

**State Water Commission  
Budget No. 770  
House Bill Nos. 1020, 1305, Senate Bill No. 2305**

	<b>FTE Positions</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
2009-11 executive budget (bills as introduced)	86.00	\$12,493,198	\$298,508,200	\$311,001,398
<b>2009-11 legislative appropriations</b>	<b>86.00</b>	<b>13,823,899</b>	<b>312,055,809</b>	<b>325,879,708</b>
Legislative increase (decrease) to executive budget	0.00	\$1,330,701	\$13,547,609	\$14,878,310
Legislative increase (decrease) to 2007-09 appropriations	2.00	(\$146,750)	\$149,925,891	\$149,779,141

**ONGOING AND ONE-TIME GENERAL FUND APPROPRIATIONS**

	<b>Ongoing General Fund Appropriation</b>	<b>One-Time General Fund Appropriation</b>	<b>Total General Fund Appropriation</b>
2007-09 legislative appropriations	\$10,970,649	\$3,000,000	\$13,970,649
<b>2009-11 legislative appropriations</b>	<b>13,823,899</b>	<b>0</b>	<b>13,823,899</b>
2009-11 legislative increase (decrease) to 2007-09 appropriations	\$2,853,250	(\$3,000,000)	(\$146,750)
Percentage increase (decrease) to 2007-09 appropriations	26.0%	(100.0%)	(1.1%)
2009-11 legislative increase (decrease) to executive budget	\$1,330,701	\$0	\$1,330,701
Percentage increase (decrease) to executive budget	10.7%	N/A	10.7%

**SUMMARY OF LEGISLATIVE CHANGES TO THE EXECUTIVE BUDGET AND MAJOR FUNDING ITEMS**

**Salaries and Wages**

The legislative action affecting the recommended appropriation for the State Water Commission is in accordance with legislative salary and fringe benefits guidelines as contained in House Bill No. 1015.

	<b>Major Items</b>			
	<b>FTE Positions</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
The legislative action:				
Removed funding added in the executive budget for state employee salary equity adjustments		(\$402,374)	(\$53,316)	(\$455,690)
Added funding for a grant to the Game and Fish Department for administrative and support services to provide law enforcement activities on sovereign lands of the state		200,000		200,000
Increased funding from the general fund and decreased funding from the water development trust fund for administrative and support services to provide that all		1,533,075	(1,533,075)	0

administrative and support services are paid by the general fund

Appropriated federal fiscal stimulus funds made available to the state under the federal American Recovery and Reinvestment Act of 2009 for the Southwest Pipeline Project (see <b>Federal Fiscal Stimulus Funding</b> section below)			12,000,000	12,000,000
Added <b>one-time funding</b> from the permanent oil tax trust fund for water project grants (House Bill No. 1305)			2,792,000	2,792,000
Added funding from the resources trust fund to conduct a Beaver Bay embankment feasibility study (Senate Bill No. 2305)			342,000	342,000
Total	<u>0.00</u>	<u>\$1,330,701</u>	<u>\$13,547,609</u>	<u>\$14,878,310</u>

**FTE Changes**

The 2009-11 biennium appropriation includes funding for 86 FTE positions, an increase of 2 FTE positions from the 2007-09 biennium authorized level of 84 FTE positions and the same as the executive budget recommendation. The Legislative Assembly did not change the executive recommendation to add 1 FTE hydrologist position to assist with pending ground water permit applications, and 1 FTE engineer technician IV position to operate the Northwest Area Water Supply pipeline.

**One-Time Funding**

In House Bill No. 1305, the Legislative Assembly provided \$2,792,000 from the permanent oil tax trust fund for the following water project grants:

- \$864,000 to assist in the local cost-share of the Ray and Tioga water supply project;
- \$985,000 to assist in the local cost-share of the Burke, Divide, and Williams water district water supply project;
- \$593,000 to assist in the local cost-share of the Wildrose water supply project; and
- \$350,000 to assist in the repayment of outstanding bonds associated with the Stanley water pipeline construction project.

This amount is not to be considered part of the agency's base budget for preparing the 2011-13 executive budget and the State Water Commission is to report to the Appropriations Committees during the 2011 legislative session on the use of this funding.

**Federal Fiscal Stimulus Funding**

The Legislative Assembly appropriated \$12 million of federal fiscal stimulus funds from the federal American Recovery and Reinvestment Act of 2009 to the State Water Commission for the Southwest Pipeline Project.

