

**2025 SENATE ENERGY AND NATURAL RESOURCES**

**SB 2299**

# 2025 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Peace Garden Room, State Capitol

SB 2299  
2/13/2025

Relating to oversight of water districts.
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9:00 a.m. Chairman Patten opened the meeting.

Members present:

Chairman Patten, Vice Chairman Kessel, Senators: Beard, Boehm, Enget, Gerhardt, and Van Oosting.

### Discussion Topics:

- Landowner concerns
- Legislative reform
- Legal ambiguities
- Attorney involvement
- Fair compensation
- Property rights
- Water district elections
- Local bylaw control
- Audit practices

9:01 a.m. Senator Paulson, District 3, introduced the bill and submitted testimony in favor #36874 and #37580.

9:06 a.m. Crystal Hendrickson testified in favor and submitted testimony #37565.

9:12 a.m. Dan Cox, Director, Auditor Office, testified in favor.

9:15 a.m. John M. Pietsch testified in favor and submitted testimony #37593.

9:22 a.m. John Fjeldahl, Commissioner of Ward County, testified in favor and submitted testimony #37592.

9:25 a.m. Pete Hanebutt, NDFB, testified in favor.

9:25 a.m. Rachel D. Axness testified in favor.

9:28 a.m. Eric Volk, Executive Director of the ND Rural Water, testified in opposition and submitted testimony #37531.

9:39 a.m. John Eaton, General Manager of Agassiz Water Users District, testified in opposition and submitted testimony #37458.

9:45 a.m. Tami Norgard, Vogel Law Firm, testified in opposition and submitted testimony #37532.

9:59 a.m. Ryan Greg, ND Farmers Union, testified in opposition.

**Additional written testimony:**

Susan J. Moreno submitted testimony in favor #36359.

Craig Haskins, General Manager of the R&T Water District, submitted testimony in opposition #37485.

Jeremy Schuler, General Manager of the Northeast Regional Water District, submitted testimony in opposition #37492.

Brent L. Brinkman, General Manager of the Cass Rural Water District, submitted testimony in opposition #37493.

Matt Odermann, Towner County Commission & Chairman of All Seasons Rural Water Users District President, submitted testimony in opposition #37498.

Chad Blessum, Manager of the Tri County Water District, submitted testimony in opposition #37499.

Lance Gaebe, Policy Strategist of the North Dakota Farmers Union, submitted testimony in opposition #37516.

Geneva A. Kaiser, Stutsman Rural Water District, submitted testimony in opposition #37535.

Teresa Sundsbak, General Manager of the North Prairie Regional Water District, submitted testimony in opposition #37567.

Terry Morrow, Central Plains Water Dist., submitted testimony in opposition #37569.

Matt Zelinski, Director Secretary of the North Prairie Regional Water District, submitted testimony in opposition #37570.

Dani Quissell, Executive Vice President, ND Water Users Association, submitted testimony in opposition #37417.

Justin N. Breidenbach, Assistant Manager of the East Central Regional Water District, submitted testimony in opposition #37540.

9:59 a.m. Chairman Patten closed the hearing.

*Kendra McCann, Committee Clerk*

**Regarding SB2299**

I believe oversight by the State Auditor is necessary in all political subdivisions as it has become far too common to side-step regulations and responsibility to patrons. While I don't believe that every two years is always necessary I do believe that, at the very least, a uniform overview every four to five years good policy.

I believe that a thorough audit should be seriously considered when complaints are voiced by the public. While mis-conduct is not the norm I believe it is extremely beneficial to take a firm stand that it will be regularly monitored for.

My greatest areas of concern is with water districts that cover more than one county, strictly limit water user's input, limit which members are allowed to run for a board position, limit ballot options to one individual of the nomination committee's choosing, refuse to allow patrons to write in a qualified member's name, and give district patrons no input on replacing their representative when the elected board member resigns for any reason. At North Prairie Regional Water District I believe the board chairperson personally chose the nominating committee to select the nominees for her own district when her term is up this summer. Although some of these practices may be legal I believe they may also be questionable from an ethical standpoint.

Thank you for your time.

Susan Moreno

District 4

25.0990.02001  
Title.

Prepared by the Legislative Council  
staff for Senator Paulson  
February 7, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### SENATE BILL NO. 2299

Introduced by

Senators Paulson, Castaneda, Luick

Representatives D. Ruby, VanWinkle, Wolff

1 A BILL for an Act to amend and reenact subsection 1 of section 54-10-14, subsection 1 of  
2 section 54-10-15, and sections 61-35-09 and 61-35-10 of the North Dakota Century Code,  
3 relating to oversight of water districts; and to declare an emergency.

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

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 54-10-14 of the North Dakota Century  
6 Code is amended and reenacted as follows:

- 7 1. The state auditor shall audit the following political subdivisions once every two years,  
8 except as provided in this section or otherwise by law:
- 9 a. Counties.
  - 10 b. Cities, and when a city is audited, to include any political subdivision that was  
11 created by the city and has bonding authority.
  - 12 c. Park districts.
  - 13 d. School districts.
  - 14 e. Firefighters relief associations.
  - 15 f. Airport authorities.
  - 16 g. Public libraries.
  - 17 h. Water resource districts, created under chapter 61-16 and operating under  
18 chapter 61-16.1.
  - 19 i. Garrison Diversion Conservancy District.
  - 20 j. Rural fire protection districts.

- k. Special education districts.
- l. Area career and technology centers.
- m. Correction centers.
- n. Recreation service districts.
- o. Weed boards.
- p. Irrigation districts.
- q. Rural ambulance service districts.
- r. Southwest water authority.
- s. Regional planning councils.
- t. Soil conservation districts.
- u. Western area water supply authority industrial water sales on an annual basis.
- v. Water districts subject to chapter 61-35.

**SECTION 2. AMENDMENT.** Subsection 1 of section 54-10-15 of the North Dakota Century Code is amended and reenacted as follows:

1. The state auditor, by duly appointed deputy auditors or other authorized agents, shall audit or review the books, records, and financial accounts of any political subdivision when ordered by the legislative audit and fiscal review committee. The state auditor, by duly appointed auditors or other authorized agents, may audit or review the books, records, and financial accounts of any political subdivisions when requested by the governor, requested by the governing board, or upon petition of at least thirty-five percent of the qualified electors of any political subdivision enumerated in section 54-10-14 voting for the office of governor at the preceding general election ~~or, in the case of~~ regarding school districts, upon petition of at least thirty-five percent of the qualified electors voting at the preceding school board election, regarding water districts subject to chapter 61-35, upon a petition of at least ~~thirty-five~~ten percent of the qualified electors voting at the preceding annual meeting held under section 61-35-10 or one hundred fifty participating members, whichever is fewer, or upon the request of the state court administrator with respect to clerk of district court services provided by a county in accordance with chapter 27-05.2. Fees for the audits must be paid in accordance with the provisions of section 54-10-14.

1       **SECTION 3. AMENDMENT.** Section 61-35-09 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **61-35-09. Bylaws submitted at special meeting.**

4       Within thirty days after election of the original board, proposed bylaws must be submitted  
5 for adoption at a special meeting of members of the district, written notice of which must be  
6 mailed to each member. Members present at the special meeting may adopt or amend any of  
7 the proposed bylaws, and may propose and adopt alternative or additional bylaws by a majority  
8 vote. The bylaws may subsequently be amended at any annual or special meeting of the  
9 participating members of the district. However, the bylaws of each district must provide:

- 10       1. For an annual meeting of participating members each year after the year of  
11       organization of the district and for mailing of written notice of the time and place of  
12       each annual meeting to each participating member and publication of the notice in the  
13       official newspaper of the county or counties served by the district not less than ten nor  
14       more than thirty days before each meeting.
- 15       2. That each participating member of the district is entitled to one vote at all annual and  
16       special meetings of the district for each benefit unit to which the member has  
17       subscribed.
- 18       3. ~~That each participating member of the district may nominate an individual to be a~~  
19       ~~candidate at a special election to fill a vacancy or at a regularly scheduled election at~~  
20       ~~an annual meeting to elect a successor director. A nomination for a candidate may be~~  
21       ~~made beginning thirty days before the election up to the date of election. A nomination~~  
22       ~~also may be made at the annual or special meeting before the commencement of the~~  
23       ~~election~~seeking election to the board at any annual or special meeting shall present a  
24       petition containing signatures of three participating members. All petitions must be  
25       submitted to the secretary of the board or nominating committee at least five days  
26       before the election. Any participating member who submits a petition must be added to  
27       the ballot, provided they reside in the appropriate district.

28       **SECTION 4. AMENDMENT.** Section 61-35-10 of the North Dakota Century Code is  
29 amended and reenacted as follows:

**61-35-10. Directors divided into classes - Terms - Vacancies.**

1. The initial board of each district shall divide its members by lot into three classes of as nearly equal size as possible. The terms of the directors in the first, second, and third classes expire on dates of the annual meetings in the first, second, and third years, respectively, following the year in which the district is organized, or as soon thereafter as their successors are elected and have qualified.
2. At the annual meeting in each year after the year in which the district is organized, a director must be elected to succeed each director whose term of office expires on that date, and each director so elected holds office for a term of three years and until a successor is elected and has qualified. ~~The county auditor of the county in which the majority of the district is located shall oversee the election under this subsection.~~
3. Vacancies must be filled for the unexpired term by appointment by the remaining directors ~~through a special election administered by the county auditor of the county in which the majority of the district is located~~ until the next annual meeting of participating members, at which the participating members shall elect a director for the unexpired term.
4. ~~Except as otherwise provided by law, all~~ All elections held under this chapter must be conducted ~~and the votes must be canvassed in the same manner as in the election of county officers~~ to allow participating members to access all stages of the election process, including voting, vote tabulation, and certification of results in a uniform and nondiscriminatory manner. Each meeting must be arranged in a manner that permits each participating member to plainly observe and engage in the election process.

**SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.



*DEDICATED TO PROTECTING, DEVELOPING, AND MANAGING NORTH DAKOTA'S WATER RESOURCES*

PO Box 2254, Bismarck, ND 58502-2254

701-223-4615 • 701-223-4645 (Fax)

**Senate Energy and Natural Resources Committee  
Hearing for SB 2299  
February 13, 2025  
Testimony of Dani Quissell, Executive Vice President,  
North Dakota Water Users Association**

Chairman Patten and members of the Senate Energy and Natural Resources Committee, thank you for the opportunity to share our concerns with SB 2299. I am Dani Quissell and I serve as the Executive Vice President of the North Dakota Water Users Association. The Water Users Association is the state-wide member organization dedicated to protecting, developing, and managing North Dakota's water resources. We have more than 150 members including local, statewide and regional organizations in North Dakota who have an active interest in water.

Many of our members are rural water systems who have shared concerns with some of the provisions of SB 2299. Section 3, in particular, is of concern. It's important to note that current law recognizes that rural water systems exist to serve their members and gives systems the flexibility to set up bylaws as voted on by their members. Our concern is that Section 3 would remove that flexibility, negatively impacting systems and their members across the state.

North Dakota has a robust rural water system that serves hundreds of thousands of rural and small community residents across the state. The Water Users Association would ask that you oppose SB 2299 as currently drafted. We understand that there are some amendments being offered by the North Dakota Rural Water Systems Association. We believe those amendments would alleviate our concerns with SB 2299.

Thank you for the opportunity to provide this testimony. I would be happy to stand for any questions.

John Eaton, General Manager

Agassiz Water Users District

In Opposition to Senate Bill 2299

February 12, 2025

My name is John Eaton, and I am the General Manager of Agassiz Water Users District (AWUD). AWUD's service area is in the northern half of Grand Forks County, and we provide drinking water to roughly 1400 members, through 550 miles of pipe which includes the communities of Manvel, Mekinock, Gilby, Forest River, and Inkster North Dakota.

I am writing to provide testimony in opposition to SB 2299 for the following reasons.

When rural water districts were created over the last 50+ years, although there were some similarities to other political subdivisions, there was not a standardized procedure in place for how elections, meetings, and procedures should take place. So over time each district has developed and implemented procedures that work for them and their members. We all follow open meeting and records laws, have annual meetings for members to vote and speak, but many of us have different ways of accomplishing it.

