

**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. Water commission organization and functions.

1. **Commission history.** 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 the state engineer was the commission's chief technical adviser, 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 the state engineer would be the commission's secretary and chief engineer.

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]henver 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. Eight commissioners representing the eight

major drainage basins are appointed by the governor for staggered six-year terms. The governor is the commission's chairman and the governor designates a vice chairman.

3. **Commission secretary.** The state engineer is the commission's statutory secretary and chief engineer. The secretary assists the commission by coordinating commission operations and relieving individual commissioners of administrative detail.
4. **Commission divisions.** The commission consists of the following divisions:
 - a. Administrative and support services.
 - b. Atmospheric resources.
 - c. Planning and education.
 - d. Regulatory.
 - e. Water appropriation.
 - f. Water development.
5. **Commission division functions.**
 - a. Administrative and support services. The administrative services division provides accounting, budget, and fiscal control services, personnel functions, support services for other agency divisions, and other administration functions; provides coordination in water resource programs with federal agencies, state agencies, and local entities; provides support services, including the agency's information technology infrastructure and related technology resources development and maintenance.
 - b. Regulatory. The regulatory division assists and advises the state engineer in state law, administrative rule, and policy enforcement on the state's sovereign land; authorizes surface water management projects, such as dikes, dams, and drainage features; facilitates the state's participation in the Federal Emergency Management Agency's dam safety, national flood insurance, and cooperating technical partners programs; coordinates the state's participation in the army corps of engineers' silver jackets program; and provides technical and programmatic assistance to water resource districts.
 - c. Planning and education. The planning and education division 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; coordinates environmental reviews; and manages the cost-share and municipal, rural, and industrial programs. When activated, the division also manages the state drought disaster livestock water supply project assistance program.
 - d. Water appropriation. The water appropriation division assists and advises the state engineer in appropriating and managing the state's waters for beneficial use; collects, stores, interprets, and disseminates hydrologic and water quality data and uses that data to evaluate and make recommendations concerning water permit applications; conducts investigations and exploratory studies to optimize the state's water resources use and administers and enforces state law, administrative rules, and policies pertaining to water use.
 - e. Water development. The primary water development division functions involve water resource management and water resource project development, with emphasis on

surface water. This includes hydrologic investigation, special studies, and water management project construction, such as dams, dikes, ditches, irrigation projects, water supply systems, and pump structures.

- f. 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 water commission's direction and supervision. The primary atmospheric resources division functions involve regulation of weather modification operations regulation, monitoring, and evaluation and weather modification research and development. The atmospheric resource board consists of the state aeronautics commission director, a department of environmental quality representative, 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.** The commission's descriptive organizational chart 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

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NORTH DAKOTA STATE WATER COMMISSION
OFFICE OF THE GOVERNOR

MAY 2020

TOTAL FULL TIME
EQUIVALENTS OF 90
PERSONNEL.

