

2019 SENATE ENERGY AND NATURAL RESOURCES

SB 2100

2019 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2100
1/4/2019
30421

- Subcommittee
 Conference Committee

Committee Clerk: Marne Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to decommissioning of solar energy conversion facilities.

Minutes:

1 attachment

Chair Jessica Unruh opened the public hearing, all committee members were present.

Commissioner Randy Christmann, North Dakota Public Service Commission (0:30-5:50) introduced the bill, please see attachment #1.

Senator Piepkorn: What is the anticipated average life span of solar panels?

Commissioner Christmann: We don't know yet, hasn't been done and the technology is changing, the estimate was 25-30 years, not 100, not 5.

Senator Piepkorn: Is the current operating model to replace panels?

Commissioner Christmann: That was discussed as a possibility, they could be replaced many times, what I look at is eventually everything comes to an end, at some point there will be different technology, ideas or subsidies to do something else; who knows what it will be. We need to make sure there's a reclamation plan in place.

Senator Piepkorn: What might work best to pull pilings out?

Commissioner Christmann: I will defer, in the application we received, the plan is to cut them off and abandon them in place; it will uproot things to pull them out. It wasn't a big deal at the meeting because we don't have rules or laws yet.

Senator Roers: It surprises me that you're talking about such extensive foundations under these things when they have such a low profile. I know you said these are larger than a wind tower base, but these are low level structures.

Commissioner Christmann: I misstated something, the one that we've heard pilings, as opposed to a big concrete base. So they're significantly deeper, one after another in rows, as opposed to one big concrete base.

No opposing or other agency testimony.

Public hearing closed.

2019 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2100
1/24/2019
Job Number 31381

- Subcommittee
 Conference Committee

Committee Clerk: Marne Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to decommissioning of solar energy conversion facilities.

Minutes:

No attachments

Chair Unruh: Opened committee action.

Chair Unruh: This bill came to us by way of the North Dakota Public Service Commission, it allows the Commission to adopt rules governing the decommissioning of commercial solar energy conversion facilities. I had had a question on the title on line 6, where it says decommissioning of energy conversion facilities, striking the word wind, I was concerned with the way it was phrased, it's too inclusive. I chatted with some folks about replacing the word wind with renewable, so its' specific to renewable energy conversion facilities, which is all that it is under here. If you take a look at that section, 49-02-27; it refers throughout the whole section to renewable energy facilities and uses that language over and over again. I don't think it would cause any problems, but I think in this case in order for us to be a little more careful, we should have renewable in there instead of nothing. That change was acceptable by a bunch of folks I talked to. I see we have a Commissioner in the room, if the Commissioner would like to look at it, we have it here. The title was too broad I wanted to make sure that that was specified.

Julie Fedorchek, Commissioner, Public Service Commission: It looks like by making it renewable, it makes it more broad.

Chair Unruh: Wind is proposed to be taken out in the bill draft. If we take out wind, it just leaves energy conversion facilities, the whole section of code is on renewable energy.

Julie Fedorchek: We're fine with this; we just want to make sure you guys give us authority to do the decommissioning rules for solar, we're already doing wind, and who know what other renewable energy sources will come out in the future, so it should be broader than that.

Senator Piepkorn: Does renewable include ethanol plants?

Chair Unruh: What is outlined here is giving the Commission the authority to adopt rules specifically for decommissioning of wind and solar, that's all that's included in the section right now. If they want to add more later, they could.

Senator Cook: I move the amendment.

Vice Chair Kreun: I second.

Motion carries.

Senator Piepkorn: Underneath where the amendment says line 7, does that mean it's a moot point?

Chair Unruh: The title just makes it inclusive to all types and the section beneath that is meant specifically for wind conversion facility.

Senator Cook: I move do pass as amended.

Vice Chair Kreun: I second.

Motion passes 5-0-1.

Senator Cook will carry.

19.8066.01001
Title.02000

Adopted by the Energy and Natural Resources
Committee

January 24, 2019

SAL
100

PROPOSED AMENDMENTS TO SENATE BILL NO. 2100

Page 1, line 6, after "~~wind~~" insert "renewable"

Renumber accordingly

Date: 1/24
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2106

Senate Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: 19.8066.01001

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 Sen. Cook Seconded By Sen. Kreun

Senators	Yes	No	Senators	Yes	No
Chair Jessica Unruh			Senator Merrill Piepkorn		
V. Chair Curt Kreun			Senator Jim Roers		
Senator Dwight Cook					
Senator Donald Schaible					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Voice Vote
motion carries*

REPORT OF STANDING COMMITTEE

SB 2100: Energy and Natural Resources Committee (Sen. Unruh, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2100 was placed
on the Sixth order on the calendar.