At Agassiz Water, we recently updated our by-laws over the course of 2 years with strong input from our members and even voted on passing them at 2 separate annual meetings until the membership was satisfied and allowed it to pass, and now there are parts of this bill that would undo the election procedures that our members voiced very clearly they would prefer.

Section 2 Subsection 1 of SB 2299, I do not have any objections to anything being proposed. Mostly because we get an annual audit every year as it is, and it is sent and approved by the state auditor's office. Also, we currently have different language in our by-laws for removing board members, managers, etc. by having 10% or 140 signatures from members already. So, the 10% or 150 signatures would not affect Agassiz Water

Section 3 Subsection 3: Is where my biggest concern is with this current bill.

*At AWUD our by-laws state that a participating member who resides in the district must submit our nomination form accompanied by ten signatures from AWUD members before February 1<sup>st</sup> (roughly 10 weeks before the annual meeting).*

The issue I take with this section of the bill is the submitting of the petition up to 5 days before the election. At AWUD, it was said loud and clear many times, in fact it was the reason that our by-laws did not pass at the first annual meeting they were voted on. That our members want to have a mail-in election, where members can get a ballot and send it back in instead of attending an annual meeting in person to cast a vote. The argument was that there would be much higher participation of members in a mail in vote, and our board agreed. Since then, we have gotten 300+ ballots every year, versus the 15-20 votes of people attending the meeting. If this bill gets passed as written, it would essentially eliminate the ability for a rural water district to have a legitimate mail in election, because we wouldn't be able to get the nominees and their bio's on the ballot to be mailed out a month ahead of the meeting.

Secondly, when we were considering the number of signatures needed to get on the ballot. The discussion was had about how many signatures a person would need to be a nominee for director, the thought was that the district would want someone who may be active in the community, hopefully know many of the people they represent, and be approachable by members. But we also knew it had to be a small barrier to entry, so it was not too much of a burden to feel like we were keeping people away. Ultimately we decided 10 signatures would be very feasible for a nominee.

Section 4 Subsection 3: I have no opposition.

Section 4 Subsection 4: I think it is mostly understood by all that we need to have some transparency in the election process of directors so that our members feel comfortable. I don't have strong opposition to this section although I don't know how we would implement "Access to all stages" when we do a mail in election, and I think the wording of "engage" in the election process should be removed because it leaves the door open for people with ill intent to cause problems and even negatively affect the process.

Section 5 Emergency: Many districts have been operating under the same procedures and election processes since the day they were created, and the possibility of a law going into place months, weeks or days before annual meetings seems unnecessary and most likely suggested for a specific reason at a specific water district which does not constitute and emergency in my opinion.

In closing, I do not think this bill is entirely bad or wrong, in fact there are quite a few things in this bill that we have already implemented in our water district. I am also not opposed to more standardization between districts, but I feel like SB 2299 was quickly prepared by a small number of people for a specific water district, and will have a noticeable and often times negative affect on all 20 of the states water districts.

Thank you for allowing me to provide my testimony. I respectfully ask for a Do Not Pass Recommendation.

Thank You,  
John Eaton



In Opposition of Senate Bill 2299  
Senate Energy & Natural Resources Committee

February 13<sup>th</sup>, 2025

Section 1&2:

R&T Water District already participates in an annual audit at a cost of \$28,000, which exceeds the once every 2 year requirement. We are asking the threshold to be increased from 150 to 300 members. It would be 10% or 300, whichever is fewer. A higher threshold is needed to protect members from unwarranted costs associated with the State coming in and conducting an audit or review of the books, records, and financial accounts as a result of a petition. A petitioned audit would be a waste of resources for R&T Water District and our members.

Section 3, Subsection 3:

R&T Water District would like subsection 3 of section 3 removed. Elections and nominating committee requirements are already addressed in the by-laws of the district. The requirements would cause a hardship for our district to adhere to.

Section 4: Subsection 4

R&T Water District supports striking subsection 4 or at a minimum removing the word “engage” out of the language. R&T Water District welcomes observation, but does not support an engagement that can turn an election into chaos.

Section 5:

R&T Water District supports striking this from the bill. There is not an emergency that warrants this to be fast tracked.

Thank you,

Craig Haskins  
General Manager  
R&T Water District  
Ray, ND  
612-419-2311  
[haskinsrtwater@nccray.net](mailto:haskinsrtwater@nccray.net)



Jeremy Schuler, General Manager

Northeast Regional Water District

In Opposition to Senate Bill 2299

Senate Energy and Natural Resources Committee

February 13, 2025

Chairman Patten and members of the Senate Energy and Natural Resources Committee, my name is Jeremy Schuler. I am the General Manager of the Northeast Regional Water District.

Northeast Regional Water District (NRWD) is in the Northeast corner of North Dakota and provides water to 2,678 rural connections, thirteen bulk cities, four hog operations and delivers supplemental water to two rural water districts consisting of 2,500 miles of pipe in six counties.

I am writing today in opposition to certain proposed amendments within Senate Bill 2299.

### **Section 1**

I am content with adding water districts to section one. Our district has a yearly audit conducted, which typically costs the district \$15,000 - \$20,000 per year depending on what type of audit is required.

### **Section 2**

In the event of a petition of ten percent or one hundred fifty participating members, whichever is fewer, I would recommend changing this to ten percent or three hundred participating members. This threshold is needed to protect the members from unwarranted costs associated with a petition to conduct a review of the books, records and financials of the district which already takes place during the yearly audit. This would just be an additional cost for the users.

### **Section 3 - Subsection 3**

This needs to be entirely struck out. What other form of government only requires three signatures on a petition? Let us allow the water districts existing bylaws continue to govern this section.

NRWD allows any participating member to petition for election to the board of directors by submitting twenty signatures from the participating members if they reside in the appropriate district. (Twenty signatures is only .74% of the NRWD voting membership).

NRWD's voting process is conducted by mail in ballot only. Petitions being submitted to the secretary of the board at least five days prior to the annual meeting would obviously not allow enough time to send ballots out to the voting members and have them returned in time for the annual meeting.

By allowing members to vote by mail, it gives the entire membership a right in conducting business for the betterment of the district.

#### **Section 4**

I support removing county and county auditor. I also support the language regarding vacancies.

#### **Section 4 – Subsection 4**

I am not in support of subsection four. I have concerns about the proposed language of how it would be interpreted and applied. Thus, not correcting the intent of this section.

NRWD hires an outside source such as an accountant for the election. The members mail their ballots directly to the accountant by the due date which is three days prior to the annual meeting. The accountant counts the votes and provides a letter of the results which is signed, sealed, and given to the water district attorney to be opened at the annual meeting for the election results. The results are then made available to the entire membership if they wish to view.

#### **Section 5**

This needs to be entirely struck out as well. It serves no other purpose than to pick winners and losers of one specific district. This is not an emergency, and this is just poor legislation.

In closing, my understanding is that when water districts were formed the districts and membership were given little guidance by the State of North Dakota as how to structure themselves. I feel the water districts have done an excellent job creating a working structure and bylaws for their system to operate in an efficient manner. By allowing the membership to vote by mail this allows everyone a fair chance to support their district if they are unable to attend such meetings. My opinion on this bill is that it should not have even made it this far. These are all issues that can be corrected by the board of directors and its membership. If legislation is being drug into micromanage issues like this, it is just a waste of taxpayer dollars.

Thank you for allowing me to provide testimony in opposition to SB 2299. We respectfully ask for a Do Not Pass Recommendation. If you have any questions, please contact me at [jeremy@nrwd.us](mailto:jeremy@nrwd.us)



# **Cass Rural Water Users District**

BOX 98 • 131 MAPLE STREET  
KINDRED, NORTH DAKOTA 58051  
PHONE: 701-428-3139 • TOLL FREE: 800-922-2798  
FAX: 701-428-3130  
[www.cassruralwater.com](http://www.cassruralwater.com)

## **Testimony of Brent Brinkman, General Manager**

**Cass Rural Water District, Kindred, ND**

**Senate Bill NO.2299**

**Senator Patten and members of the Senate Energy and Natural Resources  
Committee – February 12, 2025**

Cass Rural Water Users District (CRWD) is in Cass County in eastern North Dakota and provides potable water service to 9,100 users through approximately 2,300 miles of pipeline within all of Cass County and parts of 4 surrounding counties.

Section 1. CRWD hires Eide Bailly to conduct an audit yearly with a cost to CRWD of \$33,000. We post this Audit on our web site and present it at our annual meeting every year.

Section 2. With CRWD routinely doing an Audit each January with a cost of \$33,000. I would ask for the threshold to be increased to at least 300+ members, this will be ruffly 3% of our customers. If CRWD would have to conduct multiple Audits each year. This would create a burden for our small office and be a financial waste to the district.

Section 3. CRWD is not in support of subsection 3 of section 3 and should be removed from senate bill 2299. CRWD does have a hard time getting Board members and making the processes harder isn't a good solution.

Section 4. CRWD conduct their elections at each annual meeting. We have 9 board members with three-year terms. Each year there are three board members up for election. We do allow nominations from the floor (write-ins). This process is part of CRWD by-laws.

Thank you for the opportunity to submit testimony on behalf of rural water systems in our state.

Matt Odermann

President of All Seasons Rural Water Users District

Chairman, Towner County Commission

In Opposition of Senate Bill 2299

Senate Energy & Natural Resources Committee

February 13, 2025

Senator Patten and members of the Senate Energy and Natural Resources Committee, I am writing in opposition to Senate Bill 2299.

**Section 1:**

While I can concur with this section, and I believe water districts already exceeding expectations relative to audits, I still have concerns with this section. Our routine audits ensure transparency and fiscal responsibility. If needed, we can provide details on the frequency and cost of these audits, which further demonstrate our commitment to financial oversight.

**Section 2:**

I am requesting an increase in the petition threshold from 150 to 300, or 10% of members, whichever is fewer. This increase is essential to protect the water district's members from unnecessary financial burdens caused by state-initiated audits or reviews triggered by a petition. Currently, users—not the state—bear the costs of these audits. Given that we already conduct thorough annual audits, this additional oversight is redundant and places an undue burden on members.

**Section 3:**

The only practical solution for all 20 Water Districts is to remove Subsection 3 of Section 3. This provision could negatively impact water district operations, shifting critical decision-making away from the local level. Local control ensures decisions are tailored to our district's unique needs and best serve our members. Eliminating this subsection is necessary to maintain efficiency and autonomy.

**Section 4:**

I support removing references to the county and county auditor, as well as the proposed vacancy language. However, I oppose Subsection 4 and recommend its removal or amendment. The language as written is overly broad and open to interpretation, which could lead to confusion, conflicting applications, and unnecessary disputes. This uncertainty risks bringing us back to the Legislature in two years to resolve local issues that should have been addressed properly in the first place. A more precise and locally driven solution is needed.

Respectfully,

Matt Odermann

Chad Blessum, Manager

Tri County Water District

In Opposition to Senate Bill 2299

Senate Energy and Natural Resources Committee

February 12, 2025

Chairman Patten and members of the Senate Energy and Natural Resources Committee, my name is Chad Blessum. I am the Manager of Tri County Water District.

Tri County Water District (TCWD) is in the east central portion of North Dakota and provides water to 1300 rural connections, three hog operations, and numerous large cattle operations consisting of approximately 2000 miles of pipe in six counties.

I am writing today in opposition to certain proposed amendments within Senate Bill 2299.

### **Section 3 - 3**

Section 3 -3 should be entirely struck out. Allow the water districts existing bylaws to continue to govern this section.

### **Section 4 – 4**

In closing, my understanding is that when water districts were formed, the districts and membership were given little guidance by the State of North Dakota as how to structure themselves. I feel the water districts have done an excellent job creating a working structure and bylaws for their system to operate in an efficient manner. My opinion on this bill is that it should not even had made it this far. These are all issues that can be corrected by the Board of Directors and its' membership. If legislation is being drug into micromanage issues like this, it is just a waste of taxpayer dollars.

### **Section 5: Emergency Clause**

The emergency clause should be entirely struck out.

Thank you for allowing me to provide testimony in opposition to SB 2299. We respectfully ask for a Do Not Pass Recommendation. If you have any questions, please contact me at [csblessum@gmail.com](mailto:csblessum@gmail.com).



