

## **BUDGET SECTION DUTIES - EFFECTS OF SUPREME COURT DECISION**

This memorandum provides a summary of how the North Dakota Supreme Court decision in *North Dakota Legislative Assembly v. Burgum* affects the duties of the Budget Section.

### **HOUSE BILL NO. 1020 - STATE WATER COMMISSION**

Section 5 of 2017 House Bill No. 1020 designated certain funds appropriated in the State Water Commission's water and atmospheric resources line item for the 2017-19 biennium for water supply, rural water supply, flood control, and general water purposes. The section authorized the State Water Commission to transfer funding among these designations, subject to Budget Section approval and notification to the Water Topics Overview Committee.

The court held the language in Section 5 requiring Budget Section approval was an unconstitutional delegation of legislative authority. The ruling eliminates the State Water Commission's authority to transfer funds as designated in Section 5 and eliminates the authority of the Budget Section to approve these transfers.

### **SENATE BILL NO. 2013 - DEPARTMENT OF TRUST LANDS**

Section 12 of 2017 Senate Bill No. 2013 identified \$3.6 million from the state lands maintenance fund for a Department of Trust Lands information technology project. The section allows the department to spend \$1.8 million of the \$3.6 million, but required approval by the Budget Section, to spend the remaining \$1.8 million.

The court held the language in Section 5 requiring Budget Section approval was an unconstitutional delegation of legislative authority. The ruling authorizes the Department of Trust Lands to spend the entire \$3.6 million appropriation without approval from the Budget Section.

### **OTHER BUDGET SECTION DUTIES**

The court's opinion did not address Budget Section duties other than the duties set forth in Section 5 of House Bill No. 1020 and Section 12 of Senate Bill No. 2013. The impact of the opinion on future Budget Section operations is unclear. The court seemed to indicate the Legislative Assembly may delegate some duties to the Budget Section if proper guidelines for the exercise of those duties are provided. However, the Budget Section may not exercise any duties that constitute executive branch functions. Only two of the five justices said the Budget Section duties in Section 5 of House Bill No. 1020 and Section 12 of Senate Bill No. 2013 crossed the line into executive branch functions; therefore, little guidance was provided by the court with respect to determining where that line is.