

Fifty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2265

Introduced by

Senators Nething, Klein

Representative DeKrey

1 A BILL for an Act to amend and reenact sections 61-08-01, 61-08-06, 61-08-07, 61-08-09,
2 61-08-12, 61-08-13, 61-08-14, 61-08-22, 61-08-23, 61-08-25, 61-08-26, 61-08-27, 61-08-28,
3 61-08-29, 61-08-34, 61-08-35, and 61-08-39 of the North Dakota Century Code, relating to
4 bonds of irrigation districts; and to repeal sections 61-08-10, 61-08-11, 61-08-16, 61-08-17,
5 61-08-18, 61-08-19, 61-08-20, 61-08-21, 61-08-33, 61-08-36, 61-08-37, and 61-08-38 of the
6 North Dakota Century Code, relating to registration of bonds, cancellation of bonds, issuance of
7 warrants, and terms of refunding bonds.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 61-08-01 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **61-08-01. Resolution to institute initial proceedings for bonds - Contents -**

12 **Adoption.** Proceedings for the issuance of bonds by an irrigation district ~~shall~~ must be
13 instituted by the adoption of an initial resolution ~~therefor~~ by the board of directors of the district.

14 ~~Such~~ The initial resolution ~~shall~~ must state:

- 15 1. The maximum principal amount of bonds proposed to be issued.
- 16 2. ~~The maximum interest rate they shall bear.~~
- 17 3. ~~Whether they will be of serial or single maturity.~~
- 18 4. ~~If a single maturity, the year thereof, or if serial maturities, the years of such~~
19 ~~maturities, but not the amount for each of such years.~~
- 20 5. The purpose for which ~~they~~ the bonds are proposed to be issued.
- 21 6. 3. The total amount of bonded indebtedness, if any, of the district.
- 22 7. 4. Any other statement of fact deemed advisable by the board.

23 ~~Such~~ The initial resolution may be adopted by a majority of the board at any regular meeting
24 ~~thereof~~ or at any special meeting of which the prescribed notice has been given.

SECTION 2. AMENDMENT. Section 61-08-06 of the North Dakota Century Code is amended and reenacted as follows:

~~**61-08-06. Maturity of bonds issued—When installment of principal falls due—**~~
Amount Bonds - Terms. Bonds issued by any irrigation district under the provisions of this chapter ~~shall~~ must be in the denominations and form, be subject to redemption with or without premium, and be subject to any other terms or conditions as the board of directors may determine, and must mature in not ~~less than ten years nor~~ more than forty years ~~after the date thereof~~ from the date of the bonds. If the maturities are serial, the first installment of principal ~~shall~~ must fall due not more than three years, and the last installment not more than forty years, from the date of the bonds. ~~No installment of principal shall be less than one third of the amount of the largest installment, except that the amounts of installments of principal may be such that the increase thereof from year to year approximately shall equal the decrease from year to year in the interest on the bonds remaining unpaid.~~

SECTION 3. AMENDMENT. Section 61-08-07 of the North Dakota Century Code is amended and reenacted as follows:

~~**61-08-07. Bonds payable to whom—Interest coupons - Rate of interest -**~~
Numbering. Every bond provided for in this chapter ~~shall~~ must be a negotiable instrument payable to "bearer" or to the "bearer or registered owner", ~~with interest coupons attached, payable annually or semiannually, and must bear interest~~ at a rate or rates resulting in an average annual net interest ~~cost~~ rate which ~~shall~~ must not exceed twelve percent per annum ~~on those issues which~~ if the bonds are sold at private sale. There is no interest rate ceiling on ~~those issues~~ bonds sold at public sale or to the state of North Dakota or any of its agencies or instrumentalities. Each bond ~~shall~~ must specify the time and place of payment of the principal and ~~shall be numbered consecutively with the other bonds of the same issue, which shall begin with number one, or with any other number, as the board may direct.~~

SECTION 4. AMENDMENT. Section 61-08-09 of the North Dakota Century Code is amended and reenacted as follows:

~~**61-08-09. Execution of bonds and interest coupons - Validity of bonds not**~~
impaired by change in officers. The bonds issued under the provisions of this chapter ~~shall~~ must be executed in the name of and for the district by the manual or facsimile signatures of the chairman and secretary of the board. ~~The interest coupons attached to such bonds may be~~

1 ~~executed by the lithographed or engraved facsimile signature of such officers.~~ The validity of
2 every bond so executed ~~shall remain unimpaired~~ is not impaired by the fact that ~~one or more of~~
3 ~~the a~~ subscribing or attesting ~~officers have~~ officer has ceased to be ~~such an officer or officers~~
4 of the district before delivery to the purchaser.

