

Sixty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1514

Introduced by

Representatives Headland, Grueneich, D. Johnson, Schmidt

Senators Myrdal, Sorvaag, Wanzek

1 A BILL for an Act to create and enact a new section to chapter 61-32 of the North Dakota  
2 Century Code, relating to surety for installers of subsurface water management systems; and to  
3 amend and reenact section 61-32-03 of the North Dakota Century Code, relating to an  
4 exemption from permitting requirements for subsurface water management systems; and to  
5 repeal section 61-32-03.1 of the North Dakota Century Code, relating to permitting subsurface  
6 water management systems.

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

8 **SECTION 1. AMENDMENT.** Section 61-32-03 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **61-32-03. Permit to drain waters required - Penalty.**

11 Any person, before draining a pond, slough, lake, or sheetwater, or any series thereof  
12 ponds, sloughs, lakes, or sheetwater, which has a watershed area comprising eighty acres  
13 [32.37 hectares] or more, shall first secure a permit to do so. The permit application must be  
14 submitted to the state engineer. The state engineer shall refer the application to the water  
15 resource district or districts within which is found a majority of the watershed or drainage area of  
16 the pond, slough, lake, or sheetwater for consideration and approval, but the state engineer  
17 may require that applications proposing drainage of statewide or interdistrict significance be  
18 returned to the state engineer for final approval. A permit may not be granted until an  
19 investigation discloses that the quantity of water which will be drained from the pond, slough,  
20 lake, or sheetwater, or any series thereof ponds, sloughs, lakes, or sheetwater, will not flood  
21 or adversely affect downstream lands. If the investigation shows that the proposed drainage will  
22 flood or adversely affect lands of downstream landowners, the water resource board may not  
23 issue a permit until flowage easements are obtained. The flowage easements must be filed for  
24 record in the office of the recorder of the county or counties in which the lands are situated. An

1 owner of land proposing to drain shall undertake and agree to pay the expenses incurred in  
2 making the required investigation. This section does not apply to the construction or  
3 maintenance of any existing or prospective drain constructed under the supervision of a state or  
4 federal agency, as determined by the state engineer, and the construction or maintenance of  
5 any subsurface water management system.

6 Any person draining, or causing to be drained, a pond, slough, lake, or sheetwater, or any  
7 series thereof of ponds, sloughs, lakes, or sheetwater, which has a watershed area comprising  
8 eighty acres [32.37 hectares] or more, without first securing a permit to do so, as provided by  
9 this section, is liable for all damage sustained by any person caused by the draining, and is  
10 guilty of an infraction. As used in this section, sheetwater means shallow water that floods land  
11 not normally subject to standing water. The state engineer may adopt rules for temporary  
12 permits for emergency drainage.

13 **SECTION 2.** A new section to chapter 61-32 of the North Dakota Century Code is created  
14 and enacted as follows:

15 **Surety for installers of subsurface water management systems.**

16 A person that installs a subsurface water management system comprising eighty acres  
17 [32.37 hectares] of land or more shall:

- 18 1. Maintain a bond for at least five hundred thousand dollars to permit other persons to  
19 recover against the installer's surety; and
- 20 2. Record the subsurface water management system with the water resource board for  
21 the county in which the system is located.

22 **SECTION 3. REPEAL.** Section 61-32-03.1 of the North Dakota Century Code is repealed.