

WATERS

CHAPTER 406

H. B. No. 776

(Hjelle, Hauf, Skaar, Sjaastad,
(Doherty, Bier, Loewen)

BOATING REGULATIONS

AN ACT

To adopt a uniform law on boating safety, operation, registration, equipment and enforcement and to provide a penalty and to repeal section 20-0126 of the 1957 Supplement to the North Dakota Revised Code of 1943.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Declaration of Policy.) It is the policy of this state to promote safety for persons and property in and connected with the use, operation and equipment of vessels and to promote uniformity of laws relating thereto.

§ 2. Definitions.) As used in this Act, unless the context clearly requires a different meaning:

1. "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.
2. "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any federal agency successor thereto.
3. "Owner" means a person, other than a lien holder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.
4. "Waters of this state" means any waters within the territorial limits of this state.
5. "Person" means an individual, partnership, firm, corporation, association, or other entity.

6. "Operate" means to navigate or otherwise use a motorboat or a vessel.
7. "Department" means the state game and fish department.

§ 3. Operation of Unnumbered Motorboats Prohibited.)

Every motorboat propelled by a motor having ten horsepower or more on the waters of this state shall be numbered. No person shall operate or give permission for the operation of any motorboat on such waters unless the motorboat is numbered in accordance with this Act, or in accordance with applicable federal law, or in accordance with a federally-approved numbering system of another state, and unless (1) the certificate of number awarded to such motorboat is in full force and effect, and (2) the identifying number set forth in the certificate of number is displayed on each side of the bow of such motorboat.

§ 4. Identification Number.)

1. The owner of each motorboat requiring numbering by this state shall file an application for number with the department on forms approved by it. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee of three dollars. Upon receipt of the application in approved form, the department shall enter the same upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the motorboat and the name and address of the owner. The game and fish department shall pay all funds collected hereunder to the state treasurer who shall credit such funds thereof to the state game and fish fund to pay for the costs of administering this Act. The owner shall attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules and regulations of the department in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be available at all times for inspection on the motorboat for which issued, whenever such motorboat is in operation.
2. The owner of any motorboat already covered by a number in full force and effect which has been awarded to it pursuant to then operative federal law or a federally-approved numbering system of another state shall record the number prior to operating the motorboat on the waters of this state in excess of the ninety-day reciprocity period provided for in section 6 of this Act. Such recordation shall be in the manner and pursuant

- to the procedure required for the award of a number under subsection 1 of this section, except that no additional or substitute number shall be issued.
3. Should the ownership of a motorboat change, a new application form with fee prorated on a yearly basis shall be filed with the department and a new certificate of number shall be awarded in the same manner as provided for in an original award of number.
 4. In the event that an agency of the United States Government shall have in force an over-all system of identification numbering for motorboats within the United States, the numbering system employed pursuant to this Act by the department shall be in conformity therewith.
 5. The department may award any certificate of number directly or may authorize any person to act as agent for the awarding thereof. In the event that a person accepts such authorization, he may be assigned a block of numbers and certificates therefor which upon award, in conformity with this Act and with any rules and regulations of the department, shall be valid as if awarded directly by the department.
 6. All records of the department made or kept pursuant to this section shall be public records.
 7. Every certificate of number awarded pursuant to this Act shall continue in full force and effect for a period of three years unless sooner terminated or discontinued in accordance with the provisions of this Act. Certificates of number may be renewed by the owner in the same manner provided for in the initial securing of the same.
 8. The department shall fix a day and month of the year on which certificates of number due to expire during the calendar year shall lapse and no longer be of any force and effect unless renewed pursuant to this Act.
 9. The owner shall furnish the department notice of the transfer of all or any part of his interest other than the creation of a security interest in a motorboat numbered in this state pursuant to subsections 1 and 2 of this section or of the destruction or abandonment of such motorboat, within fifteen days thereof. Such transfer, destruction, or abandonment shall terminate the certificate of number for such motorboat except, that in the case of a transfer of a part interest which does not affect the owner's right to operate such motorboat, such transfer shall not terminate the certificate of number.

10. Any holder of a certificate of number shall notify the department within fifteen days, if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the department with his new address. The department may provide in its rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of an outstanding certificate to show the new address of the holder.
11. No number other than the number awarded to a motorboat or granted reciprocity pursuant to this Act shall be painted, attached, or otherwise displayed on either side of the bow of such motorboat.

