

HOUSE BILL NO. 1166  
with Senate AmendmentsFifty-sixth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1166

Introduced by

Natural Resources Committee

(At the request of the State Water Commission)

1 A BILL for an Act to create and enact five new sections to chapter 61-24.6 of the North Dakota  
2 Century Code, relating to water rates, operation and maintenance fund, reserve fund for  
3 replacement, capital costs, and areas served by the northwest area water supply project; and to  
4 amend and reenact sections 61-02-23.1, 61-24.3-19, and subsections 3, 6, and 7 of section  
5 61-24.6-02 of the North Dakota Century Code, relating to condemnation of property for the  
6 northwest area water supply project, validation of southwest pipeline project water service  
7 contracts, and inclusion of Pierce County in the northwest area water supply project.

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

9 **SECTION 1. AMENDMENT.** Section 61-02-23.1 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **61-02-23.1. Condemnation by the water commission.** Whenever a right of way is to  
12 be taken by condemnation proceedings for any purpose authorized by ~~chapter~~ chapters  
13 61-24.3 or 61-24.6, the commission may take possession of the right of way after making a  
14 written offer to purchase and depositing the amount of the offer with the clerk of the district  
15 court of the county wherein the right of way is located. The clerk shall immediately notify the  
16 property owner in writing of ~~such~~ the deposit. Within thirty days after receiving ~~such~~ notice, the  
17 property owner may appeal to the district court by serving notice of appeal upon the water  
18 commission and the matter must be tried at the next term of court with a jury, unless a jury ~~be~~  
19 is waived, in the manner prescribed for trials under chapter 32-15.

20 **SECTION 2. AMENDMENT.** Section 61-24.3-19 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **61-24.3-19. Validation of water service contracts.** Water service contracts entered  
23 ~~into~~ by the commission for the distribution and sale of water to water user entities from the  
24 southwest pipeline project are ~~hereby deemed~~ confirmed and approved by the legislative

1 assembly. The commission may commence a special proceeding in and by which the  
2 proceedings of the commission and the making of water service contracts ~~shall be~~ are judicially  
3 examined, approved, and confirmed, or disapproved and disaffirmed. ~~Such~~ The proceeding  
4 ~~shall~~ must comply as nearly as possible with the procedure authorized by sections 61-07-22  
5 through 61-07-28 for irrigation district contracts. The requirements of section 40-33-16 do not  
6 apply to contracts between the commission or the southwest water authority and cities for water  
7 service from the southwest pipeline project.

8 **SECTION 3.** A new section to chapter 61-24.6 of the North Dakota Century Code is  
9 created and enacted as follows:

10 **Commission to fix water rates for the northwest area water supply project.** The  
11 commission shall establish the payments for water service to be paid by water user entities for  
12 purchase of water from the northwest area water supply project. The payments for water  
13 service must include each water user entity's proportionate share of the operation,  
14 maintenance, and replacement costs, and also include a component for payment for capital  
15 costs. The commission shall include in its determination of each water user entity's share of  
16 operation, maintenance, and replacement costs an amount to be deposited in the northwest  
17 area water supply project reserve fund for replacement, as established by section 4 of this Act,  
18 for replacement and extraordinary maintenance of northwest area water supply project works.  
19 The amount of such the reserve fund for replacement must be determined by the commission.

20 **SECTION 4.** A new section to chapter 61-24.6 of the North Dakota Century Code is  
21 created and enacted as follows:

22 **Operation and maintenance fund - Deposit - Use.** Revenues received by the  
23 commission from water user entities or otherwise for operation and maintenance of the  
24 northwest area water supply project must be maintained, as a part of the moneys of the state  
25 received and kept by the state treasurer in a fund to be designated as the northwest area water  
26 supply project operation and maintenance fund. All moneys received by the state treasurer for  
27 operation and maintenance of the northwest area water supply project and the interest on  
28 moneys in the fund must be kept by the state treasurer in the fund distinct from all other  
29 moneys and must be disbursed by the state treasurer and used only for paying for costs and  
30 expenditures for operation and maintenance of the northwest area water supply project.

1           **SECTION 5.** A new section to chapter 61-24.6 of the North Dakota Century Code is  
2 created and enacted as follows:

3           **Reserve fund for replacement - Deposit - Use.** Revenues received by the  
4 commission from water user entities or otherwise for replacement and extraordinary  
5 maintenance of the northwest area water supply project may be held pursuant to the terms of a  
6 resolution or trust indenture adopted by the commission. Any money not held pursuant to the  
7 terms of a resolution or trust indenture must be deposited by the commission and maintained,  
8 as a part of the moneys of the state received and kept by the state treasurer, in a fund  
9 designated as the northwest area water supply project reserve fund for replacement. All  
10 moneys received by the state treasurer for replacement and extraordinary maintenance of the  
11 northwest area water supply project and the interest on the moneys must be kept by the state  
12 treasurer in the fund distinct from all other moneys and must be disbursed by the state  
13 treasurer and used only for replacement and extraordinary maintenance of the northwest area  
14 water supply project.

15           **SECTION 6.** A new section to chapter 61-24.6 of the North Dakota Century Code is  
16 created and enacted as follows:

17           **Capital costs - Deposit - Use.** Money derived and received from water user entities or  
18 otherwise for capital costs or construction of the northwest area water supply project may be  
19 held pursuant to the terms of a resolution or trust indenture adopted by the commission. Any  
20 money not held pursuant to the terms of a resolution or trust indenture must be deposited by  
21 the commission and maintained, as part of the moneys of the state received and kept by the  
22 state treasurer, in a fund designated as the northwest area water supply project fund for capital  
23 costs and construction. All moneys received by the state treasurer for capital costs and  
24 construction of the northwest area water supply project, and all interest on the moneys, must be  
25 kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by  
26 the state treasurer and used only for capital costs and construction of the northwest area water  
27 supply project.

28           **SECTION 7. AMENDMENT.** Subsections 3, 6, and 7 of section 61-24.6-02 of the  
29 North Dakota Century Code are amended and reenacted as follows:

- 30           3. One person from the Bottineau, Burke, Divide, McHenry, McLean, Mountrail,  
31           Pierce, Renville, Ward, or Williams County water resource districts recommended

jointly by the governing boards of the Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, Ward, or Williams County water resource districts.

6. One representative of rural water distribution systems located in northwestern North Dakota. This representative must be a resident of Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, Ward, or Williams County.

7. One representative of a municipality other than the city of Minot, located in Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, Ward, or Williams County.

**SECTION 8.** A new section to chapter 61-24.6 of the North Dakota Century Code is created and enacted as follows:

**Areas served by the northwest area water supply project.** The commission may provide, as part of the northwest area water supply project, delivery, distribution, and treatment of water from the Missouri River or other sources, to areas in Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, Ward, and Williams Counties. The facilities for delivery of water may be from a pipeline transmission and delivery system or through other works, as determined by the commission.