

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

3007

2001 HOUSE AGRICULTURE

HCR 3007

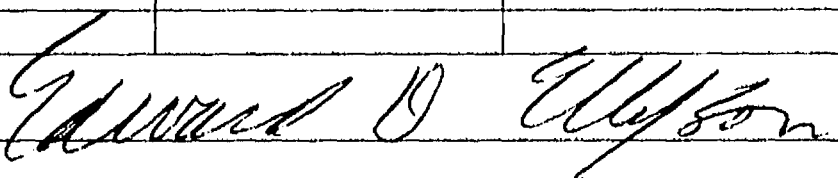
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3007

House Agriculture Committee

☐ Conference Committee

Hearing Date 2-2-01

Tape Number	Side A	Side B	Meter #
TWO	A		00 TO 1360
Committee Clerk Signature 			

Minutes:

1A: 00 CHAIRMAN NICHOLAS: We will open on HCR 3007.

1A: WES BELTER: I am Representative Wes Belter, Dist 22. I introduced HCR3007 because in the Eastern part of the state of N.D. it seem like we have a continually problem of flooding. I'd like to develop a legislative Bill that would in some way set up a taxing district whereby farmers when they receive damage by flooding that they would get some compensation above what Federal Crop Insurance would pay. It seem that flooding that takes place continues to be a problem. I think it is important that we as a Legislator study water and the problems with drainage. I think as time goes on, because of these problems, we are going to be in a situation where as metropolitan areas grow it is going to be harder to deal with drainage problems. Control the flood of water that enters our rivers. I think we will reach a point because of these restrictions flooding is going to increase the problems of flooding. I hope that we as a legislator could began the process of looking what we might be able to do as far as

dealing with drainage and how we might be able deal with the problems of compensating those property owners who could eventually forced to hold water in order to prevent flooding in our metropolitan areas. And other town etc.

1A: 242 CHAIRMAN NICHOLAS: Rep. Belter, do you feel that a good way to do that would just allow the farmer to get preventative planning on that ground. On an on going basis: there is preventative planning we have farmers all over ND. now that have ground, for an example in Towner County 20 percent of the killable land is under water. Don't you feel that if some farmer has to hold water to allow some other farmer to get his crop he should just pay his premium and allow him to get free planning. That is going to bring him in more revenue then some to the programs and it is a fair way of doing it. He pays a premium for it. If the water goes down he is able to start farming his ground again. Do you see that as an avenue to be used as Federal Crop Insurance..

1A: REP. BELTER: From the Federal aspect, yes I think that's certainly a possibility and I think we have two problems here. We have the problems of potentially flooding that some areas are now experiencing and we have the problem of spring flooding. We have the problem of flooding after the crops are seeded and then are destroyed.

1A: 418 CHAIRMAN NICHOLAS: A lot of this ground that is holding water is never in condition to get into raise any kind of a crop. The best thing you can do is probably not even try to plant it. If you do plant it just put something on it that will stop erosion. In fairness to the farmer if he has two thousand acres and all of a sudden he loses 500 acres of his land that is gone and produces nothing. If he could get the sixty or depending where he is at from forth to one hundred and twenty five bucks an acre; depending on the type of crop he is able to use.

I think that is a fair way for everyone. Pasture or range land, that is another question.

We should compensate range and ranch land differently.

Conversation ongoing: talked about water sheds. What are we going to do about some people wanting to keep there little water sheds district. A big problem is local eneties. Through the study process we have to come up with. We have school district's or whatever. We are dealing with a much bigger area then just localized. We need a larger scale plan. We need to terminate those smaller areas because they have a very beneficial interest in.....WE will try to resolve some of those issues.

1A: 753 CHAIRMAN NICHOLAS: Any other questions committee members. Thank you Rep. Belter. Other testimony in support of this Resolution.

1A: LEE KLAPPRODT: DIRECTOR PLANNING AND EDUCATION DIVISION STATE WATER COMMISSION: Printed testimony. We support the Resolution. Please CC the printed testimony.

1A: 1102 CHAIRMAN NICHOLAS: Any questions committee members?

Thank you very much. Is there anyone wishing to appear in opposition of HCR.

If not we will close the hearing on HCR 3007.

AFTER CLOSING THERE WAS AN INDIVIDUAL THAT WANTED TO TAKE THE PEOPLES POSITION.....FOLLOWS.

1A: ARDEN HANNER: Douglas, N.D. I was the water manager for twenty one years.

Back in the 80's we talked about this study. I'm sending a picture around so that you see what is in southern Ward County. The elevation drops 100 feet per mile. Local water boards have a tremendous amount of trouble to handle that kind of situation. We were involved in the Souris

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House Agriculture Committee

Bill/Resolution Number HCR 3007

Hearing Date 2-2-01

River flood control project which took in four counties. The four counties had trouble agreeing on how they are going to proceed. I see a problem with trying to come to solutions. If you have a group in one county that won't solve their local problems, how are you going to get five or ten counties to address the situation. That is the question I leave. In the Devils Lake Basin you can't get all the counties to agree. To draw the same conclusion.

1A: 1357 CHAIRMAN NICHOLAS: O.K. we will close the hearing on HCR 3007.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3007

House Agriculture Committee

☐ Conference Committee

Hearing Date 2--16--01

Tape Number	Side A	Side B	Meter #
THREE	A		2732 TO 3054
Committee Clerk Signature <i>Edward D. Ellyson</i>			

Minutes:

1A:CHAIRMAN JOHNSON:

WE WILL OPEN HEARING ON HCR 3007.

Representative Mueller: I will move for a DO PASS ON 3007.

Representative Brandenburg: I will second.

Any discussion Committee.

Representative LEMIEUX: I have one question on this, line 17 if it is a legislative council study or should be a North Dakota water commission study?

That was the only comment that I have.

CHAIRMAN JOHNSON: Any other discussion on 3007?

ROLL CALL WAS TAKEN.....THERE WERE ""13 YES.....0 NO.....2 ABSENT

REPRESENTATIVE PIETSCH WILL CARRY HCR 3007.

WE WILL CLOSE THE HEARING ON HCR 3007. 1A:3054

2-16-01

Date:
Roll Call Vote #;

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

HER 3007

House AGRICULTURE

Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken

DO PASS

Motion Made By

Mueller

Seconded By

BRANDENBURG

Representatives	Yes	No	Representatives	Yes	No
Eugene Nicholas, Chairman			Rod Froelich	✓	
Dennis E. Johnson - Vice Chairman	✓		Doug Lemieux	✓	
Rick Berg	✓		Philip Mueller	✓	
Michael Brandenburg	✓		Kenton Onstad	✓	
Joyce Kingsbury	✓		Sally M. Slandvig	✓	
Myron Koppang	✓		Dennis J. Renner	✓	
Edward H. Lloyd	✓		Dwight Wrangham		
Bill Pietsch	✓				

Total (Yes)

13

No

0

Absent

2

Floor Assignment

CARRICK

If the vote is on an amendment, briefly indicate intent:

PIETSCHE

REPORT OF STANDING COMMITTEE (410)
February 16, 2001 2:39 p.m.

Module No: HR-29-3728
Carrier: Pietsch
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HCR 3007: Agriculture Committee (Rep. Nicholas, Chairman) recommends DO PASS
(13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HCR 3007 was placed on the
Eleventh order on the calendar.

2001 SENATE AGRICULTURE

HCR 3007

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3007

Senate Agriculture Committee

☐ Conference Committee

Hearing Date March 22, 2001

Tape Number	Side A	Side B	Meter #
March 22 1		X	13.2 - 48.4
March 29 1	X		18.2 - 27.4
Committee Clerk Signature <i>Larry J. Haberman</i>			

Minutes:

REP. BELTER; Sponsor, introduced the resolution to the committee. This resolution would study the problems dealing with drainage of large areas and what we can do to help stem the problems we have with flooding.

SENATOR FISCHER; Cosponsor, testified in support of this resolution.

SENATOR URLACHER; Do the joint board cover most of the drainage areas?

SENATOR FISCHER; The problem that we have is that when we cross county lines is the taxation issues. We can enter into agreements with other counties. This resolution address a watershed district that would be more permanent.

SENATOR URLACHER; Could the joint board could expand the purpose?

SENATOR FISCHER; Yes, a joint board could become a watershed board.

