

April 27, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2020

That the House recede from its amendments as printed on pages 1364 and 1365 of the Senate Journal and pages 1523 and 1524 of the House Journal and that Engrossed Senate Bill No. 2020 be amended as follows:

Page 1, line 2, after the semicolon insert "to create and enact a new subsection to section 11-37-02 and a new section to chapter 61-04 of the North Dakota Century Code, relating to joint powers entities and commerce authorities and metering certain water sources;"

Page 1, line 2, after "reenact" insert "subsection 2 of section 11-37-03, section 11-37-04, subsection 8 of section 11-37-06, and subsection 1 of section 11-37-08 of the North Dakota Century Code and"

Page 1, line 3, after the first "to" insert "conversion of joint powers entities to commerce authorities and additional powers of commerce authorities and"

Page 1, line 3, after the second semicolon insert "to provide a transfer;"

Page 1, line 5, after the third semicolon insert "to provide for application; to provide an expiration date;"

Page 2, line 19, after "**APPROPRIATION**" insert "**- BUDGET SECTION APPROVAL**"

Page 2, line 23, after the period insert "The state water commission shall request and receive budget section approval prior to the expenditure of any funds in excess of the \$447,913,774 of funding appropriated in the water and atmospheric resources line item in section 1 of this Act."

Page 3, line 9, remove the overstrike over "~~land purchases~~"

Page 3, line 10, remove the overstrike over "~~and~~"

Page 3, line 10, after "costs" insert "and may not be used for the purchase of dwellings"

Page 3, line 15, after the underscored period insert "Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."

Page 3, line 22, after "for" insert "land purchases and"

Page 3, line 22, after "costs" insert "and may not be used for the purchase of dwellings"

Page 3, line 25, after the period insert "Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."

Page 4, replace lines 3 through 6 with:

"SECTION 9. A new subsection to section 11-37-02 of the North Dakota Century Code is created and enacted as follows:

Provide a method to convert an existing joint powers entity to a commerce authority for the purpose of achieving status as a political subdivision.

SECTION 10. AMENDMENT. Subsection 2 of section 11-37-03 of the North Dakota Century Code is amended and reenacted as follows:

2. Two or more political subdivisions, whether in this state or in an adjoining state provided that at least one political subdivision is in this state, may create by execution of a joint agreement authorized by resolution of the governing body of each participating subdivision, a commerce authority that may exercise its functions upon the issuance by the secretary of state of a certificate of incorporation. Two or more political subdivisions, that are parties to a joint powers agreement under chapter 54-40 or 54-40.3, may convert an existing joint powers entity to a commerce authority by execution of a joint agreement authorized by resolution of the governing body of each participating political subdivision. The governing bodies of the participating political subdivisions shall appoint, pursuant to the joint agreement, no fewer than five persons as commissioners of the commerce authority.

SECTION 11. AMENDMENT. Section 11-37-04 of the North Dakota Century Code is amended and reenacted as follows:

11-37-04. Filing of agreement and resolutions - Certificate of incorporation - Beginning of corporate existence.

The joint agreement, if applicable, and a certified copy of the resolution of each political subdivision creating or agreeing to participate in a commerce authority, or converting an existing joint powers entity to a commerce authority, must be filed with the secretary of state. If the agreement and resolutions conform to the requirements of section 11-37-03, the secretary of state shall issue a certificate of incorporation that states the name of the commerce authority and the date of incorporation. The existence of the commerce authority as a political subdivision of this state begins upon the issuance of the certificate of incorporation. The certificate of incorporation is conclusive evidence of the existence of the commerce authority.

SECTION 12. AMENDMENT. Subsection 8 of section 11-37-06 of the North Dakota Century Code is amended and reenacted as follows:

8. Establish the geographical boundaries of the commerce authority within or coextensive with the geographical boundaries of one or more of the participating political subdivisions, or coextensive with the geographical boundaries of the area to be served by the commerce authority.

SECTION 13. AMENDMENT. Subsection 1 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

1. A commerce authority may borrow money and issue bonds, including refunding bonds, in the form and upon the terms as it may determine, payable out of any revenues of the commerce authority. If a commerce authority is formed by conversion of a joint powers entity to a commerce authority under subsection 2 of section 11-37-03, the commerce authority may borrow money and issue bonds to refinance existing obligations of the participating political subdivisions without the provisions of subsection 8 as long as the existing obligations were incurred by the participating political subdivision for the benefit of the converted joint powers entity.

SECTION 14. A new section to chapter 61-04 of the North Dakota Century Code is created and enacted as follows:

Metering of certain water sources required - Rules.

The state engineer shall require permit holders to purchase and maintain remote metering devices for the metering of water used pursuant to a temporary, conditional, or perfected water permit and sold for oil and gas purposes. Except for nonpotable ground water used for enhanced oil recovery purposes and water uses of less than fifteen acre-feet per year, all other permitted and temporarily permitted industrial water supplies sold for oil and gas purposes are subject to the metering requirements of this section. The state engineer shall develop rules to provide:

1. The specifications for remote terminal water metering devices;
2. That metering be operational by July 1, 2012;
3. That meters be available for inspection by state water commission staff on a daily basis;
4. That meters be sealed and tamperproof;
5. That meters may be replaced only under supervision of the state engineer;
6. That the penalty for circumventing the provisions of this section must be a thirty-day suspension of the noncompliant permit; and
7. That subsequent violations within a year result in a doubling of the penalty for the prior violation.

SECTION 15. TRANSFER - PERMANENT OIL TAX TRUST FUND - 2009-11 BIENNIUM. The office of management and budget shall transfer any unexpended funds appropriated from the permanent oil tax trust fund in chapter 25 of the 2009 Session Laws to the water commission fund at the end of the biennium beginning July 1, 2009, and ending June 30, 2011. For the purposes of this section, "end of the biennium" means thirty days after the close of the biennial period but prior to the cancellation of unexpended appropriations under section 54-44.1-11.

SECTION 16. APPLICATION. A commerce authority formed by the conversion of a joint powers agreement under this Act remains a valid commerce authority after the expiration date of this Act. Sections 9 through 13 of this Act do not grant any additional authority to exercise the power of eminent domain or issue general obligation bonds to a commerce authority formed by a conversion of a joint powers agreement under this Act.

SECTION 17. EXPIRATION DATE. Sections 9 through 13 of this Act are effective through July 31, 2013, and after that date are ineffective."

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2020 - State Water Commission - Conference Committee Action

The conference committee restored a grant to Wildlife Services in a legislative intent section to \$250,000, the same as the Senate. The House reduced the grant to \$100,000.

The conference committee added a section relating to the metering of certain water sources, the same as the House, but did not include legislative intent relating to the use of funds for water project priorities included in the House version.

The conference committee restored a section repealing Section 5 of Chapter 535 of the 1999 Session Laws relating to a pledge of revenues from the Grand Forks Corporate Center removed by the House.

A legislative intent section relating to the Garrison Diversion Conservancy District removed by the House was not restored by the conference committee.

In addition, the conference committee adopted the following amendments not included in the Senate or House versions:

- Added a provision to Section 4 requiring the State Water Commission receive Budget Section approval prior to the expenditure of any funds in excess of the funding provided in the water and atmospheric resources line item.
- Amended sections of the bill relating to Fargo flood control.
- Added sections relating to joint powers entities and commerce authorities. Sections were also added to provide for the application and expiration of these sections.
- Added a section to provide for a transfer from the permanent oil tax trust fund of any unexpended funds appropriated by the 2009 Legislative Assembly prior to the end of the 2009-11 biennium.