

2009 HOUSE HUMAN SERVICES

HB 1424

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1424**

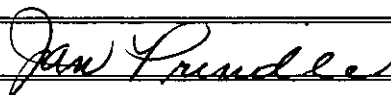
House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: **January 26, 2009**

Recorder Job Number: 7699

Committee Clerk Signature



Minutes:

Chairman Weisz opened the hearing of HB 1424.

Representative Curt Hofstad, District 15, introduced the bill. The ND Environmental Health Association asked that I bring this legislation forth implementing a state swimming pool program. Although authority for a state program remains under Section 23-01-03, the statewide program was eliminated in 1993 leaving the jurisdiction and implementation to local public health units. This has created some problems. The uniformity of code is non seamless of course. There are counties without oversight of swimming pools and generally a public health concern exists especially for children in our state.

Allen McKay, president of ND Environmental Health Association, testified in favor of the bill. **(Attachment 1)**

Representative Potter: Is this bill for city or county pools or is it for back yard swimming pools?

McKay: It is not for personal pools on your property. It is for public and semi-public pools which includes the city pool, the one at the motel, at your exercise club, so public and semi-public only.

Representative Conrad: The amount of money—what is that for?

McKay: That is for the state to provide one person at the state level, an engineer, to review pool design to make sure they are meeting codes so that we don't have children sucked into a drain or getting their hair caught in it and drowning and other basic safety parameters that they look at when they design a new pool or fix one up.

Representative Holman: The timeline—if this was implemented and if we had 2-300 pools that are not in compliance, what kind of timeline would be in place for that.

McKay: I'm not absolutely positive on that. The health units that have swimming pool programs right now we've been meeting on a regular basis to consider this. Right now we are looking at if they have one of these covers ordered for their main drains we will give them time to get it put in because they are behind the eight-ball. The manufacturers of the covers are a little bit behind so it's tough to get them.

Representative Frantsvog: If a political subdivision or a semi-public organization wants to build a new swimming pool today don't they have to get a building permit and wouldn't the agency with approval have someone to inspect it that would be certain that all the pool designs and safety features would meet code?

McKay: In some subdivisions—Yes. Those are usually designed by an engineer. But they are looking at providing certain things and they don't always know the current safety regulations. They should, but they don't. The inspectors definitely aren't design people. They inspect for safety and make sure the water is at the proper chemistry and those kinds of things. But when you designing a new pool, that's an engineer's job, not an inspector's job. To look that over takes another engineer. We've been missing that for some time.

Representative Nathe: You said the locals are trying to pick up the pieces. What do you mean by that?

McKay: Local public health units. Take my area that covers four counties and we have a swimming pool code and we inspect and license them. We have three counties in this region that don't have Environmental Health. We've been able to work with them and provide limited inspection but they don't have swimming pool codes. To go from county to county is very difficult to do. That's why we are looking at a state minimum code to get it at the same level.

Representative Porter: How much do you charge when you go out and do an inspection?

McKay: We don't charge per inspection. We charge to license the pool and that is \$100 per year. It's not a lot of money but it covers the inspection and any problems they have. We get quite a few calls during the year. A lot of these pools are run by high school students and they have a lot of questions.

Representative Porter: When you go into Rolette County and inspect a pool at a hotel, who pays for that licensing?

McKay: The pool themselves. The money necessary for that inspection comes from a couple different sources. We have some regional environmental health that are paid by ___?___. You have to learn to do environmental health work. We've been using those people to a minimum and then our regular environmental health staff to back that up. It's a patchwork. We're doing as much as we can with the limited amount of money that we have.

Representative Porter: How much do you think it costs to do an inspection? Are you getting enough with the \$100?

McKay: The mileage of course, the time spent there, if there are a lot of problems and they are not always regulatory for these inspections. Most of the time is spent teaching the person or manager and their lifeguards how to run the pool properly—how to keep it safe. The only time strict regulation comes in to effect is if they refuse to do something that needs to be done or they can't because of financial costs. We are not getting our costs back. Public Health is

there to serve the public. My salary is covered under another area but the time we figure we are being paid by the taxpayer already and we don't want to overcharge these little pools and put them out of business. Most of these small town pools run in red ink all of the time. If we raised the fees to cover all of our costs they would be prohibitive.

