

2013 SENATE NATURAL RESOURCES

SB 2307

2013 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2307
February 7, 2013
18487

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to regulation of septic system installers and septic systems; and to provide a penalty

Minutes:

Testimony attached

Chairman Lyson opened the hearing for SB 2307.

Senator Luick, District 25, introduced the bill. See attachment #1.

There was discussion about Senator Luick's background in septic system installation. The discussion covered the average size tank, the various containers that serve as septic containers, and how they determine how large a system has to be. The size is determined by the number of bedrooms in a household; if there are more than 25 people in the "household" the size is determined by the estimated usage. There has to be room in the tank for the anaerobic bacteria to do its work. Senator Luick explained how a septic tank works. The regulations are set by the county. He mentioned that basing the size of a septic system on the number of bedrooms is a flawed method when there are up to eight people per bedroom in some parts of western North Dakota.

There was also discussion about why they would be using the number of bedrooms rather than the number of people being served. They figure 150 gallons/day average water usage per person. (Ends at 8:45)

Senator Hogue asked if 25 was a reasonable cut-off number for requiring pre-approval. Senator Luick feels that is reasonable. He also hopes there will be education for the designers and contractors, etc. and then the local health units will regulate it.

Senator Laffen asked about where the "responsibility cut-off" is. Where does the responsibility of the plumber who plumbs the interior of the house end and where does the responsibility of the septic system installer begin? Senator Luick said the cut-off is at the foundation of the house. Do civil engineers need a certification to do these systems? Senator Luick said he doesn't think the oversight of a civil engineer is necessary. Just having the education out there should be sufficient. He would like to get the Health Department's opinion on this. Could a large plumbing contractor do this work or would they have to become certified as well? Senator Luick said he feels they should still get the

training in designing the systems. The designers need to be trained in soil determination. They need to understand soil percolation. (10:50 to 16:00)

Senator Murphy questioned whether this part of our Century Code is antiquated. Senator Luick agreed that it is.

Senator Murphy asked what is allowed in ND as far as disposing of human waste. Senator Luick explained the dangers of improper disposal of human waste. (Ends at 18:52)

Lisa Clute, Executive Officer at First District Health Unit, handed out testimony from James Heckman, Director of Environmental Health with the First District Health Unit. See attachment #2. They license contractors in their part of the state but the rest of the state is not on the same page. In some areas there are health units without an environmental health division or the capabilities to have them. Moving it to the State Health Department would put some uniformity across the state. In 2011 her health unit did 250 sewer certifications, and in 2012 they did 450 sewer certifications. In 2011 they trained 50 contractors. In 2012 they trained 140 contractors. Each health unit has different codes and regulations, so the sewer contractors have no uniformity. The public wants these new contractors to become certified so they know if they are hiring someone who will do the job correctly. The health unit also inspects the work after it is done.

Senator Triplett asked for clarification. Ms. Clute is championing for the state to set the regulations, but Ms. Clute wants the enforcement and inspections to be done at the local level. Ms. Clute affirmed that would be the ideal system, but many of the local public health units do not yet have the capacity to deal with it locally. The state health department would have to take up the slack until it was possible for the local ones to step into that role. But having uniform state-wide regulations is necessary.

Keith Johnson, Administrator for Custer Health in Mandan, spoke in support of SB 2307. See attachment #3. He also submitted the testimony of Allen McKay, the Environmental Health Supervisor for the Lake Region Health Unit. See attachment #4.

Opposition: none

Neutral:

Wayne Kern presented written testimony. See attachment #5. (Ends at 40:04)

Senator Triplett questioned the wisdom of requiring the local health units to do this. What recourse would there be if they didn't do it? She was wondering what role the State Health Department would play in providing technical assistance or encouragement to get the counties that don't currently do any of this on board.

(41:30 to 43:30) Mr. Kern felt there are options. The local health unit could hire someone to administer the program and offset the cost through fees they charge to installers. They could contract with another local health unit that has a program in place and pay that county to administer the program for them.

Senator Laffen: We have a state plumbing code and we have certified plumbers and licensed plumbers and statewide plumbing inspectors. Why couldn't these systems just be in the existing plumbing codes?

Mr. Kern: It would be unusual for this to be in a state plumbing code. It is a special area of expertise beyond traditional plumbing. Plumbing ends at a stub about two feet out of the foundation of the house. The sewer contractor takes it from there to the septic tank. The drain field work is generally done by someone else.

Senator Laffen: Is there a separate sewer contractor license in the state?

Mr. Kern: Yes, and they generally take it only out to the septic system and don't do the septic system itself. He also mentioned that the state has become involved in septic systems that serve 25 or more.

There was discussion about how many of the 17 counties that don't have environmental programs are in the fast-developing areas of our state. The response was that most of the counties are in the eastern half of the state.

Keith Johnson, the Administrator for Custer Health, mentioned that SB 2030 allows regional collaboratives of public health units to share services. There is some funding associated with it.

Opposition:

Bob Blotske, owner of a septic service, spoke against the bill. He feels the increased cost will fall on people who can't afford it. It will also slow down the service. He feels if there is a big problem, it will come to the state's attention.

Chairman Lyson closed the hearing for SB 2307.

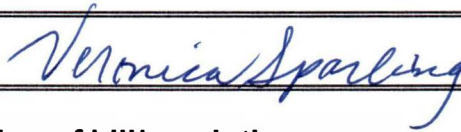
2013 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee
Fort Lincoln Room, State Capitol

SB 2307
February 7, 2013
18531

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to regulation of septic system installers and septic systems; and to provide a penalty

Minutes:

No attachments

Chairman Lyson opened the discussion for SB 2307.

Senator Triplett made a Do Pass motion.

Senator Burckhard: Second

There was discussion about the cut-off being 15 rather than 25. They decided to leave it at 25.

Senator Hogue mentioned that this bill would be a good consumer protection. A septic system is a costly item to have installed and then find out it was done incorrectly. He also feels that requiring the training for the soil types is a good aspect of this bill.

Roll Call Vote: 7, 0, 0

Carrier: Senator Lyson

FISCAL NOTE
Requested by Legislative Council
01/24/2013

Revised
 Bill/Resolution No.: SB 2307

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$357,645		\$364,762	
Appropriations			\$357,645		\$364,762	

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Bill requires the Department to regulate septic system installers & the design standards for septic systems, to approve large septic system installations, and provides inspection, fee & enforcement authority. Also requires Local Public Health Unit approval of small septic system installations.

- 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.*

Section 6 - requires the Department to administer and enforce a certification program for septic system installers to include training, issuing certificates, establishing reasonable fees and enforcing the established rules. The Department is also required to implement a program for the design approval of all large septic systems and establish reasonable fees for approving such systems. Section 6 subsection #6 requires Local Public Health Units/Board of Public Health to implement and enforce rules adopted by the Department of Health regarding the alteration, repair, construction, and installation of small septic systems. It is our understanding that 17 or 18 counties do not presently have environmental health services and, therefore, do not have an on-site sewer program. It is difficult to predict what cost these counties may incur in administering an on-site program. They could implement the program by hiring their own staff with no fee offset, hiring their own staff with partial or total fee offset, or contracting with a neighboring LPHU (that runs such a program) to provide services in their county. If they choose to contract with a neighboring LPHU, it is possible that the cost would be covered through fees charged (to regulated entities) by the LPHU, leaving little if any cost to the county.

