

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2133

2005 SENATE APPROPRIATIONS

SB 2133

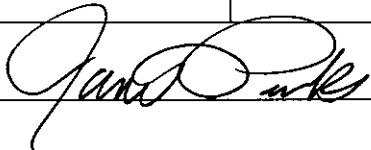
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2133

Senate Appropriations Committee

☐ Conference Committee

Hearing Date January 24, 2005

Tape Number	Side A	Side B	Meter #
2		b	
Committee Clerk Signature 			

Minutes:

Chairman Holmberg called the hearing on SB 2133 to order.

Tony Clark, President, State Public Service Commission (PSC), presented written testimony in **support of SB 2133** on behalf of all PSC members. SB 2133 was introduced at the request of the PSC. He discussed the current situation and law, its drawbacks, and what the PSC proposes to do to remedy the situation. Currently law requires any generation facility or transmission line of a certain size is decided by the PSC and a statutory fee be assessed. The bill attempts to remedy the current situation with the fees. He indicated the heart of the bill is on page 2, line 1, the cap for the initial fee required on all applicants is decreased from \$150,000 to \$100,000. Subsection 3 creates a special fund for collection of fees. He indicated that the changes to the bill have an impact in North Dakota because the changes result in income to ND not budgeted in the fiscal process. In addition, he supplied a written proposed amendment to the SB 2133.

The hearing on SB 2133 closed.

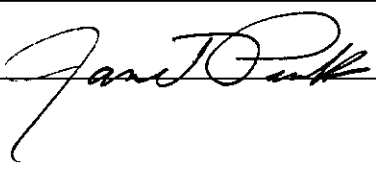
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2133

Senate Appropriations Committee

☐ Conference Committee

Hearing Date January 27, 2005

Tape Number	Side A	Side B	Meter #
1	a		
Committee Clerk Signature 			

Minutes:

Chairman Holmberg opened a brief hearing on SB 2133 to present requested testimony.

Dale Niezwaag, Basin Electric Power Cooperative, provided written testimony concerning SB 2133. He indicated Basin Electric Cooperative supports SB 2133 with the inclusion of an amendment as attached in written testimony. The amendment changes the wording "cases arising" with "fees paid" on page 2, line 25.

Chairman Holmberg closed the hearing.

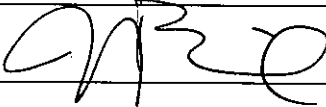
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2133

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 02/11/05

Tape Number	Side A	Side B	Meter #
2		x	5,092
Committee Clerk Signature 			

Minutes: **Chairman Holmberg** opened discussion of SB 2133.

Sen Krauter, moved amendment #.0202, seconded by **Sen. Robinson**. **Sen. Andrist** moved the BSC amendment, **Sen. Fischer**. A voice vote was taken amendments carried. A **Do PASS as AMENDED** motion was made by Sen. Grindberg, seconded by Sen. Andrist. Vote was taken 14 to 0, will 1 absent and not voting. Sen Krauter will be the bill's carrier.

Chairman Holmberg closed discussion of SB 2133.

FISCAL NOTE

Requested by Legislative Council
03/10/2005

Amendment to: Engrossed
 SB 2133

1A. 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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	(\$260,000)	\$210,000	(\$100,000)	\$100,000	(\$100,000)	\$100,000
Expenditures	\$60,000	\$210,000	\$0	\$100,000	\$0	\$100,000
Appropriations	\$60,000	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The fiscal effect of this bill is threefold. First of all, the bill lowers the maximum siting fee, from \$150,000 to \$100,000. Secondly, the bill provides that siting fees would be deposited into a special fund, with a continuing appropriation, for the use of the PSC in administering the case, rather than into the general fund. Section 3 of the bill provides that all monies deposited into the special fund are appropriated on a continuing basis to the PSC to pay siting case expenses. Thirdly, the bill provides for the refund to the applicant of any excess fees not used by the Commission to process the case.

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.*

The general fund revenue figure is negative because monies received under the bill will be deposited into a special fund, rather than into the general fund as under current law. We anticipate at least three applications in the 2003-2005 biennium that would have produced funds for the general fund under current law. They are one coal generating plant that would have accrued a fee of the current law maximum of \$150,000, and two wind plants that we estimate would have accrued fees of \$75,000 (for a 150MW plant) and \$35,000 (for a 70MW plant). This totals \$260,000 lost revenue for the general fund. We estimate \$210,000 revenue to a special fund in the 03-05 biennium. The special fund revenue is lower than the lost revenue to the general fund because the cap is lower by \$50,000 and we estimate one of the applications to reach the cap. For the 2005-07 biennium, and the 2007-09 biennium, the figure used for revenue to the special fund and lost revenue to the general fund is \$100,000, which is the amount estimated in our budget and our corresponding appropriation bill.

