

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1274

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1274

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1274

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 1/27/05

Tape Number	Side A	Side B	Meter #
1	x		34.3-54.9

Committee Clerk Signature



Minutes: HB 1274 Southwest pipeline water delivery rates and charges for large industrial users; and to declare an emergency.

14 members present, 0 absent.

Chairman Haas-Representative of District 36-For- If we go back in the century code and look at 61-24.3-01 and I have copies 61-24.3-20 this is all legislation that was in session law in 1983, so what we are looking at in this bill 61-24.307 is a portion of the enabling legislation that was passed in 1983 to authorize the construction of the southwest pipeline. At that time there was concern about the possibility of large industrial users and maybe coming onto that line afterwards and demanding more water then we had the capacity to deliver, so at that time the phrase that you see lined out on your bill, is the language that would have required those large industrial users to pay a portion of the initial construction costs. It really does not pertain to this day and age and how the southwest pipeline is administered and how the water is used and who the users are.

What we have is a situation where Red Trail Energy with the prospective ethanol plant south of

Richardton is wanting to utilize water from the southwest pipeline for that plant. In order for them to be immune from somebody at some point coming back, you have to pay a portion of the construction costs that we laid out 23 years ago, we want to delete this language. It just isn't practical, it wasn't meant to apply to users after the construction of the pipeline and it is rather obsolete language at this time and therefore we are asking for a favorable action on this bill and that we delete that language.

Dale L. Frink-State Engineer-State Water Commission-For-Testimony Attached

Rep. Conrad: Do you have the capacity to do this now.

Dale: The southwest pipeline does have extra capacity in it, we don't have to add any facilities to it right now. The company would have to go to our facility to incur the cost, the pipeline at Richarton is adequate.

Rep. Klemin: There is another large industrial user comes along in the near future, would you be required to include them or is it just optional for you to do that.

Dale: We are not required to serve this company or any others. It would depend on the capacity that is available.

Rep. Klemin: You could have an agreement with them, provided they pay for the cost of increasing the capacity?

Dale: I suppose we could, it probably would be more costly to that.

Rep. Klemin: You could probably do the same thing that this language requires, even if this language wasn't in here.

Dale: Probably.

Rep. Potter: Are there users now, that had to pay in to begin with, if there are users that paid in before are they going to be upset that the next big users are not going to have to pay in just like they did.

Dale: The only user that had to pay was South Dakota, Perkins County and they used federal money.

Rep. Boehning: Is that peak capacity or is that over all capacity.

Dale: We could through storage and get more capacity.

Rep. Amerman: What happens to it if it doesn't pass.

Dale: Basically they have two choices, they would have to cut there water needs or they would have to pay that two million dollars up front.

Rep. Amerman: Would it hinder the plant from going forward?

Dale: I believe it would.

Senator Herbert Urlacher-District 36-For-I grew up with the southwest pipeline, I have been on the local board for 30 years. In relationship to capacity, back when we started the southwest pipeline, of course there was a projection of usage up to the year 2030 and if that usage was met, that was the level of efficiency, through storage and pumping endeavors, we could increase that volume by approximately 25%. If we get up to that level and there is high usage request, that it could come into play that we could probably surpass the efficiency on the volume that we have, so the goal is to get to the highest point of efficiency and to provide the services to as many users as we can. When we reach that point and that volume, then we can afford to sacrifice a small line of efficiency to move in the direction of development or usage. I think we have to move with the times and think the time has come.

Rep. Kasper: With the increase usage coming was that authorized in the original funding of the southwest pipeline, by utilizing additional water resources for Red Trail is that going to jeopardize in any way the ability to use the water in the future, to maybe go to the eastern part of the state or is this already preauthorized in this past legislation?

Senator Urlacher: I don't see this connection with the eastern part of the state, other than attempting that we all work together, if all possible, accommodate the eastern part of the state whenever it is possible to do it. We want to look at the needs in the state and accomplish what we can.

Chairman Haas: Thank you very much Senator Urlacher. Any more questions?

Rep. Froseth: I move a **DO PASS ON HB 1274.**

Rep. Conrad: I second.

