

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1061
(Energy and Natural Resources Committee)
(At the request of the State Engineer)

AN ACT to amend and reenact sections 61-03-23, 61-04-27, and 61-04-30 of the North Dakota Century Code, relating to water rights; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-03-23 of the North Dakota Century Code is amended and reenacted as follows:

61-03-23. Penalties - Civil.

In addition to criminal sanctions that may be imposed pursuant to law, a person who knowingly violates any provision of this title or any rules adopted under this title may be assessed a civil penalty not to exceed ~~five~~twenty-five thousand dollars for each day the violation occurred and continues to occur and may be required by the state engineer to forfeit any right to the use of water. The civil penalty for violation of an irrigation appropriation permit may not exceed five thousand dollars for each day the violation occurred and continues to occur. The civil penalty or forfeiture of a right to use water may be adjudicated by the courts or by the state engineer through an administrative hearing under chapter 28-32.

If a civil penalty levied by the state engineer after an administrative hearing is not paid within thirty days after a final determination that the civil penalty is owed, the civil penalty may be assessed against the property of the landowner responsible for the violation leading to the assessment of the penalty. The assessment must be collected as other assessments made under this title are collected. Notwithstanding the provisions of section 57-20-22, all interest and penalties due on the assessment must be paid to the state. Any civil penalty assessed under this section must be in addition to any costs incurred by the state engineer for enforcement of the order.

SECTION 2. AMENDMENT. Section 61-04-27 of the North Dakota Century Code is amended and reenacted as follows:

61-04-27. Information filed with state engineer - Installation of measuring devices.

On or before the ~~first~~thirty-first day of ~~February~~March of each year all persons holding a water permit, ~~including irrigation districts, federal agencies, and political subdivisions,~~ shall file with the state engineer, on forms supplied by the state engineer, topographic, mapping, foundation test borings, design, water use, and such other information as the state engineer shall require. The state engineer may also require any such persons to install measuring devices, which must conform to the state engineer's specifications, at all points specified by the state engineer.

SECTION 3. AMENDMENT. Section 61-04-30 of the North Dakota Century Code is amended and reenacted as follows:

61-04-30. Penalty.

A person who constructs works for an appropriation, or diverts, impounds, withdraws, or uses a significant amount of water from any source without a permit specifically authorizing such action, except as otherwise provided in section 61-04-02; who violates an order of the state engineer; who fails or refuses to install meters, gauges, or other measuring devices or to control works; who violates an order establishing corrective controls for an area or for a source of water; who violates the terms of the permit; or who knowingly makes a false or misleading statement in a declaration of existing rights is

guilty of a class A misdemeanor. As used in this section, "significant amount of water" means any amount of water in excess of that allowed in a valid water permit, or any amount of water in excess of the needs for domestic and livestock purposes where no permit has been issued. The state engineer shall inform the tax commissioner of violations of industrial use permits.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1061 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 89 Nays 3 Absent 2

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 46 Nays 1 Absent 0

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,
at _____ o'clock _____ M.

Secretary of State