2023 HOUSE ENERGY AND NATURAL RESOURCES

HB 1089

2023 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee
Coteau AB Room, State Capitol

HB 1089
1/12/2023

Relating to improving efficiencies in the Department of Environmental Quality

2:44 PM Chairman Porter opened the hearing, roll call was taken and the bill was read.

Members present: Chairman Porter, Vice Chairman D. Anderson, Representatives Bosch, Conmy, Dockter, Hagert, Heinert, Ista, Marschall, Novak, Roers Jones, and Ruby.

Members absent: Representative J. Olson

Discussion Topics:

- Waste Pilot Projects
- Solid Waste Management Permits
- DWSRF
- Oilfield Special Waste Recycling

Dianna Trussell- Solid Waste Program Manager of the Department of Environmental Quality – Testifies in favor of HB 1089 (Testimony # 12928)

Pat Fridgen Education & Division Director ND Department of Water Resources- Testifies in favor of HB 1089 (Testimony # 12907)

Chairman Porter- Closes the hearing for HB 1089

Representative Roers Jones- Move to amend HB 1089 with amendment # 23.8031.01001

Reprehensive Dockter- Seconds the motion.

Voice Vote was taken: Motion Carries

Representative Dockter- Move for a Do Pass as Amended

Representative Ista- Second the motion

Roll Call Vote

Representatives	Vote
Representative Todd Porter	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Liz Conmy	Y
Representative Jason Dockter	Y
Representative Jared Hagert	Y
Representative Pat D. Heinert	Y
Representative Zachary Ista	Y
Representative Jim Kasper	Y
Representative Andrew Marschall	Y
Representative Anna S. Novak	Y
Representative Jeremy Olson	A
Representative Shannon Roers Jones	Y
Representative Matthew Ruby	Y

Motion Carries 13-0-1 Representative Conmy will carry the bill.

2:58 PM Chairman Porter- Closes the meeting for HB 1089

Kathleen Davis, Committee Clerk

Adopted by the House Energy and Natural Resources Committee
January 12, 2023

JA 1/12/23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1089

Page 3, line 17, overstrike ", after consulting with and obtaining"

Page 3, line 18, overstrike "the approval of the state water commission"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1089: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1089 was placed on the Sixth order on the calendar.

Page 3, line 17, overstrike ", after consulting with and obtaining"

Page 3, line 18, overstrike "the approval of the state water commission"

Renumber accordingly

2023 SENATE INDUSTRY AND BUSINESS

HB 1089

2023 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee
Fort Union Room, State Capitol

HB 1089
3/8/2023

A BILL for an Act, relating to improving efficiencies in the department of environmental quality; relating to improving efficiencies in the department of environmental quality; and to provide an effective date.

9:59 AM Senator Larsen opened the meeting.

Members present: Chairman D. Larsen, Vice Chairman Kessel, Senator Barta, Senator Klein, Senator Boehm.

Discussion Topics:

- Workloads
- Landfills
- Transparency
- Requirements
- Pilot projects

10:00 AM Diana Trussel, Solid Waste Program Manager, North Dakota Department of Environmental Quality in favor #21822.

10:07 AM Patrick Fridgen, Planning and Education Division Director, Department of Water Resources, testified in favor #21823.

10:11 AM Chairman Larsen closed the hearing.

10:11 AM Senator Kessel moved a DO PASS.
10:11 AM Senator Boehm seconded.

Senators	Vote
Senator Doug Larsen	Y
Senator Greg Kessel	Y
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Jerry Klein	Y

Motion passed 5-0-0
Senator Kessel will carry the bill.

10:13 AM Senator Larsen adjourned the meeting.

Brenda Cook, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1089, as engrossed: Industry and Business Committee (Sen. Larsen, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1089 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

TESTIMONY

HB 1089

Testimony
HB 1089—Department of Water Resources
House Energy and Natural Resources
Representative Todd Porter, Chairman
January 12, 2023

Chairman Porter, and members of the House Energy and Natural Resources Committee – I am Patrick Fridgen, Director of the Planning and Education Division for the Department of Water Resources. I am here today to testify in support of House Bill (HB) 1089, and more specifically, the proposed amendments pertaining to administration of the Drinking Water State Revolving Fund.

North Dakota Century Code (N.D.C.C.) § 61-28.1-12(3) and (4) currently require the Department of Environmental Quality (DEQ) to administer and disburse funds, establish grant priorities, and expend grant funds related to the Drinking Water State Revolving Fund (DWSRF) Intended Use Plan (IUP) only after obtaining State Water Commission approval. The proposed amendments as presented by DEQ to N.D.C.C. § 61-28.1-12(3) and (4) would remove that requirement. This is but one of several government processes identified through Governor Burgum's Red Tape Initiative that could be eliminated to reduce existing inefficiencies in state government.

Because the DWSRF is a federally funded program through the Environmental Protection Agency (EPA), there are additional requirements in place for DEQ to seek and consider public comments during the development of the IUP. This public process already allows for DWR and the Water Commission to provide comments if deemed necessary. Thus, the added requirement to seek Water Commission approval is an unnecessary step that takes additional time to complete by DEQ, DWR, and the Water Commission, and it slows the IUP completion process by at least a month.

Multiple times in the past, Commission members have questioned the usefulness of DEQ bringing the IUP to them for approval. In addition, with the establishment of the new Funding for Infrastructure In North Dakota (or FIND) funding opportunity through the one-

stop-shop WebGrants platform - DEQ, DWR, Public Finance Authority, and the Bank of North Dakota are coordinating more than ever to address grant and loan requests of the state from local project sponsors. This is yet another reason for approval of the proposed amendments to N.D.C.C. § 61-28.1-12(3) and (4).

