

FIRST ENGROSSMENT
with Senate Amendments

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1310

Introduced by

Representatives Weisz, DeKrey, Devlin, Schmidt

Senators Fischer, Klein

1 A BILL for an Act to amend and reenact sections 24-03-06, 24-03-08, and 24-06-26.1 of the
2 North Dakota Century Code, relating to construction of highways to permit a natural flow of
3 water.

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

5 **SECTION 1. AMENDMENT.** Section 24-03-06 of the 1997 Supplement to the North
6 Dakota Century Code is amended and reenacted as follows:

7 **24-03-06. Method of construction of highway ditches.** ~~Any and all~~ All highways of
8 ~~any kind hereafter~~ constructed or reconstructed by the department, ~~any~~ board of county
9 commissioners, ~~any~~ board of township supervisors, their contractors, subcontractors, or
10 agents, or by any individual firm, corporation, or limited liability company must be so designed
11 as to permit the waters running into ~~such~~ the ditches to drain into coulees, rivers, and lakes
12 according to the surface and terrain where ~~such~~ the highway or highways are constructed in
13 accordance with ~~scientific highway construction and engineering~~ the stream crossing standards
14 prepared by the department so as to avoid the waters flowing into and accumulating in the
15 ditches to overflow adjacent and adjoining lands. In the construction of highways, ~~as herein~~
16 ~~provided~~, the natural flow and drainage of surface waters to the extent required to meet the
17 stream crossing standards prepared by the department may not be obstructed, but ~~such~~ the
18 water must be permitted to follow the natural course according to the surface and terrain of the
19 particular terrain. The department, county, township, their contractors, subcontractors, or
20 agents, or any individual firm, corporation, or limited liability company is not liable for any
21 damage caused to any structure or property by water detained by the highway at the crossing if
22 the highway crossing has been constructed in accordance with the stream crossing standards
23 prepared by the department.

1 **SECTION 2. AMENDMENT.** Section 24-03-08 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **24-03-08. Determinations of surface water flow and appropriate highway**

4 **construction.** Whenever and wherever a highway under the supervision, control, and
5 jurisdiction of the department or under the supervision, control, and jurisdiction of the board of
6 county commissioners of any county or the board of township supervisors has been or will be
7 constructed over a watercourse or draw into which flow surface waters from farmlands, the
8 state ~~water commission engineer~~, upon petition of the majority of landowners of the area
9 affected; or at the request of the board of county commissioners, township supervisors, or a
10 water resource board, shall determine as nearly as practicable the ~~maximum quantity of water,~~
11 ~~in terms of second feet, which such watercourse or draw may be~~ design discharge that the
12 crossing is required to carry to meet the stream crossing standards prepared by the
13 department. When ~~such the~~ determination has been made by the state ~~water commission~~
14 engineer, ~~it is the duty of the department or, the board of county commissioners, or the board~~
15 of township supervisors, as the case may be, upon notification of ~~such the~~ determination, ~~to~~
16 shall install a culvert or bridge of sufficient capacity to permit ~~such maximum quantity of the~~
17 water to flow freely and unimpeded through such the culvert or under such the bridge. The
18 department, county, and township are not liable for any damage to any structure or property
19 caused by water detained by the highway at the crossing if the highway crossing has been
20 constructed in accordance with the stream crossing standards prepared by the department.

21 **SECTION 3. AMENDMENT.** Section 24-06-26.1 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **24-06-26.1. Township road and drainage construction standards.** Whenever the
24 construction or reconstruction of a township road or bridge, the insertion of a culvert in a
25 township road, or the construction or reconstruction of a ditch or drain in connection with a
26 township road affects the flow of surface waters and increases the surface water flow through
27 ditches, drains, bridges, and culverts in other townships, the board of township supervisors or
28 the township overseer of highways of the township undertaking ~~such the~~ construction or
29 reconstruction shall give notice to the boards of township supervisors or township overseers of
30 highways in all townships affected by ~~such the~~ construction or reconstruction projects.

1 The boards of township supervisors of townships affected by any road or bridge
2 construction ~~which~~ that changes or increases the flow of surface waters shall cooperate in the
3 ~~determination of uniform construction standards to be adopted by all townships affected and~~
4 ~~shall cooperate in such~~ construction projects expending on any portion of ~~such~~ the projects
5 ~~such~~ the portions of the road and bridge tax as deemed conducive to the interests of the
6 township. The board of township supervisors shall construct the ditches, drains, bridges, and
7 culverts in accordance with stream crossing standards prepared by the department. A
8 township, board of township supervisors, and township overseer of highways are not liable for
9 any damage caused to any structure or property by water detained by the highway at the
10 crossing if the highway crossing has been constructed in accordance with the stream crossing
11 standards prepared by the department.