. Last year ND had 729 chemical spills but only 52 actually required emergency responders. There is an elevated risk across the state of ND to the people that live here and the increases in incidents we have seen in the last few years.

Rep. Kretschmar: Why was the fiscal note revised?

Greg Wilz: It was a mistake at the agency. The fiscal note that you have revised is the most correct fiscal note. We have run about \$14,000-\$17,000 in the red and that is why we have increased the fees.

Rep. Nancy Johnson: Are they getting taxes twice?

Greg Wilz: No agricultural user pays these fees, only the local businesses.

Rep. Nancy Johnson: Is this a onetime fee?

Greg Wilz: No it is a onetime charge. TRI (Toxic Relief Inventory) Sites does not pay these fees. It is the manufacturing plant that brings in the chemical and consumes them there.

Rep. Klemin: Discussed the fee discrepancies and wondered why.

Greg Wilz: I do not know all the rules but if 1027 because auditors watch how the funds are used and this bill will do this.

Rep. Headland: Who pays the fees and are there other areas that require fees as well to train our emergency service providers?

Greg Wilz: To my knowledge no, there are no other laws that are specifically driving fees collected to support specific parts of training. This fee is mandatory for that training. The number of hours of training for firefighters for their time on a location. It will take the fire fighters four, five or six years to get everyone trained to the higher standards.

Chairman Wrangham: Hazardous chemicals is not new; why the demand now?

Greg Wilz: Since 911 a lot of things are being looked at again. Chemicals and the amount of them and how they are being used are continuing to involve. We are seeing more of that in the state of ND than before so the risk is increasing.

Rep. Conrad: How is it paid?

Greg Wilz: It is a yearly fee and a onetime fee. They pay on the chemicals they have if they increase their fees. They do reports that go in with the amount they fee.

Rep. Conrad: Same amount no matter how much they have?

Greg Wilz: It is based on a threshold of 50 pounds by the federal guidelines. They hope that the storage facility so that the right to know is kept.

Rep. Conrad: Does the railroad pay this fee?

Greg Wilz: No they do not.

Rep. Jerry Kelsh: Would it not be easier to manage the fees if the chemicals in ND were paid by the manufacturers and distributors, not the dealers.

Greg Wilz: Discussed amount of chemical fees and thinks the fee has promoted honesty. We assisted hundred to help them do their reports and I think there is a level of honesty in the agency. I think if we are going to leverage fees outside the state that might be hard to do.

Rep. Jerry Kelsh: The reason for this is that it is community specific and people have the right to know?

Greg Wilz: Yes, people in the community have the right to know what chemicals are around and what risks they present for their life safety.

Rep. Hatlestad: You talked about transport. Is the transportation company required to notify anyone that they are shipping hazardous chemicals through ND?

Greg Wilz: sometimes maybe. The railroads have to provide to the local jurisdiction a list of chemicals that are shipped through their jurisdiction. They do have that information on hand at homeland security and they do not have to share that in case of terrorist attacks.

Rep. Nancy Johnson: People are pretty good reporting now; won't the increase in fees change this?

Greg Wilz: We are talking about \$416 dollars here. I don't think this is a large amount.

Rep. Klemin: How long has it been since these fees have changed?

Greg Wilz: Since 1992.

Rep. Corey Mock: Has a formula based on quantity been considered?

Greg Wilz: The report they have to fill out might cause people to fudge that a little bit. That is the reasoning behind a flat fee.

Rep. Kilichowski: Is there anything in statues for criminal prosecution if they are not reporting properly?

Greg Wilz: The State Emergency Response Commission has the authority to leverage funds. It is the only agency that has the authority up to \$25,000 per day of people not in compliance. Frankly in the three years I have been here it has only been used one time for a company who refused for 2-3 years to fill out their reports.

Chairman Wrangham: If the purpose is to notify the public for people's right to know, then there would not be a higher expense to SARA if there were a larger or smaller amount of chemical. The notification is still the same.

Greg Wilz: That is correct.

Chairman Wrangham: The expenses are what?

Greg Wilz: \$252,000 if collected. Fifty percent goes out to the counties; fifty percent stays with the agency. About \$126,000 is for program management and administrative costs.