Mr. Chairman, and members of the committee, this concludes my testimony in support of HB 1089, and I will stand for any questions that you might have.

NORTH Dakota | Environmental Quality
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Testimony in Support of
House Bill No. 1089
House Energy and Natural Resources Committee
January 12, 2023

TESTIMONY OF
Diana Trussell, Solid Waste Program Manager

Good afternoon Chairman Porter and members of the House Energy and Natural Resources Committee. My name is Diana Trussell, and I am the Solid Waste Program Manager of the Department of Environmental Quality. I am here to testify in support of House Bill 1089.

The changes to North Dakota Century Code Section 23.1-08-03, Section 23.1-08-05, Subsection 1 of 23.1-08-09 and Section 61-28.1-12 were submitted to improve efficiencies in the Department of Environmental Quality.

NDCC 23.1-08-03

The new subsection requested in **Section 1** will allow the Department to establish rules for solid waste pilot projects. Pilot projects must submit a full permit application under the current rules, which can be a rigorous and lengthy process. This complicated process does not support innovation or new ideas. In the past year, a pilot project approached us for separating rare earth elements from coal ash, gasification of municipal solid waste, and other new technology projects. However, due to the existing rules and permitting requirements, they were not sure the pilot projects were feasible. By establishing more flexible rules for pilot projects, the Department could encourage and allow for innovative ideas and still have controls to protect human health and the environment.

NDCC 23.1-08-09(1)

The amendment requested in **Section 2** will allow the Department to establish rules for transferring solid waste management permits. Currently, solid waste management permits are non-transferable, causing additional workload for the regulated community and the Department. In some cases, it has also caused transparency concerns with the public. There are two examples in 2022 where there was a change of ownership at a permitted facility, and due to the current law, we had to treat them differently.

When Coal Creek Station changed ownership, a new permit application was required for three existing permits because the entity name changed, even though other conditions of the permit did not change.

In another case, three oilfield special waste landfills owned by the same company had a change of ownership. But because the name did not change for each facility, they were only

required to notify the Department that the controlling entity had changed.

The change in ownership of Coal Creek Station required a public comment period. However, the special waste landfills did not require public notice since the name did not change.

In **Section 5**, the Department requests a contingency effective date to allow the Department time to establish and adopt rules to transfer permits while streamlining the process and providing public transparency.

NDCC 61-28.1-12

The amendment requested in **Section 3** will remove the requirement for the Department to obtain approval of the Drinking Water State Revolving Fund (DWSRF) Intended Use Plan by the State Water Commission. This proposal will allow the Department to administer and disburse DWSRF funds more expeditiously. The Intended Use Plan is prepared annually and describes how the Department will administer the DWSRF program. Regulations from the Environmental Protection Agency require the Department to seek meaningful public review and comment during the development of the Intended Use Plan. The Department holds a public meeting to fulfill this requirement, then submits the final Intended Use Plan for inclusion on the following State Water Commission meeting agenda. Eliminating this requirement would allow the Department to complete and submit the Intended Use Plan to the Environmental Protection Agency in three months instead of four and a half months. In addition, **Section 3** will allow the governor to appoint a designee to approve the transfer of funds between the DWSRF and the water pollution control revolving fund. The transfer authority specifies the amount of funds to be transferred and the direction of the transfer. This process assists with cash flow based on the short-term financial needs of each program. Allowing the governor to designate an individual to authorize the transfer of funds reduces the administrative burden on the governor's office and allows both programs to make payments to borrowers promptly.

NDCC 23.1-08-05

The repeal requested in **Section 4** regards pilot projects for commercial oilfield special waste recycling facilities and establishes rules or guidelines for recycling and beneficial use of oilfield special waste. The legislature established this section during the height of the oil boom. Several pilot projects were selected and started; however, there was a downturn in oil, so none of the projects finished. As a result, the Department did not have sufficient information to establish specific rules or guidelines for recycling and the beneficial use of oilfield special waste. All of the dates in this section of law have long passed. In 2020, the Department adopted rules for General Permits in which a general permit could be established for the recycling and beneficial use of oilfield special waste if there was interest from the regulated community. In addition, as discussed in **Section 2**, the Department is requesting the ability to establish rules for solid waste pilot projects, which could include recycling and beneficial use of oilfield special waste.

Mr. Chairman and committee members, this concludes my testimony. I ask for your support for House Bill 1089 with the requested amendments. I would be happy to answer any questions.

PROPOSED AMENDMENT TO HOUSE BILL NO. 1089

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Renumber accordingly

NORTH Dakota | Environmental Quality
Be Legendary.

Testimony in Support of
House Bill No. 1089
Senate Industry and Business Committee
March 1, 2023

TESTIMONY OF
Diana Trussell, Solid Waste Program Manager

Good morning Chairman Larsen and members of the Senate Industry and Business Committee. My name is Diana Trussell, and I am the Solid Waste Program Manager of the Department of Environmental Quality. I am here to testify in support of House Bill 1089.

The changes to North Dakota Century Code Section 23.1-08-03, Section 23.1-08-05, Subsection 1 of 23.1-08-09 and Section 61-28.1-12 were submitted to improve efficiencies in the Department of Environmental Quality.

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Mr. Chairman and committee members, this concludes my testimony. I ask for your support for House Bill 1089. I would be happy to answer any questions.

Testimony
Engrossed HB 1089—Department of Water Resources
Senate Industry and Business
Senator Doug Larsen, Chairman
March 1, 2023

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