

**2023 SENATE AGRICULTURE AND VETERANS AFFAIRS**

**SB 2372**

# 2023 SENATE STANDING COMMITTEE MINUTES

## Agriculture and Veterans Affairs Committee Fort Union Room, State Capitol

SB 2372  
2/2/2023

A BILL for an Act relating to joint water resource boards and the construction of a water project in more than one county.
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10:06 AM Chairman Luick opened the hearing on SB 2372.  
Senators Hogan, Weston, Weber, Luick, Myrdal, and Lemm present.

### Discussion Topics:

- Watershed board impact
- Board regulation
- District conflicts
- Legal supremacy
- Jurisdictional supremacy

10:07 AM Senator Lemm, Senator District 20, North Dakota State Senate, introduced the bill and testified in favor verbally.

10:08 AM Senator Luick, clarified why he did not introduce the bill himself per Senator Lemm's comments. No written testimony.

10:08 AM Austin Gunderson, Attorney, Legislative Counsel, provided legal clarification. No written testimony.

10:27 AM Dani Quissell, Executive Director, North Dakota Water Education Foundation, provided testimony on behalf of Jack Dwyer in opposition #18572, 18575, 18576.

10:37 AM Kurt Lysne, Technical Consultant, Red River Joint Board and other water boards, testified in opposition. No written testimony.

10:41 AM Larry Skiftun, Board Chair, Wells County Water Resource District, testified opposed #18555.

10:45 AM Sam Wagner, Ag and Food Field Organizer, Dakota Resource Council, testified neutral verbally. No written testimony.

10:49 AM Doug Zinck, Foster County Water Board, Member, testified neutral verbally. No written testimony.

10:51 AM Ted Priester, Executive Director, Red River Basin Commission, testified neutral verbally. No written testimony.

10:53 AM Andrea Travnicek, Director, Department of Water Resources, testified neutral verbally. No written testimony.

10:54 AM Aaron Carranza, Regulatory Division Director, Department of Water Resources, testified neutral #18458, 18459, and 18460.

10:55 AM Michael Anderson, Hillsborough, testified neutral. No written testimony.

10:56 AM Chairman Luick closed the hearing on SB 2372.

*Dave Owen, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

## Agriculture and Veterans Affairs Committee Fort Union Room, State Capitol

SB 2372  
2/3/2023

A BILL for an Act relating to joint water resource boards and the construction of a water project in more than one county.
--

10:15 AM Chairman Luick called the committee to order. Senators Hogan, Weston, Weber, Myrdal, Luick, and Lemm were present.

### **Discussion Topics:**

- County board
- Separation of powers
- Water resource boards
- Watershed boards
- Other state strategies

10:16 AM Chairman Luick provided information and opened the meeting for discussion.

10:18 AM Senator Myrdal provided information.

10:20 AM Senator Weston provided information.

10:27 AM Chairman Luick adjourned the committee.

*Brenda Cook, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

## Agriculture and Veterans Affairs Committee Fort Union Room, State Capitol

SB 2372  
2/10/2023

A BILL for an Act relating to the operation of watershed districts
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8:59 AM Chairman Luick called the committee to order. Senators Hogan, Weston, Weber, Luick, Myrdal, and Lemm were present.

### **Discussion Topics:**

- Bill update

8:59 AM Chairman Luick spoke regarding the status of an amendment which had not yet been drafted.

9:00 AM Chairman Luick adjourned the committee work on SB 2372

*Dave Owen, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

## Agriculture and Veterans Affairs Committee Fort Union Room, State Capitol

SB 2372  
2/16/2023

A BILL for an Act relating to joint water resource boards and the construction of a water project in more than one county.
--

10:23 AM Chairman Luick called the committee to order. Senators Weston, Weber, Luick, Myrdal and Lemm present. Senator Hogan absent but arrived later.

### Discussion Topics:

- Committee Action

10:23 AM Senator Myrdal moved amendment #23.1097.01001 #21019

10:23 AM Senator Lemm seconded amendment #23.1097.01001

10:25 AM Adopt the Amendment #23.1097.01001

Senators	Vote
Senator Larry Luick	Y
Senator Janne Myrdal	Y
Senator Kathy Hogan	Y
Senator Randy D. Lemm	Y
Senator Mark F. Weber	Y
Senator Kent Weston	Y

Motion passed 6-0-0. Adopt Amendment #23.1097.01001

10:26 AM Senator Myrdal moved DO PASS AS AMENDED SB 2372

10:27 AM Senator Lemm seconded DO PASS AS AMENDED SB 2372

10:27 AM Roll Call Vote, DO PASS AS AMENDED SB 2372

Senators	Vote
Senator Larry Luick	Y
Senator Janne Myrdal	Y
Senator Kathy Hogan	Y
Senator Randy D. Lemm	Y
Senator Mark F. Weber	Y
Senator Kent Weston	Y

Motion passed 6-0-0. DO PASS AS AMENDED SB 2372.

Chairman Luick will carry the bill.

10:27 AM Chairman Luick closed committee work on SB 2372

*Dave Owen, Committee Clerk*

February 15, 2023

DR  
173  
2-16-23

PROPOSED AMENDMENTS TO SENATE BILL NO. 2372

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 61-16.1-11 and section 61-16.1-15.1 of the North Dakota Century Code, relating to joint water resource boards and the construction of a water project in more than one county; and to amend and reenact sections 61-16.1-12.1 and 61-16.1-15 of the North Dakota Century Code, relating to joint water resource boards.

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

**SECTION 1.** A new subsection to section 61-16.1-11 of the North Dakota Century Code is created and enacted as follows:

All districts within the Red River, James River, Mouse River, Missouri River, and Devils Lake drainage basins shall, by agreement, form and remain a member of a joint water resource board relative to the district's respective drainage basin. All agreements and subsequent amendments must be filed with the department of water resources. Notwithstanding other provisions of law, the board of county commissioners of the member districts in the Red River, James River, Mouse River, Missouri River, and Devils Lake drainage basins shall approve a levy of tax not to exceed two mills upon the taxable valuation of the real property within each joint board's respective drainage basin.

**SECTION 2. AMENDMENT.** Section 61-16.1-12.1 of the North Dakota Century Code is amended and reenacted as follows:

**61-16.1-12.1. Water resource boards - Agreements with state or federal agencies for certain improvements.**

A water resource board may enter into an agreement with any federal or state agency, or any combination thereof, for the construction of a project, under the terms of which the contract for the work is to be let by the federal or state agency or any combination thereof. If under the terms of the agreement at least fifty percent of the total cost of constructing the project is to be paid by the agency or agencies and if any portion of the cost of the project is to be paid by the levy of special assessments, the board may by resolution create a project assessment district for the purpose of levying special assessments to finance the amount that the district will be obligated to pay in accordance with the agreement, over and above any other funds which that are on hand and properly available for that purpose. The assessment district must be of a size and form as to include all properties which that in the judgment of the board, after consultation with a registered engineer designated by the board for that purpose, will be benefited by the construction of the proposed project, and the board shall direct the engineer to prepare a map showing the boundaries of the proposed assessment district. The board shall by resolution declare the necessity of the project, set forth the general nature and purpose of the proposed project, estimate the total cost of the project, and the approximate amount or fraction of the cost which that the district will be

obligated to pay under the agreement, and the fact that this amount, or a lesser amount as the board may specify, is proposed to be paid by the levy of special assessments upon property within the assessment district determined to be benefited by the project. The board shall cause the resolution of necessity together with a copy of the map showing the boundaries of the assessment district and a notice stating the date and time by which the owners of any property liable to be specially assessed for the proposed project must file their votes on the proposed project with the secretary of the board to be mailed to each landowner affected by the proposed project as determined by the tax rolls of the county in which the affected property is located. The board may send the material by certified mail or by regular mail attested by an affidavit of mailing signed by the attorney or secretary of the board. The notice also must also set forth the time and place where the board shall meet to determine whether the project is approved. The notice must also be published once in a newspaper of general circulation in the district and once in the official county newspaper of each county in which the benefited lands are located. Within five days after the first mailing of the resolution the board shall cause a copy of the resolution to be personally served upon any county, city, ~~or township~~, school district, park district, or other political subdivision, in its corporate capacity which may be benefited directly or indirectly from the construction of the proposed project and upon any county which may become liable for any deficiency in the fund to be created for the project, by delivering a copy of the resolution to any member of the governing body thereof. The meeting must be held not less than thirty days after the mailing of the resolution, at which time the board shall determine whether the project is approved. If the board finds that fifty percent or more of the total votes filed are against a proposed project, then the board may not proceed further with the proposed project. If the board finds that less than fifty percent of votes filed are against the proposed project, the board may proceed with the project. In any assessment district created under this section the board may dispense with all other requirements of this chapter, other than those stated in this section. After the contract for the work has been let, the board may issue warrants on the fund of the project for the total amount of the cost thereof, and the board, without holding the hearing required by section 61-16.1-18, shall proceed to determine and levy any assessments against property benefited by the project and prepare an assessment list all in accordance with the procedures required by sections 61-16.1-21 through 61-16.1-24. ~~The provisions of sections~~ Sections 61-16.1-25 through 61-16.1-36 ~~are applicable~~ apply to the assessments and the special warrants issued pursuant to this section.

DR  
283  
2-16-23

**SECTION 3. AMENDMENT.** Section 61-16.1-15 of the North Dakota Century Code is amended and reenacted as follows:

**61-16.1-15. Financing project through revenue bonds, general taxes, or special assessments - Apportionment of benefits.**

A water resource board shall ~~have the authority~~ may, either upon request or by its own motion, to acquire needed interest in property and provide for the cost of construction, alteration, repair, operation, and maintenance of a project through issuance of improvement warrants or with funds raised by special assessments, general tax levy, issuance of revenue bonds, or by a combination of general ad valorem tax, special assessments, and revenue bonds. Whenever a water resource board decides to acquire property or interests in property to construct, operate, alter, repair, or maintain a project with funds raised in whole or in part through special assessments, ~~such~~ the assessments shall must be apportioned to and spread upon lands or premises benefited by the project in proportion to and in accordance with benefits accruing thereto. The board shall assess the proportion of the cost of the project, or the part of the cost to be financed with funds raised through levy and



collection of special assessments which any lot, piece, or parcel of land shall ~~bear~~<sup>bears</sup> in proportion to the benefits accruing thereto and any county, city, or township, school district, park district, or other political subdivision which is benefited ~~thereby~~<sup>by the project</sup>. In determining assessments, the water resource board shall carry out to the maximum extent possible the water management policy of this chapter that upstream landowners must share with downstream landowners the responsibility to provide for the proper management of surface waters.

