

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

That the Senate recede from its amendments as printed on pages 1677-1681 of the House Journal and pages 1477-1480 of the Senate Journal and that Engrossed House Bill No. 1020 be amended as follows:

Page 1, line 2, remove "to create and enact a new"

Page 1, remove line 3

Page 1, line 4, remove "policies and procedures of the state water commission;"

Page 1, line 4, replace "sections" with "section"

Page 1, line 5, remove "and 54-35-02.37"

Page 1, line 5, remove "sections 6 and 7 of"

Page 1, line 6, replace "chapter 46 of the 2011 Session Laws" with "section 54-35-02.7 of the North Dakota Century Code as amended by Senate Bill No. 2233, as approved by the sixty-third legislative assembly"

Page 1, line 6, replace the second comma with "and"

Page 1, line 7, remove ", and Fargo flood control project funding"

Page 1, line 8, after the semicolon insert "to provide for a loan from the Bank of North Dakota;"

Page 1, replace lines 17 through 22 with:

"Administrative and support services	\$3,229,873	\$1,531,792	\$4,761,665
Accrued leave payments	0	325,774	325,774
Water and atmospheric resources	<u>498,413,774</u>	<u>324,194,592</u>	<u>822,608,366</u>
Total all funds	\$501,643,647	\$326,052,158	\$827,695,805
Less estimated income	<u>486,648,448</u>	<u>341,047,357</u>	<u>827,695,805</u>
Total general fund	\$14,995,199	(\$14,995,199)	\$0"

Page 2, after line 28, insert:

**"SECTION 5. BANK OF NORTH DAKOTA LOAN - WESTERN AREA WATER SUPPLY AUTHORITY.** The Bank of North Dakota shall provide a loan of \$40,000,000 to the western area water supply authority for construction of the project. The terms and conditions of the loan must be negotiated by the western area water supply authority and the Bank of North Dakota and any previous loans may be added to and merged into this loan as agreed by the authority and the Bank of North Dakota. The authority may repay the loan from income from specific project features. If the authority is in default in the payment of the principal of or interest on the obligation to the Bank of North Dakota for the loan, the authority is subject to the default provisions under section 61-40-09."

Page 3, remove lines 5 through 31

Page 4, replace lines 1 through 13 with:

**"SECTION 7. FARGO FLOOD CONTROL PROJECT CONSTRUCTION - LIMITATION.** Except for the construction of ring dikes and levees, construction relating to Fargo flood control project components located south of the city of Fargo's extraterritorial zoning jurisdiction may not begin until after July 1, 2014.

**SECTION 8. FARGO FLOOD CONTROL PROJECT FUNDING.** Funds designated by the sixty-first legislative assembly, the sixty-second legislative assembly, and the sixty-third legislative assembly for Fargo flood control are available only for levee and dike protection until the Fargo flood control project receives federal authorization, a project partnership agreement is executed, a federal appropriation is provided for project construction, and the budget for the Fargo flood control project is approved by the state water commission.

**SECTION 9. FARGO FLOOD CONTROL PROJECT FUNDING AGREEMENT.** Prior to the state water commission expending any state cost-sharing funds, the local Fargo flood control sponsor and state water commission shall enter a cost-sharing agreement. The agreement must provide for the exclusion of state cost-sharing for components of the project identified as recreational by the United States Army Corps of Engineers. The agreement must also provide for the exclusion of state cost-sharing relating to funds expected to be provided for the project by nonfederal entities outside the state of North Dakota. An advance funding agreement between the United States Army Corps of Engineers and the local Fargo flood control sponsor must precede any state funding used to advance construction work considered to be a federal responsibility.

**SECTION 10. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING.** It is the intent of the sixty-third legislative assembly that the state provide one-half of the local cost-share of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding to be provided by the state not exceed \$450,000,000. It is further the intent of the sixty-third legislative assembly that the \$275,000,000 yet to be designated by the state for the Fargo flood control project be made available in equal installments over the next four bienniums."

