17.0563.03000

FISCAL NOTE

Requested by Legislative Council
01/05/2017

Revised
Amendment to: HB 1144

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.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$0	$0	$0	$0
Appropriations	$0	$0	$0	$0	$0	$0

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

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties	$0	$0	$0
Cities	$0	$0	$0
School Districts	$0	$0	$0
Townships	$0	$0	$0

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).*

Main objective is to separate siting applications for electric generation and transmission from those for oil and gas refining and transmission. Bill imposes only one very minor substantive change to the existing process (re filing 10-year plans). The bill has no fiscal impact.

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.*

Bill has no fiscal impact.

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.*

No impact on revenues

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.*

No impact on expenses

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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

No impact on appropriations

Name: Illona Jeffcoat-Sacco
Agency: PSC
Telephone: 701-328-2407
Date Prepared: 01/05/2017

17.0563.02000

FISCAL NOTE

Requested by Legislative Council
01/05/2017

Revised
Amendment to: HB 1144

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.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$0	$0	$0	$0
Appropriations	$0	$0	$0	$0	$0	$0

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

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties	$0	$0	$0
Cities	$0	$0	$0
School Districts	$0	$0	$0
Townships	$0	$0	$0

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).*

Main objective is to separate siting applications for electric generation and transmission from those for oil and gas refining and transmission. Bill imposes only one very minor substantive change to the existing process (re filing 10-year plans). The bill has no fiscal impact.

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.*

Bill has no fiscal impact.

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.*

No impact on revenues

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.*

No impact on expenses

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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

No impact on appropriations

Name: Illona Jeffcoat-Sacco
Agency: PSC
Telephone: 701-328-2407
Date Prepared: 01/05/2017

17.0563.01000

FISCAL NOTE

Requested by Legislative Council
01/05/2017

Revised
Bill/Resolution No.: HB 1144

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.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$0	$0	$0	$0
Appropriations	$0	$0	$0	$0	$0	$0

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

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties	$0	$0	$0
Cities	$0	$0	$0
School Districts	$0	$0	$0
Townships	$0	$0	$0

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).*

Main objective is to separate siting applications for electric generation and transmission from those for oil and gas refining and transmission. Bill imposes only one very minor substantive change to the existing process (re filing 10-year plans). The bill has no fiscal impact.

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.*

Bill has no fiscal impact.

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.*

No impact on revenues

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.*

No impact on expenses

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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

No impact on appropriations

Name: Illona Jeffcoat-Sacco
Agency: PSC
Telephone: 701-328-2407
Date Prepared: 01/05/2017

17.0563.01000

FISCAL NOTE

Requested by Legislative Council
01/05/2017

Bill/Resolution No.: HB 1144

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.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$0	$0	$0	$0	$0
Expenditures	$0	$0	$0	$0	$0	$0
Appropriations	$0	$0	$0	$0	$0	$0

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

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties	$0	$0	$0
Cities	$0	$0	$0
School Districts	$0	$0	$0
Townships	$0	$0	$0

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).*

Main objective of bill is to separate siting applications for electric generation and transmission from siting applications for oil and gas refining and transmission. the bill imposes no substantive changes to the existing siting process.

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.*

Bill has no fiscal impact.

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.*

No impact on revenues

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.*

No impact on expenses

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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

No impact on appropriations

Name: Illona Jeffcoat-Sacco
Agency: PSC
Telephone: 701-328-2407
Date Prepared: 01/05/2017

2017 HOUSE ENERGY AND NATURAL RESOURCES

HB 1144

2017 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee
Coteau –A Room, State Capitol

HB 1144
1/12/2017
26841

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Kathleen Davis

Explanation or reason for introduction of bill/resolution:
Relating to **gas and liquid energy** conversion, gas and liquid transmission facility siting and combining application;
relating to **energy** conversion and transmission facility siting;
relating to energy conversion short title, energy conversion statement of policy, and route adjustment before or during construction for gas or liquid transmission line;
to provide a continuing appropriation; and to provide a penalty

Minutes: Attachments #1 #2 #3

Chairman Porter: Called the committee to order.

1:44

Rep. Keiser: Presented HB1144. As a preface this committee significant work over the last 4-5 sessions relative to deciding where you place a transmission or pipeline. You go thru PSC, etc, to get approval. There are some issues common whether it's an electrical generated or pipeline. Our technologies have developed some differences. This bill takes the section of the code which had been basically combined and starts to develop separate subdivisions for electric transmission versus oil and gas transmission lines. It provides a lot more flexibility. It's become more difficult to write statutes that some other compromises for one industry over the other. We want to be careful to not have a negative impact on one industry. Does reduce unintentional consequences. This bill has a fiscal note and shows no impact due to the passage of this bill. We'll be offering a small very technical amendment to the bill.

