

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

2388

2001 SENATE NATURAL RESOURCES

SB 2388

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2388

Senate Natural Resources Committee

Conference Committee

Hearing Date 2-15-01

Tape Number	Side A	Side B	Meter #
1	X		Start - end
		X	Start - 15.1
2-16-02	X		19.5 - 46.0
Committee Clerk Signature <i>Jamie Jarrell</i>			

Minutes:

SENATOR FISCHER opened the meeting of Senate Natural Resources Committee. Roll call was taken indicating all were present with the exception of SENATOR TRAYNOR.

SENATOR FISCHER opened the hearing on SB 2388.

SENATOR GARY NELSON, of District 22 cosponsor of SB 2388 A BILL RELATING TO DURATION OF EASEMENTS. This bill addresses the issue of conservative easements which can provide compensation to landowners for maintaining or improving their property for any reason. These reasons can be for erosion control, wildlife habitat, esthetic values are some of motivations behind this activity. Presently options of conservation easements are very restricted by durations and who is entrusted to manage those easements. SB 2388 will widen the options available and will allow agricultural organizations to become involved in the process allowing them to hold easements. Easements at this time are limited to be purchased by the

federal government through the Game & Fish Department. This bill will broaden the scope of organizations who can actually hold easements.

REPRESENTATIVE DENNIS JOHNSON of District 12, cosponsor of SB 2388 testified in support (See attached testimony).

ERIC ASSMUNDSTAD, President of the North Dakota Farm Bureau testified in support of SB 2388 (See attached testimony).

KEITH TREGO, Executive Director of the North Dakota Wetlands Trust testified in support of SB 2388 (See attached testimony).

WADE MOZER representing the North Dakota Stockmen's Association testified in support of SB 2388. Their duty representing the industry is to educate their members so they can make a good decision when entering into an easement agreement. Maybe all goals can be meet without perpetual easements and if this bill can give flexibility things would be going in the right direction.

PAUL BECKER a farmer from the Devil's Lake area testified in support of SB 2388 (See attached testimony).

ANDY MORK, chairman of BOMMM Joint Water Resources Boards (Burleigh, Oliver, Morton, Melean, Mercer Counties) testified in support of SB 2388. He presented a information published in Ohio (see attached). He will prepare an amendment to the bill.

????????? a farmer of 30 years testified in support of SB 2388.

GERALD REICHERT, the North Dakota field representative for the Nature Conservancy testified in a neutral position on SB 2388. This legislation would give every landowner the property right to make the decision that solely belongs to the landowner.

JOE SATROM , Director of Land Protection Program for the Great Plains Office of Ducks

Unlimited testified in a neutral position of SB 2388 (See attached testimony).

SENATOR KELSH asked if there is was a different tax implication if land was leased to a 501 c (3) or a 501 c (5) organization.

JOE SATROM could not answer that.

BILL PFEIFER, representing the North Dakota Wildlife Society testified in a neutral position of SB 2388 (See attached testimony).

MIKE DONAHUE, representing the North Dakota Wildlife Federation and the United Sportsmen testified in a neutral position of SB 2388.

DENNIS MILLER, President of the LAND (Landowners Association of North Dakota) testified in opposition to SB 2388 (See attached testimony).

CHARLES DAMSCHEN farmer from District 10, testified in opposition to SB 2388. He is concerned about the misuse of easements. He questioned the legality and the ethics of perpetual easements and felt it is not a property right to be able to sell off every future owners property right.

SENATOR TOLLEFSON questioned the marketability and the taxation value of land that under perpetual easements.

CHARLES DAMSCHEN confirmed that his area that would be the case.

WES DORSETT testified in opposition of SB 2388. He felt that property rights are no longer sacred, the legislature should not be able to dictate in perpetuity and that finally a landowner should not be able to dictate for a future owner. His experience would show that land is always depreciated in value when an easement is involved.

ARDEN HANER testified on behalf of himself in opposition to SB 2388. He posed the question that does a property owner have the right to sell off certain property rights forever and that easements should be passed with the property owner.

