

WATERS

CHAPTER 592

SENATE BILL NO. 2316

(Senators Fischer, Flakoll, Robinson)
(Representatives Damschen, Kaldor, S. Kelsh)

AN ACT to direct the state water commission to develop policies regarding water retention projects.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. State water commission - Policies for water retention projects. The state water commission shall develop policies, including cost-sharing guidelines, which further the development of water retention projects for flood control. The commission shall provide a report regarding the policies to the sixty-second legislative assembly.

Approved April 28, 2009
Filed May 1, 2009

CHAPTER 593**HOUSE BILL NO. 1286**
(Representative DeKrey)

AN ACT to amend and reenact subsections 3 and 6 of section 61-04-01.1 of the North Dakota Century Code, relating to the definitions of domestic use and irrigation use.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 3 and 6 of section 61-04-01.1 of the North Dakota Century Code are amended and reenacted as follows:

3. "Domestic use" means the use of water by an individual, or by a family unit, or household, for personal needs and for household purposes, including; ~~but not limited to~~ heating, drinking, washing, sanitary, and culinary uses; irrigation of land not exceeding ~~one acre [40 hectare]~~ five acres [2.0 hectares] in area for noncommercial gardens, orchards, lawns, trees, or shrubbery; and for household pets and domestic animals kept for household sustenance and not for sale or commercial use, when the water is supplied by the individual or family unit. Also included within this use are "domestic rural uses" which must be defined by the state engineer by rule.

6. "Irrigation use" means the use of water for application to more than ~~one acre [40 hectare]~~ five acres [2.0 hectares] of land to stimulate the growth of agricultural crops, including gardens, orchards, lawns, trees, or shrubbery, or the maintenance of recreation areas such as athletic fields, golf courses, parks, and similar types of areas, except when the water for the facility is provided by a municipal water system.

Approved April 24, 2009
Filed April 29, 2009

CHAPTER 594

HOUSE BILL NO. 1321

(Representatives Wrangham, DeKrey, J. Kelsh, Nottestad)
(Senator Freborg)

AN ACT to amend and reenact sections 61-06-09, 61-06-10, 61-06-11, 61-06-13, 61-06-14, 61-06-15, and 61-06-16 of the North Dakota Century Code, relating to allowing the board of directors of an irrigation district to hold mail ballot elections.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-06-09 of the North Dakota Century Code is amended and reenacted as follows:

61-06-09. Regular election of irrigation districts - Mail ballot elections. The regular election of irrigation districts ~~shall~~ must be held on the second Tuesday in February in each even-numbered year. The board of directors of an irrigation district may hold a regular or special election by mail ballot. If the board determines to hold an election by mail ballot, the board shall notify the electors of the district that the election will be held by mail ballot and that no polling places will be open for the election.

SECTION 2. AMENDMENT. Section 61-06-10 of the North Dakota Century Code is amended and reenacted as follows:

61-06-10. Notice of election after district is organized - Contents - Form. Within thirty-five days of, but at least twenty-five days ~~prior to~~ before, any regular or special election held in an irrigation district, the secretary of the board of directors shall publish a notice of the election in the newspaper or newspapers of general circulation where the district is located and in the official newspaper of each county in which the district is located. The notice must specify the matters to be voted upon; and if the election is to be held by mail ballot. If the election is not held by mail ballot, the notice must specify the location of the polling place or places; and the time of their opening and closing of the polling places. The notice must be in substantially the following form:

Notice is given that on _____, _____, an election will be held at _____ ~~(here designate the polling place)~~ for the purpose of electing _____ members of the board of directors and for the purpose of voting upon the questions submitted by the directors of the district. (The election will be held by mail ballot.) or (The election will be held at _____. Polls will be opened at one p.m. and will be closed at five p.m. of that day.) Notice is further given that any elector desiring to have the elector's name appear on the ballot must file a request in writing with the secretary of the district not less than twenty days before the election.

SECTION 3. AMENDMENT. Section 61-06-11 of the North Dakota Century Code is amended and reenacted as follows:

61-06-11. Board of election of irrigation district - Failure of member of election board to be present. ~~Prior to~~ Before the date of the regular election, the

board shall appoint from the electors of the district one clerk and two judges who shall constitute the board of election. If the board ~~shall fail~~ fails to appoint ~~such a~~ board of election, or if the members appointed do not attend at the opening of the mail ballots or the opening of the polls on the day of election, the electors of the district present at that hour may appoint the members of the election board or fill the place of an absent member ~~thereof~~. The board of directors, in its order or resolution appointing the members of the board of election, shall designate the time and place where the mail ballots will be opened or where the election shall will be held.

SECTION 4. AMENDMENT. Section 61-06-13 of the North Dakota Century Code is amended and reenacted as follows:

61-06-13. Ballot at irrigation district elections - Contents - Mail ballots.

1. At least fifteen days before an election in an irrigation district, the secretary shall prepare and have typewritten, mimeographed, or printed an official ballot containing the names of all candidates which have been filed with the secretary. The ballot ~~shall~~ must:
 1. a. Be headed "Official Ballot";
 2. b. Contain all names thus filed;
 3. c. Show the name of the district;
 4. d. State the number of ~~persons~~ individuals to be voted for;
 5. e. Have blank spaces below for writing in other names; and
 6. f. State any question or resolution submitted to the electors by the board of directors.
2. The provisions of this chapter ~~shall do not prevent any person an~~ individual desiring to be a candidate at ~~such the~~ election and who has failed to file as provided in this chapter, from furnishing stickers to be attached to the ballot by the electors. ~~Such The~~ stickers ~~shall may~~ shall must have printed thereon one name only. ~~Any~~
3. If the election is not held by mail ballot any elector who will be absent from the irrigation district on the day of the election may vote an absent voter's ballot at that election. The secretary shall provide the official ballot to any elector who ~~makes application~~ applies for an absent voter's ballot, and the absent voter ~~must shall~~ submit the absent voter's ballot to the secretary of the district, along with an affidavit that the ballot submitted represents the elector's vote at the election, on or before the day of the election. An absent voter's ballot must be the official ballot, and the ballot and affidavit must be actually delivered to the secretary or the election board before the polls close on election day. The secretary shall submit any absent voters' ballots to the election board on the day of the district election.
4. If the board of directors of the irrigation district determines to hold the election by mail ballot, the secretary of the board of directors shall mail an official mail ballot with a return identification envelope and instructions sufficient to describe the voting process to each elector on

the fifteenth day before the election. The voting instructions must contain a statement informing the elector that the elector is entitled to complete the mail ballot in secrecy. The secretary shall mail the ballot by first-class mail, addressed to the address of the elector and placed in an envelope that is prominently marked "Do Not Forward". The return identification envelope must include an affidavit for the elector to certify that the ballot submitted represents the elector's vote. An elector entitled to cast more than one vote must be provided separate ballots for each vote to which the elector is entitled, and a return envelope with instructions sufficient to keep the ballots secret. An elector may obtain a replacement ballot if a mail ballot is destroyed, spoiled, lost, or not received by the elector by signing a sworn statement that the ballot was destroyed, spoiled, lost, or not received and delivering the statement to the secretary of the district no later than four p.m. on the day before the election. An elector voting by mail ballot shall either deliver the mail ballot to the secretary of the district before five p.m. on the day of the election or mail the ballot, which must be postmarked no later than the day before the election.