5 **SECTION 5. AMENDMENT.** Section 61-08-12 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **61-08-12. ~~Advertising required before district sells issue~~ Sale of bonds - Contents**
8 **~~of notice - Who to receive notice.~~** No irrigation district shall enter into any contract for the
9 sale of any issue of its bonds which exceeds the total sum of one hundred thousand dollars
10 ~~without first advertising for bids in the manner prescribed in this section. A~~ Bonds may be sold
11 at private sale without notice or at public sale after a notice calling for bids ~~shall be~~ has been
12 published at least once in the official newspaper of each county in which the district is situated
13 not less than fifteen days nor more than thirty days before the date specified ~~therein~~ for
14 receiving ~~such~~ bids. The notice may be in any form but ~~shall~~ must specify the amount of bonds
15 offered for sale and the date or dates of the maturity thereof, and the notice ~~shall~~ must specify
16 that the bids ~~shall~~ must be sealed and in writing and ~~shall~~ must state the time when and place
17 where bids will be received and will be opened. ~~A copy of the notice shall be mailed to the tax~~
18 ~~commissioner at Bismarck not less than ten days before the date specified for the opening of~~
19 ~~bids. Failure to publish the notice or to send a copy thereof to the tax commissioner shall not~~
20 ~~impair the validity of the bonds but shall render unenforceable any executory contract entered~~
21 ~~into for the sale thereof.~~

22 **SECTION 6. AMENDMENT.** Section 61-08-13 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **61-08-13. Opening bids for bond issues - Record of bids kept - Bids accompanied**
25 **by check.** At the time specified for opening the bids for bonds, the secretary of the board
26 publicly shall open the bids in the presence of the ~~directors~~ board, and after the bids have been
27 opened, the secretary shall enter in a permanent record the amount and rate of interest of each
28 bid and the name and address of the bidder. Each bid ~~shall~~ must be accompanied by a
29 certified check, cashier's check, surety bond, or bank draft in the amount of not less than ~~two~~
30 one percent of ~~such the~~ bid.

1 **SECTION 7. AMENDMENT.** Section 61-08-14 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **61-08-14. Awarding sale of bond issue - Rejecting bids ~~—Purchasing irrigation~~**
4 **~~works already constructed.~~** The board of directors shall award the sale of bonds to the bidder
5 who agrees to purchase them upon the terms most favorable to the district, except that the
6 board may reject any and all bids. No sale ~~shall~~ may be for less than ninety-eight percent of
7 the par value and accrued interest on ~~such~~ the bonds. ~~If the board has determined to purchase~~
8 ~~irrigation works already constructed, the bonds may be issued and delivered at their par value~~
9 ~~in payment thereof.~~

10 **SECTION 8. AMENDMENT.** Section 61-08-22 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **61-08-22. Bonds and district improvement warrants may be secured by trust**
13 **~~indenture - Powers vested in trustee.~~** In the discretion of the board, bonds and district
14 ~~improvement warrants~~ may be secured by a trust indenture by and between the district and a
15 corporate trustee, which may be any trust company or bank having the powers of a trust
16 company within or outside this state. The board may vest in ~~such~~ the trustee the right to
17 enforce any covenant made to secure or to pay ~~such~~ the bonds ~~or improvement warrants.~~

18 **SECTION 9. AMENDMENT.** Section 61-08-23 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **61-08-23. Where money received from bond issue ~~or improvement warrants~~**
21 **~~placed - Lien on money.~~** All money received from any bond issue ~~or from the sale of district~~
22 ~~improvement warrants shall~~ must be placed in a fund and applied solely ~~to the payment of the~~
23 ~~cost of the works~~ for the purpose for which it was borrowed and for no other purpose except
24 that the money may be temporarily invested in securities approved by the board. A lien is
25 granted upon ~~such~~ the money until so applied, in favor of the owners or holders of ~~such~~ the
26 bonds ~~or improvement warrants~~ or in favor of the trustee ~~created~~ appointed in connection with
27 ~~such~~ the bonds ~~or improvement warrants.~~

