

MUNICIPAL GOVERNMENT

CHAPTER 253

H. B. No. 563

(Legislative Research Committee)

AGREEMENTS BETWEEN MUNICIPALITIES AND COUNTIES FOR STREET CONSTRUCTION AND MAINTENANCE

AN ACT

Providing for agreements between municipalities and counties for street construction and maintenance within municipalities of 10,000 population or less.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AGREEMENTS BETWEEN MUNICIPALITIES AND COUNTIES; CONSTRUCTION; MAINTENANCE.) The governing body of any municipality of 10,000 population or less and the boards of county commissioners of the several counties may enter into agreements for the construction and maintenance of streets within such municipalities by the boards of county commissioners. Said municipalities shall pay, on a reimbursable basis, such sums as are agreed upon.

Approved March 5, 1953.

CHAPTER 254

S. B. No. 131

(Krenz)

REMOVAL OF BUILDING WHEN TAXES, SPECIAL ASSESS- MENTS OR SHARE OF BONDED INDEBTEDNESS DUE; LIEN; MISDEMEANOR

AN ACT

To amend and reenact section 40-0108 of the North Dakota Revised Code of 1943, relating to removal of building when taxes and special assessments or share of bonded indebtedness due, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 40-0108 of the North Dakota Revised Code of 1943 is hereby amended and reenacted as follows:

40-0108. REMOVAL OF BUILDING WHEN TAXES AND SPECIAL ASSESSMENTS OR SHARE OF BONDED INDEBTEDNESS ARE DUE; LIEN; MISDEMEANOR.) No person shall remove from any lot or tract of land in any municipality any building not assessed as personalty and not exempt from taxation until after the taxes and special assessments then due have been paid, nor until the owner shall have paid into the sinking fund for the retirement of any bonded indebtedness of the municipality an amount equal to the just share of the tax which would then be required against the property in said municipality to pay the principal outstanding, less amount in sinking funds, of the bonded indebtedness of such municipality. If the building is removed without the payment of the taxes and special assessments and pro-rata share of bonded indebtedness, such taxes, special assessments and pro rata share of bonded indebtedness shall be a lien on the building notwithstanding its removal as well as upon the lot, lots, tract, or tracts of land from which the same was removed. This section shall not apply where a building is removed to permit the erection or installation of improvements equal or greater in value than the building removed. Any person violating the provisions of this section is guilty of a misdemeanor.

§ 2. **EMERGENCY.)** This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 6, 1953.

CHAPTER 255

H. B. No. 617
(Lynch)
(By request)

REGISTRATION OF VOTERS

AN ACT

To amend and reenact section 40-2110 of the 1949 Supplement to the North Dakota Revised Code of 1943 as amended by chapter 264 of the 1951 Session Laws of North Dakota, relating to registration of voters.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **AMENDMENT.)** Section 40-2110 of the 1949 Supplement to the North Dakota Revised Code of 1943 as amended by

chapter 264 of the 1951 session laws of North Dakota is hereby amended and reenacted to read as follows:

40-2110. REGISTRATION OF VOTERS.) The governing body of any city or village may require the registration of voters in any election held or conducted within the municipality at such time and place or places as the governing body may designate.

Approved March 10, 1953.

CHAPTER 256

H. B. No. 704

(Lindberg of Stutsman, and Arndt)

PREVENTION OF WATER POLLUTION

AN ACT

To amend and reenact sections 40-2204 and 61-0221 of the North Dakota Revised Code of 1943, relating to the prevention of water pollution; authorizing disposal or discharge of sewage and waste products, and providing for regulation of sewage and waste disposal systems and municipal water works.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 40-2204 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2204. DISCHARGE OF SEWAGE; REGULATIONS GOVERNING.) Any municipality, after securing the approval of the state water commission and the state department of health as required by section 61-0221, may empty or discharge its sewage into any river, lake, coulee, or slough, employing such methods as may be required by the rules and regulations established by the state water commission and the state department of health for the prevention of pollution.