SENATOR NICHOLS; Is there problems with what entities make the decisions?

SENATOR FISCHER; In the metropolitan area the water board, city and county all work in conjunction to address issues concerning the area. In rural areas the community is involved in the discussion, the decision lies with the water board depending on whether it falls under the clean water act.

SENATOR KROEPLIN; What is a regional watershed?

SENATOR FISCHER; It is set up in many different ways depending what comes out of the study.

SENATOR KROEPLIN; Wouldn't you have problems with counties overlapping?

SENATOR FISCHER; We address that with joint boards now.

SENATOR TRENBEATH; Cosponsor, testified in support of this resolution.

LEE KLAPPRODT; State Water Commission, testified in support of this resolution. See attached testimony and information.

CHUCK DAMSCHEN; Cavalier County Water board, testified in opposition to this resolution and its concept. Different areas of each watershed have unique characteristics. This concept tends to centralize the control of the watershed and the decision making.

ANDY MORK; Morton County Resource Board, testified in the neutral position on this resolution.

SENATOR URLACHER; Dist. 36, testified in the neutral position on this bill. There has been some concern about the water boards being too numerous and the complications of developing within watersheds. I feel good about the local control of county water boards and I think there is room within joint boards or authorities to address specific needs within those watersheds through joint boards or authorities.

The hearing was closed.

Page 3
Senate Agriculture Committee
Bill/Resolution Number HCR 3007
Hearing Date March 22, 2001

March 29, 2001

Discussion was held.

SENATOR ERBELE moved for a DO NOT PASS.

SENATOR KROEPLIN seconded the motion.

Roll call vote: 6 Yeas, 0 No, 0 Absent and Not voting.

SENATOR URLACHER will carry the bill.

Date: 3-29-01

Roll Call Vote #: /

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. *HCR 3007*

Senate Agriculture Committee

☐ Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Sen. Erbe Seconded By Sen. Krapke

[illegible]

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Ulacher

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 29, 2001 11:07 a.m.

Module No: SR-55-7108
Carrier: Urlacher
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HCR 3007: Agriculture Committee (Sen. Wanzek, Chairman) recommends DO NOT PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3007 was placed on the
Fourteenth order on the calendar.

2001 TESTIMONY

HCR 3007

TESTIMONY ON HOUSE CONCURRENT RESOLUTION 3007

House Agriculture Committee

Lee Klapprodt, Director
Planning and Education Division
State Water Commission

Chairman and committee members, my name is Lee Klapprodt. I am the Planning and Education Division Director at the State Water Commission. I'm appearing before you today in support of House Concurrent Resolution No. 3007.

The State Water Commission recognizes the value in enhancing the ability to manage the state's water resources along hydrologic boundaries rather than political boundaries. In fact, most of our planning efforts focus on watershed geography. Every State Water Management Plan since 1983 has addressed water management needs depicted along hydrologic boundaries.

I am providing you with a Waterguide the Water Commission developed several years ago to help the public understand North Dakota's local water management mechanisms. You will note that it provides a history of local water management beginning with the authority to create drain boards in 1895. Water management at the local level has been important in North Dakota since early statehood. The publication also summarizes the powers and duties of Water Resource District Boards and discusses the joint water resource board provisions in state law.

You may be aware that the study proposed in House Concurrent Resolution Number 3007 is very similar to an earlier effort. During the period from 1979 through 1985 the legislatures wrestled with the issue of restructuring local water management. Legislation was introduced to make sweeping changes. However, significant concerns were voiced associated with the election of water board members and conflicts over taxing authority with County Commissions. Consequently, the joint powers authority for water resource districts established in 1975 remains the most popular method of regional coordination among local water boards and county commissions.

While joint water resource districts have proven very workable in most areas, some problems exist with this approach to regional, watershed based local water management. Two of those are:

- Despite the fact that a water problem may be common to an entire river basin or region, not all water resource boards in a river basin or region are not required to participate in the formation and operation of a joint board.
- It is difficult to finance joint projects since it is difficult to obtain unanimous approval of each of the county commissions within a joint board area for a necessary mill levy.

I am also providing copies of 1983 and 1985 Legislative Council reports that discuss in some detail the earlier efforts to institute a change in local water management. Some twenty years later, these issues and the need still exists for improved water management based on hydrologic boundaries. Hopefully, the study proposed in this resolution can find solutions to problems unresolved in prior efforts and will meet contemporary needs.

NORTH DAKOTA WATER RESOURCE DISTRICTS

Developing and managing North Dakota's water resources requires cooperation and coordination at several levels of government. Local interests rely on the state and federal government to carry on affairs beyond their ability or jurisdiction. On the other hand, state and federal government rely on an effective local unit of government to implement programs. Water resource districts provide the vital ingredient of local participation.

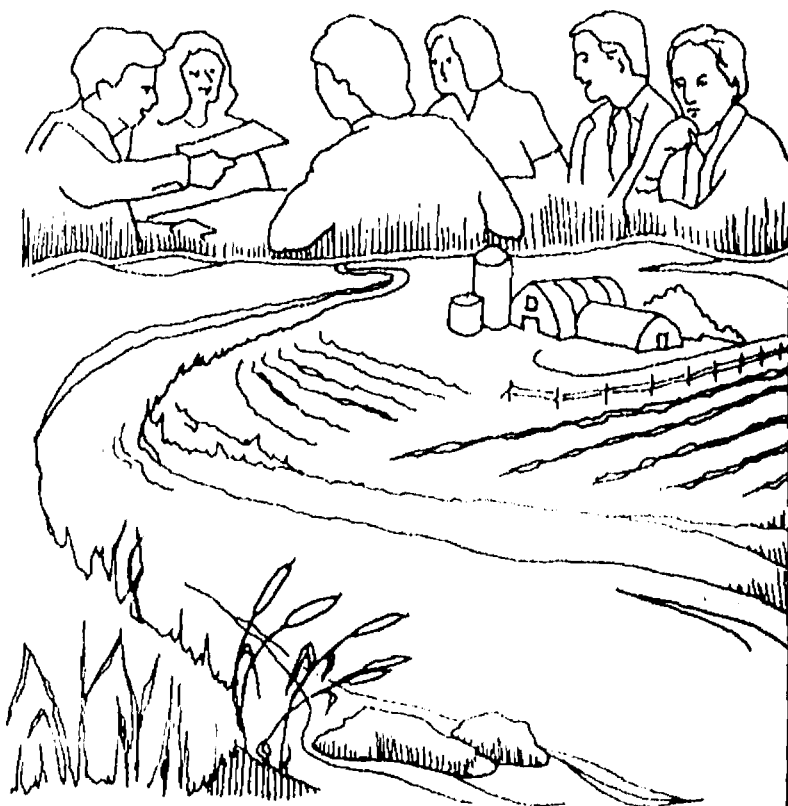
history

The water resource districts' earliest beginnings can be traced to county drain boards. Legislation enabling the creation of drain boards was first enacted in 1895 to provide for the drainage of agricultural lands; however, it was not until 1935 that the North Dakota Legislature created water conservation districts to be responsible for a broader range of water management and water development matters at the local level. A water conservation district could be established only by order of the State Water Conservation Commission upon receipt of a petition from any county, city, village, or township, or signed by 50 percent of the landowners within the proposed district.

These initial water management laws, contained in Chapter 61-16 of the North Dakota Century Code, remained virtually unchanged until 1957. At that time the legislature enacted a comprehensive reform of water management statutes, changing the name of local water conservation districts to "water conservation and flood control districts." The State Water Conservation Commission retained the authority to create a district and establish the boundaries upon receipt of a proper petition.

In 1973 the legislature decided that all land in the state should be contained within a water conservation and flood control district. This time the name was changed to "water management districts."

The legislature enacted its second comprehensive reform of water management laws in 1981, expanding the powers and authorities of water management districts, and making several other significant changes designed to improve the effectiveness of local government in addressing water issues. The legislature eliminated legal drain boards, transferred the powers and authorities of legal drain boards to water management districts, and changed the name of legal drains to assessment drains. Recognizing the increased responsibilities of local water management districts, the legislature again changed the name, this time to "water resource districts."



waterguide

A NORTH DAKOTA STATE WATER COMMISSION PUBLICATION

organization

When water conservation districts were first created, the legislature gave the State Water Conservation Commission the authority to set boundaries. However, the legislature, because it recognized the advantage of watershed boundaries over artificial boundaries, specifically directed the State Water Conservation Commission not to be constrained to county and township boundaries when creating districts.