4:40

Dale Niezwaag: Basic Electric Power Cooperative. This bill will do 3 things. Attachments #1-#2.

1) separate oil and gas siting from the electric siting. Facilities and transmissions lines are both in that.
2) To eliminate the requirement for both a corridor and a route hearing
3) Removes the requirement for a 10 year plan for what your future facilities are.

I don't think it adds it additional work to the PSC and just makes things cleaner.

Rep. Keiser: On the combined hearing, does the PSC maintain the authority to say no, we want 2 hearings?

Dale Niezwaag: I believe so, but that would be a better response for the commission.

10:37

Rep. Lefor: Corridor you said is 1-6 miles, and the route is the actual physical pipeline location? Most of those are put together at one time?

Dale Niezwaag: Correct. As a utility we start out with a corridor study and determine where our exclusion and avoidance areas.

12:00

Rep. Heinert: How far out do you reach (inaudible, did not have his mic on)

Dale Niezwaag: I don't know that I have a good answer for that. PSC could answer for that. When we have public hearings, we will post in all local newspapers. We try to get everyone in the county that's affected in the county that we're going into we'll have notices about the hearings, multiple locations on lines on that. Exactly how far out I don't have an answer.

Rep. Heinert: (inaudible – did not have his mic on)

Dale Niezwaag: Yes. We're not eliminating the corridor study, we're combining them in one hearing.

Rep. Heinert: Then the landowners within the corridor are not (inaudible- no mic on)

Dale Niezwaag: True but then they would be. I can follow up on who we contact and how wide of an area we go if the PSC can't handle that I can find that out.

Rep. Keiser: Can you do just a route study without the corridor?

Dale Niezwaag: I don't believe so. You have to do a combination.

Rep. Keiser: right now you have to do 2. So you're advocating combining the 2 into one hearing but you are in effect doing both, never eliminate the corridor.

Dale Niezwaag: correct

Chairman Porter: inside of the bill, do you have the technical amendment?

14:56

Dale Niezwaag: Inside the bill we do have one small error, Page 2, line 5 Attachment #2.

Chairman Porter: There isn't any continuing appropriation authority inside of this bill that you know of?

Dale Niezwaag: We offer not new changes other than the 3 I described.

Chairman Porter: Explain to us Section 28 of the bill.

Dale Niezwaag: I don't have a good answer for you.

17:30

Todd Pranda, attorney from Mandan, lobbyist from ND Petroleum Council. ATTACHMENT 3. We do urge your support.

Chairman Porter: Why would be getting rid of the statement of policy?

Todd Pranda: I honestly don't know. I think it's something the legislative council did.

26:13

Carlee McLeod: (did not sign Registration) President of the Utilities Shareholders of ND representing of shareholders of the investor and utilities, MDU, Otter Tail and Xel. They support this bill.

27:10

Zach Smith: ND Association of Rural Electric Cooperatives. Time for this change. In favor.

Al Christianson: Great River Energy. In support.

28:25

Julie Fedorachek, PSC member. This really reflects how it's being done today. Doesn't make sense to go out once and talk about the corridor, go out again and talk about the route. We would be in support of the policy back as a one section.

Rep. Lefor: Can you explain the 10 year plan.

Julie Fedorachek: 10 year plans are really are something the commission has been asking for, for a number of years. They have good intent, let's ask the companies what their plans are in our state for the next 10 years. Some are more willing, some are not willing to say when they're working on or looking at a project. It's public information, posted on our website and now their competitors can go on the website

32:27

Rep. Heinert: (inaudible, no mic on) Question about policy, how about the short title? Do you utilize that at all.

Julie Fedorachek: That is not something I have used. Our attorney might have different feelings. I think the Statement of Policy is the piece we'd like to retain if possible.

Chairman Porter: Further testimony? Opposition? Seeing none we will close the hearing.

2017 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee
Coteau –A Room, State Capitol

HB 1144
1/13/2017
26881

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Kathleen Davis

Explanation or reason for introduction of bill/resolution:
Relating to **gas and liquid energy** conversion, gas and liquid transmission facility siting and combining application;
relating to **energy** conversion and transmission facility siting;
relating to energy conversion short title, energy conversion statement of policy, and route adjustment before or during construction for gas or liquid transmission line;
to provide a continuing appropriation; and to provide a penalty

Minutes: Proposed Amendment #1

Chairman Porter: Called the committee to order. The amendment fixes two things.
(1) fixes the typo on Page 2 Line 5 instead of being 49-22.1-08 it makes it 49.22.1-12;
(2) it removes 49-22.02 and then it puts very similar into the new section of the new portion. Both the electrical and transmission section have the language and the oil and gas have the language. They are a little different. The PSC wants this language to remain in the law.

