

MUNICIPAL GOVERNMENT

CHAPTER 347

HOUSE BILL NO. 1482

(Representatives Kaldor, Carlisle, Devlin, Glassheim)
(Senators Seymour, Wardner)

NEPOTISM BY CITY OFFICIALS

AN ACT to create and enact a new section to chapter 40-13 of the North Dakota Century Code, relating to nepotism by city officials.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Nepotism by city officials restricted. The head of an executive or administrative department of a city may not appoint that individual's spouse, son, daughter, brother, or sister to any position under the control or direction of that individual, unless the appointment has previously been approved by the governing body of the city.

Approved March 23, 2005
Filed March 23, 2005

CHAPTER 348**SENATE BILL NO. 2411**

(Senator Nething)

(Approved by the Delayed Bills Committee)

LIBRARY TAX LEVIES

AN ACT to amend and reenact subsection 5 of section 40-38-11 of the North Dakota Century Code, relating to property tax levies by joint public library services by cities and counties; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 40-38-11 of the North Dakota Century Code is amended and reenacted as follows:

5. A joint library fund shall be established for the public library services covered by the agreement. Each city or county represented in the agreement shall provide its pro rata share of funds for the services, as specified in the agreement, from the funds received under section 40-38-02. Taxes within the service area covered by the written agreement under subsection 1 which is outside city limits may be levied within the limitations and according to the procedures provided by law for a county library fund levy and taxes within the service area that is within city limits may be levied within the limitations and according to the procedures provided by law for a city library fund levy.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2004.

Approved April 8, 2005

Filed April 12, 2005

CHAPTER 349

HOUSE BILL NO. 1221

(Representatives Herbel, Porter, Wieland)

CITY BUDGET DEADLINE

AN ACT to amend and reenact sections 40-40-06 and 40-40-09 of the North Dakota Century Code, relating to the final city budget deadline.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-40-06 of the North Dakota Century Code is amended and reenacted as follows:

40-40-06. Notice of preliminary budget statement - Contents - How given. After the governing body has prepared the preliminary budget statement, the auditor of the municipality shall give notice that:

1. The preliminary budget is on file in the office of the auditor and may be examined by anyone upon request.
2. The governing body shall meet no later than October ~~first~~ seventh at the time and place specified in the notice as prescribed by subsection 3 for the purpose of adopting the final budget and making the annual tax levy.
3. The governing body shall hold a public session at the time and place designated in the notice of hearing at which any taxpayer may appear and discuss with the body any item of proposed expenditures or may object to any item or amount.

The notice must contain a statement of the total proposed expenditures for each fund in the preliminary budget, but need not contain any detailed statement of the proposed expenditures. The notice must be published at least once, not less than six days prior to the budget hearing, in a newspaper published in the municipality, if there is one, and if no newspaper is published in the municipality, the notice must be published not less than six days prior to the meeting in the official city newspaper as provided by section 40-01-09.

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

40-40-09. Determination of amount to be levied - Adoption of levy - Limitations. After completing the final budget on or before October ~~first~~ seventh, the governing body shall proceed to make the annual tax levy in an amount sufficient to meet the expenses for the ensuing year as determined at the budget meeting. In determining the amount required to be levied, the governing body first shall ascertain its net current resources by adding the estimated revenue for the ensuing year other than property taxes, any transfers in, and the estimated fund balance at the end of the current year. Then the governing body shall ascertain its appropriation and reserve by adding the final appropriation for the ensuing year, any transfers out, and the cash reserve. The net current resources must be deducted from the appropriation and reserve and the balance shall be considered the amount that is required to be raised by taxation during the ensuing year. The determination of the

amount of the levy that can be collected within the ensuing year must be made by the governing body based upon the past experience of the district. The levy as finally adopted must be approved by a majority vote of the members of the governing body and noted in the proceedings of the governing body. The amount levied is subject to the limitations as prescribed by the laws of this state, and is subject to the further limitation that the amount may not exceed the levy requested by the municipality. The levy adopted must appropriate in specific amounts the money necessary to meet the expenses and liabilities of the municipality.

