

Legislative Report

I. This Week at the Legislature

Conference committee work, along with floor sessions, marked this 15th week of legislative session. Today is the 67th day. Leadership saved one legislative day this week by not gaveling in on Tuesday, which pushed the 80th legislative day to May 2. Conference committees continue to work on both policy and appropriations bills as the legislature moves into its final days.

HB 1339: The conference committee amendments were adopted and passed on the House floor on Friday, April 7 and on the Senate floor on Monday, April 10. Both sides agreed to compromise on the appeal percentage at 20 percent. The House had reduced from 25 percent to 15 percent, and the Senate had returned to 25 percent. WRDs indicated they were supportive of the compromise of 20 percent.

HB 1390: The House concurred to the Senate amendments on HB 1390 on Monday, April 10. The Senate Agriculture Committee took SB 2263, the other tile drain bill, and inserted it into HB 1390 with a hog house amendment. The amendment included the following sentence concerning conditions: “A water resource district may attach reasonable conditions to an approved permit for a subsurface water management system that outlets directly into a legal assessment drain or public highway right-of-way.” WRDs requested the underlined statement be removed to provide protection for downstream landowners. The proposal failed 3-3. The amended bill passed out of committee with a 6-0 vote. The bill only allows conditions if the tile project outlets directly into a road ditch or assessment drain, which will happen very seldom, if at all. So essentially there is no authority to attach conditions, including rural water easement conditions. The amended bill passed on the Senate floor on Tuesday, April 4 with a 42-5 vote. The conditions are narrowly defined as follows:

- Requires water resource board managers to attend a course on water management within three months of the start of their terms and every three years during the remainder of their term.
- Changes the language throughout the bill from “drainage project” to “subsurface water management project.”
- Outlines a maximum coefficient of three-eighths of an inch or less for subsurface water management systems that use surface intakes.
- Installation of a subsurface water management system comprising less than 80 acres does not require a permit.
- Requires the State Engineer to develop an application form for a permit and requires applicants to submit a complete application to the water resource district board.
- Establishes a \$150 fee for the application and requires the water resource board send notice and copy of the submission via certified mail to each landowner, downstream and upstream.
- Outlines procedure moving forward if application is approved or denied.
- Only allows conditions if the tile project outlets directly into a road ditch or assessment drain.
- Outlines that all liability of the project lies within the applicant, not the water resource board.
- Projects cannot be any closer than 20 feet to rural water lines on either side.
- Outlines possible infractions for a person who were to install a project over 80 acres and did not acquire a permit and permission.

- Instructs legislative management to consider studying and monitoring the nutrient management plan developed by the State Department of Health during the 2017-2018 interim.

SB 2263, the other tile drain bill, was killed on the House floor on Wednesday, April 12. Legislators acknowledged that HB 1390 was a better vehicle to address tile drain.

SB 2270: The conference committee report was adopted and passed unanimously on the Senate floor on Monday, April 10 and on the House floor on Thursday, April 13. The conference committee met last week and discussed the public hearing aspect of the bill. The Senate argued the hearings were not worth the time or money, while the House thought the public, whether they are affected or unaffected, should not be left out of the process. The conference committee decided to essentially not approve the amendments proposed in the original bill and add instead a requirement for a newspaper notice. Rep. Bill Devlin is an advocate of newspaper notices, so all landowners, both those being assessed and surrounding landowners, will have notice of the project. The bill authorizes GDCD and LAWA to work with the N.D. Public Finance Authority to finance various projects.

HB 1020: The conference committee met on Tuesday, April 11 to reconcile differences on HB 1020, the State Water Commission appropriation bill. To date, no official action has been taken, but the House has verbally stated they agree with the following sections to the Senate version of HB 1020:

- Section 2 which reduces the appropriation for employee health insurance premiums from \$277,612 to \$257,498.
- Removing the section which provides a grant of \$135,000 from the Resources Trust Fund to the Game and Fish Department for law enforcement activities on sovereign lands in the state.
- Section 4 which relates to carry over fund authority.
- Removing sections relating to an oil and gas industry fresh water royalty tax.
- Removing the section which requires any funding provided for NAWS to be made available through a line of credit.
- Modifying section 8 which instructs the Bank of North Dakota to consolidate three WAWS loans which are worth \$40,000,000, \$50,000,000 and \$25,000,000. WAWS is not obligated to repay principal on loans from the Resources Trust Fund for the period of July 1, 2017 to June 30, 2018.
- Section 9 which instructs the SWC to provide payment if WAWS defaults on their loan payments.
- Inserting sections 10 and 11 appropriating \$150,000 from the Resources Trust Fund to the Industrial Commission to conduct an independent study on the sale or lease of industrial assets of WAWS. The Industrial Commission would be required to conduct the study during the 2017-2019 interim and report their findings to the Water Topics Interim Committee. The Industrial Commission would determine if it is feasible or desirable to lease or sell assets of the authority.
- Section 12 and 13 which reduce the maximum funding allocated to the energy conservation grant fund from \$1 million to \$200,000 for the upcoming biennium and restoring the fund to \$1 million on July 1, 2019.
- Establishing a three percent interest rate cap on the State Water Commission line of credit through the Bank of N.D. in section 15.
- Inserting section 16 which modifies Century Code in regards to agricultural, recreational or temporary use purposes and the dredging of waters within the confines of the Little Missouri Scenic River and all Little Missouri River tributary streams. The change was brought forward by the SWC.
- Giving power to the Industrial Commission to authorize WAWS to determine domestic water rates in section 18.

