

**State Water Commission
Budget No. 770
House Bill Nos. 1020 and 1269**

	FTE Positions	General Fund	Other Funds	Total
2013-15 executive budget (bills as introduced)	90.00	\$17,779,644	\$809,359,388	\$827,139,032
2013-15 legislative appropriations	90.00	0	859,045,805	859,045,805
Legislative increase (decrease) to executive budget	0.00	(\$17,779,644)	\$49,686,417	\$31,906,773
Legislative increase (decrease) to 2011-13 appropriations	3.00	(\$14,995,199)	\$364,625,584	\$349,630,385

ONGOING AND ONE-TIME GENERAL FUND APPROPRIATIONS

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2011-13 legislative appropriations	\$14,995,199	\$0	\$14,995,199
2013-15 legislative appropriations	0	0	0
2013-15 legislative increase (decrease) to 2011-13 appropriations	(\$14,995,199)	\$0	(\$14,995,199)
Percentage increase (decrease) to 2011-13 appropriations	(100.0%)	N/A	(100.0%)
2013-15 legislative increase (decrease) to executive budget	(\$17,491,444)	(\$288,200)	(\$17,779,644)
Percentage increase (decrease) to executive budget	(100.0%)	(100.0%)	(100.0%)

SUMMARY OF LEGISLATIVE CHANGES TO THE EXECUTIVE BUDGET AND MAJOR FUNDING ITEMS

Salaries and Wages

The legislative action affecting the recommended appropriation for the State Water Commission is in accordance with legislative salary and fringe benefits guidelines as contained in House Bill No. 1015. Consistent with the guidelines, a portion of salaries and wages funding from other funds (\$325,774) for permanent employees' compensation and benefits is reallocated to an accrued leave payments line item for paying accrued annual leave and sick leave for eligible employees.

	FTE Positions	General Fund	Other Funds	Total
The legislative action:				
Adjusted funding for state employee salaries and benefits consistent with the legislative compensation package guidelines included in House Bill No. 1015.		(\$213,083)	(\$35,209)	(\$248,292)
Adjusted the funding source for the administration of the State Water Commission from the general fund to the resources trust fund.		(17,566,561)	17,566,561	

Increased funding for operating expenses related to the funding source change for the administration of the State Water Commission from the general fund to special funds, including audit fees (\$53,000), attorney's fees (\$321,276), and rent (\$430,789).			805,065	805,065
Added funding to provide grants to advance the Stutsman County Rural Water, North Central Rural Water Consortium, and McLean-Sheridan Rural Water Projects (House Bill No. 1269).			10,350,000	10,350,000
Added funding to advance additional construction on the Southwest Pipeline Project (House Bill No. 1269).			21,000,000	21,000,000
Total	<u>0.00</u>	<u>(\$17,779,644)</u>	<u>\$49,686,417</u>	<u>\$31,906,773</u>

FTE Changes

The Legislative Assembly did not change the executive recommendation which included funding for 90 FTE positions, 3 FTE positions more than the 2011-13 biennium. The Legislative Assembly did not change the executive recommendation to add 1 FTE water resource engineer position to address the increase in water permit applications, 1 FTE water resource project manager position to address the backlog of conditional water permit inspections, and 1 FTE engineering technician position to support the operations of the Devils Lake Outlets.

One-Time Funding

In Section 2 of House Bill No. 1020, the Legislative Assembly identified \$288,200 from the resources trust fund as one-time funding for an excavator (\$243,200) and office space renovations (\$45,000). The executive recommendation provided this one-time funding from the general fund.

In addition, the Legislative Assembly in House Bill No. 1269 provided \$31,350,000 from the resources trust fund for water project grants, including \$10,350,000 to advance Stutsman County Rural Water, North Central Rural Water Consortium, and McLean-Sheridan Rural Water Projects and \$21,000,000 to advance additional construction on the Southwest Pipeline Project.

These amounts are not to be considered part of the agency's 2015-17 biennium base budget, and the State Water Commission is to report to the Appropriations Committees during the 2015 legislative session on the use of this funding.