§ 5. Equipment.) Every vessel shall have aboard:

1. One life preserver, buoyant vest, ring buoy or buoyant cushion of the type approved by the department in good and serviceable condition for each person on board.
2. When in operation during hours of darkness, a light sufficient to make the motorboat's presence and location known to any and all other vessels within a reasonable distance.
3. If carrying or using any inflammable or toxic fluid in any enclosure for any purpose, and if not an entirely open motorboat, an efficient natural or mechanical ventilation system which shall be capable of removing resulting gases prior to, and during, the time such motorboat is occupied by any person.
4. Such additional equipment designed to promote the safety of navigation and of persons as the department may find to be appropriate and for which it has provided in its rules and regulations.
5. No person shall operate or give permission for the operation of a vessel which is not equipped as required by this section or modification thereof.

§ 6. Exemption From Numbering Provisions of This Act.)

A motorboat shall not be required to be numbered under this Act if it is:

1. Already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally-approved numbering system of another state: provided that such boat shall not have been within this state for a period in excess of ninety consecutive days.
2. A motorboat from a country other than the United States temporarily using the waters of this state.

3. A motorboat whose owner is the United States, a state or a subdivision thereof.
4. A ship's lifeboat.
5. A motorboat belonging to a class of boats which has been exempted from numbering by the department after said agency has found that the numbering of motorboats of such class will not materially aid in their identification; and, if an agency of the federal government has a numbering system applicable to the class of motorboats to which the motorboat in question belongs, after the department has further found that the motorboat would also be exempt from numbering if it were subject to the federal law.

§ 7. Prohibited Operation.) No person shall operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any person.

No person shall operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana.

§ 8. Collisions, Accidents, and Casualties.) It shall be the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as he can do so without serious danger to his own vessel, crew, and passengers (if any), to render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident, or other casualty, and also to give his name, address, and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

In the case of collision, accident, or other casualty involving a vessel, the operator thereof, if the collision, accident, or other casualty results in death or injury to a person or damage to property in excess of one hundred dollars shall file with the department a full description of the collision, accident, or other casualty, including such information as said agency may, by regulation, require.

§ 9. Transmittal of Information.) In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the department pursuant to section 8 shall be transmitted to said official or agency of the United States.

§ 10. Water Skis and Surfboard.)

1. No person shall manipulate any water skis, surfboard or similar device without wearing a life preserver of a type approved by the department.
2. No person shall operate a vessel on any waters of this state towing a person or persons on water skis, a surfboard, or similar device, nor shall any person engage in water skiing, surfboarding, or similar activity at any time between the hours from one hour after sunset to one hour before sunrise.
3. The provisions of subsections 1 and 2 of this section do not apply to a performer engaged in a professional exhibition or a person or persons engaged in an activity authorized under section 11 of this Act.
4. No person shall operate or manipulate any vessel, tow rope or other device by which the direction or location of water skis, a surfboard, or similar device may be affected or controlled in such a way as to cause the water skis, surfboard, or similar device, or any person thereon to collide with or strike against any object or person.

§ 11. Regattas, Races, Marine Parades, Tournaments or Exhibitions.)

1. The department may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments or exhibitions on any waters of this state. It shall adopt and may, from time to time, amend regulations concerning the safety of motorboats and other vessels and persons thereon, either observers or participants. Whenever a regatta, motorboat or other boat race, marine parade, tournament or exhibition is proposed to be held, the person in charge thereof, shall, at least ten days prior thereto, file an application with the department for permission to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition. The application shall set forth the date, time and location where it is proposed to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition, and it shall not be conducted without authorization of the department in writing.
2. The provisions of this section shall not exempt any person from compliance with applicable federal law or regulation, but nothing contained herein shall be construed to require the securing of a state permit pursuant to this section if a permit therefor has been obtained from an authorized agency of the United States.

§ 12. Local Regulation Prohibited.)

1. The provisions of this Act, and of other applicable laws of this state shall govern the operation, equipment, numbering and all other matters relating thereto whenever any vessel shall be operated on the waters of this state, or when any activity regulated by this Act shall take place thereon; but nothing in this Act shall be construed to prevent the adoption of any ordinance or local law relating to operation and equipment of vessels the provisions of which are identical to the provisions of this Act, amendments thereto or regulations issued thereunder: Provided that such ordinances or local laws shall be operative only so long as and to the extent that they continue to be identical to provisions of this Act, amendments thereto or regulations issued thereunder.
2. Any subdivision of this state may, at any time, but only after public notice, make formal application to the department for special rules and regulations with reference to the operation of vessels on any waters within its territorial limits and shall set forth therein the reasons which make such special rules or regulations necessary or appropriate.
3. The department is hereby authorized to make special rules and regulations with reference to the operation of vessels on any waters within the territorial limits of any subdivision of this state.

