

Sixty-fourth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1096**

Introduced by

Energy and Natural Resources Committee

(At the request of the State Engineer)

1 A BILL for an Act to create and enact a new subsection to section 61-04-01.1 of the North  
2 Dakota Century Code, relating to the definition of domestic rural use; and to amend and reenact  
3 sections 61-04-06.2, 61-04-09, 61-04-31, and subdivision i of subsection 2 of section  
4 61-04.1-16 of the North Dakota Century Code, relating to the term and inspection of a water  
5 permit, reservation of waters, and weather modification permits.

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

7 **SECTION 1.** A new subsection to section 61-04-01.1 of the North Dakota Century Code is  
8 created and enacted as follows:

9 "Domestic rural use" means two or more family units or households obtaining water  
10 from the same system for personal needs and for household purposes, including  
11 heating, drinking, washing, sanitary, and culinary uses; irrigation of land not exceeding  
12 five acres [2.0 hectares] in area for each family unit or household for noncommercial  
13 gardens, orchards, lawns, trees, or shrubbery; and for household pets and domestic  
14 animals kept for household sustenance and not for sale or commercial use.

15 **SECTION 2. AMENDMENT.** Section 61-04-06.2 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **61-04-06.2. Terms of permit.**

18 The state engineer may issue a conditional permit for less than the amount of water  
19 requested, ~~but in no case may.~~ Except for water permits for incorporated municipalities or rural  
20 water systems, the state engineer may not issue a permit for more water than can be  
21 beneficially used for the purposes stated in the application ~~except that water.~~ Water permits for  
22 incorporated municipalities or rural water systems may contain water in excess of present  
23 needs if based upon ~~reasonable projections of~~ what may reasonably be necessary for the future  
24 ~~water needs~~ requirements of the municipality or the rural water system. The state engineer may

1 require modification of the plans and specifications for the appropriation. The state engineer  
2 may issue a permit subject to fees for water use, terms, and conditions, ~~restrictions, limitations,~~  
3 ~~and termination dates~~ the state engineer considers necessary to protect the rights of others and  
4 the public interest. Conditions and ~~limitations so attached~~ must be related to matters within the  
5 state engineer's jurisdiction of the state engineer; provided, however, that all. All conditions  
6 attached to any permit issued ~~prior to~~before July 1, 1975, are binding upon the permittee.

7 **SECTION 3. AMENDMENT.** Section 61-04-09 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **61-04-09. Application to beneficial use - Inspection - Perfected water permit.**

10 ~~On or before the date set for the application of the water to a~~After the permit's beneficial  
11 use date, or upon notice from the ~~owner~~permitholder that water has been applied to a beneficial  
12 use, the state engineer shall ~~cause~~notify the conditional water permitholder and inspect the  
13 ~~works to be inspected, after due notice to the holder of the conditional water permit. Such. The~~  
14 inspection shall ~~be thorough and complete, in order to~~must determine the safety, efficiency, and  
15 actual capacity of the works, ~~its safety, and efficiency.~~ If the works are not properly and safely  
16 constructed, the state engineer may require the necessary changes to be made within ~~such~~  
17 ~~time as the state engineer deems~~a reasonable and shall not issue a perfected water permit until  
18 ~~such changes are made~~time. Failure to make the changes within the time prescribed by the  
19 state engineer shall cause postponement of the permit's priority ~~under the water permit~~date to  
20 the date the changes are ~~actually~~ made to the satisfaction of the state engineer, ~~and any.~~ Any  
21 intervening application submitted ~~prior to~~before the date the changes are ~~actually~~ made ~~may~~will  
22 have the benefit of ~~such~~the postponement of priority. When the works are ~~found in satisfactory~~  
23 ~~condition, after inspection~~properly and safely constructed and inspected, the state engineer  
24 shall issue the perfected water permit, setting forth the actual capacity of the works and ~~such~~the  
25 limitations or conditions upon the water permit as stated in the conditional water permit as  
26 authorized by section 61-04-06.2; ~~provided, however, that all.~~ All conditions attached to any  
27 permit issued ~~prior to~~before July 1, 1975, shall ~~be~~are binding upon the permittee.

28 **SECTION 4. AMENDMENT.** Section 61-04-31 of the North Dakota Century Code is  
29 amended and reenacted as follows:

1       **61-04-31. Reservation of waters - Public hearing - Notice.**

2       1. Whenever it appears necessary to the state engineer, or when so directed by the  
3       commission, the state engineer may by regulation:

4       a. ~~Reserve~~ reserve and set aside waters for beneficial ~~utilization~~use in the future;  
5       and

6       b. ~~When sufficient information and data are lacking to allow for the making of sound~~  
7       ~~decisions, withdraw various waters of the state from additional appropriations until~~  
8       ~~such data and information are available.~~

9       2. a. ~~Prior to~~Before the adoption of a regulation under this section, the state engineer  
10       shall conduct a public hearing in each county ~~in which~~where waters relating to  
11       the regulation are located. ~~The~~At least seven days before the date set for the  
12       public hearing ~~shall be preceded by~~ a notice placed in a newspaper of general  
13       circulation must be published in the official county newspapers within each of the  
14       counties.

15       3. b. Regulations adopted hereunder shall ~~be~~are subject to chapter 28-32.

16       2. When sufficient information or data is lacking to allow for sound decision-making on a  
17       water permit application, the state engineer may withdraw various waters of the state  
18       from additional appropriations until sufficient data or information is available. Water  
19       permit applications pending from these sources will be placed in a deferred status.

20       **SECTION 5. AMENDMENT.** Subdivision i of subsection 2 of section 61-04.1-16 of the North  
21       Dakota Century Code is amended and reenacted as follows:

22       i. The applicant has registered, with the North Dakota aeronautics commission, any  
23       aircraft ~~and pilots~~ intended to be used in connection with the operation.