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.*

The expenditure of \$210,000 in special fund monies is the amount expected to be paid in (see note above), because the fee money received will either be spent by the PSC on the case, or returned to the applicant. Either way, the whole amount received will be spent. The same holds true for the estimated revenues and expenditures for the 2005-07 biennium and the 2007-09 biennium--the whole amount received will either go toward the expenses of

processing the case or be returned to the applicants. However, an expenditure of \$60,000 in the 2003-2005 biennium would be necessary to refund a fee already paid (after 1 August 2004) in a pending water pipeline application. A corresponding appropriation to refund this \$60,000 fee would also be necessary.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The bill contains a continuing appropriation to the PSC of any and all monies deposited into the fund. The Commission is to use the money from each fee for siting case expenses in that case and return any leftover monies from each fee to the applicant. Since it is a continuing appropriation that depends on receipt of a fee I did not put any amounts under the appropriation sections except as follows. An expenditure of \$60,000 in the 2003-2005 biennium would be necessary to refund a fee already paid (after 1 August 2004) in a pending water pipeline application. A corresponding appropriation to refund this \$60,000 fee would also be necessary.

Name:	Illona A. Jeffcoat-Sacco	Agency:	Public Service Commission
Phone Number:	328-2407	Date Prepared:	03/11/2005

FISCAL NOTE

Requested by Legislative Council
02/22/2005

Amendment to: SB 2133

1A. 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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	(\$260,000)	\$210,000	(\$100,000)	\$100,000	(\$100,000)	\$100,000
Expenditures	\$60,000	\$210,000	\$0	\$100,000	\$0	\$100,000
Appropriations	\$60,000	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The fiscal effect of this bill is threefold. First of all, the bill lowers the maximum siting fee, from \$150,000 to \$100,000. Secondly, the bill provides that siting fees would be deposited into a special fund, with a continuing appropriation, for the use of the PSC in administering the case, rather than into the general fund. Section 3 of the bill provides that all monies deposited into the special fund are appropriated on a continuing basis to the PSC to pay siting case expenses. Thirdly, the bill provides for the refund to the applicant of any excess fees not used by the Commission to process the case.

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.*

The general fund revenue figure is negative because monies received under the bill will be deposited into a special fund, rather than into the general fund as under current law. We anticipate at least three applications in the 2003-2005 biennium that would have produced funds for the general fund under current law. They are one coal generating plant that would have accrued a fee of the current law maximum of \$150,000, and two wind plants that we estimate would have accrued fees of \$75,000 (for a 150MW plant) and \$35,000 (for a 70MW plant). This totals \$260,000 lost revenue for the general fund. We estimate \$210,000 revenue to a special fund in the 03-05 biennium. The special fund revenue is lower than the lost revenue to the general fund because the cap is lower by \$50,000 and we estimate one of the applications to reach the cap. For the 2005-07 biennium, and the 2007-09 biennium, the figure used for revenue to the special fund and lost revenue to the general fund is \$100,000, which is the amount estimated in our budget and our corresponding appropriation bill.

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.*

The expenditure of \$210,000 in special fund monies is the amount expected to be paid in (see note above), because the fee money received will either be spent by the PSC on the case, or returned to the applicant. Either way, the whole amount received will be spent. The same holds true for the estimated revenues and expenditures for the 2005-07 biennium and the 2007-09 biennium--the whole amount received will either go toward the expenses of processing the case or be returned to the applicants. However, an expenditure of \$60,000 in the 2003-2005 biennium

would be necessary to refund a fee already paid (after 1 August 2004) in a pending water pipeline application. A corresponding appropriation to refund this \$60,000 fee would also be necessary.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The bill contains a continuing appropriation to the PSC of any and all monies deposited into the fund. The Commission is to use the money from each fee for siting case expenses in that case and return any leftover monies from each fee to the applicant. Since it is a continuing appropriation that depends on receipt of a fee I did not put any amounts under the appropriation sections except as follows. An expenditure of \$60,000 in the 2003-2005 biennium would be necessary to refund a fee already paid (after 1 August 2004) in a pending water pipeline application. A corresponding appropriation to refund this \$60,000 fee would also be necessary.

