

— *North Dakota Water Users* — *March 29, 2019 No. 15*

# *Legislative Report*

## **Hearing Schedule (April 1 – April 5).**

Hearings of bills being tracked by the North Dakota Water Users Association for the next week are included in this report. We are tracking these bills because they have a direct or indirect impact on water issues.

## **I. This Week at the Legislature**

### **[HB 1207](#) Reasonable Costs Awarded to Eminent Domain Defendant**

Extensively discussed in committee.

This bill awards attorney's fees to defendants that prevail in eminent domain cases if the award for compensation and damages is less than the written offer of settlement submitted by the condemning authority at least 60 days before trial or if the taking is deemed not for a public use or unlawful. This bill was given a 4-2 Do Not Pass recommendation from the committee but it will be discussed further to clarify the language and possibly reconsider the bill before it is sent to the Senate floor.

### **[HB 1302](#) Sale of Property Acquired by Eminent Domain**

**Failed** the Senate floor with a vote of 5-41 on Tuesday, March 26.

This bill would have allowed the person whose land was taken for eminent domain by the state or a political subdivision to have the opportunity to purchase the land back if it is no longer needed for the purpose it was obtained. This bill failed on the floor due to the many concerns with the language and unanimous opposition at the hearing.

### **[HB 1356](#) Bids, Plans and Specifications for Public Improvements and Bond Thresholds**

**Passed** the Senate floor with a vote of 39-6 on Monday, March 25.

This bill requires that the state and its political subdivisions may not engage in the construction of public works involving the practice of professional engineering when the contemplated expenditure for the project exceeds the sum of two hundred fifty thousand dollars, unless the engineering drawings and specifications and estimates have been prepared by, and the construction administration and construction observation services are executed under the supervision of, a registered professional engineer.

### **[HB 1431](#) Removal of Mandan from SW Water Authority's Mill Levy**

**Failed** the Senate floor with a vote of 47-0 on Wednesday, March 27.

This bill would have removed Mandan from SW Water Authority's mill levy. This bill failed because it was no longer necessary due to SB 2213 failing in the House (SB 2213 would have extended the SWWA one mill levy).

### **[SB 2020](#) Appropriation for Defraying the Expenses of the State Water Commission**

The House Appropriations Educations and Environment Division continues to review the State Water Commission budget in SB 2020. It has discussed many possible changes to the version of Engrossed SB 2020 adopted by the Senate.

Based on the revised revenue forecast the subcommittee is anticipating the possibility of an additional \$83 million more funds than the \$350 million than the Senate appropriated for grants and capital projects. Potentially, there is an additional \$140 million more with the higher revenue forecast and if other pending legislation is adopted.

The committee is considering possible amendments including:

- Adding a 10<sup>th</sup> member (8<sup>th</sup> appointed) to the State Water Commission to represent watersheds in the Southwest
- Continuation of the previously adopted legislative intent of \$193 million for the interior-Minot portion of the Mouse River Flood control to support \$135.5 million over the next 3 biennia
- Changing the Tobacco Settlement payments to the Water Development Trust Fund of \$16 to \$18 million to fund Human Services instead of the WDTF
- Creation of a Missouri River advocacy council that would have been created in [HB 1428](#), which the House previously defeated
- Certification requirement of minimal downstream impact from operation of the FM Diversion
- Provision that funds returned to SWC by projects due to cost-savings, are restored in the "bucket" from which the funds were derived
- Possible line item appropriations for each project
- Establish a "contingency" funding line for SWC flexibility and to address emergencies
- Increase commitment to NAWS

### **[SB 2044](#) Damaging Critical Infrastructure Penalty**

**Passed** the House with a vote of 76-14 on Monday, March 25.

This bill provides penalties for tampering with critical infrastructure and defines what a critical infrastructure facility is.

### **[SB 2275](#) Essential Infrastructure Revolving Loan Fund**

**Failed** the House with a vote of 34-55 on Monday, March 25.

This bill would have created a large scale low-interest, long-term revolving loan fund at the Bank of North Dakota with the lending terms supported with earnings from the Legacy Fund for water projects and other infrastructure investments. This bill failed due to the bonding repayment of \$55M+ per biennium obligation from the state for the next 15 biennia.

The Education and Environment Division of the House Appropriations Committee discussed expanding the existing revolving loan within Senate Bill 2020, the State Water Commission budget appropriations bill and it asked the Bank of North Dakota and Legislative Council to consider other funding sources.