DR  
373  
2-16-23

**SECTION 4.** Section 61-16.1-15.1 of the North Dakota Century Code is created and enacted as follows:

**Projects or benefits in more than one county.**

1. The districts from two or more counties may agree to jointly construct or assign benefits and assessments for a project. Two or more districts shall create a joint board under section 61-16.1-11 before constructing a project and before assessing the lands or premises for a project that benefits or is located in more than one county. If the districts do not agree to undertake a joint project, a district may undertake the project by providing notice to the joint board where the project is located, in either the Red River, James River, Mouse River, Missouri River, or Devils Lake drainage basin, together with the engineer's report required under section 61-16.1-17.
2. If the joint board finds the project is necessary, and the benefits of the project will exceed the costs, the joint board shall proceed with the procedures in sections 61-16.1-15 through 61-16.1-36 regarding:
  - a. The creation, construction, alteration, repair, operation, and maintenance of a project and an assessment district;
  - b. The determination and levy of assessments against property benefited by the project; and
  - c. The special warrants issued pursuant to this chapter.
3. If the assessment vote is successful, the joint board shall construct, own, operate, and maintain the project. The joint board shall administer the corresponding assessment district for the project in accordance with this chapter."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2372: Agriculture and Veterans Affairs Committee (Sen. Luick, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2372 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 61-16.1-11 and section 61-16.1-15.1 of the North Dakota Century Code, relating to joint water resource boards and the construction of a water project in more than one county; and to amend and reenact sections 61-16.1-12.1 and 61-16.1-15 of the North Dakota Century Code, relating to joint water resource boards.

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

**SECTION 1.** A new subsection to section 61-16.1-11 of the North Dakota Century Code is created and enacted as follows:

All districts within the Red River, James River, Mouse River, Missouri River, and Devils Lake drainage basins shall, by agreement, form and remain a member of a joint water resource board relative to the district's respective drainage basin. All agreements and subsequent amendments must be filed with the department of water resources. Notwithstanding other provisions of law, the board of county commissioners of the member districts in the Red River, James River, Mouse River, Missouri River, and Devils Lake drainage basins shall approve a levy of tax not to exceed two mills upon the taxable valuation of the real property within each joint board's respective drainage basin.

**SECTION 2. AMENDMENT.** Section 61-16.1-12.1 of the North Dakota Century Code is amended and reenacted as follows:

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tax rolls of the county in which the affected property is located. The board may send the material by certified mail or by regular mail attested by an affidavit of mailing signed by the attorney or secretary of the board. The notice also must ~~also~~ set forth the time and place where the board shall meet to determine whether the project is approved. The notice must also be published once in a newspaper of general circulation in the district and once in the official county newspaper of each county in which the benefited lands are located. Within five days after the first mailing of the resolution the board shall cause a copy of the resolution to be personally served upon any county, city, ~~or~~ township, school district, park district, or other political subdivision, in its corporate capacity which may be benefited directly or indirectly from the construction of the proposed project and upon any county which may become liable for any deficiency in the fund to be created for the project, by delivering a copy of the resolution to any member of the governing body thereof. The meeting must be held not less than thirty days after the mailing of the resolution, at which time the board shall determine whether the project is approved. If the board finds that fifty percent or more of the total votes filed are against a proposed project, then the board may not proceed further with the proposed project. If the board finds that less than fifty percent of votes filed are against the proposed project, the board may proceed with the project. In any assessment district created under this section the board may dispense with all other requirements of this chapter, other than those stated in this section. After the contract for the work has been let, the board may issue warrants on the fund of the project for the total amount of the cost thereof, and the board, without holding the hearing required by section 61-16.1-18, shall proceed to determine and levy any assessments against property benefited by the project and prepare an assessment list ~~all~~ in accordance with the procedures required by sections 61-16.1-21 through 61-16.1-24. ~~The provisions of sections~~ Sections 61-16.1-25 through 61-16.1-36 ~~are applicable~~ apply to the assessments and the special warrants issued pursuant to this section.

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**SECTION 4.** Section 61-16.1-15.1 of the North Dakota Century Code is created and enacted as follows:

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2. If the joint board finds the project is necessary, and the benefits of the project will exceed the costs, the joint board shall proceed with the procedures in sections 61-16.1-15 through 61-16.1-36 regarding:
  - a. The creation, construction, alteration, repair, operation, and maintenance of a project and an assessment district;
  - b. The determination and levy of assessments against property benefited by the project; and
  - c. The special warrants issued pursuant to this chapter.
3. If the assessment vote is successful, the joint board shall construct, own, operate, and maintain the project. The joint board shall administer the corresponding assessment district for the project in accordance with this chapter."

Renumber accordingly

**2023 HOUSE ENERGY AND NATURAL RESOURCES**

**SB 2372**

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Coteau AB Room, State Capitol

SB 2372  
3/16/2023

Relating to joint water resource boards and the construction of a water project in more than one county
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10:30 AM Chairman Porter opened the hearing.

Members present: Chairman Porter, Vice Chairman D. Anderson, Representatives Bosch, Conmy, Dockter, Hagert, Heinert, Ista, Kasper, Marschall, Novak, Olson, Roers Jones, and Ruby.

### **Discussion Topics:**

- Interim Drainage Committee
- Processing of Legal Drains
- Dispute Hearing Process
- Legal Drains Assessed
- Watershed Between Counties
- Joint Water Boards
- Mutual Authority over Watersheds
- County Commissions

Sen Larry Luick, District 25, introduced SB 2372, Testimony 25567  
Larry Skifton, Chairman, Rocky Run Water Resource Board, Testimony 25468

10:52 AM Chairman Porter closed the hearing.

*Kathleen Davis, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Coteau AB Room, State Capitol

SB 2372  
4/6/2023

Relating to joint water resource boards and the construction of a water project in more than one county
---

10:13 AM

Chairman Porter opened the meeting. Members present: Chairman Porter, Vice Chairman D. Anderson, Representatives Bosch, Conmy, Dockter, Hagert, Heinert, Ista, Kasper, Marschall, Novak, Ruby, and Roers Jones. Absent: Representative Olson.

### Discussion Topics:

- Committee work

Rep Hagert moved a Do Pass, seconded by Rep Ruby.

Representatives	Vote
Representative Todd Porter	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Liz Conmy	Y
Representative Jason Dockter	Y
Representative Jared Hagert	Y
Representative Pat D. Heinert	Y
Representative Zachary Ista	Y
Representative Jim Kasper	Y
Representative Andrew Marschall	Y
Representative Anna S. Novak	Y
Representative Jeremy Olson	AB
Representative Shannon Roers Jones	Y
Representative Matthew Ruby	Y

**13-0-1 Motion carried. Rep Hagert is carrier.**

10:17 AM meeting adjourned.

*Kathleen Davis, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2372, as engrossed: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).** Engrossed SB 2372 was placed on the Fourteenth order on the calendar.



# 2023 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Coteau AB Room, State Capitol

SB 2372  
4/10/2023

Relating to joint water resource boards and the construction of a water project in more than one county
---

2:12 PM Chairman Porter opened the meeting.

Members present: Chairman Porter, Vice Chairman D. Anderson, Representatives Conmy, Dockter, Hagert, Heinert, Ista, Marschall, Novak, and Olson.  
Absent: Representatives Bosch, Kasper, Roers Jones, and Ruby.

### Discussion Topics:

- Committee action

Rep Hagert, Testimony 27403, 27404

Rep Olson moved to Reconsider SB 2372, seconded by Rep Ista. Voice vote, motion carried.

Rep Hagert moved to amend SB 2372, Amendment 27.1097.02001, seconded by Rep Dockter. Voice vote, motion carried.

Rep Hagert, moved a Do Pass as Amended, seconded by Rep Dockter.

Representatives	Vote
Representative Todd Porter	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	AB
Representative Liz Conmy	Y
Representative Jason Dockter	Y
Representative Jared Hagert	Y
Representative Pat D. Heinert	Y
Representative Zachary Ista	Y
Representative Jim Kasper	AB
Representative Andrew Marschall	Y
Representative Anna S. Novak	Y
Representative Jeremy Olson	Y
Representative Shannon Roers Jones	AB
Representative Matthew Ruby	AB

**10-0-4 Motion carried. Rep Hagert is carrier.**

2:16 PM meeting adjourned.

*Kathleen Davis, Committee Clerk*

AG  
4-10-23  
(1-1)

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2372

Page 1, line 3, replace "sections" with "section"

Page 1, line 4, remove "and 61-16.1-15"

Page 3, remove lines 14 through 31

Page 4, remove lines 1 through 3

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2372, as engrossed: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (10 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). Engrossed SB 2372 was placed on the Sixth order on the calendar.**

Page 1, line 3, replace "sections" with "section"

Page 1, line 4, remove "and 61-16.1-15"

Page 3, remove lines 14 through 31

Page 4, remove lines 1 through 3

Renumber accordingly

**TESTIMONY**

**SB 2372**

**North Dakota  
Water Resource  
Districts Association**

JACK P. DWYER, EXECUTIVE SECRETARY  
701-730-5469 (c) • jack@ndwaterlaw.com  
P.O. Box 2254 • Bismarck, North Dakota 58502  
701-223-4615 (o) • staff@ndwater.net

September 1, 2021

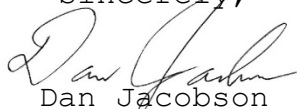
Dear North Dakota Water Managers:

North Dakota's water managers have extensive authorities, duties, and responsibilities for the management of North Dakota's water resources.

This Handbook provides information to assist water managers for the management of North Dakota's water resources.

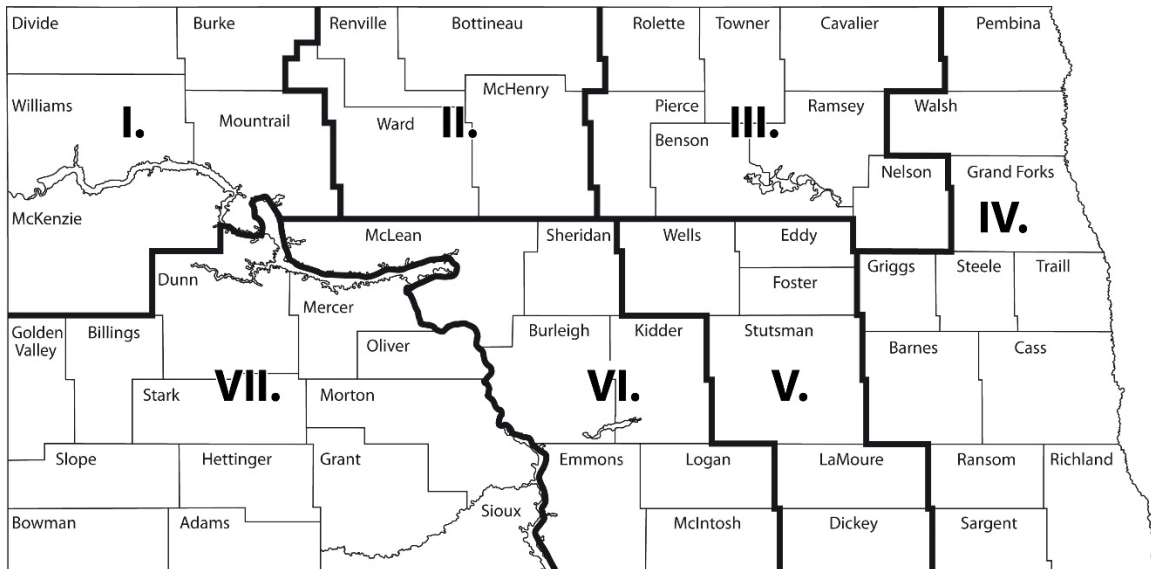
The mission of the North Dakota Water Resource Districts Association is to support and help water managers achieve wise and effective water resource management in North Dakota. This Handbook is a part of that mission.

Sincerely,

  
Dan Jacobson  
President

# HANDBOOK FOR WATER MANAGERS

The Handbook was first published by the North Dakota Water Resource Districts Association in 1989, and updated in 1995, 2002, 2003, 2004, 2010, 2017, and 2020. This is the updated version for 2021.