Other Sections in Bill

Sovereign lands enforcement grant - Section 3 directs the State Water Commission to provide a grant of \$135,000 from the resources trust fund to the Game and Fish Department for law enforcement activities on sovereign lands in the state.

Resources trust fund and water development trust fund - Section 4 provides in addition to the amounts appropriated to the State Water Commission from the resources trust fund and the water development trust fund any additional amounts that become available in those funds are appropriated, subject to Budget Section approval, to the State Water Commission for the purpose of defraying the expenses of the State Water Commission for the 2013-15 biennium.

Western Area Water Supply Authority - Bank of North Dakota loan - Section 5 directs the Bank of North Dakota to provide a \$40 million loan to the Western Area Water Supply Authority for construction of the project. This section, as amended in House Bill No. 1015, provides the loan must be added to and merged into previous loans as agreed upon by the Industrial Commission and the Bank.

Grant and water project carryover authority - Section 6 authorizes the State Water Commission to continue any unexpended 2013-15 appropriation authority for grants or water-related projects in the 2015-17 biennium.

Fargo flood control project construction limitation - Section 7 limits Fargo flood control project construction south of the city of Fargo to ring dikes and levees until after July 1, 2014.

Fargo flood control project funding - Section 8 provides funding designated by Legislative Assemblies in 2009, 2011, and 2013 for Fargo flood control is only for levee and dike protection until the Fargo flood control project receives federal authorization, a project partnership agreement is executed, a federal appropriation is provided for project construction, and the budget for the Fargo flood control project is approved by the State Water Commission.

Fargo flood control project funding agreement - Section 9 provides prior to the State Water Commission expending any state cost-sharing funds, the local Fargo flood control sponsor and State Water Commission must enter a cost-sharing agreement. The agreement must provide for the exclusion of state cost-sharing for components of the project identified as recreational by the United States Army Corps of Engineers. The agreement must also provide for the exclusion of state cost-sharing relating to funds expected to be provided for the project by nonfederal entities outside the state of North Dakota. An advance funding agreement between the United States Army Corps of Engineers and the local Fargo flood control sponsor must precede any state funding used to advance construction work considered to be a federal responsibility.

Fargo flood control project funding legislative intent - Section 10 provides legislative intent that the state provide one-half of the local cost-share of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding to be provided by the state not exceed \$450 million. In addition, the Legislative Assembly provided the \$275 million yet to be designated by the state for the Fargo flood control project be made available in equal installments over the next four bienniums.

Fargo flood control project funding exemption - Section 11 provides that of the funds appropriated in the water and atmospheric resources line item for the 2013-15 biennium, \$100,000,000 is for Fargo flood control projects. Any funds not spent by June 30, 2015, are not subject to North Dakota Century Code Section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects, including levees and dikes. In addition, except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs, and may not be used for the purchase of dwellings. No more than 10 percent of these funds may be used for engineering, legal, planning, or other similar purposes. The city of Fargo, Cass County, and the Cass County Joint Water Resource District must approve any expenditures made under this section. Costs incurred by nonstate entities for dwellings or other real property which are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state.

Red River Valley Water Supply Project legislative intent - Section 12 provides legislative intent that of the funds appropriated in the water and atmospheric resources line item for the 2013-15 biennium, \$11million is for the Red River Valley Water Supply Project.

Bond payments legislative intent - Section 13 allows the State Water Commission to use funding in the resources trust fund to pay off or defease outstanding bond issues when the balance in the resources trust fund exceeds \$287 million. Of the funds appropriated to the State Water Commission in the water and atmospheric resources line item, \$60 million from the resources trust fund is provided to the commission for the purpose of paying off or defeasing the commission's outstanding bond issues. The contingent funding from the resources trust fund (\$60,000,000) and funding from the water development trust fund provided for bond payments (\$16,900,000) totaling \$76,900,000 would be available to defease State Water Commission outstanding bond issues of \$75,250,000 and pay related fees.

State Water Commission priority projects list - Reports to the Budget Section - Section 14 requires the State Water Commission report to the Budget Section every six months regarding any changes made to the water project priority list presented to the Legislative Assembly in 2013.

