

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2128

2001 SENATE NATURAL RESOURCES

SB 2128

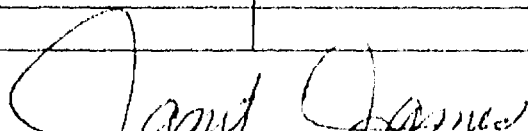
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2128

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 1-11-01

Tape Number	Side A	Side B	Meter #
1	X		18.4 - 37.2
Committee Clerk Signature 			

Minutes:

SENATOR THOMAS FISCHER, Committee Chairman opened the hearing on SB 2128: A BILL RELATING TO THE CONFLICTS OF INTEREST OF MEMBERS OF THE STATE WATER COMMISSION.

DALE FRINK, representing the State Water Commission testified in support of the bill. (See attached testimony).

SENATOR TRAYNOR: questioned if testimony refers to similar bills regarding political subdivisions and school boards, if they have the same two subsections.

DALE FRINK: conferred with Julie Krentz, attorney assigned to the State Water Commission, that basically it is the same intent.

SENATOR TRAYNOR: wanted to clarify that if a contractor wished to submit a bid for a contract he would need to declare a conflict of interest and then submit his bid for the contract.

DALE FRINK: confirmed that would be the situation if it was a contractor or an engineer interested in a project.

SENATOR CHRISTMANN: questioned what happens with anyone at the present time that might have a conflict of interest.

DALE FRINK: confirmed that the interested party could not submit a contract or be included in the discussion of the contract.

SENATOR CHRISTMANN: asked for clarification that the bill would force an interested party in a contract to exchange the right to be active in the discussion and the voting for the right to be a bidder for a contract.

DALE FRINK: confirmed

SENATOR TRAYNOR: directed his question to JULIE KRENTZ if there is not a general conflict of interest law that encompassed all public bodies in the state already in existence.

JULIE KRENTZ: confirmed there is a law in Title 48 that addresses conflict of interest of all state boards and members of the boards and that there is also a law that governs political subdivisions.

SENATOR TRAYNOR: questioned if the draft of Bill 2128 is tailored made for the situation of the State Water Commission.

JULIE KRENTZ: confirmed

SENATOR FISCHER: asked for any other questions or testimony for Bill 2128 and closed the hearing on Bill 2128.

SENATOR TRAYNOR: made a motion for a "DO PASS" of Bill 2128.

SENATOR TOLLEFSON: second the motion.

Discussion was held.

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Senate Natural Resources Committee

Bill/Resolution Number SB2128

Hearing Date 1-11-01

The senators discussed that it might be odd or comfortable among the board members because of influence or friendships of fellow board members who wanted to submit bids for projects. It was questioned if there are guidelines for acceptance of bids. JULIE KRENTZ confirmed there are set guidelines of "Lowest and Best" were applied for acceptance of bids by the Water Commission.

Roll vote was taken indicating 7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING.

SENATOR TOLLEFSON will carry Bill 2128.

Roll Call Vote #: /

Senate      NATURAL RESOURCES      Committee

or

Legislative Council Amendment Number

Motion Made By Senator Traynor Seconded By Senator Tollefson

[illegible]

Absent ~~0~~

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

**REPORT OF STANDING COMMITTEE (410)**  
**January 11, 2001 12:58 p.m.**

**Module No: SR-03-0893**  
**Carrier: Traynor**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2128: Natural Resources Committee (Sen. Fischer, Chairman) recommends DO PASS**  
**(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2128 was placed on the**  
**Eleventh order on the calendar.**

2001 HOUSE NATURAL RESOURCES

SB 2128




2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2128

House Natural Resources Committee

☐ Conference Committee

Hearing Date March 2, 2001

Tape Number	Side A	Side B	Meter #
1	x		2070 to 3260
1	x		4760 to end
1		x	1 to 240
Committee Clerk Signature 			

Minutes:

Chairman Earl Rennerfeldt, Vice Chair Jon O. Nelson, Rep. Brekke, Rep. DeKrey, Rep. Droydal, Rep. Galvin, Rep. Klein, Rep. Porter, Rep. Weiler, Rep. Hanson, Rep. Kelsh, Rep. Solberg, Rep. Winrich.