SECTION 5. AMENDMENT. Section 61-06-14 of the North Dakota Century Code is amended and reenacted as follows:

61-06-14. Oath required of members of election board - Chairman of election board to administer. Before opening the polls at an irrigation district election or opening mail ballots, each member of the election board shall take and subscribe the following oath or affirmation:

I do solemnly swear (or affirm) that I will perform my duties as judge or clerk (as the case may be) according to law and to the best of my ability.

~~Such~~ The oath or affirmation may be administered by any director of the district or any officer authorized to administer oaths. The board of directors shall designate one of the judges as chairman of the election board and the chairman of the election board ~~shall have the authority to may~~ administer and certify all oaths or affirmations taken by other members of the election board and shall administer and certify all oaths or affirmations required during the progress of the election.

SECTION 6. AMENDMENT. Section 61-06-15 of the North Dakota Century Code is amended and reenacted as follows:

61-06-15. Opening and closing hours of polls at irrigation district elections. ~~The~~ If the election is not held by mail ballot, the polls shall must be open at one p.m. of the election day and ~~shall must~~ be kept open until five p.m. of the same day.

SECTION 7. AMENDMENT. Section 61-06-16 of the North Dakota Century Code is amended and reenacted as follows:

61-06-16. Canvass of ballots after closing polls - Delivery of materials to directors. Immediately after ~~the polls are closed~~ five p.m. on the day of the election, the election board publicly shall open and ~~proceed to~~ canvass the ballots cast and shall declare the result of ~~such the~~ canvass. A mail ballot may be counted only if the ballot is returned in the return identification envelope and is signed by the elector.

The chairman shall wrap securely all lists, tally sheets, oaths and affirmations, and other documents relating to the progress of the election and shall deliver the same to the secretary of the board of directors of the district.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 595

SENATE BILL NO. 2251

(Senators Fischer, G. Lee, J. Lee)

(Representatives Kasper, Nelson, Nottestad)

AN ACT to amend and reenact section 61-16-08 of the North Dakota Century Code, relating to compensation for water resource district managers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁸³ **SECTION 1. AMENDMENT.** Section 61-16-08 of the North Dakota Century Code is amended and reenacted as follows:

61-16-08. Eligibility for appointment to board - Term of office - Removal - Filling vacancies - Compensation of managers. When a water resource district has been created, any resident landowner in the district, except a county commissioner, is eligible, subject to the provisions of this section, for appointment to the water resource board. The terms of office of managers appointed to the first water resource board shall be determined by lot and as herein provided. If the water resource board consists of three managers, one manager shall hold office for a term of two years, one shall serve for a term of three years, and one shall serve for a term of five years from the first day of January next following the date of their appointment. After expiration of the first term to expire after January 1, 1982, at least one of the managers appointed to a three-member district board shall be from a flood prone area, if any, within the district. When a district board consists of five managers, two managers shall hold office for the term of two years, one for three years, one for four years, and one manager for a term of five years from the first day of January next following the date of their respective appointments. After expiration of the first two terms to expire after January 1, 1982, at least two of the managers appointed to a five-member district board shall be from flood prone areas, if any, within the district. When a board consists of seven managers, two managers shall hold office for two years, two for three years, two for four years, and one for five years from the first day of January next following the date of their appointment. After expiration of the first three terms to expire after January 1, 1982, at least three of the managers appointed to a seven-member district board shall be from flood prone areas, if any, within the district. For the purposes of this section, a flood prone area is a floodplain area of a river subject to periodic and recurring flooding. After June 30, 1985, when the term of office of a district manager has expired, the manager's successor shall hold office for three years from the first day of January next following the date of the successor's appointment. The term of office of a manager does not terminate until the successor in office is appointed and qualified. In case the office of any district manager becomes vacant, the manager appointed to fill the vacancy shall serve the unexpired term of the manager whose office became vacant.

Each member of a water resource board shall receive the sum of at least ~~forty-five~~ seventy-five dollars but not more than one hundred thirty-five dollars per

²⁸³ Section 61-16-08 was also amended by section 1 of Senate Bill No. 2253, chapter 596.

day while performing duties as a member of the board, and an allowance for meals and lodging expenses at the same rate and under the same conditions as provided for state officials and employees. The allowance for travel expenses shall be at the same rate as provided by section 11-10-15 and shall be evidenced by a subvoucher or receipt as provided by section 21-05-01.

A manager may be removed from the board by the board of county commissioners after it appears to the board of county commissioners by competent evidence, and after a public hearing, if so requested by the manager subject to removal, at which hearing the manager must be apprised of and allowed ample opportunity to repudiate the evidence, that the manager has been guilty of misconduct, malfeasance, crime in office, neglect of duty in office, habitual drunkenness, gross incompetency, or inability to perform the duties of office for reasons of health.

Approved April 24, 2009
Filed April 29, 2009

CHAPTER 596

SENATE BILL NO. 2253

(Senators Fischer, G. Lee, Miller)
(Representatives Kasper, Nelson, Nottestad)

AN ACT to amend and reenact section 61-16-08 of the North Dakota Century Code, relating to the appointment of water resource district managers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁸⁴ **SECTION 1. AMENDMENT.** Section 61-16-08 of the North Dakota Century Code is amended and reenacted as follows:

61-16-08. Eligibility for appointment to board - Term of office - Removal - Filling vacancies - Compensation of managers. When a water resource district has been created, any resident landowner in the district, except a county commissioner, is eligible, subject to the provisions of this section, for appointment to the water resource board. The terms of office of managers appointed to the first water resource board shall be determined by lot and as herein provided: If the water resource board consists of three managers, one manager shall hold office for a term of two years, one shall serve for a term of three years, and one shall serve for a term of five years from the first day of January next following the date of their appointment. After expiration of the first term to expire after January 1, 1982, at least one of the managers appointed to a three-member district board shall be from a flood prone area, if any, within the district. When a district board consists of five managers, two managers shall hold office for the term of two years, one for three years, one for four years, and one manager for a term of five years from the first day of January next following the date of their respective appointments. After expiration of the first two terms to expire after January 1, 1982, at least two of the managers appointed to a five-member district board shall be from flood prone areas, if any, within the district. When a board consists of seven managers, two managers shall hold office for two years, two for three years, two for four years, and one for five years from the first day of January next following the date of their appointment. After expiration of the first three terms to expire after January 1, 1982, at least three of the managers appointed to a seven-member district board shall be from flood prone areas, if any, within the district. For the purposes of this section, a flood prone area is a floodplain area of a river subject to periodic and recurring flooding. After June 30, 1985, when the term of office of a district manager has expired, the manager's successor shall hold office for three years from the first day of January next following the date of the successor's appointment. The term of office of a manager does not terminate until the successor in office is appointed and qualified. In case the office of any district manager becomes vacant, the manager appointed to fill the vacancy shall serve the unexpired term of the manager whose office became vacant.

