

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

Page 1, line 3, remove "and" and after "credit" insert "; and to amend and reenact section 61-01-04 of the North Dakota Century Code, relating to the exercise of eminent domain by the state water commission"

Page 2, after line 17, insert:

"SECTION 6. AMENDMENT. Section 61-01-04 of the North Dakota Century Code is amended and reenacted as follows:

61-01-04. Eminent domain - Who may exercise.

1. The United States, or any person, corporation, limited liability company, or association may exercise the right of eminent domain to acquire for a public use any property or rights existing when found necessary for the application of water to beneficial uses, including the right to enlarge existing structures and use the same in common with the former owner. Any canal right of way so acquired ~~shall~~ must be located so as to do the least damage to private or public property, consistent with proper and economical engineering construction. ~~Such~~ The property or rights may be acquired in the manner provided in chapter 32-15 and the North Dakota Rules of Civil Procedure.
2. Notwithstanding any other provision of law and superseding the authority of any water resource district to the contrary, the state water commission may exercise the power of eminent domain in the manner provided by title 32 for the purpose of acquiring and securing any rights, titles, interests, estates, or easements necessary or proper for the construction of dams, flood control projects, and other water conservation, distribution, and supply works of any nature and to permit the flooding of lands, and to secure the right of access to such dams and other devices and the right of public access to any waters impounded thereby for a flood control project benefiting a city with a population greater than seventy-five thousand. The state water commission may take immediate possession of the right of way desired, as authorized by section 16 of article I of the Constitution of North Dakota, after making a written offer to purchase the right of way and depositing the amount of the offer with the clerk of the district court of the county wherein the right of way is located. Within thirty days after notice has been given in writing to the landowner by the clerk of the district court that a deposit has been made for the taking of a right of way as authorized in this subsection, the owner of the property taken may appeal to the district court by serving a notice of appeal upon the state water commission, and the matter must be tried at the next regular or special term of court with a jury unless a jury is waived in the manner prescribed for trials under chapter 32-15."

Renumber accordingly