

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1102

Introduced by

Representative DeKrey

1 A BILL for an Act to amend and reenact section 61-32-03 of the North Dakota Century Code,
2 relating to drainage permits.

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

4 **SECTION 1. AMENDMENT.** Section 61-32-03 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **61-32-03. Permit to drain waters required - Penalty.** Any person, before draining
7 ~~water from~~ a pond, slough, ~~or~~ lake, or sheetwater, or any series thereof, which has a watershed
8 area comprising eighty acres [32.37 hectares] or more, shall first secure a permit to do so. The
9 permit application must be submitted to the state engineer. The state engineer shall refer the
10 application to the water resource district or districts within which is found a majority of the
11 watershed or drainage area of the pond, slough, ~~or~~ lake, or sheetwater for consideration and
12 approval, but the state engineer may require that applications proposing drainage of statewide
13 or interdistrict significance be returned to the state engineer for final approval. A permit may
14 not be granted until an investigation discloses that the quantity of water which will be drained
15 from the pond, slough, ~~or~~ lake, or sheetwater, or any series thereof, will not flood or adversely
16 affect downstream lands. If the investigation shows that the proposed drainage will flood or
17 adversely affect lands of downstream landowners, the water resource board may not issue a
18 permit until flowage easements are obtained. The flowage easements must be filed for record
19 in the office of the register of deeds of the county or counties in which the lands are situated.
20 An owner of land proposing to drain shall undertake and agree to pay the expenses incurred in
21 making the required investigation. This section does not apply to the construction or
22 maintenance of any existing or prospective drain constructed under the supervision of a state
23 or federal agency, as determined by the state engineer.

1 Any person draining, or causing to be drained, ~~water of~~ a pond, slough, or lake, or
2 sheetwater, or any series thereof, which has a watershed area comprising eighty acres [32.37
3 hectares] or more, without first securing a permit to do so, as provided by this section, is liable
4 for all damage sustained by any person caused by the draining, and is guilty of an infraction.
5 ~~When temporary ponding of water occurs due to spring runoff or heavy rains, an area not in~~
6 ~~excess of eighty acres [32.37 hectares] may be drained without first securing a permit. As used~~
7 ~~in this section, sheetwater means shallow water that floods land not normally subject to~~
8 ~~standing water. The state engineer may adopt rules for temporary permits for emergency~~
9 drainage.