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 authorized under this bill must be established by rule. Since rules will be developed during the 2013 – 15 biennium, we are unable to estimate revenue for the 2013-15 biennium. Some fee revenue may be generated during the 2015-17 biennium, however that amount is unknown at this time.

- 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.*

2013-2015 Expenditures include 2 FTE: One Environmental Scientist II - responsible for the development and implementation of a new statewide program for certification and training of septic system installers - \$124,360. One Environmental Engineer II - responsible for developing and implementing new statewide design/construction standards for septic systems and review/approval of large septic systems (those serving 25 or more individuals). This FTE may also conduct inspections of septic system installations and assist in training of septic system installers. - \$142,965. Operating Expenses of \$45,160 for each FTE for a total of \$90,320, which includes one-time purchases for computers and office furniture of \$7,400. 2015 - 17 Expenditures inflate the 2013 - 15 expenditures and eliminates the one-time computer and furniture purchases.

- 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.*

Funding for the activities required under this bill were not included in the Department's appropriation bill - SB 2004.

Name: Brenda M. Weisz

Agency: Department of Health

Telephone: 328-4542

Date Prepared: 01/29/2013

Date: 2-7
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2307

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 Triplet Seconded By Burckhard

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

Total (Yes) 7 No 0

Absent 0

Floor Assignment Lyson

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

REPORT OF STANDING COMMITTEE

SB 2307: Natural Resources Committee (Sen. Lyson, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2307 was placed on the
Eleventh order on the calendar.

2013 SENATE APPROPRIATIONS

SB 2307

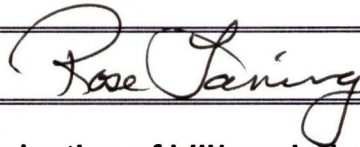
2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

SB 2307
February 18, 2013
Job # 19102

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to regulation of septic system installers and septic systems; and to provide a penalty.

Minutes:

Testimony attached #1

Legislative Council - Brady Larson
OMB - Lori Laschkewitsch

Chairman Holmberg opened the hearing on SB 2307. Senator Kilzer was absent.

Senator Lyson - District 1, Williston

Bill Sponsor.

States we are the only state in the union that does not have a State law governing septic-tanks. He says it is a problem in the State of ND now and we need to deal with it state wide, rather than county by county.

Senator Luick - District 25

Bill Sponsor

Says he has worked with this problem for 25 years in Minnesota. Gave up bonding in MN and gave up to work in ND. He says the problem is not only in western part of state, but statewide.

Chairman Holmberg - Can't see in the bill, but refers to section of the code we are talking about Dept. of Health.

Senator Carlisle - Asks about line 25 "installing a large septic system"

Senator Luick - Replies it is one that services more than 25 people.

Senator Gary Lee - Asks that when it talks about enforcing the rules and inspections, does that mean there is an inspection program. If I'm rural do I have to have my septic system inspected regularly or if I sell my home does it have to be inspected.

Senator Luick - Replies if a property changes hands at the time it of the inspection it would have to be compliant with the new rules. If you had a home that was remodeled or

increased in size that septic system may not be compliant with the new square footage of the home. It follows the regulation as to the size of the home.

Senator Gary Lee - If a home has an existing drain field and they added on to their home, how does this affect them?

Senator Luick - It's to the homeowner's advantage to bring it up to code. If you increase the number of people living in that system, it's to your advantage so you don't do damage to the system.

Senator Gary Lee - Asks if this will it affect existing homeowners.

Senator Luick - Replies only if it changes hands

Senator Carlisle - Asks why the ones that have had them for years wouldn't be grandfathered in. If I sell my home under this, why would I have to have it inspected?

Senator Luick - Answers, we haven't had any laws on how septic systems fit with the home. Today's septic systems and their designs are quite different. Once it gets to a certain level below the surface, you may not be treating it.

Senator Carlisle - I'm talking about individual system, they tell you how may feet for the septic system.

Senator Luick - If you have the right depth - there is less and less aerobic bacteria. If you get below a few feet, you don't have bacteria action. If it's deep, there is no treatment at all.

Senator Carlisle - Asks about a Nodak system?

Senator Wanzek - Relates he got a call from realtor, asking if there is a requirement that there has to be a certain number of acreage. This realtor was having troubling selling the home because they were now out of compliance.

Senator Luick - Replies that In Richland County, we have a small lake where parcels were 27,000 square feet. We have a variance form drawn up, if there was room we could install particular systems with the newer technology, we can make the smaller systems fit for the homeowner.

Senator Gary Lee - The money in the bill is related to 2 FTEs.

Senator Luick - Replies yes.

Lisa Clute, Executive Officer, First District Health Unit

Testified in favor of SB 2307

Testimony attached # 1

She explains the problem is that Codes in the state are not consistent. The installers would be trained to code. She said there are many more people doing this and they are asking

for codes. Infrastructures in the towns cannot support the growth going on so a lot of building development is going out to rural areas.

V.Chairman Bowman - Are there any fees charged from doing this so administration would be covered.

Clute - Replies only when a new system is installed. We charge a fee for their plan review. We've raised fees so we are self-sufficient. It's about a \$100.

Senator Carlisle - Asks if the installers are all bonded and insured. Is it kind of a self-policing. Do installers work with builder.

Clute - Says I don't think if they are bonded, that ensures they know what the codes are.

Dave Glatt - Chief of Environmental Health Section of Department of Health

He says there are 17 counties that don't have any regulation. They have had issues where a license contractor has come in and said this is the code to follow and this is how it needs to be installed. Then someone else comes in and says they can get you a cheaper system. They put in cheaper systems by not following the code. We want to develop a level playing field. We want them to know the regulations.

Senator Warner - Says our committee is concerned about the 2 FTEs. The work is done at the local level with local people. Why the FTEs.

Glatt - There are up to 17 counties that don't have any regulations. They are looking to get that set up State wide.

Senator Warner - Says you are asking for a general fund appropriation to cover the counties that haven't taken care of the obligation on their own.

Glatt - Replies we have the ability to charge fees but the State level doesn't charge a high enough fee to cover costs. We'd look at establishing fees for licensing and plan reviews.

Senator Carlisle - How many are west river that don't have any rules or regulations? Why wouldn't their county commissions do anything.

Glatt - Says they've relied on the state plumbing code. It's a cost for them.

Senator Carlisle - Asks if this was approached after the Governor's budget was done?

Glatt - States the governor did not include that in his budget.

Chairman Holmberg closed the hearing on SB 2307.

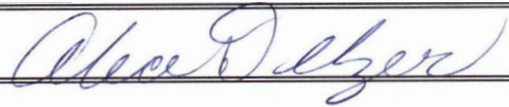
2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

SB 2307
02-21-2013
Job # 19359

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL relating to regulation of septic system installers and septic systems (Do Pass)

Minutes:

You may make reference to "attached testimony."

Chairman Holmberg called the committee to order on Thursday, February 21, 2013. All committee members were present except Senator Mathern.

Becky J. Keller-Legislative Council
Sheila Peterson - OMB

Chairman Holmberg: The bill is 2307 and we heard from the first District Health Unit and there was some testimony indicating that the majority of the problem was in the eastern part of the state, not in the western part of the state.

Senator Krebsbach moved a Do Pass on SB 2307. 2nd by Senator Carlisle.

Chairman Holmberg: Call the roll on a Do Pass on SB 2307.

