



# North Dakota Legislative Council

Prepared for the Water Drainage Committee  
 LC# 23.9103.01000  
 July 2021

## SENATE BILL NO. 2208 (2021) AS INTRODUCED

Section	Action Taken	Notes Re: Actions Taken*	Description of Section and Action Taken	Statutes Citing the Section if Repealed
54-57-03(1)	Amend	Update reference	The reference to North Dakota Century Code Chapter 61-32 was changed to a reference to Chapter 61-16.1.	
61-02-01.4	Amend	Address snagging and clearing and regular maintenance	This section describes the State Water Commission's cost-share policy. Regular maintenance is not eligible for a cost-share. Currently, the section says snagging and clearing of watercourses is not regular maintenance. The bill would change the sentence to say "Changing the flow capacity of drains by widening or deepening channels" is not regular maintenance.	
61-05-02.1	Amend	Update reference	The references to Chapters 61-32 and 61-21 were removed.	
61-16-08	Amend subsection 3	Update language		
<b>Chapter 61-16.1</b>				
61-16.1-01	Repeal	Legislative intent statement	This section was a legislative intent statement, and such statements are no longer considered appropriate for the Century Code.	None
61-16.1-02	Amend	Harmonize procedures and requirements for assessment projects, including drains  Remove contradictions and duplications in the Century Code	<ul style="list-style-type: none"> <li>• Definition of assessment drain was simplified.</li> <li>• Definition of "cleaning out and repairing a drain" was incorporated from Section 61-21-01.</li> <li>• Definition of "drain" was incorporated from Section 61-21-01.</li> <li>• Definition of "maintenance" was added.</li> <li>• Definition of "practical drainage area" was added based on language in Section 61-21-01 and Section 61-16.1-02.</li> <li>• Definition of "project" was expanded to include drains so assessment project procedures and other provisions apply equally to drains.</li> </ul>	
61-16.1-03	Already repealed			
61-16.1-04	No change			
61-16.1-05	No change			
61-16.1-06	No change			
61-16.1-07	No change			

Section	Action Taken	Notes Re: Actions Taken*	Description of Section and Action Taken	Statutes Citing the Section if Repealed
61-16.1-08	No change			
61-16.1-09	Amend subsection 16		Under current law, a water resource board may order an entity, or initiate legal action to compel an entity, responsible for maintaining or repairing a bridge or culvert to remove debris or material blocking water from flowing through the bridge or culvert. The amendment would allow the board only to notify the entity that action is needed on the bridge or culvert.	
61-16.1-09.1	Amend		The amendment provides all assessments for water projects under Chapter 16.1-09.1 are subject to the same requirements of the chapter.	
61-16.1-09.2	Amend	Incorporate part of Section 61-21-19	Language from Section 61-21-19 permitting county commissioners to release easements no longer needed for drainage was added.	
61-16.1-10	No change			
61-16.1-11	No change			
61-16.1-12	No change			
61-16.1-12.1	No change			
61-16.1-13	Already repealed			
61-16.1-14	No change			
61-16.1-15	Amend	Incorporate part of Section 61-21-10	Language from Section 61-21-10 providing for petitions for assessment drains was added.	
61-16.1-16	No change			
New Section	Create	Move Section 61-21-11 to Chapter 61-16.1	Section 61-21-11 was moved to a new section in Chapter 61-16.1.	
61-16.1-17	Amend	Incorporate part of Section 61-21-12	Language was added from Section 61-21-12 regarding the requirements for the engineer's report and the board's authority to relocate the lines of the drain.	
61-16.1-18	Amend	Incorporate part of Section 61-21-13	<p>The hearing must be at least 20 days after notice of the hearing was mailed.</p> <p>Notice must be accompanied by the board's resolution to proceed, a ballot form, instructions for voting, and notice of filing (below) with the county auditor.</p> <p>Notice is to be published.</p> <p>The list of benefits and assessments to result from the proposed assessment project must be filed with the county auditor for public inspect at least 10 days before the hearing.</p> <p>A record of hearing is to be made by the board.</p>	

