

2013 SENATE NATURAL RESOURCES

SB 2053

2013 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee
Fort Lincoln Room, State Capitol

SB 2053
January 17, 2013
17347

Conference Committee

Committee Clerk Signature

Veronica Spaulding

Explanation or reason for introduction of bill/resolution:

Relating to the sale of property owned by the state water commission obtained for construction of the northwest area water supply project

Minutes:

Written testimony attached.

All committee members were present.

Chairman Lyson opened the hearing on SB 2053.

Michelle Klose, Assistant State Engineer of the State Water Commission stood in support of SB 2053. See attached testimony #1.

Senator Burckhard questioned whether there had to be legislation for each project.

Michelle said there actually did because the require amounts are any excess property they have to follow the normal process. There are only a few state-led projects like this: Southwest Pipeline Project and NAWS, Devils Lake outlet they just acquired property as they went. With the regional systems you may have acquired the property 10 or 15 years ago. It has been developed but you have neighboring pieces that people are interested in purchasing after the fact. That is what we are trying to deal with.

Senator Hogue asked whether in the Southwest Pipeline Project they had ever sold any of the parcels back to the owner for a higher price than what they had paid to the owner initially.

Michelle said that could happen because with the passage of time the value of the land does increase, but these parcels are quite small and typically are not the best shaped parcels. Usually they have the most value to the adjacent landowner. She offered to check into it. She acknowledged there could be an increase in price just with the passage of time. They do not try to make a profit on it.

Senator Hogue asked if it would be possible to be restricted to not asking any more from the original landowner than when he sold it to them.

Michelle said that could be included if the committee saw fit. She pointed out that the land many times does not go back to the same landowner. Many times the adjacent land has changed hands. They are not always dealing with the original landowner. If we were, it would make sense.

Senator Murphy asked if this would apply to WAWS as well as NAWS and Southwest Pipeline Project.

Michelle said Southwest Pipeline Project and NAWS are properties of the state of North Dakota. The WAWS project is in the Water Authority's name. It may be a different process for selling under an Authority versus selling under the state. They may have more leniency in how they do their transactions. This does not apply to WAWS. This is trying to give similar permission to NAWS that Southwest Pipeline Project has.

Chairman Lyson asked if there was anyone else to speak in favor of the bill.

In Opposition: None
Neutral: None

Chairman Lyson closed the hearing on 2053.

Senator Triplett said she was prepared to make a Do Pass motion but deferred to Senator Hogue if he was interested in amending the bill.

Senator Hogue said he is bothered by the notion that the government could condemn a landowner's property and then decide years later that they didn't need the land after all and then sell it back to the landowner at a price higher than what the landowner had to sell it to the government. He mentioned that these are small tracts so there aren't a lot of dollars involved so that kind of tempered his concern.

Senator Triplett said if the committee amended it, it seems only appropriate to go back and amend Southwest Pipeline Project also, so whatever statements we make would be applied evenly. She said she would agree with Senator Hogue in the area of eminent domain but maybe not if it was a willing buyer, willing seller. If it was a negotiated sale 15 years ago and it is a negotiated sale fifteen years later, that would not bother her.

Senator Hogue mentioned on pipelines there are very few willing sellers because the pipeline has to go in a straight line and the seller is usually not interested, but he could go either way. There are not bid dollars involved.

Senator Triplett asked if Ms. Klose could come back to the microphone. She asked Ms. Klose if she knew whether the Southwest Pipeline group had established any procedures for how to make this work that this committee should be made aware of.

Ms. Klose stated that it is the Water Commission that handles those transactions so the lands person with the Southwest Pipeline Project does the negotiations. The neighboring landowner has the first offer. If he doesn't want it, then they start the formal process. They do not have written guidance of how they deal with them.

Senator Triplett asked how it is handled if the neighboring landowner wants the land and they can't come to an agreement on price, ...say they want it back for the price they sold it for but the Water Commission wants more money for it.

Ms. Klose said they don't put a lot of value on typically. Because they are very small parcels, normally you can't develop anything else on them so it is very difficult to get a high price for that piece. If the adjacent landowner wants it, that is the best because it can be added onto their land. The lands people try to be fair to the landowner as well as to the Water Commission.

