

June 2009

## **TITLE 61**

### **Waters**

### **Summary of Bills Enacted by 2009 Legislative Assembly**

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 61. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

The legislation relating to waters may be classified in these subject areas: State Water Commission, appropriation of water, water resource districts, irrigation districts, Garrison Diversion Conservancy District, Southwest Water Authority, and Red River Valley Water Supply Project.

#### **STATE WATER COMMISSION**

**House Bill No. 1020** appropriates \$310,745,708 to the State Water Commission. The bill also appropriates \$12 million from federal fiscal stimulus funds made available to the state under the federal American Recovery and Reinvestment Act of 2009 for funding for the Southwest Pipeline Project. The bill also provides that \$45 million of the appropriation is for Fargo flood control projects and states that it is the intent of the 61<sup>st</sup> Legislative Assembly that a total of \$75 million be committed by the state to match a grant of federal funds for Fargo flood control. The appropriation of federal fiscal stimulus funds is an emergency measure.

**House Bill No. 1305** appropriates \$2,792,000 from the permanent oil tax trust fund to the State Water Commission to provide a grant of up to \$864,000 to assist in the local cost-share of the Ray and Tioga Water Supply Project; provide a grant of up to \$985,000 to assist in the local cost-share of the Burke, Divide, and Williams Water District Water Supply Project; provide a grant of up to \$593,000 to assist in the local cost-share of the Wildrose Water Supply Project; and provide a grant of up to \$350,000 to assist in the repayment of outstanding bonds associated with the Stanley water pipeline construction project. The bill is an emergency measure.

**Senate Bill No. 2305** appropriates \$342,000 from the resources trust fund to the State Water Commission to conduct a Beaver Bay embankment feasibility study.

**Senate Bill No. 2316** provides that the State Water Commission shall develop policies, including cost-sharing guidelines, which further the development of water retention projects for flood control and provide a report regarding the policies to the 62<sup>nd</sup> Legislative Assembly.

#### **APPROPRIATION OF WATER**

**House Bill No. 1286** revises the definition of domestic use for purposes of water appropriation from including irrigation of land not exceeding one acre in area for noncommercial gardens, orchards, lawns, trees, or shrubbery to irrigation of land not exceeding five acres for those purposes and defines irrigation use for purposes of water appropriation as including use of water for application to more than five acres of land rather than one acre and includes gardens, orchards, lawns, trees, or shrubbery within the definition of agricultural crops.

#### **WATER RESOURCE DISTRICTS**

**Senate Bill No. 2251** increases the compensation for water resource district managers from \$45 per day to \$75, but not more than \$135, per day.

**Senate Bill No. 2253** removes the requirement that if a water resource district board consists of three managers, one manager must be from a flood prone area, if any, within the district which is defined as a floodplain area of a river subject to periodic and recurring flooding. The bill also deletes language establishing staggered terms for initial water resource managers as water resource districts have all now established staggered terms for managers.

**Senate Bill No. 2254** provides that a water resource district board may finance the maintenance of projects constructed by a federal agency, including the Soil Conservation Service or Natural Resources Conservation Services, without the need for the district to physically locate a maintenance contract with the federal agency.

**Senate Bill No. 2255** allows water resource districts to utilize "quick take" eminent domain proceedings for projects for which state funds have been appropriated.

## **IRRIGATION DISTRICTS**

**House Bill No. 1321** authorizes the board of directors of irrigation districts to hold mail ballot elections.

## **GARRISON DIVERSION CONSERVANCY DISTRICT**

**Senate Bill No. 2298** authorizes the Garrison Diversion Conservancy District to issue revenue bonds for the Red River Valley Water Supply Project.

## **SOUTHWEST WATER AUTHORITY**

**Senate Bill No. 2193** expands the powers and duties of the board of directors of the Southwest Water Authority to include the study of an analysis of options for providing additional water supplies to southwest North Dakota for purposes including domestic, rural water, municipal, livestock, energy development, industrial, mining, and other uses and to conduct engineering, legal, financial, educational, and other activities to further the completion of the Southwest Pipeline Project or other works or other projects necessary to provide adequate water supplies for southwest North Dakota. The bill also extends the authority of the Southwest Water Authority to levy taxes from 2010 to 2020.

**House Bill No. 1278** adds a director from the city of Mandan to the board of directors of the Southwest Water Authority and provides that the current director from Morton County may not be a resident of Mandan.

## **RED RIVER VALLEY WATER SUPPLY PROJECT**

**Senate Bill No. 2317** revises the funding plan for the Red River Valley Water Supply Project to provide that it is the intent of the Legislative Assembly to provide state funding for one-third of the total cost of constructing the Red River Valley Water Supply Project, that any general fund appropriation for the project may be carried over to future bienniums, and that state funding for the project may be appropriated at the time and in the manner determined by the Legislative Assembly, either concurrently or separately from federal and local funding for the project.

**Senate Concurrent Resolution No. 4035** urges Congress to establish the Red River Valley Authority as an agency or authorized board of the federal government for the purposes of the regulation and control of water quality of the Red River and regulation and control of the retention and flow of water, including retention by dams or retention ponds or other areas, and of drainage on the Red River.