Name:	Illona Jeffcoat-Sacco	Agency:	PSC
Phone Number:	701-328-2400	Date Prepared:	02/28/2005

FISCAL NOTE

Requested by Legislative Council
01/24/2005

REVISION

Bill/Resolution No.: SB 2133

1A. 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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	(\$260,000)	\$210,000	(\$100,000)	\$100,000	(\$100,000)	\$100,000
Expenditures	\$0	\$210,000	\$0	\$100,000	\$0	\$100,000
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The fiscal effect of this bill is threefold. First of all, the bill lowers the maximum siting fee, from \$150,000 to \$100,000. Secondly, the bill provides that siting fees would be deposited into a special fund, with a continuing appropriation, for the use of the PSC in administering the case, rather than into the general fund. Section 3 of the bill provides that all monies deposited into the special fund are appropriated on a continuing basis to the PSC to pay siting case expenses. Thirdly, the bill provides for the refund to the applicant of any excess fees not used by the Commission to process the case.

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.*

The general fund revenue figure is negative because monies received under the bill will be deposited into a special fund, rather than into the general fund as under current law. We anticipate at least three applications in the 2003-2005 biennium that would have produced funds for the general fund under current law. They are one coal generating plant that would have accrued a fee of the current law maximum of \$150,000, and two wind plants that we estimate would have accrued fees of \$75,000 (for a 150MW plant) and \$35,000 (for a 70MW plant). This totals \$260,000 lost revenue for the general fund. We estimate \$210,000 revenue to a special fund in the 03-05 biennium. The special fund revenue is lower than the lost revenue to the general fund because the cap is lower by \$50,000 and we estimate one of the applications to reach the cap. For the 2005-07 biennium, and the 2007-09 biennium, the figure used for revenue to the special fund and lost revenue to the general fund is \$100,000, which is the amount estimated in our budget and our corresponding appropriation bill.

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.*

For the current biennium. The expenditure of \$210,000 in special fund monies is the amount expected to be paid in (see note above), because the fee money received will either be spent by the PSC on the case, or returned to the applicant. Either way, the whole amount received will be spent. The same holds true for the estimated revenues and

expenditures for the 2005-07 biennium and the 2007-09 biennium--the whole amount received will either go toward the expenses of processing the case or be returned to the applicants.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The bill contains a continuing appropriation to the PSC of any and all monies deposited into the fund. The Commission is to use the money from each fee for siting case expenses in that case and return any leftover monies from each fee to the applicant. Since it is a continuing appropriation that depends on receipt of a fee I did not put any amounts under the appropriation sections.

Name:	Illona Jeffcoat-Sacco	Agency:	PSC
Phone Number:	701-328-2400	Date Prepared:	01/24/2005

FISCAL NOTE

Requested by Legislative Council
12/23/2004

Bill/Resolution No.: SB 2133

1A. 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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	(\$260,000)	\$260,000	(\$100,000)	\$100,000	(\$100,000)	\$100,000
Expenditures	\$60,000	\$260,000	\$0	\$100,000		\$100,000
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The fiscal effect of this bill is threefold. First of all, the bill lowers the maximum siting fee, from \$150,000 to \$100,000. Secondly, the bill provides that siting fees would be deposited into a special fund, with a continuing appropriation, for the use of the PSC in administering the case, rather than into the general fund. Section 3 of the bill provides that all monies deposited into the special fund are appropriated on a continuing basis to the PSC to pay siting case expenses. Thirdly, the bill provides for the refund to the applicant of any excess fees not used by the Commission to process the case.

A retroactive clause allows the benefits of the bill to apply to siting applicants back to 1 August 2004. This means the bill will apply to a water line siting fee of \$60,000 already received and deposited into the general fund. This \$60,000 will have to be refunded to the applicant.

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.*

The general fund revenue figure is negative because monies received under the bill will be deposited into a special fund, rather than into the general fund as under current law. We anticipate at least three applications in the 2003-2005 biennium that would have produced funds for the general fund under current law. They are one coal generating plant that would have accrued a fee of the current law maximum of \$150,000, and two wind plants that we estimate would have accrued fees of \$75,000 (for a 150MW plant) and \$35,000 (for a 70MW plant). This totals \$260,000 revenue for the special fund in the 03-05 biennium, and the same amount of lost revenue to the general fund for the same time period. For the 2005-07 biennium, and the 2007-09 biennium, the figure used for revenue to the special fund and lost revenue to the general fund is \$100,000, which is the amount estimated in our budget and our corresponding appropriation bill.