Chairman Wrangham: So your deficit is 10% yet we are looking at a large increase in fees. If the purpose of SARA under title III is to notify the public. Is this a way to fund the preparedness? Do you think it is good to have all these sources funding the same thing?

Greg Wilz: yes, I think this is appropriate. If you are going to play you have to pay. The original law allowed for local jurisdictions to do the training and other activities that need to occur in and around hazardous chemical.

Rep. Conrad: Does it cause more work if they add another chemical at the same location?

Greg Wilz: Across the state they normally call us if they are going to have something different happen. Normally if that happens it goes through the Emergency Disaster system to the locality for the firefighters. That way they can be prepared.

Lois Hartman, ND firefighter's Assoc: (see testimony #3).

Rep. Kilichowski: Is this a mandate?

Lois Hartman: Yes

Rep. Headland: How often do people have to be trained on hazardous material?

Lois Hartman: Annually.

Rep. Kretschmar: Is this also in HB1016?

Lois: I don't know.

Rep. Klemin: When FEMA put in this requirement was there any additional funding for this?

Lois: No

Rep. Headland: This \$5,000 cost per individual; would you anticipate that would come down?

Lois: We are working on several options to get that to come down, but at this point that is what the cost is.

Terry Trayner, ND Assoc. of Counties: In ND we don't have a lot of disasters, but there are always spills going on, but often times the EMS Manager of the county dispatches the fire department to be there just in case. I don't think there is opposition to this bill since this is a service they get in responding to problems when they arise.

Chairman Wrangham: If this bill happens, of course, a lot of responders would have to go to that site. Usually if it is a spill caused by negligence there is usually a fine or penalty associated with that. Where does that fee go?

Terry: I do not know.

No opposition.

No neutral.

Greg Wilz: Since we started talking about changing this law, those discussions moved to the state EMS. By law I chair that commission with 17 members which include private industry as well so they are aware of this. They we OK with the fee rise if the money was going to the responders. Most of the things that happen go through the Health Department if it is environmental based.

Hearing closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1047

House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: January 22, 2009

Recorder Job Number: 7601,7602

Committee Clerk Signature



Minutes:

Chairman Wrangham reopened the hearing on HB 1047. I prefer this one because it doesn't increase the \$25/fee but raises the cap for people that use it allot. So the only change in this bill is it raises the cap from \$150 to \$475. The new language is not part of HB 1484.

Quite a few members of the committee have talked to me about the fact that mixing this money with fire associations is a problem with them. HB 1484 does not mix the money.

Rep. Headland: Rep. Belter gave me some information that there is a federal bailout.

Homeland security is going to get a whole bunch of money to help train first responders. I think it would be a mistake at this time to raise fees on our local business in this area. I think we should kill the bill.

Rep. Nancy Johnson: concerned about the chemical storage; where are they and homeland security requires this.

Rep. Corey Mock: HB 1484 was introduced by whom?

Chairman Wrangham: All leadership.

Rep. Klemin: If we think there is some good and some bad in this bill we could amend it to make it what we think it should be and then we won't have to worry about what might happen in another committee at some other time. Or we could make it identical to the other bill.

Rep. Kilichowski: I like that some of these funds do go to the firefighters. Especially for training and preparedness and chemicals. There are new chemicals coming out all the time.

Rep. Headland: In the testimony didn't Mr. Wilz say that they are already doing the training. They just have to revert to some of their general funds in order to pay for it. Isn't that proper use of their own money they already have rather than to increase fees on our local businesses in order to pay for something they are already paying for?

Chairman Wrangham: The way I understand it lets give them all the money we can find to give them, but I think this section of law was set up for notification about hazardous chemicals being in the area. So why don't we collect enough money for what this section is suppose to do instead of trying to funnel money out of that so that is my problem with it.

Rep. Conrad: I think people are breathing in the chemicals; they need to be responsible for it so the rest of us know it is there.

Rep. Koppelman: Lines 16-18 it appears that currently the money goes to the county half of this money goes to the county hazardous chemical preparedness and response account. Under the bill one third would go there.

Rep. Zaiser: the only way I would support the bill is if all the money goes to the local groups.

Rep. Headland: I am not asking this to come out of the state's general fund. The department budget has been picking up the overrun because the current \$25 does not cover the cost of the full training program.

