ARTICLE 89-01
GENERAL ADMINISTRATION

Chapter
89-01-01 Organization of Water Commission

CHAPTER 89-01-01
ORGANIZATION OF WATER COMMISSION

Section
89-01-01-01 Organization and Functions of the Water Commission

89-01-01-01. Organization and functions of the water commission.

1. History of commission. The North Dakota state water commission was established in 1937, as an emergency measure during the prolonged drought. The legislation, codified as North Dakota Century Code chapter 61-02, contains a preamble that provides an insight into the legislative intent for creating the commission, a state agency. North Dakota Century Code section 61-02-01 states:

   It is hereby declared that the general welfare and the protection of the lives, health, property, and the rights of all the people of this state require that the conservation, management, development, and control of waters in this state, public or private, navigable or nonnavigable, surface or subsurface, the control of floods, and the management of the atmospheric resources, involve and necessitate the exercise of the sovereign powers of this state and are affected with and concern a public purpose. It is declared further that any and all exercise of sovereign powers of this state in investigating, constructing, maintaining, regulating, supervising, and controlling any system of works involving such subject matter embraces and concerns a single object, and that the state water commission in the exercise of its powers, and in the performance of all its official duties, shall be considered and construed to be performing a governmental function for the benefit, welfare, and prosperity of all the people of this state.

   The law originally provided that the state engineer was the chief technical adviser of the commission but that such responsibilities would be in addition to the engineer's regular duties as state engineer. In 1941, the law was amended to provide that the state engineer would be the secretary and chief engineer of the commission.

   From 1937 through approximately 1977, the legislative assembly often vested either the water commission or state engineer with particular authority regarding water-related issues without any expressed reason or clear consistency. This comingling of regulatory authority created confusion. Finally in 1981, the legislative assembly passed a bill amending several sections and chapters of law to clarify the intent that:

   [w]henever the term "water conservation commission", "water commission", or "commission", or any derivative of those terms, which when used in context, indicates an intention to refer to that commission regarding [regulatory duties, those terms] shall be construed as granting full administrative and enforcement authority to the state engineer.

   1981 N.D. Sess. Laws ch. 365 § 6. As such, the state engineer, rather than the water commission, is the agency charged with enforcing many water-related regulations.

2. Commissioners. Two commissioners, the governor and the agriculture commissioner, are statewide officials elected for four-year terms. Seven commissioners are appointed by the
governor for six-year terms. The governor is the chairman of the commission and a vice chairman is designated by the governor.

3. **Secretary to the commission.** The state engineer is the statutory secretary and chief engineer to the commission. The secretary assists the commission by coordinating the operations of the commission and relieving the individual commissioners of administrative detail.

4. **Commission divisions.** The commission consists of the following five divisions:
   a. Division of administrative and support services.
   b. Division of planning and education.
   c. Division of water appropriation.
   d. Division of water development.
   e. Division of atmospheric resources.

5. **Functions of commission divisions.**
   a. Division of administrative and support services. The duties of the division of administrative services are to provide accounting, budget, and fiscal control services, personnel functions, support services for other agency divisions, and other administration functions. The division also provides coordination in water resource programs with federal agencies, state agencies, and local entities. Support services include the development and maintenance of the agency information technology infrastructure and related technology resources.
   b. Division of planning and education. The division of planning and education develops and maintains the state water management plan; participates in international, regional, state, local, interagency, and interoffice planning efforts; manages the agency's water education programs; provides technical assistance; and coordinates environmental reviews. When activated, the division also manages the state drought disaster livestock water supply project assistance program.
   c. Division of water appropriation. The division of water appropriation is responsible for assisting and advising the state engineer in appropriating and managing the state's waters for beneficial use. Functions of the division include the collection, storage, interpretation, and dissemination of hydrologic and water quality data and using that data to evaluate and make recommendations concerning water permit applications. The division conducts investigations and exploratory studies to optimize the use of the state's water resources and administers and enforces state law, administrative rules, and policies pertaining to water use.
   d. Division of water development. The primary functions of the division of water development involve water resource management and water resource project development, with emphasis on surface water. This includes drainage and diking, control of sovereign lands, floodplain management, hydrologic investigation, special studies, and the construction of water management projects such as dams, dikes, ditches, irrigation projects, water supply systems, and pump structures. Some of the functions of this division are on behalf of the state engineer.
   e. Division of atmospheric resources. The atmospheric resource board was created by the legislative assembly in 1975, and was known as the weather modification board. The weather modification board was a division of the state aeronautics commission. In 1981,
the board was placed under the direction and supervision of the water commission. The primary functions of the division of atmospheric resources involve regulation of weather modification operations, monitoring and evaluation of those operations, and weather modification research and development. The atmospheric resource board consists of the director of the state aeronautics commission, a representative of the environmental section of the state department of health, the state engineer, and seven additional members appointed by the governor from seven districts within the state.

6. **Inquiries.** Inquiries regarding the water commission and state engineer may be addressed as follows:

   North Dakota State Water Commission  
   State Office Building  
   900 East Boulevard Avenue  
   Bismarck, North Dakota 58505-0850  
   (701) 328-2750  
   www.swc.nd.gov

7. **Organizational chart.** A descriptive organizational chart of the commission is attached to this section as an appendix.

**History:** Amended effective August 1, 1983; November 1, 1985; October 1, 1987; November 1, 1989; December 1, 1989; February 1, 1992; February 1, 1993; April 1, 1994; December 1, 1997; February 1, 2003; April 1, 2014.

**General Authority:** NDCC 28-32-02.1

**Law Implemented:** NDCC 28-32-02.1
North Dakota State Water Commission Organizational Chart

(Total Full Time Equivalents of 87 personnel.)