Rep. Keiser: Moved adoption of the amendment.

Rep. Ruby: Second.

Chairman Porter: no discussion. Voice vote, all present in favor. Motion carries. We have an amended bill in front of us.

Rep. Keiser: Moved Do Pass as amended on HB 1144.

Rep. Ruby: Second.

Chairman Porter: Any discussion? None.
Roll call vote: 13 yes 0 no 1 absent Motion carries. Rep. Keiser is the carrier.

1/16/17 DH

17.0563.01001
Title.02000

Adopted by the Energy and Natural Resources Committee

January 16, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1144

Page 1, line 1, after "enact" insert "section 49-22-08.2 and"

Page 1, line 1, remove "and section 49-22-08.2"

Page 1, line 3, after "siting" insert a comma

Page 1, line 5, after the third comma insert "and"

Page 1, line 9, remove the comma

Page 1, line 10, remove "49-22-02,"

Page 1, line 11, remove ", energy conversion statement of policy,"

Page 2, line 5, replace "49-22.1-08" with "49-22.1-12"

Page 23, after line 12, insert:

"**49-22.1-01.1. Public service commission duties.**

The public service commission shall:

1. Ensure the location, construction, and operation of energy conversion and transmission facilities will produce minimal adverse effects on the environment and the welfare of the citizens of this state.

2. Provide an energy conversion facility or transmission facility may not be located, constructed, and operated within this state without a certificate of site compatibility or a route permit acquired pursuant to this chapter.

3. Site energy conversion facilities and route transmission facilities in an orderly manner compatible with environmental preservation and the efficient use of resources.

4. Ensure chosen sites and routes will minimize adverse human and environmental impact while maintaining system reliability and integrity.

5. Ensure energy needs are met and fulfilled in an orderly and timely fashion."

Page 39, line 1, remove ", 49-22-02,"

Renumber accordingly

Date: 1-13-17

Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Energy & Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: 17.0563.01001

Recommendation
☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions ☐ Reconsider ☐ _____

Motion Made By Rep Keiser Seconded By Rep. Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter			Rep. Lefor		
Vice Chairman Damschen			Rep. Marschall		
Rep. Anderson			Rep. Roers Jones		
Rep. Bosch			Rep. Ruby		
Rep. Devlin			Rep. Seibel		
Rep. Heinert					
Rep. Keiser			Rep. Mitskog		
			Rep. Mock		

Total (Yes) all Voice No _____

Absent Rep Mock

Floor Assignment _____

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

Date: 1-13-17

Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Energy & Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: 17.0563.01001

Recommendation
☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions ☐ Reconsider ☐ _____

Motion Made By Rep. Keiser Seconded By Rep. Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep. Lefor	✓	
Vice Chairman Damschen	✓		Rep. Marschall	✓	
Rep. Anderson	✓		Rep. Roers Jones	✓	
Rep. Bosch	✓		Rep. Ruby	✓	
Rep. Devlin	✓		Rep. Seibel	✓	
Rep. Heinert	✓				
Rep. Keiser	✓		Rep. Mitskog	✓	
			Rep. Mock	A	

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Keiser

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

REPORT OF STANDING COMMITTEE

HB 1144: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1144 was placed on the Sixth order on the calendar.

Page 1, line 1, after "enact" insert "section 49-22-08.2 and"

Page 1, line 1, remove "and section 49-22-08.2"

Page 1, line 3, after "siting" insert a comma

Page 1, line 5, after the third comma insert "and"

Page 1, line 9, remove the comma

Page 1, line 10, remove "49-22-02,"

Page 1, line 11, remove ", energy conversion statement of policy,"

Page 2, line 5, replace "49-22.1-08" with "49-22.1-12"

Page 23, after line 12, insert:

"**49-22.1-01.1. Public service commission duties.**

The public service commission shall:

1. Ensure the location, construction, and operation of energy conversion and transmission facilities will produce minimal adverse effects on the environment and the welfare of the citizens of this state.

2. Provide an energy conversion facility or transmission facility may not be located, constructed, and operated within this state without a certificate of site compatibility or a route permit acquired pursuant to this chapter.

3. Site energy conversion facilities and route transmission facilities in an orderly manner compatible with environmental preservation and the efficient use of resources.

