

WATERS

CHAPTER 587

SENATE BILL NO. 2427
(Christensen)

DISPOSITION OF CERTAIN WATER COMMISSION FUNDS

AN ACT to repeal section 61-02-74 of the North Dakota Century Code, relating to the disposition of certain monies received by the State Water Commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Section 61-02-74 of the North Dakota Century Code is hereby repealed.

Approved March 11, 1971

CHAPTER 588

HOUSE BILL NO. 1300
(Henry, Sandness, Haugland, Boyum, Hoffner)

IRRIGATION DISTRICTS

AN ACT to create and enact subsection 4 of section 61-05-01 of the North Dakota Century Code, and to amend and reenact sections 61-05-13, 61-06-01, 61-06-10, 61-06-17, 61-06-18, 61-07-24, 61-07-31, 61-08-02, 61-08-03, 61-09-01, 61-09-06, 61-10-25, 61-10-28, 61-10-29, 61-10-31, 61-10-33, 61-10-36, 61-10-38, 61-11-02, and 61-11-04 of the North Dakota Century Code, relating to irrigation district procedures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) Subsection 4 of section 61-05-01 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

4. "Irrigable acres" or "irrigable lands" shall mean those lands which can or will be served by the district's works, as determined by the state engineer before the district is organized, or as determined from time to time by the district's board of directors. Whenever land or acreage is described as being "susceptible of irrigation" or "subject to assessment", it shall be interpreted to mean the same as irrigable acres.

SECTION 2. AMENDMENT.) Section 61-05-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-05-13. STATE ENGINEER TO MAKE ORDER ESTABLISHING IRRIGATION DISTRICT - CALLING ELECTION - DIVIDING DISTRICT - CONTENTS OF ORDER.) If the state engineer shall have found and determined that the establishment of the proposed irrigation district is advisable, and that the plan proposed for irrigating the lands therein is practicable and economically sound, he shall make an order establishing such irrigation district, subject to the approval of the electors of the district at an election called by the state engineer for that purpose. If the district embraces more than ten thousand irrigable acres of land, the state engineer by such order shall divide the district into three, five, or seven divisions or precincts as he shall deem necessary for the convenience of

the electors of the district. Such divisions or precincts shall be as nearly equal in size as may be deemed practicable, such divisions shall be numbered, and one director shall be elected from, and by the electors of, each division. If an elector owns land in more than one division, he shall cast all his votes for director and be eligible for election as a director in the division in which the majority of his land subject to assessment lies. Such order shall set forth:

1. The time and place of holding such election.
2. The boundaries of the district.
3. That a petition sufficient in form and substance was filed with the state engineer.
4. That due and reasonable notice of time and place of hearing on petition was given to the qualified electors of the proposed irrigation district.

A copy of such order shall be filed with the county auditor of each county in which the irrigation district is situated. Such order shall be prima facie evidence of the matter and facts therein stated.

SECTION 3. AMENDMENT.) Section 61-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-06-01. BOARD OF DIRECTORS OF IRRIGATION DISTRICT - TERMS - VACANCIES.) If an irrigation district contains less than ten thousand irrigable acres of land and is not divided into precincts or divisions, the board of directors thereof shall consist of three directors who shall be residents and electors of the district and shall be elected at large. One director elected at the election for the organization of the district shall serve until the first Tuesday in April following the first regular district election, one director shall serve until the first Tuesday in April following the second regular election, and one director shall serve until the first Tuesday in April following the third regular election.

If an irrigation district contains ten thousand irrigable acres or more and is divided into three, five, or seven divisions or precincts, as the case may be, one director shall be elected from and by the electors of each division or precinct.

If an irrigation district contains ten thousand irrigable acres or more and is divided into five divisions or precincts, the board of directors of such irrigation district shall consist of five directors. Two directors elected at the election for the organization of the district shall serve until the first Tuesday in April following the first regular district election, two directors shall serve until the first Tuesday in April

following the second regular district election, and one director shall serve until the first Tuesday in April following the third regular district election.

If an irrigation district contains ten thousand irrigable acres or more and is divided into seven divisions or precincts, the board of directors of such irrigation district shall consist of seven directors. Three directors elected at the election for the organization of the district shall serve until the first Tuesday in April following the first regular district election, two directors shall serve until the first Tuesday in April following the second regular district election, and two directors shall serve until the first Tuesday in April following the third regular election.