In 1957 the law concerning the establishment of boundaries was amended. Boundaries for water conservation and flood control districts were established as requested in the petition; however, the State Water Commission (formerly called the State Water Conservation Commission) was given the authority to include additional watershed areas benefited by the creation of the district.

When the legislature decided in 1973 that all land in North Dakota must be included within a water management district, most districts were created along county boundaries. In 1981 the legislature considered a proposal to reorganize all water resource districts along watershed boundaries, but did not approve the proposal. The evolution of water resource dis-

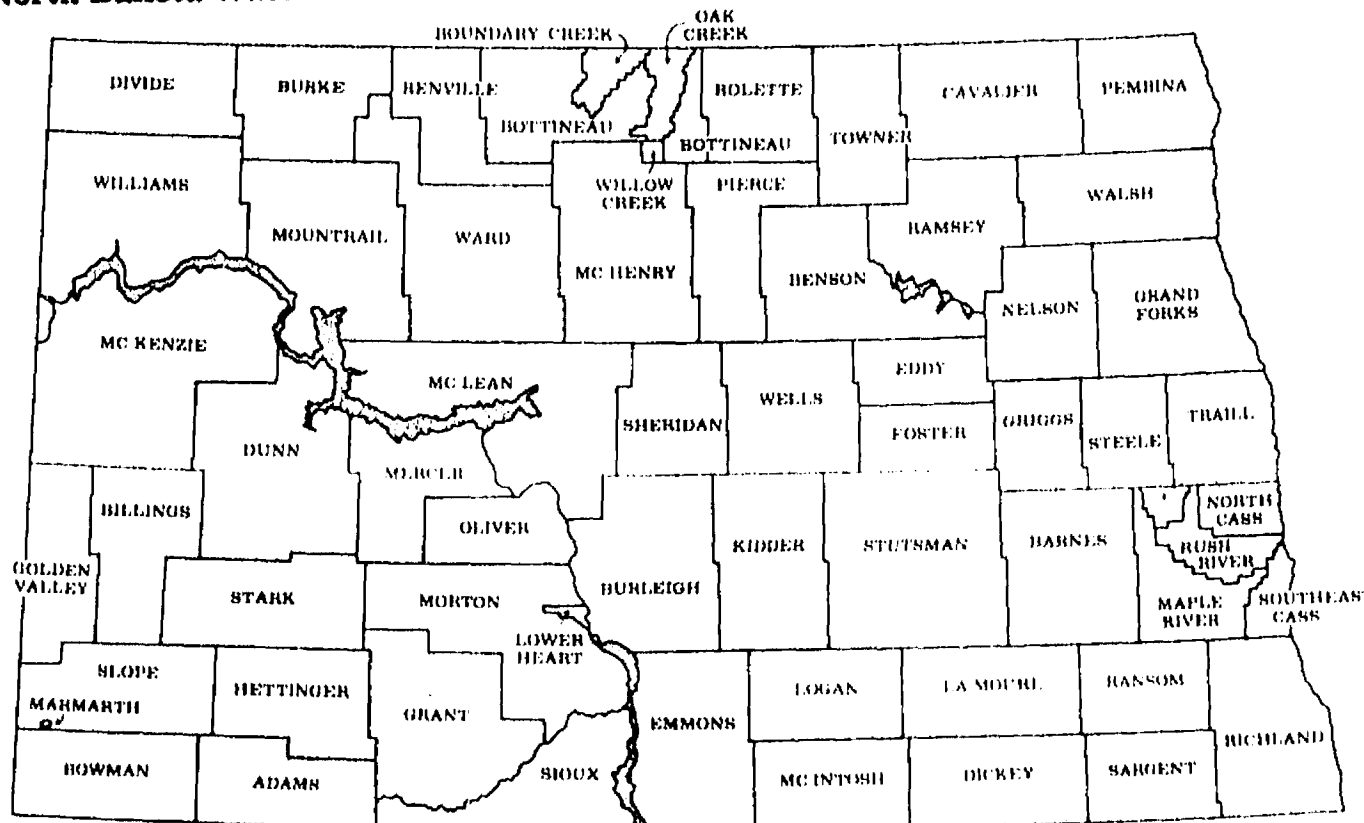
tricts has resulted in a water resource district in every county in North Dakota. In five counties, more than one water resource district exists.

Water managers, who must be resident landowners in the district, are appointed by the county commission for staggered terms of three years. At the discretion of the county commission, a water resource district may have three or five managers. County commissioners are prohibited from serving on water resource district boards.

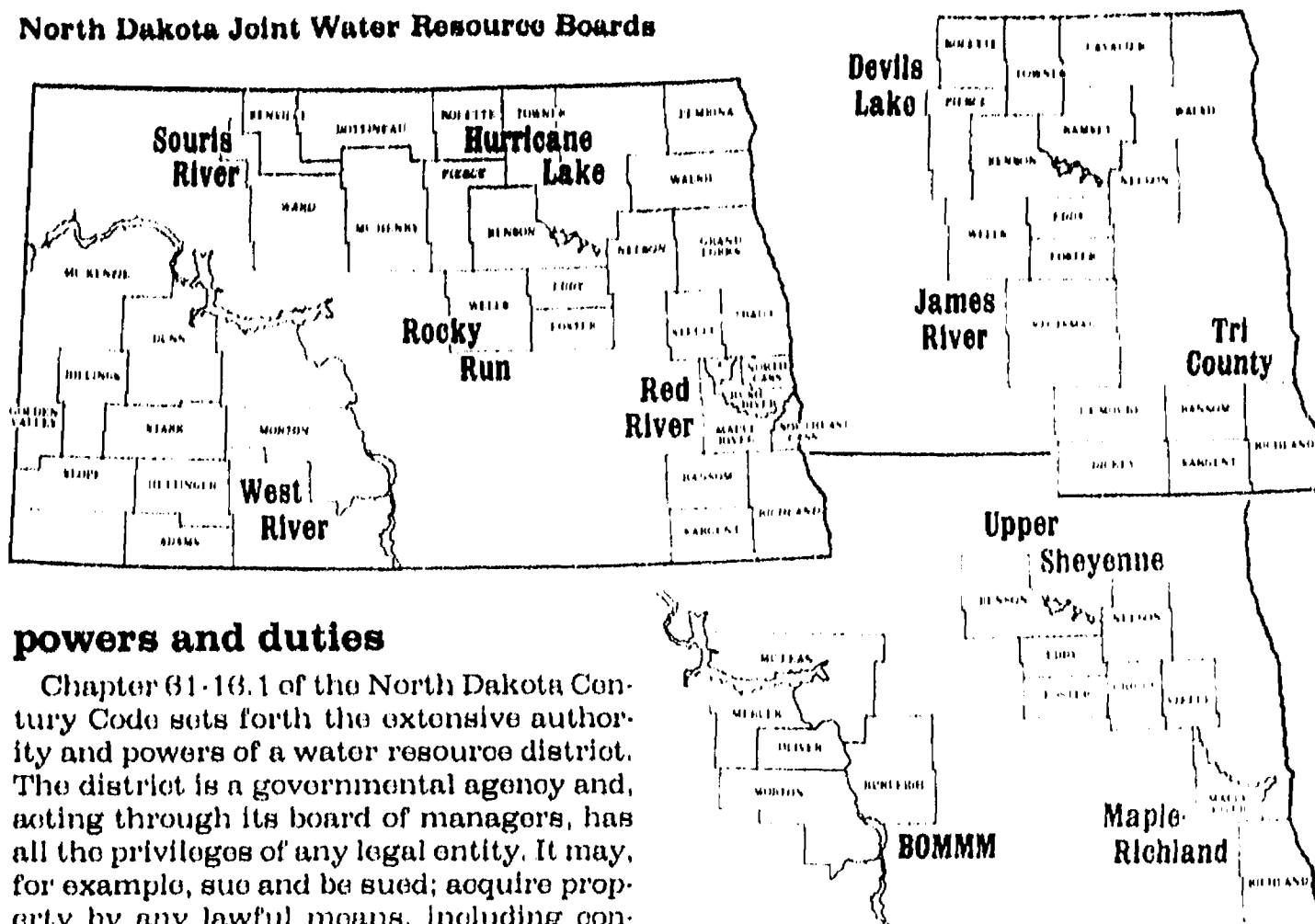
The North Dakota Constitution and laws passed by the legislature require that all records and meetings of public bodies be open to the public. Accordingly, a water resource board's meeting must be open to the public, and the board is required to maintain accurate records of its minutes, accounts, and other affairs, and to make them available for public inspection during business hours.