4. Ensure chosen sites and routes will minimize adverse human and environmental impact while maintaining system reliability and integrity.

5. Ensure energy needs are met and fulfilled in an orderly and timely fashion."

Page 39, line 1, remove ", 49-22-02,"

Renumber accordingly

2017 SENATE ENERGY AND NATURAL RESOURCES

HB 1144

2017 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee
Fort Lincoln Room, State Capitol

HB1144
3/10/2017
Job # 29030

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution: Relating to gas & liquid energy conversion, gas and liquid transmission facility siting, and combining application; relating to energy conversion short title and route adjustment before or during construction for gas or liquid transmission; provide a continuing appropriation; provide a penalty.

Minutes:

Attch#1=Dale Niezwaag; Attch#2=Todd Kranda; Attch#3= Illona Jeffcoat-Sacco; Attch#4=PSC amendment;

Chairwoman Unruh: Let's open HB 1144.

Dale Nieswaag, Basin Electric: Here in support of HB 1144. (see Attch #1) (.15-) It is a straight forward bill. He explained all the sections and changes.

Todd Kranda: I'm here on behalf of ND Petroleum Council. (see Attch #2) We have 500 members. Segregating the siting act for two industries that have been combined and taking away the complications we have had in the past. Some things do not fit both industries. Like to discuss two things. The combined application process and the removal of the 10-year plan for oil and gas facilities. These are new. Generally, the bill does not do anything different for each industry in the siting act with the exception of these two changes. Both electric and oil/gas are included in the combined application. (8.10-9.50) With oil and gas it is a repetitive filing. Electric is different. The PSC can get more information anyway, if needed. Please Do Pass. There are some PSC amendments around. We have no problem with these. (10.49)

Illona Jeffcoat-Sacco, General Counsel for PSC: (see Attch#3) We are in support only with the amendments. (see Attch #4) We like the concept of the bill. We just ask for two small changes.
Sen. Armstrong: I talked with Commissioner Fadorchak about this and she said you use this daily and for sure weekly.
Illona: Yes, Julie Fadorachak uses this a lot in siting, because it is a good description of what a siting is.
Illona: (13.18) continues. We would like to delete that duties language and put the policy statement in instead. We have an amendment attached. (see Attch#4). Any questions?

Carlee McCloud, President of Utilities Shareholders: Here to support and urge a Do Pass.

Chairwoman Unruh: Any more in support? Any opposing? Any agencies?
Hearing is closed.

2017 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee
Fort Lincoln Room, State Capitol

HB 1144
3/16/2017
Job#29344

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Pam Dever

Explanation or reason for introduction of bill/resolution:

Minutes: Committee work

Chairwoman Unruh: Please look at HB 1144. We got amendments from Julie at PSC. This does not have a number but it was drafted by PSC. So we will call it the PSC amendment.

Sen. Armstrong: I move the PSC amendment. **Sen. Oban**: I second.

Chairwoman Unruh: We have a motion for engrossed HB 1144.

Sen. Armstrong: They had issues with LC, but I think this amendment is because they do not like these policy statements at the beginning. They do not like to draft code that way. These use this with the people that call them and ask questions. This is a very effect tool in their regulatory process. I think it is worth it if we have to argue with LC.
Chairwoman Unruh: I agree. I think it is important to sometimes make a statement in policy and intent in Code.

Chairwoman Unruh: All in favor of the PSC amendments, please say yea, all opposed same sign. The amendments passed all yea.
Chairwoman Unruh; We have in front of us HB engrossed HB1144 as amended.

Sen. Armstrong: I move a DO Pass as amended. **Sen. Oban**: I second.

Chairwoman Unruh: Any discussion. Seeing none, call the roll: YES 7 NO 0 -0-ab

HB 1144 as amended Passed. **Sen. Armstrong** will carry the bill.

ET
3-17-17
p. 1 of 1

17.0563.02001
Title.03000

Adopted by the Senate Energy and Natural Resources Committee
March 17, 2017

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1144

Page 1, line 4, remove "49-21.1-01.1,"

Page 4, remove lines 1 through 9

Page 23, line 13, replace "**Public service commission duties**" with "**Statement of policy**"

Page 23, replace lines 14 through 25 with "The legislative assembly finds the construction of energy conversion facilities and transmission facilities affects the environment and the welfare of the citizens of this state. It is necessary to ensure the location, construction, and operation of energy conversion facilities and transmission facilities will produce minimal adverse effects on the environment and the welfare of the citizens of this state by prohibiting energy conversion facilities and transmission facilities from being located, constructed, or operated within this state without a certificate of site compatibility or a route permit acquired under this chapter. The policy of this state is to site energy conversion facilities and to route transmission facilities in an orderly manner compatible with environmental preservation and the efficient use of resources. Sites and routes must be selected to minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and fulfilling energy needs in an orderly and timely fashion."