The terms of office of the directors elected at such first election for the organization of the district shall be determined by lot at their first meeting. Directors elected at subsequent elections shall serve for three years and until their successors are duly elected and qualified. In case the office of any director shall become vacant, the remaining members of the board shall fill the vacancy by appointment. A director appointed to fill a vacancy shall serve the unexpired term of the director whose office he has been appointed to fill. In the event that vacancies shall occur in the offices of a majority of the directors of an irrigation district, the remaining members and the state engineer shall fill the vacancies; and in the event that the offices of all the directors shall become vacant, the state engineer shall appoint the members of the board and they shall serve until the next regular election of the district. Their successors in office shall then be elected to serve the unexpired term of the directors whose offices became vacant. The unexpired term of office which each director thus elected shall fill shall be determined by lot.

SECTION 4. AMENDMENT.) Section 61-06-10 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-06-10. NOTICE OF ELECTION AFTER DISTRICT IS ORGANIZED - CONTENTS - FORM.) Within thirty days of, but at least fifteen days prior to, any regular or special election held in an irrigation district, the secretary of the board of directors shall cause a notice of the election to be published in the official newspaper of each county in which the district is located. The notice shall specify the matters to be voted upon, the location of the polling place or places, and the time of their opening and closing. Such notice shall be in substantially the following form:

"NOTICE hereby is given that on the _____ day of _____, 19 ____, an election will be held at _____ (here designate the polling place) for the purpose of electing _____ members of the

board of directors and for the purpose of voting upon such questions as shall be submitted by the directors of the district. Polls will be opened at one o'clock p.m. and will be closed at five o'clock p.m. of that day."

SECTION 5. AMENDMENT.) Section 61-06-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-06-17. COMPENSATION OF MEMBERS OF ELECTION BOARD.) Each member of the election board for an irrigation district election shall receive the sum of ten dollars for his services.

SECTION 6. AMENDMENT.) Section 61-06-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-06-18. RETURN AND CANVASS OF VOTES BY BOARD OF DIRECTORS.) The board of directors of the district shall meet at its usual place of meeting within thirty days after each election and canvass the returns. If all the returns have not been received, the canvass shall be postponed from day to day until all the returns have been received. The canvass shall be made in public and by opening the returns and ascertaining the vote for each person voted for, and declaring the result thereof, and also ascertaining the vote for and against each and every question or proposition voted upon, and declaring the result thereof.

SECTION 7. AMENDMENT.) Section 61-07-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-07-24. HEARING OF PETITION - NOTICE OF FILING AND HEARING.) The court shall fix the time for the hearing of the petition provided for in section 61-07-23 and shall order the clerk of court to give and publish a notice of the filing of the petition, stating the time when and the place where the court will hear the petition, and stating further that any person interested in the organization of the district, or in the proceedings for the issuance of bonds or improvement warrants, or in the assessments levied, or in the special action taken by the board, as the case may be, on or before the day fixed for hearing of the petition, may answer the petition. The petition may be referred to and described in the notice as the petition of _____ (name of petitioner) praying that the proceedings set forth therein be examined, approved, and confirmed by the court. Such notice shall be given by publishing the same in the official paper of the county in which the petition is filed, once each week for two consecutive weeks. Such hearing shall be held, in the discretion of the court, not less than fifteen days nor more than sixty days after the last publication of such notice.

SECTION 8. AMENDMENT.) Section 61-07-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-07-31. CONTRACT FOR SUPPLY OF WATER EXTENDING OVER ONE YEAR APPROVED AT ELECTION - REGULATIONS GOVERNING ELECTION.) If a contract for the supplying of water provides for a payment to be made extending for a period of more than one year from the date of making such contract, the board of such irrigation district shall submit such contract to the legal voters of such district at any general election, or at a special election called for the approval or disapproval of the contract. If a special election is called for such purpose, the notice of election, the conduct of said election, and the canvass of the votes, so far as practicable, shall be the same as in a regular election of the district. The notice of such election need not give the entire contract, but shall be sufficient if it shall state in a general way the substance of the proposed contract. The ballot at such election shall be in substantially the following form:

For approval of contract for water supply

Against approval of contract for water supply

If a majority of the electors voting on said proposition vote for approval of such contract, the board shall enter into such contract and thereafter at the time the other taxes of the district are levied, shall levy a tax on the taxable property of the district sufficient to pay the amount due on said contract and to become due on said contract before the next annual levy in said district.

