

HOUSE BILL NO. 1390

Introduced by

Representatives Headland, Blum, Brandenburg, Kading

Senators Meyer, Rust, Wanzek

1 A BILL for an Act to create and enact a new section to chapter 11-11 and section 61-32-03.2 of
2 the North Dakota Century Code, relating to a limitation on county authority and subsurface
3 drains on land that qualifies for prevented planting insurance coverage; to amend and reenact
4 sections 06-09.13-03 and 61-16-08, subsection 8 of section 61-16.1-09, and section 61-32-03.1
5 of the North Dakota Century Code, relating to loans to farmers and subsurface drainage
6 projects; and to provide for a legislative management study.

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

8 **SECTION 1. AMENDMENT.** Section 06-09.13-03 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **6-09.13-03. Loans to farmers - Purposes - Eligible uses.**

11 1. The loan moneys received by a farmer under this chapter must be used for a farm
12 business. Eligible uses are:

13 1. a. Purchase of real property and equipment.

14 2. b. Expansions.

15 3. c. Working capital.

16 4. d. Purchase of inventory.

17 5. e. Subsurface field tiling projects.

18 2. The moneys ~~cannot~~may not be used to refinance any existing debt.

19 3. There is no lifetime limit on the amount of loan moneys a farmer may receive under
20 this chapter.

21 **SECTION 2.** A new section to chapter 11-11 of the North Dakota Century Code is created
22 and enacted as follows:

1 **Limitation on authority - Dumping.**

2 Notwithstanding any other provision of law, a county may not require a resident to provide
3 thirty days' notice before dumping into a legal subsurface drain.

4 **SECTION 3. AMENDMENT.** Section 61-16-08 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **61-16-08. Eligibility for appointment to board - Term of office - Removal - Filling**
7 **vacancies - Compensation of managers.**

8 1. When a water resource district has been created, any resident landowner in the
9 district, except a county commissioner, is eligible, subject to the provisions of this
10 section, for appointment to the water resource board. ~~After June 30, 1985, when the~~
11 ~~term of office of a district manager has expired, the manager's successor shall hold~~
12 ~~office for three years from the first day of January next following the date of the~~
13 ~~successor's appointment. The term of office of a manager does not terminate until the~~
14 ~~successor in office is appointed and qualified. In case the office of any district~~
15 ~~manager becomes vacant, the manager appointed to fill the vacancy shall serve the~~
16 ~~unexpired term of the manager whose office became vacant~~Before the start of an
17 individual's term as a water resource board member, the individual shall attend a
18 course on water management, and each board member shall attend a course on water
19 management once every three years during the member's term on the board.

20 2. Each member of a water resource board shall receive the sum of at least seventy-five
21 dollars but not more than one hundred thirty-five dollars per day while performing
22 duties as a member of the board, and an allowance for meals and lodging expenses at
23 the same rate and under the same conditions as provided for state officials and
24 employees. The allowance for travel expenses shall be at the same rate as provided
25 by section 11-10-15 and shall be evidenced by a subvoucher or receipt as provided by
26 section 21-05-01.

27 3. A manager may be removed from the board by the board of county commissioners
28 after it appears to the board of county commissioners by competent evidence, and
29 after a public hearing, if so requested by the manager subject to removal, at which
30 hearing the manager must be apprised of and allowed ample opportunity to repudiate
31 the evidence, that the manager has been guilty of misconduct, malfeasance, crime in

1 office, neglect of duty in office, habitual drunkenness, gross incompetency, or inability
2 to perform the duties of office for reasons of health.

3 **SECTION 4. AMENDMENT.** Subsection 8 of section 61-16.1-09 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 8. Make rules ~~and regulations~~ concerning the management, control, regulation, and
6 conservation of waters and prevent the pollution, contamination, or other misuse of the
7 water resources, streams, or bodies of water included within the district. However, the
8 board may not make a rule regarding subsurface drainage system permits unless
9 expressly required or allowed under this title.

10 **SECTION 5. AMENDMENT.** Section 61-32-03.1 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **61-32-03.1. Permit to drain subsurface waters required - Permit form - Penalty.**

13 Installation of an artificial subsurface drainage system comprising eighty acres
14 [32.37 hectares] of land area or more requires a permit. The state engineer shall develop an
15 application form for a permit for subsurface drainage of water. A person seeking to construct an
16 artificial subsurface drainage system must submit an application to the water resource district
17 within which is found a majority of the land area for consideration and approval. Water resource
18 districts may attach any necessary conditions, except a requirement to locate the project a
19 minimum distance from rural water supply lines, to an approved permit, but may not deny an
20 application unless the water resource district determines the application is of statewide
21 significance or the proposed drainage will flood or adversely affect lands of downstream
22 landowners within one mile [1.61 kilometers] of the proposed subsurface drainage. Water
23 resource districts must forward copies of all approved permits to the state engineer. Water
24 resource districts shall determine if the application proposes drainage of statewide significance.
25 If so, the application must be referred to the state engineer for consideration and approval, and
26 the state engineer shall make a determination within thirty days. The permit applicant shall
27 provide a thirty-day notice to downstream property owners within one mile [1.61 kilometers] of
28 the proposed subsurface drainage. If an investigation by a water resource district or a
29 downstream landowner within one mile [1.61 kilometers] shows that the proposed drainage will
30 flood or adversely affect lands of downstream landowners within one mile [1.61 kilometers], the
31 water resource district may require flowage easements before issuing a permit. A landowner

1 may not be required to provide a United States department of agriculture highly erodible land
2 conservation and wetland conservation certification for the investigation. If an artificial
3 subsurface drainage system drains into an assessment drain, natural watercourse, or pond,
4 slough, or lake, a flowage easement is not required. Flowage easements must be filed for
5 record in the office of the recorder of the county or counties in which the lands are situated. A
6 person that installs an artificial subsurface drainage system without first securing a permit to do
7 so, as provided in this section, is liable for all damage sustained by a person caused by the
8 draining, and is guilty of an infraction.

9 **SECTION 6.** Section 61-32-03.2 of the North Dakota Century Code is created and enacted
10 as follows:

11 **61-32-03.2. Prevented planting coverage - Permit exception.**

12 Notwithstanding section 61-32-03.1, a person that wishes to install a subsurface drainage
13 system comprising land that qualifies for prevented planting coverage under the Federal Crop
14 Insurance Act of 1938 [7 U.S.C. 1508, 1508a] is not required to obtain a permit for the drain.

15 **SECTION 7. LEGISLATIVE MANAGEMENT STUDY - NUTRIENT MANAGEMENT PLAN.**

16 During the 2017-18 interim, the legislative management shall consider studying and monitoring
17 the nutrient management plan developed by the state department of health. The legislative
18 management shall report its findings and recommendations, together with any legislation
19 required to implement the recommendations, to the sixty-sixth legislative assembly.