The State Water Commission may seek Emergency Commission and Budget Section approval for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated. This amount is not to be considered part of the agency's base budget for the 2011-13 biennium. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

**Other Sections in Bill**

**Sovereign lands enforcement grant** - Section 4 directs the State Water Commission to provide a grant of \$200,000 from the general fund to the Game and Fish Department for law enforcement activities on sovereign lands in the state.

**Resources trust fund and water development trust fund** - Section 5 provides that in addition to the amounts appropriated to the State Water Commission from the resources trust fund and the water development trust fund any additional amounts that become available in those funds are appropriated to the State Water Commission for the purpose of defraying the expenses of the State Water Commission for the 2009-11 biennium (see the resources trust fund analysis and the water development trust fund analysis in the **Trust Fund Analyses** section of this report).

**Grant and water project carryover authority** - Section 6 authorizes the State Water Commission to continue any unexpended 2009-11 appropriation authority for grants or water-related projects in the 2011-13 biennium.

**Fargo flood control project funding** - Section 7 provides that of the funds appropriated to the State Water Commission for grants and projects for the 2009-11 biennium, \$45 million is for Fargo flood control projects. The section also provides that any funds not spent by June 30, 2011, are not subject to North Dakota Century Code Section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. These funds may be used only for land purchases and construction; may not be used for administration, engineering, legal, planning, or other similar purposes; and are not subject to the 65 percent funding requirement contained in Senate Bill No. 2316.

In addition, Section 8 provides legislative intent that a total of \$75 million be committed by the state to match a grant of federal funds for Fargo flood control, of which \$45 million has been provided in the 2009-11 biennium.

**State Water Commission projects** - Section 9 provides legislative intent that the State Water Commission provide funding for the following projects during the 2009-11 biennium:

- Digital elevation mapping project - \$300,000.
- Enhancement of the local share of funding for the Renwick Dam in Pembina County - \$100,000.
- Evaluate, in conjunction with state, local, and federal officials and entities, long-term flood control solutions in the Red River Valley - \$500,000.
- Michigan Spillway in Nelson County - \$500,000.

**Nelson County Water Resource District** - Section 10 provides legislative intent that the State Water Commission assist the Nelson County Water Resource District by providing engineering and permitting services during the 2009-11 biennium.

#### **Related Legislation**

**Definitions of domestic and irrigation use** - House Bill No. 1286 relates to water permit application fees.

**Water supply project grants** - House Bill No. 1305 provides \$2,792,000 from the permanent oil tax trust fund to the State Water Commission for water supply project grants.

**Water resources study** - House Bill No. 1322 creates an energy policy commission to develop a comprehensive energy policy and provides for a study of water resources. The bill also provides for a Legislative Council study of issues related to the development of livestock feeding facilities and the use of byproducts from biofuels production as a feedstock.

**Federal 319 nonpoint program** - Senate Bill No. 2004 directs the State Water Commission to provide a grant of \$200,000 from its 2009-11 biennium appropriation to the State Department of Health to be used as matching funds for the federal 319 nonpoint program.

**Beaver Bay embankment feasibility study** - Senate Bill No. 2305 provides \$342,000 from the resources trust fund to the State Water Commission for conducting a Beaver Bay embankment feasibility study. The bill provides that no more than \$100,000 may be spent prior to the acquisition of applicable licenses and authorizations from the federal Army Corps of Engineers.

**Policies for water retention projects** - Senate Bill No. 2316 directs the State Water Commission to develop policies, including cost-sharing guidelines, which further the development of water retention projects for flood control. The State Water Commission is to provide a report regarding the policies to the 62<sup>nd</sup> Legislative Assembly.

**Red River Valley Water Supply Project** - Senate Bill No. 2317 provides legislative intent that the state pay one-third of the cost of construction for the Red River Valley Water Supply Project. The fiscal note prepared by the State Water Commission indicates the one-third share would total \$220 million based on the current estimate of the total project cost of \$660 million.

**Water-Related Topics Overview Committee** - Senate Bill No. 2336 provides that the Legislative Council appoint a Water-Related Topics Overview Committee responsible for legislative overview of water-related topics and related matters and for any necessary discussions with adjacent states on water-related topics. The committee consists of nine members and the Legislative Council designates the chairman of the committee.