

2023 HOUSE POLITICAL SUBDIVISIONS

HB 1098

2023 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

HB 1098
1/5/2023

relating to the enforcement and penalties of communities that fail to adopt or enforce floodplain management ordinances as required under the national flood insurance program.

Chairman Longmuir opened the hearing on HB 1098 at 1:30 PM Members present: Chairman Longmuir, Vice Chairman Fegley, Rep. Hatlestad, Rep. Heilman, Rep. Holle, Rep. Jonas, Rep. Klemin, Rep. Motschenbacher, Rep. Ostlie, Rep. Rios, Rep. Toman, Rep. Warrey, Rep. Davis, Rep. Hager

Discussion Topics:

- FEMA money
- Community flood risk

Darin Hanson, Director of ND Homeland Security Department. In support Testimony #12379
Aaron Carranza, Directory Division Director of Dept. of Water Resources. In support Testimony # 12415

Hearing closed 1:40 PM.

Rep. Klemin moved Amendment 23.8095.01001, seconded by Rep. Hager.

Representatives	Vote
Representative Longmuir	Y
Representative Fegley	Y
Representative Hatlestad	Y
Representative Heilman	Y
Representative Holle	Y
Representative Jonas	Y
Representative Klemin	Y
Representative Motschenbacher	Y
Representative Ostlie	Y
Representative Rios	Y
Representative Toman	Y
Representative Warry	Y
Representative Davis	Y
Representative Hager	Y

Roll call vote: Yes 14 No 0 Absent 0 Motion carried.

Rep Motschenbacher moved Do Pass as amended on HB 1098, seconded by Rep Jonas.

Representatives	Vote
Representative Longmuir	Y
Representative Fegley	Y
Representative Hatlestad	Y
Representative Heilman	Y
Representative Holle	Y
Representative Jonas	Y
Representative Klemin	Y
Representative Motschenbacher	Y
Representative Ostlie	Y
Representative Rios	Y
Representative Toman	Y
Representative Warry	Y
Representative Davis	Y
Representative Hager	Y

Roll call vote: Yes 14 No 0 Absent 0

Motion carried. Rep Jonas is the carrier.

Hearing closed at 1:48 PM

Delores Shimek, Committee Clerk

January 5, 2023

94 1/1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1098

Page 1, line 13, after the underscored closing bracket insert "relating to"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1098: Political Subdivisions Committee (Rep. Longmuir, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1098 was placed on the Sixth order on the calendar.

Page 1, line 13, after the underscored closing bracket insert "relating to"

Renumber accordingly

2023 SENATE STATE AND LOCAL GOVERNMENT

HB 1098

2023 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee
Room JW216, State Capitol

HB 1098
3/2/2023

Relating to the enforcement and penalties of communities that fail to adopt or enforce floodplain management ordinances as required under the national flood insurance office.
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10:00 AM Chair Roers opened the hearing. Present: Chair Roers, Vice Chair Barta, Sen Cleary, Sen Estenson, Sen J Lee, and Sen Braunberger.

Discussion Topics:

- Less penalty
- Township staff

Justin Messner, ND Dept Emergency Services, testified in support #21449.

Laura Horner, ND FEMA Water Resources Dept, testified in support #21640.

Sen Braunberger moved a DO PASS.

Sen Cleary seconded.

Senators	Vote
Senator Kristin Roers	Y
Senator Jeff Barta	Y
Senator Ryan Braunberger	Y
Senator Sean Cleary	Y
Senator Judy Estenson	Y
Senator Judy Lee	Y

VOTE: YES – 6 NO – 0 Absent – 0 Motion PASSED

Sen Cleary will carry the bill.

10:12 AM Chair Roers closed the hearing.

