

Introduced by

Senators Burckhard, Luick, Triplett

Representatives Dosch, Kempenich, M. Nelson

1 | A BILL for an Act to create and enact sections 61-40-10, and 61-40-11, ~~and 61-40-12~~ of the  
2 | North Dakota Century Code, relating to the western area water supply authority; and to amend  
3 | and reenact sections 61-40-01 and 61-40-06 of the North Dakota Century Code, relating to the  
4 | western area water supply authority.

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

6 |       **SECTION 1. AMENDMENT.** Section 61-40-01 of the North Dakota Century Code is  
7 | amended and reenacted as follows:

8 |       **61-40-01. Legislative declarations - Authority of western area water supply authority.**

9 |       The legislative assembly declares that many areas and localities in western North Dakota  
10 | do not enjoy adequate quantities of high-quality drinking water; that other areas and localities in  
11 | western North Dakota do not have sufficient quantities of water to ensure a dependable,  
12 | long-term domestic or industrial water supply; that greater economic security and the protection  
13 | of health and property benefits the land, natural resources, and water resources of this state;  
14 | and that the promotion of the prosperity and general welfare of all of the people of this state  
15 | depend on the effective development and utilization of the land and water resources of this  
16 | state and necessitates and requires the exercise of the sovereign powers of this state and  
17 | concern a public purpose. To accomplish this public purpose, it is declared necessary that a  
18 | water authority to treat, store, and distribute water to western North Dakota be established to  
19 | provide for the supply and distribution of water to the people of western North Dakota for  
20 | purposes, including domestic, rural water, municipal, livestock, industrial, oil and gas  
21 | development, and other uses, and provide for the future economic welfare and prosperity of the  
22 | people of this state, and particularly the people of western North Dakota, by the creation and  
23 | development of a western area water supply project for beneficial and public uses. The western  
24 | area water supply authority may acquire, construct, improve, develop, and own water supply

1 infrastructure and may enter water supply contracts with member cities, water districts, and  
2 private users, such as oil and gas producers, for the sale of water for use within or outside the  
3 authority boundaries or the state. The western area water supply authority shall consider in the  
4 process of locating industrial water depots the location of private water sellers so as to minimize  
5 the impact on private water sellers. The authority shall limit industrial sales to the twelve water  
6 depots approved by the state water commission, and may not construct or authorize lateral  
7 pipelines, taps, truck ports, or other outlets from which industrial water sales are made with the  
8 approval of the state water commission.

9 **SECTION 2. AMENDMENT.** Section 61-40-06 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **61-40-06. Oversight of authority projects.**

12 The authority shall comply with the policy of the state water commission as the policy  
13 relates to bidding, planning, and construction of the project. The policy must include provisions  
14 for insurance, including general liability insurance, in adequate amounts. The authority shall  
15 report to and consult with the state water commission regarding the operation and financial  
16 status of the project, as requested by the state water commission. ~~In relation to initial~~  
17 ~~construction of the system and debt repayment, the~~ The authority shall present the overall plan  
18 and contract plans and specifications for the project to the state water commission for approval.  
19 The state water commission may require the authority to provide value engineering reviews for  
20 segments of the project. The attorney general shall assist the authority at the request of the  
21 state water commission. If the twenty-five million dollar zero interest loan from the state water  
22 commission has not been repaid, without the written consent of the state water commission  
23 the ~~The~~ authority may not sell, lease, abandon, encumber, or otherwise dispose of any part of  
24 property used in a water system of the authority if the property is used to provide revenue  
25 except upon written agreement between the authority and the state water commission. The  
26 authority and participating member entities may not seek to restrict or oppose other uses of  
27 water, either private or public, for industrial purposes.

28 ~~SECTION 3. Section 61-40-10 of the North Dakota Century Code is created and enacted as~~  
29 ~~follows:~~

30 ~~61-40-10. Water rates.~~

31 ~~1. The authority shall in the establishment of water rates, provide the following:~~

- 1 ~~a. Operation and maintenance.~~
- 2 ~~b. Treatment.~~
- 3 ~~c. Reserve fund for replacement and extraordinary maintenance.~~
- 4 ~~d. Debt repayment for Bank of North Dakota and assumption of local debts.~~
- 5 ~~e. Capital repayment.~~
- 6 ~~2. The authority shall submit water rates to the state water commission for approval.~~
- 7 ~~3. Money derived and received from water users and water user entities by the authority~~
- 8 ~~for capital repayment must be paid to the state water commission and must be~~
- 9 ~~deposited in the resources trust fund and may be expended only pursuant to~~
- 10 ~~legislative appropriation for the purposes specified in subsection 1 of section~~
- 11 ~~57-51.1-07.~~

12 **SECTION 3.** Section ~~61-40-11~~61-40-10 of the North Dakota Century Code is created and  
13 enacted as follows:

14 **61-40-11. Grant61-40-10. Limitations and conditions.**

- 15 ~~Any grants provided to the western area water supply authority are subject to the following~~  
16 ~~conditions:~~
- 17 ~~1. Before any expenditure or commitment of funds for rural and domestic water supply,~~  
18 ~~the state water commission shall obtain independent verification of the local domestic~~  
19 ~~or rural water demands and the design and specifications of the system required to~~  
20 ~~meet the demand, in a schedule and manner as determined by the commission.~~
  - 21 ~~2. All funds must be used exclusively to meet municipal and rural water needs. Funds~~  
22 ~~and infrastructure resulting from the funds may not be used for industrial water supply.~~
  - 23 ~~3. All industrial water sales conducted by the western area water supply authority must~~  
24 ~~be through twelve water depots approved by the state water commission.~~
  - 25 ~~4. All funds must be applied first to any federal loans owed by the authority or the~~  
26 ~~authority's participating entities.~~

27 The western area water supply authority and independent water producers must follow the  
28 following limitations and conditions for any of the limitations and conditions to apply.

- 29 1. The authority and the participating member entities may not bring any claim under  
30 7 U.S.C. 1926(b) which would restrict or oppose other public or private uses of water  
31 from Lake Sakakawea or other waters of the state for industrial purposes.

1     2. The authority and participating member entities may not sell directly or indirectly for  
2     industrial purposes more than thirty percent of the industrial water sales in the same  
3     area in the previous year as determined by the state water commission unless the  
4     percentage is exceeded solely by sales within ten miles [16.09 kilometers] of the  
5     twelve approved water depots of the authority.

6     3. Independent water producers may not sell water for industrial purposes within a  
7     ten-mile [16.09-kilometer] radius from any of the twelve approved water depots of the  
8     authority unless the producer has facilities located within the ten mile [16.09-kilometer]  
9     radius from which the producer is selling water for industrial use before July 1, 2013,  
10    under a water permit issued before July 1, 2013.

11    **SECTION 4.** Section ~~61-40-12~~61-40-11 of the North Dakota Century Code is created and  
12 enacted as follows:

13    ~~61-40-12~~61-40-11. Application of law.

14    ~~Section~~Sections 6-09.4-22 does and 61-02-68.18 do not apply to the western area water  
15 supply authority.