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.*

For the current biennium, the expenditure to the general fund is the \$60,000 siting fee already received that would have to be returned to the applicant if the bill passes. The expenditure of \$260,000 in special fund monies is the

amount expected to be paid in (see note above), because the fee money received will either be spent by the PSC on the case, or returned to the applicant. Either way, the whole amount received will be spent. The same holds true for the estimated revenues and expenditures for the 2005-07 biennium and the 2007-09 biennium--the whole amount received will either go toward the expenses of processing the case or be returned to the applicants.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The bill contains a continuing appropriation to the PSC of any and all monies deposited into the fund. The Commission is to use the money from each fee for siting case expenses in that case and return any leftover monies from each fee to the applicant. Since it is a continuing appropriation that depends on receipt of a fee i did not put any amounts under the appropriation sections.

Name:	Ilona Jeffcoat-Sacco	Agency:	PSC
Phone Number:	701-328-2400	Date Prepared:	01/13/2005

Date 2-14-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2133

Senate SENATE APPROPRIATIONS

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass as Amended

Motion Made By

G

Seconded By

A

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	/		SENATOR KRAUTER	/	
VICE CHAIRMAN BOWMAN	/		SENATOR LINDAAS	/	
VICE CHAIRMAN GRINDBERG	/		SENATOR MATHERN	/	
SENATOR ANDRIST	/		SENATOR ROBINSON	/	
SENATOR CHRISTMANN	/		SEN. TALLACKSON	/	
SENATOR FISCHER	/				
SENATOR KILZER	/				
SENATOR KRINGSTAD	/				
SENATOR SCHOBINGER	/				
SENATOR THANE					

Total (Yes)

14

No

0

Absent

1

Floor Assignment

Krauter

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

REPORT OF STANDING COMMITTEE

SB 2133: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2133 was placed on the Sixth order on the calendar.

Page 2, line 3, overstrike "The" and insert immediately thereafter "At the request of the commission and with the approval of the emergency commission, the"

Page 2, line 25, replace "cases arising" with "fees paid"

Renumber accordingly

2005 HOUSE APPROPRIATIONS

SB 2133

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2133

Energy Conversion and Transmission Facility Siting Process Expense Recovery

House Appropriations Full Committee

☐ Conference Committee

Hearing Date March 8, 2005

Tape Number	Side A	Side B	Meter #
2		X	#17.4 - #34.7
Committee Clerk Signature <i>Chris Alexander</i>			

Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on SB2133.

Mr. Tony Clark Public Service Commissioner introduced the bill by distributing and reviewing his written testimony (handout #42-11, attached). Mr. Clark proposed amendment that would appropriate \$60,000 from the general fund money needed to refund the one application fee from a utility that has been received since August 1, 2004.

Rep. Ron Carlisle asked why these changes were not requested in their budget review.

Mr. Clark answered that all of the moneys that are deposited go straight to the general fund and there are no ties between what get deposited under this fee and any money that the commission receives. For most siting cases we are able to handle this without asking for extra money.

Rep. Ken Svedjan, Chairman clarified that this amendment is the only way to replenish the part of the application fee which is not used

Rep. Jeff Delzer asked how long have the current statutes been in place

Mr. Clark answered unsure when the siting fees have been in, siting statutes since the 1970's.

We haven't had a major siting of a plant since then.

Rep. Jeff Delzer asked when the discussion on this started and was the siting fee by Basin done only on the account that the state expected to return the money to them. The law could be

changed for the future, but Basin did this under the current law and there shouldn't be a refund.

Mr. Clark answered this is a policy question the legislature can address. This came up when it did because in November of last year MDU sent word that they would be filing this letter of intent. The statute is not clear when the commission should assess the fee itself, whether it be at the application stage or at the siting itself, etc... We set the date when we did because we knew this legislation could come up. The Basin issue is a side issue. It just happened that they had earlier in the year submitted an application and filed the \$60,000 check so the Senate added the amendment to cover this. The Basin discussion was then outside of the bill and was added later to ensure any fees paid after August 1 would be eligible for refunds.

Rep. Eliot Glassheim asked why the retroactivity in section 2 wouldn't cover this.

Mr. Clark answered that the commission would not have the spending authority to write the check. The money that the commission has spent on all of this is minimal so we are only asking for the \$60,000 itself.

Rep. Joe Kroeber asked if it has ever been considered to change the statute so that this money could be taken and put in your operations of running the PSC. Would the rate fares really be reduced through this?

Mr. Clark answered that this would be difficult to budget because these costs are so sporadic.

As for the rate fares, yes, this would be passed on to rate payers because all of their costs and profits are reported and passed on.

Rep. Ken Svedjan, Chairman closed the hearing on SB2133 and asked for the wishes of the committee concerning this bill.