28 **SECTION 10. AMENDMENT.** Section 61-08-25 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **61-08-25. Bonds, ~~improvement warrants,~~ and contracts payable from**
31 **~~assessments of real property and from water charges.~~** Bonds ~~or improvement warrants~~

1 issued by any irrigation district, and the interest thereon, and contracts not payable in bonds ~~or~~
2 ~~improvement warrants~~, made and entered into by the district for the acquisition of irrigation
3 works already constructed, or for the establishment and construction of irrigation works, or any
4 part thereof, ~~shall~~ must be paid from the revenue obtained from special assessments upon the
5 real property of the district or from any other revenue available for that purpose obtained from
6 charges to water users or from the sale of water to any person, firm, corporation, limited liability
7 company, municipality, or other irrigation district, or by a combination of special assessments
8 and water charges.

9 **SECTION 11. AMENDMENT.** Section 61-08-26 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **61-08-26. County treasurer to be custodian of funds.** The county treasurer shall act
12 as the custodian of sinking funds, or funds created for the payment of bonds ~~or improvement~~
13 ~~warrants~~, except that in case an irrigation district is located in more than one county the board
14 ~~of directors of the district~~, by recorded resolution, shall designate the county treasurer who shall
15 act as the custodian of ~~such~~ the funds. Upon the adoption of ~~such~~ the resolution, the county
16 treasurer so designated shall act as ~~such~~ the custodian. A copy of ~~such~~ the resolution and a
17 copy of each and every contract, trust agreement, or trust indenture relating to the issuance and
18 payment of bonds, ~~or improvement warrants~~, shall must be filed with ~~such~~ the county treasurer.

19 **SECTION 12. AMENDMENT.** Section 61-08-27 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **61-08-27. District treasurer to remit moneys to county treasurer - Crediting proper**
22 **fund.** The district treasurer shall remit to the county treasurer all moneys received by the
23 treasurer in payment of assessments levied for sinking funds or for the payment of bonds ~~and~~
24 ~~improvement warrants~~. The district treasurer also shall remit to the county treasurer moneys
25 raised from water rentals or water charges, when directed to do so by the board, and the district
26 treasurer shall designate the fund or funds to which ~~such~~ the moneys belong, except that all
27 moneys, from whatever source derived, obligated under the terms of any contract, or
28 agreement made and entered into by the district, to meet payments as they become due
29 ~~thereunder~~, shall be paid and remitted to ~~such~~ the county treasurer and shall be credited by the
30 county treasurer to the proper fund.

1 **SECTION 13. AMENDMENT.** Section 61-08-28 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **61-08-28. Payment of bonds and warrants due—Redemption of bonds and**
4 **warrants—Notice of redemption—Contents—Bids—Opening interest.** Upon the
5 presentation to the The county treasurer of bonds or improvement warrants or the coupons of
6 either, then due and payable, the county treasurer shall pay the same shall pay the principal of,
7 premium, if any, and interest on the bonds upon maturity, redemption, or purchase in the open
8 market from any moneys in the fund created for the payment thereof. ~~Whenever the fund~~
9 ~~created for the payment of any series of bonds or improvement warrants shall amount to ten~~
10 ~~thousand dollars, the board shall direct the county treasurer to pay such an amount of such~~
11 ~~bonds, or improvement warrants, not due, at the lowest value at which they may be offered for~~
12 ~~redemption, except that no bond or improvement warrant shall be redeemed at a rate above~~
13 ~~par. Notice of such proposed redemption shall be advertised at least once in the official~~
14 ~~newspaper of the county in which the custodian of sinking funds is county treasurer, and in any~~
15 ~~other newspaper which the board of directors may designate. Such notice shall state that~~
16 ~~sealed proposals will be received for the redemption of such bonds or improvement warrants at~~
17 ~~the time and place therein stated. Such proposals shall be opened by the board in open~~
18 ~~meeting and the lowest bid must be accepted. In case the bids are equal, the lowest numbered~~
19 ~~bonds or improvement warrants, as the case may be, shall have the preference. If no bonds, or~~
20 ~~improvement warrants, are presented for redemption, the county treasurer, with the approval~~
21 ~~and consent of the board of directors, shall invest such money in bonds of the United States or~~
22 ~~in bonds or warrants of the state of North Dakota. The county treasurer may disburse moneys~~
23 in the fund to the fiscal agent or trustee appointed by the board for the purpose of paying the
24 principal of, premium, if any, and interest on the bonds for which the fund was created, without
25 any authorization from the board.

