

2013 SENATE NATURAL RESOURCES

SB 2049

2013 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2049
January 11, 2013
17117

Conference Committee

Monica Spaulding

Explanation or reason for introduction of bill/resolution:

Relating to the water topics overview committee, irrigation districts, irrigation project financing, and the expiration date of Garrison Diversion Conservancy District irrigation special assessments

Minutes:

Written testimony attached

All committee members were present.

Chairman Lyson opened the hearing on SB 2049.

Jeff Nelson, a staff attorney with Legislative Management and committee counsel for the interim for the Water Related Topics Overview Committee (the committee that is recommending this bill), introduced the bill. His comments are not to be construed as in favor or in opposition to the proposed bill. By way of background, more than several sessions ago the legislative assembly established the Garrison Diversion Overview Committee. This committee was designed to have responsibility for legislative overview of the Garrison Diversion Project and related matters and for any necessary discussions with adjacent states on water related topics. Over the years legislative management added water studies to this committee. The name was changed to the Water Related Topics Overview Committee and its jurisdiction was expanded, it was required to meet quarterly, and it had overview of water related topics. At that time the legislative assembly put an expiration date on the committee of November 30, 2013. At that time it would expire and the old Garrison Diversion Overview Committee would be revived. The committee is recommending that the Water Related Topics Overview Committee be made permanent and that the name be changed to Water Topics Overview Committee. In addition, the Garrison Diversion Project would be added to its subject matter jurisdiction.

The change in the number of members is being made because it seemed to unnecessarily restrict legislative management in determining the proper membership based upon interest, etc. It was felt that deleting the 13 member requirement would give more flexibility to legislative management to determine the number of members. Essentially, if you want to think of this as the old Garrison Diversion Overview Committee continuing on with a name change and expanded jurisdiction to cover all water matters in the state.

Section 2 through Section 5: The committee had been charged with doing an irrigation study. In doing the study, it was felt that the irrigation statutes were archaic, having been

enacted during the infancy of irrigation in North Dakota. It was felt it was time to review them and overhaul them with the size of the new irrigation projects being developed in the state. Perhaps the old laws didn't necessarily work for the new type of irrigation being developed. However in working with the ND Irrigation Association the committee learned that although that may have been true in some instances, many of the projects in districts were developed using the current laws and relied on those current laws so it would not be beneficial if those laws were repealed or amended.

Section 6 just extends the expiration date by 2 years for the Garrison Diversion Conservancy District irrigation special assessments.

Representative Curt Hofstad from District 15 spoke in favor of the bill. He feels it is important to maintain the Water Related Topics Overview Committee. He has seen a disconnect between the legislative body and the "water world". He feels the Water Related Topics Overview Committee helps to mend that disconnect. He addressed the expiration date of the bill. He feels the sunset should be extended so projects that are underway now can be completed.

Representative Curt Kreun from District 43, Grand Forks, who served on the interim Water Related Topics Overview Committee, spoke in support of SB 2049. He emphasized that it is important to maintain the committee so there is continuity especially for the long term projects in the state. The committee was able to collect a lot of valuable information, review the projects and review the policies to help enhance the projects. The involvement of the Water Related Topics Overview Committee helps not only the legislature, but the people using the program.

John Olson, representing the Garrison Diversion Conservancy District, stood in support of the bill. He presented written testimony from Dave Koland, General Manager of the Garrison Diversion Conservancy District, who could not be present due to a board meeting commitment. See attached testimony #1.

Senator Triplett asked how the cost share is broken down...who pays what to get the irrigation projects up and running?

John Olson stated that from his understanding the funds from the State Water Commission and the Water Resources Trust Fund have set aside 5 million dollars for irrigation projects. The idea is a 50% cost share.

Steve Knorr, a farmer and irrigator, spoke in favor of the bill. See attached testimony #2. He compared taking advantage of the opportunity to develop irrigation on his land to a young person taking advantage of the opportunity to attend a college or university. He also emphasized that the sunset on the bill causes uncertainty which holds farmers back from becoming involved.