§ 13. Owner's Civil Liability.) The owner of a vessel shall be liable for any injury or damage occasioned by the negligent operation of such vessel, whether such negligence consists of a violation of the provisions of the statutes of this state, or neglecting to observe such ordinary care and such operation as the rules of the common law require. The owner shall not be liable, however, unless such vessel is being used with his or her express or implied consent. It shall be presumed that such vessel is being operated with the knowledge and consent of the owner, if at the time of the injury or damage, it is under the control of his or her spouse, father, mother, brother, sister, son, daughter, or other immediate member of the owner's family. Nothing contained herein shall be construed to relieve any other person from any liability which he would otherwise have, but nothing contained herein shall be construed to authorize or permit any recovery in excess of injury or damage actually incurred.

§ 14. Filing of Regulations.) Regulations may be adopted pursuant to this Act under the administrative practice act.

§ 15. Enforcement.) Every game warden, sheriff's officer or highway patrolman of this state shall have the authority

to enforce the provisions of this Act and in the exercise thereof shall have the authority to stop and board any vessel subject to this Act.

§ 16. Penalty.) Any person violating any of the provisions of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment.

§ 17. Repeal.) Section 20-0126 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 16, 1959.

CHAPTER 407

S. B. No. 232
(Trenbeath and Luick)

DRAINAGE BENEFITS AND CONSOLIDATION

AN ACT

Relating to apportionment of benefits to a county, city, village or to any tract, piece or parcel of land benefited by an established drain and not included in the drainage area, or district, served by such drain when established, providing for the consolidation of established drains, and relating to power of board of drain commissioners to secure adequate outlets for such drains.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Board of Drain Commissioners May Apportion Assessments for Benefits of an Established Drain Against a County, Village or City or Any Tract of Land Benefited by an Established Drain.) Whenever a board of drain commissioners discovers or ascertains that the county, a township, city or village therein, or that any tract, parcel or piece of land is being benefited by an established drain and that the county or such township, municipality, tract, piece or parcel of land was not included in the drainage area assessed for the cost of construction and maintenance of the drain when established, the board shall commence proceedings for reassessment of lands originally assessed for the cost of establishing and constructing such drain and shall apportion and assess the part of the balance remaining unpaid, if any, of the cost of such drain, and the expense of maintenance thereof, which such county, township, city or village and each tract of land found benefited thereby should bear.

Before making such reassessment or reapportionment of benefits, the board shall hold a hearing for the purpose of determining the benefits of the drain to the county, such township, city or village and to each tract, piece or parcel of land being benefited. At least ten days notice of such hearing shall be given by publication in a newspaper having general circulation in the county and by mailing notice thereof to each owner of land assessed for the cost of construction and maintenance when the drain was established, and by mailing such notice to the governing board of the county, township, municipality and to the owner of each tract, piece or parcel of land found to be benefited since the establishment of the drain, as determined by the records in the office of the register of deeds or county treasurer. The provisions of chapter 61-21 of the 1957 Supplement to the North Dakota Revised Code of 1943 governing the original determination of benefits and assessment of costs shall apply to the reassessment and assessment of benefits carried out under the provisions of this section.

§ 2. Drains Having a Common Outlet May Be Consolidated.)

Whenever one or more drains which have from time to time been constructed, empty into a drain that supplies the outlet for waters flowing in all such drains, such drains may by resolution or order of the board of drain commissioners, if the cost of construction of such drains has been paid, be consolidated into one drain or drainage system and shall be re-numbered and may be renamed.

§ 3. Outlets.) A board of drain commissioners may, if found necessary, by process of eminent domain acquire land needed for a sufficient outlet for any established drain.

Approved March 10, 1959.

CHAPTER 408

S. B. No. 227

(Ringsak, Trenbeath, Yunker)

CLEARANCE OF NONNAVIGABLE STREAMS

AN ACT

Relating to the clearance of nonnavigable streams and to repeal section 61-0115 of the North Dakota Revised Code of 1943, relating to responsibility of riparian owners to clear beds of streams.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Removal of Obstructions in Channel of Nonnavigable Streams.) In order to remove obstructions, such as logs, fallen trees and brush from the channel or bed of a nonnavigable river or stream and thus prevent ice from gorging therein and to prevent flooding or pollution of such stream or river, the state water conservation commission, any board of county commissioners and any federal agency authorized to construct works for prevention of damage by floods or for abatement of stream pollution, may with the written consent of the occupant, to enter upon lands lying adjacent to such nonnavigable stream to remove, or cause to be removed from the bed channel or banks of such stream obstructions which prevent or hinder the free flow of water or passage of ice therein.