26 **SECTION 14. AMENDMENT.** Section 61-08-29 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **61-08-29. Claims paid by district treasurer - Insufficient funds - Verification of**
29 **claims.** No claim, other than payments of principal of, premium, if any, or interest on bonds,
30 shall be paid by the district treasurer until the same shall have claim has been allowed by the
31 board, and only upon warrants signed by the president and countersigned by the secretary. If

1 ~~such the~~ treasurer ~~has not~~ does not have sufficient money on hand to pay ~~such a~~ warrant when
2 it is presented for payment, the treasurer shall endorse thereon "Not paid for want of funds" and
3 ~~endorse thereon~~ the date when so presented, over the treasurer's signature. All claims against
4 the district ~~shall~~ must be certified the same as claims filed against a county. The board may
5 require any claim to be verified. The secretary of the district may administer ~~oaths~~ an oath to
6 the person verifying ~~such a~~ claim.

7 **SECTION 15. AMENDMENT.** Section 61-08-34 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **61-08-34. Refunding irrigation district bonds - Negotiating new bonds.** Each
10 irrigation district in this state that has ~~heretofore~~ issued or shall ~~hereafter~~ issue bonds or
11 improvement warrants purporting to have been issued for any purpose authorized by law, which
12 bonds or improvement warrants have been ~~actually~~ sold and delivered to purchasers for value
13 and constitute an existing indebtedness, may at any time after ~~maturity~~ or before maturity, ~~with~~
14 ~~the consent of the holder,~~ refund the same and issue and ~~negotiate new~~ sell refunding bonds
15 for the amount of such indebtedness or any part thereof in amounts, bearing interest at rates,
16 and maturing on dates as determined by the board.

17 **SECTION 16. AMENDMENT.** Section 61-08-35 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **61-08-35. Procedure used in issuing refunding bonds.** When in the judgment of the
20 board of directors of an irrigation district it ~~shall be to~~ is in the best interests of ~~such the~~
21 irrigation district to issue its ~~negotiable bonds in the name of such irrigation district~~ for the
22 purpose of refunding or paying outstanding ~~bonded~~ indebtedness, ~~or any issue of bonded~~
23 ~~indebtedness of such irrigation district,~~ as ~~enumerated~~ provided in section 61-08-34, refunding
24 bonds may be issued pursuant to resolutions duly passed at a regular or special meeting of
25 ~~such the~~ board of directors. ~~Such~~ The refunding bonds may be sold at public or private sale
26 and must be signed in the same manner as the bonds to be refunded or by ~~such the~~ officers of
27 the irrigation district ~~issuing the same~~ as may be designated in the resolutions providing for
28 their issuance.

29 **SECTION 17. AMENDMENT.** Section 61-08-39 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **61-08-39. Assessments - Proceeds - Levy.** All assessments made by an irrigation
2 district for the payment of the bonds or improvement warrants to be refunded ~~shall~~ must inure
3 to the benefit of the holders of the refunding bonds and the proceeds of ~~such the~~ assessments
4 ~~shall~~ must be utilized for the purpose of paying the interest and principal of ~~said the~~ refunding
5 bonds, and the board of directors of the irrigation district shall levy an assessment against the
6 lands of the district, as provided by law for levying assessments, sufficient to pay the interest on
7 ~~such the~~ refunding bonds and to create a sinking fund to retire ~~such the refunding~~ bonds at
8 maturity.

9 **SECTION 18. REPEAL.** Sections 61-08-10, 61-08-11, 61-08-16, 61-08-17, 61-08-18,
10 61-08-19, 61-08-20, 61-08-21, 61-08-33, 61-08-36, 61-08-37, and 61-08-38 of the North Dakota
11 Century Code are repealed.