

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2013

Bill Number: H.141 Name of Bill: An act relating to the compensation of members of the district environmental commissions

Agency/ Dept: Natural Resources Board Author of Bill Review: Melanie Kehne

Date of Bill Review: February 28, 2013 Status of Bill: (check one):

Upon Introduction As passed by 1st body As passed by both bodies Fiscal

Recommended Position:

Support Oppose Remain Neutral Support with modifications identified in #8 below

Analysis of Bill

1. Summary of bill and issue it addresses. *Describe what the bill is intended to accomplish and why.*

Would raise the per diem rate for Act 250 District Commission members from \$50/day to \$100/day, and would authorize the Natural Resources Board, with the Governor's approval, to increase it further in extraordinary circumstances, including heavy caseloads, for a limited time.

This bill is intended to raise compensation for District Commissioners, who have received \$50/day for many years, in comparison to some other boards with larger per diems. It is also intended to allow extra compensation for District Commissioners in the Northeast Kingdom (District 7) for the significant new development expected there in the next two years, and in other districts with large projects, at the Board's request if approved by the Governor.

2. Is there a need for this bill? *Please explain why or why not.*

There is a need for a per diem raise, but it is not justified at this time given the state's current fiscal situation. Per diems for District Commissioners and NRB members have not increased for many years. Some other state boards may be in the same situation. Reasonable compensation through fair per diems can help attract and keep highly qualified citizens to serve on the District Commissions. The current per diem routinely equates to less than minimum wage for Commissioners handling complex applications. Although there are insufficient resources now, it would be good to look at per diems for all state boards and plan for fair increases when we can afford them.

There is no need for the provision allowing higher per diems in extraordinary circumstances, such as heavy caseloads. In those circumstances, District Commissioners are authorized to charge for the extra preparation time.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

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At a minimum, this would double the portion of the NRB budget allotted to Commissioner per diems. As noted above, this is unjustified in the current fiscal climate, and the NRB's current budget does not allow for this increase.

The provision allowing the Board to raise the per diem rate higher than \$100/day for limited durations in extraordinary circumstances (such as heavy caseloads), with the Governor's approval, would be problematic. It would be difficult to budget for extraordinary circumstances/heavy caseloads, since applications may not be known in advance. Moreover, the amount of work necessary to hear an application does not necessarily correlate with the size of the development. Complexity of issues – procedural and substantive – can turn a small project into a huge workload.

Currently, the NRB addresses heavy caseloads by authorizing extra per diems for case preparation in limited circumstances. There is generally some preparation time required to read materials prior to and during a hearing, but when the amount of prep time is truly extraordinary, Commissioners can be compensated for the extra work those cases require.

Adding the option to increase per diems for a particular Commission or case is not necessary, and would be difficult to budget for and to administer fairly.

4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?

Fiscal implications are limited to the NRB. However, other departments and boards with \$50/day per diems may find it unfair that this bill limits the per diem increase to District Commissioners.

Making it easier to find and keep very well qualified Commission members and NRB members may have indirect benefits for agencies who appear before Act 250 (including ANR, AAFM, VTrans, & DHP) and participate in Act 250 rulemaking and policymaking processes.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)

All parties who appear in Act 250 and have an interest in Act 250 Rules and policies could experience indirect benefits from the NRB's ability to attract and retain the most qualified District Commissioners and Board members.

No known fiscal implications for stakeholder groups.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

Anyone with an interest in attracting and keeping qualified District Commissioners. Otherwise, unknown.

6.2 Who else is likely to oppose the proposal and why?

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Those concerned about the state budget, including the NRB and the Administration. Otherwise, unknown.

7. Rationale for recommendation: *Justify recommendation stated above.*

This bill singles out the District Commissions for a raise, at a time when the state budget is beyond tight. All citizens who give their time to state boards and commissions, like the NRB and District Commissions, deserve fair and adequate per diem compensation. But per diem raises are simply unsupportable in the current fiscal climate.

A more comprehensive look at per diems for all state boards and commissions may be justified in the long term.

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

No change can make this bill fair and affordable, given the current budgetary situation.



Secretary/Commissioner has reviewed this document:

Date: March 8, 2013