

2009 HOUSE TRANSPORTATION

HB 1495

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1495

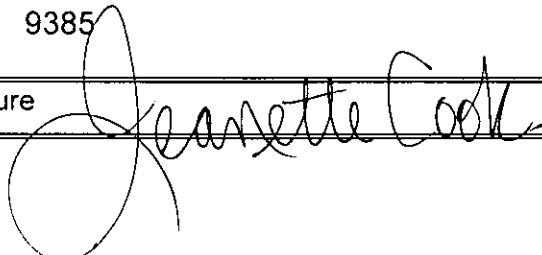
House Transportation Committee

☐ Check here for Conference Committee

Hearing Date: 02/12/09

Recorder Job Number: 9385

Committee Clerk Signature



Minutes:

Representative Chuck Damschen, District 10, spoke to introduce HB 1495 and to support the bill. The bill gives the township the control of the right-of-way above the vertical plane of the section line and the authority to keep it clear. Trees and machinery are getting bigger and are causing obstructions, and the township need the authority to clear the area. He thinks that townships are one of the most basic forms of government. Granting the authority to townships the ability to have obstructions removed or not be placed in an area is not overextending their authority. He asked the committee to give HB 1495 a Do Pass.

Representative Gruchalla: Can't a township control this right now?

Representative Chuck Damschen: I think there has been some question as to whether the township has the authority to remove the obstruction, or to order the landowner to do it, and whose expense it would be. This would clear up the question and definitely put the authority in the hands of the township government.

Representative Potter: Can you explain "the vertical plane of thirty feet"?

Representative Chuck Damschen: The road right-of-way is thirty-three feet. This would be the air space above that.

Representative Frantsvog: Can a section line be vacated by a township board? When I go out into the country, it is not uncommon for a farmer to farm right up to both sides of the section line. Has that road been vacated or are they just doing it?

Representative Chuck Damschen: You can do that if it is a road that has been abandoned or not maintained. But, the road right-of-way still belongs to the public. If someone want to drive down your crop on that section line; they have they have the legal right to do it.

Chairman Ruby: You mentioned that this bill clears up who will pay for it? Does the township have the authority to clear the vertical plane, and then they will consume the cost of doing that?

Representative Chuck Damschen: On page two it says that the cost of removal must be entered the same as taxes against the adjacent property. So, if there was an obstruction and the township had to remove it, that expense could be charged back on the property taxes of the adjacent land owners. Would the township have to notify the surface owner of the obstruction and give them the opportunity to get it removed, before they removed it?

Representative Chuck Damschen: Yes, the owner would have the opportunity to remove it by their own means.

Chairman Ruby: They have thirty days after notification to remove the obstruction.

Ken Yantes (spelling unclear on sign in sheet), Executive Secretary of North Dakota

Township Officer's Association, spoke in support of HB 1495. At the last year's annual meeting there were complaints about large trees that have branches that stick out fifteen feet into the right-of-ways. We would like the authority to trim the trees, so that farmers can get through with their equipment. He felt that the township already had that authority, but he

spoke with John Walstead. Mr. Walstead didn't think that it wasn't clear if they had the authority or not. He recommended that they put in a bill to clarify the issue.

Representative Griffin: Why was the addition in line 21 "of any highway" necessary?

Ken Yantes: There are some areas near the big cities that there has been expansion out into the townships. Some of those roads are roads by prescription, which is a road that has been used for many years but didn't have any designation other than the township right-of way or a highway. So, in those areas that have trees hanging over, the new highways, the trees could be cleaned out and covered as well.

Representative Delmore: Do you know what the removal of a large tree would cost?

Ken Yantes: I can't tell you for sure, it varies so much.

Representative Gruchalla: If the definition of a highway is: right-of-way to right-of-way, in an unincorporated city would the streets also be included?

Ken Yantes: You are right, they would be included.

Representative Frantsvog: It seems to me that on page 2 lines 5 and 6, there should never be a levy against all the property owners in a township for removal of trees. Would it only go against the property owners?

Ken Yantes: Yes.