Section	Action Taken	Notes Re: Actions Taken*	Description of Section and Action Taken	Statutes Citing the Section if Repealed
61-16.1-19	Amend	Clarify votes cast after the deadline may not be counted in any way  Require published notice to include notice of appeal rights		
61-16.1-20	Amend	Update language		
61-16.1-21	Amend	Clarify assessments are based on benefits from the construction for which the assessment will be made, not other parts of a project or other projects  Add language saying a parcel assessed for an assessment drain may not be assessed for a new drain unless the board demonstrates construction of the new drain will benefit the parcel		
61-16.1-22	Amend	Clarify language and require recording of assessments for drains in the county auditor's book of drainage assessments		
61-16.1-23	Amend	Amend time for appealing assessments	Assessment appeals may be made to the State Engineer for up to 30 days after the assessment hearing.	
61-16.1-24	Amend	Update language		
61-16.1-25	No change			
61-16.1-26	Amend	Update language		
61-16.1-27	Amend	Clarify language		
61-16.1-28	Amend	Update language		
61-16.1-29	Amend	Update language		
61-16.1-30	Amend	Update language		
61-16.1-31	Amend	Update language		
61-16.1-32	Amend	Update language		
New Section	Create	Move Section 61-21-49 to Chapter 61-16.1		
61-16.1-33	Amend	Update language		
61-16.1-34	Amend	Update language		
61-16.1-35	No change			
61-16.1-36	No change			
61-16.1-37	No change			

Section	Action Taken	Notes Re: Actions Taken*	Description of Section and Action Taken	Statutes Citing the Section if Repealed
61-16.1-38	No change			
61-16.1-39	No change			
61-16.1-39.1	No change			
61-16.1-39.2	Amend	Clarify language and ensure there is no conflict with Section 61-16.1-45		
61-16.1-40	No change			
61-16.1-40.1	No change			
61-16.1-41	Already repealed			
61-16.1-41.1	No change			
61-16.1-42	Amend	This section is largely duplicative of Section 61-21-31 Update language		
61-16.1-43	Amend	This section is largely duplicative of Section 61-21-32 Update language		
61-16.1-44	No change	This section is largely duplicative of Section 61-21-32.1		
61-16.1-45	Amend	Ensure there is no conflict with Section 61-16.1-39.2 Update language Clarify funds raised through a maintenance levy may be used only for maintenance		
61-16.1-46	Amend	This section is largely duplicative of Section 61-21-42 Update language		
61-16.1-47	Amend	This section is largely duplicative of Section 61-21-42 Update language		
61-16.1-48	Amend	This section is largely duplicative of Section 61-21-43 Allow assessment of funds when cleaning out and repairing does not constitute maintenance	Water resource boards are required to assess cleaning out and repairing of assessment drains if maintenance funds are not available and the work does not constitute maintenance.	
New section	Create	This section is largely duplicative of Section 61-21-56		

Section	Action Taken	Notes Re: Actions Taken*	Description of Section and Action Taken	Statutes Citing the Section if Repealed
New section	Create	This section is largely duplicative of Section 61-21-65		
New section	Create	This section is largely duplicative of Section 61-32-03		
New section	Create	This section is largely duplicative of Section 61-32-03.1, which applies to subsurface drains comprising 80 acres or more. This new section omits that requirement and sets a different threshold for permitting requirements.	The section governs the procedure and requirements for subsurface drainage system permit applications. Permits are required to drain subsurface water management systems with surface intakes if the system will have a drainage coefficient of 3/8 inch or less. If the system will have a drainage coefficient greater than 3/8 inch, the permit must be obtained under the new section replacing Section 61-32-03.	
61-16.1-49	No change			
61-16.1-50	No change			
61-16.1-51	No change			
61-16.1-52	Already repealed			
61-16.1-53	No change			
61-16.1-53.1	No change			
61-16.1-54	Amend	Update language and clarify when a decision of a water resource board may be appealed to a district court may be taken		
61-16.1-55	Already repealed			
61-16.1-56	Already repealed			
61-16.1-57	Already repealed			
61-16.1-58	No change			
61-16.1-59	No change			
61-16.1-60	No change			
61-16.1-61	Repeal	Obsolete		None
61-16.1-62	Amend	Updated language This section has a similar function as Section 61-21-58	Existing obligations are not invalidated by the adoption of changes to the chapter.	
61-16.1-63	Amend	Update language Add provision for civil actions	The section states the penalty for violating the chapter is a Class B misdemeanor unless otherwise provided. A water resource board may bring a civil action to recover damages from a violation of the chapter.	

