

Sixty-second
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1459

Introduced by

Representatives Belter, Headland, Schmidt

Senators Luick, Wanzek, Dotzenrod

1 A BILL for an Act to create and enact a new subsection to section 61-21-02 and a new section
2 to chapter 61-32 of the North Dakota Century Code, relating to subsurface drainage of water; to
3 provide a penalty; and to declare an emergency.

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

5 **SECTION 1.** A new subsection to section 61-21-02 of the North Dakota Century Code is
6 created and enacted as follows:

7 The installation of artificial subsurface drainage systems.

8 **SECTION 2.** A new section to chapter 61-32 of the North Dakota Century Code is created
9 and enacted as follows:

10 **Permit to drain subsurface waters - Permit form - Penalty.**

11 Installation of an artificial subsurface drainage system comprising eighty acres [32.37
12 hectares] of land area or more requires a permit. The state engineer shall develop an
13 application form for a permit for subsurface drainage of water. A person seeking to construct an
14 artificial subsurface drainage system must submit an application to the water resource district
15 within which is found a majority of the land area for consideration and approval. Water resource
16 districts may attach any necessary conditions to an approved permit, but may not deny an
17 application unless the water resource district determines the application is of statewide
18 significance or the proposed drainage will flood or adversely affect downstream landowners
19 within one mile [1.61 kilometers] of the proposed subsurface drainage. Water resource districts
20 must forward copies of all approved permits to the state engineer. Water resource districts shall
21 determine if the application proposes drainage of statewide significance. If so, the application
22 must be referred to the state engineer for consideration and approval, and the state engineer
23 shall make a determination within thirty days. The permit applicant shall provide a thirty-day
24 notice to downstream property owners within one mile [1.61 kilometers] of the proposed

1 subsurface drainage. If an investigation by a water resource district or a downstream landowner
2 within one mile [1.61 kilometers] shows that the proposed drainage will flood or adversely affect
3 downstream landowners within one mile [1.61 kilometers], the water resource district may
4 require flowage easements before issuing a permit. If an artificial subsurface drainage system
5 drains into an assessment drain, natural watercourse, or pond, slough, or lake, a flowage
6 easement is not required. Flowage easements must be filed for record in the office of the
7 recorder of the county or counties in which the lands are situated. A person that installs an
8 artificial subsurface drainage system without first securing a permit to do so, as provided in this
9 section, is liable for all damage sustained by a person caused by the draining, and is guilty of an
10 infraction.

11 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.