Chairman Rennerfeldt: I will open the hearing on SB 2128.

Dale Frink - Interim Engineer for the ND State Water Commission: I am here today in support of SB 2128. (See written testimony).

Vice Chair Nelson: Would you still be subject to the bid requirements for these contracts?

Frink: Yes, it would not have any effect on bidding. If someone wanted to bid they would have to disclose that to the commission before we approved the finances.

Vice Chair Nelson: Who are the 7 members of the Water Commission as appointed by the Governor?

Frink: Harley Swenson is with Swenson and Hagen Engineering here in Bismarck. He is certainly one potential although Harley doesn't get that involved in the business at this time. The individual that we were actually concerned about is no longer on the commission. His name was Mike Ames from Williston. He sold irrigation equipment up in that area. The Water Commission has approved funding for a couple of irrigation projects up in that area. He was very very concerned about the conflict and as a result asked not to be re-appointed to the commission. I think people generally thought Mr. Ames provided a real valuable insight from the private sector. The other members, I am not aware of them having a direct conflict at this time. Bjornson from West Fargo is retired. One possible is Jack Olein from Dickinson, he is in the concrete business out there, so there is a potential there. Judy Dewitz from Tappen, I don't know there would be a conflict there.

Vice Chair Nelson: What I am getting at is you do try to round out the Commission with people with expertise in water issues, people from the private sector as well. To bring a well rounded view to the table. Would that be fair?

Frink: The Governor is free to appoint who he would like, typically he would try to provide some distribution throughout the state. For example if we have someone from Grand Forks and the key water areas. And then also it is nice to have some engineering and some professional experience too. That isn't always the case. But he tries to distribute them geographically.

Chairman Rennerfeldt: Is Larry Hanson the replacement for Mike?

Frink: That is correct.

Chairman Rennerfeldt: How long of a term do they serve? When they are appointed?

Frink: They serve a 6 year term.

Rep. Drovda: The conflict of interest we have currently on the books dealing with most government entities requires us to disclose our conflicts, but then it give the rest of the committee or board the ability to say, okay we understand that, but you can continue voting. This goes a step farther and says absolutely not. Can you give a reason why it would be more restrictive on this commission?

Frink: I don't know the rationale. It is just that if someone could potentially benefit it was the advice of our attorneys that it would be best just to have them not vote at all.

Chairman Rennerfeldt: Any other questions of the committee? Anyone else here to testify in favor of this bill? In opposition? I will close the hearing on SB 2128.

Rep. Winrich: I move a Do Pass.

Rep. Solberg: I second.

Chairman Rennerfeldt: Any further discussion?

Rep. Galvin: I should have asked this of Dale, but this legislation wouldn't prevent the members from voluntarily not voting? They could still exercise that option if they felt that there might be a conflict. They wouldn't be compelled to vote?

Frink: No, it would not prevent. It is many times a member will abstain from voting on a particular matter. It is common.

Rep. Weiler: They can't vote, but they can still take part in the discussion? While the discussion is going on in the committee, they can still give their opinion, they can have their say, but they just can't vote? Is that correct?

Frink: It actually says they do not participate. Therefore the way I view that is they would not take part of the discussion either.

Chairman Rennerfeldt: Well, on line 9 "they may not participate"?

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House Natural Resources Committee  
Bill/Resolution Number SB 2128  
Hearing Date March 2, 2001

Frink: I would view that as once it is disclosed that there is a conflict, they would not participate in any discussion.

Chairman Rennerfeldt: But, by "may" they still could?

