

Dear Chairman Porter and House Energy and Natural Resources Committee:

My name is Jack Dwyer, and I serve as the Executive Secretary of the North Dakota Water Resource Districts Association (NDWRDA). The NDWRDA supports SB 2036, which combines the assessment process available under NDCC 61-16.1 and the assessment process available under NDCC 61-21. We believe combining these two processes into one will make the assessment process utilized by water resource districts more consistent statewide.

However, there is one very important change that must be made to SB 2036. Generally, road authorities cover the cost of providing and maintaining road openings (culverts and bridges) to provide adequate conveyance under road infrastructure for rivers and streams. Historically, when any road opening needs to be constructed or improved to accommodate an assessment drain, 40% of the cost of construction has been covered by the county, and 60% has been covered by the water resource district. That 60/40 split has always applied to maintenance of those bridges and culverts as well. SB 2036 proposes that water resource districts cover 100% of the costs of maintenance of these bridges and culverts, potentially including 100% of the costs of bridge and culvert replacement or upgrades. Further, the language in 2036 seems to imply that water resource districts, instead of road authorities, are responsible for bridge safety issues. That is far outside the purview of water resource districts.

On the following pages we have provided proposed language that would keep the status quo that has been in place for many years.

On behalf of the Water Resource Districts Association, I want to thank the members of the Interim Water Drainage Committee for their work on this legislation.

Sincerely,

/s Jack Dwyer

Current Version of SB 2036, Section 21:

SECTION 21. AMENDMENT. Section 61-16.1-43 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-43. Construction of bridges and culverts - Costs.

1. The water resource board shall construct ~~such~~ any bridges or culverts over or in connection with a drain as in its judgment may be necessary to furnish passage from one part to another of any private farm or tract of land intersected by ~~such the~~ the drain. The cost of ~~such construction shall~~ constructing the bridge or culvert must be charged as part of the cost of constructing the drain, ~~and any such.~~ The bridge, or culvert, or passageway shall must be maintained under the authority of the water resource board, and the necessary expense ~~shall~~ must be deemed a part of the cost of maintenance.

~~Whenever~~

2. When any bridge or culvert is to be constructed on a county or township highway system over and across or in connection with a drain, the water resource board shall notify the county or township with authority for the highway and provide the county or township reasonable time to review and provide input on the plans for the bridge or culvert. The bridge or culvert must be maintained by the water resource board, and the necessary expense must be deemed a part of the cost of maintenance, unless otherwise agreed upon by the water resource board and the highway authority. If the water resource board denies a request for maintenance submitted by the county or township, the county or township may appeal the denial under chapter 28-34. The cost of constructing such the bridge or culvert shall must be shared in the following manner:
 - a. ~~The~~ If funds are available, the state water commission may, ~~if funds are available,~~ participate in ~~accordance with such rules and regulations as it may prescribe~~ according the commission's rules or policies. The remaining cost ~~shall~~ must be borne forty percent by the county and sixty percent by the district ~~which has that~~ created the need for ~~such the~~ construction
 - b. ~~If, however, moneys have not been made~~ funds are not available to the commission for participation in ~~accordance with subsection 1,~~ then forty percent of the cost of a bridge or culvert shall must be paid by the county and sixty percent shall must be charged as the cost of the drain to the district.

~~Where such bridges or culverts are~~

 - c. Upon request from the water resource board, the county shall request federal emergency funds for the construction. If the bridge or culvert is constructed with federal financial participation, including any federal emergency funds, the costs exceeding the amount of the federal participation shall must be borne by the district and county according to the provisions of this section, ~~as the case may be.~~

Proposed Revisions to SB 2036, Section 21:

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2. When any bridge or culvert is to be constructed on a county or township highway system over and across or in connection with a drain, the water resource board shall notify the county or township with authority for the highway and provide the county or township reasonable time to review and provide input on the plans for the bridge or culvert. The bridge or culvert must be maintained by the ~~water resource board county or township;~~ and the county shall pay forty percent of the necessary ~~maintenance expense and the water resource board shall pay sixty percent must be deemed a part of the cost of maintenance,~~ unless otherwise agreed upon by the water resource board and the highway authority. If the ~~highway authority and the~~ water resource board cannot agree on the necessity or proper methodology for maintenance, the requesting party denies a request for maintenance submitted by the county or township, the county or township may appeal the denial under chapter 28-34. The cost of constructing such ~~the~~ bridge or culvert ~~shall~~ must be shared in the following manner:
 - a. The ~~If funds are available, the~~ state water commission may, ~~if funds are available, participate in accordance with such rules and regulations as it may prescribe according the commission's rules or policies.~~ The remaining cost ~~shall~~ must be borne forty percent by the county and sixty percent by the district ~~which has~~ that created the need for ~~such~~ the construction
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 - c. Upon request from the water resource board, the county shall request federal emergency funds for the construction. If the bridge or culvert is constructed with federal financial participation, including any federal emergency funds, the costs exceeding the amount of the federal participation ~~shall~~ must be borne by the district and county according to the provisions of this section, ~~as the case may be.~~