

Introduced by

Senators Luick, Osland, Vedaa

Representatives Beadle, Mitskog, Pyle

1 A BILL for an Act to amend and reenact sections 61-02-01.3, 61-02-01.4, 61-02-02, and
2 61-02-14 of the North Dakota Century Code, relating to cost-sharing and duties of the state
3 water commission.

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

5 **SECTION 1. AMENDMENT.** Section 61-02-01.3 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **61-02-01.3. Comprehensive water development plan.**

8 Biennially, the commission shall develop and maintain a comprehensive water development
9 plan organized on a river basin perspective, ~~including~~which must include an inventory of future
10 water projects for budgeting and planning purposes. As part of the commission's planning
11 process, to facilitate local project sponsor participation and project prioritization, and to assist in
12 education regarding life cycle analyses for municipal water supply projects, and economic
13 analyses for flood control and water ~~conveyance~~management projects expected to cost more
14 than one million dollars, the commission shall develop a policy that outlines procedures for
15 commissioner-hosted meetings within the upper Red River, lower Red River, James River,
16 Mouse River, upper Missouri River, lower Missouri River, and Devils Lake drainage basins.

17 **SECTION 2. AMENDMENT.** Section 61-02-01.4 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **61-02-01.4. State water commission cost-share policy.**

20 The state water commission shall review, gather stakeholder input on, and rewrite as
21 necessary the commission's "Cost-share Policy, Procedure and General Requirements" and
22 "Project Prioritization Guidance" documents. The commission's cost-share policy:

23 1. Must provide a water supply project is eligible for a cost-share up to seventy-five
24 percent of the total eligible project costs.

- 1 2. May not determine program eligibility of water supply projects based on a population
2 growth factor. However, a population growth factor may be used in prioritizing projects
3 for that purpose.
- 4 3. Must consider all project costs potentially eligible for reimbursement, except the
5 commission shall exclude operations expense and regular maintenance, including
6 removal of vegetative materials and sediment, for ~~water conveyance~~
7 ~~projects~~assessment drains, and may exclude operations expense and regular
8 maintenance for other projects. The commission shall require a water project sponsor
9 to maintain a capital improvement fund from the rates charged customers for future
10 extraordinary maintenance projects as condition of funding an extraordinary
11 maintenance project.
- 12 4. May not determine program eligibility of water supply projects based on affordability.
13 However, affordability may be used in prioritizing projects for that purpose.

14 **SECTION 3. AMENDMENT.** Section 61-02-02 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **61-02-02. Definitions.**

17 In this chapter, unless the context or subject matter otherwise requires:

- 18 1. "Commission" means the state water commission.
- 19 2. "Cost of works" includes:
 - 20 a. The cost of construction, the cost of all lands, property rights, water rights,
21 easements, and franchises acquired which are deemed necessary for such
22 construction;
 - 23 b. The cost of all water rights acquired or exercised by the commission in
24 connection with ~~such~~the works;
 - 25 c. The cost of all machinery and equipment, financing charges, interest ~~prior-~~
26 ~~to~~before and during construction and for a period not exceeding three years after
27 the completion of construction;
 - 28 d. The cost of engineering and legal expenses, plans, specifications, surveys,
29 estimates of cost, and other expenses necessary or incident to determining the
30 feasibility or practicability of ~~anya~~a project;
 - 31 e. Administrative expenses;

- 1 f. The construction of the works and the placing of the ~~samew~~works in operation; and
- 2 g. ~~Such other~~Other expenses ~~as may be~~ necessary or incident to the financing
- 3 authorized in this chapter, including funding of debt service, repair and
- 4 replacement reserves, capitalized interest, and the payment of bond issuance
- 5 costs.
- 6 3. "Cost-share" means funds appropriated by the legislative assembly or otherwise
- 7 transferred by the commission to a local entity under commission policy as
- 8 reimbursement for a percentage of the total approved cost of a project approved by
- 9 the commission.
- 10 4. "Economic analysis" means an estimate of economic benefits and direct costs that
- 11 result from the development of a project.
- 12 5. "Grant" means a one-time sum of money appropriated by the legislative assembly and
- 13 transferred by the commission to a local entity for a particular purpose. A grant is not
- 14 dependent on the local entity providing a particular percentage of the cost of the
- 15 project.
- 16 6. "Life cycle analysis" means the summation of all costs associated with the anticipated
- 17 useful life of a project, including project development, land, construction, operation,
- 18 maintenance, and disposal or decommissioning.
- 19 7. "Loan" means an amount of money lent to a sponsor of a project approved by the
- 20 commission to assist with funding approved project components. A loan may be
- 21 stand-alone financial assistance.
- 22 8. "Owner" includes all individuals, associations, corporations, limited liability companies,
- 23 districts, municipalities, and other political subdivisions of this state having any title or
- 24 interest in any properties, rights, water rights, easements, or franchises to be acquired.
- 25 9. "Project" means any one of the works defined in subsection ~~4110~~4110, or any combination
- 26 of such works, which are physically connected or jointly managed and operated as a
- 27 single unit.
- 28 10. ~~"Water conveyance project" means any surface drainage works, bank stabilization, or~~
- 29 ~~snagging and clearing of water courses.~~
- 30 11. "Works" includes:

- 1 a. All property rights, easements, and franchises relating thereto and deemed
2 necessary or convenient for their operation;
- 3 b. All water rights acquired and exercised by the commission in connection with
4 such works;
- 5 c. All means of conserving and distributing water, including ~~without limiting the~~
6 ~~generality of the foregoing two subdivisions~~, reservoirs, dams, diversion canals,
7 distributing canals, channels, lateral ditches, pumping units, mains, pipelines,
8 treatment plants, and waterworks systems; and
- 9 d. All works for the conservation, control, development, storage, treatment,
10 distribution, and utilization of water, including ~~without limiting the generality of the~~
11 ~~foregoing subdivisions~~, works for the purpose of irrigation, flood control, watering
12 stock, supplying water for public, domestic, industrial, and recreational use, fire
13 protection, and the draining of lands injured or in danger of injury as a result of
14 such water utilization.

15 **SECTION 4. AMENDMENT.** Section 61-02-14 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **61-02-14. Powers and duties of the commission.**

18 The commission ~~shall have full and complete power, authority, and general jurisdiction~~
19 authorized:

- 20 1. To investigate, plan, regulate, undertake, construct, establish, maintain, control,
21 operate, and supervise all works, dams, and projects, public and private, which in
22 ~~its~~the commission's judgment may be necessary or advisable:
 - 23 a. To control the low-water flow of streams in the state.
 - 24 b. To impound water for the improvement of municipal, industrial, and rural water
25 supplies.
 - 26 c. To control and regulate floodflow in the streams of the state to minimize the
27 damage of such floodwaters.
 - 28 d. To conserve and develop the waters within the natural watershed areas of the
29 state and, subject to vested rights, to divert the waters within a watershed area to
30 another watershed area and the waters of any river, lake, or stream into another
31 river, lake, or stream.

- 1 e. To improve the channels of the streams for more efficient transportation of the
2 available water in the streams.
- 3 f. To provide sufficient water flow for the abatement of stream pollution.
- 4 g. To develop, restore, and stabilize the waters of the state for domestic,
5 agricultural, and municipal needs; irrigation; flood control; recreation; and
6 wildlife conservation by the construction and maintenance of dams, reservoirs,
7 and diversion canals.
- 8 h. To promote the maintenance of existing drainage channels in agricultural lands
9 and to construct any needed channels.
- 10 i. To provide more satisfactory subsurface water supplies for the state's
11 municipalities of the state.
- 12 j. To finance the construction, establishment, operation, and maintenance of public
13 and private works, dams, and irrigation projects, which in ~~its~~the commission's
14 judgment may be necessary and advisable, except the. The commission may not
15 provide a cost-share for the costs of operation or maintenance, including removal
16 of vegetative materials and sediment, of ~~a water conveyance project~~assessment
17 drains or other man-made projects.
- 18 k. To provide for the storage, development, diversion, delivery, and distribution of
19 water for the irrigation of agricultural land and supply water for municipal and
20 industrial purposes.
- 21 l. To provide for the drainage of lands injured by or susceptible of injury from
22 excessive rainfall or from the utilization of irrigation water, and subject to the
23 limitations prescribed by law, to aid and cooperate with the United States and any
24 department, agency, or officer ~~thereof~~of the United States, and with any county,
25 township, drainage district, or irrigation district of this state, or of ~~other~~
26 statesanother state, in the construction or improvement of ~~such~~the drains.
- 27 m. To provide water for stock.
- 28 n. To provide water for the generation of electric power and for mining and
29 manufacturing purposes.
- 30 2. To define, declare, and establish rules and regulations:

- 1 contribute, or grant to the United States, moneys, real and personal property, including
- 2 land or easements for dams and reservoir sites and rights of way and easements for
- 3 diversion and distribution systems or participate in the cost of any project.
- 4 8. To consider cost-sharing for water quality improvement projects.