

**SENATE BILL NO. 2372**

Introduced by

Senators Lemm, Luick

1 A BILL ~~for an Act to create and enact a new chapter to title 61 of the North Dakota Century~~  
2 ~~Code, relating to the operation of watershed districts.~~for an Act to create and enact a new  
3 subsection to section 61-16.1-11 and section 61-16.1-15.1 of the North Dakota Century Code,  
4 relating to joint water resource boards and the construction of a water project in more than one  
5 county; and to amend and reenact sections 61-16.1-12.1 and 61-16.1-15 of the North Dakota  
6 Century Code, relating to joint water resource boards.

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

8 ~~— **SECTION 1.** A new chapter to title 61 of the North Dakota Century Code is created and~~  
9 ~~enacted as follows:~~

10 ~~— **Watershed districts – Area to be included.**~~

11 ~~— All land in the state must be within a watershed district. A watershed district includes the~~  
12 ~~boundaries of the major watershed basins of this state as determined by the department of~~  
13 ~~water resources.~~

14 ~~— **Order creating watershed district.**~~

15 ~~— A certified copy of the order creating a watershed district must be filed with the county~~  
16 ~~auditor of each county within the district and with the secretary of state. The secretary of state~~  
17 ~~shall issue to the department of water resources a certificate of the organization of the district~~  
18 ~~and shall file a copy of the certificate and the commission's order creating the district. The~~  
19 ~~secretary of state's certificate, or a copy authenticated by the secretary of state, is prima facie~~  
20 ~~evidence of the organization of the district. The new district is a governmental agency and may~~  
21 ~~exercise the powers specified in this chapter.~~

22 ~~— **Watershed board – Appointment and number.**~~

23 ~~— When a watershed district has been created, and the department of water resources has~~  
24 ~~filed notice with the county auditor of the counties in which the district or any part of the district~~

1 ~~is situated, a watershed board must be appointed within ninety days. If the district's boundaries~~  
2 ~~include two counties, the watershed board must consist of five managers, three appointed by~~  
3 ~~the board of county commissioners of the county having the larger aggregate taxable valuation~~  
4 ~~of property, and two appointed by the board of county commissioners of the other county. If a~~  
5 ~~district includes three counties, the watershed board must consist of five managers, one~~  
6 ~~appointed by the board of county commissioners having the lowest aggregate taxable valuation~~  
7 ~~of property in the district, and two appointed by the board of county commissioners of each of~~  
8 ~~the other two counties. If a district includes four or six counties, the watershed board must~~  
9 ~~consist of two members from the county having the largest aggregate taxable valuation of~~  
10 ~~property in the district, and one manager from each of the other counties. If a district includes~~  
11 ~~five or seven counties, the watershed board must consist of one manager from each county.~~  
12 ~~Appointments to the watershed board must be made by the boards of county commissioners of~~  
13 ~~the respective counties.~~

14 ~~— **Eligibility for appointment to board – Term of office – Removal – Filing vacancies –**~~

15 ~~**Compensation of managers.**~~

16 ~~— 1. When a watershed district has been created, any resident landowner in the district~~  
17 ~~except a county commissioner is eligible for appointment to the watershed board. After~~  
18 ~~June 30, 2027, when the term of office of a district manager has expired, the~~  
19 ~~manager's successor shall hold office for three years from the first day of January~~  
20 ~~following the date of the successor's appointment. The term of office of a manager~~  
21 ~~does not terminate until the successor in office is appointed and qualified. If there is a~~  
22 ~~vacancy in the office of a district manager, the manager appointed to fill the vacancy~~  
23 ~~shall serve the unexpired term of the manager whose office became vacant. Within~~  
24 ~~three months after the start of an individual's term as a district manager, the individual~~  
25 ~~shall attend a course on water management, and each district manager shall attend a~~  
26 ~~course on water management every three years during the manager's term.~~

27 ~~— 2. While performing duties as a member of a watershed board, each member is entitled~~  
28 ~~to receive compensation of at least seventy-five dollars per day but not more than the~~  
29 ~~rate set for a member of the legislative assembly under section 54-03-20, an~~  
30 ~~allowance for meals at the same rates and conditions provided by law for state officials~~  
31 ~~and employees, and reimbursement of lodging and other necessary travel expenses at~~

1 ~~the same rate and conditions as provided by law for state officials and employees. A~~  
2 ~~request for an allowance or reimbursement must be evidenced by a subvoucher or~~  
3 ~~receipt as provided by section 21-05-01.~~

4 ~~3. A manager may be removed from the board by the board of county commissioners if~~  
5 ~~the board of county commissioners determines, by competent evidence, the manager~~  
6 ~~is guilty of misconduct, malfeasance, crime in office, neglect of duty in office, habitual~~  
7 ~~drunkenness, gross incompetency, or inability to perform the duties of office for~~  
8 ~~reasons of health. The manager subject to removal may request a public hearing at~~  
9 ~~which the manager must be apprised of and allowed ample opportunity to repudiate~~  
10 ~~the evidence.~~

