

— *North Dakota Water Users* — *April 5, 2019 No. 16*

# *Legislative Report*

## **Hearing Schedule (April 8 – April 12).**

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 1173](#) Appeals to Local Government Cost**

**Passed** on the House floor with a vote of 90-1 on Thursday, January 17.

**Failed** on the Senate floor with a vote of 2-45 on Tuesday, April 2.

This bill would have reduced the cost of appeals to local government. The bill was found to be unnecessary and that was the primary reason it failed.

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

**Passed** on the House floor with a vote of 80-13 on Tuesday, February 19.

**Failed** on the Senate floor with a vote of 6-41 on Wednesday, April 3.

This bill would have awarded 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. Landowner rights were a major concern with this bill.

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

**Passed** on the House floor with a vote of 54-37 on Wednesday, February 20.

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

Assigned to Conference Committee: Reps. Pyle, Johnson, M., Fegley and Sens. Lee, J., Burckhard, Dotzenrod

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 1362](#) Railroad Right of Way Utility Applications**

Passed on the House floor with a vote of 83-8 on Wednesday, February 20.

Passed on the Senate floor with a vote of 46-0 on Thursday, March 21.

Returned to House on Friday March 22, 2019.

Passed on the House floor with a vote of 79-8 on Monday, April 1.

This bill allows a utility to cross over or under the railroad right of way for the placement of facilities.

### **SB 2020 Appropriation for Defraying the Expenses of the State Water Commission**

Passed on the Senate floor with a vote of 44-1 on Friday, February 15.

Extensively discussed in subcommittee.

This is the appropriations bill for the State Water Commission. Late Friday, the subcommittee amended and agreed to forward to the full Appropriations committee SB 2020. The amended version:

- Increases capital assets by \$33M to provide additional funding for state-owned projects NAWS and SWWA
- Increases water supply grants by \$13M for municipal water supply projects to \$128M
- Increases rural water supply grants by \$7.2M to \$37.2M
- Expands the flood control grants line item to specifically identify funding to FM Diversion, Mouse River flood control, and other flood control projects
- Continues the earmark of \$66.5M for the FM Diversion flood control project, which continues the \$703M commitment the state has made to the project, and stipulates that the project must mitigate any downstream impacts
- Carries forward the \$193M legislative intent for Mouse River Flood Control with \$57.7M in the current biennium and \$135.3M for the next three biennia
- Identifies \$48M in funding for flood control projects other than Fargo area flood control
- Reduces the Senate's legislative intent of \$50M for Red River Water Supply to \$30M and drops the state cost share from 80-20% to 60-40%
- Identifies \$27M in funding for general water projects
- Provides one-time funding of \$25M to pay off outstanding debt of the State Water Commission
- Includes an emergency clause

The \$593,320,273 appropriated to the State Water Commission for salaries and wages, operating expenses, capital assets, water supply, rural water supply, Mouse River flood control, flood control projects other than Fargo area flood control including the FM Diversion and general water is conditioned on the funds not being expended of Fargo area flood control projects, including the FM Diversion. The bill will be revisited in full committee on Monday with more possible amendments.

### **SB 2044 Damaging Critical Infrastructure Penalty**

Passed on the Senate floor with a vote of 42-3 on Friday, February 15.

Passed on the House floor 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 2090 Permits for the Appropriation of Water**

**Passed** on the Senate floor with a vote of 42-2 on Monday, February 4.

**Passed** on the House floor with a vote of 78-7 on Friday, March 22.

Assigned to Conference Committee: Sens. Kreun, Unruh, Piepkorn and Reps. Zubke, Bosch, Ruby, M.

This bill exempts reuse of fossil byproduct water from requiring a water permit, clarifies that a legal interest in the point of diversion or place of use for irrigation water is required, and puts into statute the long-standing practice of having a 30-day comment period on water permit applications. It also increases the costs. All new water permit applications increased from \$200 to \$500, industrial permits are now \$1,000, and amendments are raised to \$100. The \$250 under 2,500 population break will also go away.

### **SB 2342 Noise Restrictions on Watercraft**

**Passed** on the Senate floor with a vote of 37-9 on Friday, February 8.

**Passed** on the House floor with a vote of 60-25 on Friday, March 22.

Assigned to Conference Committee: Sens. Cook, Roers, J., Piepkorn and Reps. Heinert, Bosch, Lefor

This bill sets noise restrictions of 88 decibels for no more than 10 minutes on the operation of watercraft during the hours of 12am-5am.

### **SB 2358 Definition of a Watercourse**

**Passed** on the Senate floor with a vote of 44-1 on Friday, February 15.

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

Assigned to Conference Committee: Sens. Kreun, Unruh, Piepkorn and Reps. Anderson, D., Zubke, Damschen

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**

**Passed** the Senate floor with a vote of 44-3 on Monday, April 1.

**Passed** the House floor with a vote of 85-0 on Friday, April 5.

This bill 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. The correction will deposit an additional \$46 million into the RTF. The bill stipulates that 20.5% of all the extraction tax collected in the state would be transferred to the Resources Trust Fund upon passage of the bill, which has an emergency clause, until \$128M is restored to the Resources Trust Fund, when the allocation will return to 20%.

## **II. 2019 Legislative Deadlines and Dates**

May 2

Session is limited to 80 legislative days

**III. HEARING SCHEDULE: April 8 - April 12, 2019**

<b>Date and Time</b>	<b>Bill Number</b>	<b>Short Title</b>	<b>Committee</b>	<b>Room</b>
04/09/2019 4:00 PM	<a href="#">HB 1521</a>	Relating to reporting campaign contributions and expenditures, restrictions on public officials and lobbyists, investigations of ethics violations, and implementing requirements of article XIV of the Constitution of North Dakota.	Ethics	Pioneer
04/10/2019 2:30 PM	<a href="#">SB 2148</a>	Relating to disclosures of expenditures, restrictions on public officials and lobbyists, investigations of ethics violations, and implementing requirements of article XIV of the Constitution of North Dakota.	Ethics	Pioneer
04/11/2019 4:00 PM	<a href="#">HB 1521</a>	Relating to reporting campaign contributions and expenditures, restrictions on public officials and lobbyists, investigations of ethics violations, and implementing requirements of article XIV of the Constitution of North Dakota.	Ethics	Pioneer

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

<b>Bill</b>	<b>Short Title</b>	<b>House</b>	<b>Senate</b>
<a href="#">HB 1066</a>	"Project Prairie Dog"	PASSED	<b>PASSED</b>
<a href="#">HB 1085</a>	Drought Disaster Livestock Water Assistance Program	PASSED	<b>PASSED</b>
<a href="#">HB 1087</a>	Permit to Construct or Modify a Dam, Dike, or Other Device	PASSED	<b>PASSED</b>
<a href="#">HB 1136</a>	Bid Requirements for Public Improvements	PASSED	<b>PASSED</b>
<a href="#">HB 1173</a>	Appeals to Local Government Cost	PASSED	<b>FAILED</b>

<a href="#">HB 1192</a>	Ordinary High-Water Marks	PASSED	PASSED
<a href="#">HB 1207</a>	Reasonable Costs Awarded to Eminent Domain Defendant	PASSED	FAILED
<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	PASSED	PASSED
<a href="#">SCR 4009</a>	Joint Water Resource Board Study	PASSED	PASSED