

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1201

Introduced by

Representatives Brandenburg, Grueneich, Hagert, Headland, Mitskog, Warrey, Schreiber-Beck

Senators Erbele, Luick, Weber, Wanzek

1 A BILL ~~for an Act to amend and reenact section 61-16.1-43 of the North Dakota Century Code,~~
2 ~~relating to drains intersecting with a roadway that is part of the state highway system.~~ for an Act
3 to amend and reenact section 61-04-03.1 of the North Dakota Century Code, relating to a
4 limitation on the amount of water not applied to beneficial use.

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

6 ~~SECTION 1. AMENDMENT. Section 61-16.1-43 of the North Dakota Century Code is~~
7 ~~amended and reenacted as follows:~~

8 ~~61-16.1-43. Construction of bridges and culverts—Costs—Specifications:~~

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

16 ~~2. When any bridge or culvert is to be constructed on a county or township highway~~
17 ~~system over and across or in connection with a drain, the water resource board shall~~
18 ~~notify the county or township with authority for the highway and provide the county or~~
19 ~~township reasonable time to review and provide input on the plans for the bridge or~~
20 ~~culvert. The bridge or culvert must be maintained by the county or township and all~~

1 ~~necessary maintenance expenses must be borne forty percent by the county and sixty~~
2 ~~percent by the water resource board, unless otherwise agreed upon by the water~~
3 ~~resource board and the highway authority. If the highway authority and the water~~
4 ~~resource board cannot agree on the necessity or proper methodology for maintaining~~
5 ~~the bridge or culvert, the requesting party may appeal the denial under chapter 28-34.~~
6 ~~The cost of constructing the bridge or culvert must be shared in the following manner:~~
7 ~~a. If funds are available, the state water commission may participate according to~~
8 ~~the commission's rules or policies. The remaining cost must be borne forty~~
9 ~~percent by the county and sixty percent by the district that created the need for~~
10 ~~the construction.~~
11 ~~b. If funds are not available to the commission for participation, forty percent of the~~
12 ~~cost must be paid by the county and sixty percent must be charged as the cost of~~
13 ~~the drain to the district.~~
14 ~~c. Upon request from the water resource board, the county shall request federal~~
15 ~~emergency funds for the construction. If the bridge or culvert is constructed with~~
16 ~~federal financial participation, including any federal emergency funds, the costs~~
17 ~~exceeding the amount of the federal participation must be borne by the district~~
18 ~~and county according to the provisions of this section.~~
19 ~~3. If a roadway that is part of the state highway system and which contains a culvert~~
20 ~~intersects with a drain and the watershed of the drain spans three or more counties,~~
21 ~~the culvert must include a control valve system to regulate the flow of water through~~
22 ~~the culvert.~~

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

25 **61-04-03.1. Limitation on amount of water.**

26 An applicant may not apply for a permit or permits for irrigation which, if approved, would
27 enable a person, at any one time, to hold a conditional water permit or permits for more than
28 seven hundred twenty acre-feet [888106.75 cubic meters] of water from a single surface or
29 ground water source that has not been applied to beneficial use. Applications submitted in
30 violation of this section may not be assigned a priority date and must be returned to the
31 applicant by the department of water resources. This section may not apply to water permit

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- 1 applications from the Missouri River or to applications submitted by irrigation districts organized
- 2 pursuant to this title. For the purposes of this section, "person", when applied to an individual,
- 3 means the individual and the individual's spouse and dependents within the meaning of the
- 4 Internal Revenue Code [26 U.S.C. 152].