Sixty-fifth Legislative Assembly of North Dakota

SENATE BILL NO. 2047

Introduced by

Legislative Management

(Water Topics Overview Committee)

- 1 A BILL for an Act to amend and reenact subsection 2 of section 61-16.1-09 of the North Dakota
- 2 Century Code, relating to the authority of water resource boards to exercise the power of quick
- 3 take eminent domain.

4 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

5 SECTION 1. AMENDMENT. Subsection 2 of section 61-16.1-09 of the North Dakota

6 Century Code is amended and reenacted as follows:

- 7 2. Exercise the power of eminent domain in the manner provided by as follows:
- 8 Except as permitted under subdivision b, the board shall comply with title 32 for a. 9 the purpose of acquiring and securing by eminent domain any rights, titles, 10 interests, estates, or easements necessary or proper to carry out the duties 11 imposed by this chapter, and particularly to acquire the necessary rights in land 12 for the construction of dams, flood control projects, and other water conservation, 13 distribution, and supply works of any nature and to permit the flooding of lands, 14 and to secure the right of access to such dams and other devices and the right of 15 public access to any waters impounded thereby. Provided, however, that when 16 If the interest sought to be acquired is a right of way for any project b. (1) 17 authorized in this chapter for which federal or state funds have been 18 appropriated, the district, after making a written offer to purchase the right of 19 way and depositing may acquire the right of way by quick take eminent 20 domain as authorized by section 16 of article I of the Constitution of North 21 Dakota, after the district attempts to purchase the right of way by: 22 Sending the landowner an appraisal and written offer for just (a) 23 compensation, which includes a specific description of the exact 24 location of the right of way, by certified mail or commercial delivery

17.0224.03005

1			requiring a signed receipt, and receiving the signed receipt or
2			documentation of constructive notice.
3		<u>(b)</u>	Sending the landowner a written request for a meeting by certified
4			mail or commercial delivery requiring a signed receipt if there is no
5			agreement regarding compensation or no response to the written offer
6			within fifteen days of receipt, and receiving the signed receipt or
7			documentation of constructive notice.
8		<u>(c)</u>	Sending the landowner a written notice, by certified mail or
9			commercial delivery requiring a signed receipt, of intent to take
10			possession of the right of way in thirty days if there is no agreement
11			regarding compensation or no response to the written request for a
12			meeting within thirty days of receipt, and receiving the signed receipt
13			or documentation of constructive notice.
14	<u>(2)</u>	<u>Any</u>	written communication to the landowner must include contact
15		infor	mation for responding to the board and a description of the required
16		nego	tiation timeline.
16 17	<u>(3)</u>	•	<u>ptiation timeline.</u> gotiation efforts fail, the district shall request approval from the board of
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17 18 19 20	<u>(3)</u>	If ne cour take rece and	gotiation efforts fail, the district shall request approval from the board of ity commissioners of the county in which the right of way is located to possession of the right of way by quick take eminent domain. After iving the request, the county commissioners shall hold a public meeting
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1	<u>(4)</u>	Within thirty days after notice has been given in writing to the landowner by
2		the clerk of the district court that a deposit has been made for the taking of a
3		right of way as authorized in this subsection, the owner of the property taken
4		may appeal to the district court by serving a notice of appeal upon the
5		acquiring agency, and the matter must be tried at the next regular or special
6		term of court with a jury unless a jury be waived, in the manner prescribed
7		for trials under chapter 32-15.
8	(5)	If ownership of a right of way has not terminated, ownership of a right of way
9		acquired under this subdivision terminates automatically when the district no
10		longer needs the right of way for the purpose for which it was acquired.