

**HOUSE BILL NO. 1166
with Conference Committee Amendments**

HOUSE BILL NO. 1166

Introduced by

Natural Resources Committee

(At the request of the State Water Commission)

1 A BILL for an Act to create and enact five new sections to chapter 61-24.6 of the North Dakota
2 Century Code, relating to water rates, operation and maintenance fund, reserve fund for
3 replacement, capital costs, and areas served by the northwest area water supply project; and to
4 amend and reenact sections 61-02-23.1, 61-24.3-19, and subsections 3, 6, and 7 of section
5 61-24.6-02 of the North Dakota Century Code, relating to condemnation of property for the
6 northwest area water supply project, validation of southwest pipeline project water service
7 contracts, and inclusion of Pierce County in the northwest area water supply project.

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

9 **SECTION 1. AMENDMENT.** Section 61-02-23.1 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **61-02-23.1. Condemnation by the water commission.** Whenever a right of way is to
12 be taken by condemnation proceedings for any purpose authorized by ~~chapter~~ chapters
13 61-24.3 or 61-24.6, the commission may take possession of the right of way after making a
14 written offer to purchase and depositing the amount of the offer with the clerk of the district
15 court of the county wherein the right of way is located. The clerk shall immediately notify the
16 property owner in writing of ~~such~~ the deposit. Within thirty days after receiving ~~such~~
17 property owner may appeal to the district court by serving notice of appeal upon the water
18 commission and the matter must be tried at the next term of court with a jury, unless a jury ~~be~~
19 is waived, in the manner prescribed for trials under chapter 32-15.

20 **SECTION 2. AMENDMENT.** Section 61-24.3-19 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **61-24.3-19. Validation of water service contracts.** Water service contracts entered
23 ~~into~~ by the commission for the distribution and sale of water to water user entities from the
24 southwest pipeline project are ~~hereby deemed~~ confirmed and approved by the legislative

1 assembly. The commission may commence a special proceeding in and by which the
2 proceedings of the commission and the making of water service contracts ~~shall be~~ are judicially
3 examined, approved; and confirmed, or disapproved and disaffirmed. ~~Such~~ The proceeding
4 ~~shall~~ must comply as nearly as possible with the procedure authorized by sections 61-07-22
5 through 61-07-28 for irrigation district contracts. The requirements of section 40-33-16 are not
6 applicable to contracts between the state water commission and cities for water service and
7 cities for water service from the southwest pipeline project, provided the contracts were
8 approved by the city governing body and executed before January 1, 1999.

9 **SECTION 3.** A new section to chapter 61-24.6 of the North Dakota Century Code is
10 created and enacted as follows:

11 **Commission to fix water rates for the northwest area water supply project.** The
12 commission shall establish the payments for water service to be paid by water user entities for
13 purchase of water from the northwest area water supply project. The payments for water
14 service must include each water user entity's proportionate share of the operation,
15 maintenance, and replacement costs, and also include a component for payment for capital
16 costs. The commission shall include in its determination of each water user entity's share of
17 operation, maintenance, and replacement costs an amount to be deposited in the northwest
18 area water supply project reserve fund for replacement, as established by section 4 of this Act,
19 for replacement and extraordinary maintenance of northwest area water supply project works.
20 The amount of such the reserve fund for replacement must be determined by the commission.

21 **SECTION 4.** A new section to chapter 61-24.6 of the North Dakota Century Code is
22 created and enacted as follows:

23 **Operation and maintenance fund - Deposit - Use.** Revenues received by the
24 commission from water user entities or otherwise for operation and maintenance of the
25 northwest area water supply project must be maintained, as a part of the moneys of the state
26 received and kept by the state treasurer in a fund to be designated as the northwest area water
27 supply project operation and maintenance fund. All moneys received by the state treasurer for
28 operation and maintenance of the northwest area water supply project and the interest on
29 moneys in the fund must be kept by the state treasurer in the fund distinct from all other
30 moneys and must be disbursed by the state treasurer and used only for paying for costs and
31 expenditures for operation and maintenance of the northwest area water supply project.

1 **SECTION 5.** A new section to chapter 61-24.6 of the North Dakota Century Code is
2 created and enacted as follows:

3 **Reserve fund for replacement - Deposit - Use.** Revenues received by the
4 commission from water user entities or otherwise for replacement and extraordinary
5 maintenance of the northwest area water supply project may be held pursuant to the terms of a
6 resolution or trust indenture adopted by the commission. Any money not held pursuant to the
7 terms of a resolution or trust indenture must be deposited by the commission and maintained,
8 as a part of the moneys of the state received and kept by the state treasurer, in a fund
9 designated as the northwest area water supply project reserve fund for replacement. All
10 moneys received by the state treasurer for replacement and extraordinary maintenance of the
11 northwest area water supply project and the interest on the moneys must be kept by the state
12 treasurer in the fund distinct from all other moneys and must be disbursed by the state
13 treasurer and used only for replacement and extraordinary maintenance of the northwest area
14 water supply project.

15 **SECTION 6.** A new section to chapter 61-24.6 of the North Dakota Century Code is
16 created and enacted as follows:

17 **Capital costs - Deposit - Use.** Money derived and received from water user entities or
18 otherwise for capital costs or construction of the northwest area water supply project may be
19 held pursuant to the terms of a resolution or trust indenture adopted by the commission. Any
20 money not held pursuant to the terms of a resolution or trust indenture must be deposited by
21 the commission and maintained, as part of the moneys of the state received and kept by the
22 state treasurer, in a fund designated as the northwest area water supply project fund for capital
23 costs and construction. All moneys received by the state treasurer for capital costs and
24 construction of the northwest area water supply project, and all interest on the moneys, must be
25 kept by the state treasurer in the fund distinct from all other moneys and must be disbursed by
26 the state treasurer and used only for capital costs and construction of the northwest area water
27 supply project.

28 **SECTION 7. AMENDMENT.** Subsections 3, 6, and 7 of section 61-24.6-02 of the
29 North Dakota Century Code are amended and reenacted as follows:

30 3. One person from the Bottineau, Burke, Divide, McHenry, McLean, Mountrail,
31 Pierce, Renville, Ward, or Williams County water resource districts recommended

1 jointly by the governing boards of the Bottineau, Burke, Divide, McHenry, McLean,
2 Mountrail, Pierce, Renville, Ward, or Williams County water resource districts.

3 6. One representative of rural water distribution systems located in northwestern
4 North Dakota. This representative must be a resident of Bottineau, Burke, Divide,
5 McHenry, McLean, Mountrail, Pierce, Renville, Ward, or Williams County.

6 7. One representative of a municipality other than the city of Minot, located in
7 Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, Ward, or
8 Williams County.

9 **SECTION 8.** A new section to chapter 61-24.6 of the North Dakota Century Code is
10 created and enacted as follows:

11 **Areas served by the northwest area water supply project.** The commission may
12 provide, as part of the northwest area water supply project, delivery, distribution, and treatment
13 of water from the Missouri River or other sources, to areas in Bottineau, Burke, Divide,
14 McHenry, McLean, Mountrail, Pierce, Renville, Ward, and Williams Counties. The facilities for
15 delivery of water may be from a pipeline transmission and delivery system or through other
16 works, as determined by the commission.