§ 2. Repeal.) Section 61-0115 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 2, 1959.

CHAPTER 409

S. B. No. 90

(Morgan, Garaas, Gronvold)

NOTICE OF ELECTION IN IRRIGATION DISTRICTS

AN ACT

To amend and reenact section 61-0610 of the North Dakota Revised Code of 1943, relating to notice of election in an irrigation district after district is organized and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) That section 61-0610 of the North Dakota Revised Code of 1943 be and is hereby amended and reenacted so as to read as follows:

61-0610. Notice of Election After District is Organized; Contents; Form; Failure to Give.) Not less than fifteen days before any election is held in an irrigation district under this chapter, subsequent to the election for the organization of the district, the secretary of the board of directors shall cause to be posted in at least three public places in each division of the district, a notice of election specifying when the polls will be open, when the polls will be closed, and the polling place or places. Such notice shall be in substantially the following form:

“NOTICE hereby is given that on the.....day of, 19....., an election will be held at(here designate the polling place) for the purpose of electing.....members of the board of directors and for the purpose of voting upon such questions as shall be submitted by the directors of the district. Polls will be opened at one o'clock p. m., and will be closed at five o'clock p. m. of that day.”

Failure to give such notice shall not invalidate the election of a director elected at any regular election.

§ 2. Emergency.) An emergency is hereby declared to exist and this Act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1959.

CHAPTER 410

H. B. No. 664

(Belquist, Streibel, Knudsen,
(Loftesnes, Mueller, Dick, Bopp,
(Klinger, Guy, Vinje, Link)

INCLUSION AND EXCLUSION OF LAND IN IRRIGATION DISTRICTS

AN ACT

Relating to the inclusion of land in and exclusion of land from an irrigation district and repealing sections 61-1003, 61-1004, 61-1006, 61-1007, 61-1008, 61-1009, 61-1010, 61-1011, 61-1013, 61-1014, 61-1015, 61-1017, 61-1018, 61-1019, 61-1020, 61-1021 and 61-1023 of the North Dakota Revised Code of 1943, repealing all acts and parts of acts in conflict with the provisions of this Act.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Notice of Filing of Petition and Hearing Thereof; Cost of Proceedings.) The secretary of the board of directors shall

cause notice of the filing of a petition for the inclusion of land in an irrigation district to be published once each week for two consecutive weeks in a newspaper of general circulation in each county in which the lands proposed for inclusion lie. The notice shall state the name or names of petitioners, a description of lands mentioned in the petition, and the prayer of the petition. It shall notify all persons interested in or affected by the proposed inclusion of lands in the district, to appear at the time and place specified in the notice and to show cause in writing, if any they have, why the lands described in the petition, or any part thereof, should not be included in the irrigation district. The time specified in the notice of such hearing shall not be less than five days nor more than seven days after the last publication of such notice. The board may require the petitioners to advance to the secretary of the district sufficient money to pay the estimated cost incurred in the proceedings of the proposed inclusion of land.

§ 2. Hearing of Petition; Assent of Parties.) The board of directors of the district, at the time and place mentioned in the notice of hearing of the petition, or at such time to which the hearing of the petition may be adjourned, shall proceed to hear such petition and shall receive and consider all objections presented by any elector in the district to the inclusion therein of lands described in the petition or any part thereof. The secretary of the board shall take note of all objections and include the same in his minutes of the meeting. The failure of any elector in the district to appear and object at the hearing, or to file with the board his objection in writing before or at the hearing, shall be deemed to be an assent on his part to the inclusion of such lands.

§ 3. Board May Include Lands in District.) If the board of directors deems it not for the best interest of the district that a change in its boundaries be made so as to include the lands mentioned in the petition, or any part thereof, it shall reject the petition. If it deems it for the best interest of the district, the board shall grant the petition in whole or in part and by resolution direct the chairman and the secretary of the board to issue its order including all or any part of the lands mentioned in the petition in the district, unless electors who together own at least ten percent of the whole number of acres in the district subject to assessment for irrigation costs object in writing at or before the time of hearing to the inclusion of such lands. When lands are included in a district the order of the board of directors allowing inclusion shall be filed with the state engineer and with the county auditor of each county in which such lands are situated and shall be filed and recorded in the office of the register of deeds of each such county.