Section	Action Taken	Notes Re: Actions Taken*	Description of Section and Action Taken	Statutes Citing the Section if Repealed
<b>Chapter 61-21</b>				
Chapter 61-21	Repeal			
61-21-01	Move parts to Chapter 61-16.1	Merged parts into Section 61-16.1-02		None
61-21-02	Repeal	Duplicated in Section 61-16.1-09 and other sections in Chapter 61-16.1		None
61-21-02.1	Move to Chapter 61-16.1	Included in amended Section 61-16.1-43		None
61-21-03	Already repealed			
61-21-04	Already repealed			
61-21-05	Already repealed			
61-21-06	Already repealed			
61-21-07	Already repealed			
61-21-08	Already repealed			
61-21-09	Already repealed			
61-21-10	Move into Section 61-16.1-15	Some parts also relate to Section 61-16.1-14		61-21-01, 61-21-11, 61-21-12
61-21-11	Move to Chapter 61-16.1	Included in a new section to Chapter 61-16.1 and combined with language from Section 61-21-15		None
61-21-12	Move parts into Section 61-16.1-17	Included in amended Section 61-16.1-17		61-21-01, 61-21-13, 61-21-16
61-21-13	Move parts into Section 61-16.1-18	Included in amended Section 61-16.1-18		61-21-14, 61-21-15
61-21-14	Repeal	Included in amended Sections 61-16.1-18 and 61-16.1-19		61-21-15
61-21-15	Move parts to same new section to Chapter 61-16.1 as Section 61-21-11	Included in a new section and combined with language from Section 61-21-11		None
61-21-16	Repeal	This section was largely a duplication of Section 61-16.1-20		61-21-14, 61-21-15, 61-21-18, 61-21-21, 61-21-22, 61-21-42, 61-21-46, 61-21-47, 61-21-56, 61-21-65

Section	Action Taken	Notes Re: Actions Taken*	Description of Section and Action Taken	Statutes Citing the Section if Repealed
61-21-17	Repeal	This section was largely a duplication of part of Section 61-16.1-19, which was amended to add notice of appeal rights from Section 61-21-17		None
61-21-18	Repeal	This section is included in Section 61-16.1-54		61-21-17
61-21-19	Repeal	The power to exercise eminent domain under this section is duplicative of Section 61-16.1-09(2)		None
61-21-20	Repeal	This section was largely duplicative of Section 61-16.1-21		61-21-21, 61-21-23, 61-21-27
61-21-21	Repeal	This section was largely duplicative of Section 61-16.1-22		61-21-22
61-21-22	Repeal	This section was largely duplicative of Section 61-16.1-22		61-21-23
61-21-23	Move parts into Section 61-16.1-22	Move parts into Section 61-16.1-22		61-21-24
61-21-24	Repeal	Section 61-48-01.2 has to be followed if threshold is met		None
61-21-25	Repeal	This section is largely duplicative of part of Section 61-16.1-14		None
61-21-26	Repeal	This section is largely duplicative of part of Section 61-16.1-14		None
61-21-27	Repeal	This section is largely duplicative of part of Section 61-16.1-21		61-21-30, 61-21-50
61-21-28	Repeal	This section is largely duplicative of Section 61-16.1-29		61-21-30
61-21-29	Repeal	This section is covered in Sections 61-16.1-34 and 61-16.1-35		None
61-21-30	Repeal	This section is covered in Sections 61-16.1-24 and 61-16.1-27		None
61-21-31	Repeal	This section is covered in Section 61-16.1-42		None
61-21-32	Repeal	This section is covered in Section 61-16.1-43		61-21-31
61-21-32.1	Repeal	This section is covered in Section 61-16.1-44		None

