

Fifty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1310

Introduced by

Representatives Weisz, DeKrey, Devlin, Schmidt

Senators Fischer, Klein

1 A BILL for an Act to amend and reenact sections 24-03-06, 24-03-08, and 24-06-26.1 of the
2 North Dakota Century Code, relating to construction of highways to permit a natural flow of
3 water.

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

5 **SECTION 1. AMENDMENT.** Section 24-03-06 of the 1997 Supplement to the North
6 Dakota Century Code is amended and reenacted as follows:

7 **24-03-06. Method of construction of highway ditches.** ~~Any and all~~ All highways of
8 ~~any kind hereafter~~ constructed or reconstructed by the department, ~~any~~ board of county
9 commissioners, ~~any~~ board of township supervisors, their contractors, subcontractors, or agents,
10 or by any individual firm, corporation, or limited liability company must be so designed as to
11 permit the waters of a ten-year flood event running into ~~such the~~ ditches to drain into coulees,
12 rivers, and lakes according to the surface and terrain where ~~such the~~ highway or highways are
13 constructed in accordance with scientific highway construction and engineering so as to ~~avoid~~
14 minimize the waters flowing into and accumulating in the ditches to overflow adjacent and
15 adjoining lands. ~~In~~ The state engineer shall determine the ten-year flood event to which
16 capacity culverts and bridges must be designed to accommodate. Except as otherwise
17 provided by law, in the construction of highways,~~as herein provided,~~ the natural flow and
18 drainage of surface waters to the extent of a ten-year flood event may not be obstructed, but
19 ~~such the~~ water must be permitted to follow the natural course according to the surface and
20 terrain of the particular terrain. The department, county, township, their contractors,
21 subcontractors, or agents, or any individual firm, corporation, or limited liability company is not
22 liable for any damage caused to any structure or property by water in excess of a ten-year flood
23 event.

1 **SECTION 2. AMENDMENT.** Section 24-03-08 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **24-03-08. Determinations of surface water flow and appropriate highway**

4 **construction.** Whenever and wherever a highway under the supervision, control, and
5 jurisdiction of the department or under the supervision, control, and jurisdiction of the board of
6 county commissioners of any county has been or will be constructed over a watercourse or
7 draw into which flow surface waters from farmlands, the state ~~water commission, upon petition~~
8 ~~of the majority of landowners of the area affected, engineer~~ shall determine as nearly as
9 practicable the ~~maximum quantity of water~~ ten-year flood event level, in terms of second feet,
10 which ~~such the~~ watercourse or draw ~~may be~~ is required to carry. When ~~such the~~ determination
11 has been made by the state ~~water commission engineer~~, ~~it is the duty of~~ the department or the
12 board of county commissioners, as the case may be, upon notification of ~~such the~~
13 determination, ~~to~~ shall install a culvert or bridge of sufficient capacity to permit ~~such maximum~~
14 ~~quantity of water~~ a ten-year flood event to flow freely and unimpeded through ~~such the~~ culvert
15 or under ~~such the~~ bridge. The department and county are not liable for any damage to any
16 structure or property caused by water in excess of a ten-year flood event.

17 **SECTION 3. AMENDMENT.** Section 24-06-26.1 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **24-06-26.1. Township road and drainage construction standards.** Whenever the
20 construction or reconstruction of a township road or bridge, the insertion of a culvert in a
21 township road, or the construction or reconstruction of a ditch or drain in connection with a
22 township road affects the flow of surface waters and increases the surface water flow through
23 ditches, drains, bridges, and culverts in other townships, the board of township supervisors or
24 the township overseer of highways of the township undertaking ~~such the~~ construction or
25 reconstruction shall give notice to the boards of township supervisors or township overseers of
26 highways in all townships affected by ~~such the~~ construction or reconstruction projects.

27 The boards of township supervisors of townships affected by any road or bridge
28 construction ~~which that~~ changes or increases the flow of surface waters shall cooperate in the
29 determination of uniform construction standards to be adopted by all townships affected and
30 shall cooperate in ~~such the~~ construction projects expending on any portion of ~~such the~~ projects
31 ~~such the~~ portions of the road and bridge tax as deemed conducive to the interests of the

- 1 township. The board of township supervisors need only construct the ditches, drains, bridges,
- 2 and culverts to accommodate a ten-year flood event as determined by the state engineer. A
- 3 township, board of township supervisors, and township overseer of highways are not liable for
- 4 any damage caused to any structure or property by water in excess of a ten-year flood event.