Page 4, line 19, after "projects" insert ", including levees and dikes"

Page 4, line 21, remove "or for a river diversion project. Notwithstanding"

Page 4, remove lines 22 and 23

Page 4, line 24, remove "Fargo flood control project"

Page 4, line 27, after the period insert "Costs incurred by nonstate entities for dwellings or other real property which are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."

Page 4, remove line 28 through 31

Page 5, remove lines 1 through 3

Page 5, line 13, replace "\$515,000,000" with "\$287,000,000"

Page 5, remove lines 14 through 29

Page 5, line 31, after "section" insert "every six months during the 2013-14 interim regarding"

Page 6, line 2, remove "within ninety days of the state water commission approving the change"

Page 6, after line 3, insert:

**"SECTION 15. FARGO FLOOD CONTROL - REPORTS TO THE BUDGET SECTION.** During the 2013-14 interim, the Fargo-Moorhead area diversion authority board shall report to the budget section biannually regarding an update on congressional authorization of the diversion project and the status of the self-insured crop insurance pool; mitigation efforts, alternatives, and costs; easements; and the project budget. The MNDak upstream coalition shall report to the budget section biannually regarding an update on the impacts of the Fargo flood control project and mitigation efforts, alternatives, and costs."

Page 6, remove lines 12 through 30

Page 7, replace lines 1 through 16 with:

**"SECTION 17. AMENDMENT.** Section 54-35-02.7 of the North Dakota Century Code as amended by Senate Bill No. 2233, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

**54-35-02.7. Water-related topics overview committee - Duties.**

The legislative management, during each interim, shall appoint a water-related topics overview committee in the same manner as the legislative management appoints other interim committees. The committee must meet quarterly and is responsible for legislative overview of water-related topics and related matters, the Garrison diversion project, and for any necessary discussions with adjacent states on water-related topics. The committee shall work collaboratively with the state water commission to develop policies to further define the state role in major flood control projects and the prioritization of water projects. The committee shall prepare a schedule of priorities with respect to water projects. The state water commission and state engineer shall assist the committee in developing the schedule of priorities, and the committee may seek input from stakeholders within the state regarding water project priorities. The committee also shall study policies regarding the development and financing of municipal projects, including water treatment plants; pipelines, including pipeline expansion, public and industrial use of water, cost analysis of future project development, and ongoing maintenance cost of current and future projects; and technology, including the use of technology for permitting and electronic metering. During the 2013-14 interim, the committee shall review water supply routes and alternatives for the Red River valley water supply project. The committee consists of thirteen members, and the legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees."

Page 7, line 17, after "1" insert "of this Act and section 5"

Page 7, line 18, replace "is" with "are"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1020 - State Water Commission - Conference Committee Action**

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Administrative and support services	\$4,042,784	\$3,909,500	\$852,165	\$4,761,665	\$4,850,009	(\$88,344)
Water and atmospheric resources	823,096,248	822,339,358	269,008	822,608,366	823,108,562	(500,196)
Accrued leave payments		325,774		325,774		325,774
Total all funds	\$827,139,032	\$826,574,632	\$1,121,173	\$827,695,805	\$827,958,571	(\$262,766)
Less estimated income	809,359,388	826,574,632	1,121,173	827,695,805	827,958,571	(262,766)
General fund	\$17,779,644	\$0	\$0	\$0	\$0	\$0
FTE	90.00	90.00	0.00	90.00	90.00	0.00

**Department No. 770 - State Water Commission - Detail of Conference Committee Changes**

	Removes House Changes to Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Increases Funding for Operating Expenses <sup>3</sup>	Total Conference Committee Changes
Administrative and support services	\$86,252	(\$39,152)	\$805,065	\$852,165
Water and atmospheric resources	492,622	(223,614)		269,008
Accrued leave payments				
Total all funds	\$578,874	(\$262,766)	\$805,065	\$1,121,173
Less estimated income	578,874	(262,766)	805,065	1,121,173
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

<sup>1</sup> Changes made by the House to the executive compensation package are removed.

<sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

<sup>3</sup> The Senate did not remove the House funding source change for the administration of the State Water Commission from the general fund to the resources trust fund. Funding for the following operating expenses is increased to pay fees to other agencies due to the change in funding source for the State Water Commission from the general fund to special funds, the same as the Senate version:

- Audit fees (\$53,000) - State Auditor.
- Attorney's fees (\$321,276) - Attorney General.
- Rent (\$430,789) - Office of Management and Budget.

This amendment removes:

- Sections added by the House to amend 2011 Session Laws and 2009 Session Laws, previously amended in 2011, related to legislative guidelines for Fargo flood control project expenditures, the same as the Senate.

- A section added by the House to provide that total Fargo flood control project funding to be provided by the state not exceed \$325 million, the same as the Senate.
- Sections added by the House directing the State Water Commission to study the use of ring dikes as part of a flood protection plan for the city of Fargo and water supply needs in the Red River Valley, the same as the Senate.
- A section added by the House to require the State Water Commission to adopt policies regarding project development and financing, the same as the Senate.
- A section added by the House to require the State Water Commission to move information technology hardware to the Information Technology Department secure data center, the same as the Senate.

In addition, this amendment:

- Restores the requirement that the State Water Commission receive Budget Section approval prior to spending any additional funds that may become available in the resources trust fund or water development trust fund during the 2013-15 biennium, the same as the House. The Senate removed this requirement.
- Adds a section to provide for a \$40 million loan from the Bank of North Dakota to the Western Area Water Supply Authority for construction of the project, which is declared an emergency measure, the same as the Senate.
- Adds a section to provide that funds designated by the Legislative Assembly for Fargo flood control are available only for levee and dike protection until the project receives federal authorization, a project partnership agreement is executed, a federal appropriation is provided for construction, and the budget for the Fargo flood control project is approved by the State Water Commission, the same as the Senate.
- Adds a section to require the State Water Commission enter a cost-sharing agreement with the Fargo flood control sponsor prior to expending any state funds for the Fargo flood control project. The section also provides that state funds may not be used for recreational components of the project or to cost-share with nonfederal entities outside the state. An advance funding agreement between the United States Army Corps of Engineers and the local Fargo flood control sponsor must precede any state funding used to advance construction work considered to be a federal responsibility. This section was not included in the House or Senate version of the bill.
- Adds a section of legislative intent that the state provide one-half of the local cost-share of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding not exceed \$450 million, the same as the Senate. In addition, the Conference Committee provided further intent that the \$275 million yet to be designated for Fargo flood control is to be made available in equal installments over the next four bienniums.
- Adds a section which limits Fargo flood control project construction south of the city of Fargo to ring dikes and levees until after July 1, 2014. This section was not included in the House or Senate version of the bill.
- Adds a section requiring the Fargo-Moorhead Area Diversion Authority and the MNDak Upstream Coalition report to the Budget Section, the Senate required only the diversion authority to report.
- Amends guidelines for Fargo flood control project expenditures included in a section added by the House to designate \$100 million for Fargo flood control projects. The guidelines are amended to match the guidelines approved by the 62nd and 61st Legislative Assemblies and to include levees and dikes, the same as the Senate.
- Allows the State Water Commission to use funding in the resources trust fund to pay off or defease outstanding bond issues when the balance in the resources trust fund exceeds \$287 million rather than \$515 million, as provided in the executive recommendation, the same as the Senate.
- Amends a section added by the House to require the State Water Commission to report to the Budget Section within 90 days of any changes made to the water project priority list presented to the Legislative Assembly in 2013 to provide the State Water Commission report every six months. The Senate removed this section.
- Replaces a section added by the House, but removed by the Senate, which increases the membership of the Water-Related Topics Overview Committee and directs the committee to prepare a water project priority schedule to be included in the committee's final report to the Legislative Management. The new section amends Section 54-35-02.7 related to the

Water-Related Topics Overview Committee, as amended by Senate Bill No. 2233, to provide the committee study policies regarding the development and financing of municipal projects. In addition, the amendments require the State Water Commission and the State Engineer assist the committee in developing a schedule of priorities with respect to water projects.