§ 4. Electors May Object to Inclusion of Lands; Board May Call an Election.) If electors who together own or hold ten percent or more of the whole number of acres in the district, subject to assessments for irrigation costs, at or before the hearing on the petition, object in writing to the inclusion of the lands therein mentioned, the board shall reject the petition; however, if the board shall deem it to the best interests of the district that the land described in the petition or any part thereof be included in the district, it shall adopt a resolution to that effect and, in such resolution, shall direct the secretary to call an election to determine whether or not the electors of the district approve the action of the board.

§ 5. Ordering of Election; Notice; Conduct Thereof.) The board shall fix the time when such election shall be held. Notice of such election shall be given as provided for a regular election of the district. Such election shall be held and conducted, the ballots counted and the results of the election determined and declared in the same manner as a regular election of the district. The ballots at such election shall contain substantially the following words: "For inclusion of lands in the district" and the words "against inclusion of lands in the district." The notice of such election shall describe the lands proposed for inclusion in the district. In case a contract obligating the district has been entered into between the district and the United States, or with any department or agency thereof, or with the state, or any department or political division thereof, no change shall be made in the area embraced within the district unless a duly authorized agent of the holder of any such contract has consented thereto in writing and until such consent has been filed with the board of directors.

§ 6. Result of Election; Duty of the Board and Secretary.) If a majority of the votes cast at the election shall be against the inclusion of the land described in the resolution of the board of directors, the board shall deny the petition and shall proceed no further in the matter. If, however, a majority of the votes cast at the election shall be in favor of including such lands in the district, the board shall issue its order setting forth the filing of the petition, the action of the board thereon, the result of the election and shall order such lands added to the district. The order shall describe the lands to be included in the district. A certified copy of the order of the board shall be filed with the state engineer and the county auditor of each county in which the included lands lie. A certified copy of such order shall also be filed and recorded in the office of the register of deeds in each such county.

§ 7. Redivision of District Into Divisions.) In case of inclusion of any land within an irrigation district, the board shall,

if such district will contain after inclusion of such lands ten thousand acres or more, at least thirty days prior to the next general election, make an order dividing or redividing such district into divisions in conformity with section 61-0513 of the North Dakota Revised Code of 1943 as amended. Such divisions shall be nearly equal in size as may be practicable and shall be numbered, and one director thereafter shall be elected by and from each division.

§ 8. Petition for Exclusion of Land From Irrigation District; Bond; Contents.) The owner or owners of a tract or tracts of land in an irrigation district may file with the board of directors of the district a petition praying that such tract or tracts of land be excluded from the district. Such petition shall be accompanied by a sufficient bond conditioned that the petitioner or petitioners will pay all costs incurred by the board in connection with the proceeding resulting from the filing of such petition. The petition must describe each tract of land sought to be excluded from the district. Such petition shall be recorded in the minutes of the board.

§ 9. Notice of Hearing of Petition.) The secretary of the board of directors shall cause notice of the filing and hearing of a petition for exclusion of lands from an irrigation district to be published once each week for two consecutive weeks in a newspaper of general circulation in each county in which the lands sought to be excluded lie. The board of directors may at its discretion also cause such notice to be posted in conspicuous places in the district. The notice shall state (1) the names of petitioners, (2) the description of each tract of land mentioned in the petition, and (3) the prayer of the petition. The notice shall notify all persons interested in or affected by the proposed exclusion of lands from the district, to appear at the time and place specified therein and show cause in writing, if any they have, why the lands described in the petition should not be excluded. The time of such hearing specified in the notice thereof shall not be less than seven days nor more than ten days after the last publication of such notice.

§ 10. Board May Grant or Deny Petition for Exclusion of Lands.) If after the hearing and after considering objections, if any, to exclusion of the lands or parts thereof mentioned in the petition, the board deems it not for the best interest of the district to exclude the lands mentioned in the petition or any part thereof, it shall deny the petition. If, however, the board shall deem it for the best interests of the district to exclude such lands, or any part thereof, from the district, it shall grant the petition and by resolution direct the chairman and secretary of the board to issue an order excluding such lands from the district, unless the district has outstanding

bonds or improvement warrants or unless a contract obligating the district has been entered into with the United States or any department or agency thereof or with the state, or any department or political subdivision thereof.