Some water resource boards in districts with numerous water management issues may meet as often as twice a month, employ staff, and have an office at the county courthouse. Other less active districts meet less frequently, have no staff, and have no formal office headquarters.

North Dakota Water Resource Districts



North Dakota Joint Water Resource Boards



powers and duties

Chapter 61-16.1 of the North Dakota Century Code sets forth the extensive authority and powers of a water resource district. The district is a governmental agency and, acting through its board of managers, has all the privileges of any legal entity. It may, for example, sue and be sued; acquire property by any lawful means, including condemnation; and contract with any other legal entity including federal, state, and local governmental agencies as well as private corporations and individuals. A district's board of managers may do anything either within or outside the boundaries of the district to promote the beneficial utilization of any water resources within the district. The types of projects in which a district may participate include, but are not limited to: the construction or repair of dams for flood control and/or recreation, municipal, irrigation, or industrial water supply purposes; the diking, straightening, deepening, widening, or clearing of natural or artificial watercourses; the surveying and cataloging of ground-water sources; and drainage projects for the reclamation or protection of land.

financing

A water resource district can finance its operations on local projects in one or more of the following ways:

1. General district-wide mill levy (not more than four mills for each individual water

resource district, with an additional two mills for joint boards).

2. Special assessments against property benefited by a project or activity of a water resource district.
3. User fees imposed and collected for the services provided by a project.
4. Revenue bonds.
5. State or federal cost-sharing, or both (if the project is eligible).

joint water resource boards

Although most water resource districts were established along county boundaries, the legislature recognized that water does not respect political boundaries and that effective management often requires two or more water resource districts to work together. It was for this reason that the North Dakota Legislature enacted the joint exercise of powers statute for water resource districts in 1975. The joint exercise of powers statute for water resource dis-

tricts is contained in Section 61-16.1-11 of the North Dakota Century Code.

Although there is no strong support at this time for reestablishing the boundaries of water resource districts along watershed lines, the joint exercise of powers authority has become widely used by North Dakota water resource districts. The first joint water resource board was the Red River Joint Water Resource Board, created to address the flooding problems in the Red River Basin. Shortly after, the Rocky Run Joint Board, consisting of the Eddy, Wells, and Foster County Water Resource Districts, was created for the purpose of developing flood control projects in the Rocky Run watershed.

Since that time, joint boards have also been created in the West River area, the Upper Sheyenne River area, the Souris River Basin, the James River Basin, the Devils Lake Basin, the Hurricane Lake area, and along the Missouri River. Joint boards bring individual water resource boards together to cooperate on water development projects and to collectively solve water management problems.

water resource districts association

On December 6, 1983, a meeting of water management districts was held to consider the formation of a state-wide association. Bylaws were adopted for the nonprofit corporation known as the North Dakota Water

Management Districts Association, which was later renamed the North Dakota Water Resource Districts Association.

One of the North Dakota Water Resource Districts Association's principal activities is to promote and support legislation which will assist water resource districts in serving residents of the districts in a more efficient and economical manner and, conversely, to oppose any legislation which would hinder a water resource district's ability to perform its duties.

An equally important function of the Association is to keep its members advised of proposed and ongoing projects in other districts, and any administrative, engineering, and legal problems encountered, including the methods used in overcoming such problems.

additional information

For further information on water resource districts and their responsibilities, contact the following:

- **Local water resource district.**
(Check your local telephone directory.)
- **Water Resource Districts Association**
P.O. Box 2254
~~Northwest Bank Building~~
Bismarck, ND 58502
(701) 223-4615
- **North Dakota State Water Commission**
(See the address below.)

NORTH DAKOTA
STATE WATER COMMISSION
900 EAST BOULEVARD
BISMARCK, ND 58505
701-224-2750

Printed in cooperation with the North Dakota Water Users Association

SWC 1831/3000-1987/3000-1991

NATURAL RESOURCES COMMITTEE

The Natural Resources Committee was assigned two studies. Senate Concurrent Resolution No. 4047 directed a study of the organization, powers, government, fiscal affairs, boundaries, dissolution, and general rules of irrigation districts to determine any statutory amendments and improvements that may be necessary to provide for workable organization and subsequent operation of irrigation districts under current technologies and conditions. House Concurrent Resolution No. 3065 directed a study of the jurisdictional boundaries of water resource districts and the selection of the management of such districts to determine the most effective and efficient method to provide for the management of the water resources of the state at the local level on a watershed basis.

Committee members were Representatives Richard Kloubee, Chairman, Gordon Berg, Jim Brokaw, John Crubtree, Lawrence Dick, Moine Gates, Lyle Hanson, Alvin Hausauer, William Kretschmar, Clarence Martin, Douglas Mattson, Jack Murphy, Glenn Pomeroy, Orville Schindler, Elaine Vig, and Joseph Whalen; and Senators Chuck Goodman, Shirley Lee, Bonnie Miller Heinrich, Donald Moore, Gary Nelson, Ron Quail, and Roland Redlin. Senator Ralph Christensen was a committee member prior to his death in April 1982.

The report of the committee was submitted to the Legislative Council at the biennial meeting of the Council in November 1982. The report was adopted for submission to the Forty-eighth Legislative Assembly.

IRRIGATION DISTRICTS

North Dakota ranks about 39th or 40th among the states in the number of acres irrigated in this country. There are over 26 million cultivated acres within the state and although an estimated 2.5 million acres are irrigable, only 210,000 acres are being irrigated. About 40,000 acres are irrigated by flooding or other surface irrigation methods, while 170,000 acres are irrigated by sprinkler systems. About one-half of the acres being irrigated are supplied by ground water and the remainder are supplied by surface water.

Currently irrigation is allowed both on an individual and on an organized basis. Individuals may apply for a water right for the purpose of private irrigation. Irrigation districts are formed for the purpose of establishing uniform irrigation practices and water resource development projects to increase irrigation capacities. North Dakota has approximately 22 irrigation districts.

Individual irrigators are subject to the laws governing appropriation and proper use of water. Irrigation districts are also subject to these laws but must also comply with the statutory mechanisms for governance of the district. Irrigation districts may establish irrigation projects and fund them by assessment of the benefited areas within the district.

The state's original irrigation laws were adopted in 1917 and were directed toward regulation of gravity or flood irrigation utilizing surface water. These laws have only been amended on a piecemeal basis since their adoption.

The study was not made under any circumstances or problems which demanded immediate attention and solution but, rather, out of a need for workable irrigation district laws to avoid problems in the future because of the significant increase in water permits for irrigation in recent years.

The resolution directed the committee to consult with a citizens advisory committee of irrigators and other persons to be mutually appointed by the chairman of the Natural Resources Committee and the North Dakota Irrigation Association.

The citizens advisory committee met and, working closely with Water Conservation Commission staff, developed an irrigation bill draft which was submitted to the Natural Resources Committee. The bill draft amended existing irrigation law in four different areas. First, it recognized and incorporated current irrigation technology into the irrigation district laws primarily in the areas of pipeline, sprinkler irrigation systems, and ground water sources. Second, it attempted to improve the procedure for organizing irrigation districts and the operation procedures of irrigation districts. Third, it attempted to make the voting and election requirements for irrigation districts more efficient and workable. Fourth, it made general housekeeping and technical amendments to modernize the language of the irrigation district laws. The proposed changes were suggested to aid the operation of existing districts and to facilitate the establishment of future districts.

Testimony received from the State Engineer, Irrigation District Association, and Water Resource Districts Association indicated that since the emphasis in irrigation has shifted to sprinkler irrigation systems rather than surface methods, it is necessary for existing laws to be modernized to facilitate efficient and wise use of the limited water resources of this state. Testimony indicated that modernization is necessary because existing irrigation laws make no reference to such modern irrigation methods as pipelines, sprinkler irrigation systems, and ground water supplies. In addition, existing law is not broad enough in its scope to cover new problems associated with well drilling, pipeline construction, and, in general, the potential problems associated with a possible large scale increase in irrigation in this state.