Rep. Hatlestad: I thought they said they weren't in deficient because they covered it with their own budget \$16,000 of the cost overrun for inspections and information for the whole state, but they were having to take money out of their budgets to pay bills that should have been covered by the fees.

Rep. Klemm: A person from the firefighters association said they had increased the requirements to qualify and they needed more training to get firefighter certification; however, there is no federal money being provided to get this additional training they need to become certified. That was the reason they were proposing transferring one third of these funds to the firefighters association.

Rep. Jerry Kelsh: I think there is more emergency money coming; maybe we don't need this. That would take care of the county's share of fees. We have a little time. I would prefer we hold it for awhile and see.

Rep. Klemm: Our alternative is for us to take action on this bill and if we do pass it; the federal action is suppose to happen before the senate is done with theirs so if the fire fighters get a lot of training money out of this federal law then they don't need it out of this. But what if they don't?

Rep. Jerry Kelsh: then I think HB 1047 is a better bill than HB1484. At least it does go to the firefighters.

Rep. Corey Mock: On going through Mr. Wilz testimony I can't help but see a number of discrepancies. At the end of Mr. Wilz testimony he sites also HB1016 that withstanding \$25/chemical for the first 15 chemicals to the first 19 chemicals. In HB 1047 it also says we raise the amount per chemical to \$52 and I did not see where it changed from the first six to the first 8, but they say \$415 is maximum and that would be 8 chemicals. There are three bills with three different funding formulas and charge formulas for these chemicals so I think we need to contact with Mr. Wilz or the leadership that introduced HB 1484 and determine what is the ideal formula for this so we can take appropriate action.

Chairman Wrangham: It has a fiscal note so we are going to have to act on this soon.

Rep. Pietsch: I think they talked it over and if the HB1016; if nothing happens to this it might affect what we are doing.

Chairman Wrangham: Can we kill this bill?

Rep. Klemm: Can we have that other bill re-referred to this committee??

Chairman Wrangham: I think we can if it is not scheduled but found out their hearing is scheduled. Check with your leadership and we will check with ours'. This has a fiscal note so we will have acted on ours' before next Friday.

Hearing closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1047

House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: February 5, 2009

Recorder Job Number: 8758, 8879

Committee Clerk Signature



Minutes:

Chairman Wrangham reopened the hearing on HB 1047. HB 1484 has passed already and that has all of the leadership on it. I think they are going to deal with the fees and make some adjustments and I don't think they will be sending it out to the firefighters. The firefighters are getting an additional appropriation for chemical training in their budget.

Rep. Headland: I believe it was \$500,000 and in the insurance commissioners budget.

Chairman Wrangham: The way I understand it the firefighters are going to get an additional appropriation, but it is not going to be taken out of this fund. This bill has a fiscal note and has to go out today. We will put this bill on hold for now.

Hearing closed.

Job # 8879

Chairman Wrangham reopened the hearing on HB 1047.

Do Pass Motion Made By Rep. Conrad; Seconded By Rep. Corey Mock

Vote 6 Yes 6 No 1 Absent Tied; without recommendation.

Carrier: Chairman Wrangham

Hearing closed.

FISCAL NOTE
Requested by Legislative Council
01/12/2009

REVISION

Bill/Resolution No.: HB 1047

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$230,000	\$0	\$244,000
Expenditures	\$0	\$0	\$0	\$230,000	\$0	\$244,000
Appropriations	\$0	\$0	\$0	\$230,000	\$0	\$244,000

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$35,000	\$0	\$0	\$37,000	\$0	\$0

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).*

Generates funding for program costs, provides funding to LEPC's and responder training relating to hazardous chemical response. Increases fee from \$25 to \$52 per chemical and raises maximum fee for a facility from \$150 to \$416. Also provides a three way split between Agency, Counties and NDFA.

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.*

Current annual revenue is approximately \$125,000, projected revenue from this bill is an annual \$240,000. Currently the counties receive 50% and agency retains 50%. This bill would provide a three way split which would increase agency and county revenue by \$17,500 per year and would give NDFA approximately \$80,000 per year.

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.*

The revenues would be approximately \$80,000 per year for the counties, the agency, and the NDFA. Currently, the agency and counties are receiving approximately \$62,500 per year. An overall increase of \$35,000 per biennium for both agency and counties. New revenue would be provided in the three way split to the NDFA of \$80,000.