A Roll Call vote was taken. Yea: 12; Nay: 0; Absent: 1.

This bill goes back to Natural Resources. Senator Lyson will carry the bill.

The hearing was closed on SB 2307.

FISCAL NOTE
Requested by Legislative Council
01/24/2013

Revised
 Bill/Resolution No.: SB 2307

- 1 A. **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.*

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Cities			
School Districts			
Townships			

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- 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.*

Funding for the activities required under this bill were not included in the Department's appropriation bill - SB 2004.

Name: Brenda M. Weisz

Agency: Department of Health

Telephone: 328-4542

Date Prepared: 01/29/2013

Date: 2-21-13

Roll Call Vote # 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2307

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Krebsbach Seconded By Carlisle

Senators	Yes	No	Senator	Yes	No
Chariman Ray Holmberg	✓		Senator Tim Mathern		
Co-Vice Chairman Bill Bowman	✓		Senator David O'Connell	✓	
Co-Vice Chair Tony Grindberg	✓		Senator Larry Robinson	✓	
Senator Ralph Kilzer	✓		Senator John Warner	✓	
Senator Karen Krebsbach	✓				
Senator Robert Erbele	✓				
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Natural Resources Lysen

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

REPORT OF STANDING COMMITTEE

SB 2307: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2307 was placed on the
Eleventh order on the calendar.

2013 HOUSE ENERGY AND NATURAL RESOURCES

SB 2307

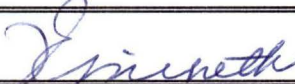
2013 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources

Pioneer Room, State Capital

SB 2307
March 14, 2013
19946

Conference Committee



Relating to the regulation of septic system installers

Minutes:

2 "attached testimony."

Rep. Porter: We will open SB 2307.

Keith Johnson: I am the administrator for the Custer Health in Mandan; I am here to give you the testimony that Jim Heckman sent down. He is the environmental Health Practitioner for the first district based in Minot. We have been working on this bill for about 20 years. (Testimony 1) The local health departments have been working for a long to accomplish what this bill does.

Senator Lucik: The rules in Minnesota are more strict and the contractors on the North Dakota sides rules have not been enforced very well because there has been a push back between the plumbing and health departments as to who should regulate the entire industry. This bill and the sister bill SB 2308 hope to get and establish a system throughout the state of N. D. that regulates and controls and gets a handle on handling septic, waste the development and construction of the systems all across the state.

Keith Johnson: There are a number of functions that are currently not done adequately in the state. One of them is that out of state vendors of tanks, treatment systems etc. have no mechanism right now to get the systems certified in the state. They need to go to a series of health departments who all have individual approving authority for those types of things.

Rep. Nathe: If this were to pass as you would design the standards would that be for the whole state?

Keith Johnson: That is correct.

Rep. Nathe: If your standards are approved would I have to update my systems on the lake?

Page 2

Keith Johnson: That would depend on how the rules are put together. As you know N.D. has a different way of making rules than Minnesota does. Unless your system was found to be discharging on the surface or into the lake then it would not be forced to be upgraded.

Rep. Froseth: Would any repair or replacement of those older systems would have to come under the provisions of this law wouldn't they?

Keith Johnson: Yes if they are discharging above the ground or the ditch that is something that we would want to address.

Rep. Anderson: On your rural systems there are many different designs for different soil types?

Keith Johnson: There are many different designs and different sizes of each design.

Rep. Anderson: Where can I find that information?

Keith Johnson: One of the biggest resources we have used has been an extension bulletin AE493 that has the basic drawings of most of these systems.

Rep. Porter: what someone rents a backhoe and put their own system in are they covered under this?

Keith Johnson: Yes they are. We have to supervise it; they need a permit and must be approved for installation.

Rep. Porter: So they just need a permit and inspection?

Keith Johnson: Yes that is correct.

Rep. Porter: If they work on their system are they able to continue doing that?

Keith Johnson: Yes; that would take a permit and an inspection.

Rep. Porter: On page 2 line 19 the penalty language says that a person who engages in the business of altering repairing or installing; would that not include an individual doing it on their own property or their own systems?

Keith Johnson: That is correct.

Rep. Nathe: On line 24 "having the departments approval for doing that" so if I hire somebody you can give a certificate that says he is approved?

Keith Johnson: Yes that is correct.

Allen Mckay: Environmental Health Supervisor; Lake Region was one of the first places to have onsite sewer regulations and contractor training. (Testimony 2) We had training in

Page 3

February and I pulled all 40 contractors that were out there. They feel they should be able to work anywhere in the state with the same license. If the state took this over it would be one license that would cover the whole state and it would be the same minimum set of regulations across the state which would make it easier for both the contractor and the health department. Devils Lake has been on the news for a long time and there have been a lot of problems with onsite sewer. The local health needs the state health department's assistance on large sewer systems and the new sewer technology. This bill provides for a good frame work for the local health department to work with the state health department we support this bill.

Rep. Porter: There are some leaps of faith that you are asking us to take in regards to things that aren't described and laid out in code that are going to the health department to make rules that we may or may not agree with.

Allen Mckay: It is for the locals also in dealing with the state. We have had control of our regulations and rules with a lot of local input especially around the lakes. We will be sitting on the board together with the state. It will be a minimum set of regulations. Each house is different when we go in we look at the soil the size of the house or business and then we come up with a design.

Rep. Porter: You are talking about lots of money; where is the consumer protection inside of this piece of legislation that lets people have a little bit of absurdity that will not happen?

Allen Mckay: I have been doing for 25 years we do not go to people's houses and condom their systems if they are in working condition. If they have problems and call us that's one thing but if you have a working drain field we will not make you change that system just because of that new technology comes out. The standard regulations have been around a long time.

Rep. Hofstad: We have \$357,000 appropriated not only for the development and design standards but also for regulating. You are from a district health unit so as you go out and regulate these systems you get paid from the district health unit; is there any of this money that flows from the state to that local health department?

Allen Mckay: I am not sure no I do not think so that is for the state to provide regulations, enforcement and training.

Wayne Kern: Director of the State Health Department Division Municipal Facilities; the bill does have a fiscal note that fiscal note is to enable the state health department to do the activities that are called for in this bill which would be to develop the design standards for all size systems and that would also include writing the rules for the licensing and certifying of installers which the state health department would administer. That is not passed to the locals that are for the state health department to attempt to do the activities that the bill is calling for.

Rep. Porter: Then the department is going to develop the rules for both the system design and the installation and the training program for the contractors. The state is going to take over the responsibility of the large systems for design and install and the local public health units are going to do the small systems?

Wayne Kern: That is correct. The separation lines between dealing with the large and small systems is based on population. The state health department would be doing the design review if any systems are proposing to serve more than 25 people. The smaller ones would be designed at the local level.

Rep. Porter: There is still a leap of faith with the way this bill is written and the authority the legislature is handing to the department of health and the possible ruminations back to our constituents with this going overboard.

Rep. Hofstad: We have had our local health units and departments inspecting these tanks both large and small for some time. Why do we feel that they are incapable after developing the rules and developing the standards why wouldn't we want to keep that with our local departments rather than sending somebody from Bismarck all across the state to do the same thing that the locals could do?

Wayne Kern: I will try to answer that myself. You may wish to speak to the local officials as well. The state was approached by the local health units and legislators to do this. They want it because we have approximately 17 counties in the state that no environmental services even though we have a local health unit out there.