Each member of a water resource board shall receive the sum of at least forty-five dollars per day while performing duties as a member of the board, and an

²⁸⁴ Section 61-16-08 was also amended by section 1 of Senate Bill No. 2251, chapter 595.

allowance for meals and lodging expenses at the same rate and under the same conditions as provided for state officials and employees. The allowance for travel expenses shall be at the same rate as provided by section 11-10-15 and shall be evidenced by a subvoucher or receipt as provided by section 21-05-01.

A manager may be removed from the board by the board of county commissioners after it appears to the board of county commissioners by competent evidence, and after a public hearing, if so requested by the manager subject to removal, at which hearing the manager must be apprised of and allowed ample opportunity to repudiate the evidence, that the manager has been guilty of misconduct, malfeasance, crime in office, neglect of duty in office, habitual drunkenness, gross incompetency, or inability to perform the duties of office for reasons of health.

Approved April 8, 2009

Filed April 9, 2009

CHAPTER 597**SENATE BILL NO. 2255**

(Senators Fischer, G. Lee, Nething)

(Representatives Kasper, Nelson, Nottestad)

AN ACT to amend and reenact subsection 2 of section 61-16.1-09 of the North Dakota Century Code, relating to exercise of the power of eminent domain by water resource districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 61-16.1-09 of the North Dakota Century Code is amended and reenacted as follows:

2. Exercise the power of eminent domain in the manner provided by title 32 for the purpose of acquiring and securing any rights, titles, interests, estates, or easements necessary or proper to carry out the duties imposed by this chapter, and particularly to acquire the necessary rights in land for the construction of dams, flood control projects, and other water conservation, distribution, and supply works of any nature and to permit the flooding of lands, and to secure the right of access to such dams and other devices and the right of public access to any waters impounded thereby. Provided, however, that when the interest sought to be acquired is a right of way for any project authorized in this chapter for which federal or state funds have been appropriated, the district, after making a written offer to purchase the right of way and depositing the amount of the offer with the clerk of the district court of the county wherein the right of way is located, may thereupon take immediate possession of the right of way, as authorized by section 16 of article I of the Constitution of North Dakota. Within thirty days after notice has been given in writing to the landowner by the clerk of the district court that a deposit has been made for the taking of a right of way as authorized in this subsection, the owner of the property taken may appeal to the district court by serving a notice of appeal upon the acquiring agency, and the matter must be tried at the next regular or special term of court with a jury unless a jury be waived, in the manner prescribed for trials under chapter 32-15.

Approved April 28, 2009
Filed May 1, 2009

CHAPTER 598**SENATE BILL NO. 2254**

(Senators Fischer, J. Lee, Miller)

(Representatives Kasper, Nelson, Nottestad)

AN ACT to amend and reenact section 61-16.1-40.1 of the North Dakota Century Code, relating to maintenance of federal water management projects.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-16.1-40.1 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-40.1. Maintenance of federally constructed projects - Assessment district established. If a water resource board enters or has been assigned rights in a contract with a federal agency for construction of a flood control project or soil conservation service project, and the terms of the contract require the water resource board to provide for maintenance of the project after construction With regard to projects constructed by a federal agency, including the soil conservation service or natural resources conservation service, the water resource board may finance in whole or in part the maintenance of the project with funds raised through the collection of a special assessment levied against the land and premises benefited by maintenance of the project. The assessments to be levied may not exceed two dollars per acre [.40 hectare] annually on agricultural lands and may not exceed two dollars annually for each five hundred dollars of taxable valuation of nonagricultural property. No action is required for the establishment of the assessment district or the assessments except the water resource board must approve the maintenance and assessment therefor by a vote of two-thirds of the members and the board of county commissioners of the county in which the project is located must approve and levy the assessments to be made by a vote of two-thirds of its members. If a board that undertakes a project finds that the project may benefit lands in this state outside water resource district boundaries, the board shall provide notice to the water resource board where the benefited lands are located. The board of each water resource district containing lands benefited by a project must approve the project and assessment by vote of two-thirds of its members. The board of county commissioners in each county that contains lands benefited by a project must approve and levy the assessment to be made by vote of two-thirds of its members. If a project and assessment is not approved by all affected water resource boards and boards of county commissioners, the board of each water resource district and the board of county commissioners of each county shall meet to ensure that all common water management problems are jointly addressed. In addition, the water resource board that undertakes the project may proceed with the project if the board finances the cost of the project and does not assess land outside of the district. Before an assessment may be levied under this section, a public hearing must be held. The hearing must be preceded by notice as to date, time, location, and subject matter published in the official newspaper in the county or counties in which the proposed assessment is to be levied. The notice must be published at least ten days but not more than thirty days before the public hearing.

Approved April 8, 2009

Filed April 9, 2009

CHAPTER 599

SENATE BILL NO. 2298

(Senators G. Lee, Anderson, Wanzek)
(Representatives Berg, S. Kelsh, Pollert)

AN ACT to create and enact eleven new sections to chapter 61-24 of the North Dakota Century Code, relating to authorizing revenue bonds for the Red River valley water supply project; and to amend and reenact sections 61-24-01, 61-24-08, 61-24-19, 61-39-01, and 61-39-03 of the North Dakota Century Code, relating to the Garrison Diversion Conservancy District.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-24-01 of the North Dakota Century Code is amended and reenacted as follows:

61-24-01. Development and utilization of land and water resources declared a public purpose - Declaration of intention - Interpretation. It is hereby declared that more effective development and utilization of the land and water resources of this state, protection and preservation of the benefits therefrom, opportunity for greater economic security, protection of health, property and enterprise, 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, the accomplishment of which, among other things, demands, and it is hereby declared necessary, that the Garrison diversion unit of the Missouri River basin project as authorized by Act of Congress approved December 22, 1944 [58 Stat. 887], and acts amendatory thereof and supplementary thereto, be established and constructed:

1. To provide for the future economic welfare and prosperity of the people of this state, and particularly of the people residing in the area embraced within the boundaries of the conservancy district created by this chapter.
2. To provide for the irrigation of lands within the sections of such district periodically afflicted with drought, and to stabilize the production of crops thereon.
3. To replenish and restore the depleted waters of lakes, the Red, Shyenenne, James, and other rivers, and streams in the district, and to stabilize the flow of these streams.
4. To replenish the waters, and to restore the level of Devils Lake, Stump Lake, Lake Williams, and Turtle Lake.
5. To make available within the district, or outside the district to the extent authorized by a joint powers agreement under chapter 54-40.3, waters diverted from the Missouri River for irrigation, domestic, municipal, and industrial needs, and for hydroelectric power, recreation, fish, wildlife, and other beneficial and public uses.

