

**FIRST ENGROSSMENT
with Conference Committee Amendments****ENGROSSED 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
10 agents, or by any individual firm, corporation, or limited liability company must be so designed
11 as to permit the waters running into ~~such~~ the ditches to drain into coulees, rivers, and lakes
12 according to the surface and terrain where ~~such~~ the highway or highways are constructed in
13 accordance with ~~scientific highway construction and engineering~~ the stream crossing standards
14 prepared by the department and the state engineer so as to avoid the waters flowing into and
15 accumulating in the ditches to overflow adjacent and adjoining lands. In the construction of
16 highways, ~~as herein provided~~, the natural flow and drainage of surface waters to the extent
17 required to meet the stream crossing standards prepared by the department and the state
18 engineer may not be obstructed, but ~~such~~ the water must be permitted to follow the natural
19 course according to the surface and terrain of the particular terrain. The department, county,
20 township, their contractors, subcontractors, or agents, or any individual firm, corporation, or
21 limited liability company is not liable for any damage caused to any structure or property by
22 water detained by the highway at the crossing if the highway crossing has been constructed in
23 accordance with the stream crossing standards prepared by the department and the state
24 engineer.

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

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

construction. Whenever and wherever a highway under the supervision, control, and jurisdiction of the department or under the supervision, control, and jurisdiction of the board of county commissioners of any county or the board of township supervisors has been or will be constructed over a watercourse or draw into which flow surface waters from farmlands, the state ~~water commission engineer~~, upon petition of the majority of landowners of the area affected; or at the request of the board of county commissioners, township supervisors, or a water resource board, shall determine as nearly as practicable the ~~maximum quantity of water, in terms of second feet, which such watercourse or draw may be~~ design discharge that the crossing is required to carry to meet the stream crossing standards prepared by the department and the state engineer. When ~~such the~~ determination has been made by the state ~~water commission engineer~~, ~~it is the duty of the department or, the board of county commissioners, or the board of township supervisors,~~ as the case may be, upon notification of ~~such the~~ determination, ~~to~~ shall install a culvert or bridge of sufficient capacity to permit ~~such maximum quantity of the~~ water to flow freely and unimpeded through ~~such the~~ culvert or under ~~such the~~ bridge. The department, county, and township are not liable for any damage to any structure or property caused by water detained by the highway at the crossing if the highway crossing has been constructed in accordance with the stream crossing standards prepared by the department and the state engineer.

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

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

1 The boards of township supervisors of townships affected by any road or bridge
2 construction ~~which~~ that changes or increases the flow of surface waters shall cooperate in the
3 ~~determination of uniform construction standards to be adopted by all townships affected and~~
4 ~~shall cooperate in such~~ construction projects expending on any portion of ~~such~~ the projects
5 ~~such~~ the portions of the road and bridge tax as deemed conducive to the interests of the
6 township. The board of township supervisors shall construct the ditches, drains, bridges, and
7 culverts in accordance with stream crossing standards prepared by the department and the
8 state engineer. A township, board of township supervisors, and township overseer of highways
9 are not liable for any damage caused to any structure or property by water detained by the
10 highway at the crossing if the highway crossing has been constructed in accordance with the
11 stream crossing standards prepared by the department and the state engineer.