**[SB 2358](#) Definition of a Watercourse**

**Passed** the House with a vote of 89-2 on Thursday, March 28.

This bill would add a creek, river, or stream appearing in a USGI topographical map to the definition of a watercourse.

**[SB 2362](#) Oil and Gas Extraction Tax Revenues**

Heard before the Senate Appropriations Committee on Friday, March 28.

This bill is a delayed bill that would address the interpretation issues of how oil and gas extraction tax revenues generated on the Fort Berthold Indian Reservation are deposited into the Resources Trust Fund, the Common Schools Trust Fund and the Foundation Aid Stabilization Fund. As introduced, the bill stipulates that 20% of all the extraction tax collected in the state would be transferred to the Resources Trust Fund. This could increase deposits to the RTF by \$45.4 million.

The Senate Finance and Tax Committee amended the bill to increase the allocation of the extraction tax revenues to the RTF by 0.5% until \$128,740,000 is transferred from the increased share. This represents an estimate of the total funds that were not deposited in the RTF under a different interpretation of distributions since 2009. Under current oil price and production forecasts, an additional \$11 million could be transferred with the increased share. The ND Water Coalition provided testimony in support of the bill at the hearing.

**II. 2019 Legislative Deadlines and Dates**

May 2                      Session is limited to 80 legislative days

**III. HEARING SCHEDULE: April 1 - April 5, 2019**

Date and Time	Bill Number	Short Title	Committee	Room
04/02/2019 10:00 AM	<a href="#">SB 2362</a>	Relating to the allocation of oil extraction tax; to provide a contingent appropriation; to provide for a transfer; to provide an effective date; to and to declare an emergency.	House Finance and Taxation	Fort Totten

#### IV. Legislative Bills Tracked (To Date)

Bill	Short Title	House	Senate
<a href="#">HB 1066</a>	“Project Prairie Dog”	PASSED	PASSED
<a href="#">HB 1085</a>	Drought Disaster Livestock Water Assistance Program	PASSED	PASSED
<a href="#">HB 1087</a>	Permit to Construct or Modify a Dam, Dike, or Other Device	PASSED	PASSED
<a href="#">HB 1136</a>	Bid Requirements for Public Improvements	PASSED	PASSED
<a href="#">HB 1173</a>	Appeals to Local Government Cost	PASSED	
<a href="#">HB 1192</a>	Ordinary High Water Marks	PASSED	PASSED
<a href="#">HB 1207</a>	Reasonable Costs Awarded to Eminent Domain Defendant	PASSED	
<a href="#">HB 1302</a>	Sale of Property Acquired by Eminent Domain	PASSED	FAILED
<a href="#">HB 1320</a>	RRVWSP Contract Terms and Elimination of Voter Approval Requirements	PASSED	
<a href="#">HB 1356</a>	Bids, Plans and Specifications for Public Improvements and Bond Thresholds	PASSED	PASSED
<a href="#">HB 1362</a>	Railroad Right of Way Utility Applications	PASSED	PASSED
<a href="#">HB 1431</a>	Removal of Mandan from SW Water Authority’s Mill Levy	PASSED	FAILED
<a href="#">HB 1521</a>	Reporting Campaign Contributions	PASSED	
<a href="#">SB 2020</a>	Appropriation for Defraying the Expenses of the State Water Commission		PASSED
<a href="#">SB 2044</a>	Damaging Critical Infrastructure Penalty	PASSED	PASSED
<a href="#">SB 2090</a>	Permits for the Appropriation of Water	PASSED	PASSED
<a href="#">SB 2091</a>	Floodplain Management Community Standards	PASSED	PASSED
<a href="#">SB 2139</a>	Snagging and Clearing		PASSED
<a href="#">SB 2148</a>	Measure 1 Lobbyist Bill		PASSED
<a href="#">SB 2213</a>	SW Water Authority Permanent Mill Levy	FAILED	PASSED
<a href="#">SB 2275</a>	Essential Infrastructure Revolving Loan Fund	FAILED	PASSED
<a href="#">SB 2293</a>	Aquatic Nuisance Species Program Fund		PASSED
<a href="#">SB 2295</a>	Limiting Creation of Irrigation Districts	PASSED	PASSED
<a href="#">SB 2342</a>	Noise Restrictions on Watercraft	PASSED	PASSED
<a href="#">SB 2358</a>	Definition of a Watercourse	PASSED	PASSED
<a href="#">SB 2362</a>	Oil and Gas Extraction Tax Revenues		
<a href="#">SCR 4009</a>	Joint Water Resource Board Study	PASSED	PASSED