

2019 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2076

2019 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

SB 2076
1/7/2019
Job # 30485

- Subcommittee
 Conference Committee

Committee Clerk: Amy Crane

Explanation or reason for introduction of bill/resolution:

Relating to corporate governance; and to provide a penalty.

Minutes:

Att. # 1 – Matt Fisher

Chairman Klein: Opened the hearing on SB 2076. All members were present.

Matt Fischer, Interim Chief Examiner & Division Director of Company Licensing & Examinations, North Dakota Insurance Department: See Attachment #1 for testimony in support begins of the bill.

(3:45)Piepkorn: How long was the previous framework in place and what led to the changes?

Matt: The five years is statutory, once every five years we must do the statutory evaluation of all of our domestic insurers. The corporate governance the NEIC, has taken a much more active approach in regulating corporate governance. As typically, that's where a lot of solvency issues happen. Its not on financial statement issues, it's the board didn't see what was coming down the pipe. The idea is that, when they start making changes, we can't always see those through the financial statements, but by getting the annual disclosure, if they are making changes to their business plans we can get a jump on those things. We can get in front of a potential solvency event before it occurs, because sometimes once those things start, we can't stop them.

Senator Piepkorn: Previously, this just occurred every five years, did some event or something happen that led to this annual report?

Matt: Nothing specific happened, it's just the industry as a whole as it is evolving and the industry is getting into newer things, there's new products going on. It's a proactive approach that's being taken by the state to allow us stay on top of these things before something can turn into an issue.

Chairman Klein: The industry hasn't pushed back about this? If this is happening in other states then they know it's coming?

Matt: That is correct, we've had no pushback so far. We've met with our domestics and they've had a few questions as to what it's going to look like and we are able to provide them some examples. But again, they are allowed some discretion, if they don't have a function that the disclosure asks them for then they are not required to put that into place.

Chairman Klein: There's a lot of new language here only to tell us that we are doing the same thing now every year instead of every five?

Matt: Yes, that is correct.

Chairman Klein: We're keeping the same kind of confidentiality? The same kind of rules? The same everything, other than the timing?

Matt: That is correct.

Senator Burckhard: What does ORSA stand for?

Matt: That stands for the Own Risk Solvency Assessment, it allows companies to do a self-assessment of their own risk. Its not past risks that are the problem, its future ones. And the idea is to find out what mitigation strategies do they have, which ones can they put in place to ward off that potential solvency event from happening.

Chairman Klein: Have we had a lot of solvency issues in the last two years?

Matt: North Dakota market is incredibly solvent; our domestics are all incredibly solvent. Obviously, on the national scene we're seeing a few more insolvencies particularly in the long-term care market right now. But overall, very solid.

Chairman Klein: Does long-term care tap into the guarantee fund?

Matt: Yes, they would be part of the guarantee fund.

Senator Kreun: On the second page, the insurers will be allowed discretion regarding the format for providing responses so long as the department to gain an understand. Is this going to be done by an audit? Or how would they do that?

Matt: Yes, when they give us their annual report we will look through it to be sure they've properly addressed each area and if they don't have a function in place then we will won't force them to put something in place, we're just going to make sure they've addressed it.

Senator Kreun: So, really we're giving them the opportunity to tell us about their company and then we take a good look at it and make sure they're following the rules?

Matt: Yes, that's absolutely correct.

Chairman Klein: And you're asking the questions? You're laying out a format for them to fill in the blanks?

Matt: Absolutely.

Chairman Klein: What sort of specific responses are you going to add into the administrative roll?

Matt: There are about fourteen questions we are going to ask them. Specific to what's the structure of your board? How did you determine that was the correct structure? What is the appropriate qualifications that a board member must have? How is key management assessed? How is there compensation tied to their performance of their goals?

Senator Burckhard: You talked about insolvencies in long-term care insurance, do you want to expand on that just a little? Is there quite a bit of that going on?

Matt: Unfortunately, the long-term care industry has seen some insolvencies recently. It's a touchy market right now. It's an odd product. It was tough to price and unfortunately we're seeing some issues in that area. Companies weren't able to properly price that product and now we're seeing some insolvencies.

Senator Burckhard: So what happens to a client who bought a long-term care product 30 years ago and now that client is in his mid-eighties and needs it? Sometimes it ends up that they're out of business?

