

Introduced by

Legislative Management

(Water Topics Overview Committee)

1 A BILL for an Act to amend and reenact subsection 2 of section 61-16.1-09 of the North Dakota
2 Century Code, relating to the authority of water resource boards to exercise the power of quick
3 take eminent domain.

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

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

7 2. Exercise the power of eminent domain ~~in the manner provided by~~ as follows:

8 a. Except as permitted under subdivision b, the board shall comply with title 32 for
9 the purpose of acquiring and securing by eminent domain any rights, titles,
10 interests, estates, or easements necessary or proper to carry out the duties
11 imposed by this chapter, and particularly to acquire the necessary rights in land
12 for the construction of dams, flood control projects, and other water conservation,
13 distribution, and supply works of any nature and to permit the flooding of lands,
14 and to secure the right of access to such dams and other devices and the right of
15 public access to any waters impounded thereby. ~~Provided, however, that when~~

16 b. (1) If the interest sought to be acquired is a right of way for any project
17 authorized in this chapter for which federal or state funds have been
18 appropriated, the district, ~~after making a written offer to purchase the right of~~
19 way and depositing may acquire the right of way by quick take eminent
20 domain as authorized by section 16 of article I of the Constitution of North
21 Dakota, after the district attempts to purchase the right of way by:

22 (a) Sending the landowner an appraisal and written offer for just
23 compensation by certified mail or commercial delivery requiring a

- 1 signed receipt, and receiving the signed receipt or documentation of
2 constructive notice.
- 3 (b) Sending the landowner a written request for a meeting by certified
4 mail or commercial delivery requiring a signed receipt if there is no
5 agreement regarding compensation or no response to the written offer
6 within fifteen days of receipt, and receiving the signed receipt or
7 documentation of constructive notice.
- 8 (c) Sending the landowner a written notice, by certified mail or
9 commercial delivery requiring a signed receipt, of intent to take
10 possession of the right of way in thirty days if there is no agreement
11 regarding compensation or no response to the written request for a
12 meeting within thirty days of receipt, and receiving the signed receipt
13 or documentation of constructive notice.
- 14 (2) Any written communication to the landowner must include contact
15 information for responding to the board and a description of the required
16 negotiation timeline.
- 17 (3) If negotiation efforts fail, the district may take immediate possession of the
18 right of way if the district files an affidavit by the chairman of the water
19 resource board which states the district has fulfilled the required negotiation
20 steps and deposits the amount of the written offer with the clerk of the
21 district court of the county wherein which the right of way is located, may
22 thereupon take immediate possession of the right of way, as authorized by
23 section 16 of article I of the Constitution of North Dakota.
- 24 (4) Within thirty days after notice has been given in writing to the landowner by
25 the clerk of the district court that a deposit has been made for the taking of a
26 right of way as authorized in this subsection, the owner of the property taken
27 may appeal to the district court by serving a notice of appeal upon the
28 acquiring agency, and the matter must be tried at the next regular or special
29 term of court with a jury unless a jury be waived, in the manner prescribed
30 for trials under chapter 32-15.