ROGER BISCHOFF of Valley City, ND testified in opposition to SB 2388. He experience has been that the value of property is decreased due to easements of that property.

DON BERGE a farmer from Fargo, ND testified in opposition to SB 2388. He is opposed to perpetual easements and will not purchase property with easements.

SENATOR TOLLEFSON asked if perpetual easements are transferable.

DON BERGE answered that they would go with property.

GORDON BISCHOFF testified in opposition of SB 2388. He said that in his experience in appraising property he has always reduced the value of property because of easements on that property.

SENATOR KELSH stated that North Dakota is the only state that does not allow perpetual easements and wondered what is happening in the other states.

SENATOR FISCHER closed the hearing on SB 2388.

FEBRUARY 16, 2001

SENATOR FISCHER reopened the discussion on SB 2388.

It has been brought to attention that there is a Study Resolution already in the process relating to easements (See attached). MIKE DWYER was present a was asked about the present status of HCR 3023. This resolution deals with the issue of easements which would include all the bills already heard by the committee. His intent is to make the committee aware of the resolution not recommending it instead of the bills introduced. He also submitted an amendment to SB 2388 as suggested by Andy Mork of BOMMM. (See attached). Testimony of MALCOLM H. BROWN

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of behalf of the Real Property Section of the State Bar Association of North Dakota was submitted that contained comments about proposed amendments (See attached).

After some discussion the Committee decided they are uncomfortable and were struggling with the idea of "perpetual" easements and at this point were more comfortable with the study resolution HCR 3023 which has been passed on the house floor.

SENATOR EVERY made a motion for a "DO NOT PASS" of SB 2388.

SENATOR TOLLEFSON second the motion.

SENATOR FISCHER called for a roll vote of SB 2388. The vote indicated 5 YAYS, 0 NAYS, AND 1 ABSENT.

SENATOR TOLLEFSON will carry SB 2388.

REPORT OF STANDING COMMITTEE (410)
February 16, 2001 1:31 p.m.

Module No: SR-29-3687
Carrier: Tollefson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2388: Natural Resources Committee (Sen. Fischer, Chairman) recommends DO NOT PASS (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2388 was placed on the Eleventh order on the calendar.

2001 HOUSE NATURAL RESOURCES

SB 2388

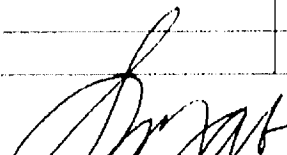
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2388

House Natural Resources Committee

Conference Committee

Hearing Date March 9, 2001

Tape Number	Side A	Side B	Meter #
1	x		1 to end
1		x	1 to end
Committee Clerk Signature 			

Minutes:

Chairman Earl Rennerfeldt, Vice Chair Jon O. Nelson, Rep. Brekke, Rep. DeKrey, Rep. Droydal, Rep. Galvin, Rep. Keiser, Rep. Klein, Rep. Nottestad, Rep. Porter, Rep. Weiler, Rep. Hanson, Rep. Kelsh, Rep. Solberg, Rep. Winrich.

Chairman Rennerfeldt: I will call the Natural Resources Committee to order. Clerk call the roll.

Sen. Traynor - District 15: I am the prime sponsor of SB 2388. This bill provides that a perpetual easement may be given by a land owner to be held by a group - the definition, line 16-19 in the bill delineates those groups, which would be farm organizations. We have perpetual easements in ND now. The difference now is that the easements are held by the US Fish and Wildlife Agency. This bill would allow our own farm groups to hold the easements. A much more friendly farmer group than what we presently have. A perpetual easement is forever, so anyone giving it should give it a great deal of thought. It is a sale of part of your ownership. There are instances where

this is desirable. We had two bills in the Senate just delineating certain areas for perpetual easements. Those bills were killed, this one survived. This one would provide easements anywhere in the state. I think it is important to have farmer friendly groups holding the easements because the funding would be by organizations that are interested in conservation. We want to see those funds put in the pocket of ND landowners. The testimony in the Senate indicated that the amount paid by the conservation groups is maybe 20-25% of what the sale value of the property is. I submit to you that may not be enough. Maybe what the land would sell for isn't necessarily the top. Giving a perpetual easement goes on forever and it is another use of the property. I hope that you make this opportunity available to ND landowners that want to use it. It is an option that we should allow our citizens to take. It would be a more friendly setup than the present situation.