11 ~~**Appointment of alternate board members due to conflict of interest or illness.**~~

12 ~~When a member of a watershed board has a conflict of interest in a specific issue before~~  
13 ~~the board or is unable to fulfill the duties of a board member because of physical or mental~~  
14 ~~illness, the county commissioners of the member's county of residence may appoint an~~  
15 ~~individual to serve as an alternate to the disqualified board member. If the disqualification is for~~  
16 ~~a conflict of interest, the alternate board member may serve only for the purpose of deciding the~~  
17 ~~particular issue causing the conflict. If the disqualification is for physical or mental illness, the~~  
18 ~~alternate board member may be appointed by the county commissioners of the disqualified~~  
19 ~~board member's county of residence only for one meeting at a time.~~

20 ~~**Oath of office - Organization of watershed board - Appointment of members -**~~

21 ~~**Meetings:**~~

22 ~~1. Upon receiving notice of appointment as member of the watershed board, the~~  
23 ~~appointee shall take the oath of office prescribed for civil officers. The oath must be~~  
24 ~~filed with the secretary of the board. Notice of the appointment of a member or~~  
25 ~~members of a watershed board must be mailed to the department of water resources.~~  
26 ~~The notice must state the name and post-office address of each appointee and the~~  
27 ~~date of appointment.~~

28 ~~2. A majority of the managers constitute a quorum for the transaction of business but any~~  
29 ~~number may adjourn a meeting if a quorum is not present. The watershed board shall~~  
30 ~~appoint a secretary and treasurer and other employees as needed for the efficient~~  
31 ~~conduct of the district's business and shall fix their compensation. The offices of~~

~~secretary and treasurer may be held by the same individual. Officers and employees hold office at the pleasure of the board.~~

~~3. The board shall provide an office for conducting the affairs of the district and shall adopt rules for transacting the business of the district, including the time and place of holding regular meetings of the board. Special meetings may be called by the secretary upon written request of two members of the board. Notice of a special meeting must be mailed to each member of the board at least five days before a regular meeting of the board. A special meeting of the board may be held if all members of the board are present or consent to the special meeting in writing.~~

~~**Operations of watershed districts - Procedure.**~~

~~The provisions of chapter 61-16.1, pertaining to the powers, operations, and procedures of a water resource district, not in conflict with the provisions of this chapter, govern the administration of a watershed district in this chapter.~~

**SECTION 1.** A new subsection to section 61-16.1-11 of the North Dakota Century Code is created and enacted as follows:

All districts within the Red River, James River, Mouse River, Missouri River, and Devils Lake drainage basins shall, by agreement, form and remain a member of a joint water resource board relative to the district's respective drainage basin. All agreements and subsequent amendments must be filed with the department of water resources. Notwithstanding other provisions of law, the board of county commissioners of the member districts in the Red River, James River, Mouse River, Missouri River, and Devils Lake drainage basins shall approve a levy of tax not to exceed two mills upon the taxable valuation of the real property within each joint board's respective drainage basin.

**SECTION 2. AMENDMENT.** Section 61-16.1-12.1 of the North Dakota Century Code is amended and reenacted as follows:

**61-16.1-12.1. Water resource boards - Agreements with state or federal agencies for certain improvements.**

A water resource board may enter ~~into~~ an agreement with any federal or state agency, or any combination thereof, for the construction of a project, under the terms of which the contract for the work is to be let by the federal or state agency or any combination thereof. If under the

1 terms of the agreement at least fifty percent of the total cost of constructing the project is to be  
2 paid by the agency or agencies and if any portion of the cost of the project is to be paid by the  
3 levy of special assessments, the board may by resolution create a project assessment district  
4 for the purpose of levying special assessments to finance the amount ~~that~~ the district will be  
5 obligated to pay in accordance with the agreement, over and above any other funds ~~which~~that  
6 are on hand and properly available for that purpose. The assessment district must be of a size  
7 and form as to include all properties ~~which~~that in the judgment of the board, after consultation  
8 with a registered engineer designated by the board for that purpose, will be benefited by the  
9 construction of the proposed project, and the board shall direct the engineer to prepare a map  
10 showing the boundaries of the proposed assessment district. The board shall by resolution  
11 declare the necessity of the project, set forth the general nature and purpose of the proposed  
12 project, estimate the total cost of the project, and the approximate amount or fraction of the cost  
13 ~~which~~that the district will be obligated to pay under the agreement, and the fact that this  
14 amount, or a lesser amount as the board may specify, is proposed to be paid by the levy of  
15 special assessments upon property within the assessment district determined to be benefited  
16 by the project. The board shall cause the resolution of necessity together with a copy of the map  
17 showing the boundaries of the assessment district and a notice stating the date and time by  
18 which the owners of any property liable to be specially assessed for the proposed project must  
19 file their votes on the proposed project with the secretary of the board to be mailed to each  
20 landowner affected by the proposed project as determined by the tax rolls of the county in which  
21 the affected property is located. The board may send the material by certified mail or by regular  
22 mail attested by an affidavit of mailing signed by the attorney or secretary of the board. The  
23 notice also must ~~also~~ set forth the time and place where the board shall meet to determine  
24 whether the project is approved. The notice must also be published once in a newspaper of  
25 general circulation in the district and once in the official county newspaper of each county in  
26 which the benefited lands are located. Within five days after the first mailing of the resolution the  
27 board shall cause a copy of the resolution to be personally served upon any county, city, ~~or~~  
28 township, school district, park district, or other political subdivision, in its corporate capacity  
29 which may be benefited directly or indirectly from the construction of the proposed project and  
30 upon any county which may become liable for any deficiency in the fund to be created for the  
31 project, by delivering a copy of the resolution to any member of the governing body thereof. The