6. To study and provide for the water needs of eastern North Dakota communities and water districts and western Minnesota communities through a Red River valley water supply project.

The provisions hereof shall not be construed to, in any manner, abrogate or limit the rights, powers, duties, and functions of the state water commission, but shall be held to be supplementary thereto and an aid thereof. Nor shall this chapter be construed as limiting or in any way affecting the laws of this state relating to the organization and maintenance of irrigation districts, flood irrigation districts, water resource districts, drainage districts, or watershed protection districts, nor as precluding the establishment of any such district wholly or in part within the boundaries of the district created by this chapter.

SECTION 2. AMENDMENT. Section 61-24-08 of the North Dakota Century Code is amended and reenacted as follows:

61-24-08. Powers and duties of the district board of directors. The board of directors of the Garrison Diversion Conservancy District shall have the power:

1. To sue and be sued in the name of the district.
2. To exercise the power of eminent domain in the manner provided by title 32 for the purpose of acquiring and securing any right, title, interest, estate, or easement necessary to carry out the duties imposed by this chapter, and particularly to acquire the necessary rights in land for the construction of dams, reservoirs, canals, hydroplants, irrigation systems, pipelines, and any other device for the conservation, storage and use of water, and to secure the right of access to such works and the right of the public access to the waters impounding thereby or emanating therefrom.
3. To accept funds, property, and services or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding and promoting the construction, maintenance, and operation of the Garrison diversion unit, or any part thereof.
4. To cooperate and contract with the state, its agencies, or its political subdivisions, or any agency of the United States, in research and investigation or other activities promoting the establishment, construction, development, or operation of the Garrison diversion unit, or any part thereof.
5. To furnish assurances of cooperation and as principal and guarantor or either to enter into a contract, or contracts, with the United States of America, or any department or agency thereof, and with public corporations of North Dakota for the performance of obligations entered into with the United States for the construction, operation, or maintenance of works of the Garrison diversion unit of the Missouri River basin project as defined by Act of Congress, approved December 22, 1944 [58 Stat. 887], and acts amendatory thereof or supplementary thereto.
6. To construct separately or in cooperation with agencies of the United States, or the state of North Dakota, its agencies or political subdivisions, and to equip, maintain, and operate an office and principal

place of business for the district, or other buildings or facilities to carry out activities authorized by this chapter.

7. To appoint and fix the compensation of such employees as the board shall deem necessary to conduct the business and affairs of the district.
8. To appoint from their number an executive committee and vest the same with such powers and duties as the board may from time to time delegate thereto, in order to facilitate the duties and work of the board in connection with the business affairs involved in the development, construction, operation, and maintenance of the Garrison diversion unit, or any part thereof.
9. In 1961 and each year thereafter to levy a tax of not to exceed one mill annually on each dollar of taxable valuation in the district for the payment of the expenses of the district, including, but not limited to, per diem, mileage and other expenses of directors, technical, administrative, clerical, operating and other expenses of the district office, and for the cumulation of a continuing fund through such levy for the performance of obligations entered into with the United States of America in connection with the construction, operation, and maintenance of works of the said Garrison diversion unit of the Missouri River basin project. All moneys collected pursuant to such levy shall be deposited in the Bank of North Dakota to the credit of the district and shall be disbursed only as herein provided. The board may invest any funds on hand, not needed for immediate disbursement or which are held in reserve for future payments, in bonds of the United States, bonds and mortgages or other securities the payment of which is guaranteed by the United States or an instrumentality or agency thereof, or bonds or certificates of indebtedness of the state of North Dakota or any of its political subdivisions. The amount which may be levied in any one year for operating the district prior to authorization by Congress of the Garrison diversion project shall not exceed ten percent of the maximum permissible.
10. To enter into a contract or contracts for a supply of water from the United States and to sell, lease, and otherwise contract to furnish any such water for beneficial use to irrigation districts, persons, other public and private corporations, or limited liability companies within or outside the district.
11. To operate and maintain or to contract for the operation and maintenance of water supply and irrigation works serving lands and uses within or outside the district, and in connection therewith, to maintain a reserve fund to meet major unforeseen costs of operation and maintenance.
12. To accept, on behalf of the district, appointment of the district as fiscal agent of the United States and authorization to make collections of money for and on behalf of the United States in connection with the Garrison diversion unit.
13. To use navigable lakes and streams within the conservancy district for holding, impounding, and conveying water of the Garrison diversion unit.

14. To provide administrative aid and assistance in the relocation of buildings and the replacement of land to persons affected by the Garrison diversion development in an effort to make certain that such persons are treated fairly and that they do not suffer financial hardship due to the development of the Garrison diversion unit.
15. To sell or exchange any and all real property purchased or acquired by the district. All moneys received pursuant to any such sale or exchange shall be deposited in the Bank of North Dakota to the credit of the district and may be disbursed only for the payment of expenses of the district as specified in subsection 9.
16. To borrow money as is provided in this chapter.
17. To issue and sell revenue bonds to finance projects in an amount or amounts determined by the board, including an amount for costs of issuance and financing, and any necessary reserve funds, for the purpose of financing the cost of constructing a project, purchasing bulk water, or otherwise making capital payments required under a water purchase contract.
18. To utilize some or all proceeds of its revenue bonds to acquire, construct, reconstruct, or improve one or more projects, or any feasibility study or preliminary economic, engineering, or legal work relating to any project.
19. To refund and refinance its bonds from time to time as often as it is advantageous and in the interest of the district.
20. To pledge any and all income, profits, and revenues received by the district in connection with the operation, lease, sale, or other disposition of all or any part of a water project to secure the payment of bonds issued and sold to finance the project or otherwise. Tangible real or personal nonrevenue property of the district may not be liable to be forfeited or taken in payment of any bonds issued under this chapter and debt on the general credit of the district may not be incurred in any manner for payment of bonds under this chapter.
21. To prescribe, revise, and collect rates, fees, tolls, or charges for the services, facilities, or commodities furnished by the district and in anticipation of the collection of the revenues of the district, issue revenue bonds to finance all or part of the costs of the acquisition, construction, reconstruction, improvement, betterment, extension, operation, or maintenance of a project.
22. To pledge district revenues, grants, and any other project-related payments to the punctual payment of principal and interest on bonds or water purchase contract obligations. A pledge under this subsection applies to the revenues of improvements, betterments, or extensions of the district which may be constructed or acquired after the issuance of bonds, the revenues of existing systems, plants, works, instrumentalities, and properties of any part of the district improved, bettered, or extended, and the revenues received from payments made under water sale contracts between the district and persons that contract to purchase water from the district.