SECTION 9. AMENDMENT.) Section 61-08-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-08-02. ADOPTING INITIAL RESOLUTIONS BY BOARD - DATE OF ELECTION - CONTENTS OF RESOLUTION - CONDUCT OF ELECTION.) After the adoption of an initial resolution as provided in section 61-08-01, the board, by a resolution, shall provide for submitting to the electors of the district the question whether the initial resolution providing for the issuance of bonds shall be approved. The date of such election shall not be less than twenty days after the adoption of such initial resolution by the board. The board, in such resolution, shall designate the date of such election, the polling hours, and polling place thereof. Such election shall be conducted and the returns made and canvassed as in the case of a regular election of the district.

SECTION 10. AMENDMENT.) Section 61-08-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-08-03. NOTICE OF ELECTION - CONTENTS.) A notice of the election containing a complete copy of the initial resolution provided for in section 61-08-01, shall be given in the manner provided for a regular election of the district.

SECTION 11. AMENDMENT.) Section 61-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-09-01. DISTRICT ASSESSOR TO EXAMINE TRACTS OF LAND TO FIX ANNUAL ASSESSMENTS LEVIED THEREON.) Between the first Monday in March and the first Monday in June of each year, the district assessor shall examine each tract of land or legal subdivision of land in the district, including entered and unentered public lands of the United States, subject thereto under any act of Congress, and all other lands publicly or privately owned. For each of such tracts or subdivisions, he shall first ascertain the number of irrigable acres determined by the board of directors and this shall form the basis for determining the benefits accruing on account of the construction, acquisition, or operation of irrigation works. Thereafter, the amount of benefits so apportioned or distributed to each tract of land as finally equalized shall be and remain the basis for fixing the annual assessments levied during that year against such tracts or subdivisions in carrying out the provisions of this chapter.

SECTION 12. AMENDMENT.) Section 61-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows

61-09-06. WHEN ASSESSMENT ROLL COMPLETED - WHEN BOARD TO EQUALIZE ASSESSMENTS.) On or before the fifteenth day of June in each year, the assessor shall complete his assessment roll and deliver it to the secretary of the district. The board of directors thereupon at its regular meeting in July shall proceed to equalize such assessments. At least ten days before the board meets, the secretary shall give notice of such meeting by publishing notice thereof in the manner required for a regular election of the district. Until such meeting is held, the assessment roll shall remain in the office of the secretary for the inspection of all persons interested.

SECTION 13. AMENDMENT.) Section 61-10-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-10-25. NOTICE OF FILING OF PETITION AND HEARING THEREOF - COST OF PROCEEDINGS.) The secretary of the board of directors shall cause notice of the filing of a petition for the inclusion of land in an irrigation district to be published in the manner provided for a regular election of the district. The notice shall state the name or names of petitioners, a description of lands mentioned in the petition, and the prayer

of the petition. It shall notify all persons interested in or affected by the proposed inclusion of lands in the district, to appear at the time and place specified in the notice and to show cause in writing, if any they have, why the lands described in the petition, or any part thereof, should not be included in the irrigation district. The board may require the petitioners to advance to the secretary of the district sufficient money to pay the estimated cost incurred in the proceedings of the proposed inclusion of land.

SECTION 14. AMENDMENT.) Section 61-10-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-10-28. ELECTORS MAY OBJECT TO INCLUSION OF LANDS - BOARD MAY CALL AN ELECTION.) If electors who together own or hold ten percent or more of the whole number of acres in the district, subject to assessments for irrigation costs, at the hearing on the petition, object in writing to the inclusion of the lands therein mentioned, the board shall, by resolution, order an election to submit to the electors of the district the question whether or not the lands mentioned in the petition or any part thereof shall be included.

SECTION 15. AMENDMENT.) Section 61-10-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-10-29. ORDERING OF ELECTION - NOTICE - CONDUCT.) The board shall fix the time when such election shall be held. Notice of such election, describing the lands proposed for inclusion in the district, shall be given in the manner provided for a regular election of the district. Such election shall be held and conducted, the ballots counted, and the results of the election determined and declared in the same manner as a regular election of the district. The ballots at such election shall contain substantially the following words: "For inclusion of lands in the district" and the words "against inclusion of lands in the district." In case a contract obligating the district has been entered into between the district and the United States, or with any department or agency thereof, or with the state, or any department or political division thereof, no change shall be made in the area embraced within the district unless a duly authorized agent of the holder of any such contract has consented thereto in writing and until such consent has been filed with the board of directors.

SECTION 16. AMENDMENT.) Section 61-10-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-10-31. REDIVISION OF DISTRICT INTO DIVISIONS.) When lands are included in an irrigation district by means of the procedure described in this chapter, and if the district will

contain after inclusion of such lands ten thousand irrigable acres or more, at least thirty days prior to the next general election, the board shall make an order dividing or redividing such district into divisions in conformity with section 61-05-13. Such divisions shall be as nearly equal in size as may be practicable and they shall be numbered, with one director thereafter elected by and from each division.

