

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1307

Introduced by

Representatives R. Kelsch, C. Johnsen

Senators Robinson, Yockim

1 A BILL for an Act to create and enact a new section to chapter 40-13 of the North Dakota
2 Century Code, relating to removal of appointive city officers; to amend and reenact sections
3 40-13-09, 40-14-04, and 40-15-05 of the North Dakota Century Code, relating to appointive city
4 officers; and to repeal sections 40-14-05, 40-15-06, and 40-15-07 of the North Dakota Century
5 Code, relating to terms and removal of appointive city officers.

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

7 **SECTION 1.** A new section to chapter 40-13 of the North Dakota Century Code is
8 created and enacted as follows:

9 **Appointive officers - Removal upon hearing - Suspension - Appointment and**
10 **removal of temporary officer.** Any person appointed to any city office may be removed by a
11 majority vote of all of the members of the city governing body, but an officer may not be
12 removed except for cause and unless allegations of fact sufficient to justify termination for
13 cause, if found true, are filed against the officer and the officer is given an opportunity to be
14 heard. Within twenty days after allegations are filed in the office of the city auditor against any
15 officer, the city governing body shall hear and determine the case upon its merits. The mayor,
16 the president of the board of city commissioners, or the city governing body, by a majority vote
17 of its members, may suspend any officer against whom allegations have been filed until the
18 disposition of the allegations. The mayor or president of the board of city commissioners may
19 appoint a person to fill any vacancy temporarily until the disposition of the allegations against
20 the incumbent. Any person appointed without confirmation by the city governing body may be
21 removed when it is determined to be in the best interests of the city by the mayor or president
22 of the board of city commissioners.

23 **SECTION 2. AMENDMENT.** Section 40-13-09 of the North Dakota Century Code is
24 amended and reenacted as follows:

1 **40-13-09. Vacancies to be filled for unexpired term.** Unless otherwise specifically
2 provided in this title, every person elected ~~or appointed~~ to fill a vacancy in a municipal office
3 shall hold ~~his~~ office and discharge the duties ~~thereof~~ of the office for the unexpired term.

4 **SECTION 3. AMENDMENT.** Section 40-14-04 of the 1995 Supplement to the North
5 Dakota Century Code is amended and reenacted as follows:

6 **40-14-04. Appointive officers in council cities - ~~Appointment of more than one~~**
7 **~~assessor~~ Right to dispense with offices.**

- 8 1. The mayor, with the approval of the city council, shall appoint the following officers
9 when necessary to fill a vacancy:
 - 10 a. A city auditor;
 - 11 b. A city assessor;
 - 12 c. A city attorney;
 - 13 d. A city engineer; and
 - 14 e. ~~Such other~~ Other officers as the city council deems necessary and expedient.
- 15 2. ~~The city assessor shall be appointed at the first meeting of the city council in~~
16 ~~September of each odd-numbered year. If the city council of a city containing five~~
17 ~~thousand or more inhabitants shall declare, by resolution, that it is necessary to~~
18 ~~appoint more than one assessor, the mayor, with the approval of the council, may~~
19 ~~appoint one or two additional city assessors.~~
- 20 3. The city council, including a city council under the modern council form of
21 government, by a majority vote of all of the members may dispense with any
22 appointive office and provide that the duties of that office be performed through
23 contract or by other officers.

24 **SECTION 4. AMENDMENT.** Section 40-15-05 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **40-15-05. Appointive officers in commission cities - Right to dispense with**
27 **offices.** ~~At the first meeting after the qualification of its members, or as soon thereafter as~~
28 ~~possible, the~~ The board of city commissioners shall appoint the following officers when
29 necessary to fill a vacancy:

- 30 1. A treasurer;
- 31 2. An auditor;

- 1 3. An attorney;
- 2 4. One or more assessors;
- 3 5. A city health officer who ~~shall~~ must be a physician;
- 4 6. A street commissioner;
- 5 7. A chief of the fire department;
- 6 8. A chief of police;
- 7 9. One or more ~~police men~~ police officers;
- 8 10. A city engineer;
- 9 11. A board of public works; and
- 10 12. ~~Such other~~ Other officers or boards as the board of city commissioners may deem
- 11 necessary.
- 12 The board of city commissioners by a majority vote of all the members may dispense with any
- 13 appointive office and provide that the duties ~~thereof~~ of the office shall be performed through
- 14 contract, by other officers or boards, by the board of city commissioners, or by a committee or
- 15 committees thereof.
- 16 **SECTION 5. REPEAL.** Section 40-15-07 of the North Dakota Century Code and
- 17 sections 40-14-05 and 40-15-06 of the 1995 Supplement to the North Dakota Century Code are
- 18 repealed.