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.*

The agency has two FTEs that administer this program. The agency also has operational costs for training and supplies associated with this program. Projected revenues would fund additional training and salary costs.

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.*

Appropriations are not included in the 09-11 biennial budget for the increased fee as provided in HB1047. However, there is an approximate \$35,000 increase in the 09-11 budget request that is based upon the current fee of \$25 with

an increased maximum fee of \$475.

Name:	Holly Gaugler	Agency:	Adjutant General
Phone Number:	333-2079	Date Prepared:	12/31/2008

FISCAL NOTE

Requested by Legislative Council

01/08/2009

REVISION

Bill/Resolution No.: HB 1047

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$34,000	\$0	\$36,000
Expenditures	\$0	\$0	\$0	\$34,000	\$0	\$36,000
Appropriations	\$0	\$0	\$0	\$34,000	\$0	\$36,000

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$34,000	\$0	\$0	\$36,000	\$0	\$0

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).*

Generates funding for program costs, provides funding to LEPC's and responder training relating to hazardous chemical response. Increases fee from \$25 to \$52 per chemical and raises maximum fee for a facility from \$150 to \$416. Also provides a three way split between Agency, Counties and NDFA.

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.*

Current annual revenue is approximately \$125,000, projected revenue from this bill is an annual \$240,000. Currently the counties receive 50% and agency retains 50%. This bill would provide a three way split which would increase agency and county revenue by \$17,000 per year and would give NDFA approximately \$80,000 per year.

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.*

The revenues would be approximately \$80,000 per year for the counties, the agency, and the NDFA. Currently, the agency and counties are receiving approximately \$62,500 per year. An overall increase of \$34,000 per biennium for both agency and counties. New revenue would be provided in the three way split to the NDFA of \$80,000.

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.*

The agency has two FTEs that administer this program. The agency also has operational costs for training and supplies associated with this program. Projected revenues would fund additional training and salary costs.

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.*

Appropriations are not included in the 09-11 biennial budget for the increased fee as provided in HB1047. However, there is an approximate \$35,000 increase in the 09-11 budget request that is based upon the current fee of \$25 with

an increased maximum fee of \$475.

Name:	Holly Gaugler	Agency:	Adjutant General
Phone Number:	333-2079	Date Prepared:	12/31/2008

FISCAL NOTE
 Requested by Legislative Council
 12/08/2008

Bill/Resolution No.: HB 1047

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.

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$225,000	\$0	\$238,500
Expenditures	\$0	\$0	\$0	\$225,000	\$0	\$238,500
Appropriations	\$0	\$0	\$0	\$225,000	\$0	\$238,500

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$75,000	\$0	\$0	\$79,500	\$0	\$0

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).

Generates funding for program costs, provides funding to LEPC's and responder training relating to hazardous chemical response.

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.

This bill would have an estimated impact of \$225,000. \$75,000 stays at agency to off-set increased program costs, \$75,000 is provided to LEPC's for equipment, training and exercise, \$75,000 is provided to ND Firefighters Association to sponsor/coordinate hazardous chemical training.

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.

Fees will be increased from \$25 per chemical to \$52 per chemical up to the first eight chemicals stored that meet the threshold limits. This revenue is deposited in the agency's Hazardous Chemical Fund 378.

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.

As stated above this will generate an additional \$75,000 for program costs for the agency. This additional funding would be provided to fund the 2 FTE's that administer the program as well as an increase in required training provided by the agency for hazardous chemicals.

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.

Appropriations are not included in the executive budget for the increased fee.

Name:	Holly Gaugler	Agency:	Adjutant General
Phone Number:	333-2079	Date Prepared:	12/31/2008

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1047

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS DO NOT PASS AS AMENDED

Motion Made By Rep. Conrad Seconded By Rep. Mock

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman		✓	Rep. Kari Conrad	✓	
Rep. Craig Headland, Vice Chairman		✓	Rep. Jerry Kelsh	✓	
Rep. Patrick Hatlestad		✓	Rep. Robert Kilichowski	✓	
Rep. Nancy Johnson	✓		Rep. Corey Mock	✓	
Rep. Lawrence Klemin		✓	Rep. Steve Zaiser		0
Rep. Kim Koppelman		✓			
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch		✓			

Total (Yes) 6 No 6

Absent 1

Carrier: Rep. Wrangham

If the vote is on an amendment, briefly indicate intent:
re-referred to approp.