§ 2. AMENDMENT.) Section 61-0221 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

61-0221. SEWAGE AND WASTE DISPOSAL OR DISCHARGE; WATER SUPPLY PLANT; APPROVAL OF COMMISSION REQUIRED.) No plant or facility for the disposal or discharge of municipal or industrial sewage or waste substances or works for the water supply of any municipality shall be constructed without the

prior approval of the commission, which shall be granted only upon the approval of the state department of health. No such plant, facility, or works shall be operated or maintained except in accordance with the rules and regulations established by the commission for the prevention of water pollution.

Approved March 5, 1953.

CHAPTER 257

S. B. No. 169
(Morgan and Johnson)

REFUNDING SPECIAL IMPROVEMENT WARRANTS

AN ACT

To amend and reenact section 40-2708 of the North Dakota Revised Code of 1943, relating to the content, maturities, redemption provisions and interest rates of refunding special improvement warrants, to extend the permissible maturity thereof to twenty-five years, to fix the maximum interest costs thereon, and to prescribe the titles of which such warrants may be designated, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) That section 40-2708 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2708. CONTENTS OF REFUNDING WARRANTS; REDEMPTION; INTEREST.) The refunding warrants shall bear such date, be in such denominations, and mature at such time or times, not exceeding twenty-five years from date of issue, as the governing body shall determine. Such warrants may be made subject to redemption at any specified time or times if it is so provided in the initial resolution. The average annual net rate of interest upon such warrants shall not exceed the rate of interest on warrants to be refunded thereby. Refunding warrants issued pursuant to this chapter may be designated as "refunding improvement warrants" or "refunding improvement bonds" as the governing body shall determine; provided that nothing herein shall be deemed to subject such warrants to the provisions of chapter 21-03 of the North Dakota Revised Code of 1943 with reference to general obligation bonds of the municipality.

§ 2. EMERGENCY.) That this act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 13, 1953.

CHAPTER 258

S. B. No. 147
(Foss and Thomas)

TAX LEVY FOR POLICEMEN'S PENSION FUND; LIMITATIONS

AN ACT

To amend and reenact sections 40-4501, 40-4502, 40-4508, 40-4513, 40-4516, and 40-4521 of the North Dakota Revised Code of 1943 relating to police pension in cities, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 40-4501 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4501. TAX LEVY FOR POLICEMEN'S PENSION FUND AUTHORIZED; LIMITATIONS.) In addition to any other levies authorized by law for general purposes, any city having a population in excess of five thousand inhabitants according to the last official federal or state census and having an organized and paid police department may levy an annual tax of not more than one-half of one mill for the purpose of creating a policemen's pension fund.

§ 2. AMENDMENT.) Section 40-4502 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4502. TAX LEVY FOR PENSION FUND WHERE RETIREMENT SYSTEM BASED UPON ACTUARIAL TABLES IS MAINTAINED.) Any city having established by law a police retirement system based upon actuarial tables may levy for the police pension fund, in addition to any other levies authorized by law for general purposes, a total tax of not more than three quarters of one mill.

§ 3. AMENDMENT.) Section 40-4508 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4508. MEMBERSHIP FEES AND ASSESSMENTS.) Every member of the police department shall pay to the treasurer of the pension fund a membership fee to be fixed by the board of trustees in an amount not exceeding five dollars. Each member shall be assessed and required to pay annually an amount equal to three percent per annum upon the amount of the annual salary paid to him. Such assessment shall be deducted and retained in equal monthly installments out of such salary. No assessments shall be made of any member after he has been employed for a period of 22 years.

§ 4. AMENDMENT.) Section 40-4513 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4513. PAYMENTS TO WIDOW, CHILDREN, AND SURVIVING PARENTS UPON DEATH OF ACTIVE OR RETIRED MEMBER.) Upon the death of any active or retired member of the police department of a city maintaining a policemen's pension fund under this chapter, leaving a widow or minor children or dependent father or mother surviving him, there shall be paid out of the fund subject to the restrictions contained in section 40-4514, as follows:

1. To the surviving widow, as long as she remains unmarried and of good moral character, a sum not less than forty dollars per month and not more than seventy-five dollars per month;
2. If there is no surviving widow, or upon the death or remarriage of the widow, then to his dependent father or mother, if both survive, or to either dependent parent if one survives, the sum of forty dollars per month;
3. To the guardian of each surviving child under eighteen years of age, a sum not less than ten dollars per month and not more than twenty dollars per month.