Fargo flood control - Reports to the Budget Section - Section 15 requires the Fargo-Moorhead Area Diversion Authority Board report to the Budget Section biannually regarding an update on congressional authorization of the diversion project and the status of the self-insured crop insurance pool; mitigation efforts, alternatives, and costs; easements; and the project budget. The MNDak Upstream Coalition must also report to the Budget Section biannually regarding an update on the impacts of the Fargo flood control project and mitigation efforts, alternatives, and costs.

Community water facility loan fund - Section 16 amends Section 6-09.5-03 to increase the authorized ceiling of the community water facility revolving loan fund administered by the Bank of North Dakota to supplement United States Department of Agriculture Rural Development financing for community water projects by \$15 million to provide a maximum of \$25 million.

Water-Related Topics Overview Committee - Section 17 amends Section 54-35-02.7 related to the Water-Related Topics Overview Committee, as amended by Senate Bill No. 2233, to provide the committee study policies regarding the development and financing of municipal projects, including water treatment plants; pipelines, including pipeline expansion; public and industrial use of water; cost analysis of future project development; ongoing maintenance cost of current and future projects; and technology, including the use of technology for permitting and electronic metering. In addition, the amendments require the State Water Commission and the State Engineer to assist the committee in developing a schedule of priorities with respect to water projects.

Emergency - Section 18 provides funds appropriated to the State Water Commission in the water and atmospheric resources line item are declared to be an emergency measure.

Related Legislation

House Bill No. 1060 relates to the composition and duties of the Devils Lake Outlet Management Advisory Committee and repeals Section 61-36-03 related to the compensation and expenses of the Devils Lake Outlet Management Advisory Committee.

House Bill No. 1061 increases the fine for knowingly violating water appropriation provisions or rules.

House Bill No. 1067 relates to the State Water Commission acting as a public corporation.

House Bill No. 1206 requires the State Water Commission to develop and maintain a comprehensive water development plan and develop a policy that outlines procedures for commissioner-hosted meetings. In addition, the bill provides for a Legislative Management study to evaluate current water project prioritization processes.

House Bill No. 1269 provides \$21,000,000 from the resources trust fund for additional construction on the Southwest Pipeline Project and \$10,350,000 from the resources trust fund for grants to advance projects, including Stutsman County Rural Water, North Central Rural Water Consortium, and McLean-Sheridan Rural Water Projects. This bill contained an emergency clause and was signed by the Governor on February 19, 2013.

House Bill No. 1440 requires the State Water Commission, before providing grants or loans to a district or city, to consider whether a district and city within a district have developed a mutually acceptable water service agreement to accommodate anticipated future growth of a city within a district.

Senate Bill No. 2048 requires the State Water Commission to adopt rules for governing the review and recommendation of proposed water projects seeking financial assistance, including the consideration of project revenues, local cost-sharing, and ability to pay. The rules may also include provisions for repayment of a portion of the funds allocated from the resources trust fund.

Senate Bill No. 2049 relates to the Water-Related Topics Overview Committee and the Garrison Diversion Conservancy District.

Senate Bill No. 2053 allows the State Water Commission to sell, transfer, or exchange property that is no longer necessary for the Northwest Area Water Supply Project.

Senate Bill No. 2233 allocates a portion of the oil extraction tax to the newly created infrastructure revolving loan fund. Effective January 1, 2015, the Legislative Assembly established an infrastructure revolving loan fund within the resources trust fund. The bill provides 10 percent of oil extraction tax revenue deposited in the resources trust fund is to be made available on a continuing basis to provide loans for water supply, flood protection, or other water development and water management projects. Loans are approved by the State Water Commission and administered by the Bank of North Dakota. The estimated effect of 2013 Senate Bill No. 2233 on oil extraction tax allocations during the 2013-15 biennium is based on production levels used for the February 2013 legislative revenue forecast and revenue allocations during the period January 2015 through June 2015. Based on production levels used for the February 2013 legislative revenue forecast and revenue allocations during the period January 2015 through June 2015, an estimated \$16.9 million within the resources trust fund would be designated for the infrastructure revolving loan fund during the 2013-15 biennium.