VOTE: YES 14 NO 0 ABSENT 0 DO PASS

REP. SITTE WILL CARRY THE BILL.

Date: 1/21/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1274

House House Government and Veterans Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

DO PASS

Motion Made By

Rep. Froseth

Seconded By

Rep. Cunean

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas	✓		Rep. Bill Amerman	✓	
Bette B. Grande - Vice Chairman	✓		Rep. Kari Conrad	✓	
Rep. Randy Boehning	✓		Rep. Louise Potter	✓	
Rep. Glen Froseth	✓		Rep. Sally M. Sandvig	✓	
Rep. Pat Galvin	✓				
Rep. Stacey Horter	✓				
Rep. Jim Kasper	✓				
Rep. Lawrence R. Klemin	✓				
Rep. Lisa Meier	✓				
Rep. Margaret Sitte	✓				

Total (Yes)

14

No

0

Absent

0

Floor Assignment

Rep. Sitte

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

REPORT OF STANDING COMMITTEE (410)
January 27, 2005 4:57 p.m.

Module No: HR-18-1242
Carrier: Sitte
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1274: Government and Veterans Affairs Committee (Rep. Haas, Chairman)
recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1274 was placed on the Eleventh order on the calendar.

2005 SENATE POLITICAL SUBDIVISIONS

HB 1274

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1274

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date: March 11, 2005

Tape Number	Side A	Side B	Meter #
1	X		4940 - end
1		X	0 - 766

Committee Clerk Signature



Minutes:

Chairman Cook opened the hearing on HB 1274 relating to southwest pipeline water delivery rates and charges for large industrial users. All members (6) present.

Representative C.B. Haas, District 36, Co- Sponsor of HB 1274 introduced the bill (See attachment # 1)

James Lennington, Southwest Pipeline Project Manager, for the State Water Commission testified in support to HB 1274. (See attachment 2)

Chairman Cook: Does Southwest Pipeline have the capacity today without upgrading pumps?

James Lennington: Yes we do. There would have to be a pipeline constructed by Red Trail Energy from Southwest Pipeline to their facility and I am not sure what the plans are for that.

Chairman Cook: Are the rates and charges published right now based on the usage or is that a negotiable rate that you can negotiate with Red Trail Energy.

James Lennington: To this day we have not negotiated with anyone. We would be very reluctant to do that because we would not be treating everyone equally. What we have on the Southwest Pipeline is a postage stamp rate concept, where if you are located in Hettinger or Dickinson you would be paying the same amount for the water. If you were on a farm you would still pay the same amount.

Chairman Cook: That is what I hoped that I would hear. But I see as the bill is written, "to determine rates and charges" it indicated that you have some flexibility but you are saying that rate that they would pay is a posted and predetermined rate.

James Lennington: That is correct. We have contracts with other users and we would expect to treat them the same although the language that is in the century code would allow us if we thought it was appropriate to charge them up front.

Senator Dever: I understand the possibility exists of a power plant locating down in southwest South Dakota. Would that capacity be already existing?

James Lennington: That would depend on the type of power plant. If you are referring to the Dakota West Moorland one that was to be an air cooled plant and they were looking for some domestic water. We do have some water down in the part of the state. If we are talking about a water cooled plant it is highly unlikely that we would have enough capacity anywhere on the system for that kind of usage.

Ray Christenson, Manager and CEO for Southwest Water Authority, answered questions on HB 1274.

Chairman Cook: Southwest Water Authority is supported with property mill levy tax across your area. Is that correct?

Ray Christenson: The administrative portion of our budget is supported by the mill levy.

which is one mill throughout the twelve county area.

Chairman Cook: Does that mill levy have a sunset on it and there is a point in the future where it is suppose to sunset because the Southwest Water Authority can then fund the administrative portion of your work.

Ray Christenson: That is correct. I believe that is 2011.

Chairman Cook: Any idea how much money this mill levy is going to raise by 2011.

Ray Christenson: That amount is some where in the \$160,000 annually. We have six years left.

No further testimony for or against HB 1274.

Chairman Cook closed the hearing on HB 1274.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1274

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date: March 24, 2005

Tape Number
1

Side A
X

Side B

Meter #
1047 - 1190

Committee Clerk Signature



Minutes:

Chairman Cook called the committee to order for discussion and action on HB 1274. All members (6) were present.

