

**Sixty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1239  
(Representatives Schreiber-Beck, Beltz, D. Johnson, Pyle, Thomas)  
(Senators Klein, Sorvaag)

AN ACT to create and enact a new section to chapter 61-32 of the North Dakota Century Code, relating to smaller subsurface water management systems; to provide a penalty; and to declare an emergency.

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

**SECTION 1.** A new section to chapter 61-32 of the North Dakota Century Code is created and enacted as follows:

**Smaller subsurface water management systems - Notification and conditions - Penalty.**

1. A person may not install a subsurface water management system comprising less than eighty acres [32.37 hectares] of land area until the person has notified the board of the water resource district within which is found a majority of the land area of the system of the following information:
  - a. The system's total acreage and legal description of the land being drained;
  - b. The outlet locations and types; and
  - c. The flow direction from each outlet location.
2. A person required to notify the board under subsection 1 shall install the subsurface water management system such that:
  - a. Pump and control structures at pump outlets are installed no closer than twenty-five feet [7.62 meters] from the top of the back slope of an assessment drain;
  - b. Proper erosion controls are installed and maintained at all outlets; and
  - c. Pumps and control structures at project outlets are closed or turned off during critical flood periods.
3. If a subsurface water management system for which notification is required under subsection 1 will discharge into the watershed area of an assessment drain, the water resource board that receives the notice may require the relevant property to be included in the assessment district for the assessment drain in accordance with the benefits the property receives, provided the property is not assessed already for the assessment drain. The water resource district also may include the property in the assessment district and determine the benefits and assessment amounts under chapters 61-21 and 61-16.1, without conducting the reassessment of benefit proceedings under sections 61-21-44 and 61-16.1-26, provided the property is not assessed already for the assessment drain.
4. The board of the water resource district within which the subsurface water management system is located may order the system's owner or operator to bring the system into compliance with subsection 2 if the board finds the system violates that subsection.
5. A person that violates this section is guilty of an infraction.
6. This section applies only to subsurface water management systems that drain, in whole or in part, platted or unplatted lands used for raising agricultural crops or grazing farm animals.

7. This section does not apply to a subsurface water management system that discharges into a body of water completely encompassed by land owned by the person that owns the land drained by the system.
8. The information that must be provided to a board of a water resource district under this section is an exempt record under section 44-04-18.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1239 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:        Yeas 92                      Nays 0                      Absent 2

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:        Yeas 42                      Nays 4                      Absent 1

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2023.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2023.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2023,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State