Recommendation

The committee recommends a bill which would amend those sections in North Dakota Century Code Title 61 relating to irrigation districts. The recommended bill makes the following major changes:

1. Recognizes and incorporates current irrigation technology into existing law primarily in the areas of pipeline, sprinkler irrigation systems, and ground water sources. This modernizes the law to apply to technologies not in existence when the irrigation laws were first adopted.
2. Differentiates between the election procedures where an irrigation district receives all or a portion of its water supply from a federal reclamation or irrigation project and where the irrigation district has a private source of water. If the irrigation district receives water from a federal reclamation or irrigation project, the number of votes allowed to an elector would be the same as under current law, i.e., one vote for each 20 irrigable acres owned within the irrigation district with a maximum of eight votes. If the irrigation district has a private source of water, the elector may cast one vote for every 20 irrigable acres with a limit on the maximum number of votes equal to 35 percent of the total possible votes in any district election. This distinction must be made because individuals who receive water from a federal

project may not irrigate more than 160 acres while, if the water is from a private source, no such limitation exists.

3. Modernizes the notice provisions to require that the public notice for elections and official acts of the irrigation district board be published once each week for two consecutive weeks in the newspaper of general circulation where the district is located and in the official newspaper of each county in which the district is located. This change brings the notice provision in the irrigation laws in line with other notice statutes in this state.
4. Provides for additional advance time between the time notice of an election is publicized and the election itself and the advance time for a candidate for the office of district director to file with the State Engineer. This change allows greater preparation time before an election.
5. Provides for a minimum five-member board of directors of an irrigation district. Current law allows the possibility for a three-member board. This change allows better representation and solves other problems associated with a small board.
6. Includes noncontiguous lands within the irrigation district. This clears up the legal question as to whether or not noncontiguous land may be within an irrigation district.
7. Compensates the members of the election board for an irrigation district election in an amount fixed by the board of directors of the irrigation district. Existing law provides compensation at \$10. This change allows greater flexibility for the irrigation district board.
8. Compensates each of the directors of the irrigation district board in an amount set by the board of directors of the district. The compensation may not exceed that compensation provided for members of the Legislative Council. Existing law provides compensation in the amount of \$25 per day. This change modernizes allowed compensation.
9. Provides construction bonds for performance of project contracts in an amount equal to the contract price. This change eliminates the obsolete \$50,000 limitation on the amount of the bond under existing law.
10. Provides that the irrigation board has a duty to provide a water supply only in the amount that can be applied beneficially to the lands in the district and in an amount that does not interfere with the rights of senior appropriators. Existing law requires the board to run the irrigation system at full capacity in times of high water without interfering with other appropriators. This change limits use of water to that amount which can be beneficially used without waste and limits the restrictions on use to those with senior rights.
11. Limits the eminent domain powers of irrigation districts to require that an alternative water supply of equal quantity and comparable quality be offered to a water user whose water rights have been condemned. This change treats more equitably persons whose water rights have been condemned.
12. Allows payment of irrigation liabilities from special assessments or water charges or a combination of both. Existing law allows payment of liabilities from assessments on real property and from water charges. This change allows more fiscal flexibility and specifies the proper method of assessment.
13. Allows district tax assessors to consider other factors

in determining benefits received by a tract or subdivision within an irrigation district other than the number of irrigable acres. This change allows a greater number of factors to be used in valuation of assessable land in the district, which allows a more equitable valuation.

14. Increases the ability of an irrigation district to borrow additional funds if the levy of the annual assessment is insufficient for the district's liabilities. The increase is from 50 cents per acre to \$1 per acre for irrigable lands within the district. This change increases the taxing power of the district to pay assessment deficiencies.
15. Establishes a Class A misdemeanor penalty for the unlawful use of water and waste. Existing law does not establish a penalty for unlawful use and waste of water.
16. Establishes elections for the district board in alternate years rather than every year to save time and expense.

WATER RESOURCE DISTRICT STUDY

During the 1979-81 interim the Legislative Council's Natural Resources Committee studied water management in the state. The issue was whether the management of water principally on a local level by water management districts and legal drain boards was the most effective and efficient method of providing local water management and, if not, what steps should be taken to provide such water management. That committee's study report noted that water could be more effectively managed on the local level if the duties of legal drain boards and the water management districts were combined and if the managing entities had jurisdictional boundaries along watershed lines. The committee's report noted that special election of a water resource district's board of managers was preferable to appointed managers. That committee recommended a bill which established the water resource districts, combining the functions of drain boards and water management districts. It also recommended hydrological boundaries and election of managers.

In 1981, the 47th Legislative Assembly substantially amended the committee's recommended bill. The amended bill eliminated the concept of hydrological boundaries, unless approved by the 48th Legislative Assembly which, in effect reinstated political boundaries for the districts. It also eliminated the provisions for election of district managers rather than appointment.

House Concurrent Resolution No. 3065 directed a study of the jurisdictional boundaries of water management districts and the selection of management of the districts. The study was conducted with the cooperation and assistance of the Water Conservation Commission, State Engineer, North Dakota Water Management Districts Association, and North Dakota Association of Counties.

North Dakota Century Code Section 61-16.1-03 directs the State Engineer to establish proposed boundaries focused on hydrological patterns and to report to the Legislative Council or a designated interim committee. The State Engineer submitted these proposed boundaries to the committee for its consideration and review.

Testimony received by the committee from various water resource districts indicated little support for reorganization of water district boundaries along watershed lines or for the election, rather than appointment, of water managers. Based on this information the committee addressed the problem of how water resource districts

could solve water problems common to a river basin or region by examining possible amendments to existing joint water resource board statutes rather than a reorganization of existing water resource district boundaries.

The Water Management Districts Association appointed a committee of water managers to develop proposals for improving existing laws relating to the establishment of joint water boards. Testimony from that entity indicated that there are four joint water boards in the state with a potential fifth in the Souris River Basin.

Testimony showed that three basic problems face joint boards. First, not all water resource boards in a region are required to participate in the formation and operation of a joint board. The difficulty in solving common problems in an area is increased if not all the water resource districts cooperate. Second, it is difficult to obtain unanimous approval of all county commissioners within a joint board for a necessary mill levy. Third, if only a portion of a water district lies within the joint board area, a tax levy by the joint board must be levied over the entire district and not just the joint board area. The committee reviewed the proposed changes in the joint board statutes submitted in bill draft form by the committee of water district managers. The bill draft contained the following major changes:

1. Provided that upon petition of three-fourths of the water resource districts which are located entirely or partially within a river basin or region to the State Engineer, the State Engineer could issue an order establishing a joint power river basin or region. Public hearings were to be held on that question. The State Engineer would determine that the joint board is necessary to resolve a significant common water resource problem. The State Engineer would delineate the boundaries of the joint board river basin or region. All water resource districts which were located entirely or partially within the river basin or region were required to comply with the order and become a member of the joint board. Any district

failing to comply with the order of the State Engineer would not be eligible to receive any state fund authorized by North Dakota Century Code Title 61.

2. Allowed the districts which are parties to a joint board agreement to provide for the payment of the expenses and obligations of the joint board by the levy of an ad valorem tax not to exceed two mills on the real property of each member district. The county commissioners would have been required to levy the tax.
3. Limited the area subject to the levy to that portion which lies within the joint board area.

The committee received testimony from the County Commissioners Association indicating these problems with the bill draft:

1. The provisions for the process and guidelines for the designation of the boundaries of a proposed joint powers board were too vague and left too much discretion with the State Engineer, the entity who decides what those boundaries are.
2. The provision by which water resource districts were forced to comply with a State Engineer order for the establishment of a joint powers board was unacceptable. There should be an incentive to join rather than a mandate and penalty for failure to comply.
3. There may be a constitutional problem in allowing one county to mandate a tax levy in a neighboring county.
4. The requirement for a tax levy requested by the joint board was unacceptable. Elected officials should have the final decision whether a tax should be levied.

