

WATERS

CHAPTER 577

SENATE BILL NO. 2044

(Energy and Natural Resources Committee)
(At the request of the Department of Water Resources)

AN ACT to amend and reenact section 61-01-06 of the North Dakota Century Code, relating to watercourse determinations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-01-06 of the North Dakota Century Code is amended and reenacted as follows:

61-01-06. Watercourse and waterway - Definitions.

1. A watercourse entitled to the protection of the law is constituted if there is a sufficient natural and accustomed flow of water to form and maintain a distinct and a defined channel. The supply of water is not required to be continuous or from a perennial living source. The criteria for constituting a watercourse are satisfied if the flow arises periodically from natural causes and reaches a plainly defined channel of a permanent character. ~~If requested by a water resource board, the department of water resources shall determine whether a watercourse is constituted.~~
2. A person aggrieved by a watercourse determination made by a state agency or a political subdivision of the state may request the department of water resources review the determination. Upon request, the department of water resources shall review the state agency or political subdivision determination and determine whether a watercourse is constituted. A person aggrieved by a department of water resources determination may file an appeal under section 61-03-22.
3. For purposes of this title, unless the context otherwise requires, "waterway" means a natural, geologic feature that conveys surface water over land.

Approved March 17, 2025

Filed March 18, 2025

CHAPTER 578

HOUSE BILL NO. 1218

(Representatives Schreiber-Beck, D. Anderson, Beltz, Brandenburg, Headland,
Nelson, Weisz)

(Senators Meyer, Thomas, Wanzek, Weber)

AN ACT to create and enact a new section to chapter 61-02 of the North Dakota Century Code, relating to a temporary moratorium on conducting an economic analysis for assessment drain projects; to amend and reenact section 61-02-01.3 of the North Dakota Century Code, relating to comprehensive water development plans; to provide for a legislative management study; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-02-01.3 of the North Dakota Century Code is amended and reenacted as follows:

61-02-01.3. Comprehensive water development plan.

1. Biennially, the commission shall develop and maintain a comprehensive water development plan organized on a river basin perspective, including an inventory of future water projects for budgeting and planning purposes.
2. As part of the commission's planning process, to facilitate local project sponsor participation and project prioritization and to assist in education regarding life cycle analyses for municipal water supply projects, and economic analyses for flood control and water conveyance projects expected to cost more than one million dollars, the commission shall develop a policy that outlines procedures for commissioner-hosted meetings within the upper Missouri River, lower Missouri River, James River, upper Red River, lower Red River, Mouse River, Devils Lake, Little Missouri River, upper Heart River, and upper Cannonball River drainage basins.
3. The commission may not require an economic analysis for an assessment drain project if the project is expected to cost one million dollars or less.

SECTION 2. A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

Economic analysis for assessment drain projects - Moratorium.

Notwithstanding section 61-02-01.3, between August 1, 2025, and July 31, 2027, the state water commission or the department of water resources may not conduct an economic analysis for an assessment drain project within the state.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - FORMULA FOR ECONOMIC ANALYSIS FOR ASSESSMENT DRAIN PROJECTS. During the 2025-26 interim, the legislative management shall study the formula for conducting an economic analysis for assessment drain projects and the projected cost threshold for conducting economic analyses. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the seventieth legislative assembly.

SECTION 4. EXPIRATION DATE. Section 2 of this Act is effective through July 31, 2027, and after that date is ineffective.

Approved May 1, 2025

Filed May 2, 2025

CHAPTER 579

SENATE BILL NO. 2153

(Senators Dwyer, Sorvaag, Weber)
(Representatives Brandenburg, Mitskog, Hagert)

AN ACT to amend and reenact subsection 9 of section 61-02-02 of the North Dakota Century Code, relating to water conveyance projects and works.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 9 of section 61-02-02 of the North Dakota Century Code is amended and reenacted as follows:

9. "Project" means a water conveyance project or any one of the works defined in subsection ~~4011~~, or any combination of such works, which are physically connected or jointly managed and operated as a single unit.

Approved March 17, 2025

Filed March 18, 2025

CHAPTER 580

HOUSE BILL NO. 1043

(Energy and Natural Resources Committee)
(At the request of the Department of Water Resources)

AN ACT to amend and reenact section 61-02-08 of the North Dakota Century Code, relating to the vice chairman of the state water commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-02-08 of the North Dakota Century Code is amended and reenacted as follows:

61-02-08. Meetings of commission.

The commission shall hold at least one meeting every two months at places as it, by resolution, may provide. ~~The governor shall serve as chairman, and the commission shall select a member of the commission to serve as vice chairman.~~ The chairman, or in the chairman's absence or disability, the vice chairman of the commission, may issue a call for any meeting at any time. The governor or governor's appointed representative shall preside at all meetings of the commission, and in case of the absence or disability of the governor and governor's appointed representative, the vice chairman shall preside.