Matt: That's where the state guarantee association would step in to make the policyholder whole as possible as it can up to the limits within the guarantee association fund law.

Senator Burckhard: Is it at a smaller percentage? Is it at 80%, 100%?

Matt: The laws are not by a set percentage, it's a set dollar amount. So based on the policy type it is, it might be \$300,000 for this policy type or \$100,000. It's based on policy type. So unfortunately, yes if you have a \$1 million policy and the limit was \$300,000, \$300,000 would be the most you could get.

Chairman Klein: So long-term care over the last few years, was underpriced. And they didn't know how to price it. But we haven't really given them enough time to contribute to the guarantee fund?

Matt: There is no contributing to the guarantee fund. When the insolvency occurs and they need to assess funds they need to assess it at that time. So there's not a continuing assessment that's going on. The association does have the ability to assess for operating expenses but not for a continuing assessment.

Chairman Klein: Everybody gets assessed, however?

Matt: Everybody that is a member of the association based on the company type you are. We have guarantee fund for property and casualty, and a separate for life and health.

Senator Kreun: Moved a Do Pass.

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Senator Roers: Seconded.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Roers will Carry the Bill.

Date: 1/7
 Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2076**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Kneun Seconded By Roers

Senators	Yes	No	Senators	Yes	No
Chairman Klein	X		Senator Piepkorn	X	
Vice Chairman Vedaa	X				
Senator Burckhard	X				
Senator Kreun	X				
Senator Roers	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Roers

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2076: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2076 was placed on the Eleventh order on the calendar.

2019 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2076

2019 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2076
3/5/2019
33181

- Subcommittee
 Conference Committee

Committee Clerk: Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Corporate governance.

Minutes:

Attachment 1

Chairman Keiser: Opens the hearing on SB 2076.

Matt Fischer~Chief Examiner & Director of Company Licensing & Examinations-ND Insurance Department: Attachment 1.

3:50

Rep Bosch: Are those documents already given to the Secretary of State?

Matt Fischer: No, they are confidential.

Rep D Ruby: Is it for ND law to reference the NAIC in all these different areas?

Matt Fischer: All states can regulate as they see fit. We go to the NAIC for uniform language models in regulations.

Rep D Ruby: When those change, they are adopted & comforting to it. In some cases, it's not good for our state & we lose the ability to review that in a future session.

Matt Fischer: I guess that could happen but this specific model is incredibly important to ensure the long term solvency of our domestic insurers. We do this deep dive once every five years.

Vice Chairman Lefor: Under sanctions, page 7, the penalty is \$500 a day with a maximum of \$100,000, can you explain how that works? How can it get to \$100,000, help me understand that?

Matt Fischer: You have a due date & a fine in the back to insure that they actually comply with the law. It's a cap on there if it ever gets that high, we would be on top of someone right away. It would be a potentially regulatory action that would get reported.

Vice Chairman Lefor: Are there other provisions for the insurance commissioner?

Matt Fischer: I would have to defer that question.

Rep Schauer: How many domestic insurers on an annual basis?

Matt Fischer: Around 30.

Rep Schauer: Seems you are doing a deep dive every year. Would you consider that to be burdensome?

Matt Fischer: It's not the deep dive that we do in the exam. It's more of a high level dive. We think they can do this in a half hour.

Chairman Keiser: Page 5, lines 12-14, we expect you to use prudent standards in terms of the rates that they charge & fees associated with that. When we contract out services & they are able to charge on a build time basis, there is somewhat an incentive to extend the activity. This has been a significant problem. I want you to recognize that as we approve this, our intent for the record.

Chairman Keiser: Anyone else here to testify on SB 2076 in support, opposition, neutral? Closes the hearing. What are the wishes of the committee?

Rep Adams: Moves a Do Pass.

Rep Schauer: Second.

Chairman Keiser: Give a history of the NAIC & the compact. I support the bill.

Rep D Ruby: This is talking about the domestic insurers that this would be applying to as well. If that is so important, why do we keep loading it?

Roll call was taken on SB 2076 for a Do Pass with 11 yes, 0 no, 3 absent & Rep C Johnson is the carrier.

2019 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2076
3/13/2019
33663

- Subcommittee
 Conference Committee

Committee Clerk: Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Corporate governance.

Minutes:

Chairman Keiser: Reopens the hearing on SB 2076.

