

Sixty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1338

Introduced by

Representatives Headland, Grueneich, Lefor, Pollert, Satrom, Steiner

Senators Grabinger, Wanzek, Wardner

1 A BILL for an Act to create and enact a new subsection to section 61-28-06 of the North Dakota
2 Century Code, relating to exceptions to required permits for disposal of waste; to amend and
3 reenact sections 11-27-01 and 40-49-01, subsection 1 of section 40-49-12, sections 40-49-23
4 and 61-28-04, and subsection 4 of section 61-28-04.1 of the North Dakota Century Code,
5 relating to disposal of property and septic systems; and to declare an emergency.

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

7 **SECTION 1. AMENDMENT.** Section 11-27-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **11-27-01. Board of county commissioners authorized to sell property - Private and**
10 **public sale.**

11 The board of county commissioners of any county may dispose of any property, either real
12 or personal, which the county has acquired through purchase, forfeiture, conveyance, or
13 operation of law other than through tax sale proceedings, under this chapter. When the property
14 to be disposed of is property conveyed pursuant to Public Law No. 115-308, or property
15 estimated by the board to be of a value of less than one thousand dollars, it may be sold at
16 private sale upon the proper resolution of the board. In all other cases, the property may be sold
17 only at public sale or as provided under section 11-27-03.1.

18 **SECTION 2. AMENDMENT.** Section 40-49-01 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **40-49-01. Municipalities may acquire real estate for parks or public grounds by gift or,**
21 **devise, or conveyance - Extension of police power.**

22 A municipality may receive by gift or, devise, or conveyance real estate within its corporate
23 limits, or within five miles [8.05 kilometers] thereof, for use as parks or public grounds. Such real
24 estate shall be vested in the municipality upon the conditions imposed by the donors or

1 conveyor, and upon the acceptance of the gift ~~or the~~, devise, or conveyance by the executive
2 officer and governing body of the municipality, the jurisdiction of the governing body shall be
3 extended over such real estate. The governing body may enact bylaws, rules, and ordinances
4 for the protection and preservation of any real estate acquired as provided in this section and
5 may provide suitable penalties for the violation of any such bylaws, rules, or ordinances. The
6 police powers of the municipality shall be extended at once over any real estate acquired in the
7 manner provided in this section.

8 **SECTION 3. AMENDMENT.** Subsection 1 of section 40-49-12 of the North Dakota Century
9 Code is amended and reenacted as follows:

- 10 1. Acquire by purchase, gift, devise, ~~or, condemnation~~ subject to chapter 32-15,
11 ~~condemnation~~, conveyance pursuant to Public Law No. 115-306, or otherwise, land
12 anywhere within this state, or outside this state if located adjacent to a boundary of
13 this state and of the park district, for parks, boulevards, and ways. The board has the
14 sole and exclusive authority to maintain, govern, and improve the land, and to provide
15 for the erection of structures thereon. Such parks, boulevards, and ways are
16 considered for purposes of taxation and for all other purposes as being within the
17 territorial limits of the municipality. If the board has acquired the legal title in fee to
18 such lands, the board may sell and convey the same. A conveyance must be executed
19 by the president and clerk of the board upon a resolution approved by not less than
20 two-thirds of the members thereof.

21 **SECTION 4. AMENDMENT.** Section 40-49-23 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **40-49-23. Land transfers or abandonment.**

24 Any municipality or park district may abandon and discontinue as a park or recreational
25 area any land acquired by any municipality or park district for park and recreational purposes
26 under the provisions of section 11-27-08 or property conveyed pursuant to Public Law
27 No. 115-306 and any municipality or park district may sell, convey, or transfer any such lands
28 free from any restrictions as to their use for park and recreational purposes, except as
29 otherwise provided in Public Law No. 115-306.

30 **SECTION 5. AMENDMENT.** Section 61-28-04 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **61-28-04. Powers and duties.**

2 The department shall have and may exercise the following powers and duties:

- 3 1. To exercise general supervision of the administration and enforcement of this chapter
4 and all rules and regulations and orders promulgated thereunder.
- 5 2. To develop comprehensive programs for the prevention, control, and abatement of
6 new or existing pollution of the waters of the state.
- 7 3. To advise, consult, and cooperate with other agencies of the state, the federal
8 government, other states and interstate agencies, and with affected groups, political
9 subdivisions, and industries in furtherance of the purposes of this chapter.
- 10 4. To accept and administer loans and grants from the federal government and from
11 other sources, public or private, for carrying out any of its functions, which loans and
12 grants shall not be expended for other than the purposes for which provided.
- 13 5. To encourage, participate in, or conduct studies, investigations, research, and
14 demonstrations relating to water pollution and causes, prevention, control, and
15 abatement thereof as it may deem advisable and necessary for the discharge of its
16 duties under this chapter.
- 17 6. To collect and disseminate information relating to water pollution and the prevention,
18 control, and abatement thereof.
- 19 7. To issue, modify, or revoke orders, except for property conveyed pursuant to Public
20 Law Nos.115-306 and 115-308:
- 21 a. Prohibiting or abating discharges of wastes into the waters of the state.
- 22 b. Requiring the construction of new disposal systems or any parts thereof or the
23 modification, extension, or alteration of existing disposal systems or any parts
24 thereof, or the adoption of other remedial measures to prevent, control, or abate
25 pollution.
- 26 8. To hold such hearings, to issue notices of hearings and subpoenas requiring the
27 attendance of such witnesses and the production of such evidence, to administer such
28 oaths, and to take such testimony as the department deems necessary, and any of
29 these powers may be exercised on behalf of the department by any members thereof
30 or a hearing officer designated by it.