Allen McKay: This authority is already vested in the plumbing board and we are transferring it from the plumbing board to the health department. We don't look at it as administrative authority it is simply a transfer of that authority from the plumbing board of the health department.

Rep. Porter: Can you provide us with those rules because our language may be then that you will adopt those rules rather than a new rule making process.

Wayne Kern: Those rules are very old but that is 6203.117 of the administrative code.

Rep. Porter: We will have the hearing on SB 2307.

2013 HOUSE STANDING COMMITTEE MINUTES

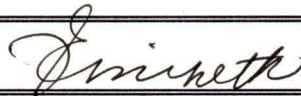
House Energy and Natural Resources

Pioneer Room, State Capital

SB 2307
March 22, 2013

20272

Conference Committee



Relating to septic systems installers

Minutes:

"attached testimony."

Rep. Porter: We will open SB 2307.

We defeated and brought back the septic bill the other day. They want to rework it to make it more conclusive to the large systems.

This bill SB2307 is to move the language from the plumbing code into the health department.

The second part of this bill deals with the splitting of the septic systems. There are 17 counties that do have a contract and a MOU or any kind of environmental engineering portion of their health unit.

The third thing the bill does is it establishes standards for installation and it then requires certification from those excavators that want to be installing systems

The fourth is the \$357,000 appropriation that is for 2 FTE health engineers into the department of health to inspect the large systems.

The last is the training component for excavators.

Rep. Froseth: In regard to the fiscal note would that cover the cost?

Rep. Porter: It was unclear that it would that. On page 3 line 10 #8 talks about the fees the installers' certification fee and then the large septic system approval fee are the 2 that would be controlled by the State of N.D. those would fall into the departments operating fund which is a continuing appropriation fund.

If that is a concern we could move the fees into the general fund and look at it in a year as see if those fees are concerned in paying for that appropriation.

Rep. Froseth: Is there a license fee or a permit fee?

Rep. Porter: Yes that is in page 2 line 17 Sub D.

Rep. Brabandt: The \$357,000 for two FTE's does include fringes and other things?

Rep. Porter: Divide that by 2 and then that money is for the establishment of the training standards, courses, and of inspecting the large systems.

Rep. Keiser: What is rational for transferring it to the health department? It seems that we will have to train the health department people to become sophisticated in the plumbing area because frequently it is the installation that is the problem.

Rep. Porter: The board of plumbing doesn't want this because when there is an issue with them it is instantly health department enforcement and a health department concern. They want to be responsible up to a certain point and then at that point where it is plugged into the main sewer system or into the septic system they want that to go the health department. They don't have the expertise and they don't do anything with the excavators that are putting in the systems or the design of the systems.

Rep. Hofstad: Part of that is the process involved before you get to where the excavator or the plumber comes out there because if you are going to put in a septic system we are going to call the health department and he is going to come and look the site over and do soil samples and then tell you based on the number of bedrooms all of those things and put together a plan in place. Are there any fees involved for that service? Are the fees for certifying the installer and then nothing to do with the person that making the application?

Rep. Porter: I think right now the process is different in every health district. I know that there is an inspection with that. A lot of people aren't bringing their systems up to the design specification's of the soil type that they are putting them into.

Rep. Anderson: I think that has a lot to do with the local contractor that does the work they are pretty familiar with what works in their area.

Rep. Hofstad: In my area if you are going to put in a new system you cannot do it without a permit from the State Health Department.

Rep. Porter: That is the same thing where Custer District Health is. The problem that the health districts are having; is there isn't any uniform standard to be able to train the installers to a uniform standard of installation.

Rep. Nathe: Was this bill patterned after what they are doing in Minnesota?

Rep. Porter: I am not sure what they have in Minnesota.

Rep. Damschen: If they are going to put in a small septic system does that have to be certified installer and if it is a large system 25 or more they have to have it approved before the certification?

Rep. Porter That is my understanding.

Rep. Hofstad: I think this is a good concept.

Rep. Damschen: Is there a certification process in place?

Rep. Porter: now right now.

Rep. Damschen: What is going to be the procedure there?

Rep. Porter: Part of their authority is to do the training and examination and the certification program.

Rep. Damschen: Is the cost figured in?

Rep. Porter: Between the fees and the appropriation that should cover everything in the bill.

Rep. Keiser: They would go through administrative rules relative to the certification process.

Rep. Porter: There is a leap of faith that we are doing with this so that they wouldn't have to be back in front of the Administrative Rules Committee to be sure that there aren't the concerns that they pick a system that says "the only thing we will ever approve of is mount systems" when we know that they don't work everywhere.

Rep. Porter: On page 3 # 8 it does say" it does have to be appropriated by the assembly.

Rep. Froseth: Is it necessary for the inspections to go through the State Health Department?

Rep. Porter: Right now they are being done locally. They don't want those big ones.

Rep. Mock: Would this be rereferred to appropriations if the appropriations were held in there. The Department of Health would come in and reconcile whether the 2 FTEs are needed or if they can be rolled into the Department of Health budget.

Rep. Porter: Probably not. This is a stand along bill by the legislatures to deal with a specific issue from the health districts.

Rep. Keiser: Did they indict the average how many small inspections are done annually?

Rep. Porter: I don't remember hearing a number.

Rep. Keiser: If we had a number we could put a fee in there for the larger ones to be used to offset part of the cost.

Rep. Porter: We have a motion to SB 2307 with a referral to the appropriations for a do pass from Rep. Hofstad and a second from Rep. Silbernagel

Yes 13 No 0 Absent 0 Carrier: Rep. Brabandt.

FISCAL NOTE
Requested by Legislative Council
02/27/2013

Amendment to: SB 2307

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$357,645		\$364,762	
Appropriations					\$364,762	

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Bill requires the Department to regulate septic system installers & the design standards for septic systems, to approve large septic system installations, and provides inspection, fee & enforcement authority. Also requires Local Public Health Unit approval of small septic system installations.

- 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.*

Section 6 - requires the Department to administer and enforce a certification program for septic system installers to include training, issuing certificates, establishing reasonable fees and enforcing the established rules. The Department is also required to implement a program for the design approval of all large septic systems and establish reasonable fees for approving such systems. Section 6 subsection #6 requires Local Public Health Units/Board of Public Health to implement and enforce rules adopted by the Department of Health regarding the alteration, repair, construction, and installation of small septic systems. It is our understanding that 17 or 18 counties do not presently have environmental health services and, therefore, do not have an on-site sewer program. It is difficult to predict what cost these counties may incur in administering an on-site program. They could implement the program by hiring their own staff with no fee offset, hiring their own staff with partial or total fee offset, or contracting with a neighboring LPHU (that runs such a program) to provide services in their county. If they choose to contract with a neighboring LPHU, it is possible that the cost would be covered through fees charged (to regulated entities) by the LPHU, leaving little if any cost to the county.

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 authorized under this bill must be established by rule. Since rules will be developed during the 2013 – 15 biennium, we are unable to estimate revenue for the 2013-15 biennium. Some fee revenue may be generated during the 2015-17 biennium, however that amount is unknown at this time.