SECTION 17. AMENDMENT.) Section 61-10-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-10-33. NOTICE OF HEARING OF PETITION.) The secretary of the board of directors shall cause notice of the filing and hearing of a petition for exclusion of lands from an irrigation district to be published in the manner provided for a regular election of the district. The notice shall state (1) the names of petitioners, (2) the description of each tract of land mentioned in the petition, and (3) the prayer of the petition. The notice shall notify all persons interested in or affected by the proposed exclusion of lands from the district, to appear at the time and place specified therein and show cause in writing, if any they have, why the lands described in the petition should not be excluded.

SECTION 18. AMENDMENT.) Section 61-10-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-10-36. ELECTION TO DETERMINE EXCLUSION OF LAND - NOTICE OF ELECTION - FORM OF BALLOT - CONDUCT OF ELECTION.) If electors who together own at least ten percent of the whole number of irrigable acres in the district object in writing to the exclusion of such land, the board shall by resolution order an election to submit to the electors of the district the question whether or not the lands mentioned in the petition, or any part thereof, shall be excluded. Notice of such election, describing the lands proposed for exclusion from the district, shall be given in the manner provided for a regular election of the district. The ballot at such election shall be substantially in the following form:

"Shall the tracts of land described in the notice of this election be excluded from the irrigation district?"

Yes (for exclusion of lands)

No (against exclusion of lands)

The election shall be conducted substantially as a general election of an irrigation district is conducted.

SECTION 19. AMENDMENT.) Section 61-10-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-10-38. REDIVISION OF DISTRICT.) When lands are excluded from an irrigation district by means of the procedure described in this chapter, and if the district will contain ten thousand irrigable acres or more after the exclusion of such lands, the board of directors thereof shall issue an order dividing the district into divisions in conformity with section 61-05-13. Such divisions shall be as nearly equal in size as may be practicable, and they shall be numbered, with one director thereafter elected by and from each division. This same order, with the attendant requirements specified in this section, shall be issued if the board of directors formally declares a change in land classification that significantly alters the number or location of irrigable acres within the district.

SECTION 20. AMENDMENT.) Section 61-11-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-11-02. NOTICE OF ELECTION FOR DISSOLUTION OF DISTRICT - PUBLICATION - POSTING - ELECTION - WHEN TO BE HELD.) Notice that the question of the dissolution of the district and the sale of the district property as provided in section 61-11-01 will be submitted to the vote of the electors at a special election or at the next general district election, as the case may be, shall be given in the manner provided for a regular election of the district.

SECTION 21. AMENDMENT.) Section 61-11-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-11-04. CONDUCT OF ELECTION - CANVASSING AND REPORTING RESULT OF ELECTION.) An election on the question of dissolution in all respects shall be conducted, and the votes therefrom canvassed, in the same manner as provided for a regular election of the district. A certified copy of the statement of the election result by the district's board of directors and all ballots, lists, tally sheets, and other documents pertaining to the election shall be forwarded to the state engineer by registered or certified mail or express.

Approved March 4, 1971

CHAPTER 589

HOUSE BILL NO. 1271
(Bunker)

WATER MANAGEMENT DISTRICTS

AN ACT to create and enact subsection 20 of section 61-16-11, and to amend and reenact subsection 4 of section 61-16-01, and sections 61-16-12, 61-16-21, 61-16-22, 61-16-23, 61-16-28, 61-16-32, 61-16-33, 61-16-34, and 61-16-35 of the North Dakota Century Code, relating to water management districts, and authorizing such districts to engage in water supply and sewage system projects.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 4 of section 61-16-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The term "project", as used in this chapter, shall mean, and include, any undertaking for water conservation, flood control, water supply, watershed improvement and drainage of surface waters, or collection, processing, and treatment of sewage, or any combination thereof, including incidental features of any such undertaking.

SECTION 2.) Subsection 20 of section 61-16-11 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

20. To plan, locate, relocate, construct, reconstruct, modify, extend, improve, operate, maintain, and repair sanitary and storm sewer systems and water supply systems, or combinations thereof, including sewage and water treatment plants; and to contract with the United States government, or any department or agency thereof, or any private or public corporation, the government of this state, or any department, agency, or political subdivision thereof, or any municipality or person with respect to any such systems.

