

NDCC, 61-02-23.3

West's North Dakota Century Code Annotated Currentness

Title 61. Waters

Chapter 61-02. Water Commission

**→§ 61-02-23.3. Construction and operation of the Devils Lake outlet--
Authorization--Agreement**

The state water commission may do all things reasonably necessary to construct an outlet from Devils Lake, including executing an agreement with the federal government wherein the state water commission agrees to hold the United States harmless and free from damages, except for damages due to the fault or negligence of the United States or its contractors. The state engineer may employ full-time personnel and may employ such other personnel as are necessary for the operation and maintenance of the **Devils Lake outlet** within the limits of legislative appropriations for that purpose. Notwithstanding section 61-02-64.1, funds disbursed from the contract fund and appropriated for the purposes of this section may be used for salaries, equipment, operations, and maintenance costs relating to the **Devils Lake outlet**.

CREDIT(S)

S.L. 2003, ch. 43, § 12; S.L. 2005, ch. 21, § 11.

HISTORICAL AND STATUTORY NOTES

S.L. 2005, ch. 21, § 11, in the section heading, inserted "and operation", and added the last two sentences.

LIBRARY REFERENCES

Waters and Water Courses ⇐183.5, 190.

Westlaw Topic Nos. 405k183.5; 405k190.

C.J.S. Waters §§ 483, 486 to 488, 490 to 494, 543 to 581, 588, 602.

NDCC 61-02-23.3, ND ST 61-02-23.3

Current through the 2009 Regular Session

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CHAPTER 61-24.3 SOUTHWEST PIPELINE PROJECT

61-24.3-01. Legislative findings and intent. The legislative assembly finds that adequate water supplies for municipal, domestic, livestock, rural, irrigation, industrial, and other uses are essential for the social stability and economic security of the people of the state of North Dakota. It is further found that the development and utilization of the water resources of this state are necessary for the protection of health, property, and enterprise, and for the promotion of prosperity and general welfare of the people of the state of North Dakota, and that such development and utilization of water resources in this state involves, necessitates, and requires the exercise of the sovereign powers of the state and concern a public purpose. Therefore, it is hereby declared necessary that the southwest pipeline project, as authorized and approved pursuant to this chapter, be established and constructed, to provide for the supplementation of the water resources of a portion of the area of North Dakota south and west of the Missouri River with water supplies from the Missouri River for multiple purposes, including domestic, rural, and municipal uses. In furtherance of this public purpose, the state water commission may provide for the issuance of bonds not to exceed twenty-five million dollars in accordance with chapter 61-02 to finance the cost of the project. The provisions of this chapter may not be construed to, in any manner, abrogate or limit the rights, powers, duties, or functions of the state water commission or the state engineer, but are supplementary thereto. Nor may this chapter be construed as limiting or in any way affecting the laws of this state relating to the organization or operation of irrigation districts, water resource districts, or other political subdivisions.

61-24.3-02. Definitions. In this chapter:

1. "Commission" means the state water commission.
2. "Water user entities" means those persons, municipalities, rural water cooperatives, corporations, limited liability companies, and other entities which have entered into and executed water service contracts with the commission for the purchase of water from the commission through the southwest pipeline project.

61-24.3-03. Authorization of southwest pipeline project. The preliminary designs for a water supply facility for supplementation of the water resources of a portion of the area of North Dakota south and west of the Missouri River for multiple uses, as set forth in the engineering preliminary design final report for the southwest pipeline project, state water commission project no. 1736, dated September 1982, are hereby confirmed and approved, under the designation of the southwest pipeline project, and the construction of the southwest pipeline project shall be initiated and completed by the state water commission substantially in accordance with plan B of the engineering preliminary design final report, state water commission project no. 1736, dated September 1982, except as otherwise specifically provided in this chapter. The commission shall have the authority to eliminate the construction of any primary or secondary transmission mains which are part of plan B of the engineering preliminary design final report if the water user entities to be served by the primary or secondary transmission mains do not execute water service contracts for the purchase of a sufficient quantity of water, as determined by the commission, to justify the construction of the primary or secondary transmission mains. Chapter 49-22 shall not apply to this chapter. The right of way is hereby given, dedicated, and set apart, to locate, construct, and maintain such works over and through any of the lands which are or may be the property of the state.

