

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2126
(Natural Resources Committee)
(At the request of the State Engineer)

AN ACT to amend and reenact subsection 6 of section 61-04-01.1, subsection 3 of section 61-04-05, and subsection 3 of section 61-04-05.1 of the North Dakota Century Code, relating to the definition of irrigation use, water permit applications, and water permit hearings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 61-04-01.1 of the North Dakota Century Code is amended and reenacted as follows:

6. "Irrigation use" means the use of water for application to more than one acre [.40 hectare] of land to stimulate the growth of agricultural crops or the maintenance of recreation areas such as athletic fields, golf courses, parks, and similar types of areas, except when the water for the facility is provided by a municipal water system.

SECTION 2. AMENDMENT. Subsection 3 of section 61-04-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Give notice of the application by certified mail in the form prescribed by rule to all municipal or public use water facilities ~~in the county in which~~ within a twelve-mile radius of the proposed water appropriation site ~~is located~~. The state engineer shall provide a list of all municipal or public use water facilities that must be notified under this subsection to the applicant.

SECTION 3. AMENDMENT. Subsection 3 of section 61-04-05.1 of the North Dakota Century Code is amended and reenacted as follows:

3. Within thirty days of service of the recommended decision, the applicant and any person who would be aggrieved by the decision and who filed written comments may file additional written comments with the state engineer or request a hearing on the application, or both. A request for a hearing must be made in writing and must state with particularity how the person would be aggrieved by the decision and the issues and facts to be presented at the hearing. If a request for a hearing is not made, the state engineer shall consider the additional comments, if any are submitted, and issue a final decision. If a request for a hearing is made, or if the state engineer determines a hearing is necessary to obtain additional information to evaluate the application or to receive public input, the state engineer shall designate a time and place for the hearing and serve a copy of the notice of hearing upon the applicant and any person who filed written comments. Service must be made in the manner allowed for service under the North Dakota Rules of Civil Procedure at least twenty days before the hearing.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2126.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 82 Nays 8 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,

at _____ o'clock _____ M.

Secretary of State