Approved March 14, 2025

Filed March 14, 2025

CHAPTER 581

HOUSE BILL NO. 1201

(Representatives Brandenburg, Grueneich, Hagert, Headland, Mitskog, Warrey,
Schreiber-Beck)
(Senators Erbele, Luick, Weber, Wanzek)

AN ACT to amend and reenact section 61-04-03.1 of the North Dakota Century Code, relating to a limitation on the amount of water not applied to beneficial use.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-04-03.1 of the North Dakota Century Code is amended and reenacted as follows:

61-04-03.1. Limitation on amount of water.

An applicant may not apply for a permit or permits for irrigation which, if approved, would enable a person, at any one time, to hold a conditional water permit or permits for more than seven hundred twenty acre-feet [888106.75 cubic meters] of water from a single surface or ground water source that has not been applied to beneficial use. Applications submitted in violation of this section may not be assigned a priority date and must be returned to the applicant by the department of water resources. This section may not apply to water permit applications from the Missouri River or to applications submitted by irrigation districts organized pursuant to this title. For the purposes of this section, "person", when applied to an individual, means the individual and the individual's spouse and dependents within the meaning of the Internal Revenue Code [26 U.S.C. 152].

Approved April 2, 2025

Filed April 3, 2025

CHAPTER 582

SENATE BILL NO. 2059

(Energy and Natural Resources Committee)
(At the request of the Department of Water Resources)

AN ACT to amend and reenact sections 61-04-05.1, 61-16.1-53.1, and 61-32-08 of North Dakota Century Code, relating to hearing and appeals processes of the department of water resources.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-04-05.1 of the North Dakota Century Code is amended and reenacted as follows:

61-04-05.1. Comments - Hearing.

1. Comments regarding a proposed appropriation must be in writing and filed by the date specified by the department of water resources under subsection 5 of section 61-04-05. The comments must state the name and mailing address of the person filing the comments. Comment letters submitted electronically must state the name and mailing address of the person filing the comments, and must be signed by the submitter to be considered valid and part of the official record.
2. A person filing written comments also may request a public hearing for the department to obtain additional information to evaluate the application or to receive public input by the date specified by the department of water resources under subsection 5 of section 61-04-05. If a request for a public hearing is made and the department determines a public hearing is necessary, the department shall designate a time and place for the public hearing and ~~serve a notice of hearing upon~~ notify the applicant and any person who filed written comments. ~~Service must be made in the manner allowed for service under the North Dakota Rules of Civil Procedure~~ by certified mail at least twenty days before the hearing.
3. If two or more municipal or public use permitholders request the public hearing to be held locally, the department of water resources shall hold the hearing in the county seat of the county in which the proposed water appropriation site is located.
4. The department of water resources shall consider all written comments received and testimony presented at a public hearing, if held, and shall make a recommended decision in writing. The recommended decision must be mailed to the applicant and any party of record and may constitute:
 - a. Approval of all or a portion of the application, with the remainder held in abeyance or denied;
 - b. Denial of the application; or
 - c. Deferral of the application.

5. Within thirty days of service of the recommended decision, the applicant and any party of record who would be aggrieved by the decision may file additional written comments with the department of water resources or request an adjudicative proceeding on the application, or both. A request for an adjudicative proceeding must be made in writing and must state with particularity how the person would be aggrieved by the decision and the issues and facts to be presented at the proceeding. If a request for an adjudicative proceeding is not made, the department shall consider the additional comments, if any are submitted, and issue a final decision. If a request for an adjudicative proceeding is made and the department determines an adjudicative proceeding is necessary, the department shall designate a time and place for the adjudicative proceeding and ~~serve the notice of adjudicative proceeding upon~~ notify the applicant and any person who filed written comments. ~~Service must be made in the manner allowed for service under the North Dakota Rules of Civil Procedure~~ by certified mail at least twenty days before the hearing.

SECTION 2. AMENDMENT. Section 61-16.1-53.1 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-53.1. Appeal of board decisions - Department of water resources review - Closing of noncomplying dams, dikes, or other devices for water conservation, flood control, regulation, and watershed improvement.

1. The board shall make the decision required by section 61-16.1-53 within a reasonable time, not exceeding one hundred twenty days, after receiving the complaint. The board shall notify all parties of its decision by certified mail. Any aggrieved party may appeal the board's decision to the department of water resources. The appeal to the department must be made within thirty days from the date notice of the board's decision has been received. The appeal must be made by submitting a written notice to the department which must state specifically the reason why the board's decision is erroneous. The appealing party also shall submit copies of the written appeal notice to the board and to all nonappealing parties. Upon receipt of this notice the board, if it has ordered removal of a dam, dike, or other device, is relieved of its obligation to procure the removal of the dam, dike, or other device. The department shall handle the appeal by conducting an independent investigation and making an independent determination of the matter. The department may enter property affected by the complaint to investigate the complaint.
2. If the board fails to investigate and make a determination concerning the complaint within a reasonable time, not exceeding one hundred twenty days, the person filing the complaint may file the complaint with the department of water resources within one hundred fifty days of the submittal date of the original complaint. Without reference to chapter 28-32, the department shall cause the investigation and determination to be made, either by action against the board or by conducting the investigation and making the determination.
3. If the department of water resources determines a dam, dike, or other device has been constructed or established by a landowner or tenant contrary to title 61 or any rules adopted by the board, the department shall take one of these three actions:
 - a. Notify the landowner by certified mail at the landowner's post-office address of record;