Contact:  
**Lance Gaebe, Lobbyist**  
[lgaebe@ndfu.org](mailto:lgaebe@ndfu.org) | 701 952-0103

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**Testimony of  
Lance Gaebe  
North Dakota Farmers Union  
Regarding SB 2299  
Senate Energy and Natural Resources Committee  
February 13, 2025**

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My name is Lance Gaebe, I represent North Dakota Farmers Union (NDFU). Thank you for the opportunity to express our concerns regarding Senate Bill No. 2299.

NDFU strongly supports rural water systems, recognizing their vital role in providing affordable, clean, and safe drinking water. Our members understand a reliable rural water supply is essential for both a thriving agricultural sector and vital rural communities.

NDFU has two primary issues with SB 2299. Section 2 of the bill lowers the barrier for electors to request an audit of rural water districts by requiring only 35% of the qualified electors from the preceding annual meeting. We are concerned by a unique threshold specifically for rural water districts. While we support transparency in local government, frequent audits can be costly and disruptive.

We are also concerned with Section 3 of the bill, which modifies the existing election process for rural water district boards. This provision, which may be intended for a specific situation or board, will impact all water districts statewide. We are not aware of any statewide problem and do not believe state law is the appropriate avenue to address every unique local situation.

Strong rural water systems are crucial for rural communities and the future of North Dakota agriculture. NDFU believes water systems should prioritize delivering quality water, ensuring service reliability, avoiding duplication, and preventing protracted governance conflicts. SB 2299, as written, may detract from this core mission.

NDFU opposes SB 2299. We are willing to work with the relevant stakeholders to advance amendments to address our concerns. Thank you for your consideration.



**Eric Volk, Executive Director**

**ND Rural Water Systems Association**

**In Opposition of Senate Bill 2299**

**Senate Energy & Natural Resources Committee**

**February 13, 2025**

Chairman Patten and members of the Senate Energy & Natural Resources Committee, my name is Eric Volk. I am the executive director of the North Dakota Rural Water Systems Association (NDRWSA). Our vision is to ensure all of North Dakota has access to affordable, ample, and quality water. NDRWSA is committed to completing and maintaining North Dakota's water infrastructure for economic growth and quality of life. Today, I am submitting testimony in opposition to Senate Bill 2299, which seeks to make changes to NDCC 61.35 (Water Districts). We oppose the bill as certain sections are not suitable for Water Districts as a whole. We are proposing amendments to ensure the bill is workable for all Districts and their members.

During the 1995 Legislative Session, HB 1317 created NDCC 61.35, which served as a pathway for Rural Water Coops and Associations to become Water Districts (Political Subdivisions of the State). There were many benefits to becoming a Water District, including certain tax incentives and access to low interest state and federal loans. NDCC 61.35 was later changed to convert water resource district water supply systems to Water Districts. Bylaws for the newly created Water Districts were approved at a special meeting of the members. NDCC 61.35 states that the bylaws can be subsequently amended at any annual or special meeting of the participating District members. Districts were also required to hold a properly noticed annual meeting, with one vote per benefit unit. Everything else was left up to the local membership, and members have been in control of their bylaws ever since. There are currently twenty (20) 61.35 Water Districts in the state (see map), with over 54,000 participating members. A list of the Water Districts, their headquarters, and the number of connections is provided for your reference.

<b>61.35 Water Districts</b>	<b>Headquarters</b>	<b>Connections</b>
Agassiz Water Users District	Gilby	1400
All Seasons Water Users District	Bottineau	1570
Barnes Rural Water District	Valley City	2044
Cass Rural Water Users District	Kindred	9100
Central Plains Water District	Fessenden	1130
Dakota Rural Water District	Finley	1090
East Central Regional Water District	Thompson	3640
Garrison Rural Water District	Garrison	892
Greater Ramsey Water District	Devils Lake	2668
McLean-Sheridan Water District	Turtle Lake	1032
North Prairie Regional Water District	Minot	4835
Northeast Regional Water District	Cavalier	2693
Northwest Rural Water District	Williston	2761
R & T Water District	Ray	890
South Central Regional Water District	Bismarck	8566
Southeast Water Users District	Mantador	3884
Stutsman Rural Water District	Jamestown	2615
Tri-County Water District	Petersburg	1200
Upper Souris Water District	Kenmare	650
Walsh Rural Water District	Grafton	1384

**Section 1:** Good, no changes required

We support this section because most, if not all, Water Districts conduct annual audits, which are considered industry best practices. Non-Federal entities that spend \$1,000,000 or more in federal funds in a fiscal year must undergo a single audit. This threshold applies to audits that begin on or after October 1, 2024. Several of our Districts meet that threshold and are subject to conducting a single audit. The audits are also sent to the State Auditor's Office for review.

**Section 2:** Recommend Amendments

Replace 150 with 300 participating members

District members bear the cost of additional audits and reviews, which are expensive undertakings. A higher threshold is necessary to protect the entire membership from a small percentage of non-elected members incurring costs that would affect all members. Requiring 10% or 300 participating members ensures individual voices are heard while safeguarding the rights of the entire membership.

In this section of code, the State Auditor's Office has the authority (may) to decide whether to audit or review the books, records, and financial accounts of political subdivisions. This will hopefully prevent District members from incurring unwarranted/unneeded expenses for frivolous or repeated requests.

### **Section 3: Recommend Removing Subsection 3 Entirely**

It is impractical to create uniform nomination and election language for twenty (20) Water Districts, each of which has amended its bylaws in different ways over time to suit its unique needs. Each District has developed its own approach to meet its specific circumstances. The Water Districts agree that changing state law to accommodate the requests of a small minority from one District is not in the best interest of the State's Water District members, which total over 54,000. The Water Districts believe that eliminating Subsection 3 and leaving the authority with each District's membership, as outlined in their bylaws, is the only workable solution. Remember, bylaws can be amended by the membership at any annual or special meeting.

### **Section 4: Recommend Amendments and Removals**

2, 3, & 4...**Recommend removing** all references to County Auditors/Counties.

3. Vacancies. We agree with this subsection.

4. **Remove** or **replace with:** *All elections held under this chapter must be conducted to allow participating members access to all stages of the election process, including voting and vote tabulation in a uniform and nondiscriminatory manner. Each meeting must be arranged in a manner that permits each participating member to plainly view and hear the occurrences of the election process, without infringing on voter privacy or hindering or preventing the performance duties of any election official.*

The proposed amendments (25.0990.02001) used **some** language from NDCC 16.1-05-09. Election observers. It also adds language that does not work or does not represent the rights given to election observers. For example, an election observer is never involved in certifying the results of an election. During open elections, observers can watch but not participate in any activities. They can monitor the proceedings at all stages of the process.

Our amendment (previous page) uses **all** language found in NDCC 16.1-05-09. It allows all participating members to access all stages of the process. They can plainly view and hear the occurrences of the process in a manner that does not infringe on voter privacy or interfere with election officials. This amendment protects the members' rights and the process.

**Section 5.** EMERGENCY. **Recommend Removing Section 5**

Non-appropriation and tax measures become effective August 1 of odd-numbered years unless otherwise specified in the bill. The only reason this has an emergency clause is because a particular Water District's Annual Meeting is in June. We need to remove this from the bill as it serves no other purpose than trying to pick winners and losers in one specific District. Is this bill a true Emergency? No.

Thank you for giving me the opportunity to testify on behalf of the members of the NDRWSA. We respectfully request that the committee consider our proposed amendments to ensure this legislation benefits all Water Districts. Eric Volk, [ericvolk@ndrw.org](mailto:ericvolk@ndrw.org).



Phone: 701.237.6983  
218 NP Avenue | Fargo, ND 58102  
PO Box 1389 | Fargo, ND 58107-1389  
Fax: 701.476.7676  
tnorgard@vogellaw.com

February 12, 2025

Senate Energy and Natural Resources Committee

**Re: Opposition to SB2299**

Dear Chairman Patten and Senate Energy and Natural Resources Committee,

I provide legal services to multiple water districts in North Dakota and provide this testimony in opposition to SB2299. SB2299 is simply unnecessary legislation. There is no problem being fixed. The legislature should not waste its limited time this session entertaining and debating unnecessary changes in the law.

SB2299 appears to be pursued by a few select people that want to change how audits and elections are conducted. I'll address each in turn.

With regard to audits, I am unaware of any water districts that have no state or federal loans. Bond covenants generally require audits. Federal loans require annual audits. While SB2299 seeks the ability for the State Auditor to audit a water district, there are no circumstances identified whereby a water district has gone without an audit for any appreciable time. As such, while 'water districts' are not otherwise included in the list of entities that the State Auditor can audit, there are no situations raised where a water district has gone unaudited to member's detriment. There isn't a problem here, so it really doesn't make sense to pass legislation in order to fix something that isn't broken. It simply makes work. Similarly, SB2299 would allow 10% of the water district's voters to trigger an audit is unnecessary, since an audit is already done yearly.

SB2299 seeks to have the State micromanage how local water districts run their election of water district managers, which is completely contrary to the concept of local control. State law outlines the parameters for elections in NDCC 61-35. It identifies what offices need to be filled by a water district, but does not mandate the particular election procedure.

The bill interferes with a water district's right to choose how to run an election. Many water districts have a nominating committee review any petitions or applications by candidates who want to run for a director position. The nominating committee makes sure the candidate meets the qualifications; That they live in the district; That they are a member of the water system; That they are in good standing, etc. Those things needed to be vetted by a nominating committee at a publicly noticed meeting before a candidate should be added to the printed ballot.

SB2299 allows the notification of an intent of a candidate to run within 5 days of the election, with three signatures on a petition. That would take away the nominating committee's ability to vet candidates. A candidate should announce their candidacy 30-60 days before the election so the water district can:

1. Notice a public meeting of the nominating committee sufficiently in advance of a meeting to consider the candidates' qualifications
2. Verify their qualifications to run for the position
3. Verify that the signatures on the petition are from appropriate parties
4. Notify the electorate of the candidates so they can decide whether they are interested in attending the annual meeting or meeting with candidates
5. Print the final ballots

It would be impossible for all the processes noted above to be completed with only 5 days between the submission of a petition for a candidate and the election. It dictates a process that would be too condensed for a water district to carry out its obligations to vet its candidates for election. The timing does not work for water districts that have nominating committees. The Legislature should not dictate the election procedure for each water district to make nominating committees obsolete.

The proposal to allow members of the public to 'engage' in review of the ballot tallying process is different than the rights of 'election observers' pursuant to the Secretary of State's parameters. Water districts have their own election processes, including appointing three Election monitors to oversee the collection and counting of votes. Again, it is simply unnecessary to micromanage the election process to allow an election objector to insert themselves into the process and "engage" in the ballot counting. Chaos will reign.

In short, SB2299 is simply unnecessary. There are already election processes in place in each water district that candidates can follow. There is no need to micromanage the process and take away local control of their elections. Water districts already have appropriate authority governing election processes and they all submit to annual audits. I urge the committee to issue a DO NOT PASS resolution on this SB2299.

Sincerely,

Tami Norgard

Geneva Kaiser, General Manager  
Stutsman Rural Water District  
In opposition of Senate bill 2299  
Senate Energy and Natural Resources Committee  
February 13, 2025

Senator Patten and members of the Senate Energy and Natural Resources Committee, my name is Geneva Kaiser and I am the General Manager of Stutsman Rural Water District (SRWD), Jamestown, ND. The Water District provides water service to 2625 users in Stutsman County and parts of Kidder, Foster, Griggs, Logan and LaMoure Counties. I am testifying today in opposition to SB 2299.

SRWD conducts an annual audit in accordance with its bylaws and has done so every year since 1985 when the system was constructed. The audit may be a regular audit or a single audit when the Federal audit threshold is reached. This audit is provided to our Board of Directors, lenders, and members. It is also reviewed by the State Auditor's office. The cost of an annual audit is currently \$16,000 to \$20,000 depending upon the type of audit required and is paid for by the membership.

As referenced in section 2, the threshold by which the membership could call for an audit should be increased from 150 to 300 or 10% of the membership whichever is fewer. This protects the membership from unnecessary costs when the State comes in to review the books or conduct an audit.

