



INDUSTRIAL COMMISSION OF NORTH DAKOTA

Doug Burgum
Governor

Drew H. Wrigley
Attorney General

Doug Goehring
Agriculture Commissioner

HB 1062
House Energy and Natural Resources
Testimony of Reice Haase, Deputy Executive Director
North Dakota Industrial Commission
January 19, 2023

Good morning Chairman Porter and members of the Committee, for the record, my name is Reice Haase, and I am the Deputy Director of the North Dakota Industrial Commission. I am testifying in support of House Bill 1062. House Bill 1062 was filed at the request of the Industrial Commission and includes many of our agencies' requested legislation.

Section 1:

Section 1 of the bill would clarify that any equipment located at an oil and gas wellsite would fall under the jurisdiction of the Industrial Commission. An Attorney General's opinion issued in 2010 determined that counties are not responsible for zoning oil, gas, or saltwater disposal wells that are subject to the Industrial Commission's jurisdiction.¹ With increasing use of new technologies and equipment (for example, equipment like mobile gas capture units), the proposed language is needed to clarify the Commission's jurisdiction over all wellhead operations.

Section 1 was also introduced as Senate Bill 2058 this session. That bill was amended to clarify that the Department of Environmental Quality retains jurisdiction over air quality issues. Senate Bill 2058 passed the Senate unanimously on January 16th, 2023.

Section 2:

Section 2 of the bill would convert hearing notice requirements for carbon dioxide storage permits to be consistent with the Commission's other hearing notice requirements (for example, mineral spacing and pooling, injection permits, etc.). The language in NDCC 38-22-06 was originally drafted using requirements in civil proceedings as a template, which is inconsistent with the Commission's other requirements.

Section 2 was also introduced as Senate Bill 2057 this session. That bill was passed by the Senate unanimously on January 13th, 2023.

Section 3:

Section 3 of the bill would amend public meeting notice requirements to allow governing bodies to post meeting notices on their websites or other electronic locations. The current requirement requires a notice and agenda to be physically posted at its principal office.

¹ North Dakota Attorney General's Opinion 2010-L-01

This change was motivated by our ongoing efforts to modernize the Office of the Industrial Commission. Meeting notices and agendas are already posted on our website, the Secretary of State's website, and across social media.

We have since learned that the Attorney General's office is working on another bill related to this language, and the language in Section 3 of HB 1062 is no longer needed. Therefore, we respectfully request that Section 3 is amended out of the bill.

Section 4

Section 4 of the bill would replace the title of "secretary" with "executive director" when referring to the Commission's director position. This would be consistent with the growing workload assigned to the position since the Office was originally created in 1981.

Section 5

Section 5 of the bill includes clean-up language proposed by the North Dakota Housing Finance Agency. It would remove a redundant mortgage insurance requirement from code. Mortgage insurance is already required for mortgage bonds and mortgage-backed securities if the loan to value ratio exceeds 80%.

Section 6

Section 6 of the bill also includes clean-up language proposed by the North Dakota Housing Finance Agency, which would remove a reference to a staff position which no longer exists.

Section 7

Section 7 of the bill was requested by the North Dakota Mill to exempt specialized milling equipment from procurement requirements. An amendment on SB 2042 was adopted last week which relates to procurement changes. We are respectfully requesting that Section 7 of HB 1062 be amended to reference the changes.

Section 8

Section 8 of the bill relates to the administration of the Commission's Renewable Energy Program. We respectfully request that the Commission's requirement to contract with the Department of Commerce for administration be changed from a "shall" to a "may".

Both agencies have increasing workloads, and the change would allow both to have flexibility in dividing the workload of administration amongst ourselves.

Section 9

Section 9 of the bill is related to a new flare mitigation tax credit which was created during the last legislative session. This language was also introduced as Senate Bill 2089.

After meeting with the Tax Department and industry stakeholders, an amendment was proposed to convert the tax credit program to a grant program. It was determined that a grant program would be advantageous to accomplish the goal of the original legislation due to the accounting complexities associated with a tax credit. The Senate Finance and Tax Committee voted 5-1 to adopt the amendment on Monday, January 16th, 2023.

Acknowledging the complexity of House Bill 1062 and all of its moving parts, I have attached draft language to my testimony which incorporates all of the proposed amendments into one document.

Mr. Chairman, this concludes my testimony, and I'd be happy to stand for any questions.

PROPOSED AMENDMENTS TO HOUSE BILL 1062

Remove Section 1

Remove Section 2

Remove Section 3

Page 4, line 2-3, replace "Actions of the commission under this subsection are exempt from chapter 54-44.4" with "Contracts for specialized equipment, machinery, and materials under this subsection may be procured pursuant to section 54-44.4-05"

Remove Section 9