SECTION 3. AMENDMENT.) Section 61-16-12 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-12. DISTRICT BUDGET - TAX LEVY - FINANCING BY SPECIAL ASSESSMENT.) When a water management district has been created and the board of commissioners thereof has been organized, the board shall estimate the expenses of the district from the date of its establishment until the end of the ensuing fiscal year and before July first in each year thereafter shall estimate district expenses for the fiscal year ensuing. Estimates of district expenses may include costs of rights-of-way, easements, or other interest in property deemed necessary for the construction, operation, and maintenance of any projects therein. Upon completion and adoption of a budget covering necessary expenses, the board of commissioners shall send a copy of such budget or apportionment thereof to the county auditor of each county in the district. If a district is situated in more than one county, the estimates shall be apportioned to counties affected. Such county auditor shall transmit the same to the board of county commissioners of his county. The board of county commissioners of each county in which the district is situated shall either disapprove the entire budget, amend and approve the budget as amended, or approve the budget as submitted and, if approved as amended or as submitted, by resolution levy, authorize, and direct their county auditor to extend and spread upon the tax roll of his county a tax of not to exceed three mills on each dollar of taxable valuation in the district or part of district situated in the county in the same manner, and with the same effect, as general property taxes are extended and spread. Funds produced each year by such tax levy shall be available until expended, and if such tax levy in any year will not produce sufficient revenue to cover district expenses, a fund sufficient to pay the same may be accumulated. The acquisition of rights-of-way, easements, and the construction, operation, and maintenance of a project in a district may, in the discretion of the board of commissioners, be financed in whole or in part by special assessments against property benefited by such project, or from revenues realized from tax collections, or from net revenues to be derived from service charges to be imposed and collected for the services of the project, or any combination of such sources.

If the project is one involving the maintenance of a drain, and it is desired to finance such project in whole or in part by means of special assessments, the levy in any year for such maintenance shall not exceed fifty cents per acre on any agricultural lands benefited by the drain. Agricultural lands which 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 fifty cents per acre. The assessment of other agricultural lands in the district shall 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 fifty cents per acre. Nonagricultural property shall be assessed such 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. In case the maximum levy of fifty cents per acre for any year will not produce an amount sufficient to cover the cost of cleaning out and repairing such drain, the board of commissioners may accumulate a fund in an amount not exceeding the sum produced by such maximum permissible levy for two years. In the event the water conservation and flood control district is dissolved, all unexpended assessments collected for the maintenance of the drain shall be returned to the owners of the assessed property by the board of commissioners on a pro rata basis in proportion with the amount originally assessed.

SECTION 4. AMENDMENT.) Section 61-16-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-21. FINANCING PROJECT THROUGH SPECIAL ASSESSMENTS OR PARTLY THROUGH GENERAL TAXES AND PARTLY THROUGH SPECIAL ASSESSMENTS - APPORTIONMENT OF BENEFITS.) The board of commissioners may acquire needed interests in property and provide for the cost of construction, alteration, repair, operation, and maintenance of a project through issuance of improvement warrants or with funds raised by special assessments or a general tax or by a combination of a general property tax and special assessments. Whenever a board of commissioners shall decide to acquire property or interests in property in order to construct, operate, alter, repair, or maintain a project with funds raised in whole or in part through special assessments, such assessments shall be apportioned to and spread upon lands or premises benefited by the project in proportion to and in accordance with benefits accruing thereto. The board shall assess the proportion of the cost of the project, or the part of the cost to be financed with funds raised through levy and collection of special assessment taxes which any lot, piece, or parcel of land shall bear in proportion to the benefits accruing thereto and any county, city, or township which is benefited thereby.

SECTION 5. AMENDMENT.) Section 61-16-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-22. FINANCING OF SPECIAL IMPROVEMENTS - PROCEDURE.) When it is proposed to finance in whole or in part the construction of a project by issuance of warrants or with funds raised through the collection of special assessment taxes levied against lands and premises benefited by construction and maintenance of such project, and after such project is approved by the commission as provided herein and by the board of county commissioners of each of the counties wherein the district lies, the board, by resolution, shall declare that it is necessary to construct and maintain such project therein. Such resolution shall state briefly the nature and purpose of the proposed project, and shall state the time and place within said district where the board will meet to consider any protests to the proposed project, and, under the conditions specified in section 61-16-23, shall include provision for

