

June 2007

TITLE 44

Offices and Officers

Summary of Bills Enacted by 2007 Legislative Assembly

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 44. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to offices and officers may be classified in these subject areas: public officers; open records; and notaries.

PUBLIC OFFICERS

Senate Bill No. 2194 changes the time period during which a special election must be called upon filing a petition to recall an elected officer of a political subdivision from not sooner than 50 days nor later than 80 days following the certification of a valid recall petition to not sooner than 80 days nor later than 90 days following the certification of a valid recall petition. The bill changes the filing deadline for the nomination of candidates to an office at a recall election from the 33rd day before the election to the 60th day before the election. The bill also provides that a political subdivision official is not subject to recall if the official's office is to be on the ballot at a regularly scheduled election within one year.

Senate Bill No. 2246 increases the lodging reimbursement for in-state lodging for state officers and employees from \$50 plus taxes to \$55 plus taxes.

House Bill No. 1382 provides that an appointment may not be made to fill a vacancy in a public office if the vacancy occurs within 60 days before an election at which the vacancy may be filled.

Senate Bill No. 2093 authorizes the director of the Office of Management and Budget, the State Board of Higher Education, the governing body of any political subdivision, and the board of any school district to establish and administer a purchasing card system for use by its officers, employees, representatives, or agents. The bill also authorizes the director of the Office of Management and Budget to designate the state agencies that are required to use the purchasing card system. The bill removes the requirement that travel expenses incurred more than five weeks in advance of the travel to meet necessary deadlines or to obtain low rates must be prepaid by the state.

OPEN RECORDS

House Bill No. 1507 provides that the electronic mail address or telephone number of an individual which is provided to a public entity for the purpose of or in the course of communicating with that entity is an exempt record. The bill also provides that the exemption may not be used to shield the identity of the individual communicating with the entity.

House Bill No. 1099 defines "commercial information," "financial information," "proprietary information," and "trade secret" for the purposes of the open records law. The bill also provides that the declaration of commercial information, financial information, proprietary information, and trade secrets as confidential does not limit the release or use of the records obtained in an investigation by the Attorney General or other law enforcement official. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on March 21, 2007.

House Bill No. 1134 prohibits the followup information on North Dakota education and training system from releasing information provided to it for research or statistical purposes by a participating agency in any manner that identifies an individual, but allows the system to use personally identifiable information to prepare aggregate statistics that may be provided to a participating agency. The bill allows the system to provide personally identifiable information to a participating agency unless prohibited by state or

federal law and allows a participating agency to use the personally identifiable information to fulfill its obligations for state and federal statistical reporting.

Senate Bill No. 2160 provides that the electronic mail address and estate planning information of a donor or prospective donor and correspondence received by the State Board of Higher Education, a University System officer or employee, or an affiliated nonprofit organization that provides support to and organized and operated for the benefit of an institution under the authority of the State Board of Higher Education is an exempt record. The bill provides that "financial information" includes data that provides details regarding a gift, a payment schedule of a gift, the form of a gift, or the specific amount of a gift made by a donor.

Senate Bill No. 2265 provides that the address, telephone number, or any identifying information that, if released, could reasonably be used to locate a victim of domestic violence contained in any record maintained by a law enforcement facility is an exempt record. The bill provides that personal information of any person contained in an active or nonactive criminal intelligence and investigation file is an exempt record. The bill authorizes a public entity to require payment before locating or redacting a requested record. The bill authorizes the release of closed or confidential records to a federal agency for the purpose of law enforcement and authorizes the release of an individual's Social Security number by a public entity to another public entity or the agents, employees, or contractors of that public entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities.

NOTARIES

Senate Bill No. 2196 provides that when issuing a commission to a notary public, the Secretary of State must issue the commission in the individual's legal name. The bill authorizes the Secretary of State to require proof of a notary's legal name. The bill specifies the form of a notary's jurat. The bill prohibits a notary public from notarizing a signature on a document if the document is not drafted in English and is not accompanied by a permanently affixed and accurate English translation. The bill prohibits a notary public from making or purporting to make a copy of a vital record, recordable instrument, or public record containing an official seal and from notarizing a signature on a document if, unless otherwise provided by law, the document is a copy or certified copy of any vital record authorized or required by law to be registered or filed; the document is a copy or certified copy of an instrument entitled by law to be recorded; or the document is a copy or certified copy of a public record containing an official seal. The bill authorizes the Secretary of State to deny, revoke, or suspend a notary commission under specified circumstances or impose lesser sanctions.