

Senate Commerce Committee

Angela Leach 271-3077

SB 86, relative to the regulation of banks, trusts, and credit unions by the banking department.

Hearing Date: January 31, 2017

Members of the Committee Present: Senators Innis, French and Lasky

Members of the Committee Absent : Senators Sanborn and Soucy

Bill Analysis: This bill makes various changes to the regulatory authority of the banking department concerning banks, trusts, and credit unions.

This bill is a request of the banking department.

Sponsors:

Sen. Bradley

Sen. D'Allesandro

Who supports the bill: Emelia Galdieri- NH Banking Department, Nancy Daigle- NH Banking Department, Kurt Strandson- Bankers/Brokers Association

Who opposes the bill: Glen Perlow and Todd Mayo- Perspecta Trust

Summary of testimony presented:

Senator French introduced the bill for Senator Bradley.

Emelia Galdieri- NH Banking Department- This bill was at the request of the banking department. Section 1: clarifies that entities chartered by the banking department not only have to engage a CPA to act an auditor on an annual basis but must perform an audit annually. Statute has been in law for a while now and it was brought to our attention that it didn't say that they had to perform an audit. Sections 2, 3, 4 corrects cross reference changes that were missed in the rewrite of the banking laws. Sections 5-17 clarifies when an entity should submit a notice or an application to the banking department. Notice should serve to notify the department of a pending action with no approval required whereas an application should be submitted prior to taking an action. Sections 6-17, first page of the example is the redemption of shares. Very last sentence of that first page, says board of director should not make a proposed redemption unless it gives notice of that proposed redemption to the commission as provided in 383-A:6-602 and is permitted to do so by the commissioner. It is combining a notice with a permission. The second page, 383-A:6-604 explains what action the banking department should take upon receiving that notice and the only option is to issue a no objection letter. Clarifies that language. Section 8,9,10, 11 and 12 are related to establishing branches or trust offices. In these instances the department considered how they review branching notices and safety and soundness concerns to an institution associated with branching. Line up in favor of an application versus a notice, but do not want to burden people with applications unnecessarily and we don't want to waste anyone's time reviewing applications. Balance that concern, what other regulators do, a system where they have an expedited application process so it is not burdensome in terms of time and expense to the institution, hoping we can do that through the rulemaking process.

Senator Innis- How does it make your life easier and the bankers' life easier.

Emelia Galdieri- It makes both our life better. Important to have clarity for our licensed and chartered entities so they know what we are doing and how we review things and what they can expect of us in terms of time, turn around and the approval process.

Glen Perlow- Perspecta Trust Company- (opposed) We are a highly regulated industry. We are meeting at the end of the week with the Banking Commissioner. Had some dialogue before testifying to clarify some of the concerns. Don't have concerns with what the department is trying to do but if we can refine that a little bit.

Attorney Todd Mayo- Perspecta Trust Company (opposed)- Our focus is on the trust company side, not other provisions in the bill. The three provisions of concern is section 11. Went through a multi-month process of rewriting the banking laws in SB 188. A lot of discussion about what should be noticed and what should be approved. The noticed process is a process by which the trust company provides notice to the bank department and the bank department has 30 days in which to react. They can then issue a no action letter or request additional information which signals they do have some sort of concerns about the proposal, versus a formal approval process which is a minimum 60 day process. In the rewrite, we tried to identify errors where it struck the right balance between regulation and the client's costs and satisfying the states interest of protecting the public. One of the right balances is in the area of opening and relocating trust offices. For a highly rated trust company, the notice would be sufficient, but if you were not a highly rated trust company with any formal approval there would be a more vigorous review from the department. Concerns about switching it over from a notice to an approval process, would entertain the idea of having some expedited review.

The other concerns is the language that is struck in regards to the permission of a commissioner following a notice, it would open it up to some ambiguity suggesting that a trust company could proceed with an intended action despite the bank department signaling some sort of concern or formal objection. We would prefer that language to read, "unless the commissioner objects" or take a broader look at the notice provision process.

Senator French- So you will be meeting together and advise the committee.

Attorney Mayo- yes