Page 1, line 6, after "~~wind~~" insert "renewable"

Renumber accordingly

2019 HOUSE ENERGY AND NATURAL RESOURCES

SB 2100

2019 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau A Room, State Capitol

SB 2100
2/28/2019
32978

- Subcommittee
 Conference Committee

Committee Clerk, Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to decommissioning of solar energy conversion facilities

Minutes:

Attachment 1

Chairman Porter: opened the hearing on SB 2100.

Commissioner Randy Christmann, PSC: presented Attachment 1 in support of SB 2100.

3:45

Rep. Anderson: Is this the first solar site in ND?

Christmann: first commercial solar site

Chairman Porter: In looking at the title of 42.09.27 in the bill, We're changing the title from decommissioning wind to decommissioning of renewable. Would we not be better off going to line 7 and saying the Commission shall adopt rules governing the decommissioning of commercial energy conversion facilities or commercial renewable energy conversion facilities? Then all the rest is your basis for developing that already existing Century Code?

Christmann: In working with legal staff, we found to leave what we have for wind, this seems to be the best way to do that.

Chairman Porter: As technology keeps developing and we're going to keep adding sentences to that. We already got caught once not having the proper decommissioning language under your authority. Should we be proactive and say if you're doing a commercial facility it always has to include the decommission necessary. That way you always have the authority to do it and don't have to worry about saying you don't have that authority.

Christmann: This is on the renewable part. Coal, fossil fuels is all different. I don't think many people saw it coming to ND and probably should have been working on this previously.

House Energy and Natural Resources Committee

SB 2100

2.28.19

Page 2

Chairman Porter: further testimony? Opposition? Closed the hearing.

2019 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau A Room, State Capitol

SB 2100
2/28/2019
32991

- Subcommittee
 Conference Committee

Committee Clerk, Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to decommissioning of solar energy conversion facilities

Minutes:

Chairman Porter: opened the hearing on SB 2100. To me this doesn't fit the way it was presented to us. I would suggest on Line 7, we overstrike the word "wind"; remove Line 22-23 overstrike all of Sub 3 so we make it very clear it's decommissioning of renewable energy conversion facilities, it covers all of them that fall into the renewable package. The other law covers everything in the fossil fuel areas. Then there's never a question that we have to play catch up on the decommissioning of facilities.

Rep. Devlin: I agree but I think we need to do something in Line 2, put decommissioning of commercial renewable instead of solar.

Chairman Porter: The only reason I didn't mess with Sub 2 is because it's specific to wind. They have to dig down 4 feet to take those foundations out.

Rep. Devlin: Line 2 of the bill

Chairman Porter: Line 2 they will fix. We heard about a company that agreed to do something that wasn't in the rules and the law, and from a technology standpoint, we should be covered for it.

Rep. Ruby: Did you replace wind with renewable or just overstrike?

Chairman Porter: good catch. Overstrike wind and insert renewables.

Rep. Ruby: I would move to adopt the amendment for Line 7 overstrike wind and replace with renewable, remove Section 3 on Page 22-23.

Rep. Lefor: second.

House Energy and Natural Resources Committee
SB 2100
2.28.19
Page 2

Chairman Porter: we have a motion for Page 1 line 7 overstrike wind and insert renewable, Page 1 Lines 22-23 remove Subsection 3. Discussion?
Voice vote, motion carried.

Rep. Lefor: I move a Do Pass as Amended.

Rep. Mitskog : second.

Chairman Porter: We have a motion and a second for a Do Pass as Amended on SB 2100. Discussion?
Roll call vote. 13 yes 0 no 1 absent. Motion carried. Rep. Mitskog is carrier.

DA 2/28/19

19.8066.02001
Title.03000

Adopted by the House Energy and Natural
Resources Committee
February 28, 2019

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2100

Page 1, line 2, replace "solar" with "renewable"

Page 1, line 7, overstrike "wind" and insert immediately thereafter "renewable"

Page 1, remove lines 22 and 23

Renumber accordingly

Date: 2-28-19
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2100**

House Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: _____

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 Ruby Seconded By Rep Lefor

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. Zubke		
Rep. Heinert					
Rep. Keiser			Rep. Mitskog		
			Rep. Eidson		

Total (Yes) _____ No _____

Absent _____

Floor Assignment Voice Vote Motion carried.