- Adding section 20, instructing legislative management to study industrial water use of the oil and gas industry during the 2017-2018 interim.

The Committee still needs to discuss the following:

- Combining the seven funding buckets in section 5 to the three buckets below:
 - Water Supply: \$147,125,000
 - Flood Control: \$136,000,000
 - General Water: \$15,750,000
- Increasing the legislative intent limit for the Mouse River flood control projects from \$110 million to \$193 million for the next four bienniums in section 6.
- Inserting section 7 requiring the SWC to provide up to \$30 million for a 90 percent state cost share to GDCD for the Red River Valley Water Supply Project.
- Increasing the cap on the Infrastructure Revolving Loan fund from \$25 million to \$26 million which alters sections 14 and 19.
- Section 17 which authorizes the Industrial Commission to issue revenue bonds.
- Removing sections which would require the State Engineer to conduct a flood hazard risk management study.

HB 1361 passed on the Senate floor on Wednesday, April 12. The body separated the bill into two sections prior to voting, Division A and Division B, which correlated to Section 1 and Section 2 of the bill, respectfully. Division A would have enabled voters to petition for an election calling for a limitation on the growth of property taxes to three percent over the prior year, with adjustments for changes in the taxability of new and existing property. Division A failed on the Senate floor. Division B requires county auditors to compile and report property tax growth to the Tax Commissioner. Division B passed on the Senate Floor. The amended bill, which now only includes the reporting section, will be sent to the House for concurrence.

SB 2134: The conference committee met on Wednesday, April 12. The bill adopts a definition of sovereign minerals within Missouri River reservoirs as within the historical riverbed channel and implements a study to determine this location. The bill directs the adjustment of State leased mineral acres and authorizes refunds and legal cost refunds. The conference committee is still in disagreement in regard to section four of the bill which relates to reimbursement of legal expenses.

HCR 3019: The conference committee amendments were adopted and the resolution passed unanimously on the House floor on Thursday, April 13. The resolution requests that the United States Army Corps of Engineers return the land that is no longer needed for the management of the Garrison project and Pick-Sloan project areas in North Dakota to its original landowners.

II. E-mail Version of Weekly Legislative Reports

If you receive this by mail or fax, but have e-mail, please send your email to Julie at ndwaterusers@btinet.net, and you can receive it by e-mail.

III. How to Contact Your Legislators

During a legislative session, a legislator can be reached at the State Capitol through e-mail or by leaving a message with the legislative telephone message center at (888) NDLEGIS (635-3447). That number can also be used to obtain information on bills under consideration. A legislator can also be reached by mail or e-mail and address rosters are posted at <http://www.legis.nd.gov/contact-information>.

Addressing Mail Correspondence

To a Senator:
Honorable (full name)
State Senator
600 E Boulevard Ave
Bismarck, ND 58505
Dear Senator (last name)

To a Representative:
Honorable (full name)
State Representative
600 E Boulevard Ave
Bismarck, ND 58505
Dear Representative (last name)

