

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1166

Introduced by

Representatives M. Ruby, Beltz, Hagert, D. Johnson, Thomas

Senators Luick, Myrdal

1 A BILL for an Act to create and enact a new section to chapter 61-04.1 of the North Dakota
2 Century Code, relating to requirements to cease cloud seeding; to amend and reenact
3 subsection 10 of section 61-04.1-03, section 61-04.1-23, subsection 3 of section 61-04.1-24,
4 and sections 61-04.1-26, 61-04.1-27, 61-04.1-30, 61-04.1-38, and 61-04.1-39 of the North
5 Dakota Century Code, relating to state funding requirements for county weather modification
6 operations and a prohibition on the use of state funds for weather modification; and to provide a
7 penalty.

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

9 **SECTION 1.** A new section to chapter 61-04.1 of the North Dakota Century Code is created
10 and enacted as follows:

11 **Cloud seeding operations - Requirement to cease.**

12 A weather modification authority conducting cloud seeding on a storm must cease cloud
13 seeding on the storm when the radar reflectivity core of a seeded storm exiting the county
14 operations area crosses the boundary of a township that borders a township of an adjacent
15 county that does not have an active weather modification authority conducting weather
16 modification under this chapter.

17 **SECTION 2. AMENDMENT.** Subsection 10 of section 61-04.1-03 of the North Dakota
18 Century Code is amended and reenacted as follows:

19 10. "Weather modification authority" means the governing body created or extended by a
20 board of county commissioners under section 61-04.1-22.1, 61-04.1-23, 61-04.1-27,
21 61-04.1-29, or 61-04.1-31.

22 **SECTION 3. AMENDMENT.** Section 61-04.1-23 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **61-04.1-23. Weather modification authority created by petition.**

2 1. A weather modification authority ~~shall~~must be created by resolution and five
3 commissioners appointed ~~theretoto the authority~~ for ten-year terms of office, by the
4 board of county commissioners. A board of county commissioners ~~shall~~may not adopt
5 a resolution creating an authority until ~~it~~the board has received a valid petition signed
6 by at least fifty-one percent of the qualified electors of a county, as determined by the
7 vote cast for the office of governor at the last preceding general election. The board of
8 county commissioners shall appoint five residents of the county as weather
9 modification authority commissioners from those names set forth in the petition and
10 designated by the petitioners to be appointed weather modification authority
11 commissioners. ~~In the event~~if any one of the five candidates named in the petition to
12 be appointed as a weather modification authority commissioner is unable or refuses
13 for any reason to accept appointment as a commissioner, or is disqualified by not
14 meeting residence requirements, as a qualified elector in the county, the board of
15 county commissioners shall name its own appointee for a ten-year term of office in
16 place of any disqualified candidate selected by the petitioners. If any weather
17 modification authority commissioner submits a resignation in writing to the board of
18 county commissioners or becomes unable to serve or disqualified for any reason, after
19 accepting office, the board of county commissioners shall name its appointee as a
20 commissioner to the weather modification authority. All vacancies occurring otherwise
21 than by expiration of term of office ~~shall~~must be filled for the unexpired term.

22 2. Any weather modification authority created pursuant to this section ~~shall expire~~expires
23 ten years after the date of the initial appointment of the commissioners ~~theretoto the~~
24 authority. Any unexpended funds remaining in the name of the weather modification
25 authority, after all proper bills and expenses have been paid, ~~shall~~must be transferred
26 into the county general fund by the officers of the weather modification authority on or
27 before the ten-year termination date provided by this section. However, all
28 unexpended funds remaining in the name of the weather modification authority, after
29 all proper bills and expenses have been paid, ~~shall~~must remain in the name of the
30 weather modification authority if the board of county commissioners of such county by

1 resolution ~~creates~~extends a weather modification authority and all its powers in
2 accordance with section 61-04.1-27.

3 3. Nothing in this section ~~shall prevent~~prevents continuation or reinstatement of a
4 weather modification authority, provided the authority is renewed for another ten years
5 by petition of the qualified electors in the same manner as the initial weather
6 modification authority was created by petition of qualified electors as provided for in
7 this chapter.

8 4. In the event more than one petition is filed with the board of county commissioners on
9 or about the same time, the petition with the highest percentage of the qualified
10 electors of the county voting for the office of governor at the last preceding general
11 election ~~shall~~must be selected by the board of county commissioners. However, the
12 petition with the highest percentage must have the signatures of at least forty percent
13 of the qualified electors in the county and the sum total of all qualified electors signing
14 all petitions filed must equal at least sixty percent of the qualified electors in the
15 county. ~~In no case shall the~~The name of the same qualified elector may not appear on
16 two or more petitions, ~~but in such event, if the name shall~~of the same qualified elector
17 appears on two or more petitions, the name must be stricken from both petitions.

18 **SECTION 4. AMENDMENT.** Subsection 3 of section 61-04.1-24 of the North Dakota
19 Century Code is amended and reenacted as follows:

20 3. The following paragraph: We, the undersigned qualified electors of the (name of
21 county), state of North Dakota, are notified hereby that the creation of the (name of
22 county) weather modification authority and the appointment of its commissioners by
23 the (name of county) board of county commissioners will grant unto the authority by
24 law the power to certify to the board of county commissioners a mill levy tax not to
25 exceed seven mills upon the taxable valuation of property in said county for a weather
26 modification fund, which tax may be levied in excess of the mill levy limit fixed by law
27 for taxes for general county purposes and that such fund shall be used for weather
28 modification activities ~~in conjunction~~under contract with the state of North Dakota. We,
29 the undersigned, understand that the authority requested in this petition expires ten
30 years after the creation of the weather modification authority, except that the board of
31 county commissioners may by resolution ~~create~~extend a weather modification

1 authority and all its powers, including the power to certify a tax levy as provided by
2 section 61-04.1-26, for five-year periods in accordance with section 61-04.1-27.