Senator Triplett questioned Mr. Knorr about his comment on the huge risks of and huge array of benefits from irrigation. He had spelled out the benefits of irrigation and how it even benefited the larger community. She asked him what he considered the risks to be.

Steve responded that the risk is to the farmer. He is dependent on the weather, which is a huge risk.

Senator Triplett questioned him further and pointed out that the irrigation actually reduced the risk to the farmer because the need for moisture is more easily accommodated with irrigation than without irrigation.

Mike Dwyer, representing the ND Water Users Association and the ND Irrigation Association, stood in support of the bill. In 1981 the legislature created the Resources Trust Fund. That was the state's first step into large-scale water development. At that time it was for the Southwest Pipeline Project because that was the project that was planned at that time and needed funding because the local capabilities just weren't there. Then that oil boom subsided and so did the funding so the Southwest Pipeline kind of languished for a long time in the 90's and early 2000. In 1991 the Resources Trust Fund had a little over two million of revenue for all of the in-progress water projects so it was pretty limited. Since that time we have had the Grand Forks flood control project, currently we have the flooding in Fargo in 2009, 2010, and 2011. We had the devastating flood in Minot, we have the WAWS (Western Area Water Supply) Project, the Southwest Pipeline, the Red River Valley Water Supply Project that we need to accomplish. The drought conditions of 2012 reminded us once again that we are going to have to supply a long-term water supply to eastern ND for our state to experience economic vitality. With all of these needs there is a need for an on-going water committee. All of these issues need attention during the interim as well as during the session.

The irrigation projects require 100% of the landowners to sign on. He addressed the cost of the irrigation. The cost of the water supplied to the farmer's field is at 50% cost share. The cost of the pivots in the farmer's field is born by the farmer himself. Mike would like to take the sunset off this bill. He feels the safeguards are there, the opportunities and benefits are there for the agriculture community and the state as a whole.

Senator Murphy asked whether that canal will potentially be used to get water to the Red River.

Mike said the preferred alternative would take water out of the end of the canal, pipe it directly to Lake Ashtabula as a regulating reservoir and then use the Sheyenne River as the conveyance to eastern North Dakota.

Senator Murphy asked what happens when severe drought hits and we need every bit of the water for Fargo-Moorhead and Grand Forks and we have a resultant irrigation draw-down. Who would get preference for the water then?

Mike said the canal has a capacity of 2000 cfs. The preferred alternative of the Red River Valley Water Supply Project is 100-200 cfs so there is adequate capacity of water and there is about 17 million acre feet of water that flow through the Missouri River average annually. There is about 24 million acre feet that are held behind Lake Sacagawea. The Red River Valley Water Supply Project would use about 120,000 acre feet a year. Taking a look at those numbers, you can see that there is plenty of water and plenty of capacity to meet both the 70,000 acres of irrigation that are authorized and the long term needs of the Red River Valley.

Senator Murphy asked if the 70,000 acres is what is being irrigated at this time or if that is the potential number of acres that could be irrigated.

Mike said 70,000 acres is what has been authorized along the McClusky Canal. There is potential to irrigate many more acres than what is presently authorized.

Senator Murphy clarified that the canal has "all the capacity in the world for whatever irrigation wants to be done along the McClusky Canal and still provide the Red River with the water they need in case of a severe drought?"

Mike said, "In terms of adequate water supply, absolutely".

Senator Hogue asked what the level of interest is in creating these special assessment districts. He also asked if extending the sunset to 2013 would really give enough certainty for farmers who are trying to make a decision about signing on?

Mike said the bill provides for if there is a special assessment district that is created in the next two years of this extension, then that authority would continue until those special assessments are paid off. Anything that is created in that timeframe would continue even if the law expired.