Rep Schauer: Makes a motion to reconsider SB 2076.

Rep Adams: Second.

Chairman Keiser: Further discussion?

Voice Vote ~ motion carried.

Rep C Johnson: Move amendment to remove "or both" on page 2, line 11.

Rep Bosch: Second.

Chairman Keiser: Further discussion?

Voice Vote ~ motion carried.

Chairman Keiser: The amendment is adopted, what are the wishes of the committee?

Rep C Johnson: Moves a Do Pass as Amended.

Rep Adams: Second.

Chairman Keiser: Further discussion?

Roll call was taken on SB 2076 for a Do Pass as Amended with 13 yes, 0 no, 1 absent & Rep C Johnson is the carrier.

DF-3/13/19

19.8019.01001
Title.02000

Adopted by the House Industry, Business and
Labor Committee
March 13, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2076

Page 2, line 11, remove "or both,"

Renumber accordingly

Date: Mar 5, 2019

Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2076

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation

- Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar

Other Actions Reconsider _____

Motion Made by Rep Adams Seconded By Rep Schauer

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep O'Brien	Ab	
Vice Chairman Lefor	X		Rep Richter	X	
Rep Bosch	X		Rep D Ruby	X	
Rep C Johnson	X		Rep Schauer	X	
Rep Kasper	Ab		Rep Adams	X	
Rep Laning	X		Rep P Anderson	X	
Rep Louser	X		Rep M Nelson	Ab	

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep Johnson

Date: Mar 13, 2019

Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2076

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation

- Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar

Other Actions Reconsider _____

Motion Made by Rep Schauer Seconded By Rep Adams

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Rep O'Brien		
Vice Chairman Lefor			Rep Richter		
Rep Bosch			Rep D Ruby		
Rep C Johnson			Rep Schauer		
Rep Kasper			Rep Adams		
Rep Laning			Rep P Anderson		
Rep Louser			Rep M Nelson		

Total (Yes) _____ No _____

Absent _____

Floor Assignment voice vote - motion carried

Date: Mar 13, 2019

Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2076

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or
Description:

19.8019.01001 title .02000
page 2, line 11, remove "or both"

Recommendation

- Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar
- Other Actions Reconsider _____

Motion Made by Rep Johnson Seconded By Rep Bosch

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Rep O'Brien		
Vice Chairman Lefor			Rep Richter		
Rep Bosch			Rep D Ruby		
Rep C Johnson			Rep Schauer		
Rep Kasper			Rep Adams		
Rep Laning			Rep P Anderson		
Rep Louser			Rep M Nelson		

Total (Yes) _____ No _____

Absent _____

Floor Assignment voice vote - motion carried

Date: Mar 13, 2019

Roll Call Vote #: 3

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2076

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation

- Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Refer to Appropriations
- Place on Consent Calendar

Other Actions Reconsider _____

Motion Made by Rep Johnson Seconded By Rep Adams

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	x		Rep O'Brien	Ab	
Vice Chairman Lefor	x		Rep Richter	x	
Rep Bosch	x		Rep D Ruby	x	
Rep C Johnson	x		Rep Schauer	x	
Rep Kasper	x		Rep Adams	x	
Rep Laning	x		Rep P Anderson	x	
Rep Louser	x		Rep M Nelson	x	

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep Johnson

REPORT OF STANDING COMMITTEE

SB 2076: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING).
SB 2076 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2076: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2076 was placed
on the Sixth order on the calendar.

Page 2, line 11, remove "or both."

Renumber accordingly

2019 TESTIMONY

SB 2076

SENATE BILL NO. 2076

Presented by: Matt Fischer
Interim Chief Examiner &
Division Director of Company Licensing & Examinations
North Dakota Insurance Department

Before: Senate Industry, Business and Labor
Senator Jerry Klein, Chairman

Date: January 7, 2018

TESTIMONY

Good Afternoon Chairman Klein and members of the committee. My name is Matt Fischer and I am the Interim Chief Examiner & Division Director of Company Licensing & Examinations for the North Dakota Insurance Department. I appear before you in support of Senate Bill No. 2076.

This bill will require all North Dakota domestic insurance companies to annually provide a disclosure of its corporate governance structure, policies and practices to the Department. This annual disclosure will aid in the understanding of an insurer's corporate governance framework.

