

**FIRST ENGROSSMENT
with Conference Committee Amendments**

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2022

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the state water
2 commission; to provide a line of credit and an appropriation for repayment; to authorize the
3 state water commission to issue and sell evidences of indebtedness for the construction of
4 water-related projects; to create and enact a new section to chapter 61-02 of the North Dakota
5 Century Code, relating to construction of the Devils Lake outlet; to amend and reenact sections
6 54-27-25 and 61-02.1-02.1 of the North Dakota Century Code, relating to allocation of the
7 tobacco settlement trust fund and funding statewide water development projects; to transfer
8 funds from the water development trust fund to the general fund; and to provide a continuing
9 appropriation.

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

11 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the
12 funds as may be necessary, are appropriated out of any moneys in the water development trust
13 fund in the state treasury, not otherwise appropriated, and from special funds derived from
14 federal funds and other income, to the state water commission for the purpose of defraying the
15 expenses of the state water commission, for the biennium beginning July 1, 2003, and ending
16 June 30, 2005, as follows:

17 Administrative and support services	\$2,076,235
18 Water and atmospheric resources	<u>157,782,619</u>
19 Total all funds	\$159,858,854
20 Less estimated income	<u>150,473,458</u>
21 Total general fund appropriation	\$9,385,396

22 **SECTION 2. RESOURCES TRUST FUND.** The sum of \$13,650,000, or so much of
23 the sum as may be necessary, included in the total special funds appropriation line item in
24 section 1 of this Act is from the resources trust fund and must be used by the state water

1 commission for purposes authorized by the legislative assembly, for the biennium beginning
2 July 1, 2003, and ending June 30, 2005.

3 **SECTION 3. WATER DEVELOPMENT TRUST FUND.** The sum of \$32,946,225, or so
4 much of the sum as may be necessary, included in the total special funds appropriation line
5 item in section 1 of this Act is from the water development trust fund and must be used by the
6 state water commission for purposes authorized by the legislative assembly, for the biennium
7 beginning July 1, 2003, and ending June 30, 2005.

8 **SECTION 4. GRANTS - WATER-RELATED PROJECTS - CARRYOVER**

9 **AUTHORITY.** Section 54-44.1-11 does not apply to funding for grants or water-related
10 projects, included in the water and atmospheric resources line item in section 1 of this Act.
11 However, this exclusion is only in effect for two years after June 30, 2005. Any unexpended
12 funds appropriated from the resources trust fund after that period has expired must be
13 transferred to the resources trust fund and any unexpended funds appropriated from the water
14 development trust fund after that period has expired must be transferred to the water
15 development trust fund.

16 **SECTION 5. SALE AND PURCHASE OF LAND AND BUILDING - AUTHORITY -**
17 **CONTINUING APPROPRIATION.**

18 1. The state water commission, on behalf of the state of North Dakota, may sell in
19 one or more parcels the land and building known as the "state water commission
20 maintenance shop" located at 2603 East Broadway Avenue, Bismarck, North
21 Dakota, and legally described as follows:

22 A tract of land lying in the Northwest Quarter (NW 1/4) of Section Two (2),
23 Township One Hundred Thirty-Eight (138) North, Range Eighty (80) West of the
24 Fifth (5) Principal Meridian, in the County of Burleigh and State of North Dakota,
25 and described as follows:

26 Commencing at the northwest corner of said section two; thence traveling
27 in a southerly direction along the west boundary of said section two for a distance
28 of seven hundred seventy-four and six-tenths feet (744.60); thence turning a right
29 angle to the left in an easterly direction along a line which is parallel to the north
30 boundary of said section two for a distance of forty-seven feet (47.00), which shall
31 be called the true point of beginning; thence continuing due east along said line for

1 a distance of eight hundred forty-two and nine-tenths feet (842.90); thence turning
2 a deflection angle of ninety degrees and twenty-two minutes (90 degrees 22') to
3 the right and traveling in a southerly direction to a point of intersection with the
4 north fifty foot railroad right-of-way line; thence traveling in a westerly direction
5 along said north fifty foot railroad right-of-way line to a point of intersection with the
6 west boundary of said section two; thence traveling in a northerly direction along
7 the west boundary of said section two for a distance of four hundred seventy-two
8 and one-tenth feet (472.10); thence turning a right angle to the right in an easterly
9 direction along a line which is parallel to the north boundary of said section two for
10 a distance of forty-seven feet (47.00); thence traveling in a northerly direction
11 along a line which is parallel to the west boundary of said section two for a
12 distance of one hundred fifty feet (150.00) to the point of beginning. Including all of
13 the property bounded by the above described line, subject to existing rights-of-way
14 and easements.

