

# Legislative Report

## **I. Hearing Schedule (January 21 – January 25).**

The hearing schedule of bills being tracked by the North Dakota Water Users Association is included in this report. We are tracking these bills because they have a direct or indirect impact on water issues, either at the state agency level, political subdivision level or in private business.

## **II. State Water Commission Appropriation Hearing.**

HB 1020, which includes the appropriation for the State Water Commission agency operations and water projects across the state, was heard by the House Appropriations Education and Environment Subcommittee on Jan. 16 from 9:00 a.m. to 4 p.m. in the Roughrider Room. Following the State Water Commission testimony given by the State Engineer, testimony in support of the bill was offered by representatives of the many water needs including: F-M Diversion, Sheyenne River Flood Protection, Mouse River Flood Protection, Rural and Municipal Water Supply, Southwest Pipeline Project, Red River Valley Water Supply and Western Area Water Supply (WAWs).

Neutral testimony was given from the grassroots group called the Minn/Dak Upstream Coalition in regards to F-M Diversion opposing the locally preferred option. The Independent Water Providers support the funding for WAWs as long as it is used for rural and domestic water supply only, and offered amendments to the bill to include that language. There was no action taken on the bill.

We had an excellent and lively hearing with a lot of interest in water issues across the state. Thanks to those of you testifying and attending on behalf of your water projects.

## **III. Other Water Bills.**

The hearing for **HB 1067** which is a house keeping bill for the SWC was heard by the House Judiciary Committee on Monday, Jan. 14. This bill changes language in law since 1937 that identified the SWC as a public corporation to a state agency. There was no testimony in opposition to the bill. The committee asked the clerk to check if this language change may inadvertently affect any areas of the SWC activities before acting on the bill.

**SB 2053** was heard by the Senate Natural Resources Committee on Jan. 17. This bill inserts language into code regarding property acquired for NAWs that is no longer necessary, and gives the SWC the authority to sell, transfer or exchange the unnecessary parcel to the current or adjacent land owner. The bill uses language that is currently used by the SWPP and applies it for NAWs so that it is consistent for both state projects. The bill was given a Do Pass (7-0) and will now go to the Senate floor.

**SB 2054** was also heard by the Senate Natural Resources Committee on Jan. 17. This bill adds the State Engineer to the liability protection given to the DOT, county and townships if damage at a culvert or bridge is not the fault of any actions or flow determinations provided by the State Engineer. The SWC also offered an amendment to change language in two other sections of code that were not included in this bill in order to be consistent. Arvid Winkler of Barnes County testified in opposition to the bill. The committee did not act on this bill since the SWC will be bringing forward amendments.

The committee took action on **SB 2027** which was heard last week, and it received a Do Pass (7-0), and will now go to the Senate floor.

The following four bills were heard by the House Natural Resources Committee on Jan. 17:

**HB 1060** This bill combines the west and east Devils Lake Outlet Advisory committees into one committee called the Devils Lake Outlets Management Advisory Committee. The SWC and Joe Belford testified in support of the bill, there was no testimony in opposition. Rep Keiser moved an amendment to the bill to add representation from one Senator and one Representative to the committee, the bill received a Do Pass as amended recommendation (13-0).

**HB 1061** is a bill to increase the fee for penalties for violating appropriations of water from \$5,000 per day to \$15,000 per day. The bill is mostly related to water provided and sold for fracking. After much discussion it was decided that the SWC staff and attorneys would work with Reps. Nathe and Keiser regarding some possible amendments related to permitting, taxation and penalties.

**HB 1062** is a bill to clear up confusion regarding the appeals process for landowners in relation to a noncomplying dam, dike, other device or drain. The law was not consistent and based the appeals process on date of construction and this bill makes the process the same for all appeals. There was no testimony in opposition to the bill. The bill received a Do Pass (13-0) recommendation.

**HB 1063** is a bill to change the word unnavigable to nonnavigable to match the administrative code. Chairman Porter asked the SWC to amend the areas of administrative code to match the century code suggested language, and the SWC will bring forward an amendment to the bill to do that. There was no opposition and there was no action taken.