This is important because currently we obtain an understanding of our domestic insurer's corporate governance framework during the examination process which occurs once every 5 years. The downside is that when changes occur within an insurer's corporate governance practices we are not always informed of the changes. These changes can have a substantial impact on both the current and prospective solvency of the insurer. This annual disclosure will allow the Department sufficient and more timely information to assess the solvency of our domestic insurers on an annual basis.

Within the disclosure the insurer will discuss the make-up of its board including the rationale for its size and structure, the qualifications to serve, and how performance is measured. The insurer will discuss how key management performance is measured,

SB 2076 1/7/19 Attachment #1 pg 1

SB 2076 1/7/19 Attach #1 pg 2

what succession plans exist and how key management reports back to the board. The disclosure will also address how the insurer monitors key risk areas. If the bill is passed the suggested format of the disclosure along with areas that require specific response will come later by administrative rule.

The insurers will be allowed discretion regarding the format for providing the responses so long as it allows the Department to gain an understanding of the overall corporate governance framework. In completing the disclosure an insurer will be allowed to refer to other existing documents such as Articles of Incorporation, By-Laws, Holding Company filings such as Form B, Form F or ORSA.

The information contained within the disclosure is considered as being proprietary to the insurer and containing trade secrets. Therefore, confidentiality language has been included in this bill.

SB 2076 conforms to the recently adopted model Corporate Governance Annual Disclosure law included in the National Association of Insurance Commissioners (NAIC) accreditation program that sets out the requirements for corporate governance filings for insurers. Under the accreditation program, established by the NAIC in 1990, the goal is for each state to adopt certain laws and rules so that multi-state life, health and property and casualty insurers are subject to consistent solvency regulation requirements. North Dakota has maintained its accredited status since 1992 by adopting and implementing the necessary standards to effectively regulate an insurer's corporate and financial affairs. The accreditation program is instrumental in promoting and maintaining state-based regulation of the insurance industry. The Corporate Governance model law will become an Accreditation standard effective January 1, 2020. 26 states have adopted the model and it is under consideration in 17 others.

The fiscal note on this bill indicates no fiscal impact.

In conclusion, I respectfully request a "do pass" recommendation from this committee on Senate Bill No. 2076. I am happy to take any questions.

SENATE BILL NO. 2076

Presented by: Matt Fischer
Chief Examiner &
Director of Company Licensing & Examinations
North Dakota Insurance Department

Before: House Industry, Business and Labor
Representative George Keiser, Chairman

Date: March 5, 2019

TESTIMONY

Good Morning Chairman Keiser and members of the committee. My name is Matt Fischer and I am the Chief Examiner & Director of Company Licensing & Examinations for the North Dakota Insurance Department. I appear before you in support of Senate Bill No. 2076.

This bill will require all North Dakota domestic insurance companies to annually provide a disclosure of its corporate governance structure, policies and practices to the Department. This annual disclosure will aid in the understanding of an insurer's corporate governance framework.

This is important because currently we obtain an understanding of our domestic insurer's corporate governance framework during the examination process which occurs once every 5 years. The downside is that when changes occur within an insurer's corporate governance practices we are not always informed of the changes. These changes can have a substantial impact on both the current and prospective solvency of the insurer. This annual disclosure will allow the Department sufficient and more timely information to assess the solvency of our domestic insurers on an annual basis.

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what succession plans exist and how key management reports back to the board. The disclosure will also address how the insurer monitors key risk areas. If the bill is passed the suggested format of the disclosure along with areas that require specific response will come later by administrative rule.

The insurers will be allowed discretion regarding the format for providing the responses so long as it allows the Department to gain an understanding of the overall corporate governance framework. In completing the disclosure an insurer will be allowed to refer to other existing documents such as Articles of Incorporation, By-Laws, Holding Company filings such as Form B, Form F or ORSA.

The information contained within the disclosure is considered as being proprietary to the insurer and containing trade secrets. Therefore, confidentiality language has been included in this bill.

SB 2076 conforms to the recently adopted National Association of Insurance Commissioners (NAIC) model Corporate Governance Annual Disclosure law that sets out the requirements for corporate governance filings for insurers. 26 states have adopted the model and it is under consideration in 17 others.

In conclusion, I respectfully request a "do pass" recommendation from this committee on Senate Bill No. 2076. I am happy to take any questions.