



DAKOTA RURAL ACTION
GRASSROOTS ORGANIZING FOR THE FUTURE

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LEGISLATIVE UPDATE: WEEK 4

February 1 - 5, 2021

96TH LEGISLATIVE
SESSION

Watch For In The Coming Week:

HB 1028, which radically undermines the ability of citizens to participate in **Water Permit proceedings is scheduled for its hearing in Senate Ag & Natural Resources on Tuesday, February 9th at 10am CT/9am MT.** The waters of this state belong to the people of this state—and as “owners” we have a right to say how that water gets used—and to ask questions and present evidence of issues related to the public interest and other criteria that are considered in these decisions: available unappropriated water, impacts to downstream users, and whether granting the permit is a beneficial use of the water.

This bill severely restricts that right to intervene, and says only citizens with a “unique injury” can contest a permit—all others are relegated to “comment” status, and with no process or obligation on behalf of the Water Rights Program to respond to (or even read) those comments.

Very few of the 100-or-so permit applications received in an average year by the Water Rights Program are contested—of those, most are based on a “unique injury” to a nearby user. But, water permits for some large scale industrial projects like the Dewey-Burdock Uranium Mine and the Keystone XL pipeline are also contested by citizens and organizations due to serious

and widespread threats to our land, water, and communities—issues that are all in the public interest. DRA, its members, and others who’ve participated in this process have brought substantive evidence to light leading to permit conditions that provide greater safeguards for our water. Passage of this bill would effectively end our ability to bring those issues to light in a substantive way.

Contact members of the Senate Ag Committee and ask them to vote NO on this bill.

You can also sign up to testify by emailing: senateagnaturalresources@sdlegislature.gov and providing your name, where you’re from, the bill number, hearing date, that you want to give opponent testimony, and that (unless you’re a registered lobbyist) you’re testifying for yourself.

You must sign up at least 24 hours in advance to provide remote testimony—that deadline is Monday, 2/8 by 10am CT/9am MT.

Movement on Bills This Week:

HB 1085 redefines the criteria for classifying land as agricultural for tax purposes. We’ve reached out to producers and have serious concerns about how this would impact smaller-scale ag enterprises and those closer to municipalities. It may also serve to force land out of ag production

in places where development pressure is high. We fought this bill in House Taxation Committee and only got two votes. Thanks to AMAZING statewide organizing by potentially impacted producers and their community members, the Do-Pass motion on the House Floor Thursday afternoon failed by a 34-35 vote, with one member excused.

The bill sponsor moved for reconsideration, and today—Friday, Feb. 5th—Rep. Kirk Chaffee brought an amendment on the floor that strikes some of problematic provisions in section two of the bill, but will still nail some small-acreage producers with exorbitant tax hikes. The amended bill passed the House floor 41-27, and will go to its Senate Committee hearing in the amended form.

SB 104 would have reduced the tax on food, phasing it out entirely over a few years. DRA has long supported these measures, which either repeal or reduce what is a high-impact bill for lower-income communities in our state. Unfortunately, the bill was killed in Senate Taxation Committee this week.

SB 86 is a bill that requires citizen-initiated amendments to the SD Constitution to be “vetted” by the Secretary of State as to whether they adhere to the single-subject rule before they are allowed to move forward in the signature-gathering process.

That single subject rule was proposed by the legislature, and adopted by voters as “Amendment Z” on the 2018 ballot. DRA opposed that measure, and we drafted the opposition language for the Secretary of State’s website based on the questions, “what exactly constitutes a single subject—and who gets to decide?” We also predicted that adoption of the single-subject

rule would spark lawsuits—and that anytime the legislature, or moneyed interests, didn’t approve of an amendment that was initiated by voters, they’d try to argue it wasn’t a single subject.

Well, here we are—looking at a court challenge of voter-approved Amendment A on that single subject rule, where the taxpayers will be on the hook for fighting both sides of the case.

SB 86 attempts to make a further “fix” so that amendments would be vetted—and potentially blocked—by the Secretary of State before petitions could be circulated—BUT it puts the Secretary of State in charge of making legal determinations that are properly the province of the courts. If the Secretary of State were to determine an amendment were not a single subject, those proposing the amendment could challenge that decision in court—but even with an expedited process to do so, this bill still creates yet another delay in the process.

Ballot question committees must raise tens or even hundreds of thousands of dollars to get their amendment in front of the people—and part of that cost involves vetting their amendment, if necessary, with attorneys. Putting the Secretary of State in a position of making a legal determination on amendments is poor policy. This bill passed Senate State Affairs on Friday morning, and will move to the Senate floor next week.

DRA members interested in serving on the Legislative Committee should contact Rebecca at :

- **(605) 697-5204 x260**
 - **OR rebeccat@dakotarural.org**
- Thank YOU for Taking ACTION!**

DAKOTA RURAL ACTION’S WORK DURING SESSION IS FUNDED 100% BY MEMBERS. Please consider an investment in our legislative fund.

Donations can be made online at dakotarural.org or by mail to PO Box 549, Brookings, SD 57006

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