## 2021 BOARD OF DIRECTORS

District I: Larry Novak  
District II: David Ashley, Tom Klein  
District III: Ben Varnson, Duaine Ash  
District IV: Gary Thompson, Dan Jacobson  
District V: Norm Haak, Larry Skiftun  
District VI: Dennis Reep, Lynn Oberg  
District VII: Harold Gaugler, Larry Bares

# IMPORTANT NOTICE

The material and information contained in this Handbook is to assist water managers in carrying out the duties, authorities, and responsibilities for the management of North Dakota's water resource.

**This Handbook is not to be used as a substitute for your own attorney when legal questions arise. Nor are these materials to be construed as a legal interpretation of the law for specific problems that water managers may encounter. Each specific situation has different factual circumstances which must be considered. Therefore, please contact your Attorney for any legal issues you may encounter.**

We hope that you will find the materials contained in this Handbook helpful.

**CHAPTER 1 - GENERAL**

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ATTACHMENTS

- ND Water Resource Districts
- ND Surface Water Sources
- ND River Basin Boundaries
- ND Groundwater Supplies
- ND Annual Rainfall



## HISTORY OF WATER RESOURCE DISTRICTS

### 1. Creation of Water Resource Districts

The function of government in the area of water management is critically important. Local groups and local governments often rely on the state and federal government to provide assistance beyond the scope of their ability or jurisdiction. State and federal governmental agencies in turn rely on effective local governments for sponsorship or implementation of federal programs and projects.

In the area of water management, the need for a local unit of government to be responsible for water management and water development was recognized when enabling legislation for water conservation districts was first enacted in 1935 (S.L. 1935, Chapter 228). Initially, a water conservation district could be established only by order of the State Water Conservation Commission, upon receipt of a petition signed by any county, city, village, or township, or by 50 percent of the freeholders within the proposed district.

The initial water management laws were codified as N.D.C.C. § 61-16. This chapter remained virtually unchanged until 1957, when the Legislature enacted a comprehensive reform of water management statutes. The name for local water resource districts was changed from "water conservation district" to "Water Conservation and Flood Control District",

but the procedures for creation were similar. The State Water Conservation Commission continued to have the authority to create a district and establish the boundaries upon receipt of a proper petition.

In 1973, the Legislature again changed the name, this time to "water management district", and decided that all land in North Dakota should be in a "water management district".

In 1981, the Legislature again changed the name, this time to "water resource districts", and enacted another comprehensive reform of water management laws. In so doing, it expanded the powers and authorities, and made other changes designed to improve the effectiveness of water resource districts.

In addition to the initial enabling legislation for water resource districts in 1935, and the major revisions and expansion in 1957 and 1981, the Legislature has made a few changes to the statutes pertaining to water resource districts each legislative session.

## 2. Drain Boards

Enabling legislation for drain boards was first enacted in 1895 (R.C. 1895, s 1444), and was a part of North Dakota statutes from 1895 until 1981. Initially, drain boards were created by the county commission by appointing three freeholders to serve as a Board of Drain Commissioners. In

1981, the Legislature eliminated "legal" drain boards, as they were known, and transferred the powers and authorities of drain boards to water resource districts. The Legislature also changed the name of "legal" drains to "assessment drains".

3. Boundaries of Water Resource Districts

When water resource districts were first created in 1935, the Legislature gave the State Water Commission the authority to set boundaries. The Legislature specifically directed the State Water Commission not to consider county and township boundaries when creating districts. The 1935 version of N.D.C.C. § 61-16-05 provided:

**61-16-05. Area to be Included Within District - How Determined.**

In determining the area to be included within the district, the commission shall disregard township and county boundaries and shall consider only the drainage areas to be affected by the water development proposed and the probable future development thereof. Whenever practicable, such boundaries shall follow section lines.

At that time, the Legislature preferred watershed boundaries over political boundaries for water resource districts and gave the State Water Commission sole discretion to determine and establish the boundaries of water resource districts.

In 1957, N.D.C.C. § 61-16-05 was amended to provide as follows:

**61-16-05. Area to be Included Within District - How Determined.**

The area or areas to be included in a water conservation and flood control district shall embrace the territory described in the petition for the creation thereof. The commission shall, however, consider and may include within boundaries of the district, the watershed and drainage areas which will be benefited by the construction and maintenance of works therein for water conservation, flood control of drainage as the case may be.

So, beginning in 1957, boundaries for water resource districts were established as requested in the petition, yet the State Water Commission had the authority to include additional watershed and drainage areas benefited by the creation of the district.

In 1973, when the Legislature decided that all land in North Dakota must be within a water resource district, most water resource districts were created along county boundaries. In 1981, the North Dakota Legislature considered but did not adopt a proposal to reorganize water resource districts along watershed boundaries.

During the consideration of the watershed proposal in 1981, the North Dakota State Engineer offered the following reasons for supporting the watershed idea in the State Water Commission "Oxbow" publication. State Engineer Vern Fahy stated as follows:

As most of you know, I support the concept of water management on a watershed basis, as provided for in HB-1077. My support is based on three reasons:

1. First, within practical considerations, watershed management means that individual stream systems would be managed from their source to their mouth. By being accountable to all people in a stream system, all interests must be carefully balanced. This is the best way to ensure that proper water management decisions are made. For example, flood water retention by upstream residents and wise floodplain development by downstream residents must be balanced to achieve acceptable and workable decisions. The result of this watershed approach is the most effective and coordinated water management that is possible.

2. Second, the days when the federal government provided the initiative and funds for our water development and water management projects are over, at least for the present time. Although some scattered funds may still be available, if water management solutions are going to be implemented in North Dakota, the state and local governments must provide the leadership and initiative. This requires innovative and effective ideas and approaches to water management solutions.

3. The Nebraska example of water management on a watershed basis has proved to be extremely workable and effective. Prior to adoption of the watershed concept in 1972, Nebraska had many local water management, water use, and other water-related districts established along county lines. These were consolidated into 24 Natural Resource Districts, which were established primarily along watershed boundaries. After the initial organizational period, Nebraska's Natural Resource Districts have provided the initiative and leadership to resolve many localized water management problems throughout Nebraska. What was previously thought to be local control in Nebraska has truly become local control.

Notwithstanding the support of the State Engineer, the proposal was rejected by the legislature.

The evolution of water resource districts has resulted in a water resource district in every county in North Dakota. In a few counties, more than one water resource district exists.

Water resource districts have extensive duties, authorities, and responsibilities, and are facing increasing challenges.

Water resource districts are North Dakota's political subdivisions assigned to work towards coordinated and comprehensive management of the state's water resources at the local level.

#### 4. Joint Water Resource Boards

Even though the Legislature did not adopt the proposal to reorganize water resource districts along watershed boundaries, it did authorize water resource districts to create joint water resource boards to address water management issues within hydrologic boundaries. Water resource districts in West River, Souris River, Devils Lake, Red River, and James River have all created joint water boards.

### **STATE POLICY TOWARDS WATER MANAGEMENT**

The official state policy of North Dakota towards water management is expressed in three separate statutes:

#### **61-01-26. Declaration of state water resources policy.**

In view of legislative findings and determination of the ever-increasing demand and anticipated future need for water in North Dakota for every beneficial purpose and use, it is hereby declared to be the water resources policy of the state that:

1. The public health, safety, and general welfare, including without limitation, enhancement of opportunities for social and economic growth and expansion, of all of the people of the state,

depend in large measure upon the optimum protection, management, and wise utilization of all of the water and related land resources of the state.

2. Well-being of all of the people of the state shall be the overriding determinant in considering the best use, or combination of uses, of water and related land resources.
3. Storage of the maximum water supplies shall be provided wherever and whenever deemed feasible and practicable.
4. Accruing benefits from these resources can best be achieved for the people of the state through the development, execution, and periodic updating of comprehensive, coordinated, and well-balanced short-term and long-term plans and programs for the conservation and development of such resources by the departments and agencies of the state having responsibilities therefor. The plans and programs for the conservation and development of these resources may include implementation of a program to cost-share with local sponsors of water quality improvement projects.
5. Adequate implementation of such plans and programs shall be provided by the state through cost-sharing and cooperative participation with the appropriate federal and state departments and agencies and political subdivisions within the limitation of budgetary requirements and administrative capabilities, including consideration of cost-sharing for water quality improvement projects.
6. Required assurances of state cooperation and for meeting nonfederal repayment obligations of the state in connection with federal-assisted state projects shall be provided by the appropriate state department or agency.
7. Required assurances of local cooperation and for meeting nonfederal repayment obligations of local interests in connection with federal-assisted local projects may, at the request of political subdivisions or other local interests be provided

by the appropriate state department or agency, provided, if for any reason it is deemed necessary by any department or agency of the state to expend state funds in order to fulfill any obligation of a political subdivision or other local interests in connection with the construction, operation, or maintenance of any such project, the state shall have and may enforce a claim against the political subdivision or other local interests for such expenditures.

The provisions of this section may not be construed in any manner to limit, impair, or abrogate the rights, powers, duties, or functions of any department or agency of the state having jurisdiction or responsibilities in the field of water and related land resources conservation, development, or utilization.

N.D.C.C. § 61-16.1-01 establishes the legislative intent and purpose section for water resource districts.

**61-16.1-01. Legislative intent and purpose.**

The legislative assembly of North Dakota recognizes and declares that the general welfare and the protection of the lives, health, property, and the rights of all people of this state require that the management, conservation, protection, development, and control of waters in this state, navigable or non-navigable, surface or subsurface, the control of floods, the prevention of damage to property therefrom, involve and necessitate the exercise of the sovereign powers of this state and are affected with and concern a public purpose. To realize these objectives it is hereby declared to be the policy of the state to provide for the management, conservation, protection, development, and control of water resources and for the prevention of flood damage in the watersheds of this state and thereby to protect and promote the health, safety, and general welfare of the people of this state.

The legislative assembly further recognizes the significant achievements that have been made in the management, conservation, protection, development, and control of our water and related land resources, and declares that the most efficient and economical method of accelerating these achievements is to establish water



resource districts encompassing all of the geographic area of the state, and emphasizing hydrologic boundaries.

Finally, the Legislature has specifically assigned certain duties and responsibilities to water resource districts. These specific duties and responsibilities are contained in N.D.C.C. § 61-16.1-10.

**61-16.1-10. Responsibilities and duties of water resource board.**

Each water resource board shall:

1. Meet jointly with other water resource boards within a common river basin at least twice each year at times and places as mutually agreed upon for the purpose of reviewing and coordinating efforts for the maximum benefit of the entire river basin.
2. Cooperate with other water resource boards of a common river basin and provide mutual assistance to the maximum extent possible.
3. Exercise jointly with other water resource districts within a river basin to effectively resolve the significant and common water resource management problem or problems of the river basin or region and to jointly develop a comprehensive plan for the river basin or region.
4. Encourage all landowners to retain water on the land to the maximum extent possible in accordance with sound water management policies, and carry out to the maximum extent possible the water management policy that upstream landowners and districts that have artificially altered the hydrologic scheme must share with downstream landowners the responsibility of providing for proper management and control of surface waters.
5. Address and consider fully in the planning of any surface water project the downstream impacts caused by the project. A determination of whether to proceed with the construction of a project shall be

based on the following principles:

- a. Reasonable necessity of the project.
  - b. Reasonable care to be taken to avoid unnecessary injury by fully considering all alternatives.
  - c. Consideration of whether the utility or benefit accruing from the project reasonably outweighs the adverse impacts resulting from the project.
6. Require that appropriate easements be obtained in accordance with applicable state and federal law when projects will cause an adverse impact to lands of other landowners.