Chairman Weisz: Do you know how many pools would come under this bill. This is a position for an engineer not for an inspector.

McKay: Approximately 150 pools. The engineer will be to help in the design and operational problems.

Representative Conrad: How many new pools a year do we have?

McKay: I don't know. It changes every year.

Representative Uglem: Would this person at the state level really help you much with getting the inspection done?

McKay: No. His job is for design and then coordinating and working with all the inspectors across the state to keep them up to speed on new things and what they should be looking for.

Jerry Ternes, pool contractor, Associated Pool Builders, testified in favor of the bill. We build pools in thirteen states so we get introduced to a lot of the different state codes. I'm a certified pool operator instructor. That's a national certification program. Thirty years ago it was thought that a pool was a rectangular hole with water in it. The simplicity of those pools was pretty basic. Today, the industry is a lot more sophisticated and there is a lot more technology involved. We deal with a lot of different chemicals than we used to. We have chemical handling and usage situations. The sophistication gets difficult for operators and inspectors to keep up with the current products and trends that are being introduced into the market. In the small communities we have a lot of young people operating pools. They don't understand the complexity or chemicals they are dealing with. I think it important they have

some kind of training. Pool designs are also more sophisticated and there is more complexity. From an industry perspective we feel you need to have some consistency throughout the state. I think it's important that you have one focal point to start with. It is also important from a communication aspect. Suction entrapment can be a variety of things and there are a lot of different aspects such as water velocity and location of the drains. The federal regulations are difficult to understand for the normal lay person. The other thing that the federal act provided is that they do have a grant program available but it is predicated upon their appropriations from congress. In that grant program, states that will enforce the Graeme Baker Act may have grant money available for inspection, enforcement and education. Since this is a federal code the Consumer Product Safety Commission who's responsible for enforcement were asking for state and local help in enforcement. They said if you willingly know about the Act and you don't do anything about it, you can be held personally liable for breaking the law. We need to have a single source, a single direction and we need to have consistency throughout the state.

Representative Conrad: How much is the federal grant amount? What is the procedure for getting it?

Ternes: It varies, and I'm not sure about the procedure. I know some states have incorporated the Graeme Backer into their regulations. That's the first step to having these funds available.

Chairman Weisz: Does your industry design or retrofit existing pools to meet the federal requirements.

Ternes: Yes, we do.

Keith Johnson, environmental health practitioner and administrator for Custer Health, testified in favor of the bill. (Attachment 2)

Representative Conrad: Do we need a full time person for this?

Johnson: I think so. The qualifications that this needs and the amount of maintenance needed across the state would easily use an FTE.

Kirby Kruger, state epidemiologist, ND Department of Health, testified **Neutral** on the bill.

(Attachment 3)

Weisz: When you look at recreational waters does that include lakes? What program did you have in effect prior to '93?

Kruger: I will defer that question to others.

Representative Potter: With the increase that you in the number of cryptosporidium cases, did you see those in a particular area of the state?

Kruger: They were clustered in some counties but were geographically disbursed.

Dave Klatt, Dept of Health: To answer your question as relates to what the program was like before '93. We had a fairly extensive program that had rules, required operational compliance, monitoring compliance and design compliance. We did do engineering and design review and at times it got pretty contentious because there are safety factors and issues to review to make sure you address public health issues. In addition we had inspections to insure compliance. At that point we had about 450 pools.

Representative Hofstad: I suspect that there have been a number of pools built during this interim. What are the inherent design flaws in them?

Klatt: We would look at what are the standards now, what is the health threat or safety threat and what can be done realistically to get in to compliance. We would work with them to get that to happen. If it were an imminent issue those you would take care of right now. You work with the pool.

Representative Holman: What is being done right now?

Klatt: When the state programs fell by the wayside, the local health units stepped up to the plate and cared for the pools in their area. There are counties that do not have coverage—about 17 counties.

Representative Conrad: Did the state fund the inspectors at that time?