IV. 2017 Legislative Deadlines and Dates

Date	Topic
April 14	Good Friday
May 1	Session is limited to 80 legislative days

V. Legislative Bills Tracked (To Date)

Bill	Short Title	House	Senate
<u>HB 1009</u>	Agriculture Commissioner Appropriation	PASSED	PASSED
<u>HB 1017</u>	Game and Fish Department Appropriation	PASSED	PASSED
<u>HB 1020</u>	State Water Commission Appropriation	<i>Conf. Comm.</i>	<i>Conf. Comm.</i>
<u>HB 1026</u>	Underground Facilities Before Excavation	PASSED	PASSED
<u>HB 1055</u>	Revenue Bond Indebtedness Limit for WRD	PASSED	PASSED
<u>HB 1106</u>	Definitions of Disasters and Emergencies	PASSED	PASSED
<u>HB 1111</u>	Metro Flood Diversion Authority	PASSED	PASSED
<u>HB 1191</u>	Loans for Political Subdivisions	PASSED	PASSED
<u>HB 1199</u>	Definition of Sovereign Lands	PASSED	
<u>HB 1322</u>	Township Bonding Authority	PASSED	PASSED
<u>HB 1336</u>	Environmental or Health Safety Audits	PASSED	PASSED
<u>HB 1339</u>	Notice, Appeals, and Refunds of Special Assessments	PASSED	PASSED
<u>HB 1345</u>	Open Record and Meeting Laws	PASSED	PASSED
<u>HB 1361</u>	Limitations of Property Tax Levies		PASSED
<u>HB 1367</u>	Personal Watercraft and Towing an Individual on Water Skies	PASSED	PASSED
<u>HB 1374</u>	Contracts & Financial Assistance for Water Projects/Duties of the State Engineer	PASSED	PASSED
<u>HB 1385</u>	Municipal Refunding Bonds	PASSED	PASSED
<u>HB 1390</u>	Limitation on County Authority and Subsurface Drains	PASSED	PASSED
<u>HB 1409</u>	Well Water Testing	PASSED	PASSED
<u>SB 2047</u>	Quick Take Eminent Domain	<i>Conf. Comm.</i>	<i>Conf. Comm.</i>
<u>SB 2134</u>	Pick-Sloan Missouri Basin Project Dams	<i>Conf. Comm.</i>	<i>Conf. Comm.</i>
<u>SB 2142</u>	Construction Manager At-Risk Subcontractor Bids	PASSED	PASSED
<u>SB 2146</u>	Public Improvement Bid and Bond Thresholds	PASSED	PASSED
<u>SB 2147</u>	Bond Requirements for Public Improvements	PASSED	PASSED
<u>SB 2168</u>	Public Improvements	PASSED	PASSED
<u>SB 2178</u>	Infrastructure Revolving Loan Fund	PASSED	PASSED
<u>SB 2236</u>	Pipeline Restoration and Reclamation Oversight Program	PASSED	PASSED
<u>SB 2239</u>	Annual Inspections for Watercraft for Hire	PASSED	PASSED
<u>SB 2245</u>	Listing Parcels Under Control of Certain State Entities Use as Wetlands Mitigation	PASSED	PASSED
<u>SB 2262</u>	Fertilizer Regulation by Cities, Counties, or Townships	PASSED	PASSED

<u>SB 2269</u>	Powers of LAWA & GDCD	PASSED	PASSED
<u>SB 2270</u>	Financing Options for the GDCD	PASSED	PASSED
<u>SB 2308</u>	Identification of Ice Fish houses and Coyote Snares	PASSED	PASSED
<u>SB 2327</u>	Creation of the Department of Environmental Quality	PASSED	PASSED
<u>HCR 3019</u>	Exercise nondiscrimination in public land management and return the land no longer required for the Pick-Sloan Missouri Basin Project dam at Lake Sakakawea to the citizens of the United States.	PASSED	
<u>HCR 3021</u>	Allow the utilization of the Garrison Diversion Unit facilities, including the McClusky Canal and the Snake Creek pumping plant, as a water supply for eastern and central North Dakota, irrigation, and for all other authorized project purposes, and not deauthorize or repurpose any part of the Garrison Diversion Unit and to allow the Continuation of the Garrison Diversion project canal system to aid in the delivery of water to the Red River Valley.	PASSED	PASSED

VI. Legislative Bills Failed (To Date)

Bill	Short Title	House	Senate
<u>HB 1054</u>	Cancellation of Unexpected Appropriations	PASSED	FAILED
<u>HB 1114</u>	License Fees for Plumbers and Sewer and Water Installers	FAILED	
<u>HB 1162</u>	Competition between the Government and Private Industry	PASSED	FAILED
<u>HB 1165</u>	Transparency of State Grants	PASSED	FAILED
<u>HB 1168</u>	Reimbursement for Public Employees	FAILED	
<u>HB 1244</u>	Authority of County Commissioners to Approve Quick Take Eminent Domain	PASSED	FAILED
<u>HB 1298</u>	Prohibiting Contracting Lobbyists	FAILED	
<u>HB 1326</u>	Local Property Tax Incentives from Impacted Municipalities	FAILED	
<u>HB 1331</u>	Inspection of Septic Systems	FAILED	
<u>HB 1349</u>	Pipeline Leak Detection Equipment Depreciation Expenses	FAILED	
<u>HB 1351</u>	Approval of Special Assessments by Elected Governing Bodies	PASSED	FAILED
<u>HB 1393</u>	Assessments by Water Resource Districts	FAILED	
<u>HB 1416</u>	Definition of Cleaning Out and Repairing of Drain	FAILED	
<u>SB 2227</u>	Nonresident Waterfowl Hunting Licenses	FAILED	
<u>SB 2229</u>	Appointments to the Red River Basin Commission	FAILED	
<u>SB 2259</u>	Nonresident Waterfowl Hunting Licenses	FAILED	PASSED
<u>SB 2263</u>	Subsurface Drainage Permits	FAILED	PASSED
<u>SB 2280</u>	City Levy Authority for Emergency Purposes	FAILED	PASSED
<u>SB 2331</u>	Protecting Groundwater & Mineral Developer Responsibilities		FAILED
<u>SB 2332</u>	Valuation of Property for Just Compensation		FAILED
<u>HCR 3020</u>	Allow the Continuation of the Garrison Diversion project canal system to aid in the delivery of water to the Red River Valley.	PASSED	FAILED