

2023 SENATE ENERGY AND NATURAL RESOURCES

SB 2076

2023 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Peace Garden Room, State Capitol

SB 2076
1/5/2023

A bill relating to environmental compliance background reviews of applicants for a radioactive materials license or solid waste permit.

2:00pm. Chairman Patten called the meeting to order.

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

Discussion Topics:

- Permits
- Radioactive Materials.

2:01pm David Stradinger, Manager of the Radiation and Indoor Air Quality Control Program of the Division of Waste Management of the Department of Environmental Quality, introduced the bill and provided written testimony #12283.

2:04pm Chairman Patten states the hearing will be continued.

2:05 pm Chairman Patten adjourned the meeting.

Rick Schuchard, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Peace Garden Room, State Capitol

SB 2076
2/9/2023

A bill relating to environmental compliance background reviews of applicants for a radioactive materials license or solid waste permit.

9:54 AM Chairman Patten called the meeting to order.

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

Discussion Topics:

- Committee Action

9:56 AM David Stratinger, Department of Environmental Quality presented proposed amendments #20315.

10:10 AM Senator Kannianen moved to adopt the amendment proposed by the Department of Environmental Quality LC 23.8035.01001. The motion was seconded by Senator Kessel.

10:11 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 passes 6-0-0.

10:11 AM Senator Kannianen moves to Do Pass the bill as amended. Motion seconded by Senator Kessel.

10:11 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

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Motion passes 6-0-0.

Senator Kessel will carry the bill.

This bill does not affect workforce development.

10:12 AM Chairman Patten closed the meeting.

Rick Schuchard, Committee Clerk

February 9, 2023

AGC
2-a-83
(1-1)

PROPOSED AMENDMENTS TO SENATE BILL NO. 2076

- Page 1, line 7, overstrike "or" and insert immediately thereafter an underscored comma
- Page 1, line 9, replace "as designated by the director of the department" with an underscored comma
- Page 1, line 9, overstrike ", when requested"
- Page 1, line 10, overstrike "by the department,"
- Page 2, line 1, after "check" insert "in the manner provided in subsection 1 of section 12-60-24"
- Page 2, line 6, after "entity" insert "as defined in subsection 7 of section 10-01.1-02"
- Page 2, line 7, after "partner" insert "in a partnership as defined in subsection 19 of section 45-13-01"
- Page 2, line 8, remove "An entity contracted with the applicant to operate, manage, or supervise the"
- Page 2, remove line 9
- Page 2, line 10, remove "(3)"
- Page 2, line 11, replace "(4)" with "(3)"
- Page 2, line 12, replace "(5)" with "(4)"
- Page 2, line 12, remove "corporation, holding corporation, and any other entity that"
- Page 2, remove line 13
- Page 2, line 14, replace "sought" with "of a corporation as defined in subsection 46 of section 10-19.1-01"
- Page 2, line 17, replace "Director" with "A board member as defined in subsection 8 of section 10-19.1-01"
- Page 2, line 18, replace "Partner" with "A partner in a partnership as defined in subsection 19 of section 45-13-01"
- Page 2, line 19, replace "Officer" with "An officer as defined in section 10-15-29 or 10-19.1-52"
- Page 2, line 20, remove "All individuals having managerial, supervisory, or substantial"
- Page 2, remove line 21
- Page 2, line 22, replace "operations involving radioactive material" with "A radiation safety officer as defined in North Dakota Administrative Code subsection 34 of section 33.1-10-01-04"
- Page 2, line 23, replace "Holder" with "A holder"
- Page 2, line 24, replace "Holder" with "A holder"
- Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2076: Energy and Natural Resources Committee (Sen. Patten, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2076 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 7, overstrike "or" and insert immediately thereafter an underscored comma

Page 1, line 9, replace "as designated by the director of the department" with an underscored comma

Page 1, line 9, overstrike ", when requested"

Page 1, line 10, overstrike "by the department,"

Page 2, line 1, after "check" insert "in the manner provided in subsection 1 of section 12-60-24"

Page 2, line 6, after "entity" insert "as defined in subsection 7 of section 10-01.1-02"

