

**FIRST ENGROSSMENT  
with House Amendments**

Fifty-fifth  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2362**

Introduced by

Senators Heitkamp, G. Nelson, Wogslund

Representative Dorso

1 A BILL for an Act to create and enact two new sections to chapter 61-28.1 of the North Dakota  
2 Century Code, relating to a drinking water treatment revolving loan fund; to amend and reenact  
3 section 61-28.1-03 and subsections 2 and 3 of section 61-28.1-10 of the North Dakota Century  
4 Code, relating to the powers and duties of the state department of health; and to provide a  
5 penalty.

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

7 **SECTION 1. AMENDMENT.** Section 61-28.1-03 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **61-28.1-03. Powers and duties of department.** The department may exercise the  
10 following powers and shall have the following duties:

- 11 1. Administer and enforce a safe drinking water program pursuant to the provisions of  
12 this chapter.
- 13 2. Provide technical assistance on request to ~~municipalities~~ public water systems of  
14 the state and other persons, and cooperate with appropriate federal agencies.
- 15 3. Advise, consult, and cooperate with other public agencies and with affected groups  
16 and industries.
- 17 4. Issue such orders as may be necessary to effectuate the purposes of this chapter  
18 and enforce the same by all appropriate administrative and judicial process.
- 19 5. Maintain an inventory of public water systems within the state, which inventory  
20 may consist of such information as the department deems necessary.
- 21 6. Conduct sanitary surveys of public water systems within the state.
- 22 7. Adopt rules and regulations relating to maximum contaminant levels, monitoring  
23 and analytical requirements and reporting, public notification, and recordkeeping

- 1           which the department determines are necessary to protect public health and  
2           welfare.
- 3           8. Adopt rules and regulations relating to the siting, construction, operation, and  
4           modification of public water systems which the department determines are  
5           necessary to prevent violation of maximum contaminant levels.
- 6           9. Require the submission of plans, specifications, and such other information as it  
7           deems necessary.
- 8           10. Establish a plan for the provision of safe drinking water under emergency  
9           circumstances.
- 10          11. Require each supplier of water to keep such records and make such reports to the  
11          department as it may deem necessary.
- 12          12. Establish a schedule of fees that may be charged by the department for laboratory  
13          tests conducted at the request of any supplier of water; such fees shall be  
14          deposited in the general fund.
- 15          13. Require any supplier of water to notify the users of such public water system of  
16          any violations of any provision of this chapter, any regulation, the terms or  
17          conditions of any approval, any variance or exemption, or any order issued by the  
18          department.
- 19          14. Request and accept grants of funds or services from any federal or state agency,  
20          or any other source, public or private, and to administer such grants in accordance  
21          with any terms or conditions thereof. Any such grants received shall be used only  
22          for the purposes for which they are made.
- 23          15. Designate the state department of health as the state safe drinking water agency  
24          for all purposes of the federal Safe Drinking Water Act and is authorized to take all  
25          actions necessary and appropriate to secure for the state the benefit of such Act  
26          and any grants made thereunder.
- 27          16. Ensure that all new public water systems, excluding those that principally provide  
28          service to transients, commencing operation after October 1, 1999, demonstrate  
29          technical, managerial, and financial capacity to comply with all rules adopted under  
30          this chapter which are in effect, or will be in effect, on the date of commencement  
31          of operations.

1           17.   Develop and implement a strategy to assist all public water systems in acquiring  
2                     and maintaining technical, managerial, and financial capability to comply with all  
3                     rules adopted under this chapter.

4           **SECTION 2. AMENDMENT.** Subsections 2 and 3 of section 61-28.1-10 of the North  
5   Dakota Century Code are amended and reenacted as follows:

- 6           2.   Any person who willfully violates this chapter or any regulation or order of the  
7                     department shall be punished by a civil penalty of not more than ten thousand  
8                     dollars per day of violation or an administrative penalty as follows:
- 9                     a.   One thousand dollars per day per violation in the case of a system serving a  
10                     population of more than ten thousand.
- 11                     b.   An amount adequate to ensure compliance in the case of any system not  
12                     under subdivision a.
- 13           3.   Any person who violates this chapter, or any rule implementing this chapter, and  
14                     any person who violates any order issued by the department under this chapter is  
15                     subject to a civil penalty not to exceed five thousand dollars per day of violation or  
16                     an administrative penalty as follows:
- 17                     a.   One thousand dollars per day per violation in the case of a system serving a  
18                     population of more than ten thousand.
- 19                     b.   An amount adequate to ensure compliance in the case of any system not  
20                     under subdivision a.