Kipp Kovar, District Engineer for Garrison Diversion, stood in favor of the bill. He said he has 5 projects on the books this month. Sometimes it takes a farmer a long time to sign on. There is more interest in dry years. Then sometimes it takes two years to get a project done.

Senator Triplett sought to clarify the percentages. The Resources Trust Fund has 5 million dollars to be set aside for this irrigation work. The State Water Commission's basic policy is a 50% construction cost-share on the central water works. The individual farmers pay for the full cost of pivots or whatever equipment they need. Correct so far?

Kipp said it is right so far and the State Water Commission doesn't help with engineering or legal fees either. The 50% cost-share is applied to the pump station, the pipeline, the power to the pump station, some of the turnouts, but at the edge of the farmer's field is where there is a natural break. Anything on his land is his expense, his pivots, the power to his pivots, including any land cleanup that he has to do. They do try to recruit farmers by knocking on doors, etc. so there are more to share in the expense of the pump station, etc. The cost of the project varies drastically depending on the size the farmer needs. On a large project the cost share can even be upward of a million dollars.

Senator Triplett clarified by saying the total cost of the central supply works for the Mile Marker 7.5 Project was 3.8 million dollars. Then you would deduct engineering and legal costs. Anything else to be deducted?

Kipp: "No"

Senator Triplett continued, after you deduct engineering and legal costs, then you divide by two and in this case that gives you about 1.5 million. Right?

Kipp: Right

Scott Rising with the ND Soybean Growers Association stood in support of the bill. Irrigation will expand opportunities in the state because growers can grow crops they couldn't grow before. There are also more market opportunities.

Senator Triplett of District 18 in Grand Forks spoke in favor of the bill. The Water Related Topics Overview Committee is recommending the irrigation portion to be extended for 2 years and then considered again by the next legislative session. I am in support of that extension but not making it permanent at the moment. Mr. Dwyer said he would like to see it made permanent so before anyone suggests an amendment to that effect, I wanted to express how the Water Related Topics Overview Committee stood on that. We were tasked with studying the irrigation laws of ND as part of the committee assignment this past year. The reason we are offering the extension is because we never really got to that study due to the flooding statewide this last year. When we met, we were dealing with the flooding issues. The extension is to just make sure we have time to get that study done. I feel it is best to leave it at the two year extension.

A Do Pass motion was made by Senator Laffen.

Senator Hogue: Second

Senator Triplett commented that she will vote for this bill but she also expressed serious concern about the large amount of money that is being given to a very small number of landowners on this bill. This issue will come up again when there are discussions of setting priorities to spend money for water projects in the state when there are more projects that are requiring money. Using the Mile Marker 7.5 Project as an example, there are 1.5 million dollars of public funds. You could say it came from the oil patch but it does become public funds and the legislature is responsible decide how it will be spent. We could give it back to the public, reduce taxes, spend it for other things, but we are choosing with this irrigation project to give 1.5 million dollars to seven contracts with landowners. If you divide that, the average is more than \$200,000 which is essentially a gift or an outright grant to an individual landowner. Mr. Knorr suggested it was similar to any student in the state taking advantage of the opportunity to attend a university and that is subsidized by the state. I don't think we have ever given a college student more than \$200,000 to attend college. Most of the projects we have where we give public money to private citizens or individual companies are done by a competitive process. The only competition here is going to be for land sales. It will drive up the price of land over time. It will kind of equalize itself over time. People who are willing to make the big investments in now more pricy land will be able to benefit from having irrigated land, but for those who were on the inside game here and are near the canal or who purchased land near the canal, this is an absolute windfall to a very small number of people. I have concerns about that. We should push the Water Commission harder to develop policies where that is acknowledged and where the benefit is spread more broadly among the served constituency.