Pam Dever, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1098, as engrossed: State and Local Government Committee (Sen. K. Roers, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1098 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

TESTIMONY

HB 1098

**TESTIMONY OF
DARIN T. HANSON
HOMELAND SECURITY DIVISION DIRECTOR
NORTH DAKOTA DEPARTMENT OF EMERGENCY SERVICES
BEFORE THE 68th LEGISLATIVE SESSION
HOUSE POLITICAL SUBDIVISIONS COMMITTEE
JANUARY 5TH, 2023
IN SUPPORT OF HOUSE BILL 1098**

Chairman Longmuir, members of the House Political Subdivisions Committee, my name is Darin Hanson and I'm the Homeland Security Division Director at the Department of Emergency Services (DES) for the State of North Dakota. I am here today to testify in support of House Bill 1098. This is a bill that amends Subsection 2 of NDCC 61-16.2-09 relating to floodplain management ordinances. The intent of this bill is to ensure that the state does not unintentionally limit the ability of a city, county, or organized township to receive flood disaster assistance that they would otherwise be eligible for under federal disaster recovery programs.

As presently written, if a community fails to adopt or enforce floodplain management ordinances required under the National Flood Insurance Program (NFIP), then it is not eligible to receive any flood disaster assistance from the state, financial or otherwise. On its face, this sounds like a good thing because we want communities to participate in the NFIP. However, disaster relief funding from the Federal Emergency Management Agency (FEMA) is required to be passed through the ND Department of Emergency Services before it can be disbursed to local communities. This means that a community that failed to adopt or enforce floodplain management ordinances would not be eligible to receive any FEMA funding for flood relief which could cost local jurisdictions significantly after a flood disaster. As its currently written, Century Code language is far more restrictive than federal policy which, in this scenario, would only prevent a community from receiving federal funding for insurable structures that are located in a FEMA identified Special Flood Hazard Area.

An example of why this is important is that a bridge, road, culvert, riverbank, or utility system are considered uninsurable infrastructure and would still be eligible for FEMA disaster relief, even if a community failed to adopt or enforce floodplain management ordinances. Existing Century Code, however, would not allow that community to receive any funding from these recovery programs.

House Bill 1098 still encourages communities to participate in the NFIP but will only restrict flood disaster assistance to insurable structures located within FEMA-identified special flood hazard zones. This mirrors FEMA policy and prevents the state from potentially denying a local community disaster relief funding. While DES does not hold primary responsibility for floodplain management in North Dakota, the impacts of the Century Code as written greatly inhibit our ability to meet our obligations under NDCC 37-17.1.

In conclusion, Mr. Chairman, I'd ask that you consider this amendment to ensure that in future disasters the state does not unintentionally prohibit a local jurisdiction from receiving federal flood assistance when they need it most.

Testimony
House Bill 1098 – Department of Water Resources
House Political Subdivisions Committee
Representative Donald Longmuir, Chairman
January 5, 2023

Chairman Longmuir, and members of the House Political Subdivisions Committee – I am Aaron Carranza, Regulatory Division Director of the Department of Water Resources. I am here today to provide general support for House Bill No. 1098, which proposes to amend portions of North Dakota Century Code section 61-16.2-09(2), relating to flood disaster assistance and flood relief funding.

The Department of Water Resources, in cooperation with the Department of Emergency Services, supports state flood resilience. The Department of Water Resources provides community engagement on FEMA's National Flood Insurance Program (NFIP) by housing the North Dakota State NFIP and NFIP Mapping coordinators.

House Bill 1098 proposes to add language that mirrors how the Federal Emergency Management Agency's National Flood Insurance Program views potential federal funding limitations for those communities (Township, City, or County) that have a National Flood Insurance Program identified special flood hazard area but has failed to adopt or enforce floodplain management ordinances.

The federal limitation based on this failure is tied to only insurable structures within National Flood Insurance Program identified special flood hazard areas. Current language in N.D.C.C. § 61-16.2-09(2) limits eligibility to "any" flood disaster assistance and "any" state funds.

The Department of Water Resources supports the proposed change to match Federal funding perspectives for those communities with an identified flood hazard area with no adopted or enforced floodplain management ordinance, unlocking flood

disaster assistance and state funds for flood relief to help communities rebuild after a flood disaster.