- b. Return the matter to the jurisdiction of the board along with the investigation report; or
 - c. Forward the dam, dike, or other device complaint and investigation report to the state's attorney.
4. If the department of water resources decides to notify the landowner, the notice must specify the nature and extent of the noncompliance and state that if the dam, dike, or other device is not removed within a reasonable time as determined by the department, but not less than thirty days, the department shall procure the removal of the dam, dike, or other device and assess the cost of removal against the responsible landowner's property. ~~The notice from the department also must state that, within fifteen days of the date the notice is mailed, the affected landowner may demand, in writing, a hearing on the matter. Upon receipt of the demand, the department shall set a hearing date within fifteen days from the date the demand is received.~~ If, in the opinion of the department, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners. Upon assessment of costs, the department shall certify the assessment to the county auditor of the county where the noncomplying dam, dike, or other device is located. The county auditor shall extend the assessment against the property assessed. Each assessment must be collected and paid as other property taxes are collected and paid. Assessments collected must be deposited with the state treasurer and credited to the contract fund established by section 61-02-64.1. ~~Any person aggrieved by action of the department under this section may appeal the decision of the department to the district court under chapter 28-32. A hearing by the department as provided for in this section is a prerequisite to an appeal.~~
5. If the department of water resources, after completing the investigation required under this section, decides to return the matter to the board, a complete copy of the investigation report must be forwarded to the board and must include the nature and extent of the noncompliance. Upon having the matter returned to its jurisdiction, the board shall carry out the department's decision under the terms of this section.
6. If the department of water resources, after completing the investigation required under this section, decides to forward the dam, dike, or other device complaint to the state's attorney, a complete copy of the investigation report must also be forwarded and must include the nature and extent of the noncompliance. The state's attorney shall prosecute the complaint under the statutory responsibilities prescribed in chapter 11-16.
7. If the department of water resources dismisses the dam, dike, or other device complaint, the department of water resources shall notify all parties of record to the appeal and include in its notification the department of water resource's investigation report, if applicable.
8. In addition to the penalty imposed by the court on conviction under this statute, the court shall order the dam, dike, or other device removed within a reasonable time period as the court determines, but not less than thirty days. If the dam, dike, or other device is not removed within the time prescribed by the court, the court shall procure the removal of the dam, dike, or other device, and assess the cost against the property of the landowner responsible, in the same manner as other assessments under chapter 61-16.1 are levied. If, in

the opinion of the court, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners.

9. Any party aggrieved by a decision of the department of water resources under this section may request a hearing under section 61-03-22 and appeal the decision to district court under chapter 28-32. A hearing by the department of water resources under this section is a prerequisite to an appeal.

SECTION 3. AMENDMENT. Section 61-32-08 of the North Dakota Century Code is amended and reenacted as follows:

61-32-08. Appeal of board decisions - Department of water resources review - Closing of noncomplying drains.

1. The board shall make the decision required by section 61-32-07 within a reasonable time, but not to exceed one hundred twenty days, after receiving the complaint. The board shall notify all parties of its decision by certified mail. Any aggrieved party may appeal the board's decision to the department of water resources. The appeal to the department must be made within thirty days from the date notice of the board's decision has been received. The appeal must be made by submitting a written notice to the department, and the notice must specify the reason why the board's decision is erroneous. The appealing party also shall submit copies of the written appeal notice to the board and to all nonappealing parties. Upon receipt of this notice the board, if it has ordered closure of a drain, lateral drain, or ditch, is relieved of its obligation to procure the closing or filling of the drain, lateral drain, or ditch. The department shall handle the appeal by conducting an independent investigation and making an independent determination of the matter. The department may enter property affected by the complaint to investigate the complaint.
2. If the board fails to investigate and make a determination concerning the complaint within a reasonable time, but not to exceed one hundred twenty days, the person filing the complaint may file the complaint with the department of water resources within one hundred fifty days of the submittal date of the original complaint. The department, without reference to chapter 28-32, shall cause the investigation and determination to be made, either by action against the board or by conducting the investigation and making the determination.
3. If the department of water resources determines a drain, lateral drain, or ditch has been opened or established by a landowner or tenant contrary to title 61 or any rules adopted by the board, the department shall take one of three actions:
 - a. Notify the landowner by certified mail at the landowner's post-office address of record;
 - b. Return the matter to the jurisdiction of the board along with the investigation report; or
 - c. Forward the drainage complaint and investigation report to the state's attorney.