Renumber accordingly

Date: 3/16/17
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1144

Senate Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: PSC amend.

Recommendation: ☑ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen Armstrong Seconded By Sen Oban

Senators	Yes	No	Senators	Yes	No
Chair Jessica Unruh			Sen. Erin Oban		
Vice Chair Curt Kreun					
Sen. Kelly Armstrong					
Sen. Dwight Cook					
Sen. Jim Roers					
Sen. Don Schaible					

Voice Vote

Total (Yes) all No -0-

Absent -0-

Floor Assignment _____

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

PSC Amendment all yea's

Passed

Date: 3/16/17
Roll Call Vote #: 2

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1144

Senate Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: PSC Amendment

Recommendation: ☐ Adopt Amendment
☑ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☑ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen Armstrong Seconded By Sen Oban

Senators	Yes	No	Senators	Yes	No
Chair Jessica Unruh	✓		Sen. Erin Oban	✓	
Vice Chair Curt Kreun	✓				
Sen. Kelly Armstrong	✓				
Sen. Dwight Cook	✓				
Sen. Jim Roers	✓				
Sen. Don Schaible	✓				

Total (Yes) 7 No 0

Absent -0-

Floor Assignment Sen. Armstrong

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

REPORT OF STANDING COMMITTEE

HB 1144, as engrossed: Energy and Natural Resources Committee (Sen. Unruh, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1144 was placed on the Sixth order on the calendar.

Page 1, line 4, remove "49-21.1-01.1,"

Page 4, remove lines 1 through 9

Page 23, line 13, replace "**Public service commission duties**" with "**Statement of policy**"

Page 23, replace lines 14 through 25 with "The legislative assembly finds the construction of energy conversion facilities and transmission facilities affects the environment and the welfare of the citizens of this state. It is necessary to ensure the location, construction, and operation of energy conversion facilities and transmission facilities will produce minimal adverse effects on the environment and the welfare of the citizens of this state by prohibiting energy conversion facilities and transmission facilities from being located, constructed, or operated within this state without a certificate of site compatibility or a route permit acquired under this chapter. The policy of this state is to site energy conversion facilities and to route transmission facilities in an orderly manner compatible with environmental preservation and the efficient use of resources. Sites and routes must be selected to minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and fulfilling energy needs in an orderly and timely fashion."

Renumber accordingly

2017 TESTIMONY

HB 1144

Dale Niezwaag
1/12/17
#1
10:35 AM
AB 1144

North Dakota House Bill 1144
Dale Niezwaag - Basin Electric Power Cooperative
House Energy and Natural Resources Committee, January 11, 2017

House Bill 1144 is a bill to accomplish three things under the Public Service Commission siting act 49-22. The first and primary purpose of the bill is to separate the siting act into two sections with one section addressing electric facilities and one section addressing oil and gas facilities.

The second purpose of the bill is to eliminate the requirement for both a corridor and a route hearing into an option that allows for a single hearing request on the established route once it is identified.

The third purpose of the bill under the new oil and gas transmission section is to eliminate the 10-year plan requirement in statute and have it addressed under the administrative rules of the PSC as a requirement of the permitting process.

The main reason for the bill is the differing needs of each industry. Most oil and gas facilities have a short time window for construction and after construction are out of sight, so they need flexibility and speed in siting approvals. Most electric utility facilities have a longer window for construction and will be visible for decades, so they want public and agency deliberation, input, and approvals on siting decisions. Lastly separating the industries allows each industry to offer siting changes without unintentionally affecting the other one.

The bill is 39 pages with 28 sections that do the following:
Sections 1 (page 1) through 6 (page 4) adds the new section 49-22.1 into all section where 49-22 appears.

Section 7 (page 4) isolates the electric transmission by either adding "electric" to the definition or removing oil and gas related definitions and facilities.

Section 8 keeps ten-year plans for electric utilities in the code, electric utilities do them all of the time anyway and are okay with the requirement to submit them to the PSC.