Chairman Cook: This bill deals with the southwest pipeline water authority. If you recall it removes language from the existing and enabling legislation for the southwest water authority regarding large industrial users.

Senator Triplett moved a Do Pass.

Senator Gary Lee seconded that motion.

Discussion: None

Roll call vote: Yes 6 No 0 Absent 0

Carrier: **Senator Gary Lee**

Date: 3-24-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1274

Senate Political Subdivisions

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Senator Triplett Seconded By Senator Gary Lee

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield	X				
Senator Constance Triplett	X				

Total Yes 6 No 0

Absent 0

Floor Assignment Sen. Gary Lee

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

Lept. Done 3-24-05

REPORT OF STANDING COMMITTEE (410)
March 24, 2005 12:42 p.m.

Module No: SR-54-6022
Carrier: G. Lee
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1274: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1274 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1274

TESTIMONY ON HOUSE BILL 1274
House Committee on Government and Veterans Affairs

Dale L. Frink, State Engineer
State Water Commission
January 27, 2005

Mr. Chairman and Members of the House Committee on Government and Veterans Affairs, I am Dale Frink, State Engineer and also Secretary and Chief Engineer to the State Water Commission. I am appearing in support of House Bill 1274.

House Bill 1274 amends N.D.C.C. § 61-24.3-07 to remove a requirement that industrial users have to pay at least their proportionate costs of the Southwest Pipeline Project. Large industrial users are defined in the same section as those industrial users which consume 724 acre feet of water for industrial purposes.

This section of the North Dakota Century Code was introduced in Senate Bill 2251 during the 1983 legislative session. At the time construction had not yet begun on the Southwest Pipeline Project. Energy development was very active in the state at the time and representatives of the Nokota Project and Tenneco Corporation had expressed some interest in possibly getting water from the Southwest Pipeline Project. Testimony on Senate Bill 2251 in the 1983 session included some concern over the requirement in § 61-24.3-08 that South Dakota pay, up-front, the additional capital costs of including capacity for them in the project while the same was not required in § 61-24.3-07 of industrial users. We can speculate that there was also concern that the state would incur increased costs to include additional capacity for a large industrial user, which may not materialize. The state would have been stuck with the capacity and no one to pay for it. Because of this concern, the language requiring up-front payment was added to the bill by amendment.

Mr. Chairman, time has passed since 1983 and much of the construction of the Southwest Pipeline has been completed. The language of § 61-24.3-07 has served the state well during the planning and initial construction of the Southwest Pipeline Project. If capacity for a large industrial user had been included in the facilities already constructed the requirement in § 61-24.3-07 would have been employed. Today we have a situation where some additional capacity exists for a user that falls under the definition of a large industrial user contained in § 61-24.3-07. This extra capacity exists because some extra capacity was included in the design of the facilities, not because of any particular large industrial user.

The Commission supports House Bill 1274 because, in this instance, it removes the requirement for an up-front payment from a user and allows an industrial user to be treated the same as other users. Section 61-24.3-07 also provides that the Commission has the authority to determine rates and charges for a large industrial user which gives us the flexibility to require an up-front payment if we believe it to be appropriate. This language is not changed by House Bill 1274, retaining that flexibility.

I request your favorable consideration of House Bill 1274.

**House Bill 1274
Representative C.B. Haas, Co-Sponsor**

11 March 2005

Good Morning, Chairman Cook and members of the Senate Political Subdivisions Committee. Representative Wald is unable to be here this morning and he asked me to present HB 1274 to you.

I'm sure all of you are aware of the announcement made yesterday here in the Capitol concerning the Red Trail Energy Ethanol Plant equity drive. The \$25,000,000. equity drive is complete and construction on this plant at Richardton will begin in April, 2005. There is a ten to fourteen month construction time frame on this project. HB 1274 is critical to the success of this ethanol plant at Richardton.

