

NORTH DAKOTA

WATER USERS ASSOCIATION | WATER COALITION | WATER RESOURCE DISTRICTS ASSOCIATION | IRRIGATION ASSOCIATION

# Legislative Report

## **The End of the Session is in Sight**

We are in the final days of the 67th Legislative Session and things are changing fast. We are continuing to monitor bills remaining in committees and conference committees, as well as those awaiting final passage on the chambers' floors. Look for a final report next week (we hope!) that will include the final status of all the bills tracked this session.

As you'll see below, this week was another big week for water with HB 1020, the State Water Commission budget bill, passing both chambers and moving along to the Governor's desk, and HB 1431, the bonding bill for Fargo and Mouse River, being signed by the Governor.

## **Water Funding**

### **HB 1020 State Water Commission budget bill**

The conference committee on HB 1020, the Water Commission funding bill, met this week and the House agreed to all the Senate changes. The House then passed the Senate version of HB 1020 92-2. The line items, or buckets, are funded as follows:

| <b>Line Item</b>   | <b>Final version of HB 1020</b> |
|--------------------|---------------------------------|
| Capital Assets     | \$173 M                         |
| Water Supply       | \$125 M                         |
| Rural Water Supply | \$59.6 M                        |
| Flood Control      | \$48 M                          |
| Discretionary      | \$6 M                           |
| Line of Credit     | \$50 M                          |

The discretionary bucket is a new proposal and would be available to the State Water Commission (SWC) to use for any project. The North Dakota Water Coalition proposed this concept of providing the SWC this type of flexibility to ensure those projects that voluntarily turned back or deobligated funds in the current biennium could be prioritized now that there is additional funding available.

The bill carries an emergency clause which means it will be effective as soon as the Governor signs it. HB 1020 has passed both houses and is now headed to the Governor for his signature.

**Passed House 92-2 April 21**

### **HB 1431 Bonding for Water Projects**

HB 1431, the major water infrastructure bonding authority bill was signed by the Governor this week. The final version of the bill included:

- \$435.5 million for the Fargo Diversion Project
- \$74.5 million for the Mouse River Flood Control Project
- \$50 million to an infrastructure revolving loan fund
- \$70 million to the state highway fund
- \$50 million to NDSU for an agriculture products development center

Passage of HB 1431 frees up \$142 million of the RTF for water project cost-share grants for water project cost share contemplated in HB 1020. Many water projects should benefit from reduced competition for SWC money if the major water projects are funded with bonding. The North Dakota Water Users, North Dakota Water Coalition, and the North Dakota Water Resource Districts Association all supported the bonding bill.

The final version of HB 1431 includes an infrastructure loan program with a stepped-up interest rate. This was briefly changed to a 2% flat interest rate cap but that was changed to the less desirable escalating interest rate when the bill reverted to the House version. The North Dakota Water Coalition is advocating for a flat interest rate to be added to another piece of legislation that will pass before the end of session.

**Signed by the Governor April 21**

### **HB 1380 Legacy Fund Earnings Programs**

HB 1380, referred to as the Legacy Fund 'streams' bill, was head by the Senate Appropriations Committee; one of the 'streams' is to fund repayment of the infrastructure bonds authorized in HB 1431. Slight amendments were offered to the bill by the Senate Appropriations Committee. HB 1380 received a do pass as amended recommendation from the Senate Appropriations Committee and was amended and passed unanimously in the Senate. It will now go back to the House for either a conference committee or concurrence. There is another bill, SB 2046, that also contains legacy fund streams that is actively being debated.

**Passed Senate 47-0 April 13**

### **Water Resource Districts**

#### **HB 1437 Modifies drain tile approval processes**

House Bill 1437, the subsurface water management (tiling) bill, which also includes a fix to allow for State Water Commission to cost share widening or deepening activities for drains, was amended by the Senate Agriculture committee to remove the notification requirement on projects less than 80 acres unless the project drains into an assessment drain or a "tributary" of an assessment drain. The conference committee continued to work with the focus of the discussion being on the notification requirement projects that are less than 80 acres and . A compromise was reached to allow for notification on under-80-acre projects during this interim, but the language would have to be revived and passed again in the next legislative session. It is also anticipated that this topic will be studied in the SB 2208 study discussed below.

**Passed Conference Committee 6-0 April 23**

#### **SB 2208 Interim Water Study**

Initially SB 2208 would have substantially modified assessment drain processes and maintenance authority, but the Senate Agriculture Committee completely rewrote the bill to

instead establish an interim study to examine combining NDCC chapters 61-16.1 and 61-21; make assessment procedures uniform; establish an appeals and mediation process; manage water by watershed; review responsibility of culvert sizing; cost-benefit analyses on projects; and the relationship between the SWC and water resource districts. The study committee will include both legislators and non-legislators. Two members of water resource district will be voting members on the committee. The conference committee met and agreed to recommend an amendment to SB 2208 to expand the study to include water permits and irrigation. The bill passed both houses of the legislature unanimously this week, sending the bill to the Governor's desk.