1 meeting must be held not less than thirty days after the mailing of the resolution, at which time  
2 the board shall determine whether the project is approved. If the board finds that fifty percent or  
3 more of the total votes filed are against a proposed project, then the board may not proceed  
4 further with the proposed project. If the board finds that less than fifty percent of votes filed are  
5 against the proposed project, the board may proceed with the project. In any assessment  
6 district created under this section the board may dispense with all other requirements of this  
7 chapter, other than those stated in this section. After the contract for the work has been let, the  
8 board may issue warrants on the fund of the project for the total amount of the cost thereof, and  
9 the board, without holding the hearing required by section 61-16.1-18, shall proceed to  
10 determine and levy any assessments against property benefited by the project and prepare an  
11 assessment list ~~all~~ in accordance with the procedures required by sections 61-16.1-21 through  
12 61-16.1-24. ~~The provisions of sections~~ Sections 61-16.1-25 through 61-16.1-36 ~~are-~~  
13 ~~applicable~~ apply to the assessments and the special warrants issued pursuant to this section.

14 **SECTION 3. AMENDMENT.** Section 61-16.1-15 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **61-16.1-15. Financing project through revenue bonds, general taxes, or special**  
17 **assessments - Apportionment of benefits.**

18 A water resource board ~~shall have the authority~~ may, either upon request or by its own  
19 motion, ~~to~~ acquire needed interest in property and provide for the cost of construction,  
20 alteration, repair, operation, and maintenance of a project through issuance of improvement  
21 warrants or with funds raised by special assessments, general tax levy, issuance of revenue  
22 bonds, or by a combination of general ad valorem tax, special assessments, and revenue  
23 bonds. Whenever a water resource board decides to acquire property or interests in property to  
24 construct, operate, alter, repair, or maintain a project with funds raised in whole or in part  
25 through special assessments, ~~such~~ the assessments ~~shall~~ must be apportioned to and spread  
26 upon lands or premises benefited by the project in proportion to and in accordance with benefits  
27 accruing thereto. The board shall assess the proportion of the cost of the project, or the part of  
28 the cost to be financed with funds raised through levy and collection of special assessments  
29 which any lot, piece, or parcel of land ~~shall bear~~ bears in proportion to the benefits accruing  
30 thereto and any county, city, ~~or~~ township, school district, park district, or other political  
31 subdivision which is benefited ~~thereby~~ by the project. In determining assessments, the water

1 resource board shall carry out to the maximum extent possible the water management policy of  
2 this chapter that upstream landowners must share with downstream landowners the  
3 responsibility to provide for the proper management of surface waters.

4 **SECTION 4.** Section 61-16.1-15.1 of the North Dakota Century Code is created and  
5 enacted as follows:

6 **Projects or benefits in more than one county.**

7 1. The districts from two or more counties may agree to jointly construct or assign  
8 benefits and assessments for a project. Two or more districts shall create a joint board  
9 under section 61-16.1-11 before constructing a project and before assessing the lands  
10 or premises for a project that benefits or is located in more than one county. If the  
11 districts do not agree to undertake a joint project, a district may undertake the project  
12 by providing notice to the joint board where the project is located, in either the Red  
13 River, James River, Mouse River, Missouri River, or Devils Lake drainage basin,  
14 together with the engineer's report required under section 61-16.1-17.

15 2. If the joint board finds the project is necessary, and the benefits of the project will  
16 exceed the costs, the joint board shall proceed with the procedures in sections  
17 61-16.1-15 through 61-16.1-36 regarding:

18 a. The creation, construction, alteration, repair, operation, and maintenance of a  
19 project and an assessment district;

20 b. The determination and levy of assessments against property benefited by the  
21 project; and

22 c. The special warrants issued pursuant to this chapter.

23 3. If the assessment vote is successful, the joint board shall construct, own, operate, and  
24 maintain the project. The joint board shall administer the corresponding assessment  
25 district for the project in accordance with this chapter.