The mandatory duties and the extensive authorities vested with water resource districts reflect the importance of strong and effective water management at the local level.

### **Local Authority Over Water Rights**

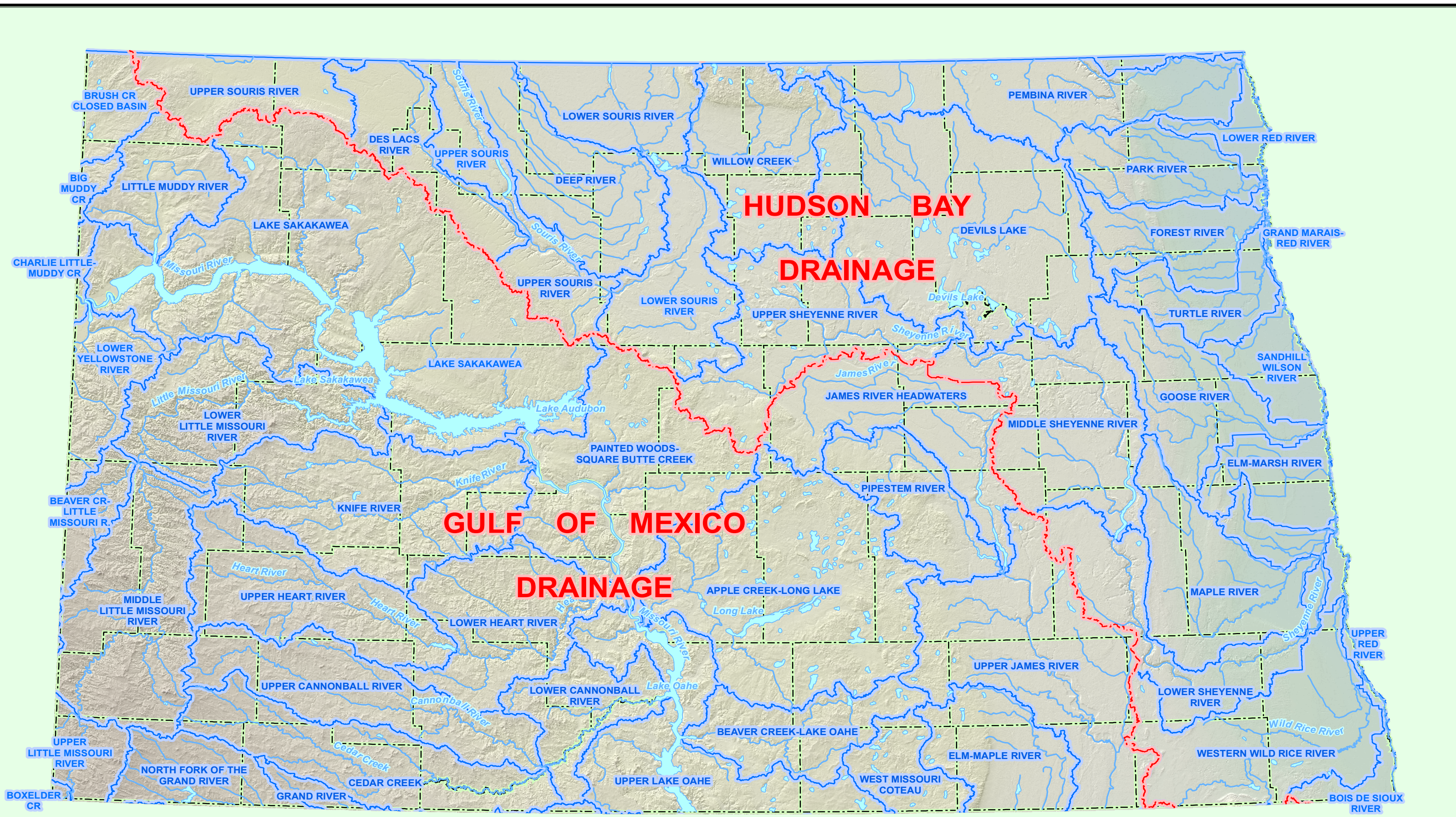
Whenever a person or entity wishes to appropriate and use any amount of water for municipal or industrial purposes, that person or entity must acquire a water permit. If a person or entity wishes to irrigate more than five acres of land, a water permit is also necessary. Finally, any person or entity desiring to appropriate water for domestic livestock, fish or wildlife, and recreation must receive a permit if the proposed diversion exceeds twelve and one-half acre-feet of water. A conditional water permit is required prior to constructing any works (well, dam, impoundment, etc.) for a project that will require a water permit.

Water resource districts do not have authority or control over the appropriation of water. The Department of Water Resources has the exclusive authority over water permit applications for the appropriation of up to 5,000 acre-feet of water, while the State Water Commission has the final authority for requests in excess of 5,000 acre-feet of water.

The department may also authorize emergency or temporary authorization contained in 61-04-02.1

**61-04-02.1. Emergency or temporary authorization.**

The department of water resources may authorize emergency or temporary use of water for periods not to exceed twelve months if the department determines the use will not be to the detriment of existing rights. The department shall establish by rule a separate procedure for processing applications for emergency or temporary use. Prescriptive and other rights to the use of water may not be acquired by use of water as authorized in this section.



# Major Drainage Sub-Basins of North Dakota

# HYDROLOGIC UNIT HIERARCHY

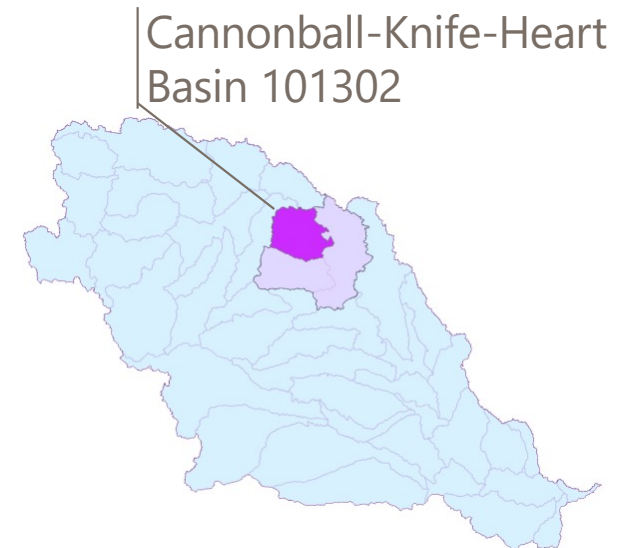
## HOW IT WORKS



**REGION** <sup>1</sup>  
2 digit HU Code  
21 Nationally



**SUBREGION** <sup>2</sup>  
4 digit HU Code  
221 Nationally

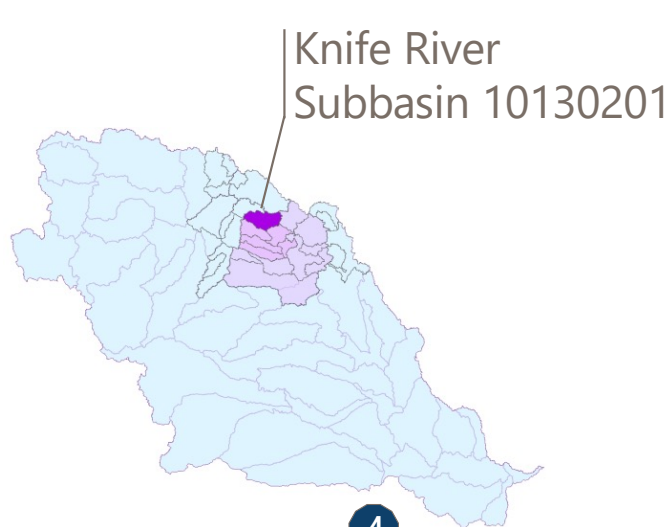


**BASIN** <sup>3</sup>  
6 digit HU Code  
378 Nationally

Courtesy Ann Fritz, GISP NDDEQ

# HYDROLOGIC UNIT HIERARCHY

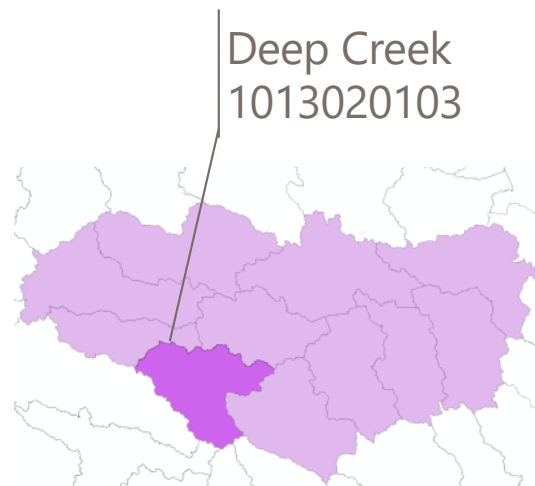
## HOW IT WORKS (CONTINUED)



### **SUBBASIN**

4

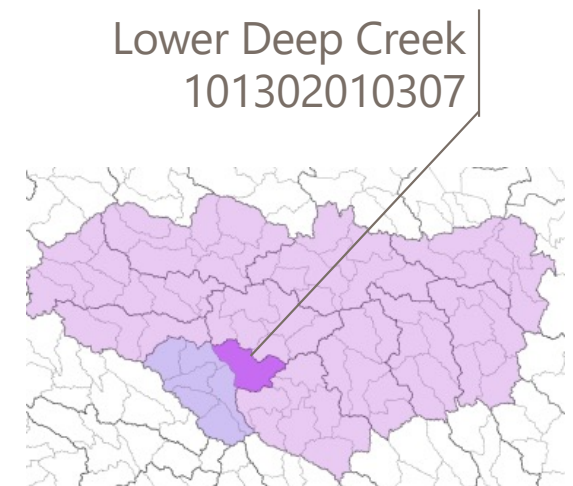
8 digit HU Code  
2236 Nationally  
Avg size: 700 mi<sup>2</sup>



### **WATERSHED**

5

10 digit HU Code  
5-15 per Subbasin  
Size: 40k – 250k acres



### **SUBWATERSHED**

6

12 digit HU Code  
5-15 per Watershed  
Size: 10k – 40k acres  
(not less than 3k acres)

