

Sixty-second
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2020

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the state water
2 commission; to create and enact a new section to chapter 61-04 of the North Dakota Century
3 Code, relating to metering certain water sources; to amend and reenact section 7 of chapter 20
4 of the 2009 Session Laws, relating to Fargo flood control project funding; to provide
5 exemptions; ~~to repeal section 5 of chapter 535 of the 1999 Session Laws, relating to pledge of~~
6 ~~revenues from the Grand Forks corporate center;~~ to provide legislative intent; to provide for
7 retroactive application; and to declare an emergency.

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

9 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
10 as may be necessary, are appropriated out of any moneys in the general fund in the state
11 treasury, not otherwise appropriated, and from special funds derived from federal funds and
12 other income, to the state water commission for the purpose of defraying the expenses of that
13 agency, for the biennium beginning with the effective date of this Act, and ending June 30, 2013,
14 as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
15			
16			
17	Grants local cost-share	\$0	\$500,000
18	Beaver bay feasibility study	342,000	(342,000)
19	Administrative and support services	2,977,674	252,199
20	Water and atmospheric resources	307,768,034	140,145,740
21	Federal stimulus funds	0	7,271,773
22	Total all funds	\$311,087,708	\$147,827,712
23	Less estimated income	297,263,809	443,920,221
24	Total general fund	\$13,823,899	\$1,171,300
			\$14,995,199

1 Full-time equivalent positions 86.00 1.00 87.00

2 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**

3 **SIXTY-THIRD LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
4 items approved by the sixty-first legislative assembly for the 2009-11 biennium and the 2011-13
5 one-time funding items included in the appropriation in section 1 of this Act:

6 <u>One-Time Funding Description</u>	<u>2009-11</u>	<u>2011-13</u>
7 Federal stimulus funds	\$12,000,000	\$7,271,773
8 Ray/Tioga, Burke/Divide/Williams, Wildrose 9 and Stanley water projects	<u>2,792,000</u>	<u>500,000</u>
10 Total special funds	\$14,792,000	\$7,771,773

11 The 2011-13 one-time funding amounts are not part of the entity's base budget for the 2013-15
12 biennium. The state water commission shall report to the appropriations committees of the
13 sixty-third legislative assembly on the use of the one-time funding for the biennium beginning
14 July 1, 2011, and ending June 30, 2013.

15 **SECTION 3. SOVEREIGN LANDS ENFORCEMENT GRANT.** The administrative and
16 support services line item in section 1 of this Act includes \$200,000 from the general fund that
17 the state water commission shall provide as a grant to the game and fish department for law
18 enforcement activities on sovereign lands in the state, for the biennium beginning July 1, 2011,
19 and ending June 30, 2013.

20 **SECTION 4. ADDITIONAL INCOME - APPROPRIATION.** In addition to the amounts
21 included in the estimated income line item in section 1 of this Act, any additional amounts in the
22 resources trust fund and water development trust fund that become available are appropriated
23 to the state water commission for the purpose of defraying the expenses of that agency, for the
24 biennium beginning July 1, 2011, and ending June 30, 2013.

25 **SECTION 5. GRANTS - WATER-RELATED PROJECTS - CARRYOVER AUTHORITY.**
26 Section 54-44.1-11 does not apply to funding for grants or water-related projects included in the
27 water and atmospheric resources line item in section 1 of this Act. However, this exclusion is
28 only in effect for two years after June 30, 2013. Any unexpended funds appropriated from the
29 resources trust fund after that period has expired must be transferred to the resources trust fund
30 and any unexpended funds appropriated from the water development trust fund after that period
31 has expired must be transferred to the water development trust fund.

