

2019 SENATE ENERGY AND NATURAL RESOURCES

SB 2108

2019 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2108
1/10/2019
Job Number 30639

- Subcommittee
 Conference Committee

Committee Clerk: Marne Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to citizen suit and intervention, coal combustion residuals (CCR), to provide a penalty, and to provide an effective date.

Minutes:

1 attachment

The public hearing was opened; a quorum was present.

Chuck Hyatt, Director, Waste Management Division, North Dakota Department of Health (0:15-2:25) Introduced the bill, please see attachment #1.

Chair Unruh: Even if we don't like section 2, it has to be in there for you guys to run your own program?

Mr. Hyatt: Yes, that's correct.

Senator Piepkorn: Please define 'including provisions for states to obtain primacy'.

Mr. Hyatt: Primacy means the state has the authority to enforce the regulations. The rule as it stands, EPA has a self-implemented policy so that the facilities have to implement the rules for EPA, and then we have our own CCR Rules that we implement. In order to combine those rules into one, they're very analogous, so that it's only our responsibility in the state, we have to implement these rules.

Chair Unruh: The language in section 2, does it have to be written exactly the way it is presented? Is there some flexibility allowed there?

MR Hyatt: The language we chose was language that has been approved by EPA. The purpose of including this language was to ensure the shortest timeframe for ultimate approval from the EPA and granting of that primacy. This language meets the requirements that EPA sets forth and has already been approved by Hazardous Waste Rules, we've decided to include the language as it is to make that process as efficient as possible.

No opposing or additional agency testimony.

Public hearing closed.

2019 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2108
1/11/2019
Job Number 30682

- Subcommittee
 Conference Committee

Committee Clerk: Marne Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to citizen suit and intervention, coal combustion residuals, to provide a penalty, and to provide an effective date.

Minutes:

No attachments

Chair Unruh: I had a couple of additional questions on this one, but those issues were resolved, I spoke with legal counsel and it sounds like everything in here is needed.

Senator Piepkorn: In section 2, the following citizen participation provisions. Who could bring a citizen suit?

Chair Unruh: It says in subsection a) a person having an interest that may be affected adversely by a violation of this chapter. I'm not sure, we could bring counsel in here, if you'd like.

Senator Piepkorn: We could do that. Yesterday, you voiced concern about section 2, was that addressed?

Chair Unruh: Yes, as they said in the hearing, this is how they need to word it because of federal law. I'm comfortable with the language as is.

Senator Piepkorn: I'm fine, we don't need legal to come down. I move do pass.

Senator Roers: I second.

A roll call vote was taken.

Motion passes 6-0-0.

Senator Roers will carry.

REPORT OF STANDING COMMITTEE

SB 2108: Energy and Natural Resources Committee (Sen. Unruh, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
SB 2108 was placed on the Eleventh order on the calendar.

2019 HOUSE ENERGY AND NATURAL RESOURCES

SB 2108

2019 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau A Room, State Capitol

SB 2108

3/1/2019

33066

Subcommittee

Conference Committee

Committee Clerk, Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to citizen suit and intervention, coal combustion, residuals, to provide a penalty, and effective date.

Minutes:

Attachment 1

Chairman Porter: opened the hearing on SB 2108.

Chuck Hyatt, director of Waste Mgmt Division of the ND Dept. of Health's Dept. of Environmental Quality: Presented Attachment 1.

Chairman Porter: questions? Further support? Opposition? Closed the hearing.

2019 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau A Room, State Capitol

SB 2108
3/21/2019
34105

- Subcommittee
 Conference Committee

Committee Clerk, Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to citizen suit and intervention, coal combustion, residuals, to provide a penalty, and effective date.

Minutes:

Chairman Porter: opened the hearing on SB 2108 from DEQ in regards to permitting for disposal facilities.

Rep. Roers Jones: I move a Do Pass

Rep Heinert: second.

Chairman Porter: discussion? We have a motion and a second on a Do Pass on SB 2108. Roll call vote: 14 yes 0 no 0 absent. Rep Heinert is carrier.

Date: 3-21-19
 Roll Call Vote #: _____

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2108**

House Energy and Natural Resources 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 Roers Jones Seconded By Heinert

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep. Lefor	✓	
Vice Chairman Damschen	✓		Rep. Marschall	✓	
Rep. Anderson	✓		Rep. Roers Jones	✓	
Rep Bosch	✓		Rep. Ruby	✓	
Rep. Devlin	✓		Rep. Zubke	✓	
Rep. Heinert	✓				
Rep. Keiser	✓		Rep. Mitskog	✓	
			Rep. Eidson	✓	

Total (Yes) 14 No 0

Absent 0

Floor Assignment Heinert

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

REPORT OF STANDING COMMITTEE

SB 2108: Energy and Natural Resources Committee (Rep. Porter, Chairman)
recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
SB 2108 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

SB 2108

SB 2108
1.10.19
#1

Testimony
Senate Bill 2108
Senate Energy and Natural Resources Committee
January 10, 2019, 9:30 a.m.
North Dakota Department of Health/North Dakota Department of Environmental Quality

Good morning Chairman Unruh and members of the Energy and Natural Resources Committee. My name is Chuck Hyatt, and I am director of the Waste Management Division of the North Dakota Department of Health (soon to be the North Dakota Department of Environmental Quality). I am here today to testify in support of Senate Bill 2108, which primarily addresses changes to state law needed to obtain approval from the U.S. Environmental Protection Agency (EPA) for a state coal combustion residuals (CCR) permit program.

North Dakota has had a robust permitting program for CCR disposal facilities since the 1980s. In October 2015, the EPA finalized federal rules for CCR disposal facilities but did not include provisions for states to obtain primacy to implement the rules. Since that time, power plants have had to comply with both state rules and the federal CCR rules. The 2016 Water Infrastructure Improvements for the Nation (WIIN) Act included provisions for states to obtain EPA approval to take over the program, but there are some differences between our state program and the federal program.

Senate Bill 2108 seeks to address those differences and allow the state to move forward with the CCR approval process. The bill provides for the following:

Section 1 changes the word “residue” to “residuals” to be consistent with the federal rules.

Section 2 provides opportunity for citizen intervention to compel compliance if there are violations at a CCR facility. This is not new in North Dakota law; nearly identical wording is included in Section 23.1-04-15 of the North Dakota Century Code regarding hazardous waste facilities. The opportunity for citizen intervention is included in the federal CCR program and is required for North Dakota to obtain approval of its own program under the federal rules.

This concludes my testimony. I am happy to answer any questions you may have.

Testimony
Senate Bill 2108
House Energy and Natural Resources Committee
March 1, 2019, 10:00 a.m.
North Dakota Department of Health/North Dakota Department of
Environmental Quality

Good morning Chairman Porter and members of the Energy and Natural Resources Committee. My name is Chuck Hyatt, and I am director of the Waste Management Division of the North Dakota Department of Health (soon to be the North Dakota Department of Environmental Quality). I am here today to testify in support of Senate Bill 2108, which primarily addresses changes to state law needed to obtain approval from the U.S. Environmental Protection Agency (EPA) for a state coal combustion residuals (CCR) permit program.

North Dakota has had a robust permitting program for CCR disposal facilities since the 1980s. In October 2015, the EPA finalized federal rules for CCR disposal facilities but did not include provisions for states to obtain primacy to implement the rules. Since that time, power plants have had to comply with both state rules and the federal CCR rules. The 2016 Water Infrastructure Improvements for the Nation (WIIN) Act included provisions for states to obtain EPA approval to take over the program, but there are some differences between our state program and the federal program.

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This concludes my testimony. I am happy to answer any questions you may have.