§ 11. Outstanding Bonds or Improvement Warrants or Contractual Obligations; Order Excluding Lands; Assent to.) If the holders of outstanding bonds or improvement warrants, or of contracts obligating the district, consent in writing to exclusion of lands mentioned in the petition, the board of directors may by resolution direct the chairman and the secretary of the board to execute its order excluding such lands from the district. The assent in writing of holders of district bonds or improvement warrants, or of any one interested in a contract obligating the district, shall be filed with the secretary of the district and shall be copied in the minutes of the board, and such minutes or a certified copy thereof, shall be admissible in evidence with the same effect as the written assent. If such assent is not given, the board shall deny and dismiss the petition. When lands are excluded from the district a certified copy of the order of the board shall be filed in the offices of the state engineer and the county auditor of each county in which the excluded lands are situated, and filed and recorded in the office of the register of deeds of each such county.

§ 12. Election to Determine Exclusion of Land; Notice of Election; Form of Ballot; Conduct of Election.) If electors who together own at least ten percent of the whole number of acres in the district object in writing to the exclusion of such land, the board shall by resolution order an election to submit to the electors of the district the question whether or not the lands mentioned in the petition, or any part thereof, shall be excluded. The secretary of the board shall cause notice of such election to be published for two consecutive weeks in a newspaper of general circulation in each county in which territory of the district lies. Such election shall be held not more than ten days nor less than seven days after the final and last publication of such notice of election. The board of directors may, at its discretion, also cause such notices of election to be posted in conspicuous places in the district. The ballot at such election shall be substantially in the following form:

“Shall the tracts of land described in the notice of this election be excluded from the irrigation district?

Yes (for exclusion of lands).....

No (against exclusion of lands).....”

The election shall be conducted substantially as a general election of an irrigation district is conducted.

§ 13. **Result of Election; Order Excluding Lands.**) If at an election for exclusion of lands from an irrigation district, a majority of the votes cast shall be against exclusion, the board shall dismiss the petition and proceed no further in the matter, but if a majority of such votes shall be in favor of excluding such lands from the district, the board shall issue its order setting forth the filing of the petition, the action of the board thereon, the result of the election and shall order such lands excluded from the district. A certified copy of such order shall be filed in the offices of the state engineer and the county auditor of each county in which the excluded lands lie and shall be filed and recorded in the office of the register of deeds of each such county.

§ 14. **Redivision of District.**) When lands are excluded from an irrigation district, if the district is divided into divisions, the board of directors thereof shall issue an order dividing the district into divisions in conformity with section 61-0513 of the North Dakota Revised Code of 1943 as amended. Such divisions shall be nearly equal in size as practicable, shall be numbered and thereafter one director shall be elected from each such division.

§ 15. **Repeal.**) That sections 61-1003, 61-1004, 61-1006, 61-1007, 61-1008, 61-1009, 61-1010, 61-1011, 61-1013, 61-1014, 61-1015, 61-1017, 61-1018, 61-1019, 61-1020, 61-1021 and 61-1023 of the North Dakota Revised Code of 1943 and all acts and parts of acts in conflict with the provisions of this Act are hereby repealed.

Approved March 13, 1959.

CHAPTER 411

S. B. No. 122
(George)

DEPOSIT OF FUNDS OF WATER CONSERVATION AND FLOOD CONTROL DISTRICTS

AN ACT

To amend and reenact section 61-1614 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the deposit of funds of water conservation and flood control districts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 61-1614 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-1614. County Treasurer to Collect and Remit Taxes to District Treasurer. Deposit of District Funds.) The treasurer of each county in which a water conservation and flood control district, or a part of such district, is situated shall collect all district taxes and special assessments together with penalty and interest thereon, if any, in the same manner as county taxes are collected, and shall within twenty days after the close of each month pay to the treasurer of the district taxes and assessments collected by him during the preceding month, and shall notify the secretary of the district of such payment. The district treasurer shall on or before the twentieth day of each month report to the chairman of the board the amount of money in the district treasury, the amount of receipts in the preceding month and items and amounts of expenditures. At each meeting of the board the treasurer shall submit to the board a statement of the district's finances.

All collections received by the treasurer of the district shall be deposited by him in the Bank of North Dakota or such other state or national bank in the state as the board shall direct to the credit of the district. No claim shall be paid by the treasurer until approved by the board of commissioners, and then only upon warrants signed by the chairman and countersigned by the treasurer of the board. All claims against the district shall be verified in the same manner as claims against a county.