Rep. Mike Timm, Vice Chairman moved to adopt the amendment proposed by Mr. Clark.

Rep. Al Carlson seconded

Rep. Ken Svedjan, Chairman called for a voice vote on the motion to adopt the stated amendment to SB2133. Motion carried.

Rep. Al Carlson moved a Do Pass As Amended motion to SB2133.

Rep. Mike Timm, Vice Chairman seconded.

Rep. Ken Svedjan, Chairman called for a roll call vote on the Do Pass As Amended motion for SB2133. Motion carried with a vote of 18 yeas, 0 nays, and 5 absences. Rep Carlson will carry the bill to the house floor.

Rep. Ken Svedjan, Chairman closed the discussion on SB2133 and adjourned the committee meeting. (meter Tape #2, side B, #34.7)

Date: March 8, 2005
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2133

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS AS AMENDED

Motion Made By Rep. Carlson Seconded By Rep. Timm

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	AB	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	X		Rep. Jeff Delzer	X	
Rep. Earl Rennerfeldt	AB		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	AB	
Rep. Pam Guleson	AB		Rep. James Kerzman	X	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	AB				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes 18 No 0

Absent 5

Floor Assignment Rep. Carlson

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

REPORT OF STANDING COMMITTEE

SB 2133, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (18 YEAS, 0 NAYS, 5 ABSENT AND NOT VOTING). Engrossed SB 2133 was placed on the Sixth order on the calendar.

Page 1, line 3, after the first semicolon insert "to provide an appropriation;"

Page 2, after line 24, insert:

"SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$60,000, or so much of the sum as may be necessary, to the public service commission for the purpose of refunding any application fee paid after August 1, 2004, for the biennium beginning July 1, 2005, and ending June 30, 2007."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment provides a \$60,000 general fund appropriation to the Public Service Commission for refunding any application fees paid after August 1, 2004.

2005 SENATE APPROPRIATIONS

CONFERENCE COMMITTEE

SB 2133

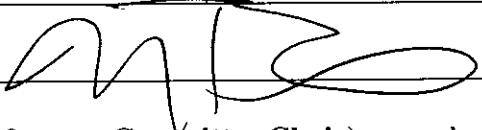
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2133

Senate Appropriations Committee

☒ Conference Committee

Hearing Date 04/06/05

Tape Number	Side A	Side B	Meter #
3		x	0-924
Committee Clerk Signature 			

Minutes: **Sen. Schobinger (Conference Committee Chair)** opened meeting on SB 2133.

Roll was taken..

Sen. Schobinger: Could the House member give us an explanation of what they did.

Rep. Carlson: We added section 2. All this language does is to refund appropriation if the project is not done.

Sen. Christmann (184): Didn't we do this once already?

Sen. Krauter (335): All that was added was section 2, the appropriation of \$60,000? Didn't you say that MDU is not going to be needing any money?

Rep. Carlson: No, I said the project they submitted the application for is not going forward and that they would need to resubmit a new application if they decided to go forward with it. There is no opportunity of them getting the application fee back without us putting this amendment on the bill.

Sen. Christmann (621): In Section 2, in the first version of the bill. There needed to be a change in the language from "causes arising" to "fees paid." We are re-appropriating to fix the same problem.

Rep. Glassheim (774): The testimony is that all the moneys go strait to the General Fund, the application fees. That is why we need this section to get it back out of the General Fund.

Rep. Carlson: There will then be a reduction of \$60,000 from the General Fund.

Sen. Krauter: When this goes into effect it sets up a special fund. I am comfortable with it.

Sen. Christmann moved that the Senate accede to the House amendments on SJ page 494 and place SB 2133 on the seventh order. Sen. Krauter seconded the motion. Vote was taken, motion passed.

Insert LC: .

REPORT OF CONFERENCE COMMITTEE

SB 2133, as engrossed: Your conference committee (Sens. Schobinger, Christmann, Krauter and Reps. Carlson, Klein, Glassheim) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 494 and place SB 2133 on the Seventh order.

Engrossed SB 2133 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

SB 2133

S. B. 2133

Presented by: Tony Clark, Commissioner
Public Service Commission

Before: Senate Appropriations Committee
Honorable Ray Holmberg, Chairman

Date: January 24, 2005

TESTIMONY

Mr. Chairman and members of the committee, for the record I am Tony Clark, President of the state Public Service Commission. I am testifying on behalf of the entire PSC in favor of SB 2133.

This legislation was introduced at our request. We view this legislation as a win for all parties involved in the energy industry; for ratepayers, utility companies, the commission, and the state generally.