- 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.*

2013-2015 Expenditures include 2 FTE: One Environmental Scientist II - responsible for the development and implementation of a new statewide program for certification and training of septic system installers - \$124,360. One Environmental Engineer II - responsible for developing and implementing new statewide design/construction standards for septic systems and review/approval of large septic systems (those serving 25 or more individuals). This FTE may also conduct inspections of septic system installations and assist in training of septic system installers. - \$142,965. Operating Expenses of \$45,160 for each FTE for a total of \$90,320, which includes one-time purchases for computers and office furniture of \$7,400. 2015 - 17 Expenditures inflate the 2013 - 15 expenditures and eliminates the one-time computer and furniture purchases.

- 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.*

No appropriation is needed as an appropriation is included within the bill.

Name: Brenda M. Weisz

Agency: Department of Health

Telephone: 328-4542

Date Prepared: 03/01/2013

FISCAL NOTE
Requested by Legislative Council
01/24/2013

Revised
 Bill/Resolution No.: SB 2307

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$357,645		\$364,762	
Appropriations			\$357,645		\$364,762	

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

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Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Bill requires the Department to regulate septic system installers & the design standards for septic systems, to approve large septic system installations, and provides inspection, fee & enforcement authority. Also requires Local Public Health Unit approval of small septic system installations.

- 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.*

Section 6 - requires the Department to administer and enforce a certification program for septic system installers to include training, issuing certificates, establishing reasonable fees and enforcing the established rules. The Department is also required to implement a program for the design approval of all large septic systems and establish reasonable fees for approving such systems. Section 6 subsection #6 requires Local Public Health Units/Board of Public Health to implement and enforce rules adopted by the Department of Health regarding the alteration, repair, construction, and installation of small septic systems. It is our understanding that 17 or 18 counties do not presently have environmental health services and, therefore, do not have an on-site sewer program. It is difficult to predict what cost these counties may incur in administering an on-site program. They could implement the program by hiring their own staff with no fee offset, hiring their own staff with partial or total fee offset, or contracting with a neighboring LPHU (that runs such a program) to provide services in their county. If they choose to contract with a neighboring LPHU, it is possible that the cost would be covered through fees charged (to regulated entities) by the LPHU, leaving little if any cost to the county.

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 authorized under this bill must be established by rule. Since rules will be developed during the 2013 – 15 biennium, we are unable to estimate revenue for the 2013-15 biennium. Some fee revenue may be generated during the 2015-17 biennium, however that amount is unknown at this time.

- 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.*

2013-2015 Expenditures include 2 FTE: One Environmental Scientist II - responsible for the development and implementation of a new statewide program for certification and training of septic system installers - \$124,360. One Environmental Engineer II - responsible for developing and implementing new statewide design/construction standards for septic systems and review/approval of large septic systems (those serving 25 or more individuals). This FTE may also conduct inspections of septic system installations and assist in training of septic system installers. - \$142,965. Operating Expenses of \$45,160 for each FTE for a total of \$90,320, which includes one-time purchases for computers and office furniture of \$7,400. 2015 - 17 Expenditures inflate the 2013 - 15 expenditures and eliminates the one-time computer and furniture purchases.

- 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.*

Funding for the activities required under this bill were not included in the Department's appropriation bill - SB 2004.

Name: Brenda M. Weisz

Agency: Department of Health

Telephone: 328-4542

Date Prepared: 01/29/2013

Date: 3-22-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2307

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass ~~referred~~ referred

Motion Made By Rep. Hofstad Seconded By Rep. Silbernagel

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) 13 No 0

Absent 0

Floor Assignment Rep. Brabandt

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

REPORT OF STANDING COMMITTEE

SB 2307, as engrossed: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2307 was rereferred to the Appropriations Committee.

2013 HOUSE APPROPRIATIONS

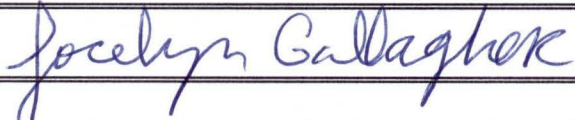
SB 2307

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee
Roughrider Room, State Capitol

SB 2307
3/26/13
Job 20478

Conference Committee



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subsection to section 23-35-08, four new subsections to section 61-28-02, and a new section to chapter 61-28 of the North Dakota Century Code, relating to regulation of septic system installers and septic systems; to provide a penalty; and to provide an appropriation.

Minutes:

Rep. Todd Porter from Energy and Natural Resources Committee: Introduced the bill dealing with septic systems. The board of plumbing does not want this in their section of code any longer. We have an ununiformed installation process of septic systems across the state.

Chairman Delzer: What's in the board of plumbing, is that just administrative rules?

Porter: No there's a section we're changing in here.

Chairman Delzer: Why were these bills not tied together?

Porter: I don't know where the other ones came from. This one came on behalf of the public health units.

Chairman Delzer: Where did the appropriations and FTEs come from?

Porter: I believe that was part of the bill. That's how we got it.

07:18

Chairman Delzer: What kind of discussions did you have with the health department? I can't imagine the inspections are going to be enough to warrant 2 FTEs.

Porter: The other component of this and the uniform application of installation is to train and certify the excavators in the proper installation of septic systems. The money in the Health department is for the inspector positions in the department but they also train the excavators to make sure they are following this uniform law of installation of septic systems.

8:47

Chairman Delzer: When you get into cities, is it the local public health district, or does the city have jurisdiction?

Porter: It is up to the city. If it's over 25, they will contract with a larger public health unit if it is under 25, the local health unit would take care of it. In some places it's totally unregulated; in some places it's regulated by the public health units min 10:00

Chairman Delzer: Almost any incorporated city with a regular sewer system are not.....

Porter: This has nothing to do with that. In Bismarck, you can't put in a septic system instead of hooking up to the sewer system.

10:44

Rep. Brandenburg: I'm concerned about the under 25. If you're under 25 you have to follow these rules as set by the health department.

Porter: You may have thought you were just getting old Joe and his backhoe, but I will guarantee you that you were doing it illegally.

12:30

Porter: As we heard that other bill talking about the splitting of the systems from large and small and commercial and concerns in western ND. This is not the first time this has been in front of the session to do this because there is a big concern in how the systems are designed and it works.

Chairman Delzer: Have you looked at the language in this bill, compared to the language in the bill that Political Subs is working on?

Porter: That is SB 2308. This component is the training of the excavator of the responsibility of the large and small systems and responsibility of uniformed statewide installation specifications that public health and state health department would follow.

Chairman Delzer: That's also in 2308, I believe. Does it match up?

Rep. Nelson: The two FTEs that are in this bill, in our section we have heard from DOH and they have new FTEs in their budget in the environmental health section. I'm assuming this is in addition to that. Did your committee discuss what role those new FTEs would be able to play in administering this area of concern?

Porter: They are specifically for this. They are the inspectors for the installation of the large systems.

Rep. Nelson: I know this is a statewide program, but I'm guessing the impact in western ND spurred this bill. The new FTEs in the health department budget are associated with oil impact.

Chairman Delzer: The amendment for FTEs in appropriation was put out on the floor not by the appropriations committee.

16:25

Porter: How this ties in was not part of our discussion.

Rep. Bellew: There is one new requested FTE in the health department budget for things like this. Instead of General fund could fees charged pay for salaries and equipment?

Porter: The \$357,000 is in addition to what the monies collected on page 3 sub 8 would be as far as deposited into that fund but the fund is under the control of appropriations committee.

Chairman Delzer: We'll drop this into HR to work on it with the DOH budget. Further questions? Thank you. When HR discusses this, you should also check on the language in 2308.