protesting the levy of the general tax provided in section 61-16-35 to be made by the board of county commissioners. Such resolution shall be given by publication thereof once each week for two successive weeks in a newspaper of general circulation in the district. The hearing shall be held not less than twenty days after the first publication of such resolution. If within twenty days after the first publication of such resolution, the owners of property liable to be specially assessed for the proposed improvement shall file written protests with the secretary of the board, protesting against the improvement, the board at the time set for such hearing shall determine the sufficiency thereof. If the board finds the protests to contain the names of the owners of a majority by taxable value of the land subject to assessment for construction of the proposed project, then the protests shall be a bar against proceeding further with such improvement. If the protests are found to be insufficient or invalid, the board may proceed to determine damages, if any, which will be sustained by owners of affected property and the board may proceed to contract or provide for the construction or maintenance of the project in substantially the manner and according to the forms and procedure provided in title 40 of this Code, and acts amendatory thereof, and supplemental thereto, for the construction of sewers within municipalities. When any district has entered into an agreement pursuant to the provisions of this chapter, under the terms of which the contract for such work is to be let by the United States government or by the state of North Dakota, or by both jointly, the board, after hearing protests and determining to proceed with the improvement, may dispense with the balance of the requirements of this chapter relating to plans for, bids upon, contracts for, construction of, and any other steps leading up to the construction of an improvement by the special assessment method, and the board may proceed to cause assessments to be made as in other cases provided.

SECTION 6. AMENDMENT.) Section 61-16-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-23. RESOLUTION OF BOARD TO INCLUDE PROVISION FOR PROTESTING AND REFUSING AUTHORITY TO MAKE GENERAL TAX LEVY IN CERTAIN CASES - ELECTION TO BE HELD.) In any case in which that part of the cost of a project allocated to a county shall exceed fifty thousand dollars, the resolution of the board of commissioners provided for in section 61-16-22 shall state that any deficiency or probable deficiency in the special fund for the payment of project warrants of the district shall be forestalled and the ability of the fund to pay principal and interest punctually shall be restored by a general tax levy upon the taxable property in the counties wherein the district lies, as provided in section 61-16-35 unless ten percent of the electors voting for governor in the last general election in that county, by written protest filed with the board of commissioners within twenty days after the first publication of such resolution, object to the payment of any deficiency or probable deficiency in such special fund by such

general tax levy.

If such written protests are found by the board of commissioners to carry a sufficient number of signatures, the board by resolution shall thereupon call a special election in the county or counties from which such protests were received for the purpose of having the electors of the county vote upon the question of whether such general tax levy shall be permitted. The date of such election shall be not less than twenty days from the date of the resolution calling for the election. The board shall cause notice of such election to be published once each week for at least two weeks prior to the date thereof in the official newspaper of the county. Such notice shall specify the date, polling hours, and the polling places of such election which shall be the same as for general elections and shall contain a copy of the resolution calling the special election and a statement of the question to be voted upon as it shall appear upon the ballot. The board shall appoint an inspector, two judges, and two clerks of election for each polling place.

The ballot for such election shall be separate from other ballots used on the same day for other elections, and shall be printed, and shall state the question in substantially the following form:

Shall the board of county commissioners be permitted to levy a general tax on all taxable property in the county to pay any deficiency or probable deficiency that might occur in the project warrant fund of _____ District, (here insert the name of the water management district) which fund was established by resolution of the commissioners of said district on _____, (here insert date of such resolution.)

Yes _ _ _ _ _

No _ _ _ _ _

Spoiled or blank ballots cast at such election shall not be counted for or against the question voted upon.

If a majority of the votes cast at such election are "Yes" votes, authority to make such a general tax levy shall be deemed approved.

If a majority of the votes cast at such election are "No" votes, authority to make such a general tax levy shall be denied.

The election officials shall be compensated in the manner provided by law for general elections, and the costs of such election shall be borne by the district concerned.

SECTION 7. AMENDMENT.) Section 61-16-28 of the 1969 Supplement to the North Dakota Century Code is hereby amended and

reenacted to read as follows:

* 61-16-28. CERTIFICATION OF ASSESSMENTS TO COUNTY AUDITOR.) When a district board of commissioners has by resolution levied, or caused to be levied, special assessments to cover the cost of constructing a project, the board shall determine the rate of interest unpaid special assessments shall bear, which rate shall not exceed seven percent per annum and shall not be less than the warrant rate. Interest on unpaid special assessments shall commence on the date the assessments are finally confirmed by the board. Special assessments may be certified and made payable in equal annual installments, the last of which shall be due and payable not more than thirty years after date of the warrants to be paid. The secretary of the district shall certify to the county auditor of the county in which the district is situated, or if the district embraces lands situated in more than one county, to the county auditor of each county in which district lands subject to such special assessments are situated, the total amount levied against such lands in his county and the proportion or percentage of such amount assessed against each piece, parcel, lot, or tract of land. The secretary of the district shall also file with the county auditor of each county in which district lands lie a statement showing the cost of the project, the part thereof, if any, which will be paid out of general taxes and the part to be financed by special assessments. Funds needed to pay the cost of maintaining a project may be raised in the same manner as funds were raised to meet construction costs. If the project was financed in whole or in part through the use of special assessments, the board of commissioners shall prorate the costs of maintaining projects in the same proportion as were the original costs of construction or, in the event a reassessment of benefits has been adopted, the costs shall be prorated in accordance with the reassessment of benefits as authorized by section 61-16-26.1.