23. To make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of its powers or in the performance of its covenants or duties or in order to secure the payment of its bonds, but an encumbrance, mortgage, or other pledge of tangible real or personal nonrevenue property of the district may not be created by an such contract or instrument.
24. To accept from any authorized federal agency loans or grants for the planning, construction, acquisition, lease, or other provision of a project, and to enter agreements with the agency respecting the loan or grants.
25. To contract debts and borrow money and provide for payment of debts and expenses of the district.
26. To distribute water to western Minnesota cities that enter water service contracts for water.
27. To enter water service contracts with municipalities, water districts, or other political subdivisions in this state and public utilities in Minnesota as part of the Red River valley water supply project, regardless of whether the acquisition, construction, or reconstruction of any Red River valley water supply project is actually completed and whether water actually is delivered under the contracts. These contracts with cities and water districts are authorized to be executed without limitation on term of years notwithstanding any limitation to the contrary.

SECTION 3. AMENDMENT. Section 61-24-19 of the North Dakota Century Code is amended and reenacted as follows:

61-24-19. Easement granted for ditches, pipelines, canals, tramways, and transmission lines on any public lands. In connection with the construction and development of the Garrison diversion unit of the Missouri River basin project, there is granted over all the lands belonging to the state, including lands owned or acquired for highway right-of-way purposes, a right of way for ditches, pipelines, or canals and for tunnels, tramways, and telephone and electric transmission lines constructed as part of the Garrison diversion unit; provided, however, that the director of the department of transportation, the board of county commissioners, or the board of township supervisors must approve the plans of the bureau of reclamation with respect to the use of any and all right of way of roads under their respective control prior to such grant becoming effective.

SECTION 4. Eleven new sections to chapter 61-24 of the North Dakota Century Code are created and enacted as follows:

Resolution authorizing the issuance of revenue bonds.

1. The issuance of revenue bonds or refunding bonds must be authorized by a resolution of the board adopted after appropriate notice by the affirmative vote of a majority of the board. Unless otherwise provided in the resolution, the resolution under this section takes effect immediately and need not be laid over, published, or posted.
2. Each resolution providing for the issuance of bonds provided for in this chapter must contain the purposes for which the bonds are to be issued, the provisions for payment of the bonds, and the revenues or other funds pledged to secure the payment of the bonds.

Provisions governing bonds. The resolution authorizing the issuance of revenue bonds or refunding bonds under this chapter or resolutions adopted after adoption of the original resolution must prescribe:

1. The rates of interest, or if an interest rate is variable, the method for calculating the interest rate.
2. Whether the bonds will be in one or more series.
3. The dates the bonds will bear.
4. The times the bonds will mature.
5. The medium in which the bonds will be payable.
6. The places where the bonds will be payable.
7. The terms of redemption, if any, to which the bonds will be subject.
8. The manner in which the bonds will be executed.
9. The terms, covenants, and conditions that the bonds will contain.
10. The form in which the bonds will be issued, either coupon or registered.

Sale of bonds - When private sale authorized - Public sale and notice. Revenue bonds or refunding bonds may be sold at public or private sale on any terms as the board deems appropriate.

Notes issued pending preparation of bonds - Negotiability. Pending the issuance of bonds, bond anticipation notes may be issued and sold in the form and with the provisions determined by the district.

Validity of notes and bonds. Bond anticipation notes, revenue bonds, or refunding bonds bearing the manual or facsimile signatures of the appropriate officers who are in office on the date of signing are valid and binding obligations notwithstanding that before the delivery and payment any or all of the individuals whose signatures appear on the notes or bonds have ceased to be officers of the issuing district. The resolution authorizing the notes or bonds may provide that the notes or bonds must contain a recital that they are issued under this chapter and the recital is conclusive evidence of their validity and of the regularity of their issuance.

Notes and bonds exempt from taxation. Notwithstanding any other provision of law, the state and all public officers, boards, and agencies, and political subdivisions and agencies of the state, all national banking associations, state banks, trust companies, savings banks and institutions, savings and loan associations, credit unions, investment companies, insurance companies, and other entities carrying on an investment business, and executors, administrators, guardians, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds issued under this chapter, and the bonds are authorized security for public deposits. Notes and bonds, including refunding bonds, issued under this chapter and their interest and income are exempt from all taxation by the state or by any political subdivision except inheritance, estate, and transfer taxes.

Covenants and provisions that may be inserted in resolution authorizing bonds.

1. Any resolution authorizing the issuance of bonds under this chapter may contain covenants and provisions concerning:
 - a. The rates, fees, tolls, or charges to be charged for the services, facilities, and commodities of a project.
 - b. The use and disposition of all or a portion of the district's income, profits, and revenues.
 - c. The creation, maintenance, regulation, use, and disposition of reserves or sinking funds.
 - d. The purpose to which the proceeds of the sale of bonds may be applied and the use and disposition of the proceeds.
 - e. The events of default and the rights and liabilities arising upon default and the terms and conditions upon which the holders of bonds issued under this chapter may bring civil action on the bonds.
 - f. The creation, priority, and enforcement of liens against the district's income, profits, or revenues.
 - g. The issuance of other or additional bonds or instruments payable from, or constituting a charge against, the district's income, profits, or revenues.
 - h. The creation and use of synthetic interest rate contracts, interest rate caps, floors, and collars, and other techniques to lower the district's borrowing rate or reduce its exposure to interest rate risk, or both.
 - i. The keeping, inspection, and audit of books of account.
 - j. The terms and conditions upon which any or all of the bonds become or may be declared due before maturity and the terms and conditions upon which the declaration and its consequences may be waived.
 - k. The rights, liabilities, powers, and duties arising upon the breach by the district of any covenants, conditions, or obligations.
 - l. The vesting in a trustee of the right to enforce any covenants made to secure, to pay, or in relation to the bonds, the powers and duties of the trustee, and the limitations of liabilities of the trustee.
 - m. The terms and conditions upon which the holders of the bonds, or the holders of any proportion or percentage of them, may enforce any covenants made or any duties imposed under this chapter.
 - n. A procedure by which the terms of any resolution authorizing bonds or of any other contract with bondholders, including an indenture of trust or similar instrument, may be amended or