4. If the department of water resources decides to notify the landowner, the notice must specify the nature and extent of the noncompliance and state if the drain, lateral drain, or ditch is not closed or filled within a reasonable time as determined by the department, but not less than thirty days, the department shall procure the closing or filling of the drain, lateral drain, or ditch and assess the cost, against the responsible landowner's property. ~~The notice from the department must state the affected landowner may demand in writing, within fifteen days of the date the notice is mailed, a hearing on the matter. Upon receipt of the demand, the department shall set a hearing date within fifteen days from the date the demand is received.~~ If, in the opinion of the department, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners. Upon assessment of costs, the department shall certify the assessment to the county auditor of the county where the noncomplying drain, lateral drain, or ditch is located. The county auditor shall extend the assessment against the property assessed. Each assessment must be collected and paid as other property taxes are collected and paid. Assessments collected must be deposited with the state treasurer and credited to the contract fund established by section 61-02-64.1. ~~Any person aggrieved by action of the department under this section may appeal the decision of the department to the district court under chapter 28-32. A hearing by the department under this section is a prerequisite to an appeal.~~
5. If the department of water resources, after completing the investigation required under this section, decides to return the matter to the board, a complete copy of the investigation report must be forwarded to the board and it must include the nature and extent of the noncompliance. Upon having the matter returned to its jurisdiction, the board shall carry out the department's decision under this section.
6. If the department of water resources, after completing the investigation required under this section, decides to forward the drainage complaint to the state's attorney, a complete copy of the investigation report must be forwarded and must include the nature and extent of the noncompliance. The state's attorney shall prosecute the complaint under the statutory responsibilities prescribed in chapter 11-16.
7. If the department of water resources dismisses the drainage complaint, the department of water resources shall notify all parties of record to the appeal and include in its notification the department of water resource's investigation report, if applicable.
8. In addition to the penalty imposed by the court on conviction under this statute, the court shall order the drain, lateral drain, or ditch closed or filled within a reasonable time period as the court determines, but not less than thirty days. If the drain, lateral drain, or ditch is not closed or filled within the time prescribed by the court, the court shall procure the closing or filling of the drain, lateral drain, or ditch, and assess the cost against the property of the landowner responsible, in the same manner as other assessments under chapter 61-16.1 are levied. If, in the opinion of the court, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners.
9. Any party aggrieved by a decision of the department of water resources under this section may request a hearing under section 61-03-22 and appeal the

decision to district court under chapter 28-32. A hearing by the department of water resources under this section is a prerequisite to an appeal.

Approved March 17, 2025

Filed March 18, 2025

CHAPTER 583

HOUSE BILL NO. 1042

(Energy and Natural Resources Committee)
(At the request of the Department of Water Resources)

AN ACT to amend and reenact section 61-04-14 of the North Dakota Century Code, relating to extending time for the application of water to a beneficial use.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-04-14 of the North Dakota Century Code is amended and reenacted as follows:

61-04-14. Extending time for application to beneficial use.

The department of water resources may extend the time for the application of water to the beneficial use cited in the conditional water permit for good cause shown. When the time has expired, the department may renew and extend the time upon application. However, a conditional water permit, or any portion of the application permit must be considered forfeited if no request for renewal is received by the department within sixty days after the date the permitholder is informed the period for applying water to the beneficial use cited in the conditional water permit has expired. If a request to extend the time for application to beneficial use for any conditional water permit, or portion of the permit, is denied, the conditional water permit, or portion of the permit, must be considered forfeited. Sections 61-04-23 through 61-04-25 do not apply to this section.

Approved March 17, 2025

Filed March 18, 2025

CHAPTER 584

SENATE BILL NO. 2141

(Senators Patten, Erbele, Kessel)
(Representatives Dressler, Hagert, Novak)

AN ACT to amend and reenact section 61-04-15.4 of the North Dakota Century Code, relating to a change in the purpose of use of a conditional or perfected water permit.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-04-15.4 of the North Dakota Century Code is amended and reenacted as follows:

61-04-15.4. Change in purpose of use.

1. A permitholder may change the purpose of use of a conditional or perfected water permit without affecting the priority date, if approved by the department of water resources. ~~Applications for a~~
2. An application to change in the purpose of use must be processed and evaluated in the same manner as a conditional water permit application. A
3. The department of water resources may approve the proposed change if the proposed change will not adversely affect the rights of other appropriators and if a change in the purpose of use may be authorized only for:
 - a. ~~To a superior use as determined by~~ under the order of priority in section 61-04-06.1. The department may approve the proposed change if the proposed change will not adversely affect the rights of other appropriators; ~~or~~
 - b. To livestock use or fish, wildlife, and recreation use for a reservoir authorizing no withdrawal of water.

Approved March 17, 2025

Filed March 18, 2025

CHAPTER 585

SENATE BILL NO. 2065

(Energy and Natural Resources Committee)
(At the request of the Department of Water Resources)

AN ACT to amend and reenact section 61-05-10 of the North Dakota Century Code, relating to the formation of irrigation districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-05-10 of the North Dakota Century Code is amended and reenacted as follows:

61-05-10. Hearing on petition - Notice - ~~Report~~Determination on feasibility - Copy of ~~report~~determination filed - Submitted to electors.

