



North Dakota

North Dakota is one of only six²⁷⁶ states in which private water and wastewater companies are not regulated by a state utility commission. Although private water companies do operate in the state, they are generally very small and are not regulated by state law with respect to rates.

Government-owned water and wastewater utilities, including municipal/community utilities and rural or regional water districts, provide water and wastewater services to the majority of North Dakota’s residents. The North Dakota Century Code provides very little guidance or requirements related to the establishment of rates by these utilities. *N.D. Cent. Code § 40-05-01(36)* permits municipalities “to purchase, acquire by eminent domain, . . . erect, lease, rent, manage, and maintain any system of waterworks...and to fix and regulate the rates, use, and sale of water.”

N.D. Cent. Code § 40-34-01 similarly allows municipalities to develop wastewater utilities, and *N.D. Cent. Code § 40-34-05* permits the governing bodies of municipalities to establish “just and equitable” rates. In the absence of more specific regulations, it appears that municipalities and other government entities have relatively broad authority to implement rates and charges for water and wastewater services as they see fit, within the bounds of reasonableness.²⁷⁷

Thus, government-owned water and wastewater utilities in North Dakota would likely be able to implement low-income customer assistance programs (CAPs) funded by rate revenues. This includes both local government entities that operate pursuant to local home rule charters, as well as those that operate under general law.²⁷⁸

Commission-regulated utilities	N/A
Noncommission-regulated utilities	

State Population (2016):	757,952
Median Annual Household Income (2015):	\$57,181
Poverty Rate (2015):	11.5%
Typical Annual Household Water and Wastewater Expenditures:	N/R
North Dakota has 327 community water systems (CWS), of which 69 are privately owned and 318 serve populations of 10,000 or fewer people.	
North Dakota has 285 publicly owned treatment works facilities (POTWs), of which 275 treat 1 MGD or less.	
101,987 people are served by privately owned CWS; 534,935 are served by government-owned CWS; and 506,627 are served by POTWs.	
Estimated Long-Term Water and Wastewater Infrastructure Needs:	\$0.6 billion
<i>Sources: U.S. Census Bureau, 2016 Population Estimate & 2011–2015 American Community Survey 5-Year Estimates; 2016 EFC Rates Survey; U.S. Environmental Protection Agency, 2016 Safe Drinking Water Information System, 2011 Drinking Water Infrastructure Needs Survey, and 2012 Clean Watersheds Needs Survey. See Appendix C for more details.</i>	

276. The others are Georgia, Michigan, Minnesota, South Dakota, and the District of Columbia.

277. As support for the notion that North Dakota municipalities have broad powers in rate-setting, in *Meyer v. City of Dickinson*, the court held that “because the City is given the general power to maintain a public water system and to fix and regulate rates and sale of water, it necessarily follows that the City is accorded broad discretion in determining the manner and means of exercising that power.” *Meyer v. City of Dickinson*, 451 N.W.2d 113, 117 (N.D. 1990) (citing *Lang v. City of Cavalier*, 59 N.D. 75, 228 N.W. 822 (N.D. 1930)).

278. Of North Dakota’s 357 incorporated cities, 130 have adopted home rule charters. This includes the state’s 10 largest cities, with populations ranging from approximately 7,730 (Wahpeton) to 107,350 (Fargo).