Approved March 4, 1959.

CHAPTER 412

S. B. No. 154

(Morgan, Meidinger, Klefstad, Kee,
(Wadeson, Vendsel, Gronvold)

GARRISON CONSERVANCY DISTRICT

AN ACT

Providing for the election and terms of office of directors of the Garrison Diversion Conservancy District, relating to powers and duties of its board of directors, amending sections 61-2405, 61-2408 and 61-2409 of the 1957 Supplement to the North Dakota Revised Code of 1943 and levying a tax of one-tenth of one mill for administrative purposes and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Election of Directors of the Garrison Diversion Conservancy District.) In 1960 and thereafter a director of the

Garrison Diversion Conservancy District shall be nominated and elected in each county in the district. Any person who is a resident and qualified elector of the county who aspires to the office of director of the Garrison Diversion Conservancy District shall, not more than sixty days or less than forty days before four o'clock p. m. of the fortieth day prior to any primary election preceding a general election at which a director of the district is to be elected, present to the county auditor a petition giving his name, post office address, the title of the office "Director of the Garrison Diversion Conservancy District", and containing the signatures of not less than fifty or more than three hundred qualified electors of the county to which each signer has added his residence with street number, if any, and the date of signing.

The petition shall be accompanied by an affidavit substantially as follows:

STATE OF NORTH DAKOTA, }
 County of } ss.

I,, being duly sworn, depose and say that I reside in the county of.....and State of North Dakota; that I am a qualified voter therein; that I am a candidate for nomination to the office of director of the Garrison Diversion Conservancy District to be chosen at the primary election to be held on the.....day of, 19....., and I do hereby request that my name be printed upon the no-party primary election ballot as provided by law, as a candidate for said office.

Subscribed and sworn to before me this.....day of, 19.....

Notary Public, North Dakota

Upon receipt of the petition the county auditor shall without fee place the name of the aspirant on the no-party primary election ballot as a candidate for the aforesaid office of director. The two candidates receiving the highest number of votes if more than two are running shall be nominated.

The names of the candidates so nominated at the primary election shall be placed on the no-party ballot at the ensuing general election and the candidate receiving the highest number of votes shall be duly elected.

At the primary and general elections votes shall be canvassed, returned certified and certificates of nomination and election issued in the manner provided by law for the nomination and election of county officers.

§ 2. **Amendment.**) That section 61-2405 of the 1957 Supplement to the North Dakota Revised Code of 1943 be and the same is hereby amended and reenacted so as to read as follows:

61-2405. Term of Office of Directors; Oath of Office; Bonds.) Each member of the board of directors of the district shall hold office for a term of three years, and until the successor in office has been appointed and qualified, provided, that one-third of the board first appointed shall hold office for a term of three years, one-third for a term of two years, and the other directors shall hold office for a term of one year, from the first day of July next following the date of their appointment. The term of the directors first appointed shall be determined by lot when they meet to organize as provided in section 61-2403 hereof. Before assuming the duties of the office, each director shall take and subscribe the oath of office prescribed by law for civil officers. The district treasurer shall be bonded in such amount as the board may prescribe.

A member of the board of directors of the district elected in 1960 and thereafter shall hold office for a term of four years and until his successor has been duly elected and qualifies, but one-half of the directors elected at the general election in 1960 shall hold office for a term of two years, and one-half shall hold office for four years. Terms of office of directors elected at the first election shall be determined by lot. Directors elected after 1960 shall hold office for a term of four years. If the office of any director shall become vacant by reason of the failure of any director elected at any election to qualify or for any other reason, his successor shall be appointed to fill the vacancy by the board of county commissioners of the county in which the vacancy occurs. A director appointed to fill a vacancy shall hold office for the unexpired term of the director whose office has become vacant. A director shall, however, hold office until his successor has been elected and qualifies.

Members of the board of directors elected in 1960 shall assume office on the first Monday in January 1961 and shall replace all members of the board previously appointed. They shall meet at a time and place designated by the secretary of the replaced board of directors, and if he is unable to act, by the secretary of the state water conservation commission, and shall organize in the same manner as the first board of directors was organized. The secretary of the replaced board and any other person employed by that board shall continue in their positions until the new board shall otherwise provide.