The only workable solution for all 20 water districts is to remove subsection 3 from section 3. Each of the water districts handle elections differently according to their bylaws. SRWD is divided into 6 sub-districts and has one board member at large. Any participating member in the water district can run for the board within the sub-district that they reside in. The Board member at large can be elected from anywhere within the water system. SRWD has a nominating committee appointed by the Board President – not to hand pick candidates but to inform potential candidates of the job duties and commitments required to be a Board member in order to further the best interests of the membership. Our elections are done by printed ballot and votes are counted in plain view of those attending the annual meeting. This is what the membership of our system desires. Keeping control at the local level is best for the membership.

Subsection 4 of section 4 is unclear and open to interpretation. While I agree that all members should have the opportunity to participate in and observe Board elections, the word “engage” can be defined differently depending upon the individual's beliefs of what they may or may not be entitled to do. This could create chaos at an annual meeting, where we have never had any issues in the past.

I am deeply concerned that the legislature is attempting to fix a local issue that involves one water district in our state by taking away local control for all of the water districts in the state.

There is also no need to consider this bill an emergency.

I am respectfully requesting that you vote in opposition to this bill. Thank you.



## East Central Regional Water District

PO Box 287  
1401 7th Avenue NE  
Thompson, ND 58278

Neil Breidenbach  
System Manager

Phone: 701-599-2963  
Fax: 701-599-2056  
Website: [www.ecrwd.com](http://www.ecrwd.com)

Senator Chairman Patten and Members of the Energy and Natural Resources Committee,

I am Justin Breidenbach, the Assistant Manager of East Central Regional Water District (ECRWD) and provide this testimony in opposition to SB2299. ECRWD is located primarily in Grand Forks and Traill counties. We have around 3,700 memberships and serve a population of over 10,000 people.

I have no problem with the addition of “water districts” to the list of entities that the state auditor can audit, however it is truly unnecessary. All the water districts I am aware of have outstanding loans, which require annual audits to be performed. Requiring another audit by the state would just cost more money which would ultimately increase rates for our rural members.

Similarly, the amendment that would allow 10% of the water district’s voters to trigger an audit is unnecessary, since an audit is already done yearly.

With regard to the proposed change in running for election, I adamantly oppose the attempt to mandate a voting practice. The water districts need to make sure the candidate is qualified to run for the position of director. If you only allow 5 days before the election, there is insufficient time to:

1. Notice a public meeting of the Nominating Committee for systems that use a Nominating Committee structure to qualify their candidates. The Nominating Committee needs to notice and hold a public meeting at which it will go through the qualifications of the candidates for office and see if the candidates meet the criteria set by the district. At that point, the ballots must be printed. The printing company takes roughly a week to print the ballots and other items sent with the notice of annual meeting. It takes a week to stuff envelopes with all the information. Mailing takes about 2 to 3 days to arrive. Our members deserve adequate time to pick up their mail, read our information, do their research of candidates, vote, and mail back their votes. That process can easily take up to 30 days. The 5-day notice would be sorely insufficient for an otherwise busy water district to conduct these operations.
2. There should be notice to the public of who is running for election. If there are uncontested elections, the turnout for the annual meeting may be nominal. Yet, if there is a hotly contested election, there may be more members of the public who will plan to appear at the meeting and vote. Water districts owe it to their constituents to inform them of the candidates and allow an open process for election. The 5-day requirement would amount to a surprise and ability for a candidate to bring a large contingent of supporters to vote them in with little or no notice to the membership. This gamesmanship should not be sanctioned by the legislature.

In addition, I have concerns about the new set of criteria being added to allow the public to ‘engage in’ the election tabulation process. North Dakota law already provides statutory authority for what an election observer can do/see in NDCC 16.1-05-09. There is no need to set a second set of standards to govern what an election observer in a water district can do/see.



## East Central Regional Water District

PO Box 287  
1401 7th Avenue NE  
Thompson, ND 58278

Neil Breidenbach  
System Manager

Phone: 701-599-2963  
Fax: 701-599-2056  
Website: [www.ecrwd.com](http://www.ecrwd.com)

I hope you will see from my testimony that SB2299 is simply unnecessary. Water districts already have appropriate authority governing election processes and they all submit to annual audits. I urge the committee to issue a DO NOT PASS resolution on this SB2299.

Thank you for the opportunity to testify.

Thank you for the opportunity to give my testimony. These remarks are regarding the recent amendments to the bill presented by Senator Paulson.

We have discovered that Water Districts exist in a legal grey area. Water Districts hold immense power. The few laws that govern them are vague and there is almost no oversight authority, especially when it comes to elections. This bill makes small changes that will ensure that citizens of rural ND have the ability to hold fair elections.

I urge a **DO PASS** for SB 2299.

Water Districts are political subdivisions created under Century Code 61-35. The chapter governing all the business of Water Districts is only about 30 pages long. In those pages is their election law. Water Districts are political subdivisions of the State, but their elections are not conducted like county and city races on a local ballot in June or November. Water Districts hold annual meetings, like a co-op would.

The election laws in Century Code 16.1 that apply to almost every other political race in North Dakota do not apply to Water Districts. The county auditor and the Secretary of State do not have oversight authority of their elections or annual meetings.

The State Auditor, under Section 54-10 has oversight authority over almost all the public funds in the State, except for Water Districts. Water Districts generate millions of dollars of public revenue each year, and provide an essential life substance to thousands of North Dakotans. The current law gives the State Auditor oversight for almost all other critical water infrastructure, such as Water Resource Districts, the Garrison Diversion Conservancy District, Irrigation Districts, the Southwest Water Authority, and the Western Area Water Supply Authority, but not Water Districts.

North Prairie Members had election concerns of varying degrees at the annual meetings held in 2021, 2023, and 2024. We have learned that there is no one in North Dakota government to turn to when the election rules in Century Code 61-35 are not followed, or the laws are liberally interpreted; not the Secretary of State, the Attorney General, the State Auditor, the Water Commission, the State Engineer, nor the Board of Ethics.

The election issues came to a crux in 2024 when North Prairie Regional Water District hired an attorney from Vogel Law to control the direction of the meeting, limit public participation, and limit who could be elected to the board. The attorney started months in advance by drafting a Code of Conduct for the board, which included a provision that is against free speech, open meeting laws, and single party consent laws enshrined in ND century code and the ND constitution. When an otherwise eligible candidate would not agree to sign the document, 2 of the 3 people on the Nominating Committee refused to put his name on the ballot.

The attorney's opinion is that

“the District’s Nominations Committee is to act as a gatekeeper to protect the well being of the District. Besides verifying that all potential nominees meet the requirements in the Bylaws, and that all potential nominees are willing to serve, the committee also should nominate only people who the Committee believe will help further the best interests of the District and its Participating members. I [Monte Rogneby] have found nothing in North Dakota law which requires the nominations Committee to nominate all potential nominees who qualify to serve. As noted in Robert’s Rules, (Section 46:11) “it is not common for the nominating committee to nominate more than one candidate for any office.””

It is the attorney’s opinion that ND law does not have any limits on the authority of a nominating committee to accept or reject potential nominees.

At the 2024 annual meeting, NPRWD did not call for nominations from the floor. Some members wrote in the name of the candidate of their choosing on the ballot, and those votes were not counted.

This amendment is an emergency, because the North Prairie Attorney has indicated they will use the same playbook as last time – the nominating committee will choose the one person they wish to put on the ballot, which will almost certainly be the sitting Chairwoman, who also appointed all the members of the nominating committee. Our election is in June and we need to be able to hold a legitimate election for our representatives in 2025.

Some members of North Prairie wish to see a change in leadership, but will never be given the chance to do so if only one person is ever selected by the nominating committee and allowed on the ballot.

This is not an isolated problem. Vogel Law is the NPRWD attorney, and they have indicated they have other Water District clients as well. What has worked before, will certainly be used again.

This bill makes 2 simple changes that will benefit all Water District users.

- 1) It gives oversight authority of funds to the State Auditor and sets a reasonable petition guideline if an audit of the members is requested.
- 2) It ensures the fundamentals of ND election law are enshrined in Century Code 61-35 governing Water Districts.

Thank you for giving me the opportunity to speak on this bill.

Crystal Hendrickson  
701-389-0355

*Disclaimer: I am a Board Member of NPRWD, but the opinions expressed in this letter are my own, and in no way reflect the opinion of the other NPRWD board members.*



Chairman Patten and members of the Senate Energy and Natural Resources committee,

North Prairie Regional Water District is located in north central North Dakota. We serve 4878 members and the Cities of Des Lacs, Carpio, Sawyer, Granville, Anamoose, Benedict, Plaza, Deering, Surrey, Keif, and Ryder. NPRWD was created in 1974 as a Co-op with a loan from the Farmer Home Administration and became a water district in 2004. We began with 250 members and have grown to 4878 members. The Board of Directors of NP have worked hard to ensure that the district provides quality water to the residents of north central ND, while maintaining reasonable water rates.

Section 1: We are ok with this section. Our bylaws state that the district must have an audit every year by a certified public account. The certified public account then sends the audit to the state auditor's office for review and approval. Our yearly audits are between \$30,000 to \$35,000 depending on whether we need a single audit due to receiving federal funding.

Section 2: The subsection 1 of section 54-10-15 of the ND Century Code states 35% of the qualified electors voting at the proceeding school board election. Why would we change the percentage of 35% of the members to a lower percentage for water districts. If you are going to add water districts to this section the percentage should remain 35% of the membership. If you feel strongly about this section, we will support 10% or 300 whichever is fewer. The reason for this change seems to be more about control by a few, more than ensuring that all the membership is being represented. NP bylaws requires that the District has an annual audit every year, I cannot foresee that this will ever be used with regard to NP. Most water districts have annual audits.

3. The only workable solution for all 20 Water Districts is to **Remove** subsection 3 of Section 3. It is imperative that we receive notice of an interest in running for the Board 30 days in advance of the meeting rather than 5 days, as proposed in the bill. Water districts will need to have time for their Nominating Committee's to meet to review the qualifications of board candidates to make sure they meet the criteria. Having a simple 5-day notice would not allow adequate time for this governing board to meet and review the candidate's qualifications. Some water districts do not have nominating committees, but they would still need to make sure the candidates meet the criteria/qualifications to run for the office. It is also important to have time to notify the membership about who is running for the positions, which may determine whether a member decides they will show up to the annual meeting or not, depending on how they feel about the candidate. In short, five days is simply not enough time.

Here is how our water district works:

1. The Nominating Committee selected at the annual meeting of the district serves until the next annual meeting.
2. The Nominating Committee shall prepare and provide to the District office at least 30 days before the next annual meeting of the members a list of nominations for directors. They will accept letters of interest and the willingness to accept positions on the board of directors.
3. All nominees for the board of directors must be a participating member and reside in the district boundaries and reside in the area for which the director nomination applies unless it is the at large position.
4. The Nominating Committee interviews and vets the candidates that are interested in running for the Board. It is the Nominating Committee's job to qualify the candidates for the open position and advance them to the general election at the Annual Meeting.
5. Election of Directors: Election of directors, from the Nominating Committee list of nominees, shall be by printed ballot that will be distributed to each participating member in attendance and entitled to vote. A participating member shall have one vote as provided in Section 5.4 of these bylaws. At the meeting of the participating members where an election of one or more directors will occur, the presiding officer shall appoint an election board to consist of three (3) participating members who shall, at the meeting only, preside over the distribution, collection, counting, and tally of ballots. In the event of a tie vote, the election shall be determined by lot in such manner as shall be selected or determined by the election board.

By allowing a person to be placed on the ballot 5 days before our election would cause mayhem. It does not allow sufficient time to gather the Nominating Committee and have them go through the process of making sure the candidates are qualified. It creates a burden on the District to meet such a tight timeline. Further every member should have the right to know in advance who is running for the board, since that may impact whether members will show up for the annual meeting or not. If there is not a contested election, the attendance may be limited, where if you have a contested election it may inspire members to show up and vote. If a person is really interested in serving on the Board it should be evident in their interview with the Nominating Committee, and the individual will be advanced to the general election. There are processes in place for our members to bring forth resolutions and changes that they would like to see in our current bylaws. If you would like to research them, you can find them on our website [nprwd.com](http://nprwd.com).