Approved March 21, 2005

Filed March 22, 2005

CHAPTER 350

SENATE BILL NO. 2324

(Senators Kringstad, Hacker)
(Representatives N. Johnson, Sitte)

PARK DISTRICT COMBINATION TAX LEVY

AN ACT to amend and reenact subsection 3 of section 40-49.1-03 of the North Dakota Century Code, relating to combination of boards of park commissioners; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 40-49.1-03 of the North Dakota Century Code is amended and reenacted as follows:

3. A plan for combining boards of park commissioners may not repeal or diminish any general law of the state directing or requiring a board of park commissioners to carry out any function or provide any service. A combined board of park commissioners, resulting from a combination of boards of city and county park commissioners, may not levy any tax or exercise any power that was not otherwise conferred within the territorial jurisdiction of the county upon the previous board of county park commissioners, and taxes that may be authorized by law for a city park district may be levied only in areas within the jurisdiction of the combined board which are designated as cities taxes within the portion of the combined district outside city limits within the limitations provided by law for a board of county park commissioners and may levy taxes within the portion of the combined park district that is within city limits within the limitations provided by law for city park districts. The plan must be approved by the electorate in each affected city and county.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2005.

Approved April 18, 2005

Filed April 20, 2005

CHAPTER 351

SENATE BILL NO. 2183

(Senators Holmberg, Trenbeath)

PLAT CERTIFICATION

AN ACT to amend and reenact section 40-50.1-03 of the North Dakota Century Code, relating to certification of townsite or subdivision plats.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-50.1-03 of the North Dakota Century Code is amended and reenacted as follows:

40-50.1-03. Instruments of dedication - Certifying and recording plat.

The plat must contain a written instrument of dedication, which is signed and acknowledged by the owner of the land. When there is divided ownership, there must be indicated under each signature the lot or parts of lots in which each party claims an interest. All signatures on the plat must be written with black ink, not ball point. The instrument of dedication must contain a full and accurate description of the land platted. The registered land surveyor shall certify on the plat that the plat is a correct representation of the survey, that all distances are correct and monuments are placed in the ground as shown, and that the outside boundary lines are correctly designated on the plat. The dedication and certificate must be sworn to before an officer authorized to administer an oath. The plat must be presented for approval to the governing body affected by the plat; ~~if right-of-way dedication is required,~~ together with a copy of a title insurance policy or an attorney's opinion of title, running to the benefit of the governing body affected by the plat, stating the name of the owner of record.

Approved March 22, 2005

Filed March 22, 2005

CHAPTER 352

HOUSE BILL NO. 1454

(Representative Keiser)

CITY MOTOR VEHICLE RENTAL TAX

AN ACT to create and enact section 40-57.3-01.2 of the North Dakota Century Code, relating to the imposition of a city motor vehicle rental tax; and to amend and reenact section 40-57.3-02 of the North Dakota Century Code, relating to the city visitors' promotion fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 40-57.3-01.2 of the North Dakota Century Code is created and enacted as follows:

40-57.3-01.2. City motor vehicle rental tax - Imposition - Amount - Disposition - Definitions. The governing body of any city may impose, by ordinance, a city tax at a rate not to exceed one percent upon the gross receipts of a retailer on the rental of any motor vehicle for fewer than thirty days if that motor vehicle is either delivered to a renter at an airport or delivered to a renter who was picked up by the retailer at an airport. The tax imposed under this section is in addition to state sales taxes on the rental of motor vehicles for fewer than thirty days. Any city that imposes the tax under this section shall deposit all proceeds in the city visitors' promotion fund. For purposes of this section, "motor vehicle" means a motorized passenger vehicle designed to be operated on highways and "retailer" means a company for which the primary business is the renting of motor vehicles for periods of fewer than thirty days.

SECTION 2. AMENDMENT. Section 40-57.3-02 of the North Dakota Century Code is amended and reenacted as follows:

40-57.3-02. City visitors' promotion fund - City visitors' promotion capital construction fund - Visitors' committee - Establishment - Purpose. The governing body of any city which imposes a city tax pursuant to section 40-57.3-01 or, 40-57.3-01.1, or 40-57.3-01.2 shall, as appropriate, establish a city visitors' promotion fund, a city visitors' promotion capital construction fund, and a visitors' committee. The visitors' committee shall serve as an advisory committee to the city governing body in administering the proceeds from the taxes available to the city under this chapter. The moneys in the visitors' promotion fund must be used generally to promote, encourage, and attract visitors to come to the city and use the travel and tourism facilities within the city. The moneys in the visitors' promotion capital construction fund must be used generally for tourism or the purchase, equipping, improving, construction, maintenance, repair, and acquisition of buildings or property consistent with visitor attraction or promotion. The committee shall consist of five members appointed by the governing body of the city. These appointees shall serve without compensation, except for reimbursement for necessary expenses. Committee members shall serve for a term of four years, except that two of those initially appointed must be appointed for an initial term of two

years. Vacancies must be filled in the same manner as the initial appointment. The committee shall elect a chairperson and vice chairperson from among its members to serve for a term of two years.