Porter: 2308 is the component that moves it from the board of plumbing to the board of health that splits the responsibilities between local public health and the state of ND. It is necessary language to do that as far as the appropriations side of it that's why it's here.

Chairman Delzer: Questions by the committee? Thank you. Anything further? We will have pictures on Thursday. Stand adjourned.

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee Roughrider Room, State Capitol

SB 2307
4/5/13
Job 20940

Conference Committee

Committee Clerk Signature

Meredith Trachsel

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subsection to section 23-35-08, four new subsections to section 61-28-02, and a new section to chapter 61-28 of the North Dakota Century Code, relating to regulation of septic system installers and septic systems; to provide a penalty; and to provide an appropriation.

Minutes:

You may make reference to "attached testimony."

Chairman Delzer: This bill deals with giving the health department the ability and duties of setting rules, regulation, training, etc., for how we handle septic systems. There is money in there for two FTEs.

Rep. Bellew: I have an amendment I will distribute. Went over amendment .02001 beginning minute 2:05 and moved its adoption, seconded by **Rep. Kreidt**.

Rep. Williams: Why did you remove the appropriation?

Rep. Bellew: It seems to me every time we do something with the health department, they want new FTEs. I don't think they are needed at this time.

Chairman Delzer: It's currently being done; quite often if a county doesn't have a local health district then it falls to the health department. They contract with the local health districts. I don't believe the health department particularly wants this. Further discussion?

Rep. Guggisberg: If we pass the bill without any money in it, would the idea be that they get money from the local counties, or how would they fund these positions they need?

Chairman Delzer: I don't know how much support there will be for the bill even without the money, but it's currently being done and it's a question of whether they would set up the rules, or just leave them the way they are. Part of the issue is that it's currently in the plumbers' code, and I think the local health districts don't like that. But I also have not heard a lot of consternation about what's going on out there. Further discussion on the motion to amend? The motion carried on a voice vote. Further discussion or amendments?

Rep. Brandenburg moved Do Not Pass as Amended, seconded by **Rep. Streyle**.

Rep. Bellew: In my conversation with the health department, they said once they've sent the employees out, they don't want the bill. I will concur with the Do Not Pass.

Chairman Delzer: I think it's a question of whether or not we want the health department to take over the handling of training and setting rules for our local septic system. A roll call vote was done. The motion carried 16 Yes, 4 No, 2 Absent. **Rep. Bellew** will be the carrier.

FISCAL NOTE
Requested by Legislative Council
04/08/2013

Amendment to: SB 2307

- 1 A. **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.*

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- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Bill requires the Department to regulate septic system installers & the design standards for septic systems, to approve large septic system installations, and provides inspection, fee & enforcement authority. Also requires Local Public Health Unit approval of small septic system installations.

- 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.*

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3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

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- 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.*

Funding for the activities required under this bill were not included in the Department's appropriation bill - SB 2004.

Name: Brenda M. Weisz

Agency: Department of Health

Telephone: 328-4542

Date Prepared: 04/09/2013

FISCAL NOTE
Requested by Legislative Council
02/27/2013

Amendment to: SB 2307

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
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- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Bill requires the Department to regulate septic system installers & the design standards for septic systems, to approve large septic system installations, and provides inspection, fee & enforcement authority. Also requires Local Public Health Unit approval of small septic system installations.

- 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.*

Section 6 - requires the Department to administer and enforce a certification program for septic system installers to include training, issuing certificates, establishing reasonable fees and enforcing the established rules. The Department is also required to implement a program for the design approval of all large septic systems and establish reasonable fees for approving such systems. Section 6 subsection #6 requires Local Public Health Units/Board of Public Health to implement and enforce rules adopted by the Department of Health regarding the alteration, repair, construction, and installation of small septic systems. It is our understanding that 17 or 18 counties do not presently have environmental health services and, therefore, do not have an on-site sewer program. It is difficult to predict what cost these counties may incur in administering an on-site program. They could implement the program by hiring their own staff with no fee offset, hiring their own staff with partial or total fee offset, or contracting with a neighboring LPHU (that runs such a program) to provide services in their county. If they choose to contract with a neighboring LPHU, it is possible that the cost would be covered through fees charged (to regulated entities) by the LPHU, leaving little if any cost to the county.

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 authorized under this bill must be established by rule. Since rules will be developed during the 2013 – 15 biennium, we are unable to estimate revenue for the 2013-15 biennium. Some fee revenue may be generated during the 2015-17 biennium, however that amount is unknown at this time.

- 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.*

2013-2015 Expenditures include 2 FTE: One Environmental Scientist II - responsible for the development and implementation of a new statewide program for certification and training of septic system installers - \$124,360. One Environmental Engineer II - responsible for developing and implementing new statewide design/construction standards for septic systems and review/approval of large septic systems (those serving 25 or more individuals). This FTE may also conduct inspections of septic system installations and assist in training of septic system installers. - \$142,965. Operating Expenses of \$45,160 for each FTE for a total of \$90,320, which includes one-time purchases for computers and office furniture of \$7,400. 2015 - 17 Expenditures inflate the 2013 - 15 expenditures and eliminates the one-time computer and furniture purchases.

- 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.*

No appropriation is needed as an appropriation is included within the bill.

Name: Brenda M. Weisz

Agency: Department of Health

Telephone: 328-4542

Date Prepared: 03/01/2013

FISCAL NOTE
Requested by Legislative Council
01/24/2013

Revised
 Bill/Resolution No.: SB 2307

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$357,645		\$364,762	
Appropriations			\$357,645		\$364,762	

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Bill requires the Department to regulate septic system installers & the design standards for septic systems, to approve large septic system installations, and provides inspection, fee & enforcement authority. Also requires Local Public Health Unit approval of small septic system installations.

- 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.*

Section 6 - requires the Department to administer and enforce a certification program for septic system installers to include training, issuing certificates, establishing reasonable fees and enforcing the established rules. The Department is also required to implement a program for the design approval of all large septic systems and establish reasonable fees for approving such systems. Section 6 subsection #6 requires Local Public Health Units/Board of Public Health to implement and enforce rules adopted by the Department of Health regarding the alteration, repair, construction, and installation of small septic systems. It is our understanding that 17 or 18 counties do not presently have environmental health services and, therefore, do not have an on-site sewer program. It is difficult to predict what cost these counties may incur in administering an on-site program. They could implement the program by hiring their own staff with no fee offset, hiring their own staff with partial or total fee offset, or contracting with a neighboring LPHU (that runs such a program) to provide services in their county. If they choose to contract with a neighboring LPHU, it is possible that the cost would be covered through fees charged (to regulated entities) by the LPHU, leaving little if any cost to the county.

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 authorized under this bill must be established by rule. Since rules will be developed during the 2013 – 15 biennium, we are unable to estimate revenue for the 2013-15 biennium. Some fee revenue may be generated during the 2015-17 biennium, however that amount is unknown at this time.

- 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.*

2013-2015 Expenditures include 2 FTE: One Environmental Scientist II - responsible for the development and implementation of a new statewide program for certification and training of septic system installers - \$124,360. One Environmental Engineer II - responsible for developing and implementing new statewide design/construction standards for septic systems and review/approval of large septic systems (those serving 25 or more individuals). This FTE may also conduct inspections of septic system installations and assist in training of septic system installers. - \$142,965. Operating Expenses of \$45,160 for each FTE for a total of \$90,320, which includes one-time purchases for computers and office furniture of \$7,400. 2015 - 17 Expenditures inflate the 2013 - 15 expenditures and eliminates the one-time computer and furniture purchases.