The department of water resources shall examine the petition, maps, papers, probable cost, and data pertaining to the proposed irrigation district and shall fix a time and place for hearing the petition. A notice stating the petition will be heard, and stating the time and place of hearing, must be filed with the county auditor of each county in which the proposed district is located. The notice must be published once each week for two consecutive weeks in the newspapers of general circulation where the district is located and in the official newspaper of each county in which the district is located. The date set for the hearing on the petition may not be less than twenty days after the first publication of the notice. Before the hearing the department shall review the maps, preliminary designs, probable cost, and feasibility study and shall prepare, or shall cause to be prepared a ~~summary report showing the probable cost of the proposed irrigation works and determination~~ determination outlining the practicability and feasibility of the plan of irrigation suggested or proposed by petitioners for the irrigation of the lands within the district. A copy of the ~~report~~determination must be filed with the county auditor of each county in which the proposed irrigation district is situated, and the ~~report~~determination must be open to public inspection. The department of water resources also shall submit the ~~report~~determination to the electors of the proposed district at the meeting set for hearing the petition for the organization of the proposed district.

Approved March 17, 2025

Filed March 18, 2025

CHAPTER 586

SENATE BILL NO. 2276

(Senator Luick)

AN ACT to amend and reenact sections 61-16.1-11, 61-16.1-15.1, and 61-16.1-59 of the North Dakota Century Code, relating to the joint exercise of powers of joint water resource boards, mandating the formation of joint water resource boards for projects affecting two or more counties, and proceedings to confirm special actions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-16.1-11 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-11. Joint exercise of powers. (Retroactive application - See note)

1. Two or more districts may, by agreement, jointly or cooperatively exercise any power which is authorized a board by this title. The agreement shall state its purpose and the powers to be exercised, and shall provide for the method by which the power or powers shall be exercised. When the agreement provides for the use of a joint water resource board, the joint board shall be representative of the boards which are parties to the agreement. Notwithstanding other provisions of law, the agreement may specify the number, composition, terms, or qualifications of the members of the joint board. However, the joint board must consist of an equal number of members from each district comprising the joint board. A joint board created under this section is a political subdivision of the state.
2. The districts which are parties to such an agreement may provide for disbursements from their individual budgets to carry out the purpose of the agreement. In addition, a joint board established pursuant to this section may adopt, by resolution, on or before July first of each year, a budget showing estimated expenses for the ensuing fiscal year and the proposed contributions of each member district as determined by the agreement. The boards of the member districts then shall levy by resolution a tax not to exceed two mills upon the taxable valuation of the real property within each district within the river basin or region subject to the joint agreement. The levy may be in excess of any other levy authorized for a district.
3. The proceeds of one-half of this levy shall be credited to the joint board's administrative fund and shall be used for regulatory activities and for the construction and maintenance of projects of common benefit to the member districts. The remainder shall be credited to the construction funds of the joint board and shall be used for the construction and maintenance of projects of common benefit to more than one district.
4. Funds may be paid to and disbursed by the joint board as agreed upon, but the method of disbursement shall agree as far as practicable with the method provided by law for the disbursement of funds by individual districts. Contracts let and purchases made under the agreements shall conform to the

requirements applicable to contracts and purchases by individual districts. The joint board shall be accountable for all funds and reports of all receipts and disbursements to the state water commission in a manner prescribed by the commission.

5. The agreement may be continued for a definite term or until rescinded or terminated in accordance with its terms. The agreement shall provide for the disposition of any property required as the result of a joint or cooperative exercise of powers, and the return of any surplus moneys in proportion to contributions of the several contracting districts after the purpose of the agreement has been completed.
6. Residence requirements for holding office in a district shall not apply to any officer appointed to carry out any agreement.
7. This section does not dispense with procedural requirements of any other statute providing for the joint or cooperative exercise of any governmental power.
8. ~~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 may 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 61-16.1-15.1 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-15.1. Projects or benefits in more than one county.

1. ~~The~~Before constructing a project and before assessing the lands or premises for a project located in or benefiting more than one county, the districts from two or more counties ~~may agree to jointly construct or assign benefits and assessments for a project. Two or more districts shall create a joint board under section 61-16.1-11 before constructing a project and before assessing the lands or premises for a project that benefits or is located in more than one county. If the districts do not agree to undertake a joint project, a district may undertake the project by providing notice to the joint board where the project is located, in either the Red River, James River, Mouse River, Missouri River, or Devils Lake drainage basin, together with the engineer's report required under section 61-16.1-17.~~
2. If the joint board or district finds the project is necessary, and the benefits of the project will exceed the costs, the joint board or district shall proceed with the procedures in sections 61-16.1-15 through 61-16.1-36 regarding:
 - a. The creation, construction, alteration, repair, operation, and maintenance of a project and an assessment district;
 - b. The determination and levy of assessments against property benefited by the project; and