#### **IV. Western Area Water Supply Authority.**

The hearing for **HB 1140**, which provides for a \$40 million construction loan from the Bank of North Dakota for the Western Area Water Supply Authority (WAWSA), was held on Friday, Jan. 18 in the House Natural Resources Committee. Testimony in support for the bill was provided on behalf of WAWSA by John Olson, project lobbyist, Denton Zubke, chairman, Jaret Wirtz, manager, Steve Burian, AE<sub>2</sub>S, Burt Anderson, board member and Monte Meiers, city of Williston. Testimony in opposition to the bill was given by Pat Wheeler, Independent Water Providers and Jon McCreary, JMAC Resources/West Dakota Water. The bill was assigned to a subcommittee consisting of Reps. Keiser, Hofstad and Hunsakor for further work. The State Water Commission maintains a neutral position and has some amendments to offer and those will come forward in subcommittee.

#### **V. Oil and Gas Tax Bills.**

**HB 1032** was heard before the House Finance and Taxation Committee on Jan. 14. The bill would provide an exemption from the state's 6.5 percent oil extraction tax for oil recovered and refined in North Dakota. The state's lone refinery, owned by Tesoro Corp., is outside of Mandan. The Tesoro facility has 68,000 barrels of oil per day of refining capacity.

The fiscal note estimates a \$258 million reduction in oil extraction tax revenue. The estimate is based on the current refining capacity in the state. The \$258 million in reduced revenue would impact several funds that receive oil extraction tax dollars, including the Resources Trust Fund. Bill Shalhoob, with the North Dakota Chamber of Commerce, testified against the bill. Shalhoob said the bigger question is why the industry is not able to expand. He said regulations from the Environmental Protection Agency make investment in expanded capacity and construction of new refineries more difficult. No new refineries have been built in the U.S. since the 1970s although at least three are being considered in the state.

No one testified in favor of the bill. The committee took no action on the bill on Monday.

#### **VI. E-mail Version of Weekly Legislative Reports.**

Throughout the legislative session, we send out weekly Legislative Reports on session events that are pertinent to water interests. E-mail is the most efficient way to stay up-to-date since most of the material in the report is of a time-sensitive nature. If you would like to be included on the e-mail listserv for the Legislative Report please contact Julie at [ndwaterusers@btinet.net](mailto:ndwaterusers@btinet.net) with your e-mail address.

## **VII. Contact Your Legislators**

North Dakotans have two options to get legislative information or to leave a message for their legislator.

The first option is to call the state legislature in Bismarck. The incoming toll-free number is (888) NDLEGIS (888-635-3447). In Bismarck the number is 328-3373. For hearing-impaired individuals, the TTY toll-free number is (800)-366-6888 to reach a relay operator. Each of these numbers will reach the legislative telephone center. The telephone attendant will be able to give the latest information concerning bills and resolutions. If the caller wishes to directly contact the caller's legislator, a message will be delivered to the legislator.

The second option is to visit the legislative website: [www.legis.nd.gov](http://www.legis.nd.gov). Here website users will find bill status information and have an opportunity to leave a general message for legislators or a viewpoint on legislation. A **new** legislative bill tracking system and a new legislative branch video are available on the website. The bill tracking system will allow users to follow individual bills; the legislative branch video will allow users to watch live video of floor sessions as well as archived and indexed floor sessions.

### **FOR FURTHER INFORMATION CONTACT:**

Legislative Council  
State Capitol  
Bismarck, ND 58505  
701-328-2916

When contacting a Legislator, please follow these guidelines:

- Address your purpose in the subject line, the first paragraph, or at the start of the phone call. Identify specifically what legislation your contact pertains to (for example, HB 1234 or SB 2345).
- Be specific and include key information, using examples to support your position.
- Address only one issue in each contact, and keep your contact short and on topic.

## **VIII. Hearing Schedule.**

(On the following page.)

