

**FIRST ENGROSSMENT
with House Amendments
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.

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

14 7. a. With regard to a congressional section line, as described in section 24-07-03,
15 which is unimproved, the political subdivision that has jurisdiction over that
16 congressional section line:

17 (1) Is not liable for any claim based on a naturally occurring hazard on that
18 congressional section line, unless the political subdivision had actual
19 knowledge of an unusually dangerous or unusually hazardous condition that
20 a traveler would not reasonably expect to exist due to the nature of the
21 surrounding topography or geological environment and failed to warn
22 travelers of that condition; and

23 (2) Is not liable for any claim based on a manmade hazard on that
24 congressional section line unless:

- 1 (a) The political subdivision is served with notice of the hazard by certified
2 mail or otherwise has actual knowledge that the hazard exists; and
3 (b) The political subdivision either fails to take action to mitigate the
4 hazard or fails to provide warning that the congressional section line
5 has a hazardous condition as soon as is practicable, but not to
6 exceed ten days, after service of the notice or after the political
7 subdivision has actual knowledge.
- 8 b. Except as provided in paragraph 2 of subdivision a, any person that causes or
9 contributes to a hazard on a congressional section line may be liable for
10 damages.
- 11 c. The political subdivision may issue an order directing the person that causes or
12 contributes to a hazard on a congressional section line to mitigate the hazard.