Roll Call Vote: 7, 0, 0
Carrier: Senator Murphy

Date: 1-11-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2049

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

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

Motion Made By Laffen Seconded By Hogue

Senators	Yes	No	Senators	Yes	No
Senator Lyson	✓		Senator Triplett	✓	
Senator Burckhard	✓		Senator Murphy	✓	
Senator Hogue	✓				
Senator Laffen	✓				
Senator Unruh	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Murphy

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

REPORT OF STANDING COMMITTEE

SB 2049: Natural Resources Committee (Sen. Lyson, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2049 was placed on the
Eleventh order on the calendar.

2013 HOUSE ENERGY AND NATURAL RESOURCES

SB 2049

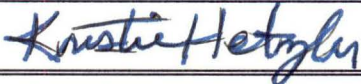
2013 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources

Pioneer Room, State Capital

SB 2049
March 7, 2013
Job 19588

Conference Committee



Relating to the water topics overview committee and the expiration date of the Garrison Diversion.

Minutes:

Testimony 1, 2

Rep. Damschen: We will open SB 2049.

Jeff Nelson, Staff Attorney with the Legislative Council: Introduced SB 2049. The committee is required meet quarterly and provides that the committee is responsible for Legislative overview of water related topics and related matters including discussions with any adjacent states on water related topics. Review of SB 2049, it changes the name, makes it a permanent committee, and adds an extension to the time period. (ended 9:15)

Rep. Hofstad: Support SB 2049 (ended 10:58).

Dave Koland, Garrison Diversion District: Supports SB 2049, testimony 1.

Steve Knorr, Resident of Sawyer ND: Written testimony 2

Hearing closed.

2013 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources

Pioneer Room, State Capital

SB 2049
March 8, 2013
19594

Conference Committee

J. Minetto

Relating to water topics overview committee

Minutes:

"attached testimony."

Rep. Porter: We will open SB 2049. We have a motion from Rep. Hofstad and a second from Rep. Schmidt for a do pass

Rep. Silbernagel: Are the members of that board appointed or elected at large?

Rep. Porter: They are elected at the Garrison Diversion. Motion carried Yes
11 No 0 Absent 2 Carrier; Rep. Hofstad

Date: _____
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2049

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number Do pass

Action Taken _____

Motion Made By _____ Seconded By Schmidt

Representatives	Yes	No	Representatives	Yes	No
Chairman Todd Porter	✓		Rep. Bob Hunsakor	-	
Vice Chairman Chuck Damschen	✓		Rep. Scot Kelsh	✓	
Rep. Jim Schmidt	✓		Rep. Corey Mock	✓	
Rep. Glen Froseth	✓				
Rep. Curt Hofstad	✓				
Rep. Dick Anderson	✓				
Rep. Peter Silbernagel	✓				
Rep. Mike Nathe	✓				
Rep. Roger Brabandt	✓				
Rep. George Keiser	-				

Total (Yes) 11 No 0

Absent 2

Floor Assignment Rep Hofstad

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

REPORT OF STANDING COMMITTEE

SB 2049: Energy and Natural Resources Committee (Rep. Porter, Chairman)
recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).
SB 2049 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2049

#1

Testimony by Dave Koland, General Manager
Garrison Diversion Conservancy District

To the

**Senate Natural Resources Committee
Hearing on SB 2049**

Bismarck, North Dakota
January 11, 2013

Mr. Chairman, members of the committee; my name is Dave Koland. I serve as the General Manager of the Garrison Diversion Conservancy District (Garrison Diversion).

Garrison Diversion is the local political subdivision created in 1955 to be the local sponsor that would construct the Garrison Diversion Unit (GDU) of the Missouri River Basin Project as authorized by Congress on December 22, 1944. We serve as the fiscal agent for the federal dollars that come to North Dakota through this project and are party to the numerous contracts with the federal Bureau of Reclamation to implement those parts of the project Congress has authorized North Dakota to construct. Amendments in 1986 and 2000 have changed the GDU from a million acre irrigation project into a multipurpose project with an emphasis on the development and delivery of municipal and rural water supplies. Garrison Diversion's mission remains: **To provide a reliable, high quality and affordable water supply to benefit the people of North Dakota.**

Garrison Diversion is governed by a 28-member board of directors. Each of the 28 counties that are members of Garrison Diversion elect one person at

the general election to serve on the board of directors and levy one mill to support the activities of Garrison Diversion.