Current state law requires that any generation facility or transmission line of a certain size be sited by the Public Service Commission, and that a statutory fee be assessed. In theory, this fee should help offset state expenses associated with processing the siting case. In reality, it is little more than a tax that discourages energy development in the state and is ultimately paid by ratepayers. This is because the fee money goes straight to the general fund, and the agency that incurs expenses, the PSC, never has access to it to defray siting case costs. This bill attempts to remedy that situation.

The heart of the bill is found on page 2. Beginning on line 1, the cap for the initial fee that is required of all applicants is decreased from \$150,000, to \$100,000.

The overstrike in subsection 2, deletes language that becomes unnecessary if the rest of the bill is adopted.

Subsection 3 creates a special fund for the collection of any fees assessed under this section. It provides that the commission shall use such funds for the processing of siting applications. I would like to stress, that in many cases, it is probable that the commission will not need to use a great deal of these funds. That is because for relatively simple siting applications, especially if we only have one before us at a time, we believe we can process them within our current staffing levels. If however, we received multiple applications in a short period of time, or if we had a more complex application before us, we are concerned that current resources may be insufficient. This money could be used to contract for extra help in those instances. To the extent any fee money is unused, it would be returned to the applicant at the conclusion of the siting process. We believe this bill will result in a reduction of fees assessed to energy developers in almost all cases. In any event, it will not increase costs above what is currently required.

Section 2 of the bill, beginning on line 24 of page 2, makes the application of the act retroactive to August 1, 2004. As you may know, MDU filed a letter of intent to file an application on September 1, 2004. This legislation will make clear that this new law would apply to this application.

We should note that although we believe the assessment will be largely refunded to energy developers, we still believe it to be wise policy to continue to require some

assessment paid up-front. Keeping in place some fee encourages only the most serious project developers to file applications. We are concerned that the total absence of a fee encourages developers to file applications at the concept stage of development, simply to get the regulatory hurdle out of the way. Many of these projects might never come to fruition, but could cause significant expense to the commission.

The PSC believes this legislation is good for North Dakota. To the extent it has a fiscal impact, it is income that is not budgeted for in the fiscal process. Siting applications are too sporadic to be counted upon as a steady revenue stream. Rather, current law makes these fees small, unanticipated and infrequent revenues to the general fund.

From a commission standpoint, the legislation helps to alleviate concerns that commission staff could become overwhelmed should a number of siting applications be filed at one time. From an economic development standpoint, the legislation lessens hurdles for energy developers. And from a ratepayer perspective, it decreases state government costs that are eventually passed on to consumers.

We have one small amendment we are bringing for your consideration. It is language to be added to subsection 2 of the current law. It provides that in cases where the commission assesses energy developers for expenses above the \$100,000 cap, that the Emergency Commission be required for approval. This should help assure that any assessments made under this section of law will not be burdensome.

We hope you will support SB 2133. This concludes my testimony. I would be happy to answer any questions you may have.

Proposed Amendment to 2133

Page 2, line 3, overstrike "The" and immediately thereafter insert, "At the request of the
commission, and with the approval of the Emergency Commission, the

Renumber accordingly

**Dale Niezwaag - Basin Electric Power Cooperative
North Dakota Senate Bill No. 2133
Senate Appropriations Committee
January 27, 2005**

Mr. Chairman and members of the committee, my name is Dale Niezwaag and I represent Basin Electric Power Cooperative. I would like to first thank the chairman and the committee for allowing me to appear before you today. My testimony concerns SB 2133. This bill allows the Public Service Commission (PSC) access to siting application fees instead of having them deposited in the states general fund. The PSC would use those fees to cover expenses they incur to process the application and return any unused portion of the fee to the applicant. Basin Electric supports SB 2133 but would like to offer an amendment to the bill for your consideration. All three members of the Public Service Commission support our amendment.

The amendment replaces wording that is on Page 2 of the bill in line 25. It replaces the words "cases arising" with "fees paid". The reason for the amendment stems from an application Basin Electric submitted and paid for on November 17, of 2004. During the original hearing on SB 2133 I found out that the application was paid for in November and not March. I apologize for not knowing this information and proposing the amendment at that time. This application provides a good example of how SB 2133 addresses a concern that utilities have on siting application fees.

In March of 2004 Basin electric submitted a letter of intent to the PSC to build 8.6 miles of water pipeline that will deliver water from Lake Sakakawea to the Antelope Valley Power Station. The new pipeline is needed because portions of the existing pipeline

are deteriorating and becoming unreliable. Most of the new pipeline parallels the existing pipeline within the existing right of way. There will be some minor deviations in new pipeline path but are only being made to avoid corrosive soil conditions that have caused the deterioration of the existing line. Again they are minor changes.