Sections 9 (page 10) through 13 (page 12) isolates electric transmission facilities only

Section 14 (page 13) was added so that the utility has the ability to file combined or separate applications for corridor and route hearings

Sections 15 (page 13) through 24 (page 19) isolates electric facilities only

Section 25 (page 19) creates a new section of NDCC in Chapter 49-22.1 which will be dedicated to oil and gas transmission, oil and gas routes and corridors and the ability to request separate or combined applications and all the requirements that were included in the electric transmission language

Section 26 (page 38) adds new chapter 49-22.1 to that subsection

Section 27 (page 38) keeps Southwest Water Authority out of 49-22 and the new subsection

Section 28 (page 39) repeals the sections that are to be replaced with the new language

Dale Niezwag #2
1/12/17
10:30
HB 1144

Sixty-fifth
Legislative Assembly

PROPOSED AMENDMENT TO HB 1144
-Dale Niezwaag – Basin Electric

- Page 2, line 5, after "and" replace 49-22.1-08 with 49-22.1-08.

without the consent of the governing body of the city. The charter may not authorize the enactment of ordinances to diminish the authority of a board of supervisors of a township or to change the structure of township government in any organized civil township, without the consent of the board of supervisors of the township. No ordinance of a home rule county shall supersede ~~section~~sections 49-22-16 and 49- 22.1-12. One copy of the charter as ratified and approved must be filed with the secretary of state; one with the recorder for the county, unless the board of county commissioners designates a different official; and one with the auditor of the county to remain as a part of its permanent records. Courts shall take judicial notice of the charter.

SECTION 2. AMENDMENT. Section 17-05-09 of the North Dakota Century Code is amended and reenacted as follows:

17-05-09. Public service commission jurisdiction and consultation.

1. The authority and the transmission facilities built under this chapter, until sold or disposed of by the authority, are exempt from the provisions of title 49 except for ~~chapter~~chapters 49-22 and 49 -22.1. Upon sale or disposal by the authority, transmission facilities built under this chapter are subject to the provisions of title 49.

2. The authority shall consult with the public service commission with respect to the rates charged by the authority for use of its transmission facilities and such rates must thereafter be considered just and reasonable in proceedings before the public service commission pursuant to section 49-05-06.

3. The authority shall conduct its activities in consultation with transmission providers,

Todd Pranda
atty
#3
HB 1144
1/12/17
10:30

Testimony in Support of
HOUSE BILL NO. 1144
House Energy and Natural Resources Committee
January 12, 2017

Chairman Porter, House Energy and Natural Resources Committee members, for the record my name is Todd D. Kranda. I am an attorney with the Kelsch Kelsch Ruff & Kranda Law Firm in Mandan. I appear before you today as a lobbyist on behalf of the North Dakota Petroleum Council (NDPC) to support HB 1144.

NDPC represents more than 500 companies involved in all aspects of the oil and gas industry, including oil and gas production, refining, pipelines, transportation, mineral leasing, consulting, legal work, and oilfield service activities, and has been representing the industry since 1952.

The previous testimony by the Dale Nieswaag of Basin Electric Power Cooperative provided you with the background, reasons for and a summary of the specific changes for the creation of two separate Siting Acts, oil and gas facilities and electric facilities. The existing Siting Act (Chapter 49-22 NDCC) covers both types of facilities. The difference that exists between the oil and gas facilities and electric facilities is a primary reason to create two separate Siting Acts as proposed within HB 1144.

I will try not to repeat what has already been stated about HB 1144 except to comment on the combined application process and the removal of the ten-year

plan requirement for oil and gas facilities.

The combined application provisions (Section 49-22-08.2 at page 13 lines 23-25 & Section 49-22.1-07 at page 27 lines 13-15) will help streamline the process. It will avoid an applicant from having to get a waiver under Section 49-22-07.1 NDCC. Routinely, such a waiver is sought and obtained in order to file a combined application for a route permit and a corridor certificate. Accordingly, allowing the option to file a separate or combined application for either an oil and gas facility or an electric facility situation should be approved as proposed.

Also, not including the ten-year plan requirement for oil and gas facilities which was previously found in Section 49-22-04 NDCC is reasonable and appropriate. It was determined that with oil and gas transmission facilities the ten year plans are a duplication and unnecessary. The same type of information is typically obtained and provided within the route and corridor application process itself. The information does not change over time for oil and gas facilities in order to require subsequent ten year filings. Accordingly, the ten-year plan requirement for oil and gas transmission facility situations should be eliminated as proposed.

In conclusion, NDPC urges your support of HB 1144 and respectfully requests a favorable **Do Pass** recommendation with the proposed amendment as suggested by Basin. Thank you and I would be happy to try to answer any questions.

