

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1090
(Judiciary Committee)
(At the request of the Industrial Commission)

AN ACT to amend and reenact sections 38-08-13 and 38-08-14 of the North Dakota Century Code, relating to the right to ask for reconsideration of and to appeal from industrial commission decisions dealing with oil and gas resources.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 38-08-13 of the North Dakota Century Code is amended and reenacted as follows:

38-08-13. Person Party adversely affected may apply for reconsideration. Any ~~person~~ party adversely affected by any order of the commission may file ~~in writing~~ a written petition for reconsideration in accordance with ~~the procedures of~~ section 28-32-40. The commission shall grant or deny any such petition in whole or in part in accordance with the provisions of section 28-32-40 ~~or~~ and rules adopted pursuant to it.

SECTION 2. AMENDMENT. Section 38-08-14 of the North Dakota Century Code is amended and reenacted as follows:

38-08-14. Person Party adversely affected may appeal to district court.

1. Any ~~person~~ party adversely affected by an order entered by the commission may appeal, pursuant to chapter 28-32, from the order to the district court for the county in which the oil or gas well or the affected property is located. However, if the oil or gas well or the property affected by the order is located in or underlies more than one county, any appeal may be taken to the district court for any county in or under which any part of the affected property is located.
2. At the time of filing of the notice of appeal, if an application for the suspension of the order is filed, the commission may enter an order suspending the order complained of and fixing the amount of a supersedeas bond. Within ten days after the entry of an order by the commission which suspends the order complained of and fixes the amount of the bond, the appellant shall file with the commission a supersedeas bond in the required amount and with proper surety. Upon approval of the bond, the order of the commission suspending the order complained of is effective until its final disposition upon appeal. The bond must run in favor of the commission for the use and benefit of any person who may suffer damage by reason of the suspension of the order in the event the same is affirmed by the district court. If the order of the commission is not superseded, it must continue in force and effect as if no appeal was pending, unless a stay is ordered by the court to which the appeal is taken under section 28-32-48.
3. Orders of the commission must be sustained by the district court if the commission has regularly pursued its authority and its findings and conclusions are sustained by the law and by substantial and credible evidence.

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-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1090.

House Vote: Yeas 92 Nays 0 Absent 2

Senate Vote: Yeas 44 Nays 1 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State