

Sixty-ninth  
Legislative Assembly  
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1201

Introduced by

Representatives Brandenburg, Grueneich, Hagert, Headland, Mitskog, Warrey, Schreiber-Beck

Senators Erbele, Luick, Weber, Wanzek

1 A BILL ~~for an Act to amend and reenact section 61-16.1-43 of the North Dakota Century Code,~~  
2 ~~relating to drains intersecting with a roadway that is part of the state highway system.~~ for an Act  
3 to amend and reenact section 61-04-03.1 of the North Dakota Century Code, relating to a  
4 limitation on the amount of water not applied to beneficial use.

5 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

6 ~~SECTION 1. AMENDMENT. Section 61-16.1-43 of the North Dakota Century Code is~~  
7 ~~amended and reenacted as follows:~~

8 ~~61-16.1-43. Construction of bridges and culverts - Costs - Specifications.~~

9 ~~1. The water resource board shall construct any bridges or culverts over or in connection~~  
10 ~~with a drain as in its judgment may be necessary to furnish passage from one part to~~  
11 ~~another of any private farm or tract of land intersected by the drain. The cost of~~  
12 ~~constructing the bridge or culvert must be charged as part of the cost of constructing~~  
13 ~~the drain. The bridge or culvert must be maintained under the authority of the water~~  
14 ~~resource board, and the necessary expense must be deemed a part of the cost of~~  
15 ~~maintenance.~~

16 ~~2. When any bridge or culvert is to be constructed on a county or township highway~~  
17 ~~system over and across or in connection with a drain, the water resource board shall~~  
18 ~~notify the county or township with authority for the highway and provide the county or~~  
19 ~~township reasonable time to review and provide input on the plans for the bridge or~~  
20 ~~culvert. The bridge or culvert must be maintained by the county or township and all~~

1        ~~necessary maintenance expenses must be borne forty percent by the county and sixty-~~  
2        ~~percent by the water resource board, unless otherwise agreed upon by the water-~~  
3        ~~resource board and the highway authority. If the highway authority and the water-~~  
4        ~~resource board cannot agree on the necessity or proper methodology for maintaining-~~  
5        ~~the bridge or culvert, the requesting party may appeal the denial under chapter 28-34.~~  
6        ~~The cost of constructing the bridge or culvert must be shared in the following manner:~~  
7        ~~a. If funds are available, the state water commission may participate according to-~~  
8        ~~the commission's rules or policies. The remaining cost must be borne forty-~~  
9        ~~percent by the county and sixty percent by the district that created the need for-~~  
10       ~~the construction.~~  
11       ~~b. If funds are not available to the commission for participation, forty percent of the-~~  
12       ~~cost must be paid by the county and sixty percent must be charged as the cost of-~~  
13       ~~the drain to the district.~~  
14       ~~c. Upon request from the water resource board, the county shall request federal-~~  
15       ~~emergency funds for the construction. If the bridge or culvert is constructed with-~~  
16       ~~federal financial participation, including any federal emergency funds, the costs-~~  
17       ~~exceeding the amount of the federal participation must be borne by the district-~~  
18       ~~and county according to the provisions of this section.~~  
19       ~~3. If a roadway that is part of the state highway system and which contains a culvert-~~  
20       ~~intersects with a drain and the watershed of the drain spans three or more counties,~~  
21       ~~the culvert must include a control valve system to regulate the flow of water through-~~  
22       ~~the culvert.~~

23       **SECTION 1. AMENDMENT.** Section 61-04-03.1 of the North Dakota Century Code is  
24       amended and reenacted as follows:

25       **61-04-03.1. Limitation on amount of water.**

26       An applicant may not apply for a permit or permits for irrigation which, if approved, would  
27       enable a person, at any one time, to hold a conditional water permit or permits for more than  
28       seven hundred twenty acre-feet [888106.75 cubic meters] of water from a single surface or  
29       ground water source that has not been applied to beneficial use. Applications submitted in  
30       violation of this section may not be assigned a priority date and must be returned to the  
31       applicant by the department of water resources. This section may not apply to water permit



Sixty-ninth  
Legislative Assembly

1 applications from the Missouri River or to applications submitted by irrigation districts organized  
2 pursuant to this title. For the purposes of this section, "person", when applied to an individual,  
3 means the individual and the individual's spouse and dependents within the meaning of the  
4 Internal Revenue Code [26 U.S.C. 152].

