

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1060

Introduced by

Energy and Natural Resources Committee

(At the request of the State Water Commission)

1 A BILL for an Act to amend and reenact sections 61-36-01, 61-36-02, and 61-36-04 of the
2 North Dakota Century Code, relating to the composition and duties of the Devils Lake outlets
3 management advisory committee; and to repeal section 61-36-03 of the North Dakota Century
4 Code, relating to compensation and expenses of the Devils Lake outlet management advisory
5 committee.

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

7 **SECTION 1. AMENDMENT.** Section 61-36-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **61-36-01. Devils Lake outletoutlets management advisory committee - Members -**
10 **Terms - Vacancies.**

11 1. The Devils Lake outletoutlets management advisory committee consists of the state
12 engineer or the state engineer's designee, one member appointed by the Red River
13 joint water resource board, one member appointed by the Devils Lake joint water
14 resource board, one member appointed by the upper Sheyenne River joint water
15 resource board, one county commissioner from Ramsey County appointed by the
16 Ramsey County board of county commissioners, one county commissioner from
17 Benson County appointed by the Benson County board of county commissioners, a
18 representative of the Spirit Lake Nation appointed by the tribal council of the Spirit
19 Lake Nation, and three members appointed by the governor. The members appointed
20 by the governor must represent the interests affected by downstream impacts of
21 operating an outlet to Devils Lake. An appointed member may designate a substitute
22 to serve in that person's capacity at such meetings that person may be unable to
23 attend. Except for the first term, all appointed members serve for a term of four years
24 or until their successors are appointed and qualified. For the first term, two of the

1 members from the Devils Lake basin must serve two-year terms and two of the other-
2 appointed members must serve two-year terms, provided that at least one member-
3 representing the interests affected by downstream impacts of operating an outlet to
4 Devils Lake must remain on the committee for a four-year term. The chairman shall
5 hold the first meeting within two months after August 1, 1997.:

- 6 a. The governor or governor's designee;
- 7 b. A representative from Benson County appointed by the governor;
- 8 c. A representative from Ramsey County appointed by the governor;
- 9 d. A representative from Towner County appointed by the governor;
- 10 e. A representative from Nelson County appointed by the governor;
- 11 f. A representative from the Devils Lake joint water resource board appointed by
12 the governor;
- 13 g. A representative from the Spirit Lake Nation appointed by the governor;
- 14 h. A representative from the city of Devils Lake appointed by the governor;
- 15 i. A representative from Barnes County appointed by the governor;
- 16 j. A representative from Valley City appointed by the governor;
- 17 k. A representative from Lisbon or Fort Ransom appointed by the governor;
- 18 l. A representative from Fargo appointed by the governor;
- 19 m. A representative from Grand Forks appointed by the governor;
- 20 n. The governor of Minnesota or a designee appointed by the governor of
21 Minnesota;
- 22 o. The premier of Manitoba or the premier's designee; and
- 23 p. A member of the house and a member of the senate ~~who represent~~, one
24 representing the Devils Lake basin region and one representing the downstream
25 region, appointed by the chairman of the legislative management.

- 26 2. All appointed members serve for a term of four years or until their successors are
27 appointed and qualified.
- 28 3. Terms expire on the first day of July. Each appointed member must be a qualified
29 elector of the state and is subject to removal by judicial procedure.
- 30 4. The terms of appointed members must be staggered by lot so that at least three of the
31 terms expire each year.

1 5. Members of the committee may be reappointed for additional terms and except for the
2 legislative members, serve at the pleasure of the governor.

3 6. A vacancy must be filled in the same manner as original appointments for the
4 remainder of the unexpired term. Before entering upon the discharge of official duties,
5 each appointed member shall take, subscribe, and file with the secretary of state the
6 oath prescribed for civil officers.

7 **SECTION 2. AMENDMENT.** Section 61-36-02 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **61-36-02. Chairman - Quorum - Meetings.**

10 The state engineer~~governor or governor's designee~~ is the chairman of the committee. A
11 majority of the members of the committee constitutes a quorum. The committee ~~may~~shall hold
12 meetings at the call of the chairman ~~or at the request of three members~~before initial operation of
13 ~~the committee~~outlets, and at such other times and places as the chairman provides~~deems~~
14 necessary.

15 **SECTION 3. AMENDMENT.** Section 61-36-04 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 ~~61-36-04. Development of an annual operating plan~~**Duties of the committee.**

18 ~~The committee shall develop an annual operating plan for the operation of the Devils Lake~~
19 ~~outlet. The plan must specify the lake elevation at which pumping will take place. In developing~~
20 ~~the annual operating plan, the committee shall consider spring runoff forecasts, weather~~
21 ~~forecasts, summer flooding potential, downstream impacts, including water quality and~~
22 ~~streambank erosion, flooding, and any other factors the committee determines should be~~
23 ~~considered. The committee must recommend a plan of operation to the state water commission~~
24 ~~within two weeks following the first official numeric national weather service spring snowmelt~~
25 ~~flood outlook. If a majority of members are unable to agree on a plan, one or more minority~~
26 ~~plans may be submitted to the state water commission. The state water commission may~~
27 ~~approve, recommend changes, or make changes to the annual operating plan~~advise the
28 governor and the state water commission regarding operations of all Devils Lake outlets. The
29 committee may recommend criteria for operation of each outlet based on outflow volumes,
30 water quality considerations, and the risk of an overflow of Devils Lake. Any recommendations
31 developed by the committee must receive support from ~~nineteen~~ of the ~~fifteen~~seventeen

1 members of the committee before submission to the governor or state water commission. Any
2 recommendation not receiving majority support but receiving support from at least five members
3 may be submitted as a minority recommendation.

4 **SECTION 4. REPEAL.** Section 61-36-03 of the North Dakota Century Code is repealed.