

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)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

SECTION 1. AMENDMENT. Subsection 4 of section 61-04-01.1 of the North Dakota Century Code is amended and reenacted as follows:

4. "Domestic use" means the use of water by ~~an individual, or by~~ at least one family unit, ~~or household,~~ obtaining water from the same system for personal needs and for household purposes, including heating, drinking, washing, sanitary, and culinary uses; irrigation of land not exceeding five acres [2.0 hectares] in area for each family unit or household for noncommercial gardens, orchards, lawns, trees, or shrubbery; and for household pets and domestic animals kept for household sustenance and not for sale or commercial use, ~~when the water is supplied by the individual or family unit. Also~~

~~included within this use are "domestic rural uses" which must be defined by the state engineer by rule.~~

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

61-04-06.2. Terms of permit.

The state engineer may issue a conditional permit for less than the amount of water requested, ~~but in no case may. Except for water permits for incorporated municipalities or rural water systems,~~ the state engineer may not issue a permit for more water than can be beneficially used for the purposes stated in the application ~~except that water. Water~~ permits for incorporated municipalities or rural water systems may contain water in excess of present needs if based upon ~~reasonable projections of what may reasonably be necessary for the future water needs~~ requirements of the municipality or the rural water system. The state engineer may require modification of the plans and specifications for the appropriation. The state engineer may issue a permit subject to fees for water use, ~~terms, and conditions, restrictions, limitations, and termination dates~~ the state engineer considers necessary to protect the rights of others and the public interest. Conditions ~~and limitations so attached~~ must be related to matters within the ~~state engineer's jurisdiction of the state engineer; provided, however, that all.~~ All conditions attached to any permit issued ~~prior to before~~ July 1, 1975, are binding upon the permittee.

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

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

~~On or before the date set for the application of the water to a~~ After the permit's beneficial use date, or upon notice from the ~~owner~~ permitholder that water has been applied to a beneficial use, the state engineer shall ~~cause~~ notify the conditional water permitholder and inspect the works ~~to be inspected, after due notice to the holder of the conditional water permit. Such.~~ The inspection ~~shall be thorough and complete, in order to~~ must determine the safety, efficiency, and actual capacity of the works, ~~its safety, and efficiency.~~ If the works are not properly and safely constructed, the state engineer may require the necessary changes to be made within ~~such~~ time as the state engineer deems ~~a reasonable and shall not issue a perfected water permit until such changes are made~~ time. Failure to make the changes within the time prescribed by the state engineer shall cause postponement of the permit's priority ~~under the water permit~~ date to

1 the date the changes are actually made to the satisfaction of the state engineer, ~~and any.~~ Any
2 intervening application submitted ~~prior to~~ before the date the changes are actually made ~~may~~ will
3 have the benefit of ~~such~~ the postponement of priority. When the works are found in satisfactory
4 condition, ~~after inspection~~ properly and safely constructed and inspected, the state engineer
5 shall issue the perfected water permit, setting forth the actual capacity of the works and ~~such~~ the
6 limitations or conditions upon the water permit as stated in the conditional water permit as
7 authorized by section 61-04-06.2; ~~provided, however, that all.~~ All conditions attached to any
8 permit issued ~~prior to~~ before July 1, 1975, shall ~~bear~~ be binding upon the permittee.

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

11 **61-04-31. Reservation of waters - Public hearing - Notice.**

- 12 1. Whenever it appears necessary to the state engineer, or when so directed by the
13 commission, the state engineer may by regulation:
- 14 a. Reserve reserve and set aside waters for beneficial ~~utilization~~ use in the future;
15 and
- 16 b. ~~When sufficient information and data are lacking to allow for the making of sound~~
17 ~~decisions, withdraw various waters of the state from additional appropriations until~~
18 ~~such data and information are available.~~
- 19 2. a. ~~Prior to~~ Before the adoption of a regulation under this section, the state engineer
20 shall conduct a public hearing in each county in ~~which~~ where waters relating to
21 the regulation are located. ~~The~~ At least seven days before the date set for the
22 public hearing ~~shall be preceded by~~ a notice placed in a newspaper of general
23 ~~circulation~~ must be published in the official county newspapers within each of the
24 counties.
- 25 3. b. Regulations adopted hereunder shall ~~bear~~ be subject to chapter 28-32.
- 26 2. When sufficient information or data is lacking to allow for sound decision-making on a
27 water permit application, the state engineer may withdraw various waters of the state
28 from additional appropriations until sufficient data or information is available. Water
29 permit applications pending from these sources will be placed in a deferred status.

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

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