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

Pg 1 Ln 2 replace "Solar" with "renewable"
 Pg 1 Ln 7 overstrike "wind" + insert "renewable"
 Pg 1 remove lines 22 and 23

Date: 2-28-19
 Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2100**

House Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: _____

- 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 Lefor Seconded By Rep Mitskog

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. Zubke	AB	
Rep. Heinert	✓				
Rep. Keiser	✓		Rep. Mitskog	✓	
			Rep. Eidson	✓	

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep Mitskog

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

REPORT OF STANDING COMMITTEE

SB 2100, as engrossed: 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). Engrossed SB 2100 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "solar" with "renewable"

Page 1, line 7, overstrike "wind" and insert immediately thereafter "renewable"

Page 1, remove lines 22 and 23

Renumber accordingly

2019 CONFERENCE COMMITTEE

SB 2100

2019 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2100
4/11/2019
Job Number 34701

- Subcommittee
 Conference Committee

Committee Clerk: Marne Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to decommissioning of renewable energy conversion facilities.

Minutes:

No attachments

Senator Roers: Opened the conference committee. All conferees were present.

Representative Zubke: We discussed opening it up a little bit, so that we don't have to change it every time, that's why we made the changes that we did, the Public Service Commission seemed to be in favor of that. Subsequently, we found out that the term is now too broad, it could include ethanol plants or hydroelectric facilities; the House is prepared to recede from these amendments.

Randy Christmann, Public Service Commissioner: In the House committee, I was asked about changing this to just renewable, at the time I couldn't think of a big problem, until it was pointed out that ethanol could be included. If this passed as it is, we could have some responsibility for decommissioning ethanol plants. Besides the fact that it's just not in our jurisdiction, when it comes to wind and hopefully future solar, we don't have staff to do that like we do with coal reclamation. With wind, where we have these established rules, we rely on our jurisdiction over those companies, so we have them get a professional engineering company to get us estimates of what decommissioning costs would be. If we were to tell an ethanol plant to do that, they might ignore it, because we don't have jurisdiction over them, nor am I seeking jurisdiction, I think just reverting this back to the original language will get us to what we need to do to make sure that as we now enter into large scale commercial solar farms, that we can put some rules in place for decommissioning at the PSC.

Senator Roers: What you are suggesting is to go back to original language and stay away from the word renewable.

Commissioner Christmann: Correct.

Representative Zubke: I move that the House recede from its amendments.

Representative Mitskog: I second.

Senate Energy and Natural Resources Committee

SB 2100

4/11/19

Page 2

A roll call vote was taken.

Motion passes 6-0-0.

Chairman Roers and Representative Zubke will carry.

Chairman Roers: Closed the conference committee.

Date: 4/11
 Roll Call Vote #: 1

**2019 SENATE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2100 as (re) engrossed

Senate Energy and Natural Resources Committee

- Action Taken**
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows
- Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep. Zubke Seconded by: Rep. Mitskog

Senators				Representatives				
	<u>4/11</u>		Yes	No		<u>4/11</u>	Yes	No
Senator Roers	X		X		Representative Zubke	X	X	
Senator Kreun	X		X		Representative Bosch	X	X	
Senator Piepkorn	X		X		Representative Mitskog	X	X	
Total Senate Vote					Total Rep. Vote			

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Sen. Roers House Carrier Rep. Zubke

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

SB 2100, as engrossed: Your conference committee (Sens. J. Roers, Kreun, Piepkorn and Reps. Zubke, Bosch, Mitskog) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 894-895 and place SB 2100 on the Seventh order.

Engrossed SB 2100 was placed on the Seventh order of business on the calendar.

2019 TESTIMONY

SB 2100

SB 2100
1.4.19
#1
Pg.1

Senate Bill 2100

Presented by: Randy Christmann, Commissioner
Public Service Commission

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

Date: January 4, 2019

TESTIMONY

Madam Chairman and committee members, I am Commissioner Randy Christmann with the Public Service Commission.