- 1 9. To require the prior submission of plans, specifications, and other data relative to, and
2 to inspect the construction of, disposal systems or any part thereof a disposal
3 system in connection with the issuance of approvals as are required by this chapter.
4 Disposal systems and parts of disposal systems for property conveyed pursuant to
5 Public Law Nos. 115-306 and 115-308 are exempt from this subsection.
- 6 10. To require proper maintenance and operation of disposal systems other than disposal
7 systems for property conveyed pursuant to Public Law Nos. 115-306 and 115-308:
 - 8 a. Have the power to require the owner or operator of any point source to:
 - 9 (1) Establish and maintain records.
 - 10 (2) Prepare and submit a report.
 - 11 (3) Install, use, and maintain monitoring equipment or methods, including,
12 where appropriate, biological monitoring methods.
 - 13 (4) Sample effluents.
 - 14 (5) Provide such other information as the department may reasonably require.
 - 15 b. Have the right of entry, upon or through any premises in which an effluent source
16 is located, or in which any records required to be maintained pursuant to
17 subdivision a are located. Such power may be exercised by authorized agents,
18 representatives, and employees of the department.
 - 19 c. Have the power to have access to and copy any records, inspect any monitoring
20 equipment or method required under subdivision a, or to sample any effluents
21 being discharged into the waters of the state.
- 22 11. To exercise all incidental powers necessary to carry out the purposes of this chapter.
- 23 12. The department is hereby designated as the state water pollution control agency for all
24 purposes of the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251
25 et seq.], and is hereby authorized to take all action necessary or appropriate to secure
26 to this state the benefits of that act and similar federal acts.
- 27 13. In the administration of standards of water quality, the department shall allow a
28 reasonable time for persons discharging wastes into the waters of the state to comply
29 with such standards.
- 30 14. To establish and modify, jointly with the state water commission, the classification of all
31 waters in accordance with their present and future most beneficial uses.

- 1 15. The department, with the cooperation of the state water commission, shall formulate
2 and issue standards of water quality and classification of water according to its most
3 beneficial uses. Such standards of quality shall be such as to protect the public health
4 and welfare and the present and prospective future use of such waters for public water
5 supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and
6 agricultural, industrial, and other legitimate uses.
- 7 16. To adopt effluent and new source performance standards, which include as a
8 minimum all categories for which the federal government has set standards pursuant
9 to the Federal Water Pollution Control Act, as amended. Such state standards shall be
10 at least as stringent as the standards adopted by the federal government.
- 11 17. To review from time to time, at intervals of not more than three years, established
12 classification of waters, water quality standards, and effluent standards.
- 13 18. To make rules governing the application for permits to discharge sewage, industrial
14 wastes, or other wastes into state waters, including rules requiring the filing of plans
15 and specifications relating to the construction, modification, or operation of disposal
16 systems other than disposal systems for property conveyed pursuant to Public Law
17 Nos. 115-306 and 115-308.
- 18 19. To make rules governing the issuance, denial, modification, or revocation of permits.
- 19 20. To hold any hearings necessary for the proper administration of this chapter.
- 20 21. To make rules for the administration of this chapter.
- 21 22. To initiate actions in court for the enforcement of this chapter.
- 22 23. To establish minimum requirements for the treatment of wastes.
- 23 24. The department, with the cooperation of other departments, may maintain an action
24 for damages in the name of the state for violations of the provisions of this chapter.
- 25 25. To apply and enforce against industrial users of publicly owned treatment works, toxic
26 effluent standards and pretreatment standards for the introduction into such treatment
27 works of wastes which interfere with, pass through, or otherwise are incompatible with
28 such treatment works. The department may promulgate such rules and regulations as
29 are necessary to implement this section.
- 30 26. To impose as conditions in permits for the discharge of wastes from publicly owned
31 treatment works requirements for information to be provided by the permittee

1 concerning new introductions of wastes or substantial changes in the volume or
2 character of wastes being introduced into such treatment works.

3 **SECTION 6. AMENDMENT.** Subsection 4 of section 61-28-04.1 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 4. The department may inspect all septic system servicing activities, including records,
6 equipment, and disposal sites at all reasonable times to ensure compliance with the
7 laws of this state. Nothing in this section removes the duty of any person to comply
8 with applicable public health standards. This subsection does not apply to properties
9 conveyed pursuant to Public Law Nos. 115-306 and 115-308.

10 **SECTION 7.** A new subsection to section 61-28-06 of the North Dakota Century Code is
11 created and enacted as follows:

12 Subsection 2 does not apply to the construction, installation, modification, or operation
13 of a disposal system or part of a disposal system for property conveyed pursuant to
14 Public Law Nos. 115-306 and 115-308.

15 **SECTION 8. EMERGENCY.** This Act is declared to be an emergency measure.