15 The above described tract of land contains 11.77 acres, more or less.

- 16 2. The conveyance authorized by this Act is exempt from sections 54-01-05.2 and
17 54-01-05.5. The conveyance may only be made after the property has been
18 appraised and the property must be sold at public auction unless no bid equals or
19 exceeds the minimum appraised value. The appraisal must be dated no earlier
20 than eighteen months before the auction. If at the public auction no bid equals or
21 exceeds the minimum appraised value, the state water commission may negotiate
22 a price for the land with a purchaser.
- 23 3. All proceeds from the sale, or so much of the sale proceeds as may be necessary,
24 not otherwise appropriated, are appropriated on a continuing basis to the state
25 water commission for the purchase or lease of land and the construction of a
26 building and associated appurtenances to be used as a new maintenance facility
27 on new or the existing water commission property. The purchase authorized by
28 this subsection may proceed only after completion of a certified appraisal of the
29 property to be purchased and completion of a physical inspection of any building to
30 be purchased demonstrating that the building is structurally sound and suitable for
31 state water commission purposes.

1 4. The attorney general shall review and approve the form and legality of all legal
2 documents required for the conveyance and purchase authorized by this Act,
3 including title opinions.

4 **SECTION 6. BUILDING SALE PROCEEDS.** Proceeds of the sale of the state water
5 commission maintenance shop located in east Bismarck, as provided in section 5 of this Act,
6 must be used to purchase or lease land and construct a new maintenance shop building on
7 new or the existing water commission property. If the proceeds from the sale are less than
8 \$977,100, the state water commission may use other funds appropriated to the state water
9 commission for the purpose of purchasing or leasing land and constructing a new maintenance
10 shop building on new or the existing water commission property. If the proceeds from the sale
11 are not available at the time the state water commission needs to purchase or lease land and
12 construct the new building and associated appurtenances on new or the existing water
13 commission property, the state water commission may use other funds appropriated to it
14 provided that, upon receipt of the proceeds of the sale, the state water commission transfers to
15 the funds from which moneys were taken an amount equal to any funds utilized for the
16 purchase or lease of land and construction of the new maintenance building on new or the
17 existing water commission property. If the state water commission uses other funds
18 appropriated to it because the funds from the sale of the land and building are insufficient, the
19 state water commission need not make a transfer of sale proceeds. No more than a total of
20 \$977,100 may be expended from the amounts appropriated under this Act to purchase land
21 and construct the new maintenance building and associated appurtenances on new or the
22 existing water commission property.

23 **SECTION 7. LINE OF CREDIT - CONTINGENT APPROPRIATION.** If determined
24 necessary by the state water commission, the Bank of North Dakota shall extend a line of
25 credit, not to exceed \$25,000,000, which is appropriated to the state water commission for the
26 purpose of interim financing until bonds are issued under chapters 61-02 and 61-02.1, for the
27 biennium beginning July 1, 2003, and ending June 30, 2005.

28 **SECTION 8. REPAYMENT OF LINE OF CREDIT - CONTINGENT APPROPRIATION.**
29 If the line of credit authorized in section 7 of this Act is extended to the state water commission
30 by the Bank of North Dakota, there is appropriated out of any moneys in the water development
31 trust fund, not otherwise appropriated, or from bond proceeds, the sum of \$25,000,000, or so

1 much of the sum as may be necessary, to the state water commission for the purpose of
2 repaying the line of credit, for the biennium beginning July 1, 2003, and ending June 30, 2005.

3 **SECTION 9. BOND ISSUANCE AUTHORIZATION - PURPOSES.** Notwithstanding
4 the authority of the state water commission to issue evidences of indebtedness under chapters
5 61-24.3 and 61-24.6, the state water commission may arrange for the funding of water-related
6 projects or works in this state, including those identified in the statewide water development
7 plan, which are authorized and declared to be in the public interest, through the issuance of
8 evidences of indebtedness under chapters 61-02 and 61-02.1 in an amount not to exceed
9 \$60,000,000, plus the costs of issuance, capitalized interest, and required reserves, for the
10 biennium beginning July 1, 2003, and ending June 30, 2005. Bonds issued pursuant to this
11 section are not a general obligation of the state of North Dakota.

12 **SECTION 10. RESOURCES TRUST FUND APPROPRIATION - ADJUSTMENT.** If
13 the resources trust fund 2003-05 revenues are in excess of \$13,650,000, any excess is
14 appropriated, subject to emergency commission approval, from the resources trust fund to the
15 state water commission for the biennium beginning July 1, 2003, and ending June 30, 2005.

16 **SECTION 11. AMENDMENT.** Section 54-27-25 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **54-27-25. Tobacco settlement trust fund - Interest on fund - Uses.** There is
19 created in the state treasury a tobacco settlement trust fund. The fund consists of the tobacco
20 settlement dollars obtained by the state under sections IX (payments) and XI (calculation and
21 disbursement of payments) of the master settlement agreement and consent agreement
22 adopted by the east central judicial district court in its judgment entered December 28, 1998
23 [Civil No. 98-3778]. All moneys received by the state pursuant to the judgment and all moneys
24 received by the state for enforcement of the judgment must be deposited in the fund. Interest
25 earned on the fund must be credited to the fund and deposited in the fund. The principal and
26 interest of the fund must be allocated as follows:

27 1. Transfers to a community health trust fund to be administered by the state
28 department of health. The state department of health may use funds as
29 appropriated for community-based public health programs and other public health
30 programs, including programs with emphasis on preventing or reducing tobacco

1 usage in this state. Transfers under this subsection must equal ten percent of total
2 annual transfers from the tobacco settlement trust fund.