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Page 2, line 17, replace "Director" with "A board member as defined in subsection 8 of section 10-19.1-01"

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Page 2, line 19, replace "Officer" with "An officer as defined in section 10-15-29 or 10-19.1-52"

Page 2, line 20, remove "All individuals having managerial, supervisory, or substantial"

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Page 2, line 22, replace "operations involving radioactive material" with "A radiation safety officer as defined in North Dakota Administrative Code subsection 34 of section 33.1-10-01-04"

Page 2, line 23, replace "Holder" with "A holder"

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Renumber accordingly

2023 HOUSE ENERGY AND NATURAL RESOURCES

SB 2076

2023 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau AB Room, State Capitol

SB 2076
3/3/2023

Relating to environmental compliance background reviews of applicants for a radioactive materials license or solid waste permit.
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2:07 PM

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

Discussion Topics:

- Safe handling
- Criminal history background check
- FBI concerns

David Stradinger, Radiation & Indoor Air Quality Control, ND DEQ, Testimony 21417

2:13 PM Chairman Porter closed the hearing.

Rep Olson moved a Do Pass, seconded by Novak.

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

13-0-1 Motion carried. Rep Novak is carrier.

2:16 PM meeting adjourned.

Kathleen Davis, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2076, as engrossed: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2076 was placed on the Fourteenth order on the calendar.

TESTIMONY

SB 2076



Testimony in Support of
Senate Bill No. 2076
Senate Energy and Natural
Resources Committee
January 5, 2023

TESTIMONY OF

David Stradinger, Manager of the Radiation & Indoor Air Quality Control Program

Good afternoon Chairman Patten and members of the Senate Energy and Natural Resources Committee. My name is David Stradinger and I am the Manager of the Radiation and Indoor Air Quality Control Program of the Division of Waste Management of the Department of Environmental Quality (DEQ). The DEQ is responsible for the implementation and enforcement of many of the federal and state environmental protection programs in North Dakota. I provide this testimony in support of Senate Bill 2076.

To help ensure facility operational integrity and safe handling of specific hazardous materials, the DEQ can require individuals or responsible parties to complete a criminal history background check prior to gaining employment or receiving a permit or license to operate in the state. Some record checks may go beyond the state boundaries and require access to the Federal Bureau of Investigation (FBI) Criminal History Record Information (CHRI).

As part of the 2021 amendments to NDCC 12-60-24(2)(vv) and addition of NDCC 23.1-01-11.1, the US Department of Justice – Office of General Counsel - Criminal Justice Information Law Unit (CJILU) reviewed NDCC 12-60-24(2) as it relates to the requirement for state or federal criminal history background checks. It was determined the law as written did not qualify the state for access to the FBI CHRI pursuant to Pub. L 92-544.

As NDCC 12-60-24(2)(vv) was previously approved by CJILU, the FBI placed NDCC 12-60-24(2)(vv) on a grace period until July 31, 2023. During the grace period, the FBI would continue to honor fingerprints submitted for final applicants for an employee specified in occupation in the DEQ, an individual investigated by the DEQ, or an applicant for registration, certification, or licensure by the DEQ pursuant to this authority.

SB 2076 addresses concerns of the FBI in the following sections:

Section 1: Provides specificity as to the types of individuals or occupations that may require a criminal history background check;

Section 2: Provides language that the DEQ may require applicants for a radioactive materials license or a solid waste permit, as a part of an environmental compliance background review, to complete a statewide and federal criminal history background check. This section also provides the meaning of "applicant", and reasons for application denial.

The proposed changes to the statute have been provided to the DOJ for their review and concurrence.

Mr. Chairman and committee members, this concludes my testimony. I ask for your support for Senate Bill 2076 with the requested amendments. I would be happy to answer any questions.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2076

Page 1, line 1, after “A Bill” replace the remainder of the bill with “for an Act to amend and reenact subdivision vv of subsection 2 of section 12-60-24 and section 23.1-01-11.1 of the North Dakota Century Code, relating to environmental compliance background reviews of applicants for a radioactive materials license or solid waste permit.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision vv of subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

- vv. The department of environmental quality for a final applicant for a job opening ~~or~~, a current employee with the department; ~~an individual being investigated by the department;~~ or, when requested by the department, an applicant for a radioactive materials license under chapter 23.1-03 or a solid waste permit under chapter 23.1-08 as provided in section 23.1-01-11.1.

