

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1060
(Representatives Koppang, Mahoney, Wikenheiser)
(Senators Fischer, Freborg)

AN ACT to amend and reenact sections 61-21-19, 61-21-28, 61-21-29, and 61-21-50 of the North Dakota Century Code, relating to custody of drain funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

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

61-21-29. Payment of costs and expenses of locating, constructing, maintaining, and improving drain - Warrants issued. Payment of all expenses and costs of locating and constructing ~~any a~~ drain ~~shall~~ must be made upon order of the board and warrants therefor ~~shall~~ must be signed by the chairman and one other member of the board. All warrants drawn by the board in payment of items of expense of a drain ~~shall be~~ are payable from the proper drain fund and ~~shall~~ must be accepted by the treasurer in payment of taxes levied in regard to ~~such the~~ drain. All ~~such~~ warrants, after presentation to the county treasurer or, if the water resource district treasurer is custodian of the drain funds, the water resource district treasurer for payment, if not paid for want of funds, ~~shall~~ must be registered by the county treasurer or water resource district treasurer and thereafter bear interest at a

rate not to exceed eight percent per annum. The county commissioners, by proper resolution, are authorized to purchase drainage warrants from general county funds in instances ~~where such~~ when the warrants will be funded by a bond issue within six months from the date of purchase.

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

61-21-50. Drain warrants - Terms and amounts. Drain costs ~~shall~~ must be paid upon order of the board by warrants signed by the chairman and one other member of the board. The warrants ~~shall be~~ are payable from the proper drain fund and, upon maturity, ~~shall be~~ are receivable by the treasurer for drain assessments supporting ~~such~~ the fund. The warrants may be issued at any time after the order establishing the drain has become final and after incurring liability to pay for ~~any~~ drain work to be financed by drain assessments and in anticipation of levy and collection of ~~such~~ the assessments. Every warrant not made payable on demand ~~shall~~ must specify the date when it becomes payable. Demand warrants not paid for want of funds ~~shall~~ must be registered by the county treasurer or, if the water resource district treasurer is custodian of the drain funds, the water resource district treasurer and ~~shall thereafter~~ bear interest at a rate determined by the board, not exceeding eight percent per annum. Warrants of specified maturities ~~shall~~ bear interest according to their provisions at a rate or rates resulting in an average net interest cost not exceeding twelve percent per annum if sold at private sale, and may be issued with interest coupons attached. There is no interest rate ceiling on warrants sold at public sale or to the state of North Dakota or any of its agencies or instrumentalities. All drain warrants ~~shall~~ must state upon their face the purpose for which they are issued and the drain fund from which they are payable. The warrants may be used to pay drain obligations, or may be sold at not less than ninety-eight percent of par value, provided that the proceeds of warrants sold ~~shall be~~ are placed in the proper drain fund and used exclusively for drain expenses. Any unpaid warrants issued for the acquisition of right of way or the construction of ~~any~~ a drain, including all incidental costs in connection therewith, ~~shall~~ must be funded by a bond issue within one hundred eighty days from and after the filing of the assessment of all ~~such~~ costs with the county auditor as provided in section 61-21-27, but ~~such~~ this requirement ~~shall~~ may not be construed as prohibiting the funding of warrants or the issuance of bonds after ~~such~~ the one hundred eighty-day period.

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-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1060.

House Vote: Yeas 96 Nays 0 Absent 2

Senate Vote: Yeas 46 Nays 0 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,
at _____ o'clock _____ M.

Secretary of State