The committee makes no recommendation as the result of its study. The committee found that the proposed water resource district bill draft should have been drafted with more input from the County Commissioners Association. The committee recommended that the bill draft be returned to the Water Resource Districts Association where the problems noted can be resolved in conjunction and in consultation with the County Commissioners Association.

WATER COMMITTEE

The Water Committee was assigned four studies. Senate Concurrent Resolution No. 4021 directed a study of the implementation of water user fees and the use of those fees for the development of water resources in the state. Senate Concurrent Resolution No. 4023 directed a study of the methods that could be used to assist local entities of government within the state to finance critical water programs including planning and construction of those facilities. Senate Concurrent Resolution No. 4036 directed a study of the financing and funding needs for development of North Dakota's water resources and to study the procedure and manner in which the resources trust fund could provide financial assistance for the development of water supply projects in this state. Senate Concurrent Resolution No. 4020 directed a study of joint water resource boards and the selection of water managers for water resource districts, with the objective of determining the most appropriate method to provide for the management of water resources of this state at the local level.

Committee members were Senators Gary J. Nelson (Chairman), Adam Krauter, Herschel Lashkowitz, Shirley W. Lee, Rick Maixner, Rolland W. Redlin, Floyd Stromme, Gerald Waldera, and Frank A. Wenstrom; and Representatives Clare H. Aubol, Jim Brokaw, William G. Goetz, Bill Lardy, Peter Lipslea, Ray Meyer, Robert E. Nowatzki, Glenn A. Pomeroy, Don Shide, and Wade Williams.

The report of the committee was submitted to the Legislative Council at the biennial meeting of the Council in November 1984. The report was adopted for submission to the 49th Legislative Assembly.

WATER DEVELOPMENT FINANCE

House Concurrent Resolution Nos. 4021, 4023, and 4036 were considered jointly by the committee under the topic of water development finance in North Dakota.

Existing Funding Sources

The financing of water projects is a multileveled system in this country consisting of federal, state, local, and private sources. Federal water development authorities include the United States Army Corps of Engineers, Bureau of Reclamation, Soil Conservation Service, Agricultural Stabilization and Conservation Service, Farmers Home Administration, Bureau of Land Management, Fish and Wildlife Service, and Department of Housing and Urban Development.

Water development authority on the state level is found primarily with the Water Commission, which has general power and jurisdiction over the waters in this state. The commission has broad powers to develop the waters of the state for domestic, agricultural, and municipal needs, irrigation, flood control, recreation, and wildlife conservation. Through the commission the contract fund created under North Dakota Century Code (NDCC) Section 61-02-64 has been North Dakota's primary source of funding for water-related activities and projects. Moneys for the contract fund have been expended by the commission for cost-sharing for water-related projects and various water-related studies. Much of this cost-sharing has been with local water resource districts.

The Water Commission has historically had requests for funding from the contract fund far in excess

of its funding capacity. The 1983 Legislative Assembly appropriated approximately \$2.3 million to the contract fund but the commission received approximately \$43 million in funding requests for proposed water projects.

Another state level funding source for water development is the 10 percent of the oil extraction tax earmarked for the debt service on the Southwest Pipeline Project bonds and the resources trust fund. Any moneys in excess of that needed for the debt service on the Southwest Pipeline Project bonds is deposited in the resources trust fund, which is available to the Water Commission for comprehensive water supply facilities and rural water systems. It has been estimated the resources trust fund will have a balance of approximately \$3.1 million at the end of the 1983-85 biennium.

Several other state level funding sources exist. The Legislative Assembly appropriates funds to the Department of Health for its lake protection and rehabilitation program. The Bank of North Dakota administers the community water facility loan program which supplements loans from the Farmers Home Administration for small community and rural water system water supply projects. This program is funded from a \$10 million appropriation from the undivided profits of the Bank of North Dakota. Almost all of the fund has been loaned out or has been pledged for projects. The Legislative Assembly also appropriates funds to the Game and Fish Department and the Parks and Recreation Department for funding programs for water projects under their jurisdictions. Although the State Engineer is authorized under NDCC Section 61-04-06.2 to assess fees for water use, the Attorney General has interpreted this authority to be limited to the amount necessary to recover the administrative costs of issuing the water permits.

Local funding sources include the water project financing powers of the water resource districts, joint water resource districts, irrigation districts, the Garrison Diversion Conservancy District, and the West River Water Supply District. These entities have the authority to raise funds for water development projects by special assessments and by mill levies. In addition, municipalities have the authority to construct water supply facilities and may finance these projects by issuing various types of debt instruments.

Private sources and authorities for water development finance include private irrigation corporations under NDCC Chapter 61-13 and rural water systems.

Because of decreased federal participation in funding water projects, including water storage facilities and waste treatment plants, state and local governments are required to contribute a larger share of the money for necessary capital improvements. It is anticipated that the traditional cost-sharing arrangement of 87 percent federal/13 percent state for most water storage projects will nearly reverse itself to 21 percent federal/79 percent state. To respond adequately to water resource needs, both of a water quantity and quality nature, state and local governments must come up with large amounts of capital to finance necessary water projects.

To meet their water resource needs under this situation, state and local governments in this country have financed water projects in many ways including the use of debt financing by the issuance of general

obligation bonds and revenue bonds, the formation of economic development funds, bond banks, enterprise authorities, and state bond guarantee funds for local debt instruments. Other financing mechanisms that have been used to finance water projects include the imposition of water user fees; leasing arrangements including lease-purchase agreements, operating leases, and sale-leaseback arrangements; and private sector water development of projects for public use.

Citizens Advisory Committee

Under the authority of Senate Concurrent Resolution No. 4023, a citizens advisory committee was created for the purpose of providing local level input to the committee.

Citizens advisory committee members were Andy Mork, North Dakota Water Users Association (Chairman); Loren Myran, Rural Water Systems Association; Robert Schempp, North Dakota League of Cities; Herb Urlacher, Water Resource Districts Association; Robert Thompson, North Dakota Water Resource Districts Association; Dave Sprynczynatyk, Water Commission; William L. Guy, Bismarck; Leonard Jacobs, North Dakota Association of Counties; Homer Engelhorn, Garrison Diversion Conservancy District; Bob Yon, West River Water Supply District; Randy Pope, Water Users Association; Loren DeWitz, Irrigation Association; and Glenn Kellerman, Rural Water Systems Association. Senator Gary J. Nelson, Senator Rolland W. Redlin, and Representative William G. Goetz represented the Water Committee as nonvoting members of the advisory committee.

The Water Committee and the advisory committee utilized the following list of issues as a format for their study of water project financing:

1. What are the water development needs in the state?
2. What level of funding is required to provide the water development needs in the state?
3. What is the proper authority for handling the water development program in the state? Is the authority of our state and local water agencies adequate for all types of water development activities and projects?

1983 State Water Plan

The committee and the citizens advisory committee received testimony on and examined the Water Commission's "1983 State Water Plan" to determine the water development needs in the state. The 1983 state water plan uses the years 1990, 2000, and 2020 as benchmark years for measuring the water requirements in the state and the degree to which the plan features will meet those needs. The chart at the end of this report is a graphical representation of the water needs of the state for each of the benchmark years showing developed supplies, state water plan components, and unmet needs.

The 1983 state water plan also addressed the level of funding required to meet the water needs in the state. The "Early Action Program" of the state water plan encompasses those water projects scheduled under the plan through the benchmark year of 1990. The table at the end of this report summarizes the estimated costs of the early action program in 1980 dollars.