- c. The special warrants issued pursuant to this chapter.
3. If the assessment vote is successful, the joint board or district shall construct, own, operate, and maintain the project. The joint board or district shall administer the corresponding assessment district for the project in accordance with this chapter and shall direct the county auditor of each county within the assessment district to levy assessments. Each county auditor shall levy assessments as determined by the joint board.
 4. If a district conducts a reassessment of benefits under this chapter for an existing project and concludes property in another county benefits from the project, the district shall notify the other district of the requirement to form a joint board. If the district refuses to form a joint board, the district shall proceed with the reassessment and include the property in the project assessment district. Affected landowners subject to assessments may appeal the reassessment determination in accordance with this chapter. After the expiration of applicable appeal periods under this chapter, the district shall direct the county auditor of each county within the assessment district to levy assessments. Each county auditor shall levy assessments as determined by the joint board.
 5. If a county auditor refuses to levy assessments as directed by a joint board or a district, the joint board or district may seek a writ of mandamus under chapter 32-34 from the district court of the county in which the benefited property is located. If the joint board or district prevails, the district court shall award costs and reasonable attorneys' fees to the joint board or district seeking the writ of mandamus.
 6. If the members of the joint board cannot agree about the necessity of a project, the process to undertake an approved project, or the procedure to assess benefits, the joint board shall request assistance from the North Dakota mediation service to resolve grievances arising from the conflict. After receiving the request, the North Dakota mediation service shall assist the members of the joint board to mediate the conflict. The North Dakota mediation service shall issue a proposed mediation agreement within thirty days of completing the mediation. Each member of the joint board shall participate in good faith in the mediation.
 7. If the proposed mediation agreement is not agreed to by a majority of the members of a joint board, a member of the joint board may file an appeal with the department of water resources to issue a determination to resolve the conflict. The appealing party must file the appeal within thirty days of the issuance of the proposed mediation agreement under subsection 6. Within sixty days of receipt of the appeal, the department of water resources shall review and investigate the complaint and issue its determination. A hearing held by the department of water resources under this section is a prerequisite to issuing a determination under this subsection.
 8. If the determination issued by the department of water resources is not agreed to by a majority of the members of a joint board, a member of the joint board may appeal the decision of the department of water resources to the appropriate district court under chapter 28-32. A hearing held by the department of water resources under this section is a prerequisite to filing an appeal with the district court.

SECTION 3. AMENDMENT. Section 61-16.1-59 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-59. Proceedings to confirm contracts, special assessments, and other acts.

~~Any water resource board, before making any~~Before a water resource board enters a contract, or before levying special assessments, or issuing special assessment warrants, or before taking any special action, or if a water resource board in a common river basin does not agree to meet or cooperate in good faith as required under section 61-16.1-15.1, a water resource board may commence a special proceeding in district court by which the proceeding leading up to the making of ~~such a~~ contract, levying special assessments, issuing special assessment warrants, or leading up to any other special action, including a request to cooperate under section 61-16.1-15.1, shall be judicially examined, approved, and confirmed. ~~Such~~The court may award reasonable attorneys' fees and costs if a water resource board fails to cooperate or act in good faith under section 61-16.1-15.1. Any judicial ~~proceedings~~proceeding commenced under this section shall comply substantially with the procedure required in the case of judicial confirmation of proceedings, acts, and contracts of an irrigation district.

Approved April 24, 2025

Filed April 25, 2025

CHAPTER 587

HOUSE BILL NO. 1280

(Representatives Brandenburg, Beltz, Grueneich, Headland, Pyle, Schreiber-Beck)
(Senators Conley, Erbele, Luick, Myrdal, Wanzek, Weber)

AN ACT to amend and reenact section 61-16.1-45 of the North Dakota Century Code, relating to maintenance of drainage projects.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-16.1-45 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-45. Maintenance of drainage projects.

1. If it is desired to provide for maintenance of an assessment drain in whole or in part by means of special assessments, the levy in any year for the maintenance may not exceed four dollars per acre [.40 hectare] on any agricultural lands benefited by the drain. The district, at its own discretion, may utilize either of the following methods for levying special assessments for the maintenance:
 - a. Agricultural lands that carried the highest assessment when the drain was originally established, or received the most benefits under a reassessment of benefits, may be assessed the maximum amount of four dollars per acre [.40 hectare]. The assessment of other agricultural lands in the district must be based upon the proportion that the assessment of benefits at the time of construction or at the time of any reassessment of benefits bears to the assessment of the benefits of the agricultural land assessed the full four dollars per acre [.40 hectare]. Nonagricultural property must be assessed the sum in any one year as the ratio of the benefits under the original assessments or any reassessment bears to the assessment of agricultural lands bearing the highest assessment.
 - b. Agricultural lands must be assessed uniformly throughout the entire assessed area. Nonagricultural property must be assessed an amount not to exceed two dollars for each five hundred dollars of taxable valuation of the nonagricultural property.
2. In case the maximum levy or assessment on agricultural and nonagricultural property for any year will not produce an amount sufficient to cover the cost of cleaning out and repairing the drain, a water resource board may accumulate a fund in an amount not exceeding the sum produced by the maximum permissible levy for six years.
3. If the cost of, or obligation for, the cleaning and repairing of any drain exceeds the total amount that may be levied by the board in any six-year period, the board shall obtain the approval of the majority of the landowners as determined by chapter 61-16.1 before obligating the district for the costs.

4. If a board holds an election to approve a project under subsection 3, an affected landowner receiving a benefit from a project may not vote on the question of obligating the district for the costs if the landowner has failed to pay the required assessment.

Approved April 16, 2025

Filed April 16, 2025

CHAPTER 588

HOUSE BILL NO. 1041

(Energy and Natural Resources Committee)
(At the request of the Department of Water Resources)

AN ACT to amend and reenact section 61-16.1-53 of the North Dakota Century Code, relating to removal of a noncomplying dike, dam, or other device.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-16.1-53 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-53. Removal of a noncomplying dike, dam, or other device - Notice and hearing - Appeal - Injunction.