3 **SECTION 5. AMENDMENT.** Section 61-04.1-26 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **61-04.1-26. Funding for support of weather modification authority.**

6 The weather modification authority may request annually that the board of county
7 commissioners provide funding from revenues derived from its general fund levy for support of
8 the authority and to provide weather modification services. In the year for which the levy is
9 sought, the weather modification authority seeking approval of a property tax levy under this
10 chapter must file with the county auditor, at a time and in a format prescribed by the county
11 auditor, a financial report for the preceding calendar year showing the ending balances of each
12 fund held by the authority during that year. The funding under this section approved by the
13 board of county commissioners must be deposited in the weather modification fund and shall be
14 used only for weather modification activities ~~in conjunction~~ under contract with the state of North
15 Dakota.

16 **SECTION 6. AMENDMENT.** Section 61-04.1-27 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **61-04.1-27. ~~Creation~~Extension of weather modification authority and its powers by**
19 **resolution.**

- 20 1. When a weather modification authority is about to expire, the board of county
21 commissioners of ~~any such~~ a county may ~~shall~~ by resolution place on the ballot, at the
22 next countywide election, the question of whether the board of county commissioners
23 shall authorize the ~~creation~~ extension of ~~such~~ the existing weather modification
24 authority and all its powers, including the power to certify a tax levy as provided by
25 section 61-04.1-26, for additional five-year periods; ~~provided, the.~~ If the majority of the
26 votes cast on the question are in favor of the measure, the weather modification
27 authority is extended for an additional five-year period.
- 28 2. The resolution authorizing the ~~creation~~ extension of ~~such~~ the weather modification
- 29 authority ~~is~~ must be adopted by the board of county commissioners before the
- 30 expiration date prescribed in the preceding resolution for its termination.

1 3. Upon passing such a resolution for the ~~creation~~extension of the authority, the board of
2 county commissioners shall appoint five weather modification authority commissioners
3 to five-year terms of office, subsequently filling vacancies in the manner prescribed by
4 section 61-04.1-23. The board of county commissioners may remove any weather
5 modification commissioner from office whenever it appears, by competent evidence
6 and after hearing, that the commissioner has been guilty of misconduct, malfeasance,
7 crime in office, neglect of duty in office, or of habitual drunkenness or gross
8 incompetency.

9 **SECTION 7. AMENDMENT.** Section 61-04.1-30 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **61-04.1-30. Abolishment of weather modification authority by election.**

12 When a petition signed by not less than twenty percent of the qualified electors of the
13 county, as determined by the vote cast for governor in the last preceding gubernatorial election,
14 requesting an election upon the abolishment of a weather modification authority as
15 ~~created~~extended in ~~sections~~section 61-04.1-27 and created in section 61-04.1-29 is presented
16 to the board of county commissioners, not later than sixty days ~~prior to~~before the next
17 countywide election, the board of county commissioners shall submit the question to the
18 qualified electors of the county at the next countywide election. Upon approval by a majority of
19 the votes cast on the question, the board of county commissioners shall abolish the weather
20 modification authority as of December thirty-first following the election. All unexpended funds
21 remaining in the name of the weather modification authority, after all proper bills and expenses
22 have been paid, ~~shall~~must be deposited in the general fund of the county.

23 **SECTION 8. AMENDMENT.** Section 61-04.1-38 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **61-04.1-38. Board may receive and expend funds.**

26 The board may receive and accept in the name of the state any funds that are offered or
27 become available from any federal grant or appropriation, private gift, donation, or bequest,
28 county funds, or funds from any other source except license and permit fees, and to expend
29 these funds for the expense of administering this chapter, and, with the exception of county
30 funds and funds from any other person contracting with the board for weather modification
31 operations, for the encouragement of research and development in weather modification by any

1 private person, the North Dakota state university, the university of North Dakota, or any other
2 appropriate state, county, or public agency in this state by direct grant, contract, or other means.

3 All federal grants, federal appropriations, private gifts, donations, or bequests, county funds,
4 or funds from any other source except license and permit fees, received by the board must be
5 paid over to the state treasurer, who shall credit this amount to a special fund in the state
6 treasury known as the state weather modification fund. All proceeds deposited by the state
7 treasurer in the state weather modification fund are appropriated to the board and, if expended,
8 must be disbursed by warrant-check prepared by the office of management and budget upon
9 vouchers submitted by the board and must be used for the purpose of paying for the expense of
10 administration of this chapter and, with the exception of county funds or funds from any other
11 person contracting with the board for weather modification operations, for the encouragement of
12 research and development in weather modification by any private person, the North Dakota
13 state university, the university of North Dakota, or any other appropriate state, county, or public
14 agency by direct grant, contract, or other means. The board may use county funds or funds
15 from any other person contracting with the board for weather modification operations. The board
16 may not use state funds for weather modification operations.

17 **SECTION 9. AMENDMENT.** Section 61-04.1-39 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **61-04.1-39. Payment for weather modification - ~~State to provide funds~~Use of state**
20 **funds prohibited.**

- 21 1. Any weather modification authority or person that contracted with the board for
22 weather modification operations under this chapter shall ~~appropriate to pay one~~
23 hundred percent of the costs associated with weather modification to the board. The
24 board shall deposit any county funds in the state weather modification fund the
25 amount determined by the board to be necessary to provide that weather modification
26 authority or person with to provide weather modification operations to the contracting
27 party.
- 28 2. The board may expend, from the state weather modification fund, only the funds the
29 board deems necessary to provide are received from the contracting weather
30 modification authority or person with weather modification operations. ~~person will~~
31 conduct weather modification operations.