

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1020

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 provide exemptions; to provide legislative intent; to create and enact a new
3 section to chapter 61-02 of the North Dakota Century Code, relating to the development of
4 policies and procedures of the state water commission; to amend and reenact sections
5 6-09.5-03 and 54-35-02.37 of the North Dakota Century Code and sections 6 and 7 of
6 chapter 46 of the 2011 Session Laws, relating to the community water facility loan fund, the
7 water-related topics overview committee, and Fargo flood control project funding; to provide for
8 legislative management reports; and to declare an emergency.

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

10 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
11 as may be necessary, are appropriated from special funds derived from federal funds and other
12 income, to the state water commission for the purpose of defraying the expenses of the state
13 water commission, for the biennium beginning July 1, 2013, and ending June 30, 2015, as
14 follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>	
15				
16				
17	Administrative and support services	\$3,229,873	\$679,627	\$3,909,500
18	Water and atmospheric resources	498,413,774	323,925,584	822,339,358
19	Accrued leave payments	<u>0</u>	<u>325,774</u>	<u>325,774</u>
20	Total all funds	\$501,643,647	\$324,930,985	\$826,574,632
21	Less estimated income	<u>486,648,448</u>	<u>339,926,184</u>	<u>826,574,632</u>
22	Total general fund	\$14,995,199	(\$14,995,199)	\$0
23	Full-time equivalent positions	87.00	3.00	90.00

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

2 **SIXTY-FOURTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time
3 funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and
4 the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

5 <u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
6 Federal stimulus funds	\$7,271,773	\$0
7 Ray/Tioga, Burke/Divide/Williams, Wildrose and	500,000	0
8 Stanley water projects		
9 Excavator	0	243,200
10 Office space renovation	0	45,000
11 Total all funds	\$7,771,773	\$288,200
12 Total special funds	<u>7,771,773</u>	<u>288,200</u>
13 Total general fund	\$0	\$0

14 The 2013-15 one-time funding amounts are not part of the entity's base budget for the 2015-17
15 biennium. The state water commission shall report to the appropriations committees of the
16 sixty-fourth legislative assembly on the use of the one-time funding for the biennium beginning
17 July 1, 2013, and ending June 30, 2015.

18 **SECTION 3. SOVEREIGN LANDS ENFORCEMENT GRANT.** The administrative and
19 support services line item in section 1 of this Act includes \$135,000 from the resources trust
20 fund that the state water commission shall provide as a grant to the game and fish department
21 for law enforcement activities on sovereign lands in the state, for the biennium beginning July 1,
22 2013, and ending June 30, 2015.

23 **SECTION 4. ADDITIONAL INCOME - APPROPRIATION.** In addition to the amounts
24 included in the estimated income line item in section 1 of this Act, any additional amounts in the
25 resources trust fund and water development trust fund that become available are appropriated,
26 subject to budget section approval, to the state water commission for the purpose of defraying
27 the expenses of that agency, for the biennium beginning July 1, 2013, and ending June 30,
28 2015.

29 **SECTION 5. GRANTS - WATER-RELATED PROJECTS - CARRYOVER AUTHORITY.**
30 Section 54-44.1-11 does not apply to funding for grants or water-related projects included in the
31 water and atmospheric resources line item in section 1 of this Act. However, this exclusion is

1 only in effect for two years after June 30, 2015. Any unexpended funds appropriated from the
2 resources trust fund after that period has expired must be transferred to the resources trust fund
3 and any unexpended funds appropriated from the water development trust fund after that period
4 has expired must be transferred to the water development trust fund.

5 **SECTION 6. AMENDMENT.** Section 6 of chapter 46 of the 2011 Session Laws is amended
6 and reenacted as follows:

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

8 Of the funds appropriated in the water and atmospheric resources line item in
9 section 1 of this Act, \$45,000,000 is for Fargo flood control projects, for the biennium
10 beginning July 1, 2009, and ending June 30, 2011. Any funds not spent by June 30,
11 2011, are not subject to section 54-44.1-11 and must be continued into the next or
12 subsequent bienniums and may be expended only for Fargo flood control projects.
13 ~~These~~Except as otherwise provided, these funds may be used only for land purchases
14 and construction; including right-of-way acquisition costs and may not be used for the
15 purchase of dwellings or for a river diversion project. Notwithstanding any other
16 provision of law, including a political subdivision home rule charter, no public funds
17 may be used for the construction of ring dikes or water retention structures associated
18 with the Fargo flood control project. No more than ten percent of these funds may not
19 be used for administration, engineering, legal, planning, or other similar purposes; and
20 are not subject to the sixty-five percent funding requirement contained in Senate Bill
21 No. 2316 (2009). The city of Fargo, Cass County, and the Cass County joint water
22 resource district must approve any expenditures made under this section. Costs
23 incurred by nonstate entities for dwellings or other real property that are not paid by
24 state funds are eligible for application by the nonstate entity for cost sharing with the
25 state.

26 **SECTION 7. AMENDMENT.** Section 7 of chapter 46 of the 2011 Session Laws is amended
27 and reenacted as follows:

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

29 Of the funds appropriated in the water and atmospheric resources line item in
30 section 1 of this Act, \$30,000,000 is for Fargo flood control projects, for the biennium
31 beginning July-1, 2011, and ending June-30, 2013. Any funds not spent by June 30,

1 2013, are not subject to section 54-44.1-11 and must be continued into the next or
2 subsequent bienniums and may be expended only for Fargo flood control projects.
3 Except as otherwise provided, these funds may be used only for land purchases and
4 construction, including right-of-way acquisition costs and may not be used for the
5 purchase of dwellings or for a river diversion project. Notwithstanding any other
6 provision of law, including a political subdivision home rule charter, no public funds
7 may be used for the construction of ring dikes or water retention structures associated
8 with the Fargo flood control project. No more than ten percent of these funds may be
9 used for engineering, legal, planning, or other similar purposes. The city of Fargo,
10 Cass County, and the Cass County joint water resource district must approve any
11 expenditures made under this section. ~~Costs incurred by nonstate entities for~~
12 ~~dwellings or other real property that are not paid by state funds are eligible for~~
13 ~~application by the nonstate entity for cost sharing with the state.~~

14 **SECTION 8. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.** Of the
15 funds appropriated in the water and atmospheric resources line item in section 1 of this Act,
16 \$100,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2013, and
17 ending June 30, 2015. Any funds not spent by June 30, 2015, are not subject to section
18 54-44.1-11 and must be continued into the next or subsequent bienniums and may be
19 expended only for Fargo flood control projects. Except as otherwise provided, these funds may
20 be used only for land purchases and construction, including right-of-way acquisition costs and
21 may not be used for the purchase of dwellings or for a river diversion project. Notwithstanding
22 any other provision of law, including a political subdivision home rule charter, no public funds
23 may be used for the construction of ring dikes or water retention structures associated with the
24 Fargo flood control project. No more than ten percent of these funds may be used for
25 engineering, legal, planning, or other similar purposes. The city of Fargo, Cass County, and the
26 Cass County joint water resource district must approve any expenditures made under this
27 section.

28 **SECTION 9. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING.** It
29 is the intent of the sixty-third legislative assembly that total Fargo flood control project funding to
30 be provided by the state not exceed \$325,000,000 to provide flood protection for the city of
31 Fargo to the forty-two and one-half foot level, and to provide, to the extent possible, flood

1 protection for areas along the Red River north and south of Fargo. It is further the intent of the
2 legislative assembly that funds appropriated by the legislative assembly for Fargo flood control
3 not be used for a river diversion flood control project.

4 **SECTION 10. LEGISLATIVE INTENT - RED RIVER VALLEY WATER SUPPLY.** Of the
5 funds appropriated in the water and atmospheric resources line item in section 1 of this Act,
6 \$11,000,000 is for the Red River valley water supply project, for the biennium beginning July 1,
7 2013, and ending June 30, 2015.

8 **SECTION 11. LEGISLATIVE INTENT - BOND PAYMENTS.** Of the funds appropriated in
9 section 1 of this Act, \$60,000,000 in the water and atmospheric resources line item is from the
10 resources trust fund for the purposes of paying off or defeasing outstanding bond issues. The
11 state water commission may expend funds for this purpose only if available funding from the
12 resources trust fund for water projects for the biennium beginning July 1, 2013, and ending
13 June 30, 2015, has exceeded \$515,000,000.