1. Upon receipt of a complaint of unauthorized construction of a dike, dam, or other device for water conservation, flood control, regulation, watershed improvement, or storage of water, the water resource board shall promptly investigate and make a determination thereon. If the board determines that a dike, dam, or other device, ~~capable of retaining, obstructing, or diverting more than fifty acre feet [61674.08 cubic meters] of water or twenty five acre feet [30837.04 cubic meters] of water for a medium hazard or high hazard dam,~~ has been established or constructed by a landowner or tenant contrary to this title or any rules adopted by the board, the board shall notify the landowner by certified mail at the landowner's post-office address of record. A copy of the notice must also be sent to the tenant, if any. The notice must specify the nature and extent of the noncompliance and must state that if the dike, dam, or other device is not removed within the period the board determines, but not less than fifteen days, the board shall cause the removal of the dike, dam, or other device and assess the cost of the removal, or the portion the board determines, against the property of the landowner responsible. The notice must also state that the affected landowner, within fifteen days of the date the notice is mailed, may demand, in writing, a hearing upon the matter. Upon receipt of the demand, the board shall set a hearing date within fifteen days from the date the demand is received. In the event of an emergency, the board may immediately apply to the appropriate district court for an injunction prohibiting the landowner or tenant from constructing or maintaining the dike, dam, or other device, or ordering the landowner to remove the dike, dam, or other device. Assessments levied under this section must be collected in the same manner as other assessments authorized by this chapter. If, in the opinion of the board, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners. If a complaint is frivolous in the discretion of the board, the board may assess the costs of the frivolous complaint against the complainant.
2. Following removal of an unauthorized dike, dam, or other device, either by a water resource board or by a party complying with an order of a water resource board, the board may assess its costs against the property of the responsible landowner.

Approved March 17, 2025

Filed March 18, 2025

CHAPTER 589

SENATE BILL NO. 2060

(State and Local Government Committee)
(At the request of the Department of Water Resources)

AN ACT to amend and reenact section 61-16.2-12 of the North Dakota Century Code, relating to state property constructed in a floodplain.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-16.2-12 of the North Dakota Century Code is amended and reenacted as follows:

61-16.2-12. State property.

Notwithstanding any other ~~statutes, statute or regulations~~regulation, all state property and structures ~~thereon shall be on state property~~ are subject to the provisions of this chapter and any ordinances adopted ~~pursuant to~~under this chapter or the national flood insurance program [42 U.S.C. 4001 et seq.]. The appropriate state agency or entity having an interest in state property and state structures shall notify the department when state property or structures are constructed within a special flood hazard area designated by the federal emergency management agency.

Approved March 25, 2025

Filed March 26, 2025

CHAPTER 590

HOUSE BILL NO. 1040

(Agriculture Committee)

(At the request of the Department of Water Resources)

AN ACT to amend and reenact section 61-34-04 of North Dakota Century Code, relating to eligibility for the drought disaster livestock water assistance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-34-04 of the North Dakota Century Code is amended and reenacted as follows:

61-34-04. Eligibility - Application for assistance.

Applicants with livestock water supply problems caused by drought may apply for assistance from the program. ~~An applicant must first apply for water cost share assistance from the United States department of agriculture farm service agency. If cost share assistance is denied by the agency, the applicant may forward the application to the commission for consideration. An application forwarded to the commission must include a document from the United States department of agriculture farm service agency stating the reason for denial of cost share assistance.~~ The department of water resources shall review all applications received by the commission. Notwithstanding any other provision of law, a water supply project commenced after application for funding is made but without prior approval of the department is eligible for funding consideration from the program. The department shall provide funds for approved applications in accordance with rules and criteria for eligibility and only to the extent that funding is available. A drought disaster livestock water assistance program project located on Indian land is eligible for the program.

Approved March 14, 2025

Filed March 14, 2025

CHAPTER 591

SENATE BILL NO. 2299

(Senators Paulson, Castaneda, Luick)
(Representatives D. Ruby, VanWinkle, Wolff)

AN ACT to amend and reenact subsection 1 of section 54-10-14, subsection 1 of section 54-10-15, and sections 61-35-09 and 61-35-10 of the North Dakota Century Code, relating to oversight of water districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁷⁹ **SECTION 1. AMENDMENT.** Subsection 1 of section 54-10-14 of the North Dakota Century Code is amended and reenacted as follows:

1. The state auditor shall audit the following political subdivisions once every two years, except as provided in this section or otherwise by law:
 - a. Counties.
 - b. Cities, and when a city is audited, to include any political subdivision that was created by the city and has bonding authority.
 - c. Park districts.
 - d. School districts.
 - e. Firefighters relief associations.
 - f. Airport authorities.
 - g. Public libraries.
 - h. Water resource districts, created under chapter 61-16 and operating under chapter 61-16.1.
 - i. Garrison Diversion Conservancy District.
 - j. Rural fire protection districts.
 - k. Special education districts.
 - l. Area career and technology centers.
 - m. Correction centers.
 - n. Recreation service districts.
 - o. Weed boards.

