

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1023

Page 1, line 4, replace "a statement" with "statements" and after "enact" insert "a new subsection to section 61-02-14,"

Page 1, line 5, after "61-02.1" insert a comma

Page 1, line 6, replace "and" with a comma and after "bonds" insert ", and the powers and duties of the state water commission"

Page 1, line 7, replace "sections 54-27-25 and" with "subsections 4 and 5 of section 61-01-26 and section" and replace the third "and" with a comma

Page 1, line 8, replace "section" with "sections 10 and" and after "Laws" insert ", and section 2 of House Bill No. 1151, as approved by the fifty-seventh legislative assembly"

Page 1, line 9, after "fund" insert ", sharing costs for water quality protection programs", after "Dakota" insert ", the statewide water development program", and remove "and to"

Page 1, line 10, after "bonds" insert ", and construction of a Devils Lake outlet" and replace "provide an exemption from payment of fees" with "transfer funds from the water development trust fund to the general fund; to provide requirements for the Fargo flood control project"

Page 1, line 20, replace "6,503,485" with "7,503,485"

Page 1, line 22, replace "23,710,864" with "28,710,864"

Page 2, line 2, replace "special funds appropriation" with "all funds" and replace "93,878,341" with "99,878,341"

Page 2, after line 2, insert:

"Less estimated income	<u>90,144,521</u>
Total general fund appropriation	\$9,733,820

**SECTION 2. STATEWIDE WATER DEVELOPMENT PROJECTS.** The amount of \$200,000, or so much of the funds as may be necessary, included in the statewide water development projects line item in section 1 of this Act is for cost-sharing for projects authorized under section 319 of the Federal Water Pollution Control Act [Pub. L. 100-4; 100 Stat. 52; 33 U.S.C. 1329] for the control of nonpoint sources of pollution for the biennium beginning July 1, 2001, and ending June 30, 2003."

Page 2, line 7, replace "\$47,365,504" with "\$37,631,684"

Page 5, replace lines 1 through 31 with:

**"SECTION 10. AMENDMENT.** Subsections 4 and 5 of section 61-01-26 of the North Dakota Century Code are amended and reenacted as follows:

4. Accruing benefits from these resources can best be achieved for the people of the state through the development, execution, and periodic updating of comprehensive, coordinated, and well-balanced short-term and long-term plans and programs for the conservation and development of such resources by the departments and agencies of the state having responsibilities therefor. The plans and programs for the conservation and development of these resources may include implementation of a program to cost-share with local sponsors of water quality improvement projects.
5. Adequate implementation of such plans and programs shall be provided by the state through cost-sharing and cooperative participation with the appropriate federal and state departments and agencies and political subdivisions within the limitation of budgetary requirements and administrative capabilities, including consideration of cost-sharing for water quality improvement projects."

Page 6, remove lines 1 through 8

Page 7, after line 10, insert:

**"SECTION 12. AMENDMENT.** Section 2 of House Bill No. 1151, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

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

**Devils Lake outlet - Eminent domain - Design and build construction.** In the construction of an outlet from Devils Lake, the commission:

1. Shall make a reasonable and diligent effort to acquire the property interests needed by negotiation. The commission is deemed to have made a reasonable and diligent effort if it has contacted or attempted to contact the owner of the property interest needed at least three times over a thirty-day period. If the commission is unable to acquire the interest needed by negotiation, then it may take possession of the interests needed after making a written offer to purchase and depositing the amount of the offer with the clerk of the district court of the county in which the property interest is located. The amount of the offer must be at least the average value per acre of comparable property. The clerk shall immediately notify the property owner in writing of the deposit. Within thirty days after receiving notice, the property owner may appeal to district court by serving notice of appeal upon the commission and the matter must be tried in the manner prescribed under chapter 32-15.
2. May issue, when it determines that it would be advantageous to the state or that it is necessary in order to construct the outlet in a timely manner, a request for proposals to design and build the outlet. The request for proposals must require that each proposal submitted contain a single price that includes the cost to design and build the outlet. Neither chapter 48-01.1 or 54-44.7, nor any other law requiring competitive bidding applies to the construction of the outlet if the commission determines to use the design and build procedure. The commission shall select the proposal that it determines is the most advantageous to the state.

**SECTION 13.** A new subsection to section 61-02-14 of the North Dakota Century Code is created and enacted as follows:

To consider cost-sharing for water quality improvement projects."

Page 7, line 21, replace "thirty-six" with "twenty"

Page 7, line 22, remove "three hundred thousand"

Page 8, line 12, replace "10" with "14"

Page 8, line 29, replace "\$36,300,000" with "\$20,000,000" and replace "11" with "14"

Page 9, line 3, after the period insert "Contracts for water projects to be paid from the water development trust fund may initially be issued up to an amount equal to seventy-five percent of the amount appropriated from that fund for projects. Contracts for the remaining twenty-five percent appropriated may only be issued to the extent uncommitted funds are available in the water development trust fund."