#1
HB1144

January 13, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1144

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "section" insert "49-22.1-00.1, and"

Page 1, line 3, after ";" insert "the duties of the public service commission;"

Page 1, line 9, remove ","

Page 1, line 10, remove "49-22-02,"

Page 1, line 11, remove ", energy conversion statement of policy,"

Page 2, line 5, replace "49-22.1-08" with "49-22.1-12"

Page 19, after line 15, insert:

SECTION 25. Section 49-22.1-00.1 of the North Dakota Century Code is created and enacted as follows:

49-22.1-00.1. Public service commission duties.

The public service commission shall:

1. Ensure that the location, construction, and operation of energy conversion and transmission facilities will produce minimal adverse effects on the environment and the welfare of the citizens of this state.
2. Provide that no energy conversion facility or transmission facility may be located, constructed, and operated within this state without a certificate of site compatibility or a route permit acquired pursuant to this chapter.
3. Site energy conversion facilities and route transmission facilities in an orderly manner compatible with environmental preservation and the efficient use of resources.
4. Ensure that chosen sites and routes will minimize adverse human and environmental impact while maintaining system reliability and integrity.

5. Ensure that energy needs are met and fulfilled in an orderly and timely fashion.

Page 39, line 1, remove ", 49-22-02,"

Renumber accordingly

HB1144
3-10-17
AH #1
pg1

North Dakota House Bill 1144
Dale Niezwaag - Basin Electric Power Cooperative
Senate Energy and Natural Resources Committee, March 9, 2017

House Bill 1144 is a bill to accomplish three things under the Public Service Commission siting act 49-22. The first and primary purpose of the bill is to separate the siting act into two sections with one section addressing electric facilities and one section addressing oil and gas facilities.

The second purpose of the bill is to eliminate the requirement for both a corridor and a route hearing into an option that allows for a single hearing request on the established route once it is identified.

The third purpose of the bill under the new oil and gas transmission section is to eliminate the 10-year plan requirement in statute and have it addressed under the administrative rules of the PSC as a requirement of the permitting process.

The main reason for the bill is the differing needs of each industry. Most oil and gas facilities have a short time window for construction and after construction are out of sight, so they need flexibility and speed in siting approvals. Most electric utility facilities have a longer window for construction and will be visible for decades, so they want public and agency deliberation, input, and approvals on siting decisions. Lastly separating the industries allows each industry to offer siting changes without unintentionally affecting the other one.

The bill is 39 pages with 28 sections that do the following:
Sections 1 (page 1) through 6 (page 4) adds the new section 49-22.1 into all section where 49-22 appears.

Section 7 (page 4) isolates the electric transmission by either adding "electric" to the definition or removing oil and gas related definitions and facilities.

Section 8 keeps ten-year plans for electric utilities in the code, electric utilities do them all of the time anyway and are okay with the requirement to submit them to the PSC.

Sections 9 (page 10) through 13 (page 12) isolates electric transmission facilities only

Section 14 (page 13) was added so that the utility has the ability to file combined or separate applications for corridor and route hearings

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Section 25 (page 19) creates a new section of NDCC in Chapter 49-22.1 which will be dedicated to oil and gas transmission, oil and gas routes and corridors and the ability to request separate or combined applications and all the requirements that were included in the electric transmission language

Section 26 (page 38) adds new chapter 49-22.1 to that subsection

Section 27 (page 38) keeps Southwest Water Authority out of 49-22 and the new subsection

Section 28 (page 39) repeals the sections that are to be replaced with the new language

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3-10-17
AH #2
Pg 1

Testimony in Support of

ENGROSSED HOUSE BILL NO. 1144

Senate Energy and Natural Resources Committee

March 10, 2017

Chairman Unruh, Senate Energy and Natural Resources Committee members, for the record my name is Todd D. Kranda. I am an attorney with the Kelsch Kelsch Ruff & Kranda Law Firm in Mandan. I appear before you today as a lobbyist on behalf of the North Dakota Petroleum Council (NDPC) to support Engrossed HB 1144.

NDPC represents more than 500 companies involved in all aspects of the oil and gas industry, including oil and gas production, refining, pipelines, transportation, mineral leasing, consulting, legal work, and oilfield service activities, and has been representing the industry since 1952.

The previous testimony by Dale Nieswaag of Basin Electric Power Cooperative provided you with the background, reasons for and a summary of the specific changes for the creation of two separate Siting Acts, oil and gas facilities and electric facilities. The existing Siting Act (Chapter 49-22 NDCC) covers both types of facilities. The difference that exists between the oil and gas facilities and electric facilities is a primary reason to create two separate Siting Acts as proposed within Engrossed HB 1144.

I will try not to repeat what has already been stated about Engrossed HB 1144 except to comment on the combined application process and the removal of

HB 1144
3-10-17
Att #2
pg 2

the ten-year plan requirement for oil and gas facilities.

