

ONE HUNDRED FOURTH LEGISLATURE - SECOND SESSION - 2016
COMMITTEE STATEMENT
LB1038

Hearing Date: Wednesday February 10, 2016
Committee On: Natural Resources
Introducer: Davis
One Liner: Change water appropriation application provisions

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Friesen, Hughes, Johnson, Kolowski, McCollister, Lindstrom,
Schilz, Schnoor

Nay:

Absent:

Present Not Voting:

Verbal Testimony:

Proponents:

Senator Al Davis
Don Blankenau
Timothy McCoy
Mike Murphy
Terry Julesgard
Anna Baum
Dennis Schueth
Martin Graff
Bruce Kennedy
Marjorie Kennedy
Buffalo Bruce
Duane Hovorka
Tonny Beck
Dale Wiles
Jarel Vinduska
Lyndon Vogt
David Cookson
John Hansen

Representing:

Introducer
Niobrara River Basin Association
Nebraska Game and Parks Commission
Middle Niobrara Natural Resources District
Lower Niobrara Natural Resources District
Upper Loup Natural Resources District
Upper Elkhorn Natural Resources District
Self
Friends of the Niobrara
Wachiska Audubon Society
Western Nebraska Resources Council
Nebraska Wildlife Federation
Self
Self
Self
Nebraska Association of Resources Districts
Nebraska Appropriated Basins Coalition
Nebraska Farmers Union

Opponents:

Lee Orton
Brett Skinner
Dennis Strauch
Steve Smith

Representing:

Nebraska State Irrigation Association
Mirage Flats Irrigation District
Pathfinder Irrigation District
North Platte Valley Irrigation Association

Neutral:

Craig Scott
Rod Imm

Representing:

U.S. Bureau of Reclamation
Ainsworth Irrigation District

Summary of purpose and/or changes:

LB 1038 would allow an appropriation for the manufacturing of hydropower to be changed to an instream basin-management appropriation if certain conditions are met.

Explanation of amendments:

The committee amendment replaces the bill and would do the following:

- * Allows an appropriation for the manufacturing of hydropower at a facility on a natural stream channel to be permanently changed in full to an instream basin-management appropriation if held jointly by the Game and Parks Commission and a natural resources district or combination of districts.
- * States that the beneficial use of the change is to maintain the stream flow for fish, wildlife and recreation that was available from the manufacturing of hydropower prior to the change.
- * Allows the appropriation to be used for implementation of an approved integrated management plan developed pursuant to existing law. In other words, no portion of the right can be used for water management nor can new uses be granted unless IMPs are adopted.
- * Subjects the changed appropriation to review under the statutes requiring the DNR to determine beneficial use and nonuse.
- * Allows a changed appropriation under this section to maintain the priority date and preference category of the original hydropower appropriation.
- * Requires that the changed appropriation be subject to condemnation and subordination.
- * Allows a person holding a subordination agreement established prior to the change to enter into a new agreement for terms consistent with the original agreement at no additional cost.
- * Requires condemnation awards established prior to the changed appropriation to be upheld by the changed appropriation owner according to the obligations created by the award.
- * Requires the compensation under a subordination agreement to be the cost per acre-foot of water subordinated for hydropower at the time of approval of the appropriation change.
- * Allows the amount of compensation to be adjusted annually, but prohibits increases from exceeding the annual change in the Consumer Price Index from the time of approval of the change.
- * Reinstates the Riparian Vegetation Management Task Force and reinstates legislative intent for an appropriation of \$1 million for that program. (LB 711)

Ken Schilz, Chairperson