Senator Triplett thanked Ms. Klose for the reminder that it is not the individual groups so at least there would be consistency so whatever would be done with one would be done with the others.

Senator Murphy made a Do Pass motion.

Senator Burckhard: Second

Roll Call Vote: 7, 0, 0

Carrier: Senator Unruh

Date: 1-17-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2053

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 Murphy Seconded By Burckhard

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 Unruh

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

REPORT OF STANDING COMMITTEE

SB 2053: Natural Resources Committee (Sen. Lyson, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2053 was placed on the
Eleventh order on the calendar.

2013 HOUSE ENERGY AND NATURAL RESOURCES

SB 2053

2013 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources

Pioneer Room, State Capital

SB 2053
March 7, 2013
19590

Conference Committee

Emineth

Relating to the sale of property owned by the state water commission obtained for construction of the WAWSA project.

Minutes:

1 "attached testimony."

Rep. Porter: We will open the hearing on SB 2053

Michelle Klose: Assistant State Engineer for the State Water Commission and am here in support of SB 2053. (Testimony 1)

Rep. Porter: If it is not negotiated and the neighboring land owner says " I don't care to have that back" would the next be to go through the normal process.

Michelle Klose: Right.

Rep Porter: Is this the possibility of having a new step one in the process?

Michelle Klose: We have some odd shaped property which is not a complete lot but the adjutant land owner might be interested in. Typically that would be small acres.

Rep. Porter: When the state takes a parcel of land are the minerals taken with the land?

Michelle Klose: No we wouldn't. The value of the land is based on the rights that we are taking for that property.

Rep. Froseth: In regards of the minerals the State Water Commission never assumes the minerals with the land.

Rep. Porter: We will close the hearing on SB 2053.

2013 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources

Pioneer Room, State Capital

SB 2053

March 8, 2013
19596

Conference Committee

Emineth

Relating to the sale of property owned by the state water commission obtained for construction of NAWS project.

Minutes:

"attached testimony."

Rep. Porter: We have a motion for a Do Pass to SB 2053 from Rep. Silbernagel and a second from Rep. Anderson; motion passed Yes 12 No 0 Absent 1 Carrier
Rep. Froseth

Date: 3-7-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2053

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Froeth Seconded By Rep. Anderson

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 Froeth	✓				
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. Froeth

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

REPORT OF STANDING COMMITTEE

SB 2053: Energy and Natural Resources Committee (Rep. Porter, Chairman)
recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).
SB 2053 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2053

#1

TESTIMONY ON SENATE BILL NO. 2053

Senate Natural Resources Committee

**Michelle Klose, Assistant State Engineer
North Dakota State Water Commission**

January 17, 2013

Mr. Chairman and members of the Natural Resources Committee, my name is Michelle Klose and I am the Assistant State Engineer of the State Water Commission. I am here in support of Senate Bill No. 2053.

Typically if a state agency wants to sell excess property, the property must be auctioned in the manner prescribed by N.D.C.C. §§ 54-01-05.2 and 54-01-05.5. However, because the property taken for pipeline projects may result in small excess parcels or odd-shaped remnants, and also because there is the possibility that the original seller was an unwilling seller and the property was acquired through eminent domain, good public policy favors returning these excess parcels to those who can use them productively by absorbing them into the larger surrounding original parcel.

The proposed language for this statute is identical to N.D.C.C. § 61-24.3-10(5), which gives the Southwest Pipeline Project the same authority being requested for the Northwest Area Water Supply Project.

I will gladly answer any questions.

TESTIMONY ON SENATE BILL NO. 2053

House Energy and Natural Resources Committee

**Michelle Klose, Assistant State Engineer
North Dakota State Water Commission**

March 7, 2013

Mr. Chairman and members of the Energy and Natural Resources Committee, my name is Michelle Klose and I am the Assistant State Engineer of the State Water Commission. I am here in support of Senate Bill No. 2053.

Typically if a state agency wants to sell excess property, the property must be auctioned in the manner prescribed by N.D.C.C. §§ 54-01-05.2 and 54-01-05.5. However, because the property taken for pipeline projects may result in small excess parcels or odd-shaped remnants, and also because there is the possibility that the original seller was an unwilling seller and the property was acquired through eminent domain, good public policy favors returning these excess parcels to those who can use them productively by absorbing them into the larger surrounding original parcel.

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