

Testimony
House Bill 1114
Energy and Natural Resources Committee
January 15, 2015, 10:00 a.m.
North Dakota Department of Health

Good morning, Chairman Porter and members of the Energy and Natural Resources Committee. My name is Scott Radig, and I am director of the Waste Management Division of the North Dakota Department of Health. I am here today to testify in support of House Bill 1114, which primarily addresses a number of housekeeping issues in the Solid Waste Management law, and makes the Solid Waste Management law consistent with other environmental regulations.

Section 1 changes the definition of resource recovery to include the reuse or recycling of any solid waste, not just municipal waste. This amendment would allow for the recycling of a wide range of non-hazardous wastes, including oilfield waste materials.

Sections 2 and 3 make the penalty provisions of the Solid Waste Management law consistent with the penalties in water quality, air quality, and hazardous waste. The penalty for littering one cubic foot or less remains an infraction with a fine up to \$100. The bill changes the penalty for dumping larger volumes of waste to a Class B misdemeanor and thus, treats this dumping like other solid waste violations. The bill increases the maximum civil penalty for all solid waste violations from \$1,000 per day per violation to \$12,500 per day per violation. It also adds criminal penalties up to a Class C felony for any person who willfully or knowingly violates provisions of the solid waste law, consistent with other state environmental laws.

Section 4 of the bill repeals two sections in the solid waste law that are outdated and difficult to enforce. Section 23-29-09 requires that any notice, order or “official correspondence” of the department under the solid waste law be sent by certified mail. This section was implemented in 1975, but is no longer workable in today’s era of electronic communication. The department is moving to providing online services that are much more efficient for the public and the department, making the requirement for certified mail cumbersome, inefficient and unnecessary.

Section 23-29-16, Environmental Protection Act, was enacted as a result of an initiated measure in 1996. This initiated measure included 1) banning privately owned hazardous waste disposal facilities; 2) privately owned landfills would

be required to have financial assurance insurance policies for a minimum of 100 years after the landfill closes, while publicly owned landfills have a requirement for 30 years of post-closure financial assurance; and, 3) a mandatory county vote to approve continued operation of existing privately owned landfills. This section was declared unconstitutional in North Dakota District Federal Court in Municipal Services Corporation v. State of North Dakota, Docket No. A4-96-80, on October 9, 1996. Because this section has been declared unconstitutional and is unenforceable, we ask that it be repealed.

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