3 2. Transfers to the common schools trust fund to become a part of the principal of
4 that fund. Transfers under this subsection must equal forty-five percent of total
5 annual transfers from the tobacco settlement trust fund.

6 3. Transfers to the water development trust fund to be used to address the long-term
7 water development and management needs of the state. Transfers under this
8 subsection must equal forty-five percent of the total annual transfers from the
9 tobacco settlement trust fund.

10 ~~Notwithstanding the provisions of this section, during each biennium transfers that~~
11 ~~would be made to the common schools trust fund under subsection 2 must instead be~~
12 ~~transferred to the water development trust fund until the state water commission certifies to the~~
13 ~~state treasurer that deposits in the water development trust fund during that biennium are~~
14 ~~sufficient to pay the principal and interest for that biennium on bonds authorized under section~~
15 ~~61-02.1-01. When that certification is received, the state treasurer shall determine the amount~~
16 ~~deposited in the water development trust fund during that biennium and transfers that would be~~
17 ~~made to the water development trust fund under subsection 3 must instead be transferred to~~
18 ~~the common schools trust fund until deposits in the common schools trust fund during that~~
19 ~~biennium are equal to the amount deposited in the water development trust fund during that~~
20 ~~biennium or until the end of the biennium, whichever occurs first.~~

21 Transfers to the funds under this section must be made within thirty days of receipt by
22 the tobacco settlement trust fund.

23 **SECTION 12.** A new section to chapter 61-02 of the North Dakota Century Code is
24 created and enacted as follows:

25 **Construction of the Devils Lake outlet - Authorization - Agreement.** The state
26 water commission may do all things reasonably necessary to construct an outlet from Devils
27 Lake, including executing an agreement with the federal government wherein the state water
28 commission agrees to hold the United States harmless and free from damages, except for
29 damages due to the fault or negligence of the United States or its contractors.

30 **SECTION 13. AMENDMENT.** Section 61-02.1-02.1 of the North Dakota Century Code
31 is amended and reenacted as follows:

1 **61-02.1-02.1. Funding - Statewide water development projects - Bond issuance**
2 **amount.**

- 3 1. The priorities for the statewide water development program for the 2001-03
4 biennium include municipal, rural, and industrial projects; irrigation projects;
5 general water management projects, including rural flood control, snagging and
6 clearing, channel improvement, recreation, and planning studies; flood control
7 projects; and weather modification projects. The state water commission may
8 provide the funds necessary to construct these projects from money appropriated
9 to the state water commission from the resources trust fund, the water
10 development trust fund, or by issuing bonds in an amount not to exceed twenty
11 million dollars plus the costs of issuance of the bonds, capitalized interest, and
12 reasonably required reserves. ~~The commission may utilize up to five million five~~
13 ~~hundred thousand dollars from the water development trust fund, the resources~~
14 ~~trust fund, or from bond proceeds to provide cost share for a flood control channel~~
15 ~~and levy project designed to provide protection from overland flooding to a city with~~
16 ~~a population in excess of eighty thousand as of the 2000 federal decennial census.~~
17 ~~The amount provided may not exceed fifty percent of the city's share of the cost to~~
18 ~~construct the project. Bonds may be issued utilizing the procedures set forth in~~
19 ~~chapter 61-02.~~ The proceeds of any bonds issued under the authority provided in
20 this section are appropriated to the state water commission for the purposes set
21 forth in this section.
- 22 2. If the state water commission determines it is appropriate to do so, it may, in lieu of
23 issuing or in combination with the issuance of bonds pursuant to sections
24 61-02.1-01 and 61-02.1-02, for all or part of the state's cost share for the projects
25 set forth in those provisions, use funds appropriated to it from the resources trust
26 fund or the water development trust fund. ~~Regardless of the source, the amount of~~
27 ~~funds used may not exceed the limits set forth in section 61-02.1-02.~~

28 **SECTION 14. CONTINUING APPROPRIATION - DEVILS LAKE OUTLET.** There is
29 appropriated to the state water commission on a continuing basis from the water development
30 trust fund or the resources trust fund in the state treasury, or from bond proceeds from bonds
31 issued by the state water commission, as determined by the state water commission, the

1 amount of funds required by the agreement between the state and the federal government to
2 construct an outlet from Devils Lake to meet its cost-share obligations under the agreement
3 and from any legally available funds to meet its indemnification obligations under the
4 agreement.

5 **SECTION 15. TRANSFER.** Notwithstanding section 54-27-25, during the biennium
6 beginning July 1, 2003, and ending June 30, 2005, the director of the office of management
7 and budget shall transfer \$10,070,373 from the water development trust fund to the general
8 fund.