

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2358

Introduced by

Senators Wanzek, Dotzenrod, Luick

Representative Pollert

1 A BILL ~~for an Act to provide for a legislative management study regarding the use of the term~~
2 ~~"watercourse" in the North Dakota Century Code.~~for an Act to amend and reenact section
3 40-33-16, subsections 11 and 27 of section 61-24-08, subdivision b of subsection 2 of
4 section 61-32-03.1, and subsection 8 of section 61-39-05 of the North Dakota Century Code,
5 relating to Red River valley water supply project contract terms, elimination of voter approval
6 requirements, and notice of proposed subsurface water management systems.

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

8 ~~SECTION 1. LEGISLATIVE MANAGEMENT STUDY - USE OF "WATERCOURSE" IN~~
9 ~~STATUTES.~~ During the 2019-20 interim, the legislative management shall consider studying the
10 use of the term "watercourse" throughout the North Dakota Century Code. The study must
11 include consideration of the different meanings of the term and the contexts in which the term is
12 used. The purpose of the study is to develop information that will be useful in deciding whether
13 a new definition of "watercourse" in the North Dakota Century Code is necessary and, if so,
14 what the new definition should be. The legislative management shall report its findings and
15 recommendations, together with any legislation required to implement the recommendations to
16 the sixty-seventh legislative assembly.

17 **SECTION 1. AMENDMENT.** Section 40-33-16 of the North Dakota Century Code is
18 amended and reenacted as follows:
19 **40-33-16. Municipality may purchase water for distribution.**
20 1. Any city owning a system for the distribution of water for fire protection and other
21 public purposes and for selling water to its inhabitants and industries, but for which the
22 water supply is unsuitable or inadequate, may contract to purchase water at wholesale
23 for ~~such~~those purposes from any person, firm, public or private corporation, or limited
24 liability company able and willing to furnish the same, upon ~~such~~the terms and during

1 ~~such~~the period, not exceeding forty years, as the city governing body shall
2 ~~deem~~deems appropriate. ~~Any such~~The contract shall~~must~~ be authorized by an
3 ordinance submitted to the voters for approval by a majority of those voting on the
4 proposition before it takes effect. ~~In and by such~~Pursuant to the ordinance and
5 contract, the city may bind itself:

- 6 4. a. To establish and maintain rates and charges for supplying water by it to its
7 inhabitants and industries, either according to a prescribed schedule agreed
8 upon or sufficient to produce net stated amounts for specified periods during the
9 life of the contract, or both, and to appropriate and use the same for payments to
10 become due under the contract, and, if the contract so provides, the city shall-
11 ~~be~~is obligated to pay for ~~such~~the water solely out of ~~such~~the net revenues;
12 2. b. To pay, at an agreed rate or rates, for all water taken by the city under ~~such~~the
13 contract and not resold by it; and
14 3. c. To do and perform any other acts or things ~~which, in the discretion of~~ the
15 governing body, ~~are deemed~~ ~~deems~~ reasonable and appropriate for the
16 procurement of ~~such~~the water on the most efficient and economical basis.

17 2. Notwithstanding subsection 1, contracts to purchase water from the water supply
18 system created by the Red River valley water supply project may have a term
19 exceeding forty years and, if executed in relation to the initial construction of the
20 system, need not be submitted to the voters for approval.

- 21 3. If any payments under any contract are to be made solely out of net revenues, the
22 contract may fix and prescribe the method or basis on which net revenues are to be
23 computed.

24 **SECTION 2. AMENDMENT.** Subsection 11 of section 61-24-08 of the North Dakota Century
25 Code is amended and reenacted as follows:

- 26 11. To operate and maintain or to contract for the operation and maintenance of water
27 supply and irrigation works serving lands and uses within or outside the district, and in
28 connection therewith, to maintain a reserve fund to meet major unforeseen costs of
29 operation and maintenance. The acquisition, construction, operation, and maintenance
30 of dams, reservoirs, ground water storage areas, canals, conduits, pipelines, tunnels,
31 and any other plants, works, facilities, improvements, or property necessary to operate

1 or maintain water supply or irrigation works under this section are exempt from any
2 requirements for voter approval.

3 **SECTION 3. AMENDMENT.** Subsection 27 of section 61-24-08 of the North Dakota
4 Century Code is amended and reenacted as follows:

- 5 27. To enter water service contracts with municipalities, water districts, or other political
6 subdivisions in this state and public utilities in Minnesota as part of the Red River
7 valley water supply project, regardless of whether the acquisition, construction, or
8 reconstruction of any Red River valley water supply project is actually completed and
9 whether water actually is delivered under the contracts. These contracts with cities
10 and water districts are authorized to be executed without limitation on term of years
11 ~~notwithstanding any limitation to the contrary~~ and, if the contracts are executed in
12 relation to the initial construction of the system, without voter approval.

13 **SECTION 4. AMENDMENT.** Subdivision b of subsection 2 of section 61-32-03.1 of the
14 North Dakota Century Code is amended and reenacted as follows:

- 15 b. Upon submission of a completed application for a permit, the water resource
16 district board immediately shall give notice and a copy of the submission via
17 certified mail to each owner of land within one mile [1.61 kilometers] downstream
18 of the proposed subsurface water management system outlet unless the distance
19 to the nearest waterway depicted as a perennial or intermittent stream or river on
20 a United States geological survey topography map, assessment drain, natural
21 watercourse, slough, or lake is less than one mile [1.61 kilometers], in which case
22 notice and a copy of the submission must be given immediately to each owner of
23 land between the outlet and the nearest assessment drain, natural watercourse,
24 slough, or lake. The notice requirement in this section must be waived if the
25 applicant presents signed, notarized letters of approval from all downstream
26 landowners entitled to notice in this subsection.

27 **SECTION 5. AMENDMENT.** Subsection 8 of section 61-39-05 of the North Dakota Century
28 Code is amended and reenacted as follows:

- 29 8. Enter ~~a contract or~~ contracts to provide for a supply of bulk water from the Garrison
30 Diversion Conservancy District which ~~contract or contracts~~ may provide for payments
31 to fund some or all of the Garrison Diversion Conservancy District's costs of acquiring,

1 designing, constructing, or reconstructing one or more features of a Red River valley
2 water supply project, ~~which project the~~ that the Garrison Diversion Conservancy
3 District may acquire, design, construct, improve, and own, as well as the Garrison
4 Diversion Conservancy District's costs of operating and maintaining one or more Red
5 River valley water supply projects, whether the acquisition, construction, or
6 reconstruction of any Red River valley water supply project actually is completed and
7 whether water actually is delivered pursuant to the ~~contract or~~ contracts, ~~and which~~
8 ~~contract or contracts the Garrison Diversion Conservancy District may execute.~~
9 Contracts executed under this subsection may be executed without limitation on the
10 term of years and, if executed in relation to the initial construction of the system, need
11 not be submitted to the voters for approval.