SECTION 8. AMENDMENT.) Section 61-16-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 61-16-32. WARRANTS - ISSUANCE - WHEN PAYABLE - AMOUNTS - INTEREST - INTEREST COUPONS.) A water management district may, at any time after entering into a contract for a project to be financed in whole or in part by special assessments, issue temporary and definitive warrants on the project fund, created for that purpose, in the manner and subject to the limitations prescribed in section 40-24-19, and may pledge to the payment of warrants issued to finance a sewer or water project the net revenues derived from the imposition of service charges to be imposed and collected with respect thereto as provided in section 40-22-16 payable at specified times, except that the first maturity date of any such warrant shall not be less than two years from the date of issuance. The warrants shall be issued in such amounts as in the judgment of the district's board of commissioners will be necessary for such project. Such warrants shall bear interest at a rate of not to exceed eight percent per annum, payable annually

*NOTE: Section 61-16-28 was also amended by section 33 of Senate Bill No. 2063, chapter 249.

*NOTE: Section 61-16-32 was also amended by section 34 of Senate Bill No. 2063, chapter 249.

or semiannually. Coupons evidencing the interest for each year or half year, as the case may be, may be attached to the warrants. The warrants shall state upon the face thereof the purpose for which issued and the project fund from which they are payable and shall be signed by the chairman of the board of commissioners and countersigned by the secretary of the district. Such warrants shall be payable serially in such amounts as the board shall determine, extending over a period of not more than thirty years.

SECTION 9. AMENDMENT.) Section 61-16-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-33. WARRANTS MAY BE USED IN MAKING PAYMENTS ON CONTRACT - WARRANTS PAYABLE OUT OF FUND ON WHICH DRAWN - MAY BE USED TO PAY SPECIAL ASSESSMENTS.) Improvement warrants may be used in making payments on contracts for construction of the project for which the special assessment fund was created, or may be sold for cash at not less than ninety-eight percent of par and accrued interest, and the proceeds thereof, less accrued interest, shall be credited to the construction account of such fund and shall be used exclusively to pay such contracts and construction costs. Any balance remaining in any construction account after completion of a project shall be transferred to the sinking fund account of the assessment fund. The treasurer of the district shall pay special assessment warrants and any interest coupons attached thereto as they mature and are presented for payment out of the fund on which they are drawn and shall cancel the warrants and any coupons when paid.

SECTION 10. AMENDMENT.) Section 61-16-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-34. REFUNDING SPECIAL ASSESSMENT WARRANTS - PURPOSES FOR WHICH SUCH WARRANTS MAY BE ISSUED - PAYMENT OF WARRANTS.) Any district having outstanding special assessment warrants, payable in whole or in part out of collections from special assessments, which are past due or which are redeemable, either at the option of the district or with the consent of the warrant holders, may issue refunding special assessment warrants or bonds if there is not sufficient money in the project fund against which such warrants are drawn to pay the same. The issuance of refunding warrants or bonds shall be authorized by resolution of the board of commissioners. Such resolution shall describe the warrants to be refunded and the amount and maturity thereof. Such refunding warrants may be issued for any of the following purposes:

1. To extend the maturities of warrants payable in whole or in part by special assessments.
2. To reduce the interest on such warrants.
3. To equalize the general property tax which the county

or counties may be, or may become obligated to levy in order to cover deficiencies in the fund against which warrants were issued.

Refunding warrants or bonds shall bear such date, be in such denominations, and shall mature serially within such time, not exceeding thirty years from date of issue, as the board of commissioners shall determine. The average rate of interest on such warrants shall not exceed the average rate of interest on refunded warrants.

The treasurer of the district shall pay special assessment warrants, and the interest coupons attached thereto, as they mature and are presented for payment out of the fund against which they are drawn and shall cancel the warrants when paid.

Any deficiency in any fund created for the payment of district warrants payable in whole or in part out of collections of special assessment taxes shall be the obligation of the district.