Page 9, line 12, replace "14" with "17"

Page 9, replace lines 13 through 18 with:

**"SECTION 19. TRANSFER.** Notwithstanding section 54-27-25, during the biennium beginning July 1, 2001, and ending June 30, 2003, the director of the office of management and budget may transfer \$9,733,820 from the water development trust fund to the general fund.

**SECTION 20.** Section 10 of chapter 535 of the 1999 Session Laws is amended and reenacted as follows:

**SECTION 10. STATEWIDE WATER DEVELOPMENT PROGRAM - LEGISLATIVE INTENT.** The state water commission shall develop a new comprehensive statewide water development program with priorities based upon expected funds available from the water development trust fund for water development projects. This program may include water quality improvement projects. It is the intent of the legislative assembly that the state water commission consider the delivery of water for usable purposes a priority for water development projects after the projects authorized in section 3 of this Act are completed."

Page 9, after line 24, insert:

**"SECTION 22. LEGISLATIVE INTENT - ADMINISTRATIVE EXPENSES.** It is the intent of the fifty-seventh legislative assembly that the water development trust fund not be used as a source of funding for state water commission administrative expenses after the 2001-03 biennium.

**SECTION 23. FARGO FLOOD CONTROL - REQUIREMENTS.** Except for planning, the state water commission may not issue bonds or provide funding for Fargo flood control projects until applicable permits are issued, southeast Cass water resource district has approved the project, and a public hearing process is held on the approved project plan. The total authorization consists of \$500,000 for expenses for preliminary study and planning of the project and \$5,000,000 for project construction expenses."

Re-number accordingly

#### **STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1023 - State Water Commission - Senate Action**

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$8,966,759	\$9,066,759		\$9,066,759
Operating expenses	6,477,485	6,503,485	\$1,000,000	7,503,485
Equipment	514,833	499,833		499,833
Capital improvements	23,710,864	23,710,864	5,000,000	28,710,864
Grants	22,625,067	22,475,067		22,475,067
Cooperative research	3,050,000	3,050,000		3,050,000
Statewide water development projects	62,300,000	67,800,000		67,800,000
Total all funds	\$127,645,008	\$133,106,008	\$6,000,000	\$139,106,008
Less estimated income	<u>127,645,008</u>	<u>133,106,008</u>	<u>(3,733,820)</u>	<u>129,372,188</u>
General fund	\$0	\$0	\$9,733,820	\$9,733,820
FTE	83.00	84.00	0.00	84.00

### Dept. 770 - State Water Commission - Detail of Senate Changes

	CHANGE FUNDING FOR ADMINISTRATIVE EXPENSES <sup>1</sup>	PROVIDE AUTHORIZATION FOR SOUTHWEST PIPELINE PROJECT <sup>2</sup>	TOTAL SENATE CHANGES
Salaries and wages			
Operating expenses		\$1,000,000	\$1,000,000
Equipment			
Capital improvements		5,000,000	5,000,000
Grants			
Cooperative research			
Statewide water development projects			
Total all funds	\$0	\$6,000,000	\$6,000,000
Less estimated income	<u>(9,733,820)</u>	<u>6,000,000</u>	<u>(3,733,820)</u>
General fund	\$9,733,820	\$0	\$9,733,820
FTE	0.00	0.00	0.00

<sup>1</sup> This amendment transfers funding for administrative expenses of the State Water Commission from the water development trust fund to the general fund and provides for a transfer of funds from the water development trust fund to the general fund in the amount of \$9,733,820.

<sup>2</sup> Authorizes \$6 million of federal grant moneys to be used for construction of southwest pipeline.

Section 2 authorizes \$200,000 of funds already approved for water development projects for Section 319 of the Federal Water Pollution Control Act for control of nonpoint sources of pollution.

Section 9 of the engrossed bill relating to the tobacco settlement trust fund is removed as the expenses of the State Water Commission are to be paid from the general fund.

This amendment also requires the State Water Commission to offer at least the average value per acre of comparable property for property acquired under eminent domain for an outlet from Devils Lake (Section 12).

The amendment changes Section 14 and limits the capital bonding for water projects to \$20 million and requires in Section 16 that water projects funded from the water development trust fund cannot exceed 75 percent of the amount appropriated from the fund and the remaining 25 percent may be appropriated only to the extent funds are available in the water development trust fund.

In Section 19 a transfer is authorized from the water development trust fund to the general fund in the amount of \$9,733,820, the administrative expenses of the State Water Commission. The \$5,500,000 authorized for Fargo flood control projects includes \$500,000 for preliminary study and planning of the project and \$5,000,000 for construction of the project as provided for in Section 23.

Section 20 includes language that programs for the conservation and development of state water resources may include cost-sharing with local sponsors of water quality improvement projects.

Legislative intent is added that the water development trust fund not be used to fund administrative expenses of the State Water Commission in future bienniums (Section 22).

Section 23 is added requiring permits to be issued, approval from the Southeast Cass Water Resource District, and a public hearing process prior to issuance of bonds or funding being provided for Fargo flood control projects.