The aggregate of all such payments shall not exceed sixty percent of the amount of the salary of the member at the time of his death or retirement.

§ 5. AMENDMENT.) Section 40-4516 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4516. REDUCTION OF BENEFITS BY CITY HAVING POLICE RETIREMENT SYSTEM BASED UPON ACTUARIAL TABLES.) If the

three quarter mill levy provided for in section 40-4502, together with contributions from beneficiaries and funds received from other sources as provided in this chapter, shall be inadequate or insufficient to establish a retirement system based upon actuarial tables, the governing body, in order to establish such system upon an actuarial basis, may:

1. Decrease the benefits provided for in this chapter;
2. Extend the age at which retirement shall commence;
3. Increase the amount of the contributions from beneficiaries;
4. Limit the classes of beneficiaries; and
5. Restrict the benefits payable to beneficiaries who may not have served twenty-two years in the police department at the time of retirement.

§ 6. AMENDMENT.) Section 40-4521 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4521. POLICEMEN ENTITLED TO REFUND FROM FUND UPON TERMINATION OF EMPLOYMENT WITH CITY.) Any employee of a police department who shall have been in the service of the department for a period of two years, and shall have contributed to the policemen's pension fund, and who voluntarily and while in good standing as a member of such police force leaves the employment of the city, shall be entitled upon application at the time of such termination, to a refund of all contributions made by him except fifty percent of the contributions made by him for the first two years of his service.

§ 7. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 6, 1953.

CHAPTER 259

H. B. No. 794
(Saumur and Trydahl)

CITY EMPLOYEE'S PENSIONS

AN ACT

To amend and reenact section 40-4602 of the 1949 Supplement to the Revised Code of 1943, and sections 40-4604, 40-4609, 40-4613, 40-4615 and 40-4620 of the Revised Code of 1943, relative to city employee's pensions.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 40-4602 of the 1949 Supplement to the Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4602. TAX LEVY FOR CITY EMPLOYEE'S PENSION FUND AUTHORIZED; LIMITATIONS.) In addition to any other levies authorized by law for general purposes, any city having a population in excess of ten thousand inhabitants according to the last official federal or state census which has adopted a civil service system for city employees may levy an annual tax of not more than two mills for the purpose of creating and maintaining a city employees' pension fund.

§ 2. AMENDMENT.) Section 40-4604 of the Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4604. MEMBERSHIP FEES AND ASSESSMENTS.) Every full time city employee shall pay to the treasurer of the pension fund a membership fee to be fixed by the board of trustees in an amount not exceeding five dollars. Each member shall be assessed and required to pay annually an amount not less than two percent nor more than four percent, to be determined by the board of trustees, upon the amount of the annual salary paid to him, and such assessment shall be deducted and retained out of such salary in equal monthly installments.

§ 3. AMENDMENT.) Section 40-4609 of the Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4609. WHO MAY BE RETIRED ON PENSION; AMOUNT PAID TO RETIRING EMPLOYEE.) Any appointed full time employee of a city having an employees' pension fund, who shall have served two hundred forty months or more, whether or not consecu-

tive, as an employee and shall have reached the age of sixty years, or who, while employed by such city, shall suffer permanent mental or physical disability so that he is unable to discharge his duties, shall be entitled to be retired. Upon retirement, he shall be paid out of the pension fund of such city a monthly pension of not to exceed sixty percent of the amount of the average salary received by him monthly during the most recent two hundred forty months of his employment as provided for in the plan adopted by the governing body of the city, but such pension shall not exceed the sum of one hundred fifty dollars per month. If any member shall have served two hundred forty months in such city employment but shall not have reached the age of sixty years, he shall be entitled to retirement, but no pension shall be paid while he lives until he reaches the age of sixty years.