House Bill 1274 allows Red Trail Energy to use raw water from the Southwest Pipeline in a manner similar to other contract users. The portion of the century code that would be deleted by this bill was a part of the enabling legislation passed in 1983. The conditions that existed in 1983 with regard to potential users no longer exists today. The construction of the pipeline is completed and current contract users, and all users for that matter, pay a 'capital repayment' amount on all water used. I am a contract user with my business at the Taylor Nursery, Inc. I pay \$.91 per thousand gallons for capital repayment. I use a little over a million gallons per year so I pay approximately \$910.00 per year for this category. The full rate for contract users is \$2.45 per thousand gallons. This breaks down as follows:

Operation and Maintenance	\$1.05
Replacement and Extraordinary Maintenance	.35
Capital Repayment	.91
Reserve	.14

Based on the estimated usage by Red Trail, they would pay approximately \$215,000.00 per year towards capital repayment. This assumes they would pay the same rate as other contract users.

This bill is extremely important for the development of the ethanol plant at Richardton. I ask for your support of HB 1274.

Thank you, Mr. Chairman. I will answer any questions.

TESTIMONY ON HOUSE BILL 1274
Senate Political Subdivisions Committee

James Lennington
Southwest Pipeline Project Manager
State Water Commission
March 11, 2005

Mr. Chairman and Members of the Senate Political Subdivisions Committee, I am Jim Lennington, Southwest Pipeline Project Manager for the State Water Commission. I am appearing in support of House Bill 1274.

House Bill 1274 amends N.D.C.C. § 61-24.3-07 to remove a requirement that industrial users have to pay at least their proportionate costs of the Southwest Pipeline Project. Large industrial users are defined in the same section as those industrial users which consume 724 acre feet of water for industrial purposes.

This section of the North Dakota Century Code was introduced in Senate Bill 2251 during the 1983 legislative session. At the time construction had not yet begun on the Southwest Pipeline Project. Energy development was very active in the state at the time and representatives of the Nokota Project and Tenneco Corporation had expressed some interest in possibly getting water from the Southwest Pipeline Project. Testimony on Senate Bill 2251 in the 1983 session included some concern over the requirement in § 61-24.3-08 that South Dakota pay, up-front, the additional capital costs of including capacity for them in the project while the same was not required in § 61-24.3-07 of industrial users. We can speculate that there may have also been concern that the state would incur increased costs to include additional capacity for a large industrial user, which may or may not materialize. The state could have included the extra capacity with no one to pay for it. Because of these concerns, the language requiring up-front payment was added to the bill by amendment.

Mr. Chairman, time has passed since 1983 and much of the construction of the Southwest Pipeline has been completed. The language of § 61-24.3-07 has served the state well during the planning and initial construction of the Southwest Pipeline Project. If capacity for a large industrial user had been included in the facilities already constructed the requirement in § 61-24.3-07 would have been employed. Today we have a situation where some additional capacity exists for a user that falls under the definition of a large industrial user contained in § 61-24.3-07. This extra capacity exists because some extra capacity was included in the design of the facilities.

The Commission supports House Bill 1274 because, in this instance, it removes the requirement for an up-front payment from a user and allows an industrial user to be treated the same as other users. Section 61-24.3-07 also provides that the Commission has the authority to determine rates and charges for a large industrial user which gives us the flexibility to require an up-front payment if we believe it to be appropriate. This language is not changed by House Bill 1274, retaining that flexibility.

I request your favorable consideration of House Bill 1274.

James. Pennington HB 1274

Water Rates for 2005

CPI@ 2.65%

\$0.55 treatment
\$1.05 Transmission O&M
\$0.12 Trans. Reserve
\$0.35 Transmission replacement
\$1.28 Distribution O&M
\$0.10 Distribution Replacement
\$0.15 Dist. Reserve
\$3.60 Total

Minimum Payment

\$5.46 2000 gallons
\$27.79 cap repayment
\$0.00 Dist. reserve
\$0.00 Trans. reserve
\$5.00 meter fee
\$0.00 absorbing capital repayment
\$38.25 Total
\$38.25 last year
\$0.00 increase

first 2000 gal- if not used

Contract Rate

\$0.55 treatment
\$1.05 transmission O&M
\$0.35 transmission REM
\$0.91 capital repayment
\$0.12 transmission reserve
\$2.98 total

K Cities
Dickinson, etc.