1 **SECTION 6.** A new section to chapter 61-04 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Metering of certain water sources required - Rules.**

4 The state engineer shall require the remote metering of water used pursuant to a temporary
5 or perfected water permit and sold for oil and gas purposes. Except for nonpotable ground
6 water used for enhanced oil recovery purposes and water uses of less than fifteen acre-feet per
7 year, all other permitted and temporarily permitted industrial water supplies sold for oil and gas
8 purposes are subject to the metering requirements of this section. The state engineer shall
9 develop rules to provide:

- 10 1. The specifications for remote terminal water metering devices;
- 11 2. That metering be operational by July 1, 2012;
- 12 3. That meters be available for inspection by state water commission staff on a daily
13 basis;
- 14 4. That meters be sealed and tamperproof;
- 15 5. That meters may be replaced only under supervision of the state engineer; and
- 16 6. That the penalty for circumventing the provisions of this section shall be a thirty-day
17 suspension of the noncompliant permit.

18 **SECTION 7. AMENDMENT.** Section 7 of chapter 20 of the 2009 Session Laws is amended
19 and reenacted as follows:

20 **SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.**

21 Of the funds appropriated in the water and atmospheric resources line item in
22 section 1 of this Act, \$45,000,000 is for Fargo flood control projects, for the biennium
23 beginning July 1, 2009, and ending June 30, 2011. Any funds not spent by June 30,
24 2011, are not subject to section 54-44.1-11 and must be continued into the next or
25 subsequent bienniums and may be expended only for Fargo flood control projects.
26 ~~These~~ Except as otherwise provided, these funds may be used only for land purchases
27 and construction; including right-of-way acquisition costs. No more than ten percent of
28 these funds may not be used for administration, engineering, legal, planning, or other
29 similar purposes; and are not subject to the sixty-five percent funding requirement
30 contained in Senate Bill No. 2316 (2009). The city of Fargo, Cass County, and the

1 Cass County joint water resource district must approve any expenditures made under
2 this section.

3 **SECTION 8. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.** Of the
4 funds appropriated in the water and atmospheric resources line item in section 1 of this Act,
5 \$30,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2011, and
6 ending June 30, 2013. Any funds not spent by June 30, 2013, are not subject to section
7 54-44.1-11 and must be continued into the next or subsequent bienniums and may be
8 expended only for Fargo flood control projects. Except as otherwise provided, these funds may
9 be used only for construction, including right-of-way acquisition costs. No more than ten percent
10 of these funds may be used for engineering, legal, planning, or other similar purposes. The city
11 of Fargo, Cass County, and the Cass County joint water resource district must approve any
12 expenditures made under this section.

13 **SECTION 9. LEGISLATIVE INTENT - STATE WATER COMMISSION PROJECTS AND**
14 **GRANTS.** It is the intent of the sixty-second legislative assembly that of the funds appropriated
15 in the water and atmospheric resources line item in section 1 of this Act, the state water
16 commission provide funding for the following grants and projects, for the biennium beginning
17 with the effective date of this Act, and ending June 30, 2013:

18 Grant to wildlife services for animal control	\$250,000 \$100,000
19 Flood-related water projects in the	\$250,000
20 Nelson County water resource district	

21 ~~**SECTION 9. LEGISLATIVE INTENT - GARRISON DIVERSION CONSERVANCY-**~~
22 ~~**DISTRICT.** It is the intent of the sixty-second legislative assembly that of the funds appropriated~~
23 ~~in the water and atmospheric resources line item in section 1 of this Act, the state water~~
24 ~~commission allocate no more than \$1,000,000 to the Garrison Diversion Conservancy District.~~

25 **SECTION 10. LEGISLATIVE INTENT - WATER-RELATED FUNDING PRIORITIES.** It is
26 the intent of the sixty-second legislative assembly that the \$5,000,000 for the Red River valley
27 water supply project identified by the state water commission as a 2011-13 biennium funding
28 priority be used for general statewide water management and that the state water commission
29 not spend any funding for the Red River valley water supply project during the 2011-13
30 biennium.

31 ~~**SECTION 10. REPEAL.** Section 5 of chapter 535 of the 1999 Session Laws is repealed.~~

1 | **SECTION 11. RETROACTIVE APPLICATION.** Section 67 of this Act applies retroactively to
2 | January 1, 2011.

3 | **SECTION 12. EMERGENCY.** This Act is declared to be an emergency measure.