Citizens Advisory Committee Recommendations

The citizens advisory committee made the following recommendations to the committee as a result of its study:

1. North Dakota should undertake water development as a state program in an aggressive manner.
2. Local involvement and federal participation are essential for water development and management in North Dakota.
3. The authorized and federally funded Garrison Diversion Unit should be considered the first and highest priority for water development in North Dakota.
4. The resources trust fund should be North Dakota's principal water development fund for state level funding of all water projects, including supply, treatment, distribution, municipal, rural, irrigation, flood control, recreation, fish and wildlife, and industrial water, excluding wastewater management projects. Funding of water projects through the resources trust fund shall only be by legislative appropriation.
5. The Water Commission should serve as the state agency through which all water development and water management projects and activities in North Dakota, excluding wastewater management projects, are reviewed, funded, or otherwise receive state participation or assistance.
6. The resources trust fund should be expanded so that funding can be provided for all water-related projects, instead of being limited to water supply facilities, and procedures and criteria should be developed for providing financial assistance for water projects from the fund.
7. The share of the oil extraction tax going to the resources trust fund should be increased from 10 percent to 15 percent.
8. The \$11.7 million appropriated by the 1983 Legislative Assembly from the resources trust fund for purposes not related to water should be returned to the resources trust fund and used for initial construction of the Southwest Pipeline Project.
9. A portion of the coal severance tax revenues going to the coal development impact fund should be shifted into the resources trust fund for water resource development.
10. The existing method of funding the Water Commission contract fund should be continued.
11. The Water Commission should develop a systematic and equitable method of assessing fees against water users and water permittees to recover a part or all of the administrative costs incurred in regulating and administering the appropriation of water.
12. Water use taxes should not be imposed by the Legislative Assembly against any water users.
13. The Bank of North Dakota should act in an advisory capacity to the Water Commission in developing financing packages and structures for water projects.
14. The community water facility loan fund should be kept intact, but no further legislative appropriations should be made to that fund at this time.
15. The basic concepts established in the community water facility loan fund should be considered by the Water Commission in developing criteria for funding water projects from the resources trust fund.

Water Use Fees and Taxes

The committee received information and testimony concerning the imposition of water use fees or water use taxes as a revenue source for water development in this state. The information included estimates of revenue from various levels of water use taxes on industrial users of Missouri River water. The alternative tax rates were based on the amount of water actually permitted for use by those industrial users.

The Public Service Commission indicated that a water use tax imposed on electrical generating companies under its ratesetting jurisdiction would be passed on to the consumers as a legitimate expense of doing business. Information was also received which indicated that water use taxes imposed on electric cooperatives would also be passed on to consumers.

Proponents of the concept of imposing water use fees or taxes argued that because of the severe need for water development in this state, the state could justifiably treat its water resources as a scarce natural resource, the use of which by industry could be taxed. Although the citizens advisory committee recommended that the Water Commission recover its administrative costs in regulating water by imposing a water use fee, it opposed the imposition of water use taxes over that amount necessary to recover administrative costs.

The North Dakota Association of Rural Electric Cooperatives, Basin Electric Power Cooperative, the North Dakota Water Users Association, Great Plains Gasification Associates, and the United Power Association testified against the imposition of any water use tax above that necessary to recover the administrative expenses of the Water Commission. Most of these entities would be willing to pay their fair share of the administrative costs of the Water Commission for regulating water in this state, but they were unwilling to be taxed in addition to that amount and in a manner by which only industrial users would be subject to the tax.

The committee defeated a motion to have a bill drafted to impose a water use fee on industrial users of Missouri River water sufficient to recover the administrative costs of the Water Commission for regulating water use in this state.

Coal Severance Tax

A proposal that a portion of the coal severance tax revenue be shifted to the resources trust fund for water resource development resulted in testimony from the North Dakota Lignite Council and the Tri-County Association opposing any reallocation of coal import moneys because of the continuing need of such moneys in the coal impacted areas.

The committee tabled discussion of that issue.

Bank of North Dakota

A proposal that the Water Commission utilize the Bank of North Dakota in an advisory capacity when developing financing packages and structures for water projects was accepted by the committee. The committee received information from the Bank of North Dakota and agreed that the Bank could provide valuable services to the Water Commission with regard to financial planning for water projects.

Recommendations

The committee, through its recommendations and other committee action, accepted the citizens advisory

committee recommendations that the Garrison Diversion Unit should have the first and highest priority for water development in the state; that the resources trust fund should be the principal water development fund in the state and that it be available for all water-related projects by legislative appropriation only; that the resources trust fund be allocated 15 percent of the oil extraction tax revenue; that the Water Commission's contract fund continue to be a separate fund for water development; that the \$11.7 million appropriated from the resources trust fund by the 1983 Legislative Assembly for nonwater-related purposes be returned; and that the Bank of North Dakota should act in an advisory capacity to the Water Commission to develop financing packages for water projects. The committee did not accept the citizens advisory committee's recommendation that a portion of the coal severance tax revenue be allocated for water projects. The committee makes no recommendations with regard to the citizens advisory committee recommendations concerning the community water facility loan program and the imposition of water use fees or taxes.

The committee recommends Senate Concurrent Resolution No. 4010, designating the construction and completion of the federally authorized and funded Garrison Diversion Unit as having the first and highest priority for water development in North Dakota. The concurrent resolution is recommended, in part, because of the federal Garrison Diversion Commission's investigation of that project.

The committee recommends House Bill No. 1088 to increase from 10 to 15 percent the amount of the oil extraction tax allocated to the Southwest Pipeline Project bond sinking fund and the resources trust fund and expanding the projects that can be funded from the resources trust fund from "comprehensive water supply facilities" to "water-related projects" that may be engaged in by the Water Commission. The committee agreed with the citizens advisory committee recommendation that the increase of this oil extraction tax allocation was a necessary step to establish the resources trust fund as the principal water development fund in the state and to facilitate the marketability of any bonds that might be sold in the future for the Southwest Pipeline Project.

The committee recommends House Bill No. 1089 to transfer from the general fund to the resources trust fund an amount equal to the \$11,722,662 transferred from the resources trust fund by the 1983 Legislative Assembly and appropriated for the Grafton State School.

The committee recommends House Bill No. 1090 to establish a procedure for seeking financial assistance for the development of water-related projects from the resources trust fund. The bill provides that political subdivisions and rural water systems, when seeking legislative appropriation from the resources trust fund for a water-related project or study, must submit the proposed project or study to the Water Commission for review. The bill allows the commission to require the project sponsor to supply necessary information to facilitate its review of the project or study. The commission may also contact or require the project sponsor to conduct a preliminary study for the project or study in accordance with criteria adopted by the commission by rule. House Bill No. 1090 further provides that each bill appropriating money from the resources trust fund for a water-related project or study must be accompanied by a report of the Water Commission. The report must include:

1. A summary of the engineering feasibility study of the proposed water project.
2. Statements concerning the proposed water project as it relates to the comprehensive state water plan of the Water Commission.
3. The need for the proposed water project, including any alternative projects which would satisfy such need.
4. The availability of other sources of funding or financial assistance for such water project.
5. A recommendation as to whether or not the proposed water project should receive financial assistance through legislative appropriation from the resources trust fund.
6. Other items as deemed necessary or appropriate by the Water Commission.

House Bill No. 1090 authorizes the Water Commission to adopt criteria governing the review and recommendation of these proposed water projects. The committee by adopting this bill retains the Water Commission's contract fund without change. Testimony from the Water Commission indicated that the contract fund would continue to be used as at present and would focus on smaller projects and the resources trust fund would be used primarily for larger projects and only pursuant to legislative appropriation.

The committee recommended to the Water Commission that it utilize the services of the Bank of North Dakota in an advisory capacity when developing financing packages and structures for water projects to take advantage of that institution's financing expertise.

WATER RESOURCE DISTRICTS

1983 House Concurrent Resolution No. 4020 is a continuation of studies conducted during the 1979-80 and 1981-82 Interims. 1979 House Concurrent Resolution No. 3022 directed a study of the powers, duties, and jurisdictional boundaries of water management districts and legal drain boards with the objective of determining the most effective and efficient method of providing for management of this state's water resources at the local level. 1981 House Bill No. 1077 was the product of this study. The bill provided, in part, for:

1. Establishment of water resource district boundaries along watershed lines where feasible.
2. Special election of water resource district board managers.
3. Elimination of existing water management districts and boards to avoid duplication of jurisdiction.
4. Water resource district authority to levy up to four mills with two additional mills being available for joint board action.

The bill was substantially amended before passage to provide for:

1. Elimination of hydrological boundaries, unless approved by the 1983 Legislative Assembly, and reinstatement of county boundaries.
2. Elimination of the provision for election of managers in favor of appointment of water managers by the boards of county commissioners within each district.

The bill also contained a provision, codified as North Dakota Century Code Section 61-16.1-03, that directed the State Engineer to establish proposed boundaries for water resource districts using hydrological patterns and to report those proposals to the Legislative Council or a designated interim committee.