Chairman Ruby: Do you find that sometime a neighbor won't cut a tree for a farmer that needs to get down the road with equipment?

Ken Yantes: Usually it doesn't happen that way. The equipment operator usually calls the township board rather than the neighbor.

There was no opposition to HB 1495.

The hearing was closed to HB 1495.

Chairman Ruby asked the committee's wishes.

Representative Thorpe moved a **Do Pass** on HB 1495.

Representative Griffin seconded the motion.

A roll call vote was taken. **Aye 10 Nay 3 Absent 1**

The motion passed.

Representative Schmidt will carry HB 1495.

Date: 2-12-09

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1495

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do pass ☐ Don't Pass ☐ Amended

Motion Made By Thorpe Seconded By Griffin

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman	✓		Representative Delmore		✓
Rep. Weiler - Vice Chairman		✓	Representative Griffin	✓	
Representative Frantsovog	✓		Representative Gruchalla	✓	
Representative Heller	✓		Representative Potter	✓	
Representative R. Kelsch		✓	Representative Schmidt	✓	
Representative Sukut	✓		Representative Thorpe	✓	
Representative Vigasaa	✓				
Representative Weisz	✓				

Total Yes 10 No 3

Absent 1

Bill Carrier Schmidt

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

REPORT OF STANDING COMMITTEE

HB 1495: Transportation Committee (Rep. Ruby, Chairman) recommends DO PASS
(10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1495 was placed on the
Eleventh order on the calendar.

2009 SENATE TRANSPORTATION

HB 1495

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1495

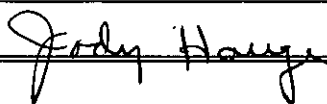
Senate Transportation Committee

☐ Check here for Conference Committee

Hearing Date: March 13, 2009

Recorder Job Number: 10887

Committee Clerk Signature



Minutes:

Chairman Gary Lee opened the hearing on HB 1495 relating to obstruction of section lines and highways.

Senator Curtis Olafson introduced the bill and said what this bill will do is specify that any obstruction in the vertical plane of the right of way can be removed. He said in his other life, one of his businesses was in construction and that they were in the earth moving construction business. He knows firsthand that overhanging trees can be an obstruction to farm equipment (combine) and other vehicles on the road and can cause major problems. This bill will give the counties and townships the authority to control these types of obstructions within the vertical plane.

Senator Nething asked who can remove the obstacle.

Senator Olafson said that would be up to the decision of the local government authorities.

Larry Syverson, NDTOA and a farmer from Mayville testified in support of HB 1495. He said that there seems to be a problem with trees over hanging on roads. These branches knock out windows in road graders and combines and this bill will give counties and townships the ability to remove them.

Terry Traynor, ND Association of Counties testified in support of HB 1495.

Senator Nodland asked if this would allow the county to charge the cost of removal on their taxes.

Traynor said it is his understanding that would be correct. The landowner can take care of it themselves or the county will take care of it and the cost would be to the landowner.

No opposing testimony

Senator Lee closed the hearing on HB 1495.

Senator Nodland moved a Do Pass on HB 1495.

Senator Nething seconded.

Senator Nodland said that they were already doing this in their county without the law.

Senator Lee said in their townships they also do this.

Roll call vote: 5-0-1 Senator Marcellais was absent and Senator Potter voted when he returned from testifying.

Senator Nodland will carry the bill.

Date: 3-13-09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1495

Senate Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Other

Motion Made By Senator Nodland Seconded By Senator Nething

Senator	Yes	No	Senator	Yes	No
Chairman Senator Gary Lee	✓		Senator Tom Fiebiger	✓	
Senator George Nodland	✓		Senator Richard Marcellais		
Senator Dave Nething	✓		Senator Tracy Potter	✓	

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Nodland

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

REPORT OF STANDING COMMITTEE (410)
March 13, 2009 11:38 a.m.

Module No: SR-48-4793
Carrier: Nodland
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1495: Transportation Committee (Sen. G. Lee, Chairman) recommends DO PASS
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1495 was placed on the
Fourteenth order on the calendar.