Section 61-35-10.4 The issue is not the members want to observe, the word "Engage" has multiple definitions. That word needs to be removed.

Thank you for your time.

Teresa Sundsbak  
General Manager NPRWD

### Section 1:

Central Plains Water District does a yearly audit. We have done them since before 1998 on a yearly basis. Our 2024 audit cost the district and members \$5,200.

### Section 2:

Central Plains Water District is asking that the threshold be increased from 150 to 300 participating members. Or, whatever is fewer. A larger number is requested to protect members from the high cost of audits, the review of books, records and financial accounts. Since Central Plains Water District already does yearly audits, there is no need to do another and have the members pay for something that has already been done, since the State does not pay for the audits. Another option would be to exempt the districts that do yearly audits already.

### Section 3:

Central Plains Water District ask that Section 3 be removed. It is the present board directors to decide who is a person that will have the districts best interest in hand and would be a good district representative for the area that is vacant.

### Section 4:3:

The Board of Directors have already appointed someone to fill the unexpired time.

### Section 4:4:

We ask that this Section 4 be removed. If the Legislation decides that it needs to be kept in, we ask that the amendment needs to have different verbiage that only allows people to observe and not engage. It's too open to different interpretations.

Thank you for your time!

Chairman Patten and members of the Senate Energy and Natural Resources Committee,  
I am writing this testimony to express my opposition to SB2299.

There is no reason for this bill to be declared an emergency bill. There is no Urgent situation that these changes are going to correct. No one is going to die, no crimes are being committed, and no districts are going to fail if these changes are not implemented immediately. In my opinion, it is ridiculous that this bill is even considered as emergency.

54-10-14 v.

There is no issue with adding water districts to the list of public subdivisions because that is what water districts are, however, we are unique in how we receive funding.

54-10-15 1.

Why do the requirements to have a state audit requested by the membership differ from the rest of the political subdivisions. I have no issues with the membership asking for an audit, but it should stay uniform like all the other political subdivisions. Most, if not all water districts, have federal loans, and because of that, Federal Law requires that we have audits performed every year by an independent audit agency. Those audits are sent to the ND State Auditor just like all the other political subdivisions. Our bylaws require a yearly audit by a certified public accountant.

61-35-09 .3

THIS SHOULD BE REMOVED COMPLETELY. Our bylaws have a requirement for a Nominating committee for the nomination of directors prior to the annual meeting of the members. This nominating committee is no different than the nominating committees in the "corporate world". Those nominating committees are tasked with looking out for the best interest of the "corporation" by forwarding qualified candidates for election at the annual meeting of members, just like the Non-profit or Credit Union board nominating committees do. By allowing a person to be placed on a ballot 5 days before an election, it will cause chaos since the nominating committee needs more time than that to schedule a meeting and qualify/vet the candidates. If this amendment is adopted, state law will essentially preclude water districts from using a nominating committee to qualify their board members prior to elections. That is a level of micromanagement by the state that should not be allowed. It creates a financial burden on the district for having to reprint ballots and pay a premium to get the ballots back in time for the annual meeting. Let's say our annual meeting is on a Wednesday, because it says 5 days, a person could submit their name late on a Friday afternoon and we would only have 3 days to change the ballots. Not to mention it is completely unfair to any person who was vetted and placed on the ballot. There is no need for state law to be changed because there are a few people who have not taken the time to follow the process already in place, or to otherwise make a request that our water district change the bylaws.

61-35-10.4

The issue with this section is not the that members want to observe, the issue one word "Engage" .... each participating member to plainly observe and engage in the election process. That one word has multiple meanings: To Enter into, To participate, to hold attention, to pledge. Vote ND.gov website specifically states that observers cannot interfere. That one word allows disorder to possibly erupt. That word needs to be removed.

Thank you for your time and consideration,  
Matthew Zelinski  
North Prairie Regional Water District  
District 6

Good morning Chairman Patten and members of the Senate Energy and Natural Resources Committee. For the record, my name is Senator Bob Paulson from District 3 in Minot. I'm here to introduce SB 2299.

SB 2299 is a bill that seeks to clarify in code elements concerning water districts that are currently unclear or lacking.

Mr. Chairman and members of the committee, I have had an amendment prepared which I have passed out to the members and I would ask the committee to adopt, and if it's OK with you Mr. Chair, I'll direct my comments to the amendment, which is also available under testimony.

This past year, over 150 members of a water district signed a petition seeking to have an audit conducted by the State Auditor, however the attorney for that water district determined that the State Auditor did not have the duty nor the authority to do so in Century Code, so Section 1 adds water districts subject to chapter 61-35 to the list of political subdivisions that the state auditor audits. And to be clear, Mr. Chair, this would be a fiscal audit, and not a performance audit.

Section 2 provides that the audit will be performed upon a petition of at least ten percent or one hundred fifty of the participating members, whichever is fewer.

At a recent annual meeting, the nominating committee of the water district placed one name on the ballot. Another member seeking election was not placed on the ballot because he objected to signing a newly created Code of Conduct that he had concerns with. An attempt to make a nomination from the floor was ruled out of order at the meeting. So, Section 3 clarifies that each participating member seeking election to the board at any annual or special meeting shall present a petition containing signatures of three participating members. All petitions must be submitted to the secretary of the board or nominating committee at least five days before the election. Any participating member who submits a petition must be added to the ballot, provided they reside in the appropriate district.

There were some concerns with some board directors being appointed to the board as opposed to elected. This occurred during the pandemic and a subsequent election was not held, so Section 4 paragraph 3 clarifies that vacancies must be filled for an unexpired term by appointment by the remaining

directors until the next annual meeting of participating members, at which the participating members shall elect a director for the unexpired term.

Paragraph 4 of Section 4 clarifies that all elections held under this chapter must be conducted to allow participating members to access all stages of the election process, including voting, vote tabulation, and certification of results in a uniform and nondiscriminatory manner. Each meeting must be arranged in a manner that permits each participating member to plainly observe and engage in the election process.

Section 5 adds an emergency clause so that this bill would become effective before the next round of annual meetings later this year, which are typically held in the summer to fall time frame.

Mr. Chairman, that concludes my testimony and I would be happy to stand for any questions.

## Supporting SB 2299

February 12, 2025

Good morning, Chairman Patten and members of the Senate Energy and Natural Resources committee.

Thank you for the opportunity to express my support SB 2299. I have seen the recently amended version of the bill and would request support for SB 2299 with the version submitted before you today. I am currently a Ward County commissioner and am expressing my opinion only and not that of the commission.

I am also a member of a rural water system and have attended past meetings of that organization. I visited with our county auditor about the original language of SB 2299. She expressed concerns to me about the bill in its original form. But in our recent conversation those concerns have been addressed in the amended version of SB 2299.

We are grateful to have the rural water system available to us and our farm. It has been a blessing at times when our private well has not functioned well over the past years.

Having said that I would like to express concerns about the recent meetings held within our water district that limit the input of both board makeup and policy direction that are of concern and need to be addressed.

Without going into specific details, I believe adopting the new language into NDCC chapter 54-10 and 61-35 would assist a great deal in addressing the concerns of the membership of our Rural water district and possibly others. If some slight adjustments were incorporated in order to address some differing timelines for other districts I would not oppose that in order to accomplish more uniformity in governance.

I encourage you to support SB 2299 in order enhance and protect water districts and their user members in our districts.

Thank you for your time. I would try to answer questions if you have any.

John Fjeldahl

Berthold N.Dak.

701 720 1634

John M. Pietsch  
15900 16 th St. SW.  
Minot, N. Dak. 58701

Chairman Senator Dale Patten  
Honorary Members  
Senate Energy and Natural Resource Committee

Dear Senate Committee Members,

The Rural Water Supply District I'm referencing covers four counties, has its own water treatment plant, serves over 4600 hook ups and is also the Water Supplier to our home and farm for over fifty one years. Therefore, it is also with great concern regarding membership concerns as to practices governing this Water District and any other Water Districts in our state that may have adopted some of the same practices.

First it is very important to note Sanitary Water Suppliers are not governed by the same rules as a local rural Telephone Companies or Electric Co-ops, and Co-operatives in general but considered by the State Of North Dakota as a Political Subdivision. This should require Sanitary Water Suppliers to follow North Dakota Century Code laws similar to that of a School Board or County Commission. This would also include public right to know information and following public meeting laws.

To start with the Water District representing our area has an election process for election of Board of Director Positions that is controlled by only four individuals. The three member Water District Nominating Committee, chosen by the President, has the sole power to deny a candidate from running simply because they feel a candidate may lack the skill set they are looking for. The process was described earlier at a Water District informational meeting as being similar to a job interview. This practice serves as a tool for the Water District Board to control who sits on its Board and removes this right from the participating voting membership. The view of membership in regard to this practice, believes no member should be denied the right to be a director candidate providing he or she meets the qualifications such as being a participating member, and reside in the district for which the Director nominee applies or Director at Large could come from combination of participating Districts. A letter dated right after the June 2024 election from Water District legal representation states and I code (the process in the bylaws calls for the President to appoint a committee of at least three members and for those members to determine the candidates.) further reads code ( the bylaws, however, do not allow for nominations from the floor or for the election of candidates not selected by the nominations committee.) The intention of the founding fathers of this Water District was never to exclude qualified people from running for this Water Supply District.

Another contentious Board Election issue was the addition of a Code of Conduct which could also be used to disqualify a candidate from running for a District Board position or be used to remove a present District Board Member. After reviewing the Code of Conduct, and visiting with other Membership, we found them to be very subjective and could be used to unjustly to prevent candidates from running or unjustly be used as a tool against certain Board Members of differing views and opinions.

If you don't believe this Code of Conduct could be used as a tool for the District Board to control its own membership you are mistaken. Earlier in April a neighbor filled out a letter of interest and met with the District nominating Committee in order to become a candidate for the District Water Board Director position. At this meeting, without any prior notice, two letters were placed in front of him and he was told to sign both. One letter was a two page Code of Conduct and the other a Code of Ethics of which he signed neither. This prospective candidate who had served honorably on township and Co-op boards, and later when he asked a member of the nominating committee, was told he would not be allowed to run for the Water District Board position. At the informational meetings when the Water District was asked why this individual was excluded from running, as he had met all the current requirements, was told that the District Board two months prior had passed a policy stating all Board Members must sign the Code of Conduct. There is no mention of any Code of Ethics or Code of Conduct in the current by laws. In all fairness, if such a policy is to be allowed to exist it should be voted on by the overall membership and amended into the governing bylaws.

An example is number six from code of ethics which states (no director is allowed to video or audio tape any part of a Board Meeting, or publicly quote other Directors outside of Board Meetings. That is an interesting thought. The Ward County Commission Board Meetings have been recorded for over thirty years.

On November 23-2024 the North Dakota State Farm Bureau passed a resolution stating (We believe that a political subdivision like water districts should allow for an election process that allows for any participating member an equal and fair opportunity to be placed on the ballot and elected by a vote of its membership at a legally advertised meeting of such entity.)

After reviewing the revised Senate Bill No 2299 dated February 07-2025 I would recommend a pass with two suggestions:

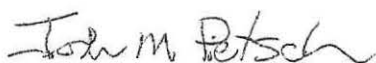
Page three, line 24 to increase petition signatures. Allow entity discretion depending on voting membership size.

Page three, line 25 to increase days to allow for a range of five to thirty days before an election. This would allow for an entity to print ballots and time to provide meeting information to members.

Again please vote yes on Senate Bill 2299 as it would allow for the majority of membership the right to choose who they want to represent their interests.

Any questions, concerns or additional information please contact me at 701-721-8712. E-mail [jhn\\_ptsch@yahoo.com](mailto:jhn_ptsch@yahoo.com)

Thank you



John M Pietsch

# 2025 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Peace Garden Room, State Capitol

SB 2299  
2/20/2025

Relating to oversight of water districts.
---

9:34 a.m. Chairman Patten opened the hearing.

Members present:

Chairman Patten, Vice Chairman Kessel, Senators: Beard, Boehm, Enget, Gerhardt, and Van Oosting.