This amendment and reenactment of section 49-02-27 of the North Dakota Century Code provides express authority for the Public Service Commission to adopt rules governing the decommissioning of commercial solar energy conversion facilities.

In 2007, the Legislature passed H.B. 1317 permitting the Commission to adopt rules for the decommissioning of wind farms. Shortly after, the Commission promulgated rules requiring wind farm operators to file decommissioning plans after their 10th year of operation. More recently, in 2017, the Commission revisited the rules – strengthening and clarifying decommissioning and restoration requirements for wind farms.

Through a detailed process of public hearing and acceptance of public comments, the Commission worked with private citizens and wind farm operators to develop standards that are tough but reasonable and made some accommodations for the projects with an existing permit.

This has not been an easy process, but we have used the expertise we have developed over 4 decades of supervising coal mine reclamation to come up with what I believe are the best wind farm reclamation rules in the nation. (I should point out that because our reclamation staff is funded mostly by federal dollars specifically for coal mining and reclamation, we are doing this work with existing employees in our utilities division.)

Solar reclamation will not be a carbon copy of wind reclamation. One example of a difference that needs to be worked out has to do with the removal of bases. Our rules allow wind farm operators to leave the concrete turbine bases that are 4' or more below the ground surface. Solar farms use anchors and they may be steel pilings instead of concrete. The Commission will solicit input to determine whether those steel pilings can be cut off at a depth and be abandoned or if they will have to be removed.

On June 29, 2018, the Commission received its first application for a site certificate for a 200-megawatt solar energy project by Harmony Solar ND, LLC. The requested site consists of 1,662 acres of prime farmland in Cass County north of Casselton and Mapleton. In its application for a site certificate, Harmony Solar provided documentation supporting solar facility decommissioning and included decommissioning and restoration actions at the end of the project's useful life. Harmony's decommissioning plan mirrors many of the rules adopted by the Commission for wind decommissioning.

It is important and necessary to ensure solar projects will produce minimal adverse effects on the environment and the welfare of the citizens of North Dakota.

SB2100
1.4.19
#1

This legislation will allow the Commission to develop rules specifically applicable to solar energy generation and protect North Dakota's landscape and productivity in the same way we do with coal and wind generation.

Madam Chairman, this concludes my testimony. I will be happy to answer any questions.

Senate Bill 2100

Presented by: Randy Christmann, Commissioner
Public Service Commission

Before: House Energy and Natural Resources Committee
The Honorable Todd Porter, Chairman

Date: February 28, 2019

TESTIMONY

Mr. Chairman and committee members, I am Commissioner Randy Christmann with the Public Service Commission.

This amendment and reenactment of section 49-02-27 of the North Dakota Century Code provides express authority for the Public Service Commission to adopt rules governing the decommissioning of commercial solar energy conversion facilities.

In 2007, the Legislature passed H.B. 1317 permitting the Commission to adopt rules for the decommissioning of wind farms. Shortly after, the Commission promulgated rules requiring wind farm operators to file decommissioning plans after their 10th year of operation. More recently, in 2017, the Commission revisited the rules – strengthening and clarifying decommissioning and restoration requirements for wind farms.

Through a detailed process of public hearing and acceptance of public comments, the Commission worked with private citizens and wind farm operators to develop standards that are tough but reasonable and made some accommodations for the projects with an existing permit.

This has not been an easy process, but we have used the expertise we have developed over 4 decades of supervising coal mine reclamation to come up with what I believe are the best wind farm reclamation rules in the nation. (I should point out that because our reclamation staff is funded mostly by federal dollars specifically for coal mining and reclamation, we are doing this work with existing employees in our utilities division.)

Solar reclamation will not be a carbon copy of wind reclamation. One example of a difference that needs to be worked out has to do with the removal of bases. Our rules allow wind farm operators to leave the concrete turbine bases that are 4' or more below the ground surface. Solar farms use anchors and they may be steel pilings instead of concrete. The Commission will solicit input to determine whether those steel pilings can be cut off at a depth and be abandoned or if they will have to be removed.

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It is important and necessary to ensure solar projects will produce minimal adverse effects on the environment and the welfare of the citizens of North Dakota.

This legislation will allow the Commission to develop rules specifically applicable to solar energy generation and protect North Dakota's landscape and productivity in the same way we do with coal and wind generation.

Mr. Chairman, this concludes my testimony. I will be happy to answer any questions.