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Sixty-fourth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2366

Introduced by

Senators Triplett, Schneider

Representatives Onstad, Oversen

A BILL for an Act to amend and reenact sections 38-08-01, 54-17.6-01, 54-17.6-03, 54-17.6-04, subsection 5 of section 54-17.6-05, and sections 54-17.6-06 and 54-60-03 of the North Dakota Century Code, relating to regulation of the oil industry by the industrial commission and promotion of the oil industry by the department of commerce.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 38-08-01 of the North Dakota Century Code is amended and reenacted as follows:

38-08-01. ~~Declaration of policy~~Oil and gas regulation.

It is hereby declared to be in the public interest to ~~foster, to encourage, and to promote~~regulate the development, production, and utilization of natural resources of oil and gas in the state in such a manner as will prevent waste; to authorize and to provide for the operation and development of oil and gas properties in such a manner that a greater ultimate recovery of oil and gas be had and that the correlative rights of all owners be fully protected; and to encourage and to authorize cycling, recycling, pressure maintenance, and secondary recovery operations in order that the greatest possible economic recovery of oil and gas be obtained within the state to the end that the landowners, the royalty owners, the producers, and the general public realize and enjoy the greatest possible good from these vital natural resources.

SECTION 2. AMENDMENT. Section 54-17.6-01 of the North Dakota Century Code is amended and reenacted as follows:

54-17.6-01. Definitions.

1. ~~"Commission" means the North Dakota industrial commission~~"Commissioner" means the commissioner of the department of commerce.
2. "Council" means the oil and gas research council.

SECTION 3. AMENDMENT. Section 54-17.6-03 of the North Dakota Century Code is amended and reenacted as follows:

54-17.6-03. ~~Commission~~Commissioner to operate council.

The ~~commission~~commissioner shall operate, manage, and control the council.

SECTION 4. AMENDMENT. Section 54-17.6-04 of the North Dakota Century Code is amended and reenacted as follows:

54-17.6-04. Powers and duties of ~~commission~~the commissioner in managing and operating council.

The ~~commission~~commissioner is granted all the powers necessary or appropriate to carry out and effectuate the purposes of this chapter, including the power to:

1. Make grants or loans, and to provide other forms of financial assistance as necessary or appropriate, to qualified persons for research, development, marketing, and educational projects, and processes or activities directly related to the oil and gas exploration, production, or refining industry, or the petroleum marketing industry;
2. Enter into contracts or agreements to carry out the purposes of this chapter, including authority to contract for the administration of the oil and gas research, development, marketing, and educational program;
3. Keep accurate records of all financial transactions performed under this chapter;
4. Cooperate with any private, local, state, or national commission, organization, or agent, or group and to make contracts and agreements for programs benefiting the oil and gas industry;
5. Accept donations, grants, contributions, and gifts from any public or private source and deposit such in the oil and gas research fund; and
6. Make and explore orders, rules, and regulations necessary to effectuate the purposes of this chapter.

SECTION 5. AMENDMENT. Subsection 5 of section 54-17.6-05 of the North Dakota Century Code is amended and reenacted as follows:

5. The council shall recommend to the ~~commission~~commissioner the approval of grants, loans, or other financial assistance necessary or appropriate for funding, research, development, marketing, and educational projects or activities and any other matters related to this chapter.

SECTION 6. AMENDMENT. Section 54-17.6-06 of the North Dakota Century Code is amended and reenacted as follows:

54-17.6-06. Access to council records.

1. Materials and data submitted to, or made or received by, the council or ~~commission~~commissioner, to the extent that the council determines the materials or data consist of trade secrets or commercial, financial, or proprietary information of individuals or entities applying to or contracting with the council or receiving council services under this chapter, are not public records subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota, and are subject to section 44-04-18.4.
2. A person or entity must file a request with the council or ~~commission~~commissioner to have material designated as confidential under subsection 1. The request must contain any information required by the council and must include at least the following:
   a. A general description of the nature of the information sought to be protected.
   b. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons.
   c. An explanation of why the information is not readily ascertainable by proper means by other persons.
   d. A general description of any person or entity that may obtain economic value from disclosure or use of the information, and how the person or entity may obtain this value.
   e. A description of the efforts used to maintain the secrecy of the information.
3. Any request under subsection 2 is confidential. The council shall examine the request and determine whether the information is relevant to the matter at hand and is a trade secret under the definition in section 47-25.1-01 or 44-04-18.4. If the council determines the information is either not relevant or not a trade secret, the council shall notify the requester and the requester may ask for the return of the information and request within ten days of the notice. If no return is sought, the information and request are a public record.
4. The names or identities of independent technical reviewers on any project or program and the names of council members making recommendations are confidential, may

not be disclosed by the council, and are not public records subject to section 44-04-18 or section 6 of article XI of the Constitution of North Dakota.

SECTION 7. AMENDMENT. Section 54-60-03 of the North Dakota Century Code is amended and reenacted as follows:

54-60-03. Commissioner of commerce - Duties.

With the advice and counsel of the North Dakota development foundation, the governor shall appoint a commissioner to supervise, control, and administer the department. The commissioner serves at the pleasure of the governor and receives a salary set by the governor within the limits of legislative appropriations. The commissioner:

1. Shall file an oath of office in the usual form before commencing to perform the duties of the commissioner;
2. Shall serve as chairman of the cabinet;
3. Shall appoint personnel as may be determined necessary to carry out the duties of the department;
4. Shall manage the operations of the department and oversee each of the divisions;
5. Shall assume central responsibilities to develop, implement, and coordinate a working network of commerce service providers;
6. Shall coordinate the department's services with commerce-related services of other state agencies;
7. Shall advise and cooperate with departments and agencies of the federal government and of other states; private businesses, agricultural organizations, and associations; research institutions; and with any individual or other private or public entity;
8. May enter contracts upon terms and conditions as determined by the commissioner to be reasonable and to effectuate the purposes of this chapter;
9. Shall foster, encourage, and promote the development, production, and utilization of natural resources of oil and gas in this state; operate, manage, and control the oil and gas research council; and assign responsibilities of these functions among the divisions of the department;
10. Shall report between the first and tenth legislative days of each regular legislative session to a standing committee of each house of the legislative assembly as determined by the legislative management and shall report annually to the foundation:

a. On the department's goals and objectives since the last report;

b. On the department's goals and objectives for the period until the next report;

c. On the department's long-term goals and objectives;

d. On the department's activities and measurable results occurring since the last report; and

e. On commerce benchmarks, including the average annual wage in the state, the gross state product exclusive of agriculture, and the number of primary sector jobs in the state;

~~10.~~11. Shall adopt rules necessary to implement this chapter and chapter 54-17.6; and

~~11.~~12. May take any actions necessary and proper to implement this chapter and chapter 54-17.6.