§ 4. AMENDMENT.) Section 40-4613 of the Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4613. PAYMENTS TO WIDOW, SURVIVING HUSBAND, CHILDREN, AND SURVIVING PARENTS UPON DEATH OF ACTIVE OR RETIRED MEMBER.) Upon the death of any active or retired employee of a city maintaining an employees' pension fund under this chapter, leaving a widow or dependent husband or minor child, or dependent father or mother surviving him or her, there shall be paid out of the fund, subject to the restrictions contained in section 40-4610, as follows:

1. To the surviving widow or husband as long as he or she remains unmarried and of good moral character, a sum equal to two-thirds of the pension to which the employees would have been entitled under the provisions of sections 40-4609 and 40-4610, not less, however, than forty dollars per month;
2. If there is no surviving widow or husband, or if such widow or husband shall die or remarry, then to the dependent father and mother, if both survive, or to either dependent parent if one survives, the sum of forty dollars per month;
3. To the father or mother of each surviving child, if such parent survives, for the benefit of such surviving child, until he or she shall arrive at the age of sixteen years, the sum of ten dollars per month, and in case no parent of any such surviving child survives, then to the guardian of each surviving child the sum of ten dollars per month until he or she shall arrive at the age of sixteen years. The aggregate of all such payments shall not exceed the amount provided for in the plan and in no

event more than sixty percent of the amount of the average salary of such employee during the most recent two hundred forty months of his employment, if he was employed that long, and if not, during the total period of his employment, or the maximum amount provided for in this chapter.

§ 5. AMENDMENT.) Section 40-4615 of the Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4615. EMPLOYEES OF CITY RETIRE UPON REQUEST OF EXECUTIVE OFFICER.) Any employee of the city who has reached the retirement age or who is unfit, physically or mentally, to continue in the service of the city, upon the request of the executive officer of the city, shall retire from active service, and, if he shall have been employed by the city for periods totalling one hundred twenty months or longer, the board of trustees shall make provision for the payment of a pension, such pension to be in a sum equal to the proportion of a full pension as herein provided which the total number of months employed by the city bears to two hundred forty months.

§ 6. AMENDMENT.) Section 40-4620 of the Revised Code of 1943, is hereby amended and reenacted to read as follows:

40-4620. EMPLOYEE ENTITLED TO REFUND FROM FUND UPON TERMINATION OF EMPLOYMENT WITH CITY.) Any employee who shall have been in the service of the city for a period of twelve months, whether or not consecutive, and who shall have contributed, for such period, into the employees' pension fund and who voluntarily and while in good standing as an employee of said city shall have left the employment of such city, shall be entitled, upon application at the time of such retirement, to a refund of fifty percent of the amount contributed by him.

Approved March 18, 1953.

CHAPTER 260

H. B. No. 788
(Saumur and Trydal)

PROCEDURE FOR PROTEST AGAINST CHANGES IN
ZONING REGULATIONS

AN ACT

To amend and reenact section 40-4705 of the North Dakota Revised Code of 1943, relating to amendments to zoning regulations.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 40-4705 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4705. AMENDMENTS TO OR REPEALS OF ZONING REGULATIONS; PROTEST; REQUIRED VOTE FOR PASSAGE; REGULATIONS GOVERNING.) Regulations, restrictions, and boundaries may be amended, supplemented, changed, modified, or repealed from time to time. If a protest against a change, supplement, modification, amendment, or repeal is signed by the owners of twenty percent or more:

1. Of the area of the lots included in such proposed change;
or
2. Of the area adjacent extending one hundred and fifty feet measured at right angles from points in the area to be changed, excluding the width of streets;

the amendment shall not become effective except by the favorable vote of three-fourths of all the members of the governing body of the city. The provision of section 40-4704 relating to public hearings and official notice shall apply equally to all changes or amendments provided in this section, provided that protests in writing must be filed with the city auditor prior to the time set for the hearing.

Approved March 14, 1953.

CHAPTER 261

S. B. No. 174
(Pyle and Duffy)

REVIEW BOARD FOR QUESTIONS OF ANNEXATION
OF TERRITORY WITHIN CITY LIMITS

AN ACT

To amend and reenact section 3 of chapter 271 of the 1951 Session Laws of North Dakota, relating to inclusion of territory within city limits.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 3 of chapter 271 of the 1951 session laws of North Dakota is hereby amended and reenacted to read as follows:

§ 3. REVIEW BOARD.) If the petition of protest so filed contains the names of three-fourths of the property owners as above provided, the question of whether or not property in any organized township shall be annexed shall be submitted to a review board which shall consist of the chief executive officer of the city, the state's attorney of the county in which the city is situated, and the members of the board of township supervisors of the township for determination. If territory proposed to be annexed is located in an unorganized township, the question of annexation shall similarly be submitted to a review board consisting of the chief executive officer of the city, the state's attorney of the county, and the members of the board of county commissioners.

