

Fifty-sixth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2164

Introduced by

Appropriations Committee

(At the request of the Office of Management and Budget)

1 A BILL for an Act to provide for the issuance of bonds and an appropriation to finance
2 construction of an outlet from Devils Lake and to finance a statewide water development
3 program; and to provide an expiration date.

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

5 **SECTION 1. Legislative findings and intent - Authority to issue bonds.**

- 6 1. The legislative assembly finds that the Devils Lake basin is suffering and facing a
7 worsening flood disaster. It further finds that construction of an outlet from Devils
8 Lake is necessary for the protection of health, property, and enterprises and for the
9 promotion of prosperity and the general welfare of the people of the state of North
10 Dakota and that construction of the outlet involves and requires the exercise of the
11 sovereign powers of the state and concerns a public purpose. Therefore, it is
12 declared necessary and in the public interest that an outlet from Devils Lake be
13 constructed with financing from the state water commission to provide flood relief
14 to the Devils Lake basin.
- 15 2. The legislative assembly also finds that there is a critical need to develop a
16 comprehensive statewide water development program to serve the long-term water
17 resource needs of the state and its people and to protect the state's current usage
18 of, and the state's claim to, its proper share of Missouri River water.
- 19 3. In furtherance of these public purposes, the state water commission may issue
20 bonds under chapter 61-02 in an aggregate amount not to exceed twenty million
21 dollars with the costs of issuance of the bonds, capitalized interest, and reasonably
22 required reserves to finance the cost of one or more of the projects identified in this
23 subsection, provided that:

- 1 a. The commission may only issue bonds for construction of an outlet from
2 Devils Lake when the United States authorizes construction of an outlet and
3 either the state water commission or a federal agency has developed a plan
4 addressing damage to basic infrastructure such as roads, culverts, and
5 bridges; riverbank erosion; downstream flooding; and increased water
6 treatment costs caused by or resulting from construction of the outlet.
- 7 b. The commission may only issue bonds to finance one or more of the projects
8 listed in this subdivision when the Congress of the United States enacts
9 legislation for the completion of the Garrison diversion unit, which may include
10 the delivery of water to the northwest area water supply project; southwest
11 pipeline project; Turtle Lake irrigation district; Nesson-Valley irrigation district;
12 Elk Charbon irrigation district; the Williston irrigation project; the Oakes
13 irrigation project; other irrigation, municipal, rural, and industrial water supply
14 projects; augmented stream flow and ground water recharge projects;
15 development of a Red River Valley water supply; and delivery of Missouri
16 River water to the Sheyenne River. This Act does not affect the state water
17 commission's authority to otherwise issue bonds pursuant to chapter 61-02.

18 **SECTION 2. State water commission may match federal funds and require local**
19 **match for Devils Lake outlet.** The state water commission may use all or part of the proceeds
20 of bonds issued as provided in this Act and the proceeds are appropriated to match, in a ratio
21 no greater than required by the federal government, any federal funds available for the projects
22 identified in subdivisions a and b of subsection 3 of section 1 of this Act. The commission may
23 require any political subdivision affected by Devils Lake flooding to participate in the cost of
24 construction of an outlet from Devils Lake by providing matching funds in a percentage of the
25 construction costs determined by the commission to be reasonable in light of the benefits to be
26 received by that political subdivision in relation to benefits received by all benefited political
27 subdivisions. Any local matching fund requirement must be determined by the commission and
28 the affected political subdivisions must be informed of their matching fund obligation prior to
29 issuance of bonds pursuant to this Act.

30 **SECTION 3. Limitation of action.** An action may not be brought or maintained in any
31 court in this state questioning the validity of any bonds issued under this Act unless the action is

1 commenced within thirty days after the adoption of the resolution of the state water commission
2 authorizing the sale of the bonds. The state water commission may commence a special
3 proceeding any time after the effective date of this Act in and by which the constitutionality and
4 validity of the bonds to be issued pursuant to this Act may be judicially examined, approved,
5 and confirmed, or disapproved and disaffirmed. Proceedings must comply as nearly as
6 possible with the procedure required for declaratory judgment proceedings.

7 **SECTION 4. Bonds payable from appropriations and other revenues.**

- 8 1. Principal and interest on bonds issued under this Act are payable from transfers to
9 be made and appropriated by the legislative assembly from the first available
10 current biennial earnings of the Bank of North Dakota prorated with any other
11 bonds payable from transfers to be made and appropriated by the legislative
12 assembly from the first available current biennial earnings of the Bank of North
13 Dakota, to be credited by the trustee to the fund established for paying principal
14 and interest on the bonds pursuant to a trust indenture, or from appropriations of
15 other available revenues in the then current biennium, and any other revenues the
16 state water commission makes available during the then current biennium for that
17 purpose, including any federal moneys received by the state for the construction of
18 an outlet to Devils Lake to pay bonds issued for that project, or financing a
19 statewide water development program to pay bonds issued for that project.
- 20 2. Obligations issued under the provisions of this Act do not constitute a debt, liability,
21 or obligation of the state of North Dakota or a pledge of the faith and credit of the
22 state of North Dakota, but are payable solely from the sources as described in this
23 Act.
- 24 3. The state water commission shall include in its submission to the governor for
25 inclusion by the governor in the biennial executive budget of the state for each year
26 of the respective biennium during the term of any bonds issued under this Act an
27 amount fully sufficient to pay the principal and interest required to be paid in each
28 year of the biennium, if any, from moneys from nongeneral fund sources.
29 Provided, that should the governor not include in the executive budget for any
30 reason the amounts required to be included by this section, the state water

1 commission shall request independently that the legislative assembly amend the
2 executive budget appropriation so as to include the amounts.

3 **SECTION 5. EXPIRATION DATE.** The authority of the commission to issue bonds
4 under this Act is effective through June 30, 2001, and after that date is ineffective.