§ 3. **Amendment.**) That section 61-2408 of the 1957 Supplement to the North Dakota Revised Code of 1943 be amended and reenacted so as to read as follows:

61-2408. Powers and Duties of the District Board of Directors.) The board of directors of the Garrison Diversion Conservancy District shall have the power:

1. To sue and be sued in the name of the district;
2. To exercise the power of eminent domain in the manner provided by the title Judicial Remedies for the purpose of acquiring and securing any right, title, interest, estate or easement necessary to carry out the duties imposed by this Act (chapter), and particularly to acquire the necessary rights in land for the construction of dams, reservoirs, canals, hydroplants, irrigation systems and any other device for the conservation, storage and use of water, and to secure the right of access to such works and the right of the public access to the waters impounded thereby or emanating therefrom;
3. To accept funds, property and services or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding and promoting the construction, maintenance and operation of the Garrison Diversion Unit, or any part thereof;
4. To cooperate and contract with the state water conservation commission and any political subdivision and municipality in promoting the establishment and construction of the Garrison Diversion Unit, or any part thereof;
5. To furnish assurances of cooperation and as principal and guarantor or either to enter into a contract, or contracts, with the United States of America, or any department or agency thereof, and with public corporations of North Dakota for the performance of obligations entered into with the United States for the construction, operation or maintenance of works of the Garrison Diversion Unit of the Missouri River Basin Project as defined by Act of Congress, approved December 22, 1944 (Stat. 887), and acts amendatory thereof or supplementary thereto;
6. To equip, maintain and operate an office and principal place of business for the district;
7. To appoint and fix the compensation of such employees as the board shall deem necessary to conduct the business and affairs of the district;
8. To appoint from their number an executive committee and vest the same with such powers and duties as the board may from time to time delegate thereto, in order to facilitate the duties and work of the board in connection with the business affairs involved in the development, construction, operation and maintenance of the Garrison Diversion Unit, or any part thereof;

9. In 1961 and each year thereafter to levy a tax of not to exceed one mill annually on each dollar of taxable valuation in the district for the payment of the expenses of the district, including, but not limited to, per diem, mileage and other expenses of directors, technical, administrative, clerical, operating and other expenses of the district office, and for the cumulation of a continuing fund through such levy for the performance of obligations entered into with the United States of America in connection with the construction, operation and maintenance of works of the said Garrison Diversion Unit of the Missouri River Basin Project. All moneys collected pursuant to such levy shall be deposited in the Bank of North Dakota to the credit of the district and shall be disbursed only as herein provided. The amount which may be expended or obligated in any one year for operating the district, exclusive of disbursements in connection with obligations to the federal government, shall not exceed ten percent of the maximum permissible;
10. To enter into a contract or contracts for a supply of water from the United States and to sell, lease and otherwise contract to furnish any such water for beneficial use to irrigation districts, persons or other public and private corporations within the district;
11. To operate and maintain or to contract for the operation and maintenance of water supply and irrigation works serving lands and uses within the district, and in connection therewith, to maintain a reserve fund to meet major unforeseen costs of operation and maintenance; and
12. To accept, on behalf of the district, appointment of the district as fiscal agent of the United States and authorization to make collections of money for and on behalf of the United States in connection with the Garrison Diversion Unit.

§ 4. **Amendment.**) That section 61-2409 of the 1957 Supplement to the North Dakota Revised Code of 1943 be amended and reenacted so as to read as follows:

61-2409. District Budget; Determination of Amount To Be Levied; Adoption of Levy; Limitation; Levy of Taxes in 1959 and 1960.) Until organization of the board of directors of the Garrison Diversion Conservancy District elected at the general election in November, 1960, there shall be levied in 1959 and 1960 for administrative purposes of the district on all property subject to taxation therein one-tenth of one mill.

The board of directors of the district elected in 1960 shall at the time of the organization of the board, and in July an-

nally thereafter, estimate and itemize all the expenses and obligations of the district, including, but not limited to, expenses of directors, expenses of operating the office, debt service and retirement, and obligations and liabilities to the United States for which provision must be made. After the district shall have entered into any contract with the United States, the board of directors may include in such budget funds deemed necessary to create a reserve fund to meet future payments under such contract. Upon the completion and adoption of such budget, the board of directors shall make a tax levy in an amount sufficient to meet such budget. Such levy shall be in the form of a resolution, adopted by a majority vote of the members of the board of directors of the district. Such resolution shall levy in mills, but not exceeding one mill, sufficient to meet all the expenses, obligations and liabilities of the district as provided in the budget.

§ 5. Emergency.) An emergency is hereby declared to exist and this Act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1959.