14 **SECTION 12. STATE WATER COMMISSION STUDY - FARGO FLOOD CONTROL.**
15 During the 2013-14 interim, the state water commission shall study the use of ring dikes as part
16 of a flood protection plan for the city of Fargo. The study must include the effects of ring dikes in
17 the Fargo area on flood protection for areas north and south of Fargo. The state water
18 commission shall provide periodic reports to the legislative management on the findings
19 resulting from the study.

20 **SECTION 13. STATE WATER COMMISSION STUDY - RED RIVER VALLEY WATER**
21 **SUPPLY.** During the 2013-14 interim, the state water commission shall study water supply
22 needs in the Red River valley, including projected costs of projects to meet water supply needs
23 and the potential state commitment to supply water to the Red River valley. The state water
24 commission shall provide periodic reports to the legislative management on the findings
25 resulting from the study.

26 **SECTION 14. INFORMATION TECHNOLOGY HARDWARE - TRANSFER TO SECURE**
27 **DATA CENTER.** The state water commission shall transfer all appropriate information
28 technology hardware to the information technology department secure data center during the
29 biennium beginning July 1, 2013, and ending June 30, 2015.

30 **SECTION 15. STATE WATER COMMISSION PRIORITY PROJECTS LIST - REPORTS TO**
31 **THE BUDGET SECTION.** The state water commission shall report to the budget section any

1 changes made to the state water commission priority projects list presented to the sixty-third
2 legislative assembly within ninety days of the state water commission approving the change for
3 the biennium beginning July 1, 2013, and ending June 30, 2015.

4 **SECTION 16. AMENDMENT.** Section 6-09.5-03 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **6-09.5-03. Transfer of funds - Revolving fund.**

7 A community water facility loan fund with an authorized ceiling of ~~ten~~twenty-five million
8 dollars is hereby established from the future undivided profits of the Bank of North Dakota or
9 other state funds. This is a revolving fund, and all moneys transferred into the fund, interest
10 upon fund moneys, and collections of interest and principal on fund loans must be used for the
11 purposes of this chapter.

12 **SECTION 17. AMENDMENT.** Section 54-35-02.7 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **54-35-02.7. (Effective through November 30, ~~2013~~2014) Water-related topics overview**
15 **committee - Duties.**

16 The legislative management, during each interim, shall appoint a water-related topics
17 overview committee in the same manner as the legislative management appoints other interim
18 committees. The committee must meet quarterly and is responsible for legislative overview of
19 water-related topics and related matters and for any necessary discussions with adjacent states
20 on water-related topics. ~~During the 2011-12 interim, the~~The committee shall review the state's
21 ~~irrigation laws and rules and evaluate the process of the prioritization of water projects and~~
22 prepare a schedule of priorities with respect to water projects. The state water commission and
23 state engineer shall assist the committee in developing the schedule of priorities. The
24 committee consists of ~~thirteen~~seventeen members and the legislative management shall
25 designate the chairman of the committee. The committee shall operate according to the statutes
26 and procedure governing the operation of other legislative management interim committees and
27 include the schedule of priorities with its final report to the legislative management.

28 **(Effective after November 30, ~~2013~~2014) Garrison diversion overview.** The legislative
29 management is responsible for legislative overview of the Garrison diversion project and related
30 matters and for any necessary discussions with adjacent states on water-related topics.

1 **SECTION 18.** A new section to chapter 61-02 of the North Dakota Century Code is created
2 and enacted as follows:

3 **State water commission - Project development and financing.**

4 The state water commission shall adopt policies regarding the development and financing
5 of projects as follows:

6 1. Municipal project funding and financing, including water treatment plants. The state
7 water commission shall develop and adopt policies relating to the circumstances under
8 which a project qualifies for a grant and when the project qualifies for a loan.

9 2. Pipelines. The state water commission shall develop and adopt policies relating to:

10 a. Pipeline expansion;

11 b. Public and industrial use of water;

12 c. Cost analyses of future project development; and

13 d. Ongoing maintenance cost of current and future projects.

14 3. Technology. The state water commission shall develop and adopt policies relating to
15 the use of technology, including the use of technology for permitting and electronic
16 metering.

17 **SECTION 19. EMERGENCY.** The water and atmospheric resources line item in section 1 of
18 this Act is declared to be an emergency measure.