

2023 HOUSE ENERGY AND NATURAL RESOURCES

HB 1062

2023 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau AB Room, State Capitol

HB 1062
1/19/2023

Relating to regulation of oil and gas wells, service requirements, modernization of the notice requirement, updating position titles, clarification for mortgage insurance requirements, an exemption for specialized mill equipment, and flare mitigation
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9:00 AM Chairman Porter opened the hearing.

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

Discussion Topics:

- Language change request
- Amendment

Reice Haase Deputy Director, ND Industrial Commission Support #14378 (Remove sections 1-3 and 9, Page 4 change language)

Lynn Helms ND Industrial Commission, ND Dept. of Mineral Resources Support #14394

Dave Glatt Director ND Dept. of Environmental Quality Support #14314

Sherry Neas OMB Director Central Services Division ND OMB #14338

9:16 AM Chairmen Porter adjourned meeting

Kathleen Davis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau AB Room, State Capitol

HB 1062
1/19/2023

Relating to regulation of oil and gas wells, service requirements, modernization of the notice requirement, updating position titles, clarification for mortgage insurance requirements, an exemption for specialized mill equipment, and flare mitigation

10:50 AM Chairman Porter opened the hearing.

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

Discussion Topics:

- Language change request
- Proposed amendment
- Committee action

Representative Olson moves to amend HB 1062 #14314

Representative Ruby seconds

Voice vote: motion carried

Representative Roers Jones moved a do pass as amended

Representative Olson seconds the motion

Roll call vote:

Representatives	Vote
Representative Todd Porter	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	AB
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	Y
Representative Shannon Roers Jones	Y
Representative Matthew Ruby	Y

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Motion carried 13-0-1

Representative Roers Jones: carrier

10:55 Adjourned

Kathleen Davis, Committee Clerk By: Leah Kuball

JA 1-19-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1062

- Page 1, line 1, remove "subdivision b of subsection 1 of section 38-08-04,"
- Page 1, line 2, remove "subsection 6 of section 38-22-06, subsection 4 of section 44-04-20,"
- Page 1, line 3, replace "section 54-17-07.9, subsection 2 of section 54-18-04," with "and"
- Page 1, line 4, remove ", and section 57-51.1-02.2"
- Page 1, line 5, remove "regulation of oil and gas wells, service requirements, modernization of the notice"
- Page 1, line 6, remove "requirement,"
- Page 1, line 6, remove "an"
- Page 1, line 7, remove "exemption for specialized mill equipment,"
- Page 1, line 7, replace "flare mitigation" with "industrial commission powers"
- Page 1, remove lines 9 through 24
- Page 2, remove lines 1 through 24
- Page 3, remove lines 19 through 31
- Page 4, remove lines 1 through 3
- Page 4, remove lines 13 through 31
- Page 5, remove lines 1 through 30
- Page 6, remove lines 1 through 20
- Re-number accordingly

REPORT OF STANDING COMMITTEE

HB 1062: 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 1062 was placed
on the Sixth order on the calendar.

Page 1, line 1, remove "subdivision b of subsection 1 of section 38-08-04,"

Page 1, line 2, remove "subsection 6 of section 38-22-06, subsection 4 of section 44-04-20,"

Page 1, line 3, replace "section 54-17-07.9, subsection 2 of section 54-18-04," with "and"

Page 1, line 4, remove ", and section 57-51.1-02.2"

Page 1, line 5, remove "regulation of oil and gas wells, service requirements, modernization
of the notice"

Page 1, line 6, remove "requirement,"

Page 1, line 6, remove "an"

Page 1, line 7, remove "exemption for specialized mill equipment,"

Page 1, line 7, replace "flare mitigation" with "industrial commission powers"

Page 1, remove lines 9 through 24

Page 2, remove lines 1 through 24

Page 3, remove lines 19 through 31

Page 4, remove lines 1 through 3

Page 4, remove lines 13 through 31

Page 5, remove lines 1 through 30

Page 6, remove lines 1 through 20

Renumber accordingly

2023 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau AB Room, State Capitol

HB 1062
1/27/2023

Relating to regulation of oil and gas wells, service requirements, modernization of the notice requirement, updating position titles, clarification for mortgage insurance requirements, an exemption for specialized mill equipment, and flare mitigation

10:39 AM Chairman Porter opened the hearing.

