

Sixty-third  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE BILL NO. 2359

Introduced by

Senators Burckhard, Luick, Triplett

Representatives Dosch, Kempenich, M. Nelson

1 A BILL for an Act to create and enact sections 61-40-10 and 61-40-11 of the North Dakota  
2 Century Code, relating to the western area water supply authority; and to amend and reenact  
3 sections 61-40-01 and 61-40-06 of the North Dakota Century Code, relating to the western area  
4 water supply authority.

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

6 **SECTION 1. AMENDMENT.** Section 61-40-01 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **61-40-01. Legislative declarations - Authority of western area water supply authority.**

9 The legislative assembly declares that many areas and localities in western North Dakota  
10 do not enjoy adequate quantities of high-quality drinking water; that other areas and localities in  
11 western North Dakota do not have sufficient quantities of water to ensure a dependable,  
12 long-term domestic or industrial water supply; that greater economic security and the protection  
13 of health and property benefits the land, natural resources, and water resources of this state;  
14 and that the promotion of the prosperity and general welfare of all of the people of this state  
15 depend on the effective development and utilization of the land and water resources of this  
16 state and necessitates and requires the exercise of the sovereign powers of this state and  
17 concern a public purpose. To accomplish this public purpose, it is declared necessary that a  
18 water authority to treat, store, and distribute water to western North Dakota be established to  
19 provide for the supply and distribution of water to the people of western North Dakota for  
20 purposes, including domestic, rural water, municipal, livestock, industrial, oil and gas  
21 development, and other uses, and provide for the future economic welfare and prosperity of the  
22 people of this state, and particularly the people of western North Dakota, by the creation and  
23 development of a western area water supply project for beneficial and public uses. The western  
24 area water supply authority may acquire, construct, improve, develop, and own water supply

1 infrastructure and may enter water supply contracts with member cities, water districts, and  
2 private users, such as oil and gas producers, for the sale of water for use within or outside the  
3 authority boundaries or the state. The western area water supply authority shall consider in the  
4 process of locating industrial water depots the location of private water sellers so as to minimize  
5 the impact on private water sellers. The authority shall limit industrial sales to the twelve water  
6 depots approved by the state water commission, and may construct or authorize lateral  
7 pipelines, taps, truck ports, or other outlets with the approval of the state water commission.

8 **SECTION 2. AMENDMENT.** Section 61-40-06 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **61-40-06. Oversight of authority projects.**

11 The authority shall comply with the policy of the state water commission ~~as the policy~~  
12 ~~relates to bidding, planning, and construction of the project.~~ The policy must include provisions  
13 for insurance, including general liability insurance, in adequate amounts. The authority shall  
14 report to and consult with the state water commission regarding the operation and financial  
15 status of the project, as requested by the state water commission. ~~In relation to initial~~  
16 ~~construction of the system and debt repayment, the~~ The authority shall present the overall plan  
17 and contract plans and specifications for the project to the state water commission for approval.  
18 The state water commission may require the authority to provide value engineering reviews for  
19 segments of the project. The attorney general shall assist the authority at the request of the  
20 state water commission. If the twenty-five million dollar zero interest loan from the state water  
21 commission has not been repaid, without the written consent of the state water commission the  
22 authority may not sell, lease, abandon, encumber, or otherwise dispose of any part of property  
23 used in a water system of the authority if the property is used to provide revenue except upon  
24 written agreement between the authority and the state water commission. The authority and  
25 participating member entities may not seek to restrict or oppose other uses of water, either  
26 private or public, for industrial purposes.

27 **SECTION 3.** Section 61-40-10 of the North Dakota Century Code is created and enacted as  
28 follows:

29 **61-40-10. Limitations and conditions.**

30 The western area water supply authority and independent water producers must follow the  
31 following limitations and conditions for any of the limitations and conditions to apply.

- 1       1. The authority and the participating member entities may not bring any claim under  
2       7 U.S.C. 1926(b) which would restrict or oppose other public or private uses of water  
3       from Lake Sakakawea or other waters of the state for industrial purposes.
- 4       2. The authority and participating member entities may not sell directly or indirectly for  
5       industrial purposes more than thirty percent of the industrial water sales in the same  
6       area in the previous year as determined by the state water commission unless the  
7       percentage is exceeded solely by sales within ten miles [16.09 kilometers] of the  
8       twelve approved water depots of the authority.
- 9       3. Independent water producers may not sell water for industrial purposes within a  
10      ten-mile [16.09 kilometers] radius from any of the twelve approved water depots of the  
11      authority unless the producer has facilities located within the ten mile  
12      [16.09 kilometers] radius from which the producer is selling water for industrial use  
13      before July 1, 2013, under a water permit issued before July 1, 2013.

14       **SECTION 4.** Section 61-40-11 of the North Dakota Century Code is created and enacted as  
15 follows:

16       **61-40-11. Application of law.**

17       Sections 6-09.4-22 and 61-02-68.18 do not apply to the western area water supply  
18 authority.