**Signed by the Governor April 22**

### **Governance Changes**

#### **HB 1353 Reorganization of the Office of State Engineer**

HB 1353 would reorganize the Office of the State Engineer and the SWC into the Department of Water Resources and set powers and duties of the director of the Department of Water Resources. The 129-page bill would place the engineer and associated regulatory roles into a division within the reorganized department and make the head of the Department a member of the Governor's cabinet. The cost-share grant role and the selection of the board of the SWC would not change from current practice of appointment to represent specific watersheds. After meeting with the bill sponsor of HB 1353, the North Dakota Water Users negotiated an amendment to HB 1353 to clarify the role and responsibility of the state engineer under this new department. The Senate Energy and Natural Resources Committee put this amendment on the bill and gave the bill a do pass as amended. The bill passed the Senate as amended and the House concurred in the Senate amendments. The Governor signed the bill this week.

**Signed by the Governor April 20**

### **Irrigation**

#### **SB 2020 2021-23 NDSU Research and Extension with SBARE Priorities**

This bill includes appropriations for NDSU Agriculture Research and Extension as well as the 2021-2023 SBARE priorities. The Senate restored the Governor's recommended cuts to budgets for the Research Extension Center (REC) network, ND Ag Experiment Station, NDSU Extension, and Northern Crops Institute. It also added \$500,000 plus two FTEs for Livestock Initiative for NDSU Extension, \$280,000 plus one FTE for the Big Data Initiative for NDSU Extension, and \$800,000 plus three FTE for the Big Data Initiative for the ND Ag Experiment Station.

The House Capital improvement projects are also included in the bill including the Carrington REC for a feedlot research facility and pen renovation, Langdon Research Center greenhouse and \$500,000 in one-time funds for deferred maintenance.

The bill will now be worked on by a conference committee.

**Do pass as amended House 81-13 April 13**

#### **SB 2041 Taxation of Grain or Potato Warehouses**

SB 2041 would have clarified that facilities for holding potatoes or grain that is situated on commercial property should be eligible for a tax exemption if the commodities being stored is owned by the owner of the facility or their family. The Irrigation Association supported the bill.

The committee adopted a “hog house” amendment to the bill that updates a definition in the state tax code regarding gross farm income to match changes at the federal level and authorizes a legislative management study of the warehouse issue. The conference committee met and recommended the Senate agree to the House version of the bill (the hoghoused version). Both houses agreed to the House version of the bill, sending it to the Governor’s desk.

**Signed by the Governor April 22**

**Other Bills of Interest**

**HB 1043 Ethics Commission Bill**

HB 1043 makes modifications to the complaint process for the Ethics Commission. The Senate Judiciary Committee amended this bill to change the proposed process for dealing with anonymous complaints. The committee recommended a do pass as amended. The Senate concurred in the committee’s recommendation on March 24.

**Signed by the Governor April 16**

**HB 1116 General Obligation Bonds**

HB 1116 allows county capital project levies to be used for roads and bridges and lengthens the term of county bonds from 20 to 30 years. The Senate Finance and Tax Committee made some amendments to the bill and the bill passed the full Senate as amended.

**House concurred in Senate amendments and passed 84-9 April 15**

**HB 1419 Cities, Counties Levying Infrastructure Fees**

HB 1419 gives counties and cities the ability to charge an ‘infrastructure fee’ instead of a special assessment to pay off infrastructure projects. The imposition of an infrastructure fee much be approved by the voters. The Senate Political Subdivisions Committee made some amendments to the bill and the bill passed the full Senate as amended.

**Signed by the Governor April 19**

**SB 2124 Virtual Legislative Assembly**

SB 2124 adds parameters to a disaster or emergency declared by the governor. It also permits a virtual special session of the legislative assembly during the emergency or disaster. This bill was hoghoused this week to add provisions related to vaccine requirements and the housing of migrants in the state. The Senate defeated the bill 10-36.

**Failed Senate 10-36 April 21**

**Hearing Schedule (April 26-30)**

Please note that conference committees regularly meet with very little prior notice. There will likely be more conference committee meetings next week than are indicated below.

**Status of Key Bills**

A detailed report on the status of all tracked bills is attached.

**How to Contact Your Legislators**

During the session, legislators can be reached at the Capitol through [Contact My Legislators](#) or by leaving a message at 888-NDLEGIS (635-3447) or 701-328-3373 (local). A legislator can also

be reached by email, phone or mail as listed in the legislator's online bio: [Senate](#) or [House](#). Details information on legislative activities is available on the [Legislative Assembly website](#).

### **Legislative Calendar**

- May 5: Final day of session (limited to 80 legislative days)