Due to the large number of irrigated acres that were envisioned to be served by the GDU, the conceptual plan for developing irrigation included the formation of local irrigation districts throughout the state. The current GDU irrigation authorization is 75,480 acres of which 13,700 acres are in the Turtle Lake service area and 10,000 acres are in the McClusky Canal service area. Among the changes since that plan was developed is the reduction in authorized irrigation acres, consolidation of farming operations and economies of scale for water supply operations. These changes have all prompted the need for a more streamlined method of irrigation development in North Dakota.

The revised concept has the irrigator enter into a long-term water service contract directly with Garrison Diversion for the delivery of water and the operation and maintenance of the central supply works needed to provide water to the irrigator's pivots. The central supply works are needed to lift water from the McClusky Canal and transport it by a buried pipeline to provide water to an irrigator's center pivot system.

The construction of the central supply works is the obligation of the irrigators and can be constructed utilizing a 50% cost-share grant from the State Water Commission's Irrigation Program. The 2011 Legislature provided the irrigators a long-term financing method to fund their share of the construction costs of the central supply works by granting Garrison Diversion the power to

form a special assessment district with approval of 100% of the affected landowners. That legislation is effective through July 31, 2013. SB 2049 would extend the effective date to July 31, 2015.

Garrison Diversion has a number of farmers along the McClusky Canal that are interested in constructing a central supply works but the formation of an economical project is taking longer than anticipated. The ability to form an irrigation improvement district will be helpful in making that project a reality.

Mr. Chairman, members of the committee, Garrison Diversion supports the passage of SB 2049.

#2

Testimony by Steve Knorr, Farmer/Irrigator
K & T Farms LLP

To the


**Senate Natural Resources Committee
Hearing on SB 2049**

Bismarck, North Dakota
January 11, 2013

Mr. Chairman, members of the committee; my name is Steve Knorr. I am a resident of Sawyer, ND. I have been a farmer and irrigator for 12 years and irrigate from the Garrison Diversion Conservancy District's McClusky Canal Mile Marker 7.5 Irrigation Project.


Growing up on the family farm I had a passion for agriculture at a young age. This passion led me to North Dakota State University where I earned a degree in Crop and Weed Science. I knew that I wanted to stay in agricultural production but also had learned the hard lesson from my father that although passion is wonderful at the end of the day, the economics drive your success. My father went through the late 80's where the only bushels harvested were in the slough bottoms. With that said I knew that if I wanted to be in Agriculture production I wanted to reduce risk and increase profitability. I wanted to be an irrigator!

I would like to expand my irrigation operation, but to do so will take a significant amount of investment. Essentially, I have two options to finance my project expansion. The first option I have is an operating loan, and the second would be through the Special Assessment District. The



Special Assessment District is advantageous to my irrigation operation because it allows me to maximize my financing capabilities by not consuming my line of credit at the bank.

The Special Assessment District allows the Garrison Diversion Conservancy District to continue to assist farmers like me in developing their irrigation projects. Our land would be assessed in order to fund the central supply project. Only farmers who choose to participate in a project will be affected.



That legislation is effective through July 31, 2013. SB 2049 would extend the effective date to July 31, 2015. I Support the extension of SB 2049, as there are additional farmers in the development stages of irrigation that would benefit from the Special Assessment District just as I would.

Thank you for allowing my testimony to be heard today.

Sincerely,

Steve Knorr

Testimony by Dave Koland, General Manager
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To the

House Energy & Natural Resources Committee
Hearing on SB 2049

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March 7, 2013

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SB 2049
Pg. 2

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2 SB 2049

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2
pg. 2

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