# History Of WATER MANAGEMENT IN NORTH DAKOTA

Local Government Perspective | 1895-Present

## Current WRD Boards

53

County Water Resource Districts

8

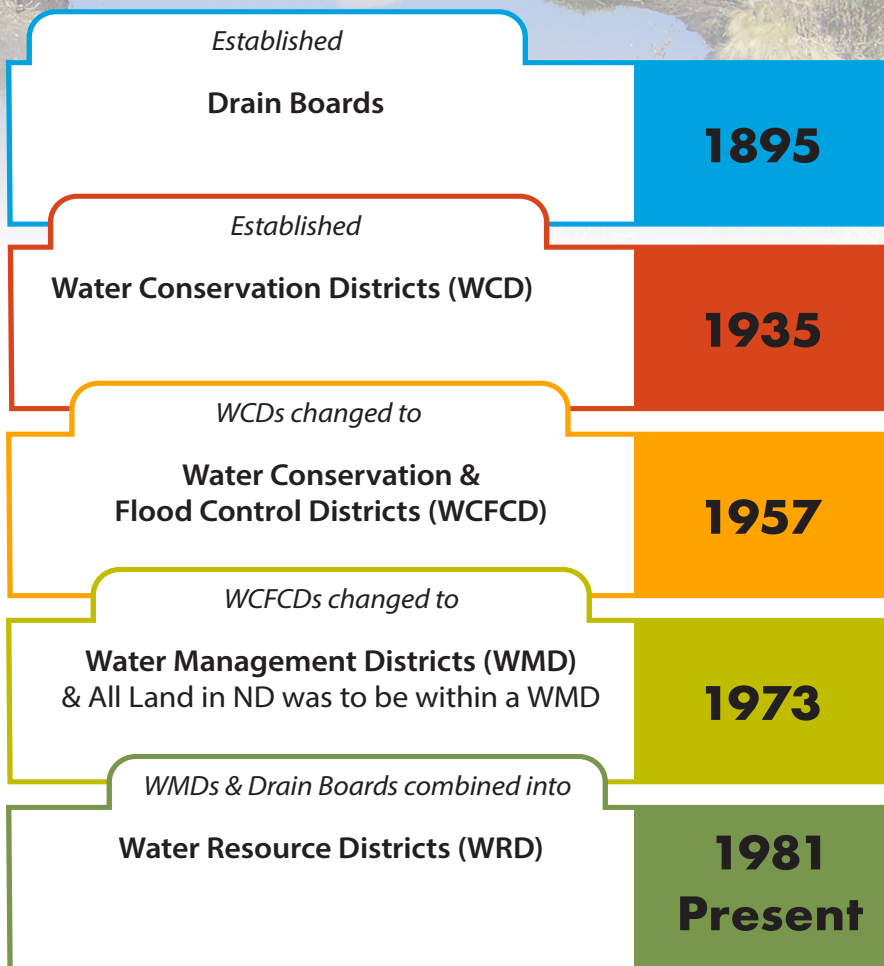
Sub-County Water Resource Districts

5

Joint Basin Water Resource Districts

18

Joint Project-Based Water Resource Districts



NORTH Dakota | Be Legendary.

Water Resources

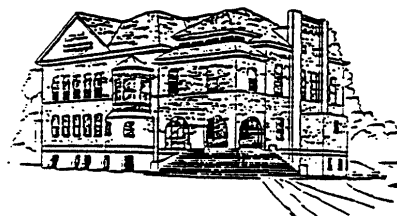
JANUARY 2023

This information provided is based upon Department of Water Resources research and may not account for all boards or events.

**Wells County Water Resource District**

Tammy Roehrich, Secretary  
700 Railway St N #244  
Fessenden, ND 58438  
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Cell:341-1359  
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[troehric@nd.gov](mailto:troehric@nd.gov)

WELLS COUNTY COURTHOUSE



Chairman Luick & Senate Agriculture & Veterans Affairs Committee Members:

Thank you for the opportunity to testify on Senate Bill 2372.

My name is Larry Skiftun. I am a lifelong farmer in Wells County, a landowner, and also the current Chairman of the Wells County Water Resource District Board of Managers.

I submit this written testimony in opposition to Senate Bill 2372. I understand that water does not respect political boundaries, but I believe more careful consideration is required before this bill is passed.

I encourage a “Do Not Pass” recommendation on Senate Bill 2372. I request the opportunity to testify in person before the committee and will stand for any questions. Thank you for your consideration of my testimony.

Sincerely,

Larry Skiftun, Board of Managers Chair  
Wells County Water Resource District



North Dakota  
Water Resource  
Districts Association

JACK P. DWYER, EXECUTIVE SECRETARY  
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701-223-4615 (o) • staff@ndwater.net

**SB 2372**  
**Testimony of Jack Dwyer**  
**Senate Agriculture and Veterans Affairs Committee**

Dear Senator Luick and Agriculture and Veterans Affairs Committee, I am Jack Dwyer and I serve as the Executive Secretary for the North Dakota Water Resource Districts Association.

The water managers that make up the Water Resource Districts Association support the idea of managing water at a watershed level. However, we have some concerns and questions about how the proposed structure in SB 2372 would operate.

Currently, each county in the state has a water resource district, which is overseen by a local water board. A few counties have more than one, formed along watershed boundaries. Cass County, for instance, has four water resource districts. Bottineau County technically has three water districts. Most other counties have just one water district. Water boards are formed and operate under the county commission for each county. Each water board has the ability to request funding from the county in which the water resource district operates, which can be approved and granted by the county commission, not to exceed four mills.

Our current structure in North Dakota does allow for watershed-based management, recognizing that water doesn't respect political boundaries. Each water resource district has the ability under NDCC 61-16.1-11 to form a "joint water resource district" or "joint board" by entering into a joint powers agreement with one or more neighboring water boards to coordinate water management on a watershed basis. Any joint board can request funding up to two additional mills from the counties in which the joint board operates. I've attached a list of the joint boards that have been formed in our state as **Exhibit A** to this testimony.

Joint boards are very active in our state. The Red River Joint Board, which is comprised of 14 water resource districts in the Red River basin, "provides for a coordinated and cooperative approach to water management and provides critical funding to member districts for the purpose of developing and financing water retention projects." The Missouri River Joint Board, consisting of 10 water boards, is focused on "addressing the management, conservation, protection, development, and control of water resources in the Missouri River basin." The Souris River Joint Board, which includes four counties, is currently the local sponsoring entity for the Mouse River Enhanced Flood Protection Project, the project that is responsible for reducing risk of flood damages in the entire Mouse River basin, including the city of Minot. Those are some of the large ones. Smaller examples also exist. A number of counties have formed joint boards with just one or two neighboring counties to take on the development and construction of a local

assessment project like an assessment drain. In those situations, the focus is on the particular project that was the purpose for forming the joint board, i.e. just completing and then maintaining that conveyance project that crosses one or two county lines.

With this background in mind, the language proposed in SB 2037 leads me to believe that water resource districts and joint water resource districts would continue to exist if this bill passes. If that is the case, then these watershed districts are redundant, and the bill does not clarify whether a water resource district, a joint water resource district, or watershed district would have jurisdiction over a certain question or land area, or any permit application or regulatory appeal, which would lead to confusion.

If the intent of this bill is to replace individual water boards and joint boards with watershed districts, that would be a major overhaul with would require additional study and discussion.

Under either scenario, our group has many questions. What is the appropriate size for a watershed district? How are the watershed districts funded? Will the watershed boundaries split land parcels?

Lastly, I understand there has been a concern with a few water resource districts who have been reluctant or refused to coordinate with neighboring counties. If the committee would like to address this issue, our group would offer that existing statutes be examined to see if there is a way to require counties to participate with neighboring counties when watersheds cross those boundaries, rather than create a new level of government. During the Interim Drainage Committee, our group proposed a statutory change to the Drainage Committee to address this issue, but the Drainage Committee did not act on our proposed change. Our proposed language that was submitted can be found on **Exhibit B** to this testimony.

Because of the outstanding questions about these watershed districts, and how they fit into our current system for local water management, the Water Resource Districts Association respectfully asks for a do not pass recommendation on SB 2372.

I'd be happy to stand for any questions.

**County Water Resource Districts**

Adams County	James River Joint Board	Oliver County Water Resource District
Barnes County	Kidder County	Park River Joint Water Resource District
Benson County	LaMoure County	Pembina County
Billings County	Logan County	Pierce County
Bottineau County	Lower Heart River Water Resource District	Ramsey County
Boundary Creek	Maple River	Ransom County
Bowman County	Maple River & Barnes County Joint	Red River Joint
Burke County	Maple River-Ransom Joint	Renville County
Burleigh County Water Resource Board	Maple River-Richland Joint	Richland County
Cass County Joint Board	Maple River-Rush River Joint	Richland-Cass Joint Water Resource Board
Cavalier County	Maple River-Southeast Cass Joint WRD	Richland-Sargent Joint Water Resource District
Devils Lake Basin Joint	Maple River-Steele County Joint	Rocky Run Joint
Dickey County	McHenry County	Rolette County
Dickey- Sargent Joint	McIntosh County	Rush River
Divide County	McKenzie County	Sargent County
Dunn County	McLean County	Sheridan County
Eddy County	McLean-Sheridan Joint	Sheyenne River Joint
Elm River Joint WRD	Mercer County	Sioux County
Emmons County	Missouri River Joint	Slope County
Forest River Joint	Morton County	Souris River Joint
Foster County	Mountrail County	Southeast Cass
Golden Valley County	Nelson County	Southeast Cass - Rush River Joint
Grand Forks County	North Cass	Stark County
Grant County	North Cass and Rush River Joint Board	Steele County
Griggs County	Oak Creek	Stutsman County
Griggs/Barnes Joint WRD		Towner County
Hettinger County		Trail County
Hurricane Lake Joint		

Tri-County

Upper Sheyenne River  
Joint

Walsh County

Ward County

Wells County

West River Joint

Williams County

Willow Creek

\*As of March 20 2018

**Sub-County Water  
Resource Districts**

Boundary Creek

Lower Heart River Water  
Resource District

Maple River

North Cass

Oak Creek

Rush River

Southeast Cass

Willow Creek

\*As of March 20 2018

**Joint Basin Water  
Resource Districts**

Devils Lake Basin Joint

Missouri River Joint

Red River Joint

Souris River Joint

Upper Sheyenne River  
Joint

\*As of March 20 2018

**Project-based Water  
Resource Districts**

Dickey- Sargent Joint

Elm River Joint WRD

Forest River Joint

Griggs/Barnes Joint WRD

Maple River & Barnes  
County Joint

Maple River-Ransom Joint

Maple River-Richland Joint

Maple River-Rush River  
Joint

Maple River-Southeast  
Cass Joint WRD

Maple River-Steele County  
Joint

McLean-Sheridan Joint

North Cass and Rush  
River Joint Board

Park River Joint Water  
Resource District

Richland-Cass Joint Water  
Resource Board

Richland-Sargent Joint  
Water Resource District

Rocky Run Joint

Southeast Cass - Rush  
River Joint

Tri-County

\*As of March 20 2018

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- b. Reasonable care to be taken to avoid unnecessary injury by fully considering all alternatives.
  - c. Consideration of whether the utility or benefit accruing from the project reasonably outweighs the adverse impacts resulting from the project.
6. Require that appropriate easements be obtained in accordance with applicable state and federal law when projects will cause an adverse impact to lands of other landowners.