Rep. Solberg: You mentioned 25% of value as the compensation for a perpetual easement and that is an issue with all landowners. What in your opinion would be fair?

Sen. Traynor: It is a matter of negotiation, I am not so sure if you had pasture land that was selling for \$100 an acre. Maybe a perpetual easement should get more than that? That is something the landowner and the conservation groups have to negotiate.

Rep. Kelsh: What type of organization is a 501(c)(5)?

Sen. Traynor: Those are the farm organizations, the horticultural organizations and the labor union. 501(c)(3) are charitable organizations.

Rep. Winrieh: How many organizations are there that meet these three restrictions on lines 14-19?

Sen. Traynor: There are three farm organizations. I don't know about the horticultural or labor organizations. I think that other two, a and b boil it down so only the three farm organizations meet all three criteria.

Rep. Winrich: Can you tell us what those three organizations are?

Sen. Traynor: The Farm Bureau, the Farmers Union, and the Stockmen's Association.

Chairman Rennerfeldt: Would Soil Conservation qualify?

Sen. Traynor: I don't believe so. Not as the bill is drawn.

Rep. Droydal: If one landowner sells his perpetual easement for his land, does that have any reflection on the value of his neighbors land who doesn't sell a perpetual easement.

Sen. Traynor: It would depend on the situation. The lay of the land and so forth. Each instance would have to be evaluated that way.

Chairman Rennerfeldt: Any further questions.

Rep. D. Johnson - District 12: (See written testimony). The question you had about the Soil Conservation Association. They would also qualify with the other groups previously mentioned. Since this bill is drafted and after the Senate hearing we are seeing some language that should be included in the bill. (See amendment).

Vice Chair Nelson: On line 16, under subsection a, the director ship of the organization must consist of agricultural producers. Is that all ag producers? Or would it be a majority. What is the membership of the board of directors have to consist of?

Rep. Johnson: Page 1, line 16, the amendment I just handed out addresses that.

Vice Chair Nelson: The question is - if one none-ag producer, if there was one member on the board of these groups that wasn't an ag producer would that disqualify that group from acceptance by this provision? Do they have to be all, or just a majority?

Rep. Johnson: I'm not sure?

Chairman Rennerfeldt: Anyone else care to testify in favor of this bill?

Eric Aasmundstad - ND Farm Bureau: The ND Farm Bureau supports Senate Bill 2388. (See written testimony).

Vice Chair Nelson: When you say that the Soil Conservation Districts would qualify under this section, they may under the 501(c)(5). But isn't it true that they have some technical staff as part of their board and would that disqualify them under section a of subsection 2?

Aasmundstad: Can I refer this to Gary Puppe.

Gary Puppe - Executive Vice President of the ND Association of Soil Conservation Districts:
The ND Association of Soil Conservation Districts is a 501(c)(5) non profit organization. The districts themselves are political subdivisions of the state. The Association is made up of supervisors of soil conservation districts.

Vice Chair Nelson: That meets part c, but under part a it says they have to be Ag Producers? Isn't it true that some of those supervisors wouldn't meet that criteria?

Puppe: That would be true as far as Soil Conservation Districts are concerned, but the ND Association of Soil Conservation Districts all the board members are ag producers.

Rep. Keiser: What are the tax implications for the counties and communities for these easements?

Aasmundstad: Minimal. The valuation of the land probably won't change. When we are dealing with this issue, if we look at this legislation, and just take the word easement out of it and replace that word with contract. That is what this is, each and every one of these easements is just that... Contracts. Negotiable contracts between the producer and the organization that wishes to acquire the easement. The farm groups in the state would be allowed to hold easements instead of the US

