

**Testimony by Jason Siegert
Chairman - Traill County Water Resource District**

**Before the House Energy and Natural Resources Committee
In Opposition to HB 1391**

**North Dakota Legislature
68th Legislative Assembly**

Chairman Porter, Vice-Chair Anderson, and members of the Committee, I appreciate the opportunity to testify before you today in opposition to HB 1391. My name is Jason Siegert, and I am the Chairman of the Traill County Water Resource District. Our water resource district (“WRD”) Board operates and manages 52 legal assessment projects in Traill County, the majority of which are legal drains. This bill seeks to significantly modify how water resource districts operate in two ways.

72-Hour Minute Preparation and “Publication” Rule

Section 1 of the bill would mandate an unreasonable 72-hour rule for preparation and “publication” of meeting minutes. That requirement would only apply to water boards and not to any other public entities, and would create an unreasonable burden for our Board’s Secretary-Treasurer. Our Board manages a lot of important public facilities; our Secretary spends a good portion of her days managing our business, managing tax dollars, and interacting with the public; and she always responds to record requests in a reasonable time. This 72-hour requirement would be unfair and would create an arbitrary and burdensome deadline for our Secretary, who does great work and we do not want to lose her. I want to spend the majority of my time explaining the detrimental impacts Section 2 of this bill would have, but I did want to comment on how unfair and unreasonable this 72-hour rule would be.

Votes for Existing Projects

Section 2 of this bill would basically require WRDs to conduct a full assessment district vote of all landowners within the drain assessment district, to see if they want us to maintain, repair, or reconstruct an *existing* legal drain. Farmers rely on legal drains to provide drainage and flood relief. They pay their annual levies so WRDs can maintain and operate the drains; they do *not* want us to have to go through a lengthy and expensive assessment district vote every time we have to do any significant work on a drain. HB 1391 would basically be similar to requiring NDDOT to conduct a lengthy and expensive vote of all taxpayers in North Dakota to ask if they want NDDOT to replace a bridge that collapsed. In our mind, that makes no logical sense; requiring WRDs to go through a lengthy and expensive vote of landowners to see if they want their *existing* legal drain to function properly is the exact same thing.

Section 2 of HB 1391 would amend Section 61-16.1-45 of the Century Code, the statute that governs assessment district annual levies. WRDs levy these annual levies to generate dollars to maintain, operate, and improve our assessment facilities (including legal drains, dams, and other water facilities). Under Section 61-16.1-45, the maximum annual levy is \$4 per acre for ag acres, and we cannot collect any more than six years' worth of annual levies, and we cannot use those dollars for any other project or any other purpose.

Under current law, if one of our existing legal drains requires repairs, reconstruction, or improvements, as long as we do not "obligate" that drain's assessment district for more than the equivalent of six years of maximum levies, we move ahead with the project. We do what we need to do to ensure the drain functions properly, and to ensure the drain provides the drainage

the landowners expect and rely on for their farms and ranches. No lengthy or expensive vote, no new assessments. We get the job done, and landowners just pay their same annual levies.

Alternatively, HB 1391 would require WRDs to conduct assessment votes for most WRD projects to repair/reconstruct/improve existing legal drains. That might sound fair and might seem reasonable at first glance, but you have to understand the mechanics of how legal drains function and how the existing annual levies work to really grasp the impact this proposal would have.

Consider this example:

- Our WRD owns Drain A, a legal assessment drain constructed in 1960.
- Drain A is a five-mile legal drain that provides important drainage and flood relief for farmers in the surrounding watershed.
- The WRD issued bonds in 1960 to construct Drain A and assessed the landowners who benefit for the costs of construction.
- The Board retired the bonds in 1975, and the landowners similarly have not paid assessments for the costs of constructing the drain since 1975.
- The landowners in the Drain A watershed and assessment district simply pay their annual levies (up to \$4 per acre, per year).
- Let's say under this scenario that a maximum annual levy on Drain A brings in \$100K.
 - Under Section 61-16.1-45, the Board can only have up to \$600K in the Drain A fund (six-year maximum).
- The spring thaw results in culvert damages, channel erosion, and slope failures.
- The repair project (channel repair, laying back side slopes, installing larger culverts to meet Stream Crossing Standards) will cost \$700K.
- The State Water Commission will provide \$300K in cost-share. The Drain A fund has \$300K. The WRD will have to borrow \$100K against the assessment district, under Section 61-16.1-45.
- **Under current law**, the project will only “obligate” the assessment district for one-year’s worth of levies (since the WRD only has to borrow \$100K).
- No vote is required, the WRD completes the project before fall, and the drain functions properly the next spring.
- **Under HB 1391**, even though the project will only “obligate” the assessment district for one-year’s worth of levies, because the ***total*** project cost is more than six-years’ worth of levies (more than \$600K), the project requires a vote.

- A vote takes approximately six months and costs between \$25K and \$30K.
- Due to the time it takes to conduct the vote, the WRD cannot even bid the project until the following year. The drain does not function properly in the spring of '24 and landowners lose hundreds of acres due to inundation.

Example #2:

- Same facts as above, except FEMA (miraculously) agrees to provide 100% grant funding for the project, the full \$700K.
- Under HB 1391, even though the project will not cost the drain fund a single cent, because the *total* project cost is more than six-years' worth of levies (more than \$600K), the project requires a vote.
- Because of 1391, the WRD would have to conduct a lengthy and expensive vote, even though the project will not cost landowners a single penny, and landowners would lose hundreds of acres as they wait for the project.

Do Not Pass on HB 1391

Mr. Chairman and Committee members, the end result of this bill will be wasted tax dollars and lost (inundated) acreage. Farmers need these drains to function; this bill would be an impediment to reasonable water management and to sensible agriculture.

The Traill County Water Resource District strongly opposes HB 1391, and we respectfully urge a Do Not Pass.

Thank you for your consideration. I'd be happy to stand for any questions.