**61-16.1-11. Joint exercise of powers.**

1. Two or more districts may, by agreement, jointly or cooperatively exercise any power which is authorized a board by this title. The agreement shall state its purpose and the powers to be exercised, and shall provide for the method by which the power or powers shall be exercised. When the agreement provides for the use of a joint water resource board, the joint board shall be representative of the boards which are parties to the agreement. Notwithstanding other provisions of law, the agreement may specify the number, composition, terms, or qualifications of the members of the joint board. A joint board created under this section is a political subdivision of the state.
2. The districts which are parties to such an agreement may provide for disbursements from their individual budgets to carry out the purpose of the agreement. In addition, a joint board established pursuant to this section may adopt, by resolution, on or before July first of each year, a budget showing estimated expenses for the ensuing fiscal year and the proposed contributions of each member district as determined by the agreement. The boards of the member districts then shall levy by resolution a tax not to exceed two mills upon the taxable valuation of the real property within each district within the river basin or region subject to the joint agreement. The levy may be in excess of any other levy authorized for a district.
3. The proceeds of one-half of this levy shall be credited to the joint board's administrative fund and shall be used for regulatory activities and for the construction and maintenance of projects of common benefit to the member districts. The remainder shall be credited to the construction funds of the joint board and shall be used for the construction and maintenance of projects of common benefit to more than one district.
4. Funds may be paid to and disbursed by the joint board as agreed upon, but the method of disbursement shall agree as far as practicable with the method provided by law for the disbursement of funds by individual districts. Contracts let and purchases made under the agreements shall conform to the requirements applicable to contracts and purchases by individual districts. The joint board shall be accountable for all funds and reports of all receipts and disbursements to the state water commission in a manner prescribed by the commission.
5. The agreement may be continued for a definite term or until rescinded or terminated in accordance with its terms. The agreement shall provide for the disposition of any property required as the result of a joint or cooperative exercise of powers, and the return of any surplus moneys in proportion to contributions of the several contracting districts after the purpose of the agreement has been completed.
6. Residence requirements for holding office in a district shall not apply to any officer appointed to carry out any agreement.
7. This section does not dispense with procedural requirements of any other statute providing for the joint or cooperative exercise of any governmental power.
8. All districts within the Red River, James River, Mouse River, Missouri River, and Devils Lake drainage basins shall form, and remain members of, joint boards, and shall file their respective agreements, and any subsequent amendments, with the state water commission. Notwithstanding the authority of a board of county commissioners to disapprove or amend the budgets of districts under this chapter, the boards of county commissioners of all member districts of the joint boards in the Red River, James River, Mouse River, Missouri River, and Devils Lake drainage basins shall approve the levies of taxes up to, but not to exceed, two mills for each fiscal year upon the taxable valuation of the real property within each joint board's respective drainage

**Commented [SMF3]:** One of the legitimate complaints is that some WRDs refuse to cooperate despite sharing watersheds. This proposal would force WRDs within watersheds or sub-watersheds to either cooperate or get out of the way and allow a Joint WRD to resolve issues within a watershed. This could resolve county vs. county political issues that may stem from other issues, unrelated to a particular water problem.



basin.

**61-16.1-12. Scope of water resource board's extraterritorial contractual authority - Board may acquire property in adjoining states and provinces.**

A water resource board shall have the right, power, and authority to enter into contracts or other arrangements for water conservation, water supply, flood control, or other authorized projects with the United States government or any department thereof, with the Canadian government or any department thereof or any of its provinces or municipalities, with persons, railroads, other corporations, or limited liability companies, with public corporations, and state governments of this or other states, with drainage, water resource, conservation, conservancy, or improvement districts, or other such districts in this or other states. Such contracts or arrangements can provide for cooperation or assistance in planning, constructing, maintaining, and operating such projects and in making investigations and reports thereon, and for the carrying out of any other provision of this chapter. A water resource board may purchase, lease, or acquire land or other property in adjoining states or provinces to secure outlets to construct and maintain dikes or dams, or for other purposes authorized by this chapter and may let contracts or spend money for securing such outlets or works in adjoining states or provinces. No water resource board of any district shall have the right, power, or authority to connect boundary waters having different natural outlets by artificial means so that the waters of one may be discharged into the other.

**61-16.1-12.1. Water resource boards - Agreements with state or federal agencies for certain improvements.**

A water resource board may enter into an agreement with any federal or state agency, or any combination thereof, for the construction of a project, under the terms of which the contract for the work is to be let by the federal or state agency or any combination thereof. If under the terms of the agreement at least fifty percent of the total cost of constructing the project is to be paid by the agency or agencies and if any portion of the cost of the project is to be paid by the levy of special assessments, the board may by resolution create a project assessment district for the purpose of levying special assessments to finance the amount that the district will be obligated to pay in accordance with the agreement, over and above any other funds which are on hand and properly available for that purpose. The assessment district must be of a size and form as to include all properties which in the judgment of the board, after consultation with a registered engineer designated by the board for that purpose, will be benefited by the construction of the proposed project, and the board shall direct the engineer to prepare a map showing the boundaries of the proposed assessment district. The board shall by resolution declare the necessity of the project, set forth the general nature and purpose of the proposed project, estimate the total cost of the project, and the approximate amount or fraction of the cost which the district will be obligated to pay under the agreement, and the fact that this amount, or a lesser amount as the board may specify, is proposed to be paid by the levy of special assessments upon property within the assessment district determined to be benefited by the project. The board shall cause the resolution of necessity together with a copy of the map showing the boundaries of the assessment district and a notice stating the date and time by which the owners of any property liable to be specially assessed for the proposed project must file their votes on the proposed project with the secretary of the board to be mailed to each landowner affected by the proposed project as determined by the tax rolls of the county in which the affected property is located. The board may send the material by certified mail or by regular mail attested by an affidavit of mailing signed by the attorney or secretary of the board. The notice must also set forth the time and place where the board shall meet to determine whether the project is approved. The notice must also be published once in a newspaper of general circulation in the district and once in the official county newspaper of each county in which the benefited lands are located. Within five days after the first mailing of the resolution the board shall cause a copy of the resolution to be personally served upon any county, city, township, city, school district, park district, or township ~~other political subdivision~~, in its corporate capacity which may be benefited directly or indirectly from the construction of the proposed project and upon any county which may become liable for any deficiency in the fund to be created for the project,

**Commented [SMF4]:** This revision is simply a clean-up, to ensure the political subdivision list is all-encompassing throughout the chapter (as opposed to listing some poli subs and not others, for no apparent reason)

by delivering a copy of the resolution to any member of the governing body thereof. The meeting must be held not less than thirty days after the mailing of the resolution, at which time the board shall determine whether the project is approved. If the board finds that fifty percent or more of the total votes filed are against a proposed project, then the board may not proceed further with the proposed project. If the board finds that less than fifty percent of votes filed are against the proposed project, the board may proceed with the project. In any assessment district created under this section the board may dispense with all other requirements of this chapter, other than those stated in this section. After the contract for the work has been let, the board may issue warrants on the fund of the project for the total amount of the cost thereof, and the board, without holding the hearing required by section 61-16.1-18, shall proceed to determine and levy any assessments against property benefited by the project and prepare an assessment list all in accordance with the procedures required by sections 61-16.1-21 through 61-16.1-24. The provisions of sections 61-16.1-25 through 61-16.1-36 are applicable to the assessments and the special warrants issued pursuant to this section.

**61-16.1-13. Master plans.**

Repealed by S.L. 1985, ch. 678, § 2.

**61-16.1-14. Contracts for construction or maintenance of project.**

If the cost of construction or maintenance of a project does not exceed the amount provided for construction of a public improvement under section 48-01.2-02, the work may be done on a day work basis or a contract may be let without being advertised. If the cost of the construction or maintenance exceeds the amount provided for construction of a public improvement under section 48-01.2-02, the board must let a contract in accordance with chapter 48-01.2.

**61-16.1-15. Financing project through revenue bonds, general taxes, or special assessments - Apportionment of benefits.**

A water resource board shall have the authority, either upon request or by its own motion, to acquire needed interest in property and provide for the cost of construction, alteration, repair, operation, and maintenance of a project through issuance of improvement warrants or with funds raised by special assessments, general tax levy, issuance of revenue bonds, or by a combination of general ad valorem tax, special assessments, and revenue bonds. Whenever a water resource board decides to acquire property or interests in property to construct, operate, alter, repair, or maintain a project with funds raised in whole or in part through special assessments, such assessments shall be apportioned to and spread upon lands or premises benefited by the project in proportion to and in accordance with benefits accruing thereto. The board shall assess the proportion of the cost of the project, or the part of the cost to be financed with funds raised through levy and collection of special assessments which any lot, piece, or parcel of land shall bear in proportion to the benefits accruing thereto and any county, township, city, school district, park district, or township or other political subdivision which is benefited thereby. In determining assessments, the water resource board shall carry out to the maximum extent possible the water management policy of this chapter that upstream landowners must share with downstream landowners the responsibility to provide for the proper management of surface waters.

**61-16.1-15.1. Projects or benefits in more than one county.**

The districts from two or more counties may agree to jointly construct or assign benefits and assessments for a project in those counties; the districts must create a joint board under Section 61-16.1-11 before constructing a project or before assessing the lands or premises in those counties for the benefits of a project. If, however, the districts do not jointly agree to undertake a joint project, a district that wishes to undertake the project in two or more counties, or that will benefit properties in two or more counties, shall provide notice to the joint board where the project will be located, in either the Red River, James River, Mouse River, Missouri River, or Devils Lake drainage basin, together with the report required under section 61-16.1-17. If the joint board concludes the project is necessary, and that the benefits of the project will exceed the costs, the joint board shall then proceed with the procedures in sections 61-16.1-15 through 61-16.1-36 regarding the creation, construction, alteration, repair, operation, and maintenance of a project

**Commented [SMF5]:** Again, the objective here is to provide a solution to watershed or sub-watershed issues where two WRDs may not be able agree to a solution to a water problem, possibly for reasons unrelated to water.

and an assessment district; the determination and levy of assessments against property benefited by the project; and the special warrants issued pursuant to this chapter. If the assessment vote is successful, the joint board will construct, own, operate, and maintain the project, and will administer the corresponding assessment district for the project in accordance with this chapter.

**61-16.1-16. Revenue bonds.**

Each district shall have the power and authority to issue revenue bonds, not exceeding an aggregate total outstanding of fifty million dollars, for the purpose of financing construction of projects and incidental facilities authorized by this chapter. Issuance of revenue bonds must be approved by two-thirds of all of the members of the water resource board. The district shall pledge sufficient revenue from any revenue-producing facility constructed with the aid of revenue bonds for the payment of principal and interest on the bonds and shall establish rates for the facilities at a sufficient level to provide for the operation of such facilities and for the bond payments. Revenue bonds shall not be a general obligation of any county and shall not be secured by property taxes.

**61-16.1-17. Financing of special improvements - Procedure.**

When it is proposed to finance in whole or in part the construction of a project with funds raised through the collection of special assessments levied against lands and premises benefited by construction and maintenance of such project, the water resource board shall examine the proposed project, and if in its opinion further proceedings are warranted, it shall adopt a resolution and declare that it is necessary to construct and maintain the project. The resolution shall briefly state the nature and purpose of the proposed project and shall designate a registered engineer to assist the board. For the purpose of making examinations or surveys, the board or its employees, after written notice to each landowner, may enter upon any land on which the proposed project is located or any other lands necessary to gain access. The engineer will prepare a preliminary engineer's report that will include preliminary plans of the proposed project, a preliminary project cost estimate, and identification of any proposed project crossings with any railroad, public road, or highway. Upon the filing of the engineer's preliminary report, the board will create a preliminary project assessment list that will include a preliminary list of the benefits and assessments to be made against each lot, piece, or parcel of land, as well as each county, township, city, school district, park district, or other political subdivision that will benefit from the project; the amount each will benefit from the project; and the preliminary amount of assessments against each. The preliminary assessment list will include each landowner as shown by the tax rolls of the county or counties in which the affected property is located. Upon the board's approval of a preliminary assessment list, the board will set a date and place for a public informational meeting on the proposed project. The place of the public informational meeting must be in the vicinity of the proposed project. At least thirty days before the public informational meeting, the board will mail notice of the meeting to each affected landowner, as well as to each railroad and road authority that may be crossed or impacted by the project, at those parties' addresses as shown by the tax rolls of the county or counties in which the affected property is located. The board may send the notice of meeting by regular mail attested by an affidavit of mailing signed by the attorney or secretary of the board. At the meeting, the board will explain the proposed project and will present the preliminary assessment list, and will allow landowners, railroads, and road authorities to offer comments or recommendations. Following the public informational meeting, the board may modify the proposed project or proceed with the preliminary plans. The board's engineer will then file an engineer's report with any updated plans of the proposed project, any updated project cost estimates, and identification of any proposed project crossings with any railroad, public road, or highway.