### Discussion Topics:

- Petition and signature requirements
- Election procedures
- Unexpired term appointment process

9:34 a.m. Chairman Patten emailed out amendment testimony #38190 LC# 25.0990.02002.

9:36 a.m. Chairman Patten proposed verbal amendment to change on page 3 line 25 replace thirty days to forty-five days.

9:42 a.m. Chairman Patten moved to verbally amend LC# 25.0990.02002 version on page 3 line 25 replace thirty days with forty-five days.

9:42 a.m. Senator Kessel seconded.

Senators	Vote
Senator Dale Patten	Y
Senator Greg Kessel	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Justin Gerhardt	Y
Senator Desiree Van Oosting	Y

Motion Passed 7-0-0.

9:45 a.m. Senator Kessel moved amendment LC# 25.0990.02002.

9:45 a.m. Senator Enget seconded.

<b>Senators</b>	<b>Vote</b>
Senator Dale Patten	Y
Senator Greg Kessel	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Justin Gerhardt	Y
Senator Desiree Van Oosting	Y

Motion Passed 7-0-0. (Canceled due to Procedural Clerk error).

9:45 a.m. Senator Kessel moved to adopt amendment LC# 25.0990.02002 including previous amendment.

9:45 a.m. Senator Enget seconded.

<b>Senators</b>	<b>Vote</b>
Senator Dale Patten	Y
Senator Greg Kessel	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Justin Gerhardt	Y
Senator Desiree Van Oosting	Y

Motion Passed 7-0-0.

9:49 a.m. Senator Beard moved a Do Pass as amended.

9:49 a.m. Senator Boehm seconded the motion.

<b>Senators</b>	<b>Vote</b>
Senator Dale Patten	Y
Senator Greg Kessel	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Justin Gerhardt	Y
Senator Desiree Van Oosting	Y

Motion Passed 7-0-0.

9:49 a.m. Senator Enget will carry the bill.

9:49 a.m. Chairman Patten closed the hearing.

Senate Energy and Natural Resources Committee

SB 2299

2/21/2025

Page 3

*Kendra McCann, Committee Clerk*

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO**

2.20.25

JB lab4

**SENATE BILL NO. 2299**

Introduced by

Senators Paulson, Castaneda, Luick

Representatives D. Ruby, VanWinkle, Wolff

1 A BILL for an Act to amend and reenact subsection 1 of section 54-10-14, subsection 1 of  
2 section 54-10-15, and sections 61-35-09 and 61-35-10 of the North Dakota Century Code,  
3 relating to oversight of water districts.

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

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 54-10-14 of the North Dakota Century  
6 Code is amended and reenacted as follows:

- 7 1. The state auditor shall audit the following political subdivisions once every two years,  
8 except as provided in this section or otherwise by law:
- 9 a. Counties.
  - 10 b. Cities, and when a city is audited, to include any political subdivision that was  
11 created by the city and has bonding authority.
  - 12 c. Park districts.
  - 13 d. School districts.
  - 14 e. Firefighters relief associations.
  - 15 f. Airport authorities.
  - 16 g. Public libraries.
  - 17 h. Water resource districts, created under chapter 61-16 and operating under  
18 chapter 61-16.1.
  - 19 i. Garrison Diversion Conservancy District.
  - 20 j. Rural fire protection districts.

- k. Special education districts.
- l. Area career and technology centers.
- m. Correction centers.
- n. Recreation service districts.
- o. Weed boards.
- p. Irrigation districts.
- q. Rural ambulance service districts.
- r. Southwest water authority.
- s. Regional planning councils.
- t. Soil conservation districts.
- u. Western area water supply authority industrial water sales on an annual basis.
- v. Water districts subject to chapter 61-35.

**SECTION 2. AMENDMENT.** Subsection 1 of section 54-10-15 of the North Dakota Century Code is amended and reenacted as follows:

1. The state auditor, by duly appointed deputy auditors or other authorized agents, shall audit or review the books, records, and financial accounts of any political subdivision when ordered by the legislative audit and fiscal review committee. The state auditor, by duly appointed auditors or other authorized agents, may audit or review the books, records, and financial accounts of any political subdivisions when requested by the governor, requested by the governing board, or upon petition of at least thirty-five percent of the qualified electors of any political subdivision enumerated in section 54-10-14 voting for the office of governor at the preceding general election ~~or, in the case of~~ regarding school districts, upon petition of at least thirty-five percent of the qualified electors voting at the preceding school board election; regarding water districts subject to chapter 61-35, upon a petition of at least ~~thirty-five~~ ten percent of the ~~qualified electors voting at the preceding annual meeting held under section 61-35-10~~ or three hundred participating members, whichever is fewer, or upon the request of the state court administrator with respect to clerk of district court services provided by a county in accordance with chapter 27-05.2. Fees for the audits must be paid in accordance with the provisions of section 54-10-14.

1       **SECTION 3. AMENDMENT.** Section 61-35-09 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **61-35-09. Bylaws submitted at special meeting.**

4       Within thirty days after election of the original board, proposed bylaws must be submitted  
5 for adoption at a special meeting of members of the district, written notice of which must be  
6 mailed to each member. Members present at the special meeting may adopt or amend any of  
7 the proposed bylaws, and may propose and adopt alternative or additional bylaws by a majority  
8 vote. The bylaws may subsequently be amended at any annual or special meeting of the  
9 participating members of the district. However, the bylaws of each district must provide:

- 10       1. For an annual meeting of participating members each year after the year of  
11       organization of the district and for mailing of written notice of the time and place of  
12       each annual meeting to each participating member and publication of the notice in the  
13       official newspaper of the county or counties served by the district not less than ten nor  
14       more than thirty days before each meeting.
- 15       2. That each participating member of the district is entitled to one vote at all annual and  
16       special meetings of the district for each benefit unit to which the member has  
17       subscribed.
- 18       3. ~~That each participating member of the district may nominate an individual to be a~~  
19       ~~candidate at a special election to fill a vacancy or at a regularly scheduled election at~~  
20       ~~an annual meeting to elect a successor director. A nomination for a candidate may be~~  
21       ~~made beginning thirty days before the election up to the date of election. A nomination~~  
22       ~~also may be made at the annual or special meeting before the commencement of the~~  
23       ~~election~~ seeking election to the board shall present a petition containing signatures of  
24       ten participating members. All petitions must be submitted to the secretary of the  
25       board or nominating committee at least forty-five days before the election or by the  
26       mail election deadline established under the district's bylaws. Any participating  
27       member who submits a petition must be added to the ballot, provided they reside in  
28       the appropriate district and qualify to serve as a director under the district's bylaws.

29       **SECTION 4. AMENDMENT.** Section 61-35-10 of the North Dakota Century Code is  
30 amended and reenacted as follows:

**61-35-10. Directors divided into classes - Terms - Vacancies.**

1. The initial board of each district shall divide its members by lot into three classes of as nearly equal size as possible. The terms of the directors in the first, second, and third classes expire on dates of the annual meetings in the first, second, and third years, respectively, following the year in which the district is organized, or as soon thereafter as their successors are elected and have qualified.
2. At the annual meeting in each year after the year in which the district is organized, a director must be elected to succeed each director whose term of office expires on that date, and each director so elected holds office for a term of three years and until a successor is elected and has qualified. ~~The county auditor of the county in which the majority of the district is located shall oversee the election under this subsection.~~
3. Vacancies must be filled for the unexpired term by appointment by the remaining directors ~~through a special election administered by the county auditor of the county in which the majority of the district is located~~ until the next annual meeting of participating members, at which the participating members shall elect a director for the unexpired term.
4. ~~Except as otherwise provided by law, all~~ All elections held under this chapter must be conducted ~~and the votes must be canvassed in the same manner as in the election of county officers~~ to allow participating members to access all stages of the election process, including voting and vote tabulation in a uniform and nondiscriminatory manner. Each meeting must be arranged in a manner that permits each participating member to plainly observe the election process.

**REPORT OF STANDING COMMITTEE  
SB 2299**

**Energy and Natural Resources Committee (Sen. Patten, Chairman)** recommends **AMENDMENTS** ([25.0990.02003](#)) and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). SB 2299 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

25.0990.02002  
Title.

Prepared by the Legislative Council  
staff for Senator Paulson  
February 17, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### SENATE BILL NO. 2299

Introduced by

Senators Paulson, Castaneda, Luick

Representatives D. Ruby, VanWinkle, Wolff

1 A BILL for an Act to amend and reenact subsection 1 of section 54-10-14, subsection 1 of  
2 section 54-10-15, and sections 61-35-09 and 61-35-10 of the North Dakota Century Code,  
3 relating to oversight of water districts.

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

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 54-10-14 of the North Dakota Century  
6 Code is amended and reenacted as follows:

- 7 1. The state auditor shall audit the following political subdivisions once every two years,  
8 except as provided in this section or otherwise by law:
- 9 a. Counties.
  - 10 b. Cities, and when a city is audited, to include any political subdivision that was  
11 created by the city and has bonding authority.
  - 12 c. Park districts.
  - 13 d. School districts.
  - 14 e. Firefighters relief associations.
  - 15 f. Airport authorities.
  - 16 g. Public libraries.
  - 17 h. Water resource districts, created under chapter 61-16 and operating under  
18 chapter 61-16.1.
  - 19 i. Garrison Diversion Conservancy District.
  - 20 j. Rural fire protection districts.

- k. Special education districts.
- l. Area career and technology centers.
- m. Correction centers.
- n. Recreation service districts.
- o. Weed boards.
- p. Irrigation districts.
- q. Rural ambulance service districts.
- r. Southwest water authority.
- s. Regional planning councils.
- t. Soil conservation districts.
- u. Western area water supply authority industrial water sales on an annual basis.
- v. Water districts subject to chapter 61-35.

**SECTION 2. AMENDMENT.** Subsection 1 of section 54-10-15 of the North Dakota Century Code is amended and reenacted as follows:

1. The state auditor, by duly appointed deputy auditors or other authorized agents, shall audit or review the books, records, and financial accounts of any political subdivision when ordered by the legislative audit and fiscal review committee. The state auditor, by duly appointed auditors or other authorized agents, may audit or review the books, records, and financial accounts of any political subdivisions when requested by the governor, requested by the governing board, or upon petition of at least thirty-five percent of the qualified electors of any political subdivision enumerated in section 54-10-14 voting for the office of governor at the preceding general election ~~or, in the case of~~ regarding school districts, upon petition of at least thirty-five percent of the qualified electors voting at the preceding school board election; regarding water districts subject to chapter 61-35, upon a petition of at least thirty-five percent of the ~~qualified electors voting at the preceding annual meeting held under section 61-35-10~~ or three hundred participating members, whichever is fewer, or upon the request of the state court administrator with respect to clerk of district court services provided by a county in accordance with chapter 27-05.2. Fees for the audits must be paid in accordance with the provisions of section 54-10-14.

1       **SECTION 3. AMENDMENT.** Section 61-35-09 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **61-35-09. Bylaws submitted at special meeting.**

4       Within thirty days after election of the original board, proposed bylaws must be submitted  
5 for adoption at a special meeting of members of the district, written notice of which must be  
6 mailed to each member. Members present at the special meeting may adopt or amend any of  
7 the proposed bylaws, and may propose and adopt alternative or additional bylaws by a majority  
8 vote. The bylaws may subsequently be amended at any annual or special meeting of the  
9 participating members of the district. However, the bylaws of each district must provide:

- 10       1. For an annual meeting of participating members each year after the year of  
11       organization of the district and for mailing of written notice of the time and place of  
12       each annual meeting to each participating member and publication of the notice in the  
13       official newspaper of the county or counties served by the district not less than ten nor  
14       more than thirty days before each meeting.
- 15       2. That each participating member of the district is entitled to one vote at all annual and  
16       special meetings of the district for each benefit unit to which the member has  
17       subscribed.
- 18       3. ~~That each participating member of the district may nominate an individual to be a~~  
19       ~~candidate at a special election to fill a vacancy or at a regularly scheduled election at~~  
20       ~~an annual meeting to elect a successor director. A nomination for a candidate may be~~  
21       ~~made beginning thirty days before the election up to the date of election. A nomination~~  
22       ~~also may be made at the annual or special meeting before the commencement of the~~  
23       ~~election~~seeking election to the board shall present a petition containing signatures of  
24       ten participating members. All petitions must be submitted to the secretary of the  
25       board or nominating committee at least thirty days before the election or by the mail  
26       election deadline established under the district's bylaws. Any participating member  
27       who submits a petition must be added to the ballot, provided they reside in the  
28       appropriate district and qualify to serve as a director under the district's bylaws.

