

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1098

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1098

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 12, 2009

Recorder Job Number: 6844

Committee Clerk Signature *Ellen Letang*

Chairman Keiser: opened the hearing on HB 1098 relating to effective date for petroleum release mediation.

Representative Wald: All we are doing is removing the sunset clause so we don't have to be before you every few years. Representative Sukut asked for a brief history. Representative Wald gives the brief history.

Chairman Keiser: What did they put a sunset clause?

Representative Wald: I honestly don't know.

Jeff Bitz~Administrator, Petroleum Tank Release Compensation Fund, ND Insurance Department. See attachment.

Representative Thorpe: Explain why we need to take the date off?

Bitz: I think the primary reason because this committee has reviewed the sunset clause multiple times in the past to be current.

Representative Thorpe: In the fund, I sure it's solvent. Has it been gaining, level or higher?

Bitz: The fund has been solvent but it has taken a hit from the financial mess on Wall Street.

Representative Ruby: On the bottom of your testimony on page 1, tank owners are allowed to register tanks with the fund. It sounded all voluntary and when I looked into it, it's a requirement, right?

Bitz: Yes, it is a requirement in North Dakota.

Vice Chairman Kasper: What is the current value of the fund right now?

Bitz: The current value of the fund is 5.6 million.

Representative Nottestad: Looking under the second page the fund currently has 709 open claims and reserves are 1.2 million. Do the 31 claims make up that difference?

Bitz: Those 31 claims represent that 1.2 million. The current reserves that are open are 1.2 million.

Chairman Keiser: The bill is basically taking the sunset off and there really isn't any intention not to have this fund and it's essential to get insurance.

Bitz: Yes, you are correct.

Representative Clark: How often does the owner/operator clean up his own mess?

Bitz: There is a \$5000 deduction on all releases. If it's small, they clean it, but if it's above they apply for the fund.

Mike Rud~President of the North Dakota Petroleum Marketers Association. We are in support of 1098. We believe this protects the public, environment and the marketers.

Chairman Keiser: Seeing no opposition.

Chairman Keiser: Seen none, we will close the hearing on HB 1098. What are the wishes of the committee on HB 1098?

Representative Nottestad: I move Do Pass.

Representative Clark: Second.

Chairman Keiser: Further discussion? I will ask the clerk to take the roll on a Do Pass on HB 1098.

HB 1098 Do Pass, 13 yea's, 0 no's, 0 absent

Jan 12-09

Date: "Click here to type Date"

Roll Call Vote #: "Click here to type Roll Call Vote #"

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 1098

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ As Amended

Motion Made By Nottestad Seconded By Clark

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman	✓	
Vice Chairman Kasper	✓		Representative Boe	✓	
Representative Clark	✓		Representative Gruchalla	✓	
Representative Johnson	✓		Representative Schneider	✓	
Representative Nottestad	✓		Representative Thorpe	✓	
Representative Ruby	✓				
Representative Sukut	✓				
Representative Vigasaa	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Sukut

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

REPORT OF STANDING COMMITTEE (410)
January 12, 2009 3:27 p.m.

Module No: HR-05-0193
Carrier: Sukut
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1098: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, ABSENT AND NOT VOTING). HB 1098
was placed on the Eleventh order on the calendar.

2009 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1098

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1098

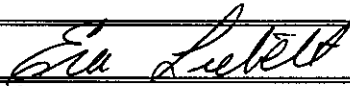
Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: March 11, 2009

Recorder Job Number: 10722

Committee Clerk Signature



Minutes:

Jeff Bitz, Administrator, Petroleum Tank release Compensation Fund North Dakota Insurance
Department: Written testimony in favor of the bill.

Representative Wald: The bill before you is a simple bill. All we are doing is removing the
sunset in this bill. It is sound and financially structured.

Senator Wanzek: You have 1.2 million for thirty one claims?

Jeff: The claims have been 28 to 30.

Chairman Klein: That fee is a flat fee on how many tanks you have?

Jeff: The fee decrease to fifty dollars and then goes back up to one hundred dollars until it
reaches nine million. The 1.2 million is set aside for the ones we are currently handling.

Senator Potter: That's 12 to 13 thousand a claim?

Jeff: Since we've upgraded the underground tanks. The cost is about right.

Mike Rud, Administrator, North Dakota Petroleum Marketers Association:

Written testimony in support of the bill.

Chairman Klein: Everyone knows they have to participate in this fund?

Mike: Yes they know they have to or they will not have access to the fund.

Senator Andrist: Do you think everyone is buying in?

Mike: There are some out there that have not accessed the fund. To get in they would have to go through a process, for not paying and being up to date.

Chairman Klein: I am always concerned myself with people who didn't know they had to be in the fund.