- 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.*

Funding for the activities required under this bill were not included in the Department's appropriation bill - SB 2004.

Name: Brenda M. Weisz

Agency: Department of Health

Telephone: 328-4542

Date Prepared: 01/29/2013

13.8253.02001
Title.03000

Prepared by the Legislative Council staff for
Representative Bellew
April 3, 2013

4/3/13
LC/ST/CP

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2307

Page 1, line 3, after the semicolon insert "and"

Page 1, line 4, remove "; and to provide an appropriation"

Page 2, line 6, after "**Fees**" insert "**- Penalty**"

Page 3, remove lines 14 through 20

Renumber accordingly

Date: 4/5/13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2307**

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number . 02001

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

Motion Made By Rep. Bellew Seconded By Rep. Kreidt

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Rep. Streyle		
Vice Chairman Kempenich			Rep. Thoreson		
Rep. Bellew			Rep. Wieland		
Rep. Brandenburg					
Rep. Dosch					
Rep. Grande			Rep. Boe		
Rep. Hawken			Rep. Glassheim		
Rep. Kreidt			Rep. Guggisberg		
Rep. Martinson			Rep. Holman		
Rep. Monson			Rep. Williams		
Rep. Nelson					
Rep. Pollert					
Rep. Sanford					
Rep. Skarphol					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

voice vote carries

Date: 4/5/13
 Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2307**

House Appropriations 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 Rep. Brandenburg Seconded By Rep. Streyle

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Rep. Streyle	X	
Vice Chairman Kempenich			Rep. Thoreson	X	
Rep. Bellew	X		Rep. Wieland	X	
Rep. Brandenburg	X				
Rep. Dosch	X				
Rep. Grande	X		Rep. Boe		
Rep. Hawken	X		Rep. Glassheim		X
Rep. Kreidt	X		Rep. Guggisberg		X
Rep. Martinson	X		Rep. Holman	X	
Rep. Monson	X		Rep. Williams		X
Rep. Nelson	X				
Rep. Pollert	X				
Rep. Sanford	X				
Rep. Skarphol		X			

Total Yes 16 No 4

Absent 2

Floor Assignment Rep. Bellew

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

REPORT OF STANDING COMMITTEE

SB 2307, as engrossed: Appropriations Committee (Rep. Delzer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (16 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2307 was placed on the Sixth order on the calendar.

Page 1, line 3, after the semicolon insert "and"

Page 1, line 4, remove "; and to provide an appropriation"

Page 2, line 6, after "Fees" insert "- Penalty"

Page 3, remove lines 14 through 20

Re-number accordingly

2013 TESTIMONY

SB 2307

#1

Mr. Chairman and committee, my name is Senator Larry Luick, district 25.

SB 2307 is a bill coming to us from the Department of Health in an effort to get a better handle on the problems of faulty, failing, old, ill-designed, no-designed, leaking, broken, too small, no treatment, eminent health hazards of septic systems and the handling of septage. This problem is not only a problem in the western areas of North Dakota, but is state wide.

Behind me are individuals that can explain the bill but I would be very willing to try to answer any questions you may have regarding septic systems and the importance of better controls of this very unhealthy problem.

I ask you to consider a do pass recommendation for this bill.

**Testimony on Senate Bill 2307
Energy and Natural Resources Committee
Representative Porter, Chairman
February 7th, 2013**

Chairman Porter, members of the Energy and Natural Resources Committee. I am James Heckman, Director of Environmental Health, First District Health Unit.

The amount of requests for onsite wastewater systems in the State is increasing annually. While many of the onsite system requests are for larger more complicated systems, several of the requests are for small individual housing developments in locations outside of the existing municipal sewer service areas. First District Health Unit issued approximately 425 sewer permits in 2012. In 2011 250 sewer permits were issued in the same seven counties.

The Department of Health has been forced to play an increasing role in plan review because of the potential impacts to surface and/or ground water. The protection of surface and ground water would be enhanced by positioning the Dept. of Health as the agency responsible for regulation of onsite wastewater systems.

Public Health Units would applaud the Dept. of Health assuming jurisdiction of onsite septic systems for several reasons:

- Most public health units already have an open line of communication with the Dept. of Health
- The Dept. already has engineers and water quality specialists to assist in establishment of design and construction standards for onsite systems
- By giving regulatory authority to the Dept. it will likely increase the voluntary compliance of onsite system contractors
- It will provide a baseline regulatory structure for small public health units that do not have Environmental Health Practitioners to issue sewer permits.
- It will potentially provide baseline training for all onsite wastewater contractors across the state
- It would eliminate some of the confusion for out of state contractors aspiring to become onsite contractors within N.D.
- The basic structure that this Bill will accomplish is a priority for the ND Environmental Health Association.

Thank you for your consideration of this important Bill.

Testimony in support of SB2307

Keith Johnson, R.S. Administrator, Custer Health, Mandan ND 667-3370

Keith.johnson@custerhealth.com

I am here to represent my Board of Health, who wanted me to tell you that they support the concept of the State Health Department taking over the onsite wastewater code and program. There are a lot of reasons this is a good idea.

It will allow us to finally put together a comprehensive statewide program of education, supervision of installation, and enforcement. It divides responsibility, properly, we think, between the state dept. and the local health depts. for small and large systems. The Plumbing Board has very graciously hosted this program over the years. I think they largely thought of it as the red headed stepchild to their main responsibility of supervising plumbers and plumbing, and so the enforcement and management of the onsite code has been a spotty patchwork of local health departments and large areas of the state where there was virtually no oversight. State Health has taken over where they had to, especially for large systems in the western part of the state. This arrangement has resulted in a lot of open pipes out there, discharging into sloughs, ditches, and tree groves.

Local health departments have been working for a long time to accomplish what this bill does. Sen. Luick met with us and worked with us and State Health to put the bill together. We support the need for the personnel at the state level to carry out the program, and we strongly support this bill. We ask for your 'do pass' on SB2307.

Testimony
Natural Resources Committee
Senate Bill 2307
Thursday, February 7, 2013

Good morning, Chairperson Lyson and members of the Natural Resources Committee. My name is Allen McKay, and I am the Environmental Health Supervisor for the Lake Region District Health Unit which covers four counties in Northeastern North Dakota including Ramsey, Benson, Pierce and Eddy. I am here to provide information in support of SB 2307 relating to the regulation of septic system contractors and septic systems.

Background

The state onsite sewer code currently is part of the plumbing boards regulations. The plumbing board has not kept the regulations updated and does not enforce the onsite sewer regulations.

Currently, onsite sewer contractors are not all trained to the same level. Some contractors are licensed and some are not. Several of the Health Units have their own sewer code, license and train their contractors and enforce their own regulations. But, several counties in the state do not have any licensing or regulations. Contractors that want to install onsite sewers in the Lake Region District Health Unit currently must be licensed, trained and regulated under our onsite sewer code. If they want to install onsite sewers in other counties they must be licensed by that Health Unit and abide by their regulations.

SB 2307 would provide the same training, licensing, and minimum regulations to all onsite sewer contractors across the state. This would remove the burden of each area providing their own training and licensing of contractors. This would also insure that any licensed onsite sewer contractor could install onsite sewers anywhere in the state and that sewer system would meet the same minimum requirements.

