

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

HOUSE BILL NO. 1166  
(Natural Resources Committee)  
(At the request of the State Water Commission)

AN ACT to create and enact five new sections to chapter 61-24.6 of the North Dakota Century Code, relating to water rates, operation and maintenance fund, reserve fund for replacement, capital costs, and areas served by the northwest area water supply project; and to amend and reenact sections 61-02-23.1, 61-24.3-19, and subsections 3, 6, and 7 of section 61-24.6-02 of the North Dakota Century Code, relating to condemnation of property for the northwest area water supply project, validation of southwest pipeline project water service contracts, and inclusion of Pierce County in the northwest area water supply project.

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

**SECTION 1. AMENDMENT.** Section 61-02-23.1 of the North Dakota Century Code is amended and reenacted as follows:

**61-02-23.1. Condemnation by the water commission.** Whenever a right of way is to be taken by condemnation proceedings for any purpose authorized by ~~chapter~~ chapters 61-24.3 or 61-24.6, the commission may take possession of the right of way after making a written offer to purchase and depositing the amount of the offer with the clerk of the district court of the county wherein the right of way is located. The clerk shall immediately notify the property owner in writing of ~~such~~ the deposit. Within thirty days after receiving ~~such~~ notice, the property owner may appeal to the district court by serving notice of appeal upon the water commission and the matter must be tried at the next term of court with a jury, unless a jury ~~be~~ is waived, in the manner prescribed for trials under chapter 32-15.

**SECTION 2. AMENDMENT.** Section 61-24.3-19 of the North Dakota Century Code is amended and reenacted as follows:

**61-24.3-19. Validation of water service contracts.** Water service contracts entered ~~into~~ by the commission for the distribution and sale of water to water user entities from the southwest pipeline project are ~~hereby deemed~~ confirmed and approved by the legislative assembly. The commission may commence a special proceeding in and by which the proceedings of the commission and the making of water service contracts ~~shall be~~ are judicially examined, approved, and confirmed, or disapproved and disaffirmed. ~~Such~~ The proceeding ~~shall~~ must comply as nearly as possible with the procedure authorized by sections 61-07-22 through 61-07-28 for irrigation district contracts. The requirements of section 40-33-16 are not applicable to contracts between the state water commission and cities for water service and cities for water service from the southwest pipeline project, provided the contracts were approved by the city governing body and executed before January 1, 1999.

**SECTION 3.** A new section to chapter 61-24.6 of the North Dakota Century Code is created and enacted as follows:

**Commission to fix water rates for the northwest area water supply project.** The commission shall establish the payments for water service to be paid by water user entities for purchase of water from the northwest area water supply project. The payments for water service must include each water user entity's proportionate share of the operation, maintenance, and replacement costs, and also include a component for payment for capital costs. The commission shall include in its determination of each water user entity's share of operation, maintenance, and replacement costs an amount to be deposited in the northwest area water supply project reserve fund for replacement, as established by section 4 of this Act, for replacement and extraordinary maintenance of northwest area

water supply project works. The amount of such the reserve fund for replacement must be determined by the commission.

**SECTION 4.** A new section to chapter 61-24.6 of the North Dakota Century Code is created and enacted as follows:

**Operation and maintenance fund - Deposit - Use.** Revenues received by the commission from water user entities or otherwise for operation and maintenance of the northwest area water supply project must be maintained, as a part of the moneys of the state received and kept by the state treasurer in a fund to be designated as the northwest area water supply project operation and maintenance fund. All moneys received by the state treasurer for operation and maintenance of the northwest area water supply project and the interest on moneys in the fund must be kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by the state treasurer and used only for paying for costs and expenditures for operation and maintenance of the northwest area water supply project.

**SECTION 5.** A new section to chapter 61-24.6 of the North Dakota Century Code is created and enacted as follows:

**Reserve fund for replacement - Deposit - Use.** Revenues received by the commission from water user entities or otherwise for replacement and extraordinary maintenance of the northwest area water supply project may be held pursuant to the terms of a resolution or trust indenture adopted by the commission. Any money not held pursuant to the terms of a resolution or trust indenture must be deposited by the commission and maintained, as a part of the moneys of the state received and kept by the state treasurer, in a fund designated as the northwest area water supply project reserve fund for replacement. All moneys received by the state treasurer for replacement and extraordinary maintenance of the northwest area water supply project and the interest on the moneys must be kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by the state treasurer and used only for replacement and extraordinary maintenance of the northwest area water supply project.

**SECTION 6.** A new section to chapter 61-24.6 of the North Dakota Century Code is created and enacted as follows:

**Capital costs - Deposit - Use.** Money derived and received from water user entities or otherwise for capital costs or construction of the northwest area water supply project may be held pursuant to the terms of a resolution or trust indenture adopted by the commission. Any money not held pursuant to the terms of a resolution or trust indenture must be deposited by the commission and maintained, as part of the moneys of the state received and kept by the state treasurer, in a fund designated as the northwest area water supply project fund for capital costs and construction. All moneys received by the state treasurer for capital costs and construction of the northwest area water supply project, and all interest on the moneys, must be kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by the state treasurer and used only for capital costs and construction of the northwest area water supply project.

**SECTION 7. AMENDMENT.** Subsections 3, 6, and 7 of section 61-24.6-02 of the North Dakota Century Code are amended and reenacted as follows:

3. One person from the Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, Ward, or Williams County water resource districts recommended jointly by the governing boards of the Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, Ward, or Williams County water resource districts.
6. One representative of rural water distribution systems located in northwestern North Dakota. This representative must be a resident of Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, Ward, or Williams County.
7. One representative of a municipality other than the city of Minot, located in Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, Ward, or Williams County.

**SECTION 8.** A new section to chapter 61-24.6 of the North Dakota Century Code is created and enacted as follows:

**Areas served by the northwest area water supply project.** The commission may provide, as part of the northwest area water supply project, delivery, distribution, and treatment of water from the Missouri River or other sources, to areas in Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, Ward, and Williams Counties. The facilities for delivery of water may be from a pipeline transmission and delivery system or through other works, as determined by the commission.

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1166.

House Vote:      Yeas    93      Nays    3      Absent    2

Senate Vote:    Yeas    47      Nays    1      Absent    1

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 1999.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 1999.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 1999,

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

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Secretary of State