

Sixty-second
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1384

Introduced by

Representatives Skarphol, Rust

Senator Andrist

1 A BILL for an Act to create and enact a new subsection to section 11-37-02 and a new
2 subsection to section 11-37-07 of the North Dakota Century Code, relating to joint powers
3 entities and commerce authorities; to amend and reenact subsection 2 of section 11-37-03,
4 sections 11-37-04 and 11-37-06, and subsection 1 of section 11-37-08 of the North Dakota
5 Century Code, relating to conversion of joint powers entities to commerce authorities and
6 additional powers of commerce authorities; and to declare an emergency.

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

8 **SECTION 1.** A new subsection to section 11-37-02 of the North Dakota Century Code is
9 created and enacted as follows:

10 Provide a method to convert an existing joint powers entity to a commerce authority for
11 the purpose of achieving status as a political subdivision.

12 **SECTION 2. AMENDMENT.** Subsection 2 of section 11-37-03 of the North Dakota Century
13 Code is amended and reenacted as follows:

14 2. Two or more political subdivisions, whether in this state or in an adjoining state
15 provided that at least one political subdivision is in this state, may create by execution
16 of a joint agreement authorized by resolution of the governing body of each
17 participating subdivision, a commerce authority that may exercise its functions upon
18 the issuance by the secretary of state of a certificate of incorporation. Two or more
19 political subdivisions, who are parties to a joint powers agreement under chapter
20 54-40 or 54-40.3, may convert an existing joint powers entity to a commerce authority
21 by execution of a joint agreement authorized by resolution of the governing body of
22 each participating political subdivision. The governing bodies of the participating
23 political subdivisions shall appoint, pursuant to the joint agreement, no fewer than five
24 persons as commissioners of the commerce authority.

1 **SECTION 3. AMENDMENT.** Section 11-37-04 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **11-37-04. Filing of agreement and resolutions - Certificate of incorporation -**
4 **Beginning of corporate existence.**

5 The joint agreement, if applicable, and a certified copy of the resolution of each political
6 subdivision creating or agreeing to participate in a commerce authority, or converting an existing
7 joint powers entity to a commerce authority, must be filed with the secretary of state. If the
8 agreement and resolutions conform to the requirements of section 11-37-03, the secretary of
9 state shall issue a certificate of incorporation that states the name of the commerce authority
10 and the date of incorporation. The existence of the commerce authority as a political subdivision
11 of this state begins upon the issuance of the certificate of incorporation. The certificate of
12 incorporation is conclusive evidence of the existence of the commerce authority.

13 **SECTION 4. AMENDMENT.** Section 11-37-06 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **11-37-06. Powers of political subdivisions in aid of a commerce authority.**

16 A political subdivision creating or participating in a commerce authority may:

- 17 1. Lend or donate money to the commerce authority.
- 18 2. Provide that all or a portion of the taxes or funds available to the political subdivision
19 for economic development purposes be transferred or paid directly to the commerce
20 authority.
- 21 3. Cause water, sewer, drainage, or any other facilities that the political subdivision is
22 authorized to provide to be furnished adjacent to or in connection with a project.
- 23 4. Dedicate, sell, convey, or lease any of the political subdivision's interest in any
24 property or grant easements, licenses, or any other rights or privileges therein to the
25 commerce authority.
- 26 5. Plan, dedicate, close, pave, install, grade, or regrade, to the extent allowed by title 24,
27 streets, roadways, and walks from established streets or roads to a project.
- 28 6. Aid and cooperate with the commerce authority in the planning, construction, or
29 operation of a project.
- 30 7. Enter agreements with the commerce authority regarding action to be taken by the
31 political subdivision under this section.

- 1 8. Establish the geographical boundaries of the commerce authority within or
2 coextensive with the geographical boundaries of one or more of the participating
3 political subdivisions, or coextensive with the geographical boundaries of the area to
4 be served by the commerce authority.
- 5 9. Establish the extent to which the financial incentives provided under this chapter will
6 apply to the commerce authority.
- 7 ~~10. Acquire property to carry out the purposes of this chapter by condemnation and the~~
8 ~~exercise of eminent domain in the manner provided in chapter 32-15 and other laws~~
9 ~~applicable to political subdivisions in exercising the right of eminent domain.~~

10 **SECTION 5.** A new subsection to section 11-37-07 of the North Dakota Century Code is
11 created and enacted as follows:

12 Exercise the power of eminent domain in the manner provided by title 32 for the
13 purpose of acquiring and securing any rights, titles, interests, estates, or easements
14 necessary or proper to carry out the duties imposed by this chapter, or under the joint
15 agreement filed pursuant to section 11-37-04, and particularly to acquire the
16 necessary rights in land for the construction of appurtenant facilities used in
17 connection with the authority, or any part thereof provided, however, that when the
18 interest sought to be acquired is a right of way for any project authorized by this
19 chapter, the authority, after making a written offer to purchase the right of way and
20 depositing the amount of the offer with the clerk of the district court of the county
21 wherein the right of way is located, may thereupon take immediate possession of the
22 right of way, as authorized by section 16 of article I of the Constitution of North Dakota.
23 Within thirty days after notice has been given in writing to the landowner by the clerk of
24 the district court that a deposit has been made for the taking of a right of way as
25 authorized in this subsection, the owner of the property taken may appeal to the
26 district court by serving a notice of appeal upon the acquiring agency, and the matter
27 must be tried at the next regular or special term of court with a jury unless a jury be
28 waived, in the manner prescribed for trials under chapter 32-15.

29 **SECTION 6. AMENDMENT.** Subsection 1 of section 11-37-08 of the North Dakota Century
30 Code is amended and reenacted as follows:

- 1 1. A commerce authority may borrow money and issue bonds, including refunding bonds,
2 in the form and upon the terms as it may determine, payable out of any revenues of
3 the commerce authority. If a commerce authority is formed by conversion of a joint
4 powers entity to a commerce authority pursuant to subsection 2 of section 11-37-03,
5 the commerce authority may borrow money and issue bonds to refinance existing
6 obligations of the participating political subdivisions as long as such existing
7 obligations were incurred by the participating political subdivision for the benefit of the
8 converted joint powers entity.

9 **SECTION 7. EMERGENCY.** This Act is declared to be an emergency measure.