Approved April 22, 2005

Filed April 25, 2005

CHAPTER 353

HOUSE BILL NO. 1525

(Representatives Clark, Dietrich, S. Kelsh)

(Senators Fischer, Flakoll, Grindberg)

(Approved by the Delayed Bills Committee)

PEDESTRIAN MALL IMPROVEMENTS

AN ACT to amend and reenact sections 40-62-01 and 40-62-03 and subsection 1 of section 40-62-05 of the North Dakota Century Code, relating to city pedestrian mall improvements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-62-01 of the North Dakota Century Code is amended and reenacted as follows:

40-62-01. Authority for pedestrian mall and skyway improvements - Definitions.

1. The governing body of any city may by resolutions create a special improvement district, order and approve plans and specifications, determine the necessity, advertise and enter ~~into~~ contracts, issue special improvement warrants and bonds, and levy special assessments for the improvement of one or more streets within its central business district to be regulated and maintained as a mall for primarily pedestrian use, or for the construction of skyways within its central business district, in the manner and upon the terms and conditions set forth in chapters 40-22 to 40-27, except as otherwise provided in this chapter.
2. For the purposes of this chapter, "~~skyway~~":
 - a. "Pedestrian mall" means a street within a city designated by the governing body and improved to encourage a high concentration of pedestrian use.
 - b. "Skyway" means an overhead walkway, whether open or enclosed, allowing pedestrian traffic between buildings separated by a street, and includes all corridors, passageways, methods of ingress and egress, and other appurtenances necessary for an integrated and connected system.

SECTION 2. AMENDMENT. Section 40-62-03 of the North Dakota Century Code is amended and reenacted as follows:

40-62-03. Plans and specifications. The plans and specifications ~~shall~~ must provide for improvement of the designated streets or construction of skyways in a manner designed for ~~use primarily for~~ the free movement, safety, convenience, and enjoyment of pedestrians, whether or not part of the mall is made available for emergency or other permitted vehicles. A mall improvement may provide for and include space for seating, cafe tables, shelters, trees, flower plantings, sculptures, newsstands, telephone booths, traffic signs, kiosks, fire hydrants, street lighting,

ornamental lights, trash receptacles, display cases, marquees, awnings, canopies, overhead and underground radiant heating devices, walls, barriers, and all ~~such~~ other fixtures, equipment, facilities, and appurtenances as will in the governing body's judgment enhance the free movement, safety, convenience, and enjoyment of pedestrians and benefit the adjoining properties and the central business district and the city. Sidewalks may be constructed of concrete, bricks, asphalt tiles, blocks, granite sets, or ~~such~~ other materials or combinations of materials as the governing body may approve. The governing body may ~~in its discretion narrow~~ alter any roadway to be kept and maintained in the mall, may cause any street vaults to be reconstructed or removed, may construct crosswalks at any point within or at the ends of blocks, and may cause any roadway to curve and meander within the limits of the street, if ~~deemed~~ determined desirable to enhance the usefulness or appearance of the mall, regardless of any nonuniformity of street width or any curve or absence of curve in the centerline of the street. A skyway may be ~~open or enclosed~~, heated or unheated; and may include any fixtures, equipment, facilities, and appurtenances the governing body determines will enhance the free movement, safety, convenience, and enjoyment of pedestrians and benefit the adjoining properties and the central business district and the city.

SECTION 3. AMENDMENT. Subsection 1 of section 40-62-05 of the North Dakota Century Code is amended and reenacted as follows:

1. Vehicles ~~shall~~ may be permitted to ~~cross the mall at all street intersections except those of two streets each forming part of the mall~~ within the pedestrian mall in designated driving and parking lanes as determined by the governing body.

Approved April 5, 2005

Filed April 6, 2005