The cost of the pipeline project is approximately twelve million dollars (\$12,000,000) and the application fee was \$60,000. Since the new pipeline is within or very close to the existing pipeline, the demands placed on the PSC and their staff to approve the application was minimal. Under SB 2133 any unused portion of the application fee would be returned to Basin Electric.

Since the actual application and fee were submitted in mid-November of 2004 and siting cases after August of last year are being included in SB 2133 we would like to include our application under this legislation. The proposed amendment would accomplish this intent.

Attached to my testimony is the amendment plus copies of Basin's letter of intent, the actual application, and fee submittal for the pipeline project. Again I would like the committee to approve our amendment to SB 2133.

That concludes my testimony and I would be happy to answer any questions at this time.

Prepared by Public Service Commission
January 25, 2005

PROPOSED AMENDMENT TO SENATE BILL NO. 2133

Page 2, line 25, replace "cases arising" with "fees paid"

Renumber accordingly

**BASIN ELECTRIC
POWER COOPERATIVE**

1717 EAST INTERSTATE AVENUE
BISMARCK, NORTH DAKOTA 58503-0564
PHONE 701-223-0441
FAX: 701/224-5336



MAR - 9 2004

March 8, 2004

William W. Binek
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

RE: Per Chapter 69-06-03 Section 02 - Letter of Intent for Antelope Valley Station's
Raw Water Pipeline Project

Dear Mr. Binek:

Basin Electric Power Cooperative is proposing a pipeline project to deliver water from Lake Sakakawea to the existing Antelope Valley Station facility. Approximately 8.6 miles of 42" diameter pipeline will be installed to deliver a design flow rate of 37,000 gpm of water.

The current project timeline is for construction to commence in the spring of 2005, with completion in early fall of 2005. The estimated project cost is approximately twelve million dollars (\$12,000,000).

A map depicting both the proposed pipeline and the existing pipeline route is enclosed.

It is anticipated that an application for a Route Permit will be submitted in early fall 2004. Should you have any questions or require any additional information, please contact me at your convenience. I can be reached directly at (701) 355-5635 or by e-mail (cmiller@bepc.com).

Sincerely,

Cris Miller, P.E.
Environmental Coordinator

cm/dz



MOTION

March 31, 2004

APPROVED

DATE: 3-31-04
KMP

**Basin Electric Power Cooperative, Inc.
Antelope Valley Station Water Pipeline-
Mercer Cty
Siting Application**

Case No. PU-04-109

I move the Commission assess a filing fee of \$60,000 due upon filing of the application in Case No. PU-04-109, Basin Electric Power Cooperative, Inc.'s proposed Antelope Valley Station water pipeline in Mercer County North Dakota.

PJF/sdh

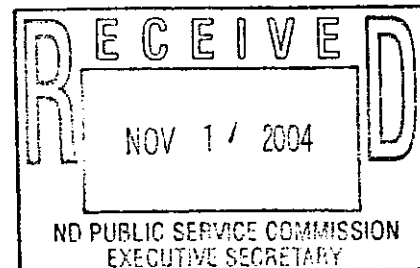
**BASIN ELECTRIC
POWER COOPERATIVE**

1717 EAST INTERSTATE AVENUE
BISMARCK, NORTH DAKOTA 58503-0564
PHONE 701-223-0441
FAX: 701/224-5336



November 17, 2004

Ms. Illona A. Jeffcoat-Sacco
Executive Secretary
Public Service Commission
600 East Boulevard Avenue, Dept 408
Bismarck, ND 58505-0480



Re: Case Number PU-04-109
Route Permit Application for Antelope Valley Station Raw Water Pipeline
Beulah, North Dakota

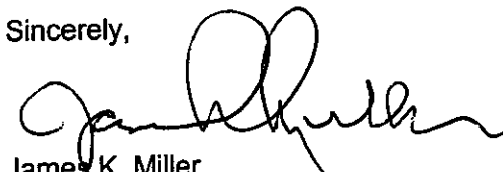
Dear Ms. Jeffcoat-Sacco:

Enclosed is Basin Electric Power Cooperative's Application for a Transmission Route Permit for the Antelope Valley Station's Raw Water Pipeline Project. The PSC took receipt of the applicable \$60,000 filing fee on November 15, 2004.