SECTION 11. AMENDMENT.) Section 61-16-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-35. FINANCIAL REPORTS - LIABILITY FOR DEFICIENCIES.) On the first Monday of each month the district treasurer shall report to the board of commissioners in writing the amount of money in the treasury, the receipts, if any, in the preceding month and the amount and items of expenditure during that month. Such report shall be verified and filed with the secretary of the district. A verified copy of such report shall also be filed in the office of the county auditor of each county in which the district lies and shall be open to public inspection.

During the month of June of each year the board of commissioners shall prepare a complete statement of the condition of the finances of each district and shall cause the same to be filed with the county auditor of each county in which the district lies on or before July first next following. Such statement shall show separately and in detail the condition and resources of each and every assessment fund for the payment of project warrants of the district, including the amount of any anticipated deficit and the apportionment thereof. At its July meeting next following the filing of such statement of condition of any district, the county board shall examine such statement and make inquiry regarding same to determine whether or not the district has defaulted or may soon default on payment of its financial obligations as the same become due.

Whenever all special assessments, taxes, or other receipts, if any, appropriated and theretofore collected for a project are insufficient to pay the special assessment warrants issued against such project, with interest, the board of county

commissioners of each of the counties wherein the district lies shall advance to the district project warrant fund an amount sufficient to pay the deficiency attributable to benefited property in each such county. If it appears to the county board at any time that a deficiency exists or is likely to occur within one year in such project warrant fund for the payment of principal or interest due or to become due on such warrants, the board of county commissioners of each of the counties wherein the district lies in order to forestall imminent deficiency in such fund or to promptly restore the ability of such fund to pay principal and interest punctually as the same become due shall advance to such project fund the amount necessary to cover the anticipated deficiency attributable to benefited property in such county. In order to make such advances, the board of county commissioners of each of the counties shall levy a general tax upon the taxable property in the county, and may issue certificates of indebtedness against levies so made, or shall pay such advances from its general fund. Advances made by the county or counties shall be obligations of the district to be met out of any surplus in the district project warrant fund, and future district budgets and tax levies for the district after provision has been made for necessary current expenses. No tax limitation provided by any statute of this state shall apply to tax levies made by any county for the purpose of making any advances in accordance with the provisions of this section provided that a board of county commissioners shall not levy the general tax herein provided if the electors in any county wherein the district lies have refused, pursuant to the election provided for in section 61-16-23, to permit such levy to be made.

Approved March 27, 1971

CHAPTER 590

HOUSE BILL NO. 1069
(Jenkins, Metzger, Olienyk, Sandness)
(From Legislative Council Study)

REPEAL OF TRI-STATE WATER COMPACT

AN ACT to repeal chapter 61-17 of the North Dakota Century Code, which contains the tri-state water compact and provides for a tri-state waters commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Chapter 61-17 of the North Dakota Century Code is hereby repealed.

Approved February 20, 1971

CHAPTER 591

SENATE BILL NO. 2184
(Longmire, Christensen, Redlin, Robinson, Morgan)

COMPENSATION OF DIRECTORS OF
GARRISON CONSERVANCY DISTRICT

AN ACT to amend and reenact section 61-24-04 of the North Dakota Century Code, providing that the board of directors of the Garrison Diversion Conservancy District receive the same compensation as legislative council members, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 61-24-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-24-04. COMPENSATION OF DIRECTORS.) Each member of the board of directors of the district shall receive from the district the same compensation per day and shall be reimbursed for his expenses in the same amounts as provided for in section 54-35-10 for members of the legislative council while attending meetings of the board or otherwise engaged in the official business of the district.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 3, 1971

CHAPTER 592

SENATE BILL NO. 2343
(Stroup)

DIVERSION OF MISSOURI RIVER

AN ACT making an appropriation to the North Dakota state water commission for the purposes of conducting a feasibility study of diverting Missouri River waters into western North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000.00, or so much thereof as may be necessary, to the state water commission for the biennium beginning July 1, 1971, and ending June 30, 1973.

SECTION 2. PURPOSE.) The moneys herein appropriated shall be used by the state water commission for the purpose of conducting a study to determine the future water requirements of North Dakota rivers and streams located west and south of the Missouri River and the feasibility of diverting waters of the Missouri River into such rivers and streams for all uses including, but not limited to, domestic, municipal, livestock, irrigation, industrial, mining, recreational, fish and wildlife, and pollution abatement uses in order to plan development of the rivers and streams to provide for the best use of such waters and related land resources.

SECTION 3. MATCHING FEDERAL FUNDS.) The state water commission may use all or any part of the moneys herein appropriated to match any federal funds available for such purposes.

Approved March 27, 1971