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

Discussion Topics:

- Proposed amendment
- Committee action

Representative Olson moves to reconsider HB 1062.

Representative Ruby seconds

Voice vote: motion carried.

Representative Ruby moved to reconsider the actions and to remove the previous amendment and bring it back to the original bill.

Representative Dockter seconds the motion.

Voice Vote: Motion carried.

Representative Ruby moves to amend HB 1062 by removing Section 1, 2, 3,7 and 9 from the bill.

Representative Olson: Seconded.

Voice Vote: Motion carried.

Representative Dockter moved a Do Pass as amended on HB 1062.

Representative Ruby seconded 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	AB
Representative Jim Kasper	AB
Representative Andrew Marschall	Y
Representative Anna S. Novak	Y
Representative Jeremy Olson	Y
Representative Shannon Roers Jones	AB
Representative Matthew Ruby	Y

Motion carried 11-0-3

Representative Roers Jones: carrier

10:42 AM Adjourned

Kathleen Davis, Committee Clerk By: Leah Kuball

January 27, 2023

1-27-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1062

Page 1, line 1, remove "subdivision b of subsection 1 of section 38-08-04,"

Page 1, line 2, remove "subsection 6 of section 38-22-06, subsection 4 of section 44-04-20,"

Page 1, line 3, replace "subsection 2 of section 54-18-04," with "and"

Page 1, line 4, remove ", and section 57-51.1-02.2"

Page 1, line 5, remove "regulation of oil and gas wells, service requirements, modernization of the notice"

Page 1, line 6, remove "requirement,"

Page 1, line 6, remove "an"

Page 1, line 7, replace "exemption for specialized mill equipment," with "execution of instruments,"

Page 1, line 7, replace "flare mitigation" with "industrial commission powers"

Page 1, remove lines 9 through 24

Page 2, remove lines 1 through 24

Page 3, remove lines 28 through 31

Page 4, remove lines 1 through 3

Page 4, remove lines 13 through 31

Page 5, remove lines 1 through 30

Page 6, remove lines 1 through 20

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1062: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1062 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "subdivision b of subsection 1 of section 38-08-04,"

Page 1, line 2, remove "subsection 6 of section 38-22-06, subsection 4 of section 44-04-20,"

Page 1, line 3, replace "subsection 2 of section 54-18-04," with "and"

Page 1, line 4, remove ", and section 57-51.1-02.2"

Page 1, line 5, remove "regulation of oil and gas wells, service requirements, modernization of the notice"

Page 1, line 6, remove "requirement,"

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Page 1, line 7, replace "exemption for specialized mill equipment," with "execution of instruments,"

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Page 1, remove lines 9 through 24

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Page 3, remove lines 28 through 31

Page 4, remove lines 1 through 3

Page 4, remove lines 13 through 31

Page 5, remove lines 1 through 30

Page 6, remove lines 1 through 20

Renumber accordingly

2023 SENATE ENERGY AND NATURAL RESOURCES

HB 1062

2023 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Peace Garden Room, State Capitol

HB 1062
3/3/2023

A bill relating to updating position titles, clarification for mortgage insurance requirements, execution of instruments, and industrial commission powers.

9:58 AM Chairman Patten opened the meeting.

Chairman Patten and Senators Kessel, Kannianen, Beard, Boehm and Magrum are present.

Discussion Topics:

- Language changes
- Workload adjustments
- Mortgage-backed securities.

9:58 AM Reice Haase, Deputy Executive Director of North Dakota Industrial Commission introduced the bill and provided written testimony #21815.

10:05 AM Chairman Patten closed the public hearing.

10:06 AM Chairman Patten closed the meeting.

Rick Schuchard, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Peace Garden Room, State Capitol

HB 1062
3/3/2023

A bill relating to updating position titles, clarification for mortgage insurance requirements, execution of instruments, and industrial commission powers.

10:14 AM Chairman Patten opened the meeting.

Chairman Patten and Senators Kessel, Kannianen, Beard, Boehm and Magrum are present.

Discussion Topics:

- Committee action

10:15 AM Senator Kessel moved DO PASS on the bill. Senator Beard seconded the motion.

10:18 AM Reice Haase, Deputy Executive Director of North Dakota Industrial Commission answered a question from the committee.

10:19 AM Roll call vote was taken.

Senators	Vote
Senator Dale Patten	Y
Senator Jeffery J. Magrum	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Jordan L. Kannianen	Y
Senator Greg Kessel	Y

Motion passed 6-0-0.