- b. Make certain any project financed by the district is operated in an efficient and economical manner, enforce all water purchase and water sales contracts, and establish, levy, maintain, and collect related necessary or proper fees, tolls, rentals, rates, and other charges. The fees, tolls, rentals, rates, and other charges must be sufficient, after making due and reasonable allowances for contingencies and for a margin of error in the estimates, at least to:
 - (1) Pay all current expenses of operation and maintenance of any project;
 - (2) Make all payments required under any water purchase contract the district may execute;
 - (3) Pay the interest and principal on the district's notes and bonds as they become due;
 - (4) Comply with the terms of the resolution authorizing the issuance of the bonds or any other contract or agreement with the holders of the funding bonds; and
 - (5) Meet any other obligations of the district that are charges, liens, or encumbrances upon the revenues of the district.
 - c. Operate, maintain, preserve, and keep every part of any tangible project financed and owned or operated by the district in good repair, working order, and condition.
 - d. Enforce the provisions of all water purchase and sale contracts that produce revenues pledged to payment of bonds.
 - e. Preserve and protect the security of the bonds and the rights of the bondholders and warrant and defend such rights against all claims and demands.
 - f. Pay and discharge all lawful claims for labor, materials, and supplies which, if unpaid, might become by law a lien or charge upon the revenues, or any part of the revenues, superior to the lien of the bonds or which might impair the security of the bonds.
 - g. Hold in trust the revenues pledged to the payment of the bonds for the benefit of the holders of the bonds and apply the revenues only as provided by the resolution authorizing the issuance of the bonds or, if the resolution is modified, as provided in the modified resolution.
 - h. Keep proper separate books of record and accounts of the project in which complete and correct entries must be made of all transactions relating to any part of the project. All books and papers of the district are subject to inspection by the holders of ten percent or more of the outstanding bonds or of their representatives authorized in writing.
2. The duties contained in this section do not require any expenditure by the district of any funds other than revenue received from a project or

water sale contract. The performance of the duties in this section is of the essence of the contract of the district with the bondholders.

Remedies of bondholders in general.

1. Subject to any contractual limitations binding upon the holders of any issue of bonds, or a trustee for the holders, including the restriction of the exercise of any remedy to a specified proportion or percentage of the holders, any holder of bonds or trustee, for the equal benefit and protection of all bondholders similarly situated, may:
 - a. By mandamus or other civil action, enforce the holder's rights against the district and its board and any of its officers, agents, or employees and may require the district or the board or any officers, agents, or employees of the district or board to perform their duties and obligations under this chapter and their covenants and agreements with bondholders.
 - b. By civil action, require the district and the board to account as if the district and the board were the trustees of an express trust.
 - c. By civil action, enjoin any acts or things that may be unlawful or in violation of the rights of the bondholders.
 - d. Bring suit upon the bond.
2. A right or remedy conferred by this chapter upon any bondholder, or upon any trustee for a bondholder, is not intended to be exclusive of any other right or remedy, but each right or remedy is cumulative and in addition to every other right or remedy and may be exercised without exhausting and without regard to any other remedy conferred by this chapter or by any other law of this state.

Bonds as legal investments and security. Notwithstanding any other provision of law, the state and all public officers, boards, and agencies, and political subdivisions and agencies of the state, all national banking associations, state banks, trust companies, savings banks and institutions, savings and loan associations, credit unions, investment companies, insurance companies, and other persons carrying on an investment business, and all executors, administrators, guardians, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds issued under this chapter, and the bonds are authorized security for all public deposits.

SECTION 5. AMENDMENT. Section 61-39-01 of the North Dakota Century Code is amended and reenacted as follows:

61-39-01. Findings and declaration of policy. The legislative assembly declares that many areas and localities in eastern North Dakota do not enjoy adequate quantities of high-quality drinking water; that other areas and localities in eastern North Dakota do not have sufficient quantities of water to ensure a dependable, long-term supply; that greater economic security and the protection of health and property benefits the land and water resources of this state; and that the promotion of the prosperity and general welfare of all of the people of this state depend on the effective development and utilization of the land and water resources of this state and necessitates and requires the exercise of the sovereign powers of this state and concern a public purpose. To accomplish this public purpose, it is

declared necessary that a water authority to store and distribute water to eastern North Dakota be established to provide for the supply and distribution of water to the people of eastern North Dakota for purposes, including domestic, rural water, municipal, livestock, light industrial, and other uses, with primary emphasis on domestic, rural water, and municipal uses; and provide for the future economic welfare and prosperity of the people of this state, and particularly the people of eastern North Dakota, by the bulk purchase of water from the Garrison Diversion Conservancy District delivered by the Red River valley water supply project for beneficial and public uses. The Garrison Diversion Conservancy District may acquire, construct, improve, and own the Red River valley water supply project and may enter water supply contracts with member cities and water districts for the sale of water for consumption within or outside the district or the state. Alternatively, the Lake Agassiz water authority may enter one or more contracts to provide for the authority to acquire bulk water from the Garrison Diversion Conservancy District and may enter water supply contracts with member cities and water districts for the resale of this water for consumption within or outside the state.

The legislative assembly acknowledges that North Dakota and Minnesota communities jointly use the Red River as a water resource. It is in the best interest of eastern North Dakota also to study and possibly provide for the water needs of those Minnesota communities through a Red River valley water supply project, particularly if that project maintains the use of the Red River for North Dakota communities.

In furtherance of this public purpose, the state water commission may provide for the issuance of bonds in accordance with chapter 61-02 to finance the costs of any project to deliver water to eastern North Dakota. This chapter does not abrogate or limit the rights, powers, duties, and functions of the state water commission or state engineer, but is supplementary to those rights, powers, duties, and functions.

SECTION 6. AMENDMENT. Section 61-39-03 of the North Dakota Century Code is amended and reenacted as follows:

61-39-03. Lake Agassiz water authority - Board of directors. The authority must be governed by a board of directors selected as follows:

1. One member from a city with a population greater than forty thousand located east of state highway 1 and north of state highway 200.
2. One member from a city with a population greater than forty thousand located east of state highway 1 and south of state highway 200.
3. One member from a city with a population of five thousand but not more than forty thousand located east of state highway 1.
4. One member from a city with a population of less than five thousand located east of state highway 1.
5. Two members from water districts located east of state highway 1 and north of state highway 200.
6. Two members from water districts located east of state highway 1 and south of state highway 200.
7. One member from water districts located east of state highway 1.

8. One member from a Minnesota city with a population of more than thirty thousand and which is located within five miles [8.05 kilometers] of this state.