REPORT OF STANDING COMMITTEE

HB 1047: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION and BE REREFERRED to the Appropriations Committee (6 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). HB 1047 was rereferred to the Appropriations Committee.

2009 HOUSE APPROPRIATIONS

HB 1047

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1047

House Appropriations Committee
Government Operations Division

Check here for Conference Committee

Hearing Date: 2/10/09

Recorder Job Number: 9066

Committee Clerk Signature

Tonya Voegel

Minutes:

Chairman Delzer opened the hearing on House Bill 1047. Roll was taken at a previous hearing earlier today. The title of the bill was read.

Representative Wrangham, Chairman of the Political Subdivisions Policy Committee, explained the bill.

Representative Wrangham: The bill deals with the amount that is charged a fee for chemical registration. The committee heard testimony and decided to not decide. It came out of the committee without recommendation on a vote 6-6. The bill raises the fee from \$25 to \$52 for chemical and it raises the total amount collected per year from \$150 to \$416. Also in the bill is at the bottom of page one lines 19-22, distributes some of this money raised to the Firefighters Association to use to support training and response capabilities of these firefighters.

Representative Kaldor: Is it the chemical companies that would pay this bill?

Representative Wrangham: The way I understand it to be the people who bring the chemical into the area, the wholesaler or the distributor if you will.

Chairman Delzer: In the end it is the purchaser that pays them though. We all understand that. Yesterday I had mentioned the brake down for the firefighters. What this bill is trying to do

is raise another \$160,000 for the Firefighters Association. My understanding on this situation is when they came to the Governor's Office they said they needed \$500,000 which is what they put in the Insurance Commissioner's bill. After that and Tammy, correct me if I am wrong, my understanding is after that the Firefighter's Association went and talk was made to the Public Safety committee that on top of the \$500,000, they needed this \$160,000 so they put this bill in to raise these fees. It changes the direction of the fees. Currently the fees go half to the counties and half to Emergency Management, I believe it is. With this bill it would go a third, third and a third and it is the same money for counties and Emergency Management but then the Firefighters Association will also get \$160,000. That is what OMB has said, the deal was made at \$500,000 and that was supposed to be enough to support the Firefighters Association and that is why they put the \$500,000 in the Insurance Commission bill that we dealt with yesterday afternoon. This would be on top of that. Now the Firefighters schedule for this says that they need this to cover everything they want. My understanding from the visit with the Fire Chief out of Garrison was that his understanding was they needed the money and that it was upfront before. My understanding from Tammy is that the deal was made and then this was asked for after the \$500,000.

Tammy Dolan, OMB: That is basically what happened. The interim Public Safety committee looked at this issue and they came up with a number of bills and this is one that came out of that as I understand. It was to do exactly what you said. When we put the Governor's Budget together, we took a different approach and appropriated directly to the Firefighters Association instead of changing the way this fee was distributed. That is why we had included the \$500,000 in the Insurance Department budget.

Chairman Delzer: Your understanding was that the \$500,000 was supposed to cover it.

Tammy Dolan, OMB: That is correct.

Representative Wrangham: Coming out of committee without recommendation, maybe I could just give you a little bit of each side said. Those who supported the bill supported more education and training for firefighters and thus supported the bill. Those who opposed the bill said that they also supported more money for firefighters but thought there was a better way for them to get the money and that would be through the appropriations committee and through funding from the General Fund in that this chemical fund was set up originally for notification. The fee was designed to cover the cost of notification of the community that these hazardous wastes were present. Not to be used to supplement training for the firefighters. Everyone supported the training for the firefighters it was just a matter of how to fund it.

Representative Berg: So this came without recommendation.

Chairman Delzer: Right.

Representative Meyer: I know you have said this again but for those of us with bad memories how many firefighters does \$500,000 train? How much is it for each firefighter?

