

Fifty-seventh  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1060

Introduced by

Representatives Koppang, Mahoney, Wikenheiser

Senators Fischer, Freborg

1 A BILL for an Act to amend and reenact sections 61-21-19, 61-21-28, 61-21-29, and 61-21-50  
2 of the North Dakota Century Code, relating to custody of drain funds.

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

4 **SECTION 1. AMENDMENT.** Section 61-21-19 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **61-21-19. Right of way - How acquired - Assessment of damages - Issuance of**  
7 **warrants.** The right of way for the construction, operation, and maintenance of ~~any~~ a proposed  
8 drain, if not conveyed to the county by the owner, may be acquired by eminent domain in ~~such~~  
9 the manner as may be prescribed by law. ~~Where~~ If lands assessed for drainage benefits are  
10 not contiguous to ~~such~~ the drain, access right of way thereto over the land of others may be  
11 acquired in the same manner. ~~Such~~ The right of way, when acquired, ~~shall be~~ is the property  
12 of the county. The board may issue warrants in a sum sufficient to pay the damages assessed  
13 for ~~such~~ the right of way. ~~Such~~ The warrants ~~shall~~ must be drawn upon the proper county  
14 treasurer or, if the water resource district treasurer is custodian of the drain funds, water  
15 resource district treasurer, and ~~shall be~~ are payable out of ~~any~~ drain funds in the hands of the  
16 treasurer ~~which~~ that have been collected for the construction of the drain for which ~~such~~ the  
17 right of way is sought to be obtained. The board shall negotiate the warrants at not less than  
18 the par value thereof and shall pay into court for the benefit of the owners of the right of way the  
19 amount to which each is entitled according to the assessment of damages, paying the surplus,  
20 if any, to the county treasurer or water resource district treasurer, who shall place the same to  
21 the credit of the proper drain fund.

22 **SECTION 2. AMENDMENT.** Section 61-21-28 of the North Dakota Century Code is  
23 amended and reenacted as follows:

1           **61-21-28. Collection of drain taxes.** The county treasurer shall collect the drain taxes  
2 ~~shall be collected by the county treasurer, and shall credit~~ all moneys so collected ~~shall be~~  
3 ~~credited~~ to the drain fund to which they belong. The county treasurer shall act as the custodian  
4 of ~~such~~ the drain funds unless the board of the water resource district having jurisdiction over  
5 the drain requests otherwise in writing. Upon receiving a written request from the water  
6 resource district board, the county treasurer shall pay all moneys collected, and the earnings  
7 thereon, to the treasurer of the water resource district, who shall then act as the custodian of  
8 the drain funds. A direction by a board is effective for all moneys then in the custody of the  
9 county treasurer and all moneys subsequently collected thereafter unless and until the board  
10 directs in writing that the county treasurer act as the custodian of the moneys.

11           **SECTION 3. AMENDMENT.** Section 61-21-29 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13           **61-21-29. Payment of costs and expenses of locating, constructing, maintaining,**  
14 **and improving drain - Warrants issued.** Payment of all expenses and costs of locating and  
15 constructing ~~any a~~ drain shall must be made upon order of the board and warrants therefor  
16 ~~shall must~~ be signed by the chairman and one other member of the board. All warrants drawn  
17 by the board in payment of items of expense of a drain ~~shall be are~~ payable from the proper  
18 drain fund and ~~shall must~~ be accepted by the treasurer in payment of taxes levied in regard to  
19 ~~such~~ the drain. All such warrants, after presentation to the county treasurer or, if the water  
20 resource district treasurer is custodian of the drain funds, the water resource district treasurer  
21 for payment, if not paid for want of funds, shall must be registered by the county treasurer or  
22 water resource district treasurer and thereafter bear interest at a rate not to exceed eight  
23 percent per annum. The county commissioners, by proper resolution, are authorized to  
24 purchase drainage warrants from general county funds in instances ~~where such~~ when the  
25 warrants will be funded by a bond issue within six months from the date of purchase.

26           **SECTION 4. AMENDMENT.** Section 61-21-50 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28           **61-21-50. Drain warrants - Terms and amounts.** Drain costs ~~shall must~~ be paid  
29 upon order of the board by warrants signed by the chairman and one other member of the  
30 board. The warrants ~~shall be are~~ payable from the proper drain fund and, upon maturity, ~~shall~~  
31 ~~be are~~ receivable by the treasurer for drain assessments supporting ~~such~~ the fund. The

1 warrants may be issued at any time after the order establishing the drain has become final and  
2 after incurring liability to pay for ~~any~~ drain work to be financed by drain assessments and in  
3 anticipation of levy and collection of ~~such the~~ assessments. Every warrant not made payable  
4 on demand ~~shall~~ must specify the date when it becomes payable. Demand warrants not paid  
5 for want of funds ~~shall~~ must be registered by the county treasurer or, if the water resource  
6 district treasurer is custodian of the drain funds, the water resource district treasurer and ~~shall~~  
7 ~~thereafter~~ bear interest at a rate determined by the board, not exceeding eight percent per  
8 annum. Warrants of specified maturities ~~shall~~ bear interest according to their provisions at a  
9 rate or rates resulting in an average net interest cost not exceeding twelve percent per annum if  
10 sold at private sale, and may be issued with interest coupons attached. There is no interest  
11 rate ceiling on warrants sold at public sale or to the state of North Dakota or any of its agencies  
12 or instrumentalities. All drain warrants ~~shall~~ must state upon their face the purpose for which  
13 they are issued and the drain fund from which they are payable. The warrants may be used to  
14 pay drain obligations, or may be sold at not less than ninety-eight percent of par value,  
15 provided that the proceeds of warrants sold ~~shall be~~ are placed in the proper drain fund and  
16 used exclusively for drain expenses. Any unpaid warrants issued for the acquisition of right of  
17 way or the construction of ~~any a~~ drain, including all incidental costs in connection therewith,  
18 ~~shall~~ must be funded by a bond issue within one hundred eighty days from and after the filing of  
19 the assessment of all ~~such~~ costs with the county auditor as provided in section 61-21-27, but  
20 ~~such this~~ requirement ~~shall~~ may not be construed as prohibiting the funding of warrants or the  
21 issuance of bonds after ~~such the~~ one hundred eighty-day period.