This would assist the multi-county and single county health units by not having to provide or contract for their own training and licensing and the minimum regulations would make it easier for the contractors to construct onsite sewer systems that protect human health, and our ground and surface water.

Thank you for your consideration of this important bill. I would be happy to answer any questions you may have.

#5

**Testimony
Senate Bill 2307
Senate Natural Resources Committee
February 7, 2013
North Dakota Department of Health**

Good morning, Chairman Lyson and members of the Senate Natural Resources Committee. My name is Wayne Kern, and I am Director of the North Dakota Department of Health's Division of Municipal Facilities. I am here to provide information regarding Senate Bill 2307.

Senate Bill 2307 addresses the regulation of on-site sewage disposal. On-site sewage disposal systems, such as septic tank drain field systems, are used for disposal of sewage at rural farms, homes, businesses and developments that are outside the reach of public sewage systems. On-site sewage disposal systems can fail if improperly designed, constructed and maintained. Failure can result in adverse environmental and public health impacts. Increased development in rural areas of the state has led to installation of more on-site sewage disposal systems. This trend is expected to continue well into the future, increasing the potential for adverse environmental and public health impacts.

Currently, there is no statewide program in North Dakota for regulation of on-site sewage disposal. Instead, on-site sewage disposal, if regulated, is regulated by local public health units. Local public health units that administer environmental programs have either adopted the general standards contained within the state plumbing code or adopted similar standards for use within their jurisdiction. There are presently up to 17 counties that do not have environmental programs to address on-site sewage disposal.

There are several issues related to how on-site sewage disposal is presently addressed in North Dakota. These include the following:

- Lack of statewide coverage – As previously stated, there are currently up to 17 counties that do not have environmental programs to address on-site sewage disposal.
- Lack of uniform standards – Currently, standards vary between local public health units that administer an on-site sewage disposal program. This includes standards for design and construction of on-site systems and standards for certification and training of on-site system installers.

- Lack of a level playing field across the state – The lack of statewide coverage and uniform standards creates an unlevel playing field and confusion for installers. On-site sewage disposal systems have and will continue to be installed in uncovered counties without approval. This increases the chance for failure and adverse environmental and public health impacts.

Senate Bill 2307 would address these issues by establishing a statewide program for regulation of on-site sewage disposal. This bill:

- Defines septic system, septic system installer, small septic system and large septic system. The distinction between small and large septic systems is based on population, with small systems serving less than 25 individuals and large systems serving 25 or more individuals.
- Requires the North Dakota Department of Health to administer a statewide certification and training program for septic system installers.
- Requires the North Dakota Department of Health to develop updated statewide standards for alteration, repair, construction and installation of septic systems.
- Requires approval of septic systems prior to alteration, repair, construction and installation. The North Dakota Department of Health would be responsible for large systems and local public health units would be responsible for small systems.
- Provides the North Dakota Department of Health inspection, fee, and enforcement authority for program administration.

Proper on-site sewage disposal is unarguably necessary to protect public health and the environment. Taken as a whole, this bill would move North Dakota toward uniform, statewide regulation of on-site sewage disposal. To achieve this outcome, local public health units that currently do not have an environmental program to address on-site sewage disposal would be required to develop one. Also, as identified in the fiscal note, the North Dakota Department of Health will need two additional FTEs beyond the Governor's Executive Budget recommendation to develop appropriate rules, implement the certification and training program, and review and approve large on-site systems.

I appreciate the opportunity to provide you with this information. I would be happy to answer any questions you have at this time.

Lisa Clute
SB 2307

#1

Testimony on Senate Bill No. 2307 2-18-13
Senate Appropriations Committee
Senator Holmberg, Chairman
February 18, 2013

Good Morning Chairman Holmberg and members of the Senate Appropriations Committee. I am Lisa Clute, Executive Officer of First District Health Unit.

The amount of requests for onsite wastewater systems in the State is increasing annually. At First District Health Unit our requests for on-site sewer permits have increased from 250 in 2011 to almost 450 in 2012. While many of the onsite system requests are for larger more complicated systems, some of the requests are for small individual housing developments in locations outside of the existing municipal sewer service areas.

The Department of Health has been forced to play an increasing role in plan review because of the potential impacts to surface and/or ground water. The protection of surface and ground water would be enhanced by positioning the Dept. of Health as the agency responsible for regulation of onsite wastewater systems.

Public Health Units would applaud the Dept. of Health assuming jurisdiction of onsite septic systems for several reasons:

- Most public health units already have an open line of communication with the Dept. of Health
- The Dept. already has engineers and water quality specialists to assist in establishment of design and construction standards for onsite systems
- By giving regulatory authority to the Dept. it will likely increase the voluntary compliance of onsite system contractors
- It will provide a baseline regulatory structure for small public health units that do not have full time inspection staff
- It will potentially provide baseline training for all onsite wastewater contractors across the state
- It would eliminate some of the confusion for out of state contractors aspiring to become onsite contractors within N.D.

Thank you for your consideration of this important Bill. I would be happy to answer any questions you may have.

I

Testimony in support of SB2307

Keith Johnson, R.S. Administrator, Custer Health, Mandan ND 667-3370

Keith.johnson@custerhealth.com

I am here to represent my Board of Health, who wanted me to tell you that they support the concept of the State Health Department taking over the onsite wastewater code and program. There are a lot of reasons this is a good idea.

It will allow us to finally put together a comprehensive statewide program of education, supervision of installation, and enforcement. It divides responsibility, properly, we think, between the state dept. and the local health depts. for small and large systems. The Plumbing Board has very graciously hosted this program over the years. I think they largely thought of it as the red headed stepchild to their main responsibility of supervising plumbers and plumbing, and so the enforcement and management of the onsite code has been a spotty patchwork of local health departments and large areas of the state where there was virtually no oversight. State Health has taken over where they had to, especially for large systems in the western part of the state. This arrangement has resulted in a lot of open pipes out there, discharging into sloughs, ditches, and tree groves.

Local health departments have been working for a long time to accomplish what this bill does. Sen. Luick met with us and worked with us and State Health to put the bill together. We support the need for the personnel at the state level to carry out the program, and we strongly support this bill. We ask for your 'do pass' on SB2307.

Testimony in support of SB 2307**Allen McKay, RS, Environmental Health Supervisor
Lake Region District Health Unit, Devils Lake, ND 662-7035**

Chairman Porter, and members of the Energy and Natural Resources Committee. My name is Allen McKay, Environmental Health Supervisor, Lake Region District Health Unit.

The Lake Region was one of the first areas in the state to have onsite sewer regulations and contractor training. Currently we have contractors from 12 surrounding counties attending our annual training.

The Lake Region District Health Unit Board members and the contractors that attend our training all think SB 2307 is a good idea. My Health Board has dealt with onsite sewer around a lake that continues to expand causing problems with both the individual onsite systems and large RV and housing developments. The contractors in my area are in favor of this bill because it provides for one licensing authority and a base of minimum rules and regulations across the state. That way a contractor working anywhere in the state could work with the same basic regulations, one license and the same training for all contractors.

The local health departments all need the State Health Department's assistance on the large sewer systems and all the new sewer technologies. We believe this bill provides for a good framework for the local health departments to work with the State Health Department. We strongly support this bill and we ask for your "do pass" on SB 2307. I would be happy to answer any questions you may have.