Chairman Delzer: They pay \$40 on top of this and that is part of that schedule. This is supposed to be enough to train every firefighter in this state in the next two years. I was told that is what they needed to be eligible for the federal grants. For them to fill out requests for a federal grant, one line item in there says are you trained to section 1022a or something that way. That is what this would do. I think they can do it without this \$80,000. That is what we are giving them the \$500,000 which the Governor's Office suggested was enough.

Representative Kaldor: If I could ask OMB, when deliberating on this as a General Fund appropriation as opposed to what is laid out in HB 1324, were you aware of what the Legislative Council Public Safety committee had passed out?

Chairman Delzer: My understanding is that the Governor's Office passed this out first.

Tammy Dolan, OMB: We knew that the Public Safety committee was working on this. In the budget that we were working on with the Adjutant General this issue also came up because it comes up in their budget. We looked at it and said that we would like to do the training, we think it will be beneficial. We did not want to raise the fees to this level and change the distribution. We thought it would be an easier funding approach to use the Insurance Department.

Representative Glassheim: Was there any discussion whether the counties or agencies need the additional money to do this or does the bill mainly benefit the fire.

Chairman Delzer: This just does the change for the firefighters. We have already passed the bill on the floor I believe that made the changes. It was a part of the Insurance Commission bill, it was pulled out. That went through GVA and I believe that has already passed on the floor.

Representative Glassheim: The increase in fees has been passed already?

Chairman Delzer: Not the same increase but the increase that the counties and the department wanted. This one here simply makes the change. It raises the fees again but all of the money that this bill raises goes to the Firefighters Association.

Representative Glassheim: Not according to the fiscal note. But that is what you were saying is that this has already been done in the other bill.

Chairman Delzer: Right. All of the new money that this bill would raise would go to the Firefighters Association.

Chairman Delzer closed the hearing.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1047

House Appropriations Committee
Government Operations Division

Check here for Conference Committee

Hearing Date: 2/10/09

Recorder Job Number: 9067

Committee Clerk Signature



Minutes:

Chairman Delzer called the committee to order and discussion on House Bill 1047 took place as follows.

Chairman Delzer: This bill came out of the Political Subdivision Committee without recommendation and the vote was 6-6.

Representative Berg: Clearly this needs to be tied into what we are doing in the bill.

Chairman Delzer: I think it has been.

Representative Berg: I think we should give this a Do Not Pass but I think we should have it come out with the other bill so when it comes to the floor people understand that this is being dealt with through the normal budget bill. I guess I would move a Do Not Pass.

Vice Chairman Thoreson: Second.

Chairman Delzer: We have a motion and a second, any discussion?

Representative Kaldor: Just a point and I think I am always concerned when we see these Legislative Council bills come before us and we dispatch them. I am not questioning that OMB didn't do their job. I think they did. I am assuming that the Public Safety committee went through some kind of a study and analysis of this. I am kind of curious as to whether or not this is an appropriate methodology for funding the fire training that goes on. I am not going to

oppose the motion I am just voicing that position. I am expecting somebody probably will say on the floor why the Public Safety committee voted as they did originally. Just a comment.

Chairman Delzer: Anything further by the committee. If there is no further discussion clerk will take the roll for a Do Not Pass on House Bill 1047.

A motion was made by Representative Berg, seconded by Vice Chairman Thoreson, for a DO NOT PASS recommendation for House Bill 1047 to the Full House Appropriations committee. The vote showed 8-0-0. The carrier will be Vice Chairman Thoreson.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1047

House Appropriations Committee

Check here for Conference Committee

Hearing Date: February 11, 2009

Recorder Job Number: 9278

Committee Clerk Signature

Shirley Branning

Minutes:

Chm. Svedjan took up HB 1047 coming out of the Government Ops section.

Rep. Thoreson will be carrying the bill.

Rep. Delzer: Explained the bill. It came from Political Subs without recommendation. The bill would raise chemical fees to cover what of what's in the current Commissioner's Bill. That was taken out and sent to GVA. It would also raise the chemical fees to furnish funds to the firefighter's training so the local fire districts can apply for federal grants for their fire districts. There's \$500k in the Insurance Commissioner's budget for the training at the time they put it together. The Public Safety also put this bill in and it was felt by our committee that the \$500k should be enough for them to do the fire training and that is the reason for the Do Not Pass out of our committee. I move a Do Not Pass.

Rep. Thoreson: Second.