SECTION 2. AMENDMENT. Section 23.1-01-11.1 of the North Dakota Century Code is amended and reenacted as follows:

23.1-01-11.1. Criminal history background checks.

1. TheAs part of an environmental compliance background review, the department may require an applicant for a radioactive materials license under chapter 23.1-03 or a solid waste permit under chapter 23.1-08 to complete a ~~state~~statewide and nationwide criminal history record check as provided in section 12-60-24. ~~If the applicant is not an individual, the department may require an individual responsible for the applicant to complete a state and a nationwide criminal history record check as provided in section 12-60-24.~~ The applicant ~~or responsible individual~~ shall submit personal information and fingerprints with the application necessary to complete the ~~state~~statewide and nationwide criminal history ~~background~~ record check in the manner provided in subsection 1 of section 12-60-24. All costs associated with the ~~state~~statewide and nationwide criminal history record check are the responsibility of the applicant.
2. For purposes of this section, an “applicant” means the person applying for the license or permit, and includes:

- a. Each entity as defined in subsection 7 of section 10-01.1-02 that is, or is proposed to be:
 - (1) A partner in a partnership as defined in subsection 19 of section 45-13-01;
 - (2) An entity holding ten percent or more of the applicant's debt;
 - (3) An entity holding ten percent or more of the applicant's equity; or
 - (4) The parent of a corporation as defined in subsection 46 of section 10-19.1-01.
 - b. Each individual who has, or is proposed to have, any of the following relationships with the applicant:
 - (1) A board member as defined in subsection 8 of section 10-19.1-01;
 - (2) A partner in a partnership as defined in subsection 19 of section 45-13-01;
 - (3) An officer as defined in section 10-15-29 or 10-19.1-52;
 - (4) A radiation safety officer as defined in North Dakota Administrative Code subsection 34 of section 33.1-10-01-04;
 - (5) A holder of ten percent or more of the applicant's debt; or
 - (6) A holder of ten percent or more of the applicant's equity.
3. The department may deny an application for the issuance, renewal, transfer, or major modification of a license or permit based on its environmental compliance background review.
- a. Reasons for denial include:
 - (1) The applicant has intentionally misrepresented or concealed any material fact in a statement required under this section;
 - (2) The applicant has been convicted of a felony or pleaded guilty or nolo contendere to a felony involving the laws of

any state or the federal government within five years preceding the application;

(3) The applicant has been adjudicated in contempt of an order of any court enforcing the laws of this state or any other state or the federal government within five years preceding the application; or

(4) The applicant has repeatedly violated any state or federal environmental protection laws.

b. The department shall also consider the relevance of the offense to the business to which the license or permit is issued, the nature and seriousness of the offense, the circumstances under which the offense occurred, the date of the offense, and the ownership and management structure in place at the time of the offense.”

Renumber accordingly



Testimony in Support of
Senate Bill No. 2076
House Energy and Natural
Resources Committee
March 2, 2023

TESTIMONY OF

David Stradinger, Manager of the Radiation & Indoor Air Quality Control Program

Good afternoon Chairman Porter and members of the House Energy and Natural Resources Committee. My name is David Stradinger and I am the Manager of the Radiation and Indoor Air Quality Control Program of the Division of Waste Management of the Department of Environmental Quality (DEQ). The DEQ is responsible for the implementation and enforcement of many of the federal and state environmental protection programs in North Dakota. I provide this testimony in support of Senate Bill 2076.

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SB 2076 addresses concerns of the FBI in the following sections:

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The proposed changes to the statute have been provided to the DOJ for their review and concurrence.

Mr. Chairman and committee members, this concludes my testimony. I ask for your support for Senate Bill 2076 with the requested amendments. I would be happy to answer any questions.