Thank you for the opportunity to comment and I would be happy to answer any questions you might have.

**TESTIMONY OF
JUSTIN MESSNER
HOMELAND SECURITY DISASTER RECOVERY CHIEF
NORTH DAKOTA DEPARTMENT OF EMERGENCY SERVICES
BEFORE THE 68th LEGISLATIVE SESSION
SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
MARCH 2, 2023
IN SUPPORT OF HOUSE BILL 1098**

Chairman Roers, members of the State and Local Government Committee, my name is Justin Messner and I'm the Disaster Recovery Chief at the Department of Emergency Services (DES) for the State of North Dakota. I am here today to testify in support of House Bill 1098. This is a bill that amends Subsection 2 of NDCC 61-16.2-09 relating to floodplain management ordinances. The intent of this bill is to ensure that the state does not unintentionally limit the ability of a city, county, or organized township to receive flood disaster assistance that they would otherwise be eligible for under federal disaster recovery programs.

As presently written, if a community fails to adopt or enforce floodplain management ordinances required under the National Flood Insurance Program (NFIP), then it is not eligible to receive any flood disaster assistance from the state, financial or otherwise. On its face, this sounds like a good thing because we want communities to participate in the NFIP. However, disaster relief funding from the Federal Emergency Management Agency (FEMA) is required to be passed through the ND Department of Emergency Services before it can be disbursed to local communities. This means that a community that failed to adopt or enforce floodplain management ordinances would not be eligible to receive any FEMA funding for flood relief which could cost local jurisdictions significantly after a flood disaster. As its currently written, Century Code language is far more restrictive than federal policy which, in this scenario, would only prevent a community from receiving federal funding for insurable structures that are located in a FEMA identified Special Flood Hazard Area.

An example of why this is important is that a bridge, road, culvert, riverbank, or utility system are considered uninsurable infrastructure and would still be eligible for FEMA disaster relief, even if a community failed to adopt or enforce floodplain management ordinances. Existing Century Code, however, would not allow that community to receive any funding from these recovery programs.

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In conclusion, Ms. Chairman, I'd ask that you consider this amendment to ensure that in future disasters the state does not unintentionally prohibit a local jurisdiction from receiving federal flood assistance when they need it most.

Testimony
House Bill 1098 – Department of Water Resources
Senate State and Local Government Committee
Senator Kristin Roers, Chair
March 2, 2023

Chair Roers, and members of the Senate State and Local Government Committee – I am Laura Horner, North Dakota’s FEMA Risk MAP Program Coordinator for the Department of Water Resources. I am here today to provide general support for House Bill No. 1098, which proposes to amend portions of North Dakota Century Code section 61-16.2-09(2), relating to flood disaster assistance and flood relief funding.

The Department of Water Resources, in cooperation with the Department of Emergency Services, supports state flood resilience. The Department of Water Resources provides community engagement on the Federal Emergency Management Agency’s (FEMA) National Flood Insurance Program (NFIP) by housing both the North Dakota State NFIP and NFIP Mapping coordinators.

House Bill 1098 proposes to add language that mirrors how the NFIP views potential federal funding limitations for those communities (Township, City, or County) that have an NFIP identified special flood hazard area but has failed to adopt or enforce floodplain management ordinances.

The Federal limitation based on this failure is tied to only insurable structures within National Flood Insurance Program-identified special flood hazard areas. Current language in N.D.C.C. § 61-16.2-09(2) limits eligibility to “any” flood disaster assistance and “any” state funds.

The Department of Water Resources supports the proposed change to match Federal funding perspectives for those communities with an identified flood hazard area with no adopted or enforced floodplain management ordinance, unlocking

additional flood disaster assistance and state funds for flood relief to help communities rebuild after a flood disaster.

Thank you for the opportunity to comment and I would be happy to answer any questions.