Chairman Svedjan: Calling for discussion, hearing non call for the roll call vote for a Do Not Pass on HB 1047.

Vote Taken: Yes. 22 No 0 Absent 3. Motion Carried. Carrier: Rep. Thoreson.

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1047**

House House Appropriations- Government Operations Committee

Check here for Conference Committee

Legislative Council Amendment Number "Click here to type Amendment Number"

Action Taken Do Not Pass

Voice Vote

Roll Call Vote

Motion Made By Representative Berg: Seconded By Vice Chairman Thoreson:

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Representative Glassheim	X	
Vice Chairman Thoreson	X		Representative Meyer	X	
Representative Kempenich	X		Representative Kaldor	X	
Representative Berg	X				
Representative Dosch	X				

Total (Yes) 8 No 0

Absent 0

Floor Assignment Vice Chairman Thoreson

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

Date: 2/11/09
 Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1047

Full House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Not Pass

Motion Made By Delzer Seconded By Thoreson

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Rep. Skarphol	✓		Rep. Kroeber	✓	
Rep. Wald	✓		Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer	✓		Rep. Glassheim	✓	
Rep. Thoreson	✓		Rep. Kaldor	—	
Rep. Berg	—		Rep. Meyer	✓	
Rep. Dosch	—				
Rep. Pollert	✓		Rep. Ekstrom	✓	
Rep. Bellew	✓		Rep. Kerzman	✓	
Rep. Kreidt	✓		Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland	✓				

Total (Yes) 22 No 0

Absent 3

Floor Assignment Thoreson

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

REPORT OF STANDING COMMITTEE (410)
February 12, 2009 2:28 p.m.

Module No: HR-27-2559
Carrier: Thoreson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1047: Appropriations Committee (Rep. Svedjan, Chairman) recommends DO NOT PASS (22 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1047 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HB 1047

1

TESTIMONY – HB 1047
HOUSE COMMITTEE – POLITICAL SUBDIVISIONS
JANUARY 9, 2009
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 Department of Emergency Services (NDDDES) and Director of Homeland Security for the state of North Dakota. Today I am here as a representative of the task force established at the request of the interim Public Safety Committee. The Public Safety Committee asked that the task force be established to request improvements to emergency services by adding organizational changes, system upgrades, process or protocol changes and statutory changes to ensure the future viability and capability of emergency services in North Dakota. My intent is to provide background information as was discussed within the task force and not to take an agency position on HB 1047.

The department administers the state's Superfund Amendments and Reauthorization Act (SARA) Title III program as outlined in 37-17.1-07.1. One and two-thirds FTEs support administration and operational requirements of the program. For the past three years, increased work demand has forced the department to operate at a deficit and use general fund dollars to support program requirements. HB 1047 will resolve programmatic funding issues but more importantly will create a funding stream to assist first responders build response capabilities for incidents involving hazardous chemicals.

The task force identified that the requirement for firefighter certification in hazardous chemical response was being raised from an "awareness" to "operational" level. Approximately 7,000 of the state's 8,000 firefighters require this training and the financial impact would severely reduce operational and maintenance funding within local fire departments. The task force felt it was appropriate to shift the cost burden for response capability to the industries that have increased the risks of hazardous chemical incidents.

HB 1047 provides funding to train responders in hazardous chemical response, allows the department to administer the program using special funds, and provides Local Emergency Planning Committees (LEPCs) increased funding to support training, exercise, and response equipment as outlined in 37-17.1-07.1.

As General Sprynczynatyk indicated yesterday, you would be informed about those Interim Public Safety Committee bills that were included in the agency's budget. Part of this one is in HB 1016. In a separate action, the executive budget included funding for the North Dakota Firefighter's Association (NDFA) to improve training. Due to the availability of those funds, the agency's budget in HB 1016 raises the maximum revenue that can be collected per facility as defined in section 312 of SARA Title III by increasing the threshold of chemicals that incur a charge. In current law, \$25 is the charged per chemical for the first six threshold chemicals; HB 1016 allows \$25 per chemical for the first 19 chemicals. The increased revenues offset program deficits and provide LEPCs enhanced funding.

Thank you, I will try to answer any questions you may have.

