

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2362

Introduced by

Senators Heitkamp, G. Nelson, Wogslund

Representative Dorso

1 A BILL for an Act to establish a drinking water treatment revolving loan fund; to create and
2 enact a new subsection to section 61-28.1-02 and a new section to chapter 61-28.1 of the
3 North Dakota Century Code, relating to the powers and duties of the state water commission; to
4 amend and reenact section 61-28.1-03, subsections 2 and 3 of section 61-28.1-10, and
5 subsections 1, 2, and 4 of section 61-28.2-01 of the North Dakota Century Code, relating to the
6 powers and duties of the water commission; and to provide a penalty.

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

8 **SECTION 1.** A new subsection to section 61-28.1-02 of the North Dakota Century
9 Code is created and enacted as follows:

10 "Commission" means the state water commission.

11 **SECTION 2.** A new section to chapter 61-28.1 of the North Dakota Century Code is
12 created and enacted as follows:

13 **State water commission - Primacy for safe drinking water program.** The
14 commission is the state safe drinking water agency for all purposes of the federal Safe Drinking
15 Water Act and is authorized to take all actions necessary and appropriate to secure for the
16 state the benefit of the Act and any grants made under the Act. The commission may request
17 and accept grants of funds or services from any federal or state agency, or any other source,
18 and administer the grants in accordance with any terms or conditions of the grants. Any grants
19 received may be used only for the purposes for which they are made. The commission shall
20 enter an agreement with the state department of health for the department to administer and
21 enforce a safe drinking water program for this state.

22 **SECTION 3. AMENDMENT.** Section 61-28.1-03 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **61-28.1-03. Powers and duties of department.** The department may exercise the
2 following powers and shall have the following duties:

- 3 1. Administer and enforce a safe drinking water program pursuant to the provisions of
4 this chapter.
- 5 2. Provide technical assistance on request to ~~municipalities~~ public water systems of
6 the state and other persons, and cooperate with appropriate federal agencies.
- 7 3. Advise, consult, and cooperate with other public agencies and with affected groups
8 and industries.
- 9 4. Issue such orders as may be necessary to effectuate the purposes of this chapter
10 and enforce the same by all appropriate administrative and judicial process.
- 11 5. Maintain an inventory of public water systems within the state, which inventory
12 may consist of such information as the department deems necessary.
- 13 6. Conduct sanitary surveys of public water systems within the state.
- 14 7. Adopt rules and regulations relating to maximum contaminant levels, monitoring
15 and analytical requirements and reporting, public notification, and recordkeeping
16 which the department determines are necessary to protect public health and
17 welfare.
- 18 8. Adopt rules and regulations relating to the siting, construction, operation, and
19 modification of public water systems which the department determines are
20 necessary to prevent violation of maximum contaminant levels.
- 21 9. Require the submission of plans, specifications, and such other information as it
22 deems necessary.
- 23 10. Establish a plan for the provision of safe drinking water under emergency
24 circumstances.
- 25 11. Require each supplier of water to keep such records and make such reports to the
26 department as it may deem necessary.
- 27 12. Establish a schedule of fees that may be charged by the department for laboratory
28 tests conducted at the request of any supplier of water; such fees shall be
29 deposited in the general fund.
- 30 13. Require any supplier of water to notify the users of such public water system of
31 any violations of any provision of this chapter, any regulation, the terms or

conditions of any approval, any variance or exemption, or any order issued by the department.

14. Request and accept grants of funds or services from any federal or state agency, or any other source, public or private, and to administer such grants in accordance with any terms or conditions thereof. Any such grants received shall be used only for the purposes for which they are made.

15. ~~Designate the state department of health as the state safe drinking water agency for all purposes of the federal Safe Drinking Water Act and is authorized to take all actions necessary and appropriate to secure for the state the benefit of such Act and any grants made thereunder.~~

Ensure that all new public water systems, excluding those that principally provide service to transients, commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity to comply with all rules adopted under this chapter which are in effect, or will be in effect, on the date of commencement of operations.