Klatt: Yes, they did a combination of water and wastewater inspections and other inspectors had responsibility for the pools. The way this is going to work is having a good relationship with the locals and we do have those good relationships.

There was no opposition to the bill.

Chairman Weisz closed the hearing of HB 1424,

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1424**

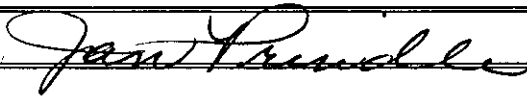
House Human Services Committee

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Hearing Date: **February 4, 2009**

Recorder Job Number: 8601

Committee Clerk Signature



Minutes:

Chairman Weisz opened discussion of HB 1424.

Representative Conrad: I got information from Mr. Glatt about what was going on in '93 when the program was cut. There were approximately 3-4 FTE used to address public swimming pools, conduct planning, use, and monitoring facilities. This did not include the semi-public pools in motels, etc.

Chairman Weisz: Here I have a note that there are approximately 150 public pools, and you say we have about 500 total public and semi-public pools.

Representative Conrad: When we quit the program we had 3 – 4 FTE and now they are just asking for 1 FTE.

Representative Pietsch: I move **Do Not Pass**. When we built our new pool in Casselton, it went through the engineers for getting all the requirements and licensing. It goes through Parks and Rec and they are following the rules. If the builders of the pools don't know the regulations, do the need to report to somebody else.

Representative Frantsvog: Second.

Representative Porter: You look at the \$191,000 price tag to have an engineer to review plans and develop a plan when a lot of these pools require architects and other mandated

features when they build them. If you expect the pools to pay for this themselves you would be looking at a licensing increase of \$191 per swimming pool per year.

Representative Hofstad: I think this is something that will probably solve itself because I think the real issue here is the federal act. It's a mandated requirement. If the Health Department is not compliant now, they will have to.

Representative Conrad: I have written down here that there is a federal grant available if we had a state program.

. . . Open discussion. . .

Representative Potter: With the mention of the Virginia Graeme Baker Act and the grant business, I'm not sure those go together or not but it does say in testimony that this act depends on the state pool program and compliance.

Representative Hofstad: The federal act will probably solve this issue. The State Health Department will have to deal with this issue.

Chairman Weisz: This bill is not for enforcement. It's for the employment of an engineer. The assumption would be that there will be better compliance with the Baker Act if we have this engineer going out there. Would you put in a pool without assuring it meets code?

Representative Conrad: Enforcement is dependent on a statewide monitoring program. That's what they are asking for—a monitor.

The question was called.

A roll call vote was taken on the Do Not Pass motion: Yes: 8, No: 5, Absent: 0

The Do Not Pass motion was carried.

Representative Frantsvog will carry the bill.

Date: 2-4-09
Roll Call Vote #:

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1424

House HUMAN SERVICES Committee

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Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☒ Do Not Pass ☐ Amended

Motion Made By Rep. Pietsch Seconded By Rep. Frantsovog

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ	✓		REP. TOM CONKLIN	✓	
VICE-CHAIR VONNIE PIETSCH	✓		REP. KARI L CONRAD		✓
REP. CHUCK DAMSCHEN	✓		REP. RICHARD HOLMAN		✓
REP. ROBERT FRANTSOVOG	✓		REP. ROBERT KILICHOWSKI		✓
REP. CURT HOFSTAD	✓	✓	REP. LOUISE POTTER		✓
REP. MICHAEL R. NATHE	✓				
REP. TODD PORTER	✓				
REP. GERRY UGLEM	✓				

Total (Yes) 8 No 5

Absent _____

Bill Carrier Rep. Frantsovog

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

Motion Carried
for DNP

REPORT OF STANDING COMMITTEE

HB 1424: Human Services Committee (Rep. Weisz, Chairman) recommends DO NOT PASS (8 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1424 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HB 1424

#1

TESTIMONY
House Bill 1424
House Human Services Committee
MONDAY, JANUARY 26, 2009
NORTH DAKOTA ENVIRONMENTAL HEALTH ASSOCIATION

Good Morning, Chairman Weisz and members of the Human Services Committee. My name is Allen McKay and I am the President of the North Dakota Environmental Health Association, which passed a resolution this past October supporting a statewide swimming pool program. I am here today to testify in support of House Bill 1424.