The combined application provisions (Section 49-22-08.2 at page 13 lines 23-25 & Section 49-22.1-07 at page 27 lines 22-23) will help streamline the process. It will avoid an applicant from having to get a waiver under Section 49-22-07.1 NDCC. Routinely, such a waiver is sought and obtained in order to file a combined application for a route permit and a corridor certificate. Accordingly, allowing the option to file a separate or combined application for either an oil and gas facility or an electric facility situation should be approved as proposed.

Also, not including the ten-year plan requirement for oil and gas facilities which was previously found in Section 49-22-04 NDCC is reasonable and appropriate. It was determined that with oil and gas transmission facilities the ten year plans are a duplication and unnecessary. The same type of information is typically obtained and provided within the route and corridor application process itself or can be obtained as necessary by the PSC. The information does not change over time for oil and gas facilities in order to require subsequent ten year filings. Accordingly, the ten-year plan requirement for oil and gas transmission facility situations should be eliminated as proposed.

In conclusion, NDPC urges your support of **HB 1144** and respectfully requests a favorable **Do Pass** recommendation. Thank you and I would be happy to try to answer any questions.

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Pg 1

House Bill 1144

Presented by: **Illona Jeffcoat-Sacco**
General Counsel, Public Service Commission

Before: **Senate Energy and Natural Resources Committee**
The Honorable Jessica Unruh, Chairman

Date: **March 10, 2017**

TESTIMONY

Ms. Chairman and committee members, I am Illona Jeffcoat-Sacco, General Counsel with the Public Service Commission. The Commission asked me to appear today to request two small changes to First Engrossed House Bill 1144.

The Commission has no objection to the objective of House Bill 1144, to separate electric generation and transmission siting requirements from those for gas or liquid refining and transmission. Further, the Commission appreciates that the House amended the bill to keep the statement of policy in chapter 49-22. However, the Commission requests that this same statement of policy also be enacted as part of the new chapter for gas and liquid siting. The description of the siting law's standards and objectives in the policy section provides a useful summary of the content and purpose of the siting law.

Engrossed HB 1144 retains this policy statement for siting electric generation and transmission, but not for siting gas or liquid refining and transmission. Instead, the bill creates new section 49-22.1-01.1, which is a specific list of mandatory duties imposed on the Commission. We have several concerns with this approach. First of all, imposing these mandatory duties on the Commission unnecessarily subjects

original

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pg 2

Commission decisions to generalized challenges rather than focusing on specific applicable siting criteria. Secondly, this approach deviates from the original objective of House Bill 1144 to separate the two siting categories without making substantive changes in the siting process or standards for either industry.

It is our understanding that neither this result was intended, and could cause in interpretation problems going forward. Consequently, we request that the new duties language on page 23, lines 13 through 25 (new section 49-22.1-01.1) be replaced with the existing statement of policy found in section 49-22-02. A proposed amendment to this effect is attached.

Finally, the changes to N.D.C.C. section 49-21.1-01.1 are unnecessary, so Section 6 of the engrossed bill is unnecessary. Section 49-21.1-01 does currently reference the siting law, but the reference is only relevant to electric transmission lines. Consequently, the reference in section 49-21.1-01 to chapter 49-22 (which under House bill 1144 will be limited to electric generation and transmission) is sufficient. No further change is necessary to any part of chapter 49-21.1. The attached proposed amendment deletes this unnecessary change.

This concludes my testimony. I will be happy to answer any questions you may have.

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3-10-17
Att #4
Pg 1

PSC Proposed Amendments
10 March 2017

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1144

Page 1, line 4, remove "49-21.1-01.1"

Page 4, remove lines 3 through 9

Page 23, line 13, replace "Public service commission duties" with "Statement of policy"

Page 23, replace lines 14 through 25 with:

The legislative assembly finds that the construction of energy conversion facilities and transmission facilities affects the environment and the welfare of the citizens of this state. Therefore, it is necessary to ensure that the location, construction, and operation of energy conversion facilities and transmission facilities will produce minimal adverse effects on the environment and upon the welfare of the citizens of this state by providing that no energy conversion facility or transmission facility shall be located, constructed, and operated within this state without a certificate of site compatibility or a route permit acquired pursuant to this chapter. The legislative assembly hereby declares it to be the policy of this state to site energy conversion facilities and to route transmission facilities in an orderly manner compatible with environmental preservation and the efficient use of resources. In accordance with this policy, sites and routes shall be chosen which minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion."

Renumber accordingly

original