**Commented [SMF6]:** These changes in 61-16.1-17 create the additional pre-vote hearing/meeting discussed at the Committee's first meeting. This would mandate a "public informational meeting" before commencing the formal voting process, and would give landowners the opportunity to learn about a project and possible costs before the voting process; this way, landowners could offer their feedback to a WRD before they get a ballot in the mail, and would understand a project before the 'project hearing' during the voting process.

**Commented [SMF7]:** At the Committee's first meeting, we discussed road authorities and the failure in some counties of WRDs to engage those road authorities early in the assessment district/project process. This would require a WRD to identify impacts to a road authority or a railroad early in the process, and would require the WRD to invite those entities to the "public informational meeting." In other words, this would mandate early interaction with road authorities.

23.1097.01001  
Title.

Prepared by the Legislative Council staff for  
Senator Luick

February 15, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2372

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 61-16.1-11 and section 61-16.1-15.1 of the North Dakota Century Code, relating to joint water resource boards and the construction of a water project in more than one county; and to amend and reenact sections 61-16.1-12.1 and 61-16.1-15 of the North Dakota Century Code, relating to joint water resource boards.

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

**SECTION 1.** A new subsection to section 61-16.1-11 of the North Dakota Century Code is created and enacted as follows:

All districts within the Red River, James River, Mouse River, Missouri River, and Devils Lake drainage basins shall, by agreement, form and remain a member of a joint water resource board relative to the district's respective drainage basin. All agreements and subsequent amendments must be filed with the department of water resources. Notwithstanding other provisions of law, the board of county commissioners of the member districts in the Red River, James River, Mouse River, Missouri River, and Devils Lake drainage basins shall approve a levy of tax not to exceed two mills upon the taxable valuation of the real property within each joint board's respective drainage basin.

**SECTION 2. AMENDMENT.** Section 61-16.1-12.1 of the North Dakota Century Code is amended and reenacted as follows:

**61-16.1-12.1. Water resource boards - Agreements with state or federal agencies for certain improvements.**

A water resource board may enter into an agreement with any federal or state agency, or any combination thereof, for the construction of a project, under the terms of which the contract for the work is to be let by the federal or state agency or any combination thereof. If under the terms of the agreement at least fifty percent of the total cost of constructing the project is to be paid by the agency or agencies and if any portion of the cost of the project is to be paid by the levy of special assessments, the board may by resolution create a project assessment district for the purpose of levying special assessments to finance the amount that the district will be obligated to pay in accordance with the agreement, over and above any other funds ~~which that~~ are on hand and properly available for that purpose. The assessment district must be of a size and form as to include all properties ~~which that~~ in the judgment of the board, after consultation with a registered engineer designated by the board for that purpose, will be benefited by the construction of the proposed project, and the board shall direct the engineer to prepare a map showing the boundaries of the proposed assessment district. The board shall by resolution declare the necessity of the project, set forth the general nature and purpose of the proposed project, estimate the total cost of the project, and the approximate amount or fraction of the cost ~~which that~~ the district will be

obligated to pay under the agreement, and the fact that this amount, or a lesser amount as the board may specify, is proposed to be paid by the levy of special assessments upon property within the assessment district determined to be benefited by the project. The board shall cause the resolution of necessity together with a copy of the map showing the boundaries of the assessment district and a notice stating the date and time by which the owners of any property liable to be specially assessed for the proposed project must file their votes on the proposed project with the secretary of the board to be mailed to each landowner affected by the proposed project as determined by the tax rolls of the county in which the affected property is located. The board may send the material by certified mail or by regular mail attested by an affidavit of mailing signed by the attorney or secretary of the board. The notice also must also set forth the time and place where the board shall meet to determine whether the project is approved. The notice must also be published once in a newspaper of general circulation in the district and once in the official county newspaper of each county in which the benefited lands are located. Within five days after the first mailing of the resolution the board shall cause a copy of the resolution to be personally served upon any county, city, ~~or~~ township, school district, park district, or other political subdivision, in its corporate capacity which may be benefited directly or indirectly from the construction of the proposed project and upon any county which may become liable for any deficiency in the fund to be created for the project, by delivering a copy of the resolution to any member of the governing body thereof. The meeting must be held not less than thirty days after the mailing of the resolution, at which time the board shall determine whether the project is approved. If the board finds that fifty percent or more of the total votes filed are against a proposed project, then the board may not proceed further with the proposed project. If the board finds that less than fifty percent of votes filed are against the proposed project, the board may proceed with the project. In any assessment district created under this section the board may dispense with all other requirements of this chapter, other than those stated in this section. After the contract for the work has been let, the board may issue warrants on the fund of the project for the total amount of the cost thereof, and the board, without holding the hearing required by section 61-16.1-18, shall proceed to determine and levy any assessments against property benefited by the project and prepare an assessment list ~~all~~ in accordance with the procedures required by sections 61-16.1-21 through 61-16.1-24. ~~The provisions of sections~~ Sections 61-16.1-25 through 61-16.1-36 ~~are applicable~~ apply to the assessments and the special warrants issued pursuant to this section.

**SECTION 3. AMENDMENT.** Section 61-16.1-15 of the North Dakota Century Code is amended and reenacted as follows:

**61-16.1-15. Financing project through revenue bonds, general taxes, or special assessments - Apportionment of benefits.**

A water resource board ~~shall have the authority~~ may, either upon request or by its own motion, ~~to~~ acquire needed interest in property and provide for the cost of construction, alteration, repair, operation, and maintenance of a project through issuance of improvement warrants or with funds raised by special assessments, general tax levy, issuance of revenue bonds, or by a combination of general ad valorem tax, special assessments, and revenue bonds. Whenever a water resource board decides to acquire property or interests in property to construct, operate, alter, repair, or maintain a project with funds raised in whole or in part through special assessments, ~~such~~ the assessments ~~shall~~ must be apportioned to and spread upon lands or premises benefited by the project in proportion to and in accordance with benefits accruing thereto. The board shall assess the proportion of the cost of the project, or the part of the cost to be financed with funds raised through levy and

collection of special assessments which any lot, piece, or parcel of land shall ~~bear~~<sup>bears</sup> in proportion to the benefits accruing thereto and any county, city, or township, school district, park district, or other political subdivision which is benefited ~~thereby~~<sup>by the project</sup>. In determining assessments, the water resource board shall carry out to the maximum extent possible the water management policy of this chapter that upstream landowners must share with downstream landowners the responsibility to provide for the proper management of surface waters.

**SECTION 4.** Section 61-16.1-15.1 of the North Dakota Century Code is created and enacted as follows:

**Projects or benefits in more than one county.**

1. The districts from two or more counties may agree to jointly construct or assign benefits and assessments for a project. Two or more districts shall create a joint board under section 61-16.1-11 before constructing a project and before assessing the lands or premises for a project that benefits or is located in more than one county. If the districts do not agree to undertake a joint project, a district may undertake the project by providing notice to the joint board where the project is located, in either the Red River, James River, Mouse River, Missouri River, or Devils Lake drainage basin, together with the engineer's report required under section 61-16.1-17.
2. If the joint board finds the project is necessary, and the benefits of the project will exceed the costs, the joint board shall proceed with the procedures in sections 61-16.1-15 through 61-16.1-36 regarding:
  - a. The creation, construction, alteration, repair, operation, and maintenance of a project and an assessment district;
  - b. The determination and levy of assessments against property benefited by the project; and
  - c. The special warrants issued pursuant to this chapter.
3. If the assessment vote is successful, the joint board shall construct, own, operate, and maintain the project. The joint board shall administer the corresponding assessment district for the project in accordance with this chapter."

Renumber accordingly

**SENATE BILL 2372**  
**TESTIMONY OF ROCKY RUN JOINT WATER BOARD**  
**HOUSE ENERGY & NATURAL RESOURCES COMMITTEE MEMBERS**

Dear Chairman Porter and Committee Members:

Thank you for the opportunity to testify on Senate Bill 2372. We serve as the Rocky Run Joint Flood Control Board of Wells, Eddy, and Foster Counties (“Rocky Run Joint Board”). We recognize water doesn’t respect political boundaries and thus, participation in joint boards is necessary to address local needs.

Section 1 of this bill, however, isn’t ready for prime time. Section 1 mandates all county water boards within the massive Red River, James River, Mouse River, Missouri River, and Devils Lake drainage basins agree to form and remain a member of a joint water resource board relative to the district’s respective drainage basin. It also mandates that the county commissioners levy a tax on all landowners in the county, presumably, to support the functions of the basin-wide joint board.

Managing water on this large of a scale will lead to the centralization of control, which will result in a lack of local input and participation. This will lead to decisions being made without taking into account the unique needs and concerns of local watersheds. The Red River Basin, which includes land in Wells, Eddy, and Foster County, is a perfect example of this concern. The Red River Basin includes county water boards from 23 counties.

*How will a 23-member board make decisions efficiently and through consensus? A board of this size invites power struggles arising with members having competing interests and agendas, leading to conflicts that can harm the overall function of the joint board.*

*What guarantees will Wells, Foster, and Eddy County have that taxes levied against land in those counties will produce projects directly benefitting those lands? Should taxes levied in the rural communities of these counties be used to support projects in the City of Fargo, and vice versa?*

*Section 1 mandates a mill levy up to 2 mills, but there are no provisions to ensure each member county levies an equitable share to contribute to the functions of the joint board.*

Water is a critical resource that affects many aspects of our lives, including agriculture, industry, and the environment. It is essential that water management decisions are made with the participation of all stakeholders and not just a select few. Managing water on the scale proposed in Section 1 is likely to result in a one-size-fits-all approach that doesn’t take into account the unique characteristics and challenges of local watersheds within the basin. Different areas have different water needs, and imposing the same management strategies across the board would be inefficient and ineffective. A better approach would be to provide local communities with the

resources and support needed to manage their water resources in a way that best meets their needs.

County commissioners are currently struggling to find residents willing to serve as water resource board managers. Managers are already serving on one or more several joint powers boards to manage watersheds on a more local scale than Section 1 mandates. Our counties will struggle to find volunteers to serve on these roles. In addition to the Red River Basin, Wells, Eddy, and Foster Counties also have land in the James River Basin. Eddy County also has land in the Devils Lake Basin and Wells County also has land in the Missouri River Basin.

The Rocky Run Joint Water Board is an example of how water can be managed locally and at a more manageable scale under existing law. The mandates in Section 1 will put further struggles on water resource boards and joint water boards who strive to efficiently and effectively manage water on a more local scale.