16. Develop and implement a strategy to assist all public water systems in acquiring and maintaining technical, managerial, and financial capability to comply with all rules adopted under this chapter.

SECTION 4. AMENDMENT. Subsections 2 and 3 of section 61-28.1-10 of the North Dakota Century Code are amended and reenacted as follows:

2. Any person who willfully violates this chapter or any regulation or order of the department shall be punished by a civil penalty of not more than ten thousand dollars per day of violation or an administrative penalty of not more than two thousand dollars per day of violation.

3. Any person who violates this chapter, or any rule implementing this chapter, and any person who violates any order issued by the department under this chapter is subject to a civil penalty not to exceed five thousand dollars per day of violation or an administrative penalty of not more than one thousand dollars per day of violation.

SECTION 5. Drinking water treatment revolving loan fund - Purposes - Establishment. To coordinate funding for public water systems in North Dakota, there is

established a drinking water treatment revolving loan fund to be administered by the state water commission. The loan fund is also authorized under section 1452(a) of the federal Safe Drinking Water Act, as amended. Grants from the federal government or its agencies, including the United States environmental protection agency, allotted to the state for the capitalization of the drinking water treatment revolving loan fund, and required state matching funds must be deposited in the drinking water treatment revolving loan fund in compliance with the terms of the grants. The principal of the grants must be available in perpetuity for providing financial assistance as allowed under the Safe Drinking Water Act. To the extent amounts in the revolving loan fund are not required for current obligations or expenditures, these amounts must be invested in interest-bearing obligations.

SECTION 6. State water commission - Powers and duties - Administration. The state water commission has the following powers and duties and shall administer the drinking water treatment revolving loan fund as follows:

1. To apply for and accept grants of money from the United States environmental protection agency or other federal agencies which must be deposited in the drinking water treatment revolving loan fund to be used for purposes authorized under the Safe Drinking Water Act, including the following:
 - a. To provide loans or loan guaranties, or other financial assistance, to community water systems and nonprofit noncommunity water systems eligible for assistance from the revolving loan fund.
 - b. As a source of revenue and security for the payment of principal and interest on bonds issued by the state through the North Dakota municipal bond bank if the bond proceeds are deposited in the revolving loan fund.
 - c. To buy or refinance debt obligations issued after July 1, 1993, to finance a project eligible for assistance from the revolving loan fund.
 - d. To guarantee or purchase insurance for debt obligations issued to finance a project eligible for assistance from the revolving loan fund.
 - e. To provide other financial and technical assistance and to make any other expenditure authorized under the Safe Drinking Water Act.
 - f. To earn interest before the disbursement of financial or technical assistance.

g. To pay administrative expenses associated with the revolving loan fund as authorized under the Safe Drinking Water Act.

2. To administer the drinking water treatment revolving loan fund as established. The state water commission may enter into contracts and other agreements in connection with the operation of the drinking water treatment revolving loan fund to the extent necessary or convenient for the implementation of the drinking water treatment revolving loan fund. The commission and the state department of health may combine the financial administration of the drinking water treatment revolving loan fund and the financial administration of the water pollution control revolving loan fund established under chapter 61-28.2. The commission and the state department of health may cross-collateralize the drinking water treatment revolving loan fund and the water pollution control revolving loan fund as authorized by the administrator of the federal environmental protection agency under the Safe Drinking Water Act.

3. To administer and disburse funds in accordance with section 1452(a) of the federal Safe Drinking Water Act [42 U.S.C. 300j], as amended.

4. To establish assistance priorities for the drinking water treatment revolving loan fund, after consultation with other appropriate state agencies.

5. To adopt rules necessary for administering the drinking water treatment revolving loan fund.

The governor may transfer grant funds from the drinking water treatment revolving loan fund to the water pollution control revolving loan fund established by chapter 61-28.2 and from the water pollution control revolving loan fund to the drinking water treatment revolving loan fund, as authorized by the Safe Drinking Water Act.