Senator Beard will carry the bill.

This bill does not affect workforce development.

10:20 AM Chairman Patten closed the meeting.

Rick Schuchard, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1062, as engrossed: Energy and Natural Resources Committee (Sen. Patten, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1062 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

TESTIMONY

HB 1062

PROPOSED AMENDMENT TO HOUSE BILL NO. 1062

Page 1, line 1, after “Act” insert “create and enact a new subsection to section 38-08-04 of the North Dakota Century Code, relating to the regulation of oil and gas wells;”

Page 1, after line 8, insert:

“**SECTION 1.** A new subsection to section 38-08-04 of the North Dakota Century Code is created and enacted as follows:

Nothing in this section may be interpreted to modify or supersede applicable requirements related to oil and gas production under any of the following:

- a. Chapter 23.1-06, the federal Clean Air Act [42 U.S.C. 7401 et seq.], as amended, or rules adopted pursuant to either chapter 23.1-06 or the federal Clean Air Act.
- b. Chapter 61-28, the federal Clean Water Act [33 U.S.C. 1251 et seq.], as amended, or rules adopted pursuant to either chapter 61-28 or the federal Clean Water Act.”

Re-number accordingly

TESTIMONY OF

Sherry Neas, Director, Central Services Division

Good morning, Chairman Porter and members of the committee. My name is Sherry Neas, Central Services Division Director of the Office of Management and Budget (OMB).

OMB worked with the State Mill and legal counsel regarding a proposed amendment to HB 1062.

Section 7 (Page 4) of the bill contains a broad exemption from state procurement.

The State Mill and OMB collaborated on a more specific exemption that was incorporated into SB 2042 by amendment to allow for limited competitive, noncompetitive and negotiated purchases for:

“Contracts for specialized equipment, machinery, and materials required for manufacturing, production and distribution by the North Dakota mill and elevator association under 54-18-02.”

The hearing on SB 2042 was last week, and the amendment was approved.

OMB and the State Mill are proposing a similar amendment to HB 1062. A copy of the proposed amendment is attached to my testimony.

The amendment removes the original exemption language on page 4 and inserts a new reference to the exemption created in N.D.C.C. § 54-44.4 through SB 2042.

Conclusion: Chairman Porter and committee members, this concludes my testimony. I ask your support of the proposed amendment to HB 1062. I would be happy to answer any questions.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1062

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"

Renumber accordingly



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

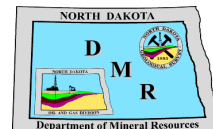
Remove Section 1

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



Testimony of Lynn D. Helms
Director, North Dakota Industrial Commission Department of Mineral Resources
January 19, 2023
House Energy and Natural Resources Committee
HB 1062

The North Dakota Industrial Commission (NDIC) Department of Mineral Resources (DMR) and NDIC Administration both pre-filed the proposed legislation, NDIC Administration as Section 1, Section 2, and Section 9 of HB1062, and DMR as SB2058, SB2057, and SB2089.

SB2057 - Senate Energy and Natural Resources Do Pass 6:0:0 and Passed 46:0
SB2058 - Senate Energy and Natural Resources Amended / Do Pass 6:0:0 and Passed 46:0
SB2089 - Senate Energy and Natural Resources Amended / Do Pass 5:1:0.

The NDIC respectfully requests your coordination with the Senate to amend Sections 1, 2, and 9 out of HB1062 or if you so choose to work on HB1062 Sections 1, 2, and 9 and in conference committee.

Thank you for your time and consideration,

Handwritten signature of Lynn D. Helms

Lynn D. Helms, PhD
Director
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INDUSTRIAL COMMISSION OF NORTH DAKOTA

Doug Burgum
Governor

Drew H. Wrigley
Attorney General

Doug Goehring
Agriculture Commissioner

HB 1062
Senate Energy and Natural Resources
Testimony of Reice Haase, Deputy Executive Director
North Dakota Industrial Commission
March 3, 2023

Good morning Chairman Patten 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 several of our agencies' requested legislation.

Section 1:

Section 1 of the engrossed bill would replace the title of "secretary" with "executive director" when referring to the Commission's director position and removes redundant language. This would be consistent with the growing workload assigned to the position since the Office was originally created in 1981.

Section 2:

Section 2 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 3:

Section 3 of the bill 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 4

Section 4 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.