

HOUSE BILL NO. 1248

Introduced by

Representatives DeKrey, Weisz

1 A BILL for an Act to amend and reenact section 61-32-03 of the North Dakota Century Code,
2 relating to drainage of sheetwater.

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

4 **SECTION 1. AMENDMENT.** Section 61-32-03 of the 1997 Supplement to the North
5 Dakota Century Code is amended and reenacted as follows:

6 **61-32-03. Permit to drain waters required - Penalty.** ~~Any~~ A person, before draining
7 a pond, slough, or lake, ~~or sheetwater,~~ or any series thereof, ~~which~~ that has a watershed area
8 comprising eighty acres [32.37 hectares] or more, shall first secure a permit to do so. The
9 permit application must be submitted to the state engineer. The state engineer shall refer the
10 application to the water resource district or districts within which is found a majority of the
11 watershed or drainage area of the pond, slough, or lake, ~~or sheetwater~~ for consideration and
12 approval, but the state engineer may require that applications proposing drainage of statewide
13 or interdistrict significance be returned to the state engineer for final approval. A permit may not
14 be granted until an investigation discloses that the quantity of water which will be drained from
15 the pond, slough, or lake, ~~or sheetwater,~~ or any series thereof, will not flood or adversely affect
16 downstream lands. If the investigation shows that the proposed drainage will flood or adversely
17 affect lands of downstream landowners, the water resource board may not issue a permit until
18 flowage easements are obtained. The flowage easements must be filed for record in the office
19 of the register of deeds of the county or counties in which the lands are situated. An owner of
20 land proposing to drain shall undertake and agree to pay the expenses incurred in making the
21 required investigation. This section does not apply to the construction or maintenance of any
22 existing or prospective drain constructed under the supervision of a state or federal agency, as
23 determined by the state engineer.

1 Any person draining, or causing to be drained, a pond, slough, or lake, ~~or sheetwater~~, or
2 any series thereof, ~~which~~ that has a watershed area comprising eighty acres [32.37 hectares]
3 or more, without first securing a permit to do so, as provided ~~by~~ in this section, is liable for all
4 damage sustained by any person caused by the draining, and is guilty of an infraction. A permit
5 is not required to drain sheetwater. As used in this section, sheetwater means shallow water
6 from any source that floods land not normally subject to standing water. The state engineer
7 may adopt rules for temporary permits for emergency drainage.