



Eric Volk, Executive Director

ND Rural Water Systems Association

In Opposition of Senate Bill 2299

Senate Energy & Natural Resources Committee

February 13, 2025

Chairman Patten and members of the Senate Energy & Natural Resources Committee, my name is Eric Volk. I am the executive director of the North Dakota Rural Water Systems Association (NDRWSA). Our vision is to ensure all of North Dakota has access to affordable, ample, and quality water. NDRWSA is committed to completing and maintaining North Dakota's water infrastructure for economic growth and quality of life. Today, I am submitting testimony in opposition to Senate Bill 2299, which seeks to make changes to NDCC 61.35 (Water Districts). We oppose the bill as certain sections are not suitable for Water Districts as a whole. We are proposing amendments to ensure the bill is workable for all Districts and their members.

During the 1995 Legislative Session, HB 1317 created NDCC 61.35, which served as a pathway for Rural Water Coops and Associations to become Water Districts (Political Subdivisions of the State). There were many benefits to becoming a Water District, including certain tax incentives and access to low interest state and federal loans. NDCC 61.35 was later changed to convert water resource district water supply systems to Water Districts. Bylaws for the newly created Water Districts were approved at a special meeting of the members. NDCC 61.35 states that the bylaws can be subsequently amended at any annual or special meeting of the participating District members. Districts were also required to hold a properly noticed annual meeting, with one vote per benefit unit. Everything else was left up to the local membership, and members have been in control of their bylaws ever since. There are currently twenty (20) 61.35 Water Districts in the state (see map), with over 54,000 participating members. A list of the Water Districts, their headquarters, and the number of connections is provided for your reference.

61.35 Water Districts	Headquarters	Connections
Agassiz Water Users District	Gilby	1400
All Seasons Water Users District	Bottineau	1570
Barnes Rural Water District	Valley City	2044
Cass Rural Water Users District	Kindred	9100
Central Plains Water District	Fessenden	1130
Dakota Rural Water District	Finley	1090
East Central Regional Water District	Thompson	3640
Garrison Rural Water District	Garrison	892
Greater Ramsey Water District	Devils Lake	2668
McLean-Sheridan Water District	Turtle Lake	1032
North Prairie Regional Water District	Minot	4835
Northeast Regional Water District	Cavalier	2693
Northwest Rural Water District	Williston	2761
R & T Water District	Ray	890
South Central Regional Water District	Bismarck	8566
Southeast Water Users District	Mantador	3884
Stutsman Rural Water District	Jamestown	2615
Tri-County Water District	Petersburg	1200
Upper Souris Water District	Kenmare	650
Walsh Rural Water District	Grafton	1384

Section 1: Good, no changes required

We support this section because most, if not all, Water Districts conduct annual audits, which are considered industry best practices. Non-Federal entities that spend \$1,000,000 or more in federal funds in a fiscal year must undergo a single audit. This threshold applies to audits that begin on or after October 1, 2024. Several of our Districts meet that threshold and are subject to conducting a single audit. The audits are also sent to the State Auditor’s Office for review.

Section 2: Recommend Amendments

Replace 150 with 300 participating members

District members bear the cost of additional audits and reviews, which are expensive undertakings. A higher threshold is necessary to protect the entire membership from a small percentage of non-elected members incurring costs that would affect all members. Requiring 10% or 300 participating members ensures individual voices are heard while safeguarding the rights of the entire membership.

In this section of code, the State Auditor's Office has the authority (may) to decide whether to audit or review the books, records, and financial accounts of political subdivisions. This will hopefully prevent District members from incurring unwarranted/unneeded expenses for frivolous or repeated requests.

Section 3: Recommend Removing Subsection 3 Entirely

It is impractical to create uniform nomination and election language for twenty (20) Water Districts, each of which has amended its bylaws in different ways over time to suit its unique needs. Each District has developed its own approach to meet its specific circumstances. The Water Districts agree that changing state law to accommodate the requests of a small minority from one District is not in the best interest of the State's Water District members, which total over 54,000. The Water Districts believe that eliminating Subsection 3 and leaving the authority with each District's membership, as outlined in their bylaws, is the only workable solution. Remember, bylaws can be amended by the membership at any annual or special meeting.

Section 4: Recommend Amendments and Removals

2, 3, & 4...**Recommend removing** all references to County Auditors/Counties.

3. Vacancies. We agree with this subsection.

4. **Remove** or **replace with:** *All elections held under this chapter must be conducted to allow participating members access to 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 view and hear the occurrences of the election process, without infringing on voter privacy or hindering or preventing the performance duties of any election official.*

The proposed amendments (25.0990.02001) used **some** language from NDCC 16.1-05-09. Election observers. It also adds language that does not work or does not represent the rights given to election observers. For example, an election observer is never involved in certifying the results of an election. During open elections, observers can watch but not participate in any activities. They can monitor the proceedings at all stages of the process.

Our amendment (previous page) uses **all** language found in NDCC 16.1-05-09. It allows all participating members to access all stages of the process. They can plainly view and hear the occurrences of the process in a manner that does not infringe on voter privacy or interfere with election officials. This amendment protects the members' rights and the process.

Section 5. EMERGENCY. Recommend Removing Section 5

Non-appropriation and tax measures become effective August 1 of odd-numbered years unless otherwise specified in the bill. The only reason this has an emergency clause is because a particular Water District's Annual Meeting is in June. We need to remove this from the bill as it serves no other purpose than trying to pick winners and losers in one specific District. Is this bill a true Emergency? No.

Thank you for giving me the opportunity to testify on behalf of the members of the NDRWSA. We respectfully request that the committee consider our proposed amendments to ensure this legislation benefits all Water Districts. Eric Volk, ericvolk@ndrw.org.