29       **SECTION 4. AMENDMENT.** Section 61-35-10 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **61-35-10. Directors divided into classes - Terms - Vacancies.**

2       1.   The initial board of each district shall divide its members by lot into three classes of as  
3       nearly equal size as possible. The terms of the directors in the first, second, and third  
4       classes expire on dates of the annual meetings in the first, second, and third years,  
5       respectively, following the year in which the district is organized, or as soon thereafter  
6       as their successors are elected and have qualified.

7       2.   At the annual meeting in each year after the year in which the district is organized, a  
8       director must be elected to succeed each director whose term of office expires on that  
9       date, and each director so elected holds office for a term of three years and until a  
10      successor is elected and has qualified. ~~The county auditor of the county in which the~~  
11      ~~majority of the district is located shall oversee the election under this subsection.~~

12      3.   Vacancies must be filled for the unexpired term ~~by appointment by the remaining~~  
13      ~~directors through a special election administered by the county auditor of the county in~~  
14      ~~which the majority of the district is located~~ until the next annual meeting of participating  
15      members, at which the participating members shall elect a director for the unexpired  
16      term.

17      4.   ~~Except as otherwise provided by law, all~~ All elections held under this chapter must be  
18      ~~conducted and the votes must be canvassed in the same manner as in the election of~~  
19      ~~county officers~~ to allow participating members to access all stages of the election  
20      process, including voting and vote tabulation in a uniform and nondiscriminatory  
21      manner. Each meeting must be arranged in a manner that permits each participating  
22      member to plainly observe the election process.

**2025 HOUSE POLITICAL SUBDIVISIONS**

**SB 2299**

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Room JW327B, State Capitol

SB 2299  
3/21/2025

A BILL for an Act to amend and reenact subsection 1 of section 54-10-14, subsection 1 of section 54-10-15, and sections 61-35-09 and 61-35-10 of the North Dakota Century Code, relating to oversight of water districts.

10:19 a.m. Chairman Longmuir opened the hearing.

Members Present: Chairman Longmuir, Vice-Chairman Fegley, Vice-Chairman Jonas, Representatives Davis, Hager, Klemin, Motschenbacher, Ostlie, Toman, Warrey

Members Absent: Representatives Bolinske, Hatlestad, Heilman

### Discussion Topics:

- Auditing of political subdivisions
- Water District Board election process
- North Dakota water district history

10:21 a.m. Senator Bob Paulson, North Dakota Senator for District 3, introduced the bill and provided testimony #43430.

10:24 a.m. Dan Cox, Director of Audit Services at the North Dakota State Auditor's Office, testified in favor.

10:32 a.m. John Pietsch, Minot, North Dakota, testified in favor and provided testimony #43431.

10:50 a.m. Josh Gallion, North Dakota State Auditor, testified in favor.

10:54 a.m. Eric Volk, Executive Director of North Dakota Rural Water Systems Association, testified in favor and provided testimony #43340.

11:02 a.m. Lance Gaebe, Policy Strategist for North Dakota Farmers Union, testified in favor and provided testimony #43396.

11:03 a.m. Representative Ostlie moved a Do Pass.

11:04 a.m. Representative Motschenbacher seconded the motion.

Representatives	Vote
Representative Donald W. Longmuir	Y
Representative Clayton Fegley	Y
Representative Jim Jonas	Y

Representative Macy Bolinske	A
Representative Jayme Davis	Y
Representative LaurieBeth Hager	Y
Representative Patrick R. Hatlestad	A
Representative Matthew Heilman	A
Representative Lawrence R. Klemin	Y
Representative Mike Motschenbacher	Y
Representative Mitch Ostlie	Y
Representative Nathan Toman	Y
Representative Jonathan Warrey	Y

11:05 a.m. Motion passed 10-0-3

11:06 a.m. Representative Fegley will carry the bill.

**Additional written testimony:**

Dani Quissell, Executive Vice President of North Dakota Water Users Association, submitted testimony in favor #43106.

Jeremy Schuler, General Manager of Northeast Regional Water District, submitted testimony in favor #43295.

11:06 a.m. Chairman Longmuir closed the hearing.

*Wyatt Armstrong, Committee Clerk*

**REPORT OF STANDING COMMITTEE  
ENGROSSED SB 2299 ([25.0990.03000](#))**

**Political Subdivisions Committee (Rep. Longmuir, Chairman)** recommends **DO PASS** (10 YEAS, 0 NAYS, 3 ABSENT OR EXCUSED AND NOT VOTING). SB 2299 was placed on the Fourteenth order on the calendar.



*DEDICATED TO PROTECTING, DEVELOPING, AND MANAGING NORTH DAKOTA'S WATER RESOURCES*

PO Box 2254, Bismarck, ND 58502-2254

701-223-4615 • 701-223-4645 (Fax)

**House Political Subdivisions Committee  
Hearing for SB 2299  
March 21, 2025  
Testimony of Dani Quissell, Executive Vice President  
North Dakota Water Users Association**

Chairman Longmuir and members of the House Political Subdivisions Committee, my name is Dani Quissell and I serve as the Executive Vice President of the North Dakota Water Users Association. The Water Users Association is the statewide member organization dedicated to protecting, developing, and managing North Dakota's water resources. We have more than 150 members including local, statewide and regional organizations in North Dakota that have an active interest in water.

Many of our members are rural water systems that worked with the Senate sponsor of SB 2299 to bring forward a bill that works for rural systems across the state. North Dakota has a robust rural water system that serves hundreds of thousands of rural and small community residents. SB 2299 makes commonsense changes to the rural water statutes without putting an undue burden on systems that are working diligently to provide reliable, quality, drinking water to citizens in every corner of North Dakota.

Please give SB 2299, in its current form, a "do pass" recommendation.

Thank you for the opportunity to provide this testimony.



Jeremy Schuler, General Manager  
Northeast Regional Water District  
In Support of Senate Bill 2299  
House Political Subdivision Committee

March 20, 2025

Chairman Longmuir and members of the House Political Subdivisions Committee, my name is Jeremy Schuler. I am the General Manager for Northeast Regional Water District (NRWD).

NRWD is in the Northeast corner of North Dakota and provides water to 2,678 rural connections, thirteen bulk cities, four hog operations and delivers supplemental water to two rural water districts consisting of 2,500 miles of pipe in six counties.

I am submitting testimony in support of Senate Bill 2299, which seeks to make changes to NDCC 61.35. Previously, I submitted testimony in opposition to the proposed changes that were being explored by the bill sponsor. The proposed changes at that time would have affected water districts financially and disrupted the bylaws and efficiencies that the boards and memberships have created for their water districts over the past 30 years.

After working with other water districts around the state, ND Rural Water, and the bill sponsor on amendments, I feel we have come together on a compromised set of changes that are the most feasible to all water districts.

Thank you for allowing me to provide testimony in favor to SB 2299. We ask respectfully for a Do Pass recommendation. If you have any questions, please contact me at [jeremy@nrwd.us](mailto:jeremy@nrwd.us)



**Eric Volk, Executive Director**

**ND Rural Water Systems Association**

**In Support of Senate Bill 2299**

**House Political Subdivisions Committee**

**March 21, 2025**

Chairman Longmuir and members of the House Political Subdivisions Committee, my name is Eric Volk. I am the executive director of the North Dakota Rural Water Systems Association (NDRWSA). Our vision is to ensure all of North Dakota has access to affordable, ample, and quality water. NDRWSA is committed to maintaining and improving North Dakota's water infrastructure to support economic growth and enhance quality of life. Today, I am submitting testimony in support of Senate Bill 2299, which seeks to make changes to NDCC 61.35 (Water Districts). Initially, we opposed the bill on the Senate side because certain sections were not suitable for Water Districts as a whole. However, we worked together with the bill sponsor on amendments to ensure the bill was feasible for all Districts and their members.

During the 1995 Legislative Session, HB 1317 created NDCC 61.35, which served as a pathway for Rural Water Cooperatives and Associations to become Water Districts (Political Subdivisions of the State). There were many benefits to becoming a Water District, including certain tax incentives and access to low-interest state and federal loans. NDCC 61.35 was later changed to convert water resource district water supply systems to Water Districts. Bylaws for the newly created Water Districts were approved at a special meeting of the members. NDCC 61.35 states that the bylaws can be subsequently amended at any annual or special meeting of the participating District members. Districts were also required to hold a properly noticed annual meeting, with one vote per benefit unit. Everything else was left up to the local membership, and members have been in control of their bylaws ever since. There are currently twenty (20) 61.35 Water Districts in the state (see map), with over 54,000 participating members. A list of the Water Districts, their headquarters, and the number of connections is provided for your reference.

<b>61.35 Water Districts</b>	<b>Headquarters</b>	<b>Connections</b>
Agassiz Water Users District	Gilby	1400
All Seasons Water Users District	Bottineau	1570
Barnes Rural Water District	Valley City	2044
Cass Rural Water Users District	Kindred	9100
Central Plains Water District	Fessenden	1130
Dakota Rural Water District	Finley	1090
East Central Regional Water District	Thompson	3640
Garrison Rural Water District	Garrison	892
Greater Ramsey Water District	Devils Lake	2668
McLean-Sheridan Water District	Turtle Lake	1032
North Prairie Regional Water District	Minot	4835
Northeast Regional Water District	Cavalier	2693
Northwest Rural Water District	Williston	2761
R & T Water District	Ray	890
South Central Regional Water District	Bismarck	8566
Southeast Water Users District	Mantador	3884
Stutsman Rural Water District	Jamestown	2615
Tri-County Water District	Petersburg	1200
Upper Souris Water District	Kenmare	650
Walsh Rural Water District	Grafton	1384

**Section 1:** Audits, once every two years. We fully support this section because most, if not all, Water Districts conduct annual audits, which are considered best practices in the industry. Non-federal entities that spend \$1,000,000 or more in federal funds in a fiscal year are required to undergo a single audit. This threshold applies to audits that begin on or after October 1, 2024. Several of our Districts meet that threshold and are subject to conducting a single audit. The audits are also sent to the State Auditor's Office for review.

**Section 2:** State Auditor Petition. District members bear the cost of additional audits and reviews, which are expensive undertakings. A higher threshold was necessary to protect the entire membership from a small percentage of non-elected members incurring costs that would affect all members. Requiring 10% or 300 participating members ensures individual voices are heard while safeguarding the rights of the entire membership.

