

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Monday, the sixth day of January, one thousand nine hundred and ninety-seven**

SENATE BILL NO. 2362  
(Senators Heitkamp, G. Nelson, Wogsland)  
(Representative Dorso)

AN ACT to create and enact two new sections to chapter 61-28.1 of the North Dakota Century Code, relating to a drinking water treatment revolving loan fund; to amend and reenact section 61-28.1-03 and subsections 2 and 3 of section 61-28.1-10 of the North Dakota Century Code, relating to the powers and duties of the state department of health; and to provide a penalty.

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

**SECTION 1. AMENDMENT.** Section 61-28.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**61-28.1-03. Powers and duties of department.** The department may exercise the following powers and shall have the following duties:

1. Administer and enforce a safe drinking water program pursuant to the provisions of this chapter.
2. Provide technical assistance on request to ~~municipalities~~ public water systems of the state and other persons, and cooperate with appropriate federal agencies.
3. Advise, consult, and cooperate with other public agencies and with affected groups and industries.
4. Issue such orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial process.
5. Maintain an inventory of public water systems within the state, which inventory may consist of such information as the department deems necessary.
6. Conduct sanitary surveys of public water systems within the state.
7. Adopt rules and regulations relating to maximum contaminant levels, monitoring and analytical requirements and reporting, public notification, and recordkeeping which the department determines are necessary to protect public health and welfare.
8. Adopt rules and regulations relating to the siting, construction, operation, and modification of public water systems which the department determines are necessary to prevent violation of maximum contaminant levels.
9. Require the submission of plans, specifications, and such other information as it deems necessary.
10. Establish a plan for the provision of safe drinking water under emergency circumstances.
11. Require each supplier of water to keep such records and make such reports to the department as it may deem necessary.
12. Establish a schedule of fees that may be charged by the department for laboratory tests conducted at the request of any supplier of water; such fees shall be deposited in the general fund.

13. Require any supplier of water to notify the users of such public water system of any violations of any provision of this chapter, any regulation, the terms or conditions of any approval, any variance or exemption, or any order issued by the department.
14. Request and accept grants of funds or services from any federal or state agency, or any other source, public or private, and to administer such grants in accordance with any terms or conditions thereof. Any such grants received shall be used only for the purposes for which they are made.
15. Designate the state department of health as the state safe drinking water agency for all purposes of the federal Safe Drinking Water Act and is authorized to take all actions necessary and appropriate to secure for the state the benefit of such Act and any grants made thereunder.
16. Ensure that all new public water systems, excluding those that principally provide service to transients, commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity to comply with all rules adopted under this chapter which are in effect, or will be in effect, on the date of commencement of operations.
17. Develop and implement a strategy to assist all public water systems in acquiring and maintaining technical, managerial, and financial capability to comply with all rules adopted under this chapter.

**SECTION 2. AMENDMENT.** Subsections 2 and 3 of section 61-28.1-10 of the North Dakota Century Code are amended and reenacted as follows:

2. Any person who willfully violates this chapter or any regulation or order of the department shall be punished by a civil penalty of not more than ten thousand dollars per day of violation or an administrative penalty as follows:
  - a. One thousand dollars per day per violation in the case of a system serving a population of more than ten thousand.
  - b. An amount adequate to ensure compliance in the case of any system not under subdivision a.
3. Any person who violates this chapter, or any rule implementing this chapter, and any person who violates any order issued by the department under this chapter is subject to a civil penalty not to exceed five thousand dollars per day of violation or an administrative penalty as follows:
  - a. One thousand dollars per day per violation in the case of a system serving a population of more than ten thousand.
  - b. An amount adequate to ensure compliance in the case of any system not under subdivision a.

**SECTION 3.** A new section to chapter 61-28.1 of the North Dakota Century Code is created and enacted as follows:

**Drinking water treatment revolving loan fund - Purposes - Establishment.** To coordinate funding for public water systems in North Dakota, there is established a drinking water treatment revolving loan fund to be administered by the department. The loan fund is also authorized under section 1452(a) of the federal Safe Drinking Water Act, as amended. Grants from the federal government or its agencies, including the United States environmental protection agency, allotted to the state for the capitalization of the drinking water treatment revolving loan fund, and required state matching funds must be deposited in the drinking water treatment revolving loan fund in compliance with the terms of the grants. The principal of the grants must be available in perpetuity for providing financial assistance as allowed under the Safe Drinking Water Act. To the extent amounts in the revolving loan fund are not required for current obligations or expenditures, these amounts must be invested in interest-bearing obligations.

**SECTION 4.** A new section to chapter 61-28.1 of the North Dakota Century Code is created and enacted as follows:

**Department - Powers and duties - Administration.** The department has the following powers and duties and shall administer the drinking water treatment revolving loan fund as follows:

1. To apply for and accept grants of money from the United States environmental protection agency or other federal agencies which must be deposited in the drinking water treatment revolving loan fund to be used for purposes authorized under the Safe Drinking Water Act, including the following:
  - a. To provide loans or loan guaranties, or other financial assistance, to community water systems and nonprofit noncommunity water systems eligible for assistance from the revolving loan fund.
  - b. As a source of revenue and security for the payment of principal and interest on bonds issued by the state through the North Dakota municipal bond bank if the bond proceeds are deposited in the revolving loan fund.
  - c. To buy or refinance debt obligations issued after July 1, 1993, to finance a project eligible for assistance from the revolving loan fund.
  - d. To guarantee or purchase insurance for debt obligations issued to finance a project eligible for assistance from the revolving loan fund.
  - e. To provide other financial and technical assistance and to make any other expenditure authorized under the Safe Drinking Water Act.
  - f. To earn interest before the disbursement of financial or technical assistance.
  - g. To pay administrative expenses associated with the revolving loan fund as authorized under the Safe Drinking Water Act.
2. To administer the drinking water treatment revolving loan fund as established. The department may enter into contracts and other agreements in connection with the operation of the drinking water treatment revolving loan fund to the extent necessary or convenient for the implementation of the drinking water treatment revolving loan fund. The department may combine the financial administration of the drinking water treatment revolving loan fund and the financial administration of the water pollution control revolving loan fund established under chapter 61-28.2. The department may cross-collateralize the drinking water treatment revolving loan fund and the water pollution control revolving loan fund as authorized by the administrator of the federal environmental protection agency under the Safe Drinking Water Act.
3. To administer and disburse funds with the approval of the state water commission and in accordance with section 1452(a) of the federal Safe Drinking Water Act [42 U.S.C. 300j], as amended.
4. To establish assistance priorities and to expend grant funds pursuant to the priority list for the drinking water treatment revolving loan fund, after consulting with and obtaining the approval of the state water commission.
5. To adopt rules necessary for administering the drinking water treatment revolving loan fund.

The governor may transfer grant funds from the drinking water treatment revolving loan fund to the water pollution control revolving loan fund established by chapter 61-28.2 and from the water pollution control revolving loan fund to the drinking water treatment revolving loan fund, as authorized by the Safe Drinking Water Act.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2362.

Senate Vote:      Yeas    47            Nays    0            Absent    2

House Vote:      Yeas    66            Nays    28            Absent    3

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 1997.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 1997.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 1997,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State