Since 199³ when the State dropped the program due to funding cutbacks, it's been a patch work of locals trying to pick up the pieces.

The North Dakota Environmental Health Association and the Environmental Health Directors from around the State have been meeting with Mr. Dave Glatt, Chief of the Environmental Health Section of the Health Department to collaborate on a state swimming pool program that meets the needs of all the counties.

The swimming pool program would provide plan review for new and remodeled pools so that they would be sure they are addressing not only the basic design parameters but also the safety concerns.

The State Environmental Health Section would update the Swimming Pool Code, provide expertise in swimming pool operational problems and coordinate the training of pool operators with the local health departments. The local health departments would provide the inspection and licensing of the pools.

The Virginia Graeme Baker Act is a federal law that was passed because of deaths of 33 children caused by the suction of the main drain of a pool. The Act depends on a state pool program to be enforced, with penalties for noncompliance assessed to the state, not locals. This Federal law went into effect this past December and requires drain covers on the main drains in the pool and some type of emergency shut off for the pumps.

I believe we have provided a good plan for a state swimming pool program, that will create better cooperation between the local health departments and the state health department and provide safer pools in all areas of the State. I urge the Human Services Committee to give HB 1424 a do pass recommendation.

2

Keith Johnson, R.S.
Custer Health, Mandan ND
Testimony in favor of HB1424

The State Swimming Pool program was dropped in 1991 due to budget constraints. The environmental health practitioners across the state are asking the state program be reinstated. We have picked it up health unit by health unit, but that does not yield the consistency and higher degree of safety afforded by a state program.

For the most part, inspections will be done by local personnel. What we really need from the state is a consistent statewide ordinance and plan review by qualified personnel.

There will be no cost shifting from the locals to the state, or vice versa. This is simply an improvement of the pool inspection and sampling program, hopefully yielding fewer sicknesses and deaths arising from the use of unsafe pools.

While the State Health Dept. cannot actively support this proposal, due to the fact that this is not in the governor's budget, they recognize its need, and have assented to taking the program on if we can get this legislation passed.

Those of us in the environmental health profession across the state who are responsible for inspecting pools want this change very badly. Please help us out by making the pools across the state safer.

#2

**Testimony
House Bill 1424
House Human Services Committee
January 26, 2009; 9 a.m.
North Dakota Department of Health**

Good morning, Chairman Weisz and members of the Human Services Committee. My name is Kirby Kruger, and I am the state epidemiologist for the North Dakota Department of Health. I am here today to provide information that may be helpful as you deliberate House Bill 1424.

If not properly maintained, swimming pools can increase the risk for illness to people who use them. Common illnesses related to recreational waters include skin, eye and respiratory irritation and infections and gastro-intestinal infections. Among the more common gastro-intestinal illnesses associated with recreational waters is cryptosporidium.

Cryptosporidium is an infection caused by a single-celled parasite that can cause abdominal cramping, diarrhea, loss of appetite, nausea and vomiting. The severity of symptoms varies considerably from person to person. It is not easily treated, and, if left untreated, the infection can persist for months. The parasite survives well in wet environments. Outbreaks caused by this organism have been increasing in North Dakota and nationwide.

In North Dakota, the number of cryptosporidium cases reported to the Department of Health ranged from six in 2005 to 76 in 2007. Attached is a line graph by month and year that shows the cases since June 2004. You will notice that cases increase during the summer months. The most common risk factor identified for these cases is recent exposure to recreational waters. The median age of these cases was 17, and ages ranged from younger than 1 to age 70.

In the United States from 2005 to 2006, 78 outbreaks associated with recreational waters were reported to the U.S. Centers for Disease Control and Prevention. This is the largest number of outbreaks ever reported in a two-year period. It also represents an increasing upward trend in recreational water-related outbreaks.

This concludes my testimony. I am happy to answer any questions you may have.

Cryptosporidiosis: January 2004-December 2008
North Dakota