Number of Originals	Number of Copies	CD	Description
1	10	1	Final Route Permit Application
1	--	--	Design Data Report (98%)

Thank you very much for your attention to this matter. If you have any questions or concerns, please call Cris Miller, Environmental Project Manager, at 701-355-5652.

Sincerely,


James K. Miller
Manager Environmental Services

jm:mev
Enclosure
cc: Deb Levchak

10 PU-04-109

Pages: 1

Cover letter re application, CD & \$60,000
filing fee
by Basin Electric Power Coop Inc. by





Public Service Commission

Receipt of Payme

Received: 11/17/2004 Check# 315650

Siting Filing Fee

for \$60,000.00

Receipt# 6023

Docket # PU-04-109

Basin Electric Power Coop Inc.
1717 E. Interstate Avenue
Bismarck ND 58501

dw_psc_receipt

S. B. 2133

Presented by: Tony Clark, President
Public Service Commission

Before: House Appropriations Committee
Honorable Ken Svedjan, Chairman

Date: March 8, 2005

TESTIMONY

Mr. Chairman and members of the committee, for the record I am Tony Clark, President of the Public Service Commission. I am testifying on behalf of the entire PSC in favor of Engrossed SB 2133.

This legislation was introduced at our request. We view this legislation as a win for all parties involved in the energy industry; for ratepayers, utility companies, the commission, and the state generally.

Current state law requires that any generation facility or transmission line of a certain size be sited by the Public Service Commission, and that a statutory fee be assessed. In theory, this fee should help offset state expenses associated with processing the siting case. In reality, it is little more than a tax that discourages energy development in the state and is ultimately paid by ratepayers. This is because the fee money goes straight to the general fund, and the agency that incurs expenses, the PSC, never has access to it to defray siting case costs. This bill attempts to remedy that situation.

The heart of the bill is found on page 2. Beginning on line 1, the cap for the initial fee that is required of all applicants is decreased from \$150,000, to \$100,000.

New language added on lines 3 and 4 provides that in cases where the commission assesses energy developers for expenses above the \$100,000 cap, that the Emergency Commission be required for approval. This should help assure that any assessments made under this section of law will not be burdensome. The overstrike later in subsection 2, deletes language that becomes unnecessary if the rest of the bill is adopted.

Subsection 3 creates a special fund for the collection of any fees assessed under this section. It provides that the commission shall use such funds for the processing of siting applications. I would like to stress, that in many cases, it is probable that the commission will not need to use a great deal of these funds. That is because for relatively simple siting applications, especially if we only have one before us at a time, we believe we can process them within our current staffing levels. If however, we received multiple applications in a short period of time, or if we had a more complex application before us, we are concerned that current resources may be insufficient. This money could be used to contract for extra help in those instances. To the extent any fee money is unused, it would be returned to the applicant at the conclusion of the siting process. We believe this bill will result in a reduction of fees assessed to energy developers in almost all cases. In any event, it will not increase costs above what is currently required.

Section 2 of the bill, beginning on line 25 of page 2, makes the application of the act retroactive to fees paid after August 1, 2004. As you may know, MDU filed a letter

of intent to file an application on September 1, 2004. This legislation will make clear that this new law would apply to MDU's application, as well as to the pending application of Basin Electric for siting authority for a water pipeline.

We should note that although we believe the assessment will be largely refunded to energy developers, we still believe it to be wise policy to continue to require some assessment paid up-front. Keeping in place some fee encourages only the most serious project developers to file applications. We are concerned that the total absence of a fee encourages developers to file applications at the concept stage of development, simply to get the regulatory hurdle out of the way. Many of these projects might never come to fruition, but could cause significant expense to the commission.

The PSC believes this legislation is good for North Dakota. To the extent it has a fiscal impact, it is minimal. Siting applications are too sporadic to be counted upon as a steady revenue stream. Rather, current law makes these fees small, unanticipated and infrequent revenues to the general fund.

From a commission standpoint, the legislation helps to alleviate concerns that commission staff could become overwhelmed should a number of siting applications be filed at one time. From an economic development standpoint, the legislation lessens hurdles for energy developers. And from a ratepayer perspective, it decreases state government costs that are eventually passed on to consumers.

We have one minor amendment we are asking you to consider. It is attached to my testimony, and consists of the addition of the "magic words" necessary to appropriate the general fund money we would use to refund the one application fee we

have received since August 1, 2004. Without this appropriation language we would not be able to refund this \$60,000 to the utility.

We hope you will support Engrossed SB 2133, with the additional amendment proposed today. This concludes my testimony. I would be happy to answer any questions you may have.