1981 House Concurrent Resolution No. 3065 directed continuation of the study relating to the jurisdictional boundaries of water management districts and the selection of management for the districts. The State Engineer submitted the proposed boundaries to the 1981-82 interim Natural Resources Committee for its consideration and review. Testimony received by that committee from various water resource districts indicated little support for reorganization of water district boundaries along watershed lines or for the election, rather than appointment, of water managers. The committee elected to address the problem of how water resource districts could solve water problems common to a river basin or region by examining possible amendments to existing joint water resource district board statutes rather than a reorganization of existing water resource district boundaries.

The report of that committee described three basic problems facing joint boards in their attempts to effectively and efficiently manage water within a region. First, despite the fact that a water problem may be common to an entire river basin or region, not all water resource boards in a river basin or region are required to participate in the formation and operation of a joint board. Second, it is difficult to finance joint projects since it is difficult to obtain unanimous approval of each of the county commissions within a joint board area for a necessary mill levy. Third, if only a portion of a water district lies within a joint board area, a tax levy by the joint board must be levied over the entire district and not just the area within the joint board.

That committee considered but did not recommend a bill draft that would have given the State Engineer the authority to order the establishment of a joint power river basin or region upon appropriate petition from the water resource districts. Any district failing to comply with the order of the State Engineer would not have been eligible to receive any state funds authorized by NDCC Title 61. In addition, the joint water resource district board would have had the authority to require the boards of county commissioners of the member districts to levy up to two mills for joint board expenses and costs and to levy the tax only over that land in each member district within the river basin or region subject to the joint board order or agreement.

Issues Considered

The committee viewed its study under House Concurrent Resolution No. 4020 as an attempt to address the remaining problems resulting from the 1981 legislation creating the water resource districts. The committee received testimony from the Water Commission, State Engineer, North Dakota Water Resource Districts Association, North Dakota Association of Counties, and North Dakota County Commissioners Association.

The committee focused on the procedures and practices governing joint water resource district boards and the selection of water managers for water resource district boards. The committee addressed issues relating to the desirability of utilizing joint water resource district boards as a means of efficiently and effectively managing this state's water resources, whether managers of water resource district boards should be elected or appointed, whether county commissioners should be allowed to serve as water resource district managers, whether the term of office

of water resource district managers should be reduced, and various technical matters.

The committee received a proposal from the North Dakota Association of Counties to reduce the term of office for water resource district managers from five years to three years. The North Dakota Association of Counties indicated the change is necessary to allow more accountability of water resource district managers to the board of county commissioners which appointed them and the public. The Water Resource Districts Association opposed the reduction of the term of office of water resource district managers because of the negative effect it would have on the continuity of membership of district boards necessary for water projects that may take many years to complete.

The committee examined the question whether water resource district managers should be appointed by the board of county commissioners or elected. The committee received testimony opposing the election of water resource district managers from the Water Resource Districts Association and the North Dakota County Commissioners Association. The testimony indicated that the 1981 legislation creating the water resource districts originally provided for the election of water managers because the districts were planned to be on a watershed basis; watershed boundaries, however, were never adopted.

The committee reviewed a bill draft to allow one county commissioner to be a member of a water resource district board. Section 61-16-08 prohibits a county commissioner from being a water resource district manager. The County Commissioners Association endorsed the concept of allowing county commissioners to serve on water district boards as a method of increasing communication between the two entities. In addition, the change would allow more control by county commissions over district activities. The Water Resource Districts Association opposed the concept because of possible conflicts of interest that may arise if a county commissioner can also be a water resource district manager and because a county commissioner would probably not be able to serve enough time to duties as a water resource district manager. The committee tabled discussion of the proposal.

The committee reviewed a proposal to allow water resource districts which are working together under a joint water resource district agreement to levy the existing two-mill levy for joint water resource district board purposes upon the taxable valuation of the real property within each district within the river basin or region subject to the joint agreement. Testimony indicated that existing law does not allow the mill levy to be applied only to the land which is benefited by the joint agreement. The change would allow the mill levy to be applied only to the land in the district which is the subject of the joint water resource district

agreement. Existing law requires the levy to be over the entire district whether or not the land is in the relevant watershed. The Water Resource Districts Association favored the proposal because it allows the joint water resource district boards to distribute the costs and expenses of the joint board more equitably. Opposition to the proposal indicated assessors in the counties would have difficulty deciding where the watershed boundaries were located. The committee received information from the Water Commission that watershed boundaries have been mapped and these maps can be used by the assessors in the counties.

The committee received proposals from the Water Resource Districts Association and the Water Commission making various technical and substantive amendments in the water resource district laws. The County Commissioners Association and the North Dakota Association of Counties opposed these changes because they believed watershed management should be on the county level and the changes took authority away from the counties. The committee opposed the portion of the proposal that eliminated mandatory master plans and public hearings for master plans for water resource district water management activities.

Recommendations

The committee recommends Senate Bill No. 2096, proposed and endorsed by the North Dakota Association of Counties, to reduce the term of office for water resource district managers from five years to three years. The committee agreed with the North Dakota Association of Counties that the change allows more accountability of water resource district managers to the boards of county commissioners and the public.

The committee recommends that water resource district managers continue to be appointed by the boards of county commissioners rather than be elected. The committee agreed with the Water Resource Districts Association and the North Dakota County Commissioners Association that the election of the water district managers is not necessary because watershed boundaries for water resource districts have not been adopted.

The committee recommends Senate Bill No. 2097 to allow water resource districts that are working together under a joint water resource district agreement to levy the existing two-mill levy for joint water resource district board purposes upon the taxable valuations of the real property within each district within the river basin or region subject to the joint agreement. The bill allows joint water resource district boards to distribute the costs and expenses of joint boards more equitably. The change allows the mill levy to be applied only to the land in the district which is the subject of the joint water resource district agreement.

House, Ag

February 2, 2001

For : North Dakota Agricultural Committee

Reference: HCR 3007

The North Dakota Wildlife Federation, Inc supports HCR 3007 and asks for a do pass.

We realize this study will be extensive and cover many aspects ; assessments for cost of projects, maintenance of projects, etc.

We realize there will be difficulties in property owner concerns between the " guy at the top of the hill " and the "guy at the bottom of the hill".

We believe the study should be done.

Mike Donahue
Lobbyist #258

TESTIMONY ON HOUSE CONCURRENT RESOLUTION 3007

Senate Agriculture Committee

**Lee Klapprodt, Director
Planning and Education Division
State Water Commission**

March 22, 2001

Mr. Chairman and committee members, my name is Lee Klapprodt. I am the Director of the Planning and Education Division of the State Water Commission. I'm appearing before you today in support of House Concurrent Resolution No. 3007.

The State Water Commission recognizes the value in enhancing the ability to manage the state's water resources along hydrologic boundaries rather than political boundaries. In fact, most of our planning efforts focus on watershed geography. Every State Water Management Plan since 1983 has addressed water management needs depicted along hydrologic boundaries.

I am providing you with a Waterguide the Water Commission developed several years ago to help the public understand North Dakota's local water management mechanisms. You will note that it provides a history of local water management beginning with the authority to create drain boards in 1895. Water management at the local level has been important in North Dakota since early statehood. The publication also summarizes the powers and duties of water resource district boards and discusses the joint water resource board provisions in state law.

You may be aware that the study proposed in House Concurrent Resolution Number 3007 is very similar to an earlier effort. During the period from 1979 through 1985 the legislatures wrestled with the issue of restructuring local water management. Legislation was introduced to make sweeping changes. However, significant concerns were voiced associated with the election of water board members and conflicts over taxing authority with county commissions. Consequently, the joint powers authority for water resource districts established in 1975 remains the most popular method of regional coordination among local water boards and county commissions.

While joint water resource districts have proven very workable in most areas, some problems exist with this approach to regional, watershed based local water management. Two of those are:

- Despite the fact that a water problem may be common to an entire river basin or region, not all water resource boards in a river basin or region are required to participate in the formation and operation of a joint board.
- It is difficult to finance joint projects since it is difficult to obtain unanimous approval of each of the county commissions within a joint board area for a necessary mill levy.

I am also providing copies of 1983 and 1985 Legislative Council reports that discuss in some detail the earlier efforts to institute a change in local water management. Some twenty years later, these issues and the need still exists for improved water management based on hydrologic boundaries. Hopefully, the study proposed in this resolution can find solutions to problems unresolved in prior efforts and will meet contemporary needs.