

Sixty-second
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2161

Introduced by

Senators G. Lee, Hogue, Nething

Representatives Weisz, Hofstad, D. Johnson

1 A BILL for an Act to create and enact subsection 7 to section 32-12.1-03 of the North Dakota
2 Century Code, relating to political subdivision liability; and to amend and reenact section
3 24-06-31 of the North Dakota Century Code, relating to obstructions in highways.

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

5 **SECTION 1. AMENDMENT.** Section 24-06-31 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **24-06-31. Obstructions in highway.**

8 Each overseer of highways having ~~personal~~actual knowledge, or on being notified in writing,
9 of any obstruction in the highway or public street in the overseer's district immediately shall
10 remove or cause any such obstruction to be removed. Highway or public street does not mean
11 a congressional section line, as described in section 24-07-03, which is unimproved or
12 unmaintained.

13 **SECTION 2.** Subsection 7 to section 32-12.1-03 of the North Dakota Century Code is
14 created and enacted as follows:

- 15 7. a. With regard to a congressional section line, as described in section 24-07-03,
- 16 which is unimproved, the political subdivision that has jurisdiction over that
- 17 congressional section line:
- 18 ~~(1) — Is is not liable for any claim based on a naturally occurring hazard condition~~
- 19 ~~regarding that congressional section line; and~~
- 20 ~~(2) — Is not liable for any claim based on a manmade hazard regarding that~~
- 21 ~~congressional section line unless:~~
- 22 ~~(a) — The political subdivision is notified in writing that the hazard exists;~~
- 23 ~~and~~

1 ~~(b) The political subdivision either fails to take action to mitigate the~~
2 ~~hazard as soon as is practicable, but not to exceed ten days, after the~~
3 ~~written notification, or fails to provide warning that the congressional~~
4 ~~section line has a hazardous condition., unless:~~

5 (1) The political subdivision is served with written notice that is either in its
6 possession or verified by receipt;

7 (2) The condition is unusually hazardous or unusually dangerous, meaning, in
8 the context of this subsection, it is so peculiarly dangerous there is a
9 substantial risk that an individual exercising due care and driving within the
10 limits of the law could not drive on that part of the congressional section line
11 safely;

12 (3) If the condition is naturally occurring, it has occurred or substantially
13 worsened within thirty days before the written notice provided for in
14 paragraph 1; and

15 (4) The political subdivision either fails to take action to mitigate the condition or
16 fails to order mitigation of the condition as provided for in subdivision c, or
17 fails to provide warning that the congressional section line has a hazardous
18 condition, as soon as is practicable, but not to exceed ten days after service
19 of the notice.

20 b. ~~Except as provided in paragraph 2 of~~ subdivision a, any person that ~~creates a~~
21 ~~hazard by altering~~ causes or contributes to an unusually hazardous or unusually
22 ~~dangerous condition on~~ a congressional section line ~~is~~ may be liable for ~~any~~
23 ~~damages caused by the alteration.~~

24 c. The political subdivision may ~~seek~~ issue an order directing the person that
25 ~~alters~~ causes or contributes to an unusually hazardous or unusually dangerous
26 ~~condition on~~ a congressional section line to ~~restore the congressional section line~~
27 ~~to its original state~~ mitigate the condition.