Raw Water Rate

\$1.05 transmission O&M
\$0.35 transmission REM
\$0.91 capital repayment
\$0.14 transmission reserve
\$2.45 total

← Red. Trail

Demand Contract

\$0.55 treatment
\$1.05 transmission O&M
\$0.35 transmission REM
\$0.91 capital repayment
\$0.91 demand charge
\$0.06 transmission reserve
\$3.83 total

Water Charges:

Meter Fee	\$38.25	Minimum
Cap Repay	\$5.00	
O&M Admin	\$27.79	
Dist. reserve	\$5.46	
Trans. reserve	\$0.00	
Total	\$0.00	
	\$38.25	

1 extra unit

Meter Fee	\$44.76	Minimum
Cap Repay	\$5.00	
O&M Admin	\$34.74	
Dist Reserve	\$5.02	
Trans Reserve	\$0.00	
Total	\$0.00	
	\$44.76	

-\$0.00

Pasture taps:

\$229.50

Minimum

2 extra units

Meter Fee	\$51.27	Minimum
Cap Repay	\$5.00	
O&M Admin	\$41.89	
Dist. reserve	\$4.58	
Trans. reserve	\$0.00	
Total	\$0.00	
	\$51.27	

-\$0.01

3 extra units

Meter Fee	\$57.77	Minimum
Cap Repay	\$5.00	
O&M Admin	\$48.83	
Dist. reserve	\$4.14	
Trans. reserve	\$0.00	
Total	\$0.00	
	\$57.77	

\$0.00

\$2.60 rate

CPI@ 2.65%
\$0.55 treatment
\$0.72 Transmission O&M
\$0.08 Trans. Reserve
\$0.35 Transmission replacement
\$0.90 Distribution O&M
\$0.00 Distribution Replacement
\$0.00 Dist. Reserve
\$2.60 Total

first 2000 gal- if used

\$1.10 treatment .55*2
\$1.74 transmission O&M 1.05*2-.36
\$0.70 transmission replacement .35*2
\$1.72 distribution O&M 1.22*2-.36-.36
\$0.20 distribution replacement .10*2
\$0.00 distribution reserve
\$0.00 transmission reserve
\$5.46 total
\$0.00
\$0.00



SOUTHWEST WATER AUTHORITY

SOUTHWEST PIPELINE PROJECT BUILDING

West Industrial Park

4665 2nd Street SW

Dickinson, ND 58601-7231


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Web Site: www.swa.swc.state.nd.us

M E M O R A N D U M

To: Contract Water Customers
From:  Sandra Burwick, Accountant/Asst Office Administrator, SWA
Subject: Rates for Water Service, 2005 - Raw Water Customers
Date: January 28, 2005

The contract for water service that was transferred from the State Water Commission to the Southwest Water Authority (SWA) January 1, 1996 states that an adjustment is to be made at the end of each year for the actual costs of operations, maintenance, and replacement. The contracts also allow an adjustment to the water rate for capital costs based on the Consumer Price Index. The 2005 water rates will remain the same as the 2004 rates.

Our review of operating income and expenses for 2004 is nearly complete. The rates approved per thousand gallons for 2004 were:

Operation and Maintenance	\$1.05
Replacement and Ext. Maint.	\$0.35
Capital Repayment	\$0.89
Reserve	<u>\$0.16</u>
Total	\$2.45

A water rate study was conducted in 1998. It was determined that instead of changing the rate structure, a reserve fund to cover operating expenses during months of low water sales be established to off-set the cyclical nature of income. Therefore an operating reserve fund has been established. The projected operating cost for 2005, based on delivery of 1,194,000,000 gallons, is \$2.45 per thousand gallons, comprising the following:

Operation and Maintenance	\$1.05
Replacement and Ext. Maint.	\$0.35
Capital Repayment	\$0.91
Reserve	<u>\$0.14</u>
Total	\$2.45

On November 1, 2004, the Board of Directors of the SWA approved the rate for 2005. The State Water Commission has until February 15 to notify SWA of any disagreement with the SWA budget. If there are any changes, you will be notified.



Management, Operation, and Maintenance of the Southwest Pipeline Project