

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Tuesday, the fifth day of January,
one thousand nine hundred and ninety-nine**

HOUSE BILL NO. 1310
(Representatives Weisz, DeKrey, Devlin, Schmidt)
(Senators Fischer, Klein)

AN ACT to amend and reenact sections 24-03-06, 24-03-08, and 24-06-26.1 of the North Dakota Century Code, relating to construction of highways to permit a natural flow of water.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

24-03-08. Determinations of surface water flow and appropriate highway construction. Whenever and wherever a highway under the supervision, control, and jurisdiction of the department or under the supervision, control, and jurisdiction of the board of county commissioners of any county or the board of township supervisors has been or will be constructed over a watercourse or draw into which flow surface waters from farmlands, the state ~~water commission~~ engineer, upon petition of the majority of landowners of the area affected; or at the request of the board of county commissioners, township supervisors, or a water resource board, shall determine as nearly as practicable the ~~maximum quantity of water, in terms of second feet, which such watercourse or draw may be design discharge~~ that the crossing is required to carry to meet the stream crossing standards prepared by the department and the state engineer. When ~~such the~~ the determination has been made by the state ~~water commission~~ engineer, ~~it is the duty of~~ the department ~~or,~~ the board of county commissioners, ~~or the~~ board of township supervisors, as the case may be, upon notification of ~~such the~~ the determination, ~~to~~ shall install a culvert or bridge of sufficient capacity to permit ~~such maximum quantity of~~ the water to flow freely and unimpeded through ~~such the~~ the culvert or under ~~such the~~ the bridge. The department, county, and township are not liable for any damage to any structure or property caused by water detained by the highway at the crossing if the highway crossing has been constructed in accordance with the stream crossing standards prepared by the department and the state engineer.

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

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1310.

House Vote: Yeas 62 Nays 26 Absent 10

Senate Vote: Yeas 46 Nays 0 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State