

Fifty-sixth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2432

Introduced by

Senators Wanzek, Klein

Representatives Mueller, Pollert, Weisz

1 A BILL for an Act to create and enact a new section to chapter 61-32 of the North Dakota
2 Century Code, relating to consolidation of wetlands; and to amend and reenact section
3 61-32-03 of the North Dakota Century Code, relating to drainage permits.

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

5 **SECTION 1. AMENDMENT.** Section 61-32-03 of the 1997 Supplement to the North
6 Dakota Century Code is amended and reenacted as follows:

7 **61-32-03. Permit to drain waters required - Penalty.** ~~Any~~ Except as otherwise
8 provided in section 2 of this Act, a person, before draining a pond, slough, lake, or sheetwater,
9 or any series thereof, which has a watershed area comprising eighty acres [32.37 hectares] or
10 more, shall first secure a permit to do so. The permit application must be submitted to the state
11 engineer. The state engineer shall refer the application to the water resource district or districts
12 within which is found a majority of the watershed or drainage area of the pond, slough, lake, or
13 sheetwater for consideration and approval, but the state engineer may require that applications
14 proposing drainage of statewide or interdistrict significance be returned to the state engineer for
15 final approval. A permit may not be granted until an investigation discloses that the quantity of
16 water which will be drained from the pond, slough, lake, or sheetwater, or any series thereof,
17 will not flood or adversely affect downstream lands. If the investigation shows that the
18 proposed drainage will flood or adversely affect lands of downstream landowners, the water
19 resource board may not issue a permit until flowage easements are obtained. The flowage
20 easements must be filed for record in the office of the register of deeds of the county or
21 counties in which the lands are situated. An owner of land proposing to drain shall undertake
22 and agree to pay the expenses incurred in making the required investigation. This section does
23 not apply to the construction or maintenance of any existing or prospective drain constructed
24 under the supervision of a state or federal agency, as determined by the state engineer.

1 Any person draining, or causing to be drained, a pond, slough, lake, or sheetwater, or
2 any series thereof, which has a watershed area comprising eighty acres [32.37 hectares] or
3 more, without first securing a permit to do so, as provided by this section, is liable for all
4 damage sustained by any person caused by the draining, and is guilty of an infraction. As used
5 in this section, sheetwater means shallow water that floods land not normally subject to
6 standing water. The state engineer may adopt rules for temporary permits for emergency
7 drainage.

8 **SECTION 2.** A new section to chapter 61-32 of the North Dakota Century Code is
9 created and enacted as follows:

10 **Consolidation of wetlands.** Notwithstanding any other provision of law, an operator of
11 cultivated or irrigated land may consolidate wetlands provided the water will not flood or
12 adversely affect downstream lands owned by another landowner.