21           **SECTION 3.** A new section to chapter 61-28.1 of the North Dakota Century Code is  
22   created and enacted as follows:

23           **Drinking water treatment revolving loan fund - Purposes - Establishment.** To  
24   coordinate funding for public water systems in North Dakota, there is established a drinking  
25   water treatment revolving loan fund to be administered by the department. The loan fund is  
26   also authorized under section 1452(a) of the federal Safe Drinking Water Act, as amended.  
27   Grants from the federal government or its agencies, including the United States environmental  
28   protection agency, allotted to the state for the capitalization of the drinking water treatment  
29   revolving loan fund, and required state matching funds must be deposited in the drinking water  
30   treatment revolving loan fund in compliance with the terms of the grants. The principal of the  
31   grants must be available in perpetuity for providing financial assistance as allowed under the

1 Safe Drinking Water Act. To the extent amounts in the revolving loan fund are not required for  
2 current obligations or expenditures, these amounts must be invested in interest-bearing  
3 obligations.

4 **SECTION 4.** A new section to chapter 61-28.1 of the North Dakota Century Code is  
5 created and enacted as follows:

6 **Department - Powers and duties - Administration.** The department has the following  
7 powers and duties and shall administer the drinking water treatment revolving loan fund as  
8 follows:

- 9 1. To apply for and accept grants of money from the United States environmental  
10 protection agency or other federal agencies which must be deposited in the  
11 drinking water treatment revolving loan fund to be used for purposes authorized  
12 under the Safe Drinking Water Act, including the following:
- 13 a. To provide loans or loan guaranties, or other financial assistance, to  
14 community water systems and nonprofit noncommunity water systems eligible  
15 for assistance from the revolving loan fund.
  - 16 b. As a source of revenue and security for the payment of principal and interest  
17 on bonds issued by the state through the North Dakota municipal bond bank if  
18 the bond proceeds are deposited in the revolving loan fund.
  - 19 c. To buy or refinance debt obligations issued after July 1, 1993, to finance a  
20 project eligible for assistance from the revolving loan fund.
  - 21 d. To guarantee or purchase insurance for debt obligations issued to finance a  
22 project eligible for assistance from the revolving loan fund.
  - 23 e. To provide other financial and technical assistance and to make any other  
24 expenditure authorized under the Safe Drinking Water Act.
  - 25 f. To earn interest before the disbursement of financial or technical assistance.
  - 26 g. To pay administrative expenses associated with the revolving loan fund as  
27 authorized under the Safe Drinking Water Act.
- 28 2. To administer the drinking water treatment revolving loan fund as established. The  
29 department may enter into contracts and other agreements in connection with the  
30 operation of the drinking water treatment revolving loan fund to the extent  
31 necessary or convenient for the implementation of the drinking water treatment

- 1           revolving loan fund. The department may combine the financial administration of  
2           the drinking water treatment revolving loan fund and the financial administration of  
3           the water pollution control revolving loan fund established under chapter 61-28.2.  
4           The department may cross-collateralize the drinking water treatment revolving loan  
5           fund and the water pollution control revolving loan fund as authorized by the  
6           administrator of the federal environmental protection agency under the Safe  
7           Drinking Water Act.
- 8           3. To administer and disburse funds with the approval of the state water commission  
9           and in accordance with section 1452(a) of the federal Safe Drinking Water Act  
10           [42 U.S.C. 300j], as amended.
- 11           4. To establish assistance priorities and to expend grant funds pursuant to the priority  
12           list for the drinking water treatment revolving loan fund, after consulting with and  
13           obtaining the approval of the state water commission.
- 14           5. To adopt rules necessary for administering the drinking water treatment revolving  
15           loan fund.
- 16 The governor may transfer grant funds from the drinking water treatment revolving loan fund to  
17 the water pollution control revolving loan fund established by chapter 61-28.2 and from the  
18 water pollution control revolving loan fund to the drinking water treatment revolving loan fund,  
19 as authorized by the Safe Drinking Water Act.