Section	Action Taken	Notes Re: Actions Taken*	Description of Section and Action Taken	Statutes Citing the Section if Repealed
61-21-33	Repeal	This section is covered in Section 61-16.1-11		None
61-21-34	Repeal	This section is covered in Section 61-16.1-11		61-21-33
61-21-35	Repeal	This section is covered in Section 61-16.1-25		None
61-21-36	Repeal	This section is covered in Sections 61-16.1-12 and 61-16.1-12.1		61-21-37
61-21-37	Repeal	This section is covered in Sections 61-16.1-12 and 61-16.1-12.1		None
61-21-38	Repeal	This section is unnecessary after merger into Chapter 61-16.1		None
61-21-39	Repeal	This section is covered in Section 61-16.1-49		None
61-21-40	Repeal	This section is covered in Section 61-16.1-32		None
61-21-41	Repeal	This section is covered in Section 61-16.1-46		None
61-21-42	Repeal	This section is covered in Section 61-16.1-47		None
61-21-43	Repeal	This section is covered in Section 61-16.1-48		None
61-21-43.1	Repeal	This section is covered in Section 61-16.1-51		None
61-21-44	Repeal	This section is covered in Section 61-16.1-26		61-21-43
61-21-45	Repeal	This section is covered in Section 61-16.1-14		None
61-21-46	Repeal	This section is covered in Section 61-16.1-45		None
61-21-47	Move to Chapter 61-16.1 and amend	This section is covered in Section 61-16.1-45(3)		None
61-21-48	Move to Chapter 61-16.1	This section is merged with Section 61-16.1-09.2		None
61-21-49	Move to Chapter 61-16.1	This section was incorporated into a new section		None
61-21-50	Repeal	This section is covered in Section 61-16.1-34		None



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61-21-51	Repeal	This section is covered in multiple sections including Section 61-16.1-28		None
61-21-52	Repeal	This section is covered in Section 61-16.1-30		61-21-27, 61-21-30
61-21-53	Repeal	This section is covered in Sections 61-16.1-15 and 61-16.1-16		None
61-21-54	Repeal	This section is covered in Sections 61-16.1-09(14) and 61-16.1-35		None
61-21-55	Repeal	This section is covered in Section 61-16.1-25		None
61-21-56	Move to Chapter 61-16.1 and amend	This section is incorporated into a new section		None
61-21-57	Repeal and address costs in Section 61-16.1-63	This section is covered in Section 61-16.1-63		None
61-21-58	Repeal	This section is covered in amended Section 61-16.1-62		None
61-21-59	Already repealed			
61-21-60	Already repealed			
61-21-61	Already repealed			
61-21-62	Repeal	This section is covered in Section 61-16.1-18 and others		None
61-21-63	Repeal	This section is covered in Section 61-16.1-50		None
61-21-64	Repeal	This section is covered in Section 61-16.1-09(2)		None
61-21-65	Move to Chapter 61-16.1	This section is incorporated into a new section with Section 61-21-66		61-21-66
61-21-66	Move to Chapter 61-16.1 and amend	This section is incorporated into a new section with Section 61-21-65		61-21-65
61-21-67	Repeal	This section is covered in Sections 61-16.1-53 and 61-16.1-53.1		None

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<b>Chapter 61-32</b>				
Chapter 61-32	Repeal			54-57-03(1), 61-05-02.1
61-32-01	Already repealed			
61-32-02	Already repealed			
61-32-03	Move to Chapter 61-16.1	This section is incorporated into a new section		61-32-03.1
61-32-03.1	Move to Chapter 61-16.1	This section is incorporated into a new section and amended		None
61-32-04	Already repealed			
61-32-05	Already repealed			
61-32-06	Already repealed			
61-32-07	Repeal	This section is covered by Sections 61-16.1-53 and 61-16.1-53.1		61-32-08
61-32-08	Repeal	This section is covered by Sections 61-16.1-53 and 61-16.1-53.1		None
61-32-09	Already repealed			
61-32-10	Repeal	Not necessary after repeal / Obsolete		None
61-32-11	Already repealed			

\*References to sections may be to the amended sections.