SECTION 7. AMENDMENT. Subsections 1, 2, and 4 of section 61-28.2-01 of the North Dakota Century Code are amended and reenacted as follows:

1. ~~It is the determination of the legislative assembly that the federal~~ Federal funds for the administration and implementation of the federal wastewater construction grants program will decline within the years to come, thereby decreasing the amount of funds that the state will have to operate and carry out the functions that it has been assigned to accomplish. In order to continue to provide funds to

political subdivisions for the planning, design, construction, and rehabilitation of wastewater treatment facilities, ~~public water supply systems~~, and other lawful activities connected with this program, ~~it is the purpose of this section to provide~~ provides for ~~the establishment of~~ a revolving loan fund ~~to be~~ capitalized by federal grants, matching state funds when required, and by any other funds generated by the operation of the revolving loan fund.

2. ~~There is established~~ The department shall maintain and operate the water pollution control revolving loan fund, which must be maintained and operated by the state department of health. Grants from the federal government or its agencies allotted to the state for the capitalization of the revolving loan fund, and state matching funds when required, must be deposited directly in the revolving loan fund in compliance with the terms of the federal grant. Money in the revolving loan fund must be expended in a manner consistent with terms and conditions of the grants received by the state and may be used to offer loan guarantees; to provide payments to reduce interest on loans and loan guarantees; to make bond interest subsidies; to provide bond guarantees on behalf of municipalities, other local political subdivisions, and intermunicipal or interstate agencies; to provide assistance to a municipality, other local political subdivisions, or intermunicipal or interstate agencies with respect to the nonfederal share of the costs of a project; to finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly owned treatment works ~~or public water supply systems~~; to provide financial assistance for the construction and rehabilitation of a project on the state priority list; to secure principal and interest on bonds issued by a public trust having the state of North Dakota as its beneficiary, or the North Dakota municipal bond bank if the proceeds of such bonds are deposited in the revolving loan fund and to the extent provided in the terms of the federal grant; to provide for loan guarantees for similar revolving funds established by municipalities, other local political subdivisions, or intermunicipal agencies; to purchase debt incurred by municipalities or other local political subdivisions for wastewater treatment projects ~~or public water supply systems~~; to improve credit market access by guaranteeing or purchasing insurance or other

credit enhancement devices for local obligations or obligations of a public trust having the state of North Dakota as its beneficiary or the North Dakota municipal bond bank; to fund other programs which the federal government authorizes by the terms of its grants; to fund the administrative expenses of the department associated with the revolving loan fund; and to provide for any other expenditure consistent with the federal grant program and state law. Money not currently needed for the operation of the revolving loan fund or otherwise dedicated may be invested. All interest earned on investments must be credited to the revolving loan fund.

4. The department has the following powers and duties in regard to the revolving loan fund:

- a. To apply for and accept grants of money from the United States environmental protection agency or other federal agencies for the purpose of making funds available to political subdivisions for the planning, design, construction, and rehabilitation of wastewater treatment facilities, ~~public water supply systems~~, and other related activities. The department may contract to receive such grants, agree to match the grant in whole or in part when required, and to comply with applicable federal laws and regulations in order to secure the grants. Money received through these grants and state matching funds must be deposited into the water pollution control revolving loan fund or used for appropriate administrative purposes.
- b. To administer the revolving loan fund as established. The department may enter ~~into~~ contracts and other agreements in connection with the operation of the revolving loan fund to the extent necessary or convenient for the implementation of the revolving loan fund program.
- c. To administer and disburse funds in accordance with the federal Clean Water ~~and Safe Drinking Water Acts~~ Act, as amended.
- d. To adopt rules as necessary to carry out the provisions of this chapter and meet the requirements of the federal Clean Water ~~and Safe Drinking Water Acts~~ Act, as amended.