

Sixty-third
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1440

Introduced by

Representatives Kreun, Haak, Hofstad, D. Johnson, Looyesen, Maragos, Streyle

Senators Andrist, Grabinger, Larsen

1 A BILL for an Act to create and enact three new sections to chapter 61-35 of the North Dakota
2 Century Code, relating to exclusion of cities from water districts and state water commission
3 policies on funds for water districts.

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

5 **SECTION 1.** A new section to chapter 61-35 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Compensation for the exclusion of a city from a water district.**

- 8 1. To be excluded from a water district, the governing body of a city may petition the
9 public service commission requesting that all or part of the city be excluded from the
10 district.
- 11 2. In determining whether the water district will be compensated for the exclusion, the
12 following must be considered in an eminent domain proceeding:
- 13 a. The value of the district's water system outstanding debt as calculated on a per
14 user basis for all users in the transferred area at the time of transfer.
- 15 b. The reasonable costs of detaching the district's water system facilities in the area
16 to be transferred and reasonable costs of integrating the remaining facilities of
17 the district's water system.
- 18 c. Fixed operation and maintenance costs as calculated on a per user basis for all
19 the district's water system users in the transferred area at the time of transfer for
20 a compensatory time period of ten years.
- 21 d. The remaining debt of dedicated service facilities that are specific to the
22 transferred area which cannot be recouped in the remaining service area of the
23 district's water system, whether water service is currently provided in the
24 transferred area or is planned for in the future.

- 1 3. The court shall determine the amount of compensation in the eminent domain
2 proceeding.

3 **SECTION 2.** A new section to chapter 61-35 of the North Dakota Century Code is created
4 and enacted as follows:

5 **Factors for the transfer of service territory between a water district and city.**

- 6 1. The following factors must be considered as part of a determination of reasonable
7 compensation on the transfer of water service territory from a water district to a city.
- 8 2. The factors are:
- 9 a. The value of the water system's outstanding debt as calculated on a per user
10 basis for all users in the transferred area at the time of transfer.
- 11 b. The reasonable costs of detaching the water system facilities in the area to be
12 transferred and reasonable costs of integrating the remaining facilities of the
13 water system.
- 14 c. Fixed operation and maintenance costs as calculated on a per user basis for all
15 the water system's users in the transferred area at the time of transfer for a
16 compensatory time period of ten years.
- 17 d. The remaining debt of dedicated service facilities that are specific to the
18 transferred area and cannot be recouped in the remaining service area of the
19 water system, whether water service is currently provided in the transferred area
20 or is planned for in the future.

21 **SECTION 3.** A new section to chapter 61-35 of the North Dakota Century Code is created
22 and enacted as follows:

23 **Policies for water districts receiving state funds.**

- 24 1. The state water commission shall develop policies for determining whether and to
25 what amount a water district receives state funds, including funds from the resources
26 trust fund.
- 27 2. These policies must address:
- 28 a. Whether a water district will be given powers to establish a monopoly.
- 29 b. Whether the funding of the water district's water project harms another public
30 entity's ability to operate.

1 c. Whether the water district is having any disputes with other public entities that
2 are within or bordering the designated territory, whether state funding will give the
3 water district an advantage over the other entity, whether the water district
4 attempted to resolve the issue in good faith, and whether the dispute affects the
5 best interest of a public entity which has been neglected as a result of the
6 dispute.

7 d. The appropriate level of funding. If any of the policies are determined to be
8 violated by the water district, the water district may not receive state funding
9 unless the public entity negatively affected and the water district agree to mediate
10 the issue, then funding may be restored by the commission.