61-24.3-03.1. Preference for resident pipeline manufacturers and bidders for labor and services. Any contracts for the purchase of pipeline materials, labor, or services awarded by the state water commission in regard to the construction of the southwest water pipeline project must be awarded to North Dakota resident pipeline manufacturers and North Dakota resident bidders for labor and services making the lowest responsible bids if those bids do not exceed by more than five percent the lowest responsible bid submitted by a nonresident pipeline manufacturer or bidder for labor or services. As used in this section, "North Dakota resident pipeline manufacturers and bidders for labor or services" means bidders or sellers who have

CHAPTER 704

SENATE BILL NO. 2357
(Senators Redlin, O. Hanson, E. Hanson)
(Representatives Tollefson, Nichols, Gilmore)

NORTHWEST AREA WATER SUPPLY PROJECT

AN ACT to provide for the creation of the northwest area water supply advisory committee and to authorize the state water commission to develop and construct a northwest area water supply project; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Findings and declaration of policy. It is hereby found and declared by the legislative assembly that many areas and localities in northwestern North Dakota do not enjoy safe drinking water, and that the water in these areas and localities contains iron, sulfates, alkali, salt, nitrates, fluoride, and other hazardous and discoloring substances. It is also found and declared that other areas and localities in northwestern North Dakota do not have sufficient quantities of water to ensure a dependable, long-term supply. It is further found and declared that supplementation of the water resources of northwestern North Dakota with water supplies from the Missouri River, utilizing a pipeline transmission and delivery system, may be the only alternative to provide northwestern North Dakota with a safe, good quality, dependable source, and adequate quantity of water.

It is further declared that effective development and utilization of the land and water resources of this state; the opportunity for greater economic security; the protection of health, property, enterprise, and the preservation of the benefits from the land and water resources of this state; and the promotion of the prosperity and general welfare of all of the people of North Dakota involve, necessitate, and require the exercise of the sovereign powers of the state and concern a public purpose. Therefore, in order to accomplish this public purpose, it is hereby declared necessary that a project be pursued that would supply and distribute water to the people of northwestern North Dakota through a pipeline transmission and delivery system for purposes including domestic, rural water districts, municipal, livestock, light industrial, mining, and other uses, with primary emphasis on domestic, rural water district, and municipal uses.

The provisions of this Act may not be construed to abrogate or limit the rights, powers, duties, and functions of the state water commission or the state engineer, but must be considered supplementary to those rights, powers, duties, and functions.

SECTION 2. Northwest area water supply advisory committee - Created. The northwest area water supply advisory committee consists of the following representatives, appointed by the state engineer:

1. One council
2. One city
3. One Mount dist Bett⁴ Ward
4. One comm
5. One that Miss coun
6. One north of Ward
7. One loca Renv
8. One recc
9. One

SECTION
The northwest vice chairman necessary to members may provided for members serv filled in the

SECTION
the northwest commission ma committee:

1. Acc oth sou a f
2. Co po of

8. One representative of the Garrison Diversion Conservancy District recommended by the board of directors of the conservancy district.
9. One at large representative.

61-24.6-03. Advisory committee - Officers - Meetings - Compensation. The northwest area water supply advisory committee shall elect a chairman and vice chairman. The advisory committee shall meet at the times and places necessary to carry out the purposes of this chapter. The advisory committee members may be reimbursed for their mileage and expenses in the amount provided for by sections 44-08-04 and 54-06-09. The advisory committee members serve at the pleasure of the state engineer. Vacancies must be filled in the same manner as original appointments are made.

61-24.6-04. Powers of the state water commission in consultation with the northwest area water supply advisory committee. The state water commission may, in consultation with the northwest area water supply advisory committee:

1. Accept funds, property, services, or other assistance, financial or otherwise, from federal, state, tribal, and other public or private sources for the purpose of aiding and promoting the development of a project to deliver water to northwestern North Dakota.
2. Cooperate and contract with the state, its agencies, or its political subdivisions, the Three Affiliated Tribes, or any agency of the United States, in research and investigation or other activities promoting the development of a project to deliver water to northwestern North Dakota.
3. Appoint and procure the services of engineers, attorneys, and others to assist in developing a project to deliver water to northwestern North Dakota.
4. Exercise such other powers as may be necessary for, or incidental to, the achievement of the purposes of this chapter.
5. Construct, operate, and manage a project to deliver water throughout northwestern North Dakota.

61-24.6-05. State engineer - Employment of staff. The state engineer may employ full-time personnel and may employ such other personnel as are necessary for the administration of this chapter and as available funds permit. Notwithstanding section 61-02-64.1, funds disbursed from the contract fund or appropriated for purposes of administering this chapter may be used for salaries and expenses of persons employed pursuant to this chapter.

61-24.6-06. Commission to fix water rates for the northwest area water supply project. The commission shall establish the payments for water service to be paid by water user entities for purchase of water from the northwest area water supply project. The payments for water service must include each water user entity's proportionate share of the operation, maintenance, and replacement costs, and also include a component for payment for capital costs. The commission shall include in its determination of each water user entity's share of operation, maintenance, and replacement costs an amount to be deposited in the northwest area water supply project reserve fund for replacement, as established by section 61-24.6-07, for replacement and extraordinary maintenance of northwest area water supply project works. The amount of the reserve fund for replacement must be determined by the commission.

61-24.6-07. Operation and maintenance fund - Deposit - Use. Revenues received by the commission from water user entities or otherwise for operation and maintenance of the northwest area water supply project must be maintained, as a part of the moneys of the state received and kept by the state treasurer in a fund to be designated as the northwest area water supply project operation and maintenance fund. All moneys received by the state treasurer for operation and maintenance of the northwest area water supply project and the interest on