Approved March 12, 1953.

CHAPTER 262

S. B. No. 261
(Day)

GRAVEL SURFACING OF CITY STREETS

AN ACT

To amend and reenact sections 40-5401, 40-5410 and 40-5411 of the 1949 Supplement to the North Dakota Revised Code of 1943 relating to gravel surfacing city streets.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 40-5401 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-5401. BIDS: ADVERTISING; REQUIREMENTS.) On or before the 15th day of March in each year, the city auditor of each city within the state may at the discretion of the governing board advertise in the official newspaper once each week for two consecutive weeks for bids for the furnishing of gravel in place for gravel surfacing of highways within the city, upon a cubic yard basis. The bids shall be made in accordance with such specifications as to type, grade and quality of material as shall be specified by the city engineer and approved by the governing board, and shall provide for the delivery of such gravel along such streets of the city as may thereafter be designated, in such manner as may be designated in the specifications. The notice shall specify that payment for such gravel in cash or by special assessment warrants issued against the Graveling Special Assessment Fund created by this Act (chapter), and each bidder shall specify in his bid the lowest rate of interest which he will accept upon such warrants, and that payment for such gravel will be accepted by him in the manner herein provided. Each bid shall be accompanied by a certified check in such amount as may be fixed by the governing board, and the award of the contract shall be made only to such person who shall furnish good and sufficient bond for the performance thereof, in such amount as shall be fixed by the governing board at the time of calling for bids.

§ 2. AMENDMENT.) Section 40-5410 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-5410. GRAVEL ASSESSMENT WARRANTS; HOW PAID; INTEREST; CONTENTS.) All gravel assessment warrants shall be pay-

able as specified and in such amounts as in the judgment of the governing body will be provided by such special assessments. Such shall bear interest at the rate of not more than six per cent per annum, and interest shall be payable annually. They may have coupons attached representing each year's interest. The warrants shall state on their face the purpose for which they were issued, and from what fund they are payable, and shall be signed by the executive officer and countersigned by the city auditor under the seal of the municipality, and shall be in denominations of not to exceed one thousand dollars (\$1,000.00) each. Such warrants shall be used in making payment on the contract for the furnishing of gravel, or may be sold for cash at not less than par value thereof, and the proceeds credited to the special fund and used to pay for such gravel project.

§ 3. AMENDMENT.) Section 40-5411 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-5411. WARRANTS PAYABLE FROM SPECIAL GRAVELING FUND.) The treasurer of the municipality shall pay such special gravel assessment warrants and interest coupons as they mature and are presented for payment out of the graveling special fund, and shall cancel the same when paid, and the provisions of section 40-2608 of the 1949 Supplement to the Compiled Laws of 1943 shall apply in the case of deficiencies in such fund.

Approved March 16, 1953.

CHAPTER 263

H. B. No. 660
(Fitch)

RESIDENTIAL PAVING PROJECTS; STANDARDS; COSTS

AN ACT

To amend and reenact sections 40-5602 and 40-5603 of the 1949 Supplement to the North Dakota Revised Code of 1943, relating to residential paving projects; providing for the establishment of standards of residential paving and for apportionment of paving costs, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 40-5602 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-5602. ESTABLISHMENT OF STANDARDS OF PAVING.) The governing body of any city may, by ordinance, establish standards of paving for residential areas which standards shall be uniform throughout the entire city, and said ordinance may be amended or repealed in the same manner as other ordinances of the city.

§ 2. AMENDMENT.) Section 40-5603 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-5603. CITY MAY PAY PORTION OF COST.) When any city has, by ordinance, established standards of paving for residential areas, the city as a whole, by action of its governing body, may pay not to exceed twenty percent of the cost of the paving, and if because of heavy traffic upon such street or for other valid reason, the governing board determines that the established standards should be exceeded in any portion of a residential paving project such percentage of the excess cost of paving as may be determined by action of the governing body shall be borne by the city as a whole.

§ 3. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 17, 1953.