**HEARING SCHEDULE**  
**January 21-25, 2013**

<b>Bills</b>	<b>Time</b>	<b>Committee</b>	<b>Room</b>
<b><u>Monday, January 21</u></b>			
SB 2014 State Industrial Commission Budget/ Resources Trust Fund appropriation to Renewable Energy and Energy Conservation	8:30	S-APPR	Harvest
HB 1167 Relating to the definition of earnings of the Legacy Fund	9:15	H-FINTAX	Ft Totten
HB 1179 Oil extraction tax exemption for stripper wells	9:30	H-FINTAX	Ft Totten
HB 1184 Income tax credit for flood recovery impact for individuals flooded out of their homes in 2011	10:15	H-FINTAX	Ft Totten
SB 2014 State Industrial Commission Budget/ Resources Trust Fund appropriation to Renewable Energy and Energy Conservation	2:00	S-APPR	Harvest
<b><u>Tuesday, January 22</u></b>			
HB 1185 Extension of the Rebuilders Loan Program	8:00	H-IBL	Peace Garden
SCR4006 Limited legislative review of initiated Measures substantially affecting the state budget	10:30	S-JUD	Ft Lincoln
SB 2004 State Health Dept Budget	2:00	S-APPR	Harvest
<b><u>Wednesday, January 23</u></b>			
HB 1016 Adjutant General Budget/State Disaster Relief Fund	8:30	H-APPR-GO	Medora
<b><u>Thursday, January 24</u></b>			
HB 1177 Compensation of members of political subdivision boards and committees	10:00	H-POLSB	Prairie
HB 1269 Appropriation to advance fund water supply projects	10:30	H-APPR	Roughrider
SB 2150 Restriction of per diem compensation for members of boards and commissions established by statute	10:45	S-POLSUB	Red River
HB 1206 Authorize the legislative council to replace certain statutory references to the water commission and state engineer	2:00	H-NATRES	Pioneer
HB 1278 Outdoor Heritage Fund	3:00	H-NATRES	Pioneer
<b><u>Friday, January 25</u></b>			
SB 2001 Legislative compensation	8:30	S-APPR	Harvest
HCR3010 Urging Congress and the Corps to address access issues on Lake Sakakawea and Lake Oahe	9:00	H-NATRES	Pioneer

**NORTH DAKOTA WATER USERS ASSOCIATION  
2013 LEGISLATIVE BILLS TRACKED (To Date)**

**1. APPROPRIATION BILLS**

HB 1015 OMB Budget  
HB 1016 Adjutant General Budget  
HB 1020 State Water Commission Budget  
HB 1269 An appropriation to the State Water Commission for water projects and emergency clause  
SB 2001 Legislative Compensation  
SB 2004 An appropriation for defraying the expenses of the state department of health  
SB 2014 State Industrial Commission Budget/Resources Trust Fund appropriation to Renewable Energy and Energy Conservation

**2. WATER BILLS**

HB 1060 Composition and duties of the Devils Lake Outlet Management Advisory Committee  
HB 1061 Penalties for violations of provisions for the appropriation of water  
HB 1062 Relating to appeals of removal or closing of a noncomplying dam, dike or other device and drains  
HB 1063 Relating to the term non-navigable  
HB 1067 Relating to the State Water Commission acting as a public corporation  
HB 1140 Provide for a loan from the Bank of ND to Western Area Water Supply  
HB 1184 Relating to income tax credit for flood recovery  
HB 1185 Extension of the Rebuilders loan program  
HB 1206 Authorize the legislative council to replace certain statutory references to the water commission and state engineer  
HB 1210 Payments in lieu of taxes to a school district for which the property tax base was diminished by acquisition of property for a flood control project  
HB 1278 Outdoor Heritage Fund  
SB 2027 Requires 5 percent of the Resources Trust Fund revenues up to \$3 million per biennium be transferred to the Renewable Energy Development Fund  
SB 2048 Relating to allocation of funds from the Resources Trust Fund by the State Water Commission  
SB 2049 Water Topics Overview Committee changes, irrigation districts, irrigation project financing, and the expiration of GDCD irrigation special assessments  
SB 2052 Relating to a permit to construct or modify a dam  
SB 2053 Relating to the sale of property owned by the SWC obtained for construction of NAWS  
SB 2054 Relating to the liability of the State Engineer for determination of surface water flow and appropriate highway construction  
SB 2199 Relating to drainage projects  
HCR 3010 Urging Congress and the Corps to address access issues on Lake Sakakawea and Lake Oahe

**3. OIL TAX**

HB 1032 Relating to an exemption from the oil extraction tax  
HB 1179 Relating to the oil extraction tax exemption for stripper wells

#### **4. OTHER BILLS**

HB 1025 Relating to liability and immunity during disaster responses

HB 1096 Relating to the share of state sales, gross receipts, use, and motor vehicle excise tax revenues and allocation among political subdivisions

HB 1120 Relating to authority to issue mandatory evacuations during emergencies

HB 1290 Relating to property tax levy dollar increase limitations

SB 2118 Relating to authority to join interstate mutual aid agreements

SB 2150 Restriction of per diem compensation for members of boards and commissions established by statute

HCR 3001 Directing Legislative Management to study related to issues associated with group housing and crew camps, including infrastructure demands

SCR 4006 Limited legislative review of initiated measures substantially affecting the state budget