²⁷⁹ Section 54-10-14 was also amended by section 2 of Senate Bill No. 2251, chapter 481.

- p. Irrigation districts.
- q. Rural ambulance service districts.
- r. Southwest water authority.
- s. Regional planning councils.
- t. Soil conservation districts.
- u. Western area water supply authority industrial water sales on an annual basis.
- v. Water districts subject to chapter 61-35.

SECTION 2. AMENDMENT. Subsection 1 of section 54-10-15 of the North Dakota Century Code is amended and reenacted as follows:

1. The state auditor, by duly appointed deputy auditors or other authorized agents, shall audit or review the books, records, and financial accounts of any political subdivision when ordered by the legislative audit and fiscal review committee. The state auditor, by duly appointed auditors or other authorized agents, may audit or review the books, records, and financial accounts of any political subdivisions when requested by the governor, requested by the governing board, or upon petition of at least thirty-five percent of the qualified electors of any political subdivision enumerated in section 54-10-14 voting for the office of governor at the preceding general election ~~or, in the case of~~ regarding school districts, upon petition of at least thirty-five percent of the qualified electors voting at the preceding school board election; regarding water districts subject to chapter 61-35, upon a petition of at least ten percent or three hundred participating members, whichever is fewer, or upon the request of the state court administrator with respect to clerk of district court services provided by a county in accordance with chapter 27-05.2. Fees for the audits must be paid in accordance with the provisions of section 54-10-14.

SECTION 3. AMENDMENT. Section 61-35-09 of the North Dakota Century Code is amended and reenacted as follows:

61-35-09. Bylaws submitted at special meeting.

Within thirty days after election of the original board, proposed bylaws must be submitted for adoption at a special meeting of members of the district, written notice of which must be mailed to each member. Members present at the special meeting may adopt or amend any of the proposed bylaws, and may propose and adopt alternative or additional bylaws by a majority vote. The bylaws may subsequently be amended at any annual or special meeting of the participating members of the district. However, the bylaws of each district must provide:

1. For an annual meeting of participating members each year after the year of organization of the district and for mailing of written notice of the time and place of each annual meeting to each participating member and publication of the notice in the official newspaper of the county or counties served by the district not less than ten nor more than thirty days before each meeting.

2. That each participating member of the district is entitled to one vote at all annual and special meetings of the district for each benefit unit to which the member has subscribed.
3. That each participating member seeking election to the board shall present a petition containing signatures of ten participating members. All petitions must be submitted to the secretary of the board or nominating committee at least forty-five days before the election or by the mail election deadline established under the district's bylaws. Any participating member who submits a petition must be added to the ballot, provided they reside in the appropriate district and qualify to serve as a director under the district's bylaws.

SECTION 4. AMENDMENT. Section 61-35-10 of the North Dakota Century Code is amended and reenacted as follows:

61-35-10. Directors divided into classes - Terms - Vacancies.

1. The initial board of each district shall divide its members by lot into three classes of as nearly equal size as possible. The terms of the directors in the first, second, and third classes expire on dates of the annual meetings in the first, second, and third years, respectively, following the year in which the district is organized, or as soon thereafter as their successors are elected and have qualified.
2. At the annual meeting in each year after the year in which the district is organized, a director must be elected to succeed each director whose term of office expires on that date, and each director so elected holds office for a term of three years and until a successor is elected and has qualified.
3. Vacancies must be filled for the unexpired term by appointment by the remaining directors until the next annual meeting of participating members, at which the participating members shall elect a director for the unexpired term.
4. All elections held under this chapter must be conducted to allow participating members to access all stages of the election process, including voting and vote tabulation in a uniform and nondiscriminatory manner. Each meeting must be arranged in a manner that permits each participating member to plainly observe the election process.

Approved April 2, 2025

Filed April 3, 2025

CHAPTER 592

HOUSE BILL NO. 1162

(Representatives Schauer, Jonas, Koppelman, McLeod, Pyle, Stemen, Swiontek,
Warrey)
(Senators Lee, Sorvaag, Clemens)

AN ACT to amend and reenact subsection 1 of section 61-39-03 of the North Dakota Century Code, relating to the board of directors of the Lake Agassiz water authority.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 61-39-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The authority must be governed by a board of directors selected as follows:
 - a. One member from a city with a population greater than forty thousand located east of state highway 1 and north of state highway 200.
 - b. ~~One member~~ Two members from ~~a city~~ differing cities with a population greater than forty thousand located east of state highway 1 and south of state highway 200.
 - c. One member from a city with a population of five thousand but not more than forty thousand located east of state highway 1.
 - d. One member from a city with a population of less than five thousand located east of state highway 1.
 - e. Two members from water districts located east of state highway 1 and north of state highway 200.
 - f. Two members from water districts located east of state highway 1 and south of state highway 200.
 - g. One member from water districts located east of state highway 1.
 - h. One member from a Minnesota city with a population of more than thirty thousand and which is located within five miles [8.05 kilometers] of this state.
 - i. One member from water districts located west of state highway 1.
 - j. One member from a city west of state highway 1.

Approved April 16, 2025

Filed April 16, 2025