Mike: We do all we can to make sure are people know and the insurance department notifies the rest.

Chairman Klein: You have tanks that are above ground and underground how many would you say?

Jeff: It is mandatory that all tank owner operators participate as far as the retail and wholesale market. Right now we have approximately 1,629 registered sites in North Dakota. Of those sites we have approximately 1,974 underground storage tanks and 3,678 above ground tanks.

Of the number of the sites that are registered but delinquent in paying their tank fees we have about seventeen sites out there. We work with state fire marshal because they are in charge of inspection of all above storage tank facilities in North Dakota. They send us reports of all above storage tanks and if they are not registered we will notify them that they need to become compliant with state law.

Senator Nodland: Motion a do pass.

Senator Wanzek: Seconded.

Roll Call Vote: 7-0

Senator Nodland to carry the bill.

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Date: 3/11/09
Roll Call Vote #: 1**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES**
BILL/RESOLUTION NO. 1098

Senate

Committee

Industry, Business and Labor☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ **Pass** ☐ **Do Not Pass** ☐ **Amended**Motion Made By Senator Nodland Seconded By Senator Wanzek

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 7 No 0Absent 0Floor Assignment Senator Nodland

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

REPORT OF STANDING COMMITTEE (410)
March 11, 2009 1:01 p.m.

Module No: SR-44-4575
Carrier: Nodland
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1098: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends
DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1098 was placed
on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1098

HOUSE BILL NO. 1098

Presented by: Jeff Bitz
Administrator, Petroleum Tank Release Compensation Fund
North Dakota Insurance Department

Before: House Industry, Business and Labor Committee
Representative George Keiser, Chairman

Date: January 12, 2009

*Same
given to
Senate*

TESTIMONY

Good afternoon, Chairman Keiser and members of the committee. For the record, my name is Jeff Bitz and I am the Administrator of the Petroleum Tank Release Compensation Fund of the North Dakota Insurance Department.

I appear before you today in support of House Bill No. 1098. The proposed legislation removes the sunset clause in all sections of Chapter 23-37 and makes Chapter 23-37, Petroleum Release Remediation, permanent.

The Petroleum Tank Release Compensation Fund originated 1989 in response to federal environmental legislation that required each petroleum tank owner or operator purchase insurance or otherwise provide security of at least \$1 million to cover cleanup cost for petroleum releases.

The federal legislation was in response to petroleum releases by tank owners who were not sufficiently financially solvent to pay for the needed cleanup costs. The states and the federal government ended up paying for the cleanup costs.

The federal law allowed states to establish a fund such as the Petroleum Tank Release Compensation Fund (the Fund). To meet the federal financial responsibility requirements, a tank owner is allowed to register his tanks with the Fund and pay an

annual registration fee. In return the Fund covers the cost of cleanup as determined by the Health Department to be necessary to protect the public health and safety.

The Health Department decides what cleanup action is appropriate on a site-by-site basis. The extent of corrective action varies by site, depending upon the location, local hydrogeology, the soils present, proximity to businesses and residences, proximity to and kind of public utilities, and presence of surface streams. Pollution travels further and faster the looser the soil and is more of a danger when near groundwater sources.

The focus of determining appropriate corrective action (remediation) is on protecting the public health and safety.

The Fund has handled approximately 709 claims and has reimbursed tank owners/operators over \$9 million in corrective action expenses. The Fund currently has 31 open claims with reserves of approximately \$1.2 million.

I respectfully request a "do pass" recommendation from this committee on House Bill No. 1098.

I would be happy to try and answer any questions the committee members may have.

Thank you.

Testimony H.B. 1098
March 11, 2009- Senate Industry Business and Labor Committee

Chairman Klein and members of the Senate IBL Committee:

For the record, my name is Mike Rud. I'm the president of the North Dakota Petroleum Marketers Association. On behalf of NDPMA's nearly 400 marketer and associate members, I'm here today seeking a **"DO PASS"** recommendation on H.B. 1098.

The permanency of HB 1098 does three major things: It protects the environment. It protects the public and it protects the North Dakota Petroleum Marketer.

HB 1098 protects the environment by maintaining a funding mechanism for cleaning up petroleum releases.

HB 1098 protects the public by making sure clean-ups of any petroleum release or spill are done in a timely manner and every step is professionally monitored to ensure the best possible results.

While other states may have a portion of the state gas tax dedicated to petroleum release cleanup efforts, North Dakota does not. Marketer money in the form of yearly tank registration fees is used to support this fund in our State. HB 1098 protects the petroleum marketer from heavy financial burdens in the event of a petroleum release.

Again, NDPMA urges a **"DO PASS"** recommendation on HB 1098.

Thank you for your time and consideration.