North Dakota city members must be selected for two-year terms by election by cities located east of state highway 1 during the annual meeting of the North Dakota league of cities in every odd-numbered year beginning in 2003. Water district members must be selected for two-year terms by election by water districts located east of state highway 1 during the annual meeting of the North Dakota rural water systems association in every even-numbered year beginning in 2004. The initial selection of members must be at a meeting held by the board of directors of the North Dakota league of cities and by the board of directors of the North Dakota rural water systems association. The initial city members shall serve until the annual meeting of the North Dakota league of cities in 2003 and the initial water district members shall serve until the annual meeting of the North Dakota rural water systems association in 2004. The initial Minnesota city is Moorhead, as it is an associate member of the authority. Moorhead will serve in this capacity until the league of Minnesota cities annual conference in 2006. During even-numbered years thereafter, Minnesota cities within five miles [8.05 kilometers] of the Red River or that use the Red River as a primary water supply may elect their representative. A member may designate an alternate to attend meetings and to act on the member's behalf. The board of directors may designate associate members who are nonvoting members of the board. Notwithstanding the provisions of this section, within two years of the first delivery of water by the Red River valley water supply project, board members must be from a city or water district that has entered a water service contract with the Lake Agassiz water authority or the Garrison Diversion Conservancy District.

Approved April 8, 2009

Filed April 9, 2009

CHAPTER 600

SENATE BILL NO. 2193

(Senators Wardner, Christmann, Robinson)
(Representatives Hanson, Hofstad, Nottestad)

AN ACT to amend and reenact sections 61-24.5-01, 61-24.5-09, and 61-24.5-10 of the North Dakota Century Code, relating to the powers and duties and tax levy of the southwest water authority.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-24.5-01 of the North Dakota Century Code is amended and reenacted as follows:

61-24.5-01. Findings and declaration of policy. It is hereby found and declared by the legislative assembly that many areas and localities in southwestern North Dakota do not enjoy adequate quantities of high-quality drinking water. It is also found and declared that other areas and localities in southwestern 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 southwestern North Dakota, with water supplies from Lake Sakakawea and the Missouri River, utilizing a pipeline transmission and delivery system, is a feasible approach to provide southwestern North Dakota with a safe, good quality, dependable source, and adequate quantity of water.

It is further declared that opportunity for greater economic security, protection of health, property, enterprise, 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 depends on the effective development and utilization of the land and water resources of this state, and 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 to supply and distribute water to southwestern North Dakota, as authorized by chapter 61-24.3, and acts amendatory thereof and supplementary thereto, be established and constructed, to:

1. Provide for the supply and distribution of water to the people of southwestern North Dakota through a pipeline transmission and delivery system for purposes including, but not limited to, domestic, rural water, municipal, livestock, light industrial, mining, and other uses, with primary emphasis on domestic, rural water, and municipal uses.
2. Provide for the future economic welfare and property of the people of this state, and particularly the people of southwestern North Dakota, by making available waters from Lake Sakakawea and the Missouri River for beneficial and public uses.

It is also declared necessary to study and further develop water resources to provide adequate water supplies for energy, industrial, agriculture, and other opportunities in southwest North Dakota. The provisions hereof 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 thereto.

SECTION 2. AMENDMENT. Section 61-24.5-09 of the North Dakota Century Code is amended and reenacted as follows:

61-24.5-09. Powers and duties of the district board of directors. The board of directors of the southwest water authority has the power:

1. To sue and be sued in the name of the authority.
2. To exercise the power of eminent domain in the manner provided by title 32 for the purpose of acquiring and securing any right, title, interest, estate, or easement necessary to carry out the duties imposed by this chapter, and particularly to acquire the necessary rights in land for the construction of pipelines, reservoirs, connections, valves, and all other appurtenant facilities used in connection with the southwest pipeline project, or any part thereof.
3. To accept funds, property, and services or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding and promoting the construction, maintenance, and operation of the southwest pipeline project, or any part thereof.
4. To cooperate and contract with the state, its agencies, or its political subdivisions, or any agency of the United States, in research and investigation or other activities promoting the establishment, construction, development, or operation of the southwest pipeline project, or any part thereof.
5. To furnish assurances of cooperation, and as principal and guarantor or either to enter into a contract, or contracts, with the United States of America, or any department or agency thereof, and with public corporations and political subdivisions of North Dakota for the performance of obligations for the construction, operation, or maintenance of the southwest pipeline project, or any part thereof, or for the delivery of water to any such department, agency, or political subdivision.
6. To construct or purchase separately or in cooperation with agencies of the United States, or the state of North Dakota, its agencies or political subdivisions, and to equip, maintain, and operate an office and principal place of business for the district, or other buildings or facilities to carry out activities authorized by this chapter.
7. To appoint and fix the compensation of such employees as the board shall deem necessary to conduct the business and affairs of the authority, and to procure the services of engineers and other technical experts, and to retain an attorney or attorneys to assist, advise, and act for it in its proceedings.
8. To appoint from their number an executive committee and vest the same with such powers and duties as the board may from time to time delegate thereto, in order to facilitate the duties and work of the board in connection with the business affairs involved in the development, construction, operation, and maintenance of the southwest pipeline project, or any part thereof.

9. To enter into a contract or contracts for a supply of water from the United States or the state water commission and to sell, lease, and otherwise contract to furnish any such water for beneficial use to persons or entities within or outside the authority.
10. To accept, on behalf of the district, appointment of the district as fiscal agent of the United States or the state water commission and authorization to make collections of money for and on behalf of the United States or the state water commission in connection with the southwest pipeline project, or any part thereof.
11. To sell or exchange any and all real property purchased or acquired by the authority. All moneys received pursuant to any such sale or exchange shall be deposited to the credit of the authority and may be disbursed for the payment of expenses of the authority.
12. Notwithstanding any other law, to exercise the powers granted to a municipality under subsection 5 of section 40-33-01 pursuant to the limitations set forth therein. The authority may pay the cost of leasing any waterworks, mains, and water distribution system and any equipment or appliances connected therewith and any property related thereto pursuant to subsection 5 of section 40-33-01 solely from revenues to be derived by the authority from the ownership, sale, lease, disposition, and operation of the waterworks, mains, and water distribution system; the funds or any other amounts invested by the authority pursuant to the laws of the state or invested on the authority's behalf by the state, or any agency or institution of the state, in conformity with policies of the industrial commission, including investment in a guaranteed investment contract and any earnings thereon, to the extent pledged therefor; and funds, if any, appropriated annually by the board of the authority or received from federal or state sources.
13. To study and analyze options for providing additional water supplies to southwest North Dakota for purposes including domestic, rural water, municipal, livestock, energy development, industrial, mining, and other uses.
14. To conduct engineering, legal, financial, educational, and other activities to further the completion of the southwest pipeline project, or any part thereof, or any other works or projects necessary to provide adequate water supplies for southwest North Dakota.

