

2011 HOUSE ENERGY AND NATURAL RESOURCES

HCR 3039

2011 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources Committee Pioneer Room, State Capitol

HCR 3039

14873

03/03/2011

Conference Committee

Committee Clerk Signature



Minutes:

Rep. Porter: We will open HCR 3039.

Rep. DeKrey: This resolution is to ask the powers of me to limit the overreach by the U.S. Fish and Wildlife Service. Whenever we do a grade raise in the wetland area that has an easement on it, even if we stay within the 66 feet of the imprint of the section line whatever water is displaced, the U.S. Fish and Wildlife is requiring that be replaced with a purchase of a wetland of somewhere else at \$10,500 per acre. The local share of any of those repairs was 15%. It is written in the work order that if you do a grade raise that is considered acreage loss and then the local energy has to replace that.

Rep. Nelson: To eminent domain how much would the land cost?

Rep. DeKrey: About \$600.00 an acre in our area. It is not \$10,500 an acre.

Rep. Nelson: The easement costs much more than the value of the land.

Rep. DeKrey: Yes way more.

Sandy Clark: I represent the North Dakota Farm Bureau; we are in support of HCR 3039.

Rep. Porter: Is there any opposition to SB? We will close the hearing.

Rep. Keiser: I move a Do Pass to be placed on the consent calendar.

Rep. DeKrey: Second.

Rep. Porter: Voice vote taken motion carries. Carrier Rep. DeKrey

Date: 3-3-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3039

House House Energy and Natural Resources Committee

Legislative Council Amendment Number _____

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

Motion Made By Rep. Keiser Seconded By Rep. DeKrey

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	/		Rep. Hanson	✓	
Vice Chairman Damschen	/		Rep. Hunskor	✓	
Rep. Brabandt	✓		Rep. Kelsh	✓	
Rep. Clark	✓		Rep. Nelson	✓	
Rep. DeKrey	/				
Rep. Hofstad	/				
Rep. Kasper	/				
Rep. Keiser	✓				
Rep. Kreun	✓				
Rep. Nathe	✓				
Rep. Anderson	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep. DeKrey

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

voice - to consent Calendar

REPORT OF STANDING COMMITTEE

HCR 3039: Energy and Natural Resources Committee (Rep. Porter, Chairman)
recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR**
(15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3039 was placed on the
Tenth order on the calendar.

2011 SENATE NATURAL RESOURCES

HCR 3039

2011 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee
Fort Lincoln Room, State Capitol

HCR 3039
March 24, 2011
Job #15926

Conference Committee

Committee Clerk Signature

Stornica Spaulding

Explanation or reason for introduction of bill/resolution:

A concurrent resolution urging the US Fish and Wildlife Service and FEMA to exempt road grade raises necessitated by flooding from the requirement that the raise be offset by the acquisition of replacement wetlands.

Minutes:

No Attachments

Chairman Lyson opened the hearing on HCR 3039.

Representative Duane DeKrey, District 14, introduced the resolution. For the last 2 summers he worked the flood and he has been a gravel road inspector. When a grade raise is done FEMA forces townships and counties to buy land to replace the wetlands that they claim they are taking when they are raising the roads. He does not understand how it is causing a loss of wetland because the wetland is just moving out. The standard fee is \$10,500 per acre. If you are a township or a county that is doing a grade raise due to higher water and it happens to be in an area where they have an easement on either side of the road, when you raise the road and push that water out further, they are saying that there is a loss of a wetland and that you have to buy a wetland some other place in the state to make up for the taking of the wetland. I don't think that's right, and that is why I put this resolution in.

Senator Triplett: Is it both agencies that have these rules or is it one or the other that has these rules?

Representative DeKrey: They are both involved and I'm not sure if US Fish and Wildlife is telling FEMA to do it. It doesn't seem that FEMA would be doing it on their own.

Senator Triplett: As far as I know FEMA doesn't have any wetlands requirements.

Representative DeKrey: Of the \$10,500 per acre, 15% will go back onto the political subdivision that is raising the road. In the last two years there has been so much money spent on fixing the roads that the counties and townships are broke. Even though they can get 85% cost share from FEMA, they can't come up with the 15% to do it. Then they are required to go buy land somewhere at \$10,500 per acre.

Senator Freborg: Do you have any idea how much land are we talking about?

Representative Dekrey: I have no idea. I just have to identify if the road raise is in a wetland. FEMA searches out who has easements on that land. We are putting the grade raises within the 60' easement. I don't see how Fish and Wildlife has the authority to force a political subdivision to replace a wetland. The wetland may have been changed, but I don't see where there is a loss of wetland.

Senator Triplett: Have you had lines 10-12 looked at by the Attorney General as far as the authority issue?

Representative DeKrey: No, I didn't. In my opinion they are exceeding their authority.

Opposition: none

Chairman Lyson closed the hearing on HCR 3039.

Senator Triplett: made a motion to adopt an amendment

Senator Schneider: Second

The motion to adopt the amendment carried by voice vote.

Senator Hogue: Motion for Do Pass as Amended

Senator Burckhard: Second

Roll Call Vote: 7-0-0

Carrier: Senator Burckhard

Date: 3-24-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3039

Senate Natural Resources Committee

Legislative Council Amendment Number _____

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

Motion Made By Triplett Seconded By Schneider

Senators	Yes	No	Senators	Yes	No
Chairman Lyson			Senator Schneider		
Vice-Chair Hogue			Senator Triplett		
Senator Burckhard					
Senator Freborg					
Senator Uglem					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

carried by voice vote

replaced with is

Date: 3-24-11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3039

Senate Natural Resources Committee

Legislative Council Amendment Number _____

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

Motion Made By Hogue Seconded By Burckhard

Senators	Yes	No	Senators	Yes	No
Chairman Lyson	✓		Senator Schneider	✓	
Vice-Chair Hogue	✓		Senator Triplett	✓	
Senator Burckhard	✓				
Senator Freborg	✓				
Senator Uglem	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Burckhard

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

REPORT OF STANDING COMMITTEE

HCR 3039: Natural Resources Committee (Sen. Lyson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3039 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "has exceeded its authority in" with "is"

Renumber accordingly