#2
HB1047



AL CARLSON
State Representative
Chairman

JOHN D. OLSRUD
Director

JAY E. BURINGRUD
Assistant Director

JIM W. SMITH
Legislative Budget
Analyst & Auditor

JOHN WALSTAD
Code Revisor

North Dakota Legislative Council

STATE CAPITOL, 600 EAST BOULEVARD, BISMARCK, ND 58505-0360 (701) 328-2916 TTY: 1-800-366-6888

July 26, 2007

Honorable Todd Porter
State Representative
4604 Borden Harbor Drive SE
Mandan, ND 58554-7961

Dear Representative Porter:

I have received the request the Public Safety Committee made at its July 17, 2007, meeting, that I, as Chairman of the Legislative Council, encourage the Adjutant General to assemble a task force for the purpose of identifying the strategic structure and capability of emergency services in the state of North Dakota, including emergency response organizations, response protocols, interoperable communications, and emergency management.

Task force membership should include the following response organizations:

1. Division of Homeland Security.
2. Division of State Radio.
3. North Dakota National Guard.
4. North Dakota Police Chiefs Association.
5. North Dakota Sheriffs Association.
6. North Dakota Fire Chiefs Association.
7. North Dakota Metro Fire Chiefs Association.
8. North Dakota EMS Association.
9. North Dakota Healthcare Association.
10. North Dakota Emergency Management Association.
11. North Dakota 911 Association.
12. Department of Emergency Services.
13. Other members as determined by the Adjutant General.

The primary goals of the task force will be to:

1. Suggest the future structure and capability requirements necessary to fulfill North Dakota's emergency services needs through 2015.
2. Identify gaps between the current state of emergency services and the prioritized capabilities required in the future.

3. Provide the Public Safety Committee recommended initiatives for possible consideration by the 2009 Legislative Assembly which will help bridge the organization and capability gaps.

The task force should focus its efforts to improve emergency services by addressing:

1. Organizational changes;
2. System upgrades;
3. Process or protocol changes that need to be established in the North Dakota Century Code; and
4. Statutory changes that should be considered to ensure the future viability and capability of emergency services in North Dakota.

I approve the Public Safety Committee's motion and encourage the Adjutant General to form a task force. Please contact me if you have any questions regarding this matter.

Sincerely,

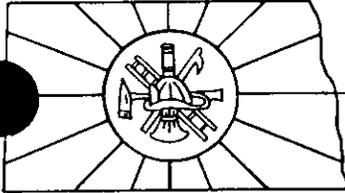


Representative Al Carlson
Chairman

AC/AC

cc: Major General David Sprynczynatyk

#3



Organized June 4, 1884. Incorporated January 20, 1901

*North Dakota
Firefighter's Association*

P.O. Box 6127 • Bismarck, ND 58506-6127

Phone: 701-222-2799

Fax: 701-222-2899

**HB 1047
Lois Hartman
Executive Director**

Mr. Chairman and members of the House Political Subdivision Committee, my name is Lois Hartman. I am the Executive Director and the State Training Director of the North Dakota Firefighter's Association (NDFA). I appear before you today in support of HB1047.

As the state training agency for the fire service it is the responsibility of the North Dakota Firefighter's Association to offer training and education opportunities that meet the national standards required by FEMA. This past fall, the National Fire Prevention Association, which is the professional standards setting body, updated the qualifications standard for firefighter certification. The updated standard requires that all first responders be trained to the hazardous materials operations level. At the current time, the NDFA offers awareness level training, which is a 4 hour course. Operations level is the next step and is a 24 hour course. It is also much more expensive to offer because of the equipment required for the training and the additional instructors for the hand-on portion of the curriculum. The cost of the initial operations level course is about \$5,000 with a required annual refresher course costing about \$2,500. The 4 hour awareness level training costs about \$500 with a required refresher every 2 years at a cost of \$500.

The NDFA has 376 member fire departments. If it were possible to certify each of the departments to the operations level in a two year period, it would cost an estimated \$1,880,000 and an additional \$ 564,000 for the first year of annual refresher courses. The cost for providing the operations level training far exceeds the NDFA budget. While the funding from this bill will not cover the cost of providing operations level training, it will certainly help with that need. Therefore, I urge a do pass on HB 1047.

Thank you, Mr. Chairman. That concludes my prepared remarks. I would be happy to answer any questions you or the committee may have.