SECTION 3. AMENDMENT. Section 61-24.5-10 of the North Dakota Century Code is amended and reenacted as follows:

61-24.5-10. District budget - Tax levy. For each taxable year through ~~2040~~ 2020, the authority may levy a tax of not to exceed one mill annually on each dollar of taxable valuation within the boundaries of the authority for the payment of administrative expenses of the authority, including per diem, mileage, and other expenses of directors, expenses of operating the office, engineering, surveying, investigations, legal, administrative, clerical, and other related expenses of the authority. All moneys collected pursuant to the levy must be deposited to the credit of the authority and may be disbursed only as herein provided. The board may invest any funds on hand, not needed for immediate disbursement or which are held in reserve for future payments, in bonds of the United States, certificates of deposit guaranteed or insured by the United States or an instrumentality or agency thereof,

and bonds or certificates of indebtedness of the state of North Dakota or any of its political subdivisions. During the period of time in which the authority may levy one mill annually as provided herein, any joint water resource board created pursuant to section 61-16.1-11, by or among one or more of the water resource districts in the counties which are included in the authority, must be limited to one mill under the authority of section 61-16.1-11.

Approved March 19, 2009

Filed March 19, 2009

CHAPTER 601

HOUSE BILL NO. 1278 (Representatives Porter, R. Kelsch) (Senator Cook)

AN ACT to amend and reenact sections 61-24.5-04, 61-24.5-07, and 61-24.5-08 of the North Dakota Century Code, relating to members of the board of directors of the southwest water authority.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁸⁵ **SECTION 1. AMENDMENT.** Section 61-24.5-04 of the North Dakota Century Code is amended and reenacted as follows:

61-24.5-04. Board of directors - Officers - Meetings - Compensation. The authority must be governed by a board of directors who must be chosen in accordance with this chapter. One director must be elected from each county within the authority, ~~and two directors must be elected in the city of Dickinson, and one director must be elected in the city of Mandan.~~ The director from Stark County may not be a resident of the city of Dickinson. The director from Morton County may not be a resident of Mandan. The board shall elect from the directors a chairman, vice chairman, and secretary. A majority of the directors constitutes a quorum for the purpose of conducting the business of the board. The board shall meet at the time and place designated by the secretary. Board members are entitled to receive as compensation an amount determined by the board not to exceed the amount per day provided members of the legislative council under section 54-35-10 and must be reimbursed for their mileage and expenses in the amount provided for by sections 44-08-04 and 54-06-09.

SECTION 2. AMENDMENT. Section 61-24.5-07 of the North Dakota Century Code is amended and reenacted as follows:

61-24.5-07. Election of city directors of the southwest water authority. Any person who is a resident and qualified elector of the city of Dickinson or Mandan who aspires to the office of director of the southwest water authority shall, at least sixty days and before five p.m. on the sixtieth day before the election, file with the city auditor a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last city election, except that the petition for the first election must be signed by not less than two hundred qualified electors. Signers of a petition must reside within the corporate limits of the city, and each signer of the petition shall include with the signer's name the signer's mailing address. The petition must include the candidate's name, post-office address, and the title of the office of the southwest water authority for which the candidate is seeking election.

The petition must be accompanied by an affidavit substantially as follows:

²⁸⁵ Section 61-24.5-04 was also amended by section 94 of House Bill No. 1436, chapter 482.

Before assuming the duties of the office of director, each director shall take and subscribe to the oath of office prescribed by law for civil officers. The authority treasurer must be bonded in an amount as the board may prescribe.

Approved April 21, 2009
Filed April 22, 2009

CHAPTER 602**SENATE BILL NO. 2317**

(Senators Fischer, Flakoll, Nelson)

(Representatives Hawken, Hofstad, Kaldor)

AN ACT to amend and reenact sections 61-24.7-01, 61-24.7-02, and 61-24.7-05 of the North Dakota Century Code, relating to the funding plan for the Red River valley water supply project.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-24.7-01 of the North Dakota Century Code is amended and reenacted as follows:

61-24.7-01. Legislative findings and intent - Authority to issue bonds.

1. The legislative assembly finds that the provision of water of sufficient quantity and quality to supply homes, businesses, industries, wildlife, and recreation in the Red River valley within this state is necessary for the protection of health, property, and enterprises and for the promotion of prosperity and the general welfare of the people of the Red River valley and that construction of the Red River valley water supply project involves and requires the exercise of the sovereign powers of the state and concerns a public purpose. Therefore, it is declared necessary and in the public interest that the state by and through the state water commission ~~assist in financing~~ provide a one-third share of the cost of constructing the Red River valley water supply project ~~through the issuance of bonds.~~
2. In furtherance of the public purpose set forth in subsection 1, the state water commission may issue bonds under chapter 61-02 and the proceeds are appropriated for construction of the Red River valley water supply project authorized and funded in part by the federal government and designed to provide reliable sources of water of sufficient quantity and quality to supply homes, businesses, industries, wildlife, and recreation in the Red River valley within this state.
3. This chapter does not affect the state water commission's authority to otherwise issue bonds pursuant to chapter 61-02 or section 61-24.3-01.

SECTION 2. AMENDMENT. Section 61-24.7-02 of the North Dakota Century Code is amended and reenacted as follows:

61-24.7-02. Funding - Red River valley water supply project - Bond issuance amount. The state water commission may provide a portion of the ~~nonfederal~~ state share of funds necessary to construct the Red River valley water supply project by issuing bonds in an amount not to exceed forty million dollars plus the cost of issuance of the bonds, capitalized interest, and reasonably required reserves. The proceeds of any bonds issued under the authority provided in this section are appropriated to the state water commission for the purposes set forth in this chapter.

SECTION 3. AMENDMENT. Section 61-24.7-05 of the North Dakota Century Code is amended and reenacted as follows:

61-24.7-05. State funding plan.

1. ~~The remaining sixty million dollars to comprise a total of one hundred million dollars to meet the one hundred million dollar state share of phase one of the Red River valley water supply project is to be funded over three bienniums. The sixty million dollars is to be derived from thirty million dollars from the general fund and thirty million dollars from the resources trust fund.~~
2. ~~The state shall provide an additional one hundred million dollars of municipal, rural, and industrial water supply funds for phase two of the Red River valley water supply project, to meet the two hundred million dollar state share of the project. The legislative assembly declares its intent to provide state funding for one-third of the total cost of constructing the Red River valley water supply project.~~
2. Any general funds appropriated for the construction of the Red River valley water supply project may be carried over to future bienniums.
3. State funding for the Red River valley water supply project may be appropriated at the time and in the manner determined by the legislative assembly, either concurrently or separately from federal and local funding for the Red River valley water supply project.

Approved April 22, 2009
Filed April 23, 2009