(Some discussion on the wording)

Frink: Mr. Chairman I would not object to a change.

Vice Chair Nelson: I suggest we hold this for a day, and Dale would you check with Julie and see how she would view that language.

Frink: I will check with someone and get back to you on that.

Rep. Winrich: If the seconder would agree I would withdraw my motion.

Chairman Rennerfeldt: Okay, we will wait until we get word on that. Maggie called the Legislative Council and they said changing it from "may" to "shall" would do nothing.

(some more discussion on wording)

Rep. Winrich: Would you entertain a Do Pass?

(more discussion)

Rep. Solberg: I second.

Chairman Rennerfeldt: Is there any more discussion? The Legislative Council says don't change it, leave it the way it is. Call the roll.

**MOTION FOR A DO PASS**

**YES, 13      NO, 0**

**2 ABSENT AND NOT VOTING**

**CARRIED BY REP. WINRICH**

Date: 3/2/01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2128

House Natural Resources Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO Pass

Motion Made By Rep. Winrich Seconded By Rep. Solberg

Representatives	Yes	No	Representatives	Yes	No
Earl Rennerfeldt - Chairman	✓		Lyle Hanson	✓	
Jon O. Nelson - Vice Chairman	✓		Scot Kelsh	✓	
Curtis E. Brekke	✓		Lonnie B. Winrich	✓	
Duane DeKrey			Dorvan Solberg	✓	
David Drovdal	✓				
Pat Galvin	✓				
George Keiser					
Frank Klein	✓				
Darrell D. Nottestad	✓				
Todd Porter	✓				
Dave Weiler	✓				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep. Winrich

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

**REPORT OF STANDING COMMITTEE (410)**  
**March 2, 2001 10:58 a.m.**

**Module No: HR-36-4680**  
**Carrier: Winrich**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2128: Natural Resources Committee (Rep. Rennerfeldt, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2128 was placed on the Fourteenth order on the calendar.**

2001 TESTIMONY

SB 21 9

## **TESTIMONY ON SENATE BILL 2128**

### **Senate Natural Resources Committee**

**Dale Frink, Assistant State Engineer  
State Water Commission**

**January 11, 2001**

Mr. Chairman and Members of the Senate Natural Resources Committee. I am Dale Frink, Assistant State Engineer for the State Water Commission and I appear today in support of Senate Bill 2128.

Senate Bill 2128 relates to potential conflicts of interest of members of the State Water Commission. The Commission is made up of nine members consisting of the Governor, the Commissioner of Agriculture, and seven other members appointed by the Governor. Often, Commission members who have expertise in areas of water management, water supply, or engineering are appointed. Those members provide valuable insights and assistance to the Commission as a whole, but because of their occupations they may suffer from not being able to participate in certain projects that the Commission has agreed to provide financial assistance. The Commission provides financial assistance to water resource districts across the state and to other political subdivisions on various water projects. The Commission also often contract with local contractors and provide the service necessary to construct the projects. Under current law, a Commission member with, for example, an engineering or surveying business would appear to violate the law if he or she were awarded the local contract.

Senate Bill 2128 provides that members of the Commission who have an interest in a matter before the Commission will not violate state law provided they disclose the interest to the Commission and do not participate or vote on the particular matter. Current laws make it a class A misdemeanor for public servants to take official action that is likely to benefit them or to become interested in contracts they have the authority to approve. N.D.C.C. §§ 12.1-13-02 and 12.1-13-03. In addition, N.D.C.C. § 48-02-12 prohibits members of a governing body from becoming interested in public contracts entered into by that body.

Senate Bill 2128 is not unique legislation regarding conflicts of interest. The bill is similar to N.D.C.C. § 44-04-22 relating to conflicts of political subdivisions members and N.D.C.C. § 12.1-13-03 relating to conflicts of school board members.

On December 8, 2000, the State Water Commission approved support of this bill and I request your favorable consideration.

Thank you.