

April 15, 2019

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2358

That the House recede from its amendments as printed on pages 1169 and 1170 of the Senate Journal and pages 1267 and 1268 of the House Journal and that Engrossed Senate Bill No. 2358 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 40-33-16, subsections 11 and 27 of section 61-24-08, subdivision b of subsection 2 of section 61-32-03.1, and subsection 8 of section 61-39-05 of the North Dakota Century Code, relating to Red River valley water supply project contract terms, elimination of voter approval requirements, and notice of proposed subsurface water management systems.

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

**SECTION 1. AMENDMENT.** Section 40-33-16 of the North Dakota Century Code is amended and reenacted as follows:

**40-33-16. Municipality may purchase water for distribution.**

1. Any city owning a system for the distribution of water for fire protection and other public purposes and for selling water to its inhabitants and industries, but for which the water supply is unsuitable or inadequate, may contract to purchase water at wholesale for ~~such~~those purposes from any person, firm, public or private corporation, or limited liability company able and willing to furnish the same, upon ~~such~~the terms and during ~~such~~the period, not exceeding forty years, as the city governing body ~~shall deem~~deems appropriate. ~~Any such~~The contract ~~shall~~must be authorized by an ordinance submitted to the voters for approval by a majority of those voting on the proposition before it takes effect. ~~In and by such~~Pursuant to the ordinance and contract, the city may bind itself:
- ~~4.~~ a. To establish and maintain rates and charges for supplying water by it to its inhabitants and industries, either according to a prescribed schedule agreed upon or sufficient to produce net stated amounts for specified periods during the life of the contract, or both, and to appropriate and use the same for payments to become due under the contract, and, if the contract so provides, the city ~~shall be~~is obligated to pay for ~~such~~the water solely out of ~~such~~the net revenues;
- ~~2.~~ b. To pay, at an agreed rate or rates, for all water taken by the city under ~~such~~the contract and not resold by it; and
- ~~3.~~ c. To do and perform any other acts or things ~~which, in the discretion of the governing body, are deemed~~ deems reasonable and appropriate for the procurement of ~~such~~the water on the most efficient and economical basis.

2. Notwithstanding subsection 1, contracts to purchase water from the water supply system created by the Red River valley water supply project may have a term exceeding forty years and, if executed in relation to the initial construction of the system, need not be submitted to the voters for approval.
3. If any payments under any contract are to be made solely out of net revenues, the contract may fix and prescribe the method or basis on which net revenues are to be computed.

**SECTION 2. AMENDMENT.** Subsection 11 of section 61-24-08 of the North Dakota Century Code is amended and reenacted as follows:

11. To operate and maintain or to contract for the operation and maintenance of water supply and irrigation works serving lands and uses within or outside the district, and in connection therewith, to maintain a reserve fund to meet major unforeseen costs of operation and maintenance. The acquisition, construction, operation, and maintenance of dams, reservoirs, ground water storage areas, canals, conduits, pipelines, tunnels, and any other plants, works, facilities, improvements, or property necessary to operate or maintain water supply or irrigation works under this section are exempt from any requirements for voter approval.

**SECTION 3. AMENDMENT.** Subsection 27 of section 61-24-08 of the North Dakota Century Code is amended and reenacted as follows:

27. To enter water service contracts with municipalities, water districts, or other political subdivisions in this state and public utilities in Minnesota as part of the Red River valley water supply project, regardless of whether the acquisition, construction, or reconstruction of any Red River valley water supply project is actually completed and whether water actually is delivered under the contracts. These contracts with cities and water districts are authorized to be executed without limitation on term of years notwithstanding any limitation to the contrary and, if the contracts are executed in relation to the initial construction of the system, without voter approval.

**SECTION 4. AMENDMENT.** Subdivision b of subsection 2 of section 61-32-03.1 of the North Dakota Century Code is amended and reenacted as follows:

- b. Upon submission of a completed application for a permit, the water resource district board immediately shall give notice and a copy of the submission via certified mail to each owner of land within one mile [1.61 kilometers] downstream of the proposed subsurface water management system outlet unless the distance to the nearest waterway depicted as a perennial or intermittent stream or river on a United States geological survey topography map, assessment drain, natural watercourse, slough, or lake is less than one mile [1.61 kilometers], in which case notice and a copy of the submission must be given immediately to each owner of land between the outlet and the nearest assessment drain, natural watercourse, slough, or lake. The notice requirement in this section must be waived if the applicant presents signed, notarized letters of approval from all downstream landowners entitled to notice in this subsection.

**SECTION 5. AMENDMENT.** Subsection 8 of section 61-39-05 of the North Dakota Century Code is amended and reenacted as follows:

8. Enter ~~a contract or~~ contracts to provide for a supply of bulk water from the Garrison Diversion Conservancy District which ~~contract or contracts~~ may provide for payments to fund some or all of the Garrison Diversion Conservancy District's costs of acquiring, designing, constructing, or reconstructing one or more features of a Red River valley water supply project, ~~which project the~~ that the Garrison Diversion Conservancy District may acquire, design, construct, improve, and own, as well as the Garrison Diversion Conservancy District's costs of operating and maintaining one or more Red River valley water supply projects, whether the acquisition, construction, or reconstruction of any Red River valley water supply project actually is completed and whether water actually is delivered pursuant to the ~~contract or contracts, and which contract or contracts the Garrison Diversion Conservancy District may execute.~~ Contracts executed under this subsection may be executed without limitation on the term of years and, if executed in relation to the initial construction of the system, need not be submitted to the voters for approval."

Renumber accordingly