We urge a “DO NOT PASS” vote on S.B. 2372. Larry Skiftun, Chair of the Rocky Run Joint Board, will stand for questions from the Committee.

Sincerely,

Larry Skiftun, Wells County Water Resource Board

Kenneth Reis, Eddy County Water Resource Board

Doug Zink, Foster County Water Resource Board



2372

①

House Natural Resources Committee Coteau AB  
Chairman Todd Porter 3/16/23-9:00

Chairman Porter and committee, attempts have been made in the past to get a better handle on water management and water projects in the state. ~~Water~~ County Water Resource Boards have been at odds with one another, County Boards have been at odds with the State Water Resource Board, landowners have been fighting amongst themselves, the county boards, and, some with the courts and the State water resource board.

I would like to explain why <sup>some</sup> of this is happening and how we can help stop some of ~~the~~ the fighting. In the 2021 session it was determined that ② different chapters in Century Code were being used to lay out the processes for how legal drains were being assessed, voted on, engineered, how patrons were being notified of proposed projects, and the hearing processes of disputes. There could be ② different legal drains within a county and each drain was processed differently. We were ready to fix this problem last session but because of the angst with fixing it, I was asked to hold it and work with others through the interim ~~to~~ in the Interim Drainage Committee (which I chaired) to

make positively sure that we had it the way all parties would agree to. The language from SB 2208 from last session was put into SB 2036 for this session and passed the Senate 47-0. This was the first of ③ water bills this session that would really help with water management and project ease going forward. The second bill that came through the interim Water Drainage Committee was SB 2037. This one was a little troubling for some and I feel <sup>that</sup> being unfortunate as it was, maybe in the future, there will be a little better understanding of how "beneficial" that process of 2037's economic analysis could be. The third water bill that <sup>will</sup> really help calm some of the fighting is SB 2372. This state today in code has language that lays out how two adjoining counties that maybe share a watershed area or a legal drain can voluntarily form a joint water board between them. Many counties have done this and I have been told that they are working very well. Some counties however, don't quite share cordially with one another the same respects. SB 2372 requires these remaining counties that share watershed or legal drains to form that joint board so there can be

(3)

mutual authority, maintenance, oversight, construction, and assessment of the drain and/or watershed areas. As I have stated many counties already have these formed joint boards that are formed from their own county resource boards, (so there isn't new people needed). In the past when there has been "watershed" boards proposed, it was to form <sup>brand</sup> new boards. This bill does not require that. Members from the counties already set-up boards are used to form the joint boards. I worked with many different parties to ~~the~~ the language right and agreed upon by <sup>those</sup> representatives of ~~the~~ concerned parties. We had many meetings on both 2036, and this bill 2372. This also passed the Senate unanimously 47-0.

Chairman Porter, and Committee, I ask for your favorable passage of <sup>SB</sup> 2372 to help resolve some of the problems in the world of water, and I stand for any questions you may have.

Senator Larry Lueck District 25

23.1097.02001  
Title.

Prepared by the Legislative Council staff for  
Representative Hagert  
April 7, 2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2372

Page 1, line 3, replace "sections" with "section"

Page 1, line 4, remove "and 61-16.1-15"

Page 3, remove lines 14 through 31

Page 4, remove lines 1 through 3

Re-number accordingly

23.1097.02001

**FIRST ENGROSSMENT**

Sixty-eighth  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2372**

Introduced by

Senators Lemm, Luick

1 A BILL for an Act to create and enact a new subsection to section 61-16.1-11 and section  
2 61-16.1-15.1 of the North Dakota Century Code, relating to joint water resource boards and the  
3 construction of a water project in more than one county; and to amend and reenact  
4 ~~sections~~section 61-16.1-12.1 ~~and 61-16.1-15~~ of the North Dakota Century Code, relating to joint  
5 water resource boards.

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

7 **SECTION 1.** A new subsection to section 61-16.1-11 of the North Dakota Century Code is  
8 created and enacted as follows:

9 All districts within the Red River, James River, Mouse River, Missouri River, and Devils  
10 Lake drainage basins shall, by agreement, form and remain a member of a joint water  
11 resource board relative to the district's respective drainage basin. All agreements and  
12 subsequent amendments must be filed with the department of water resources.  
13 Notwithstanding other provisions of law, the board of county commissioners of the  
14 member districts in the Red River, James River, Mouse River, Missouri River, and  
15 Devils Lake drainage basins shall approve a levy of tax not to exceed two mills upon  
16 the taxable valuation of the real property within each joint board's respective drainage  
17 basin.

18 **SECTION 2. AMENDMENT.** Section 61-16.1-12.1 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **61-16.1-12.1. Water resource boards - Agreements with state or federal agencies for**  
21 **certain improvements.**

22 A water resource board may enter into an agreement with any federal or state agency, or  
23 any combination thereof, for the construction of a project, under the terms of which the contract  
24 for the work is to be let by the federal or state agency or any combination thereof. If under the

Sixty-eighth  
Legislative Assembly

1 terms of the agreement at least fifty percent of the total cost of constructing the project is to be  
2 paid by the agency or agencies and if any portion of the cost of the project is to be paid by the  
3 levy of special assessments, the board may by resolution create a project assessment district  
4 for the purpose of levying special assessments to finance the amount ~~that~~ the district will be  
5 obligated to pay in accordance with the agreement, over and above any other funds ~~which~~that  
6 are on hand and properly available for that purpose. The assessment district must be of a size  
7 and form as to include all properties ~~which~~that in the judgment of the board, after consultation  
8 with a registered engineer designated by the board for that purpose, will be benefited by the  
9 construction of the proposed project, and the board shall direct the engineer to prepare a map  
10 showing the boundaries of the proposed assessment district. The board shall by resolution  
11 declare the necessity of the project, set forth the general nature and purpose of the proposed  
12 project, estimate the total cost of the project, and the approximate amount or fraction of the cost  
13 ~~which~~that the district will be obligated to pay under the agreement, and the fact that this  
14 amount, or a lesser amount as the board may specify, is proposed to be paid by the levy of  
15 special assessments upon property within the assessment district determined to be benefited  
16 by the project. The board shall cause the resolution of necessity together with a copy of the map  
17 showing the boundaries of the assessment district and a notice stating the date and time by  
18 which the owners of any property liable to be specially assessed for the proposed project must  
19 file their votes on the proposed project with the secretary of the board to be mailed to each  
20 landowner affected by the proposed project as determined by the tax rolls of the county in which  
21 the affected property is located. The board may send the material by certified mail or by regular  
22 mail attested by an affidavit of mailing signed by the attorney or secretary of the board. The  
23 notice also must ~~also~~ set forth the time and place where the board shall meet to determine  
24 whether the project is approved. The notice must also be published once in a newspaper of  
25 general circulation in the district and once in the official county newspaper of each county in  
26 which the benefited lands are located. Within five days after the first mailing of the resolution the  
27 board shall cause a copy of the resolution to be personally served upon any county, city, ~~or~~  
28 township, school district, park district, or other political subdivision, in its corporate capacity  
29 which may be benefited directly or indirectly from the construction of the proposed project and  
30 upon any county which may become liable for any deficiency in the fund to be created for the  
31 project, by delivering a copy of the resolution to any member of the governing body thereof. The

1 meeting must be held not less than thirty days after the mailing of the resolution, at which time  
2 the board shall determine whether the project is approved. If the board finds that fifty percent or  
3 more of the total votes filed are against a proposed project, then the board may not proceed  
4 further with the proposed project. If the board finds that less than fifty percent of votes filed are  
5 against the proposed project, the board may proceed with the project. In any assessment  
6 district created under this section the board may dispense with all other requirements of this  
7 chapter, other than those stated in this section. After the contract for the work has been let, the  
8 board may issue warrants on the fund of the project for the total amount of the cost thereof, and  
9 the board, without holding the hearing required by section 61-16.1-18, shall proceed to  
10 determine and levy any assessments against property benefited by the project and prepare an  
11 assessment list ~~all~~ in accordance with the procedures required by sections 61-16.1-21 through  
12 61-16.1-24. ~~The provisions of sections~~ Sections 61-16.1-25 through 61-16.1-36 are  
13 ~~applicable~~ apply to the assessments and the special warrants issued pursuant to this section.

14 ~~— SECTION 3. AMENDMENT. Section 61-16.1-15 of the North Dakota Century Code is~~  
15 ~~amended and reenacted as follows:~~

16 ~~— 61-16.1-15. Financing project through revenue bonds, general taxes, or special~~  
17 ~~assessments – Apportionment of benefits.~~

18 ~~— A water resource board shall have the authority~~ may, either upon request or by its own  
19 ~~motion, to acquire needed interest in property and provide for the cost of construction,~~  
20 ~~alteration, repair, operation, and maintenance of a project through issuance of improvement~~  
21 ~~warrants or with funds raised by special assessments, general tax levy, issuance of revenue~~  
22 ~~bonds, or by a combination of general ad valorem tax, special assessments, and revenue~~  
23 ~~bonds. Whenever a water resource board decides to acquire property or interests in property to~~  
24 ~~construct, operate, alter, repair, or maintain a project with funds raised in whole or in part~~  
25 ~~through special assessments, such~~ the assessments shall ~~must~~ be apportioned to and spread  
26 ~~upon lands or premises benefited by the project in proportion to and in accordance with benefits~~  
27 ~~accruing thereto. The board shall assess the proportion of the cost of the project, or the part of~~  
28 ~~the cost to be financed with funds raised through levy and collection of special assessments~~  
29 ~~which any lot, piece, or parcel of land shall bear~~ bears in proportion to the benefits accruing  
30 ~~thereto and any county, city, or township, school district, park district, or other political~~  
31 ~~subdivision which is benefited thereby~~ by the project. In determining assessments, the water

1 ~~resource board shall carry out to the maximum extent possible the water management policy of~~  
2 ~~this chapter that upstream landowners must share with downstream landowners the~~  
3 ~~responsibility to provide for the proper management of surface waters.~~

4 **SECTION 3.** Section 61-16.1-15.1 of the North Dakota Century Code is created and  
5 enacted as follows:

6 **Projects or benefits in more than one county.**

- 7 1. The districts from two or more counties may agree to jointly construct or assign  
8 benefits and assessments for a project. Two or more districts shall create a joint board  
9 under section 61-16.1-11 before constructing a project and before assessing the lands  
10 or premises for a project that benefits or is located in more than one county. If the  
11 districts do not agree to undertake a joint project, a district may undertake the project  
12 by providing notice to the joint board where the project is located, in either the  
13 Red River, James River, Mouse River, Missouri River, or Devils Lake drainage basin,  
14 together with the engineer's report required under section 61-16.1-17.
- 15 2. If the joint board finds the project is necessary, and the benefits of the project will  
16 exceed the costs, the joint board shall proceed with the procedures in sections  
17 61-16.1-15 through 61-16.1-36 regarding:
- 18 a. The creation, construction, alteration, repair, operation, and maintenance of a  
19 project and an assessment district;
- 20 b. The determination and levy of assessments against property benefited by the  
21 project; and
- 22 c. The special warrants issued pursuant to this chapter.
- 23 3. If the assessment vote is successful, the joint board shall construct, own, operate, and  
24 maintain the project. The joint board shall administer the corresponding assessment  
25 district for the project in accordance with this chapter.