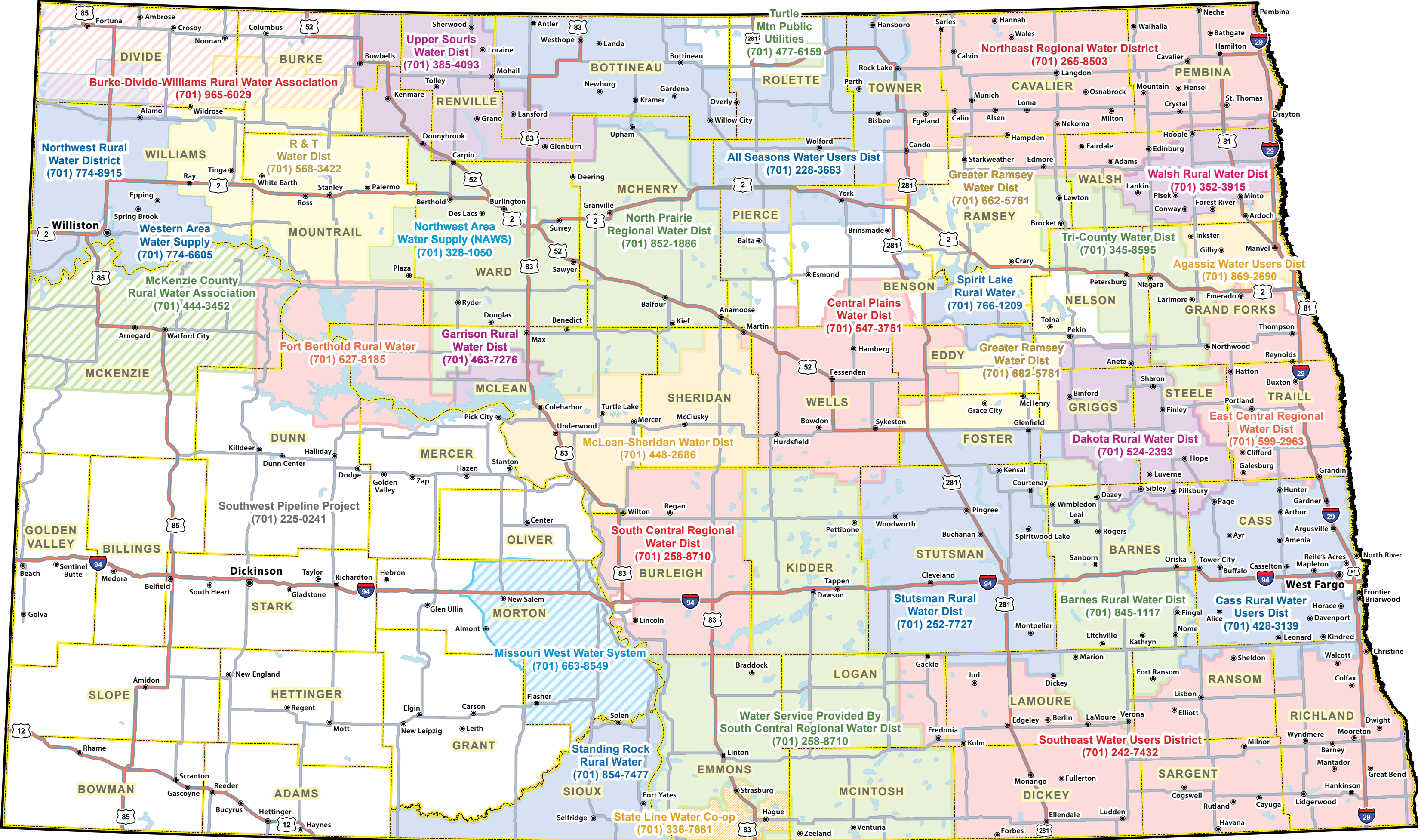
In this section of the code, the State Auditor's Office has the authority (may) to decide whether to audit or review the books, records, and financial accounts of political subdivisions. This will hopefully prevent District members from incurring unwarranted or unnecessary expenses for frivolous or repeated requests.

**Section 3:** Subsection 3, Election and Nomination Process. It was not easy to create uniform nomination and election language for twenty (20) Water Districts, each of which has amended its bylaws in different ways over time to suit its unique needs. Each District has developed its approach to meet its specific circumstances. The Water Districts agreed that changing state law to accommodate the requests of a small minority from one District was not in the best interest of the State's Water District members, which total over 54,000. With that said, the group collaborated with the bill sponsor to reach a compromise on the language in subsection 3. While the language does not perfectly align with the interests of all 20 Water Districts, it is a manageable solution.

**Section 4:** Subsection 3, Director Vacancies. We fully support this subsection. Many systems already adhere to this exact procedure, and it aligns well with how other elected positions handle vacancies. Subsection 4, Election Access. The language was based on the election language already in code (NDCC 16.1-05-09). It is designed to safeguard the rights of participating members and ensure the integrity of the overall election process. During open elections, observers are permitted to watch and monitor the proceedings, but they are not allowed to participate in any activities.

Thank you for allowing me to testify on behalf of the members of the NDRWSA. We respectfully request a Do Pass recommendation. Eric Volk, [ericvolk@ndrw.org](mailto:ericvolk@ndrw.org).

# Incorporated Cities on a Rural or Regional System





Contact:  
**Lance Gaebe, Lobbyist**  
[lgaebe@ndfu.org](mailto:lgaebe@ndfu.org) | 701 952-0103

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**Testimony of  
Lance Gaebe  
North Dakota Farmers Union  
Regarding Engrossed Senate Bill No. 2299  
House Political Subdivisions Committee  
March 21, 2025**

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Chairman Longmuir and members of the House Political Subdivisions Committee,

Thank you for the opportunity to testify in support of Senate Bill No. 2299, as amended and passed by the Senate. My name is Lance Gaebe, and I represent North Dakota Farmers Union.

The North Dakota Farmers Union strongly supports rural water systems. We recognize their vital role in providing affordable, clean, and safe drinking water. Our members understand that a reliable rural water supply is essential for both a thriving agricultural sector and vital rural communities across our state.

Initially, we had concerns with the introduced version of SB 2299. The original bill created unique audit thresholds and election procedures for rural water districts. These provisions, intended to address a specific local situation, would have negatively impacted all water districts in the state.

Stakeholders worked with the bill sponsors and senators to revise the bill. As a result, SB 2299 now makes reasonable changes to the rural water statutes without placing an undue burden on systems that are diligently working to provide reliable, quality drinking water to communities, rural residences, and farms and ranches throughout North Dakota.

We understand that rural water boards judge that they can effectively operate under the provisions of SB 2299 as revised by the Senate. Therefore, the North Dakota Farmers Union no longer opposes this bill and expresses its support.

Thank you for your consideration.

Good morning Chairman Longmuir and members of the House Political Subdivisions Committee. For the record, my name is Senator Bob Paulson from District 3 in Minot. I'm here to introduce SB 2299.

SB 2299 is a bill that seeks to clarify in code elements concerning water districts that are currently unclear or lacking.

Mr. Chairman and members of the committee, after I submitted this bill, I received a lot of feedback from other water districts in the state. I would like to thank Mr. Eric Volk of the Rural Water Systems Association, who did a lot of work coordinating amendments with those who would be affected by the bill. Unless there is something I'm unaware of, I believe that I have brought you something that is a finished product, at least I sincerely hope so! So, to give you some background on how the bill came to be.

This past year, over 150 members of a water district signed a petition seeking to have an audit conducted by the State Auditor, however the attorney for that water district determined that the State Auditor did not have the duty nor the authority to do so in Century Code, so Section 1 adds water districts subject to chapter 61-35 to the list of political subdivisions that the state auditor audits. And to be clear, Mr. Chair, this would be a fiscal audit, and not a performance audit.

Section 2 provides that the audit will be performed upon a petition of at least ten percent or three hundred of the participating members, whichever is fewer.

At a recent annual meeting, the nominating committee of the water district placed one name on the ballot. Another member seeking election was not placed on the ballot because he objected to signing a newly created Code of Conduct that he had concerns with. An attempt to make a nomination from the floor was ruled out of order at the meeting. So, Section 3 clarifies that each participating member seeking election to the board shall present a petition containing signatures of ten participating members. All petitions must be submitted to the secretary of the board or nominating committee at least forty - five days before the election or by the mail election deadline established under the district's bylaws. Any participating member who submits a petition must be added to the ballot, provided they reside in the appropriate district and qualify to serve as a director under the district 's bylaws.

March 19-2025  
 John M. Pietsch  
 15900 16th ST SW  
 Minot, N.Dak 58701

Chairman  
 Representative Donald W. Longmuir  
 Honorable Members of House Political Subdivision Commission

To start with the Water District representing our area has an election process for election of Board of Director Positions that is controlled by only four individuals. The three member Water District Nominating Committee, chosen by the President, has the sole power to deny a candidate from running simply because they feel a candidate may lack the skill set they are looking for. The process was described earlier at a Water District informational meeting as being similar to a job interview. This practice serves as a tool for the Water District Board to control who sits on its Board and removes this right from the participating voting membership. The view of membership in regard to this practice, believes no member should be denied the right to be a director candidate providing he or she meets the qualifications such as being a participating member, and reside in the district for which the Director nominee applies or Director at Large could come from combination of participating Districts. A letter dated right after the June 2024 election from Water District legal representation states and I code (the process in the bylaws calls for the President to appoint a committee of at least three members and for those members to determine the candidates.) further reads code (the bylaws, however, do not allow for nominations from the floor or for the election of candidates not selected by the nominations committee.) The intention of the founding fathers of this Water District was never to exclude qualified people from running for this Water Supply District.

Another contentious Board Election issue was the addition of a Code of Conduct which could also be used to disqualify a candidate from running for a District Board position or be used to remove a present District Board Member. After reviewing the Code of Conduct, and visiting with other Membership, we found them to be very subjective and could be used to unjustly to prevent candidates from running or unjustly be used as a tool against certain Board Members of differing views and opinions.

If you don't believe this Code of Conduct could be used as a tool for the District Board to control its own membership you are mistaken. Earlier in April a neighbor filled out a letter of interest and met with the District nominating Committee in order to become a candidate for the District Water Board Director position. At this meeting, without any prior notice, two letters were placed in front of him and he was told to sign both. One letter was a two page Code of Conduct and the other a Code of Ethics of which he signed neither. This prospective candidate who had served honorably on township and Co-op boards, and later when he asked a member of the nominating committee, was told he would not be allowed to run for the Water District Board position. At the informational meetings when the Water District was asked why this individual was excluded from running, as he had met all the current requirements, was told that the District Board two months prior had passed a policy stating all Board Members must sign

the Code of Conduct. There is no mention of any Code of Ethics or Code of Conduct in the current by laws. In all fairness, if such a policy is to allowed to exist it should be voted on by the overall membership and amended into the governing bylaws.

An example is number six from code of conduct which states (no director is allowed to video or audio tape any part of a Board Meeting, or publicly quote other Directors outside of Board Meetings. That is an interesting thought. The Ward County Commission Board Meetings have been recorded for over thirty years. Enclosed or attached are both documents.

Another example is number 14 from the code of conduct ( Confidential financial, personnel, and other matters concerning the Distinct may be included in Board materials or discussed at meetings.

**Confidential information of the District is not to be disclosed to anyone.)** These are supposed to be open public meetings not secret meetings.

On November 23-2024 the North Dakota State Farm Bureau passed a resolution stating(We believe that a political subdivision like water districts should allow for an election process that allows for any participating member an equal and fair opportunity to be placed on the ballot and elected by a vote of its membership at a legally advertized meeting of such entity.)

Most of the above information has already been provided to Chairman Senator Dale Patten and the Energy and Natural Resource Committee at their February Hearing. After reviewing other testimony from this hearing I would like to respond to some of the concerns brought forward.

First it appears to some Districts that this bill would require additional unwarranted audits by the State Auditor with additional expense to that District. At this time I believe all the Water Supply Districts in our state, are performing acceptable audits on a yearly basis. This bill wouldn't cause a mandatory audit by the State Auditor if Water Districts subject to 61-35 are added to the other subdivisions in this bill. Under NDCC 54-10-14 under Political subdivisions-Audits-Fees-Alternative audits and reports states:

4.( A political subdivision, at **the option of its governing body**, may be audited by a certified public accountant or licensed public accountant rather than by the state auditor. The public accountant annually shall register with the state auditor and comply with generally accepted government auditing standards for audits of political subdivisions.)

What this bill would provide that didn't exist before is the right of the Governor, the Governing Board or by of petition of district membership, requiring a reasonable number of signatures, is the right to request State Auditor to review or audit the books, records, and financial accounts. In our water district a petition requesting such an audit from the State Auditor was refused because Water Districts subject to chapter 61-35 were not a part of section one 54-10-14.

Second I can live with the election process outlined in the present Bill 2299 provided it also works for the Districts with mail in ballots. To prevent by law language that may rule out some prospective candidates the following could be added to 61-35-09 number three. The district by-laws requirements, for board of director candidates, can't be any more stringent than requirements of an elected county official of the county or counties that Water District serves.

Water Districts subject to Chapter 61-35 presently stand alone and it just makes sense to place these Water Districts with Counties, Cities, School Districts, Southwest Water Authority and others.

This is a good Bill and deserves to pass to guarantee that participating membership will have the right to chose in a fair election process who will represent them on their governing Water District Board.

Any questions or if you want any documentation to any information in this letter, please contact me by phone 701-721-8712 or e-mail [jhn\\_ptsch@yahoo.com](mailto:jhn_ptsch@yahoo.com).

John M Pietsch