

HIGHWAYS, BRIDGES, AND FERRIES

CHAPTER 211

S. B. No. 175

(Lips, Reichert, Longmire, Redlin)

DEFINITIONS

AN ACT

To create and enact subsection 14.1 of section 24-01-01.1 of the North Dakota Century Code, relating to defining employee compensation.

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

§ 1. Amendment.) Section 24-01-01.1 of the North Dakota Century Code is hereby amended by the creation and enactment of subsection 14.1 to read as follows:

14.1. Employee Compensation.) "Employee compensation" shall include vacation and sick leave.

Approved March 19, 1963.

CHAPTER 212

H. B. No. 621

(Giffey)

YELLOWSTONE BRIDGE, REPEAL

AN ACT

To repeal section 24-01-38 of the North Dakota Century Code, relating to the rental of the Great Northern Railway bridge across the Yellowstone River.

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

§ 1. Repeal.) Section 24-01-38 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1963.

CHAPTER 213

H. B. No. 669

(Lundene, Erickson, Diehl, Opedahl, Nygaard, Overbo, Goodman)

UTILITY LINES ALONG HIGHWAYS

AN ACT

To amend and reenact section 24-01-42 of the North Dakota Century Code, relating to the construction of utility facilities adjacent to state and county highway right-of-way.

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

§ 1. **Amendment.)** Section 24-01-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-01-42. Construction of Utility Facility—Limitation.) No person, firm or association shall construct any electrical supply or communication line, gas, oil or water or other pipeline parallel to and within one hundred feet of the center line of any state highway right-of-way or within seventy-five feet of the center line of any county highway right-of-way without first obtaining the consent of the highway commissioner or board of county commissioners except that such prohibition shall not apply to highways or streets located within areas platted as town sites or additions and subdivisions thereof.

Approved March 8, 1963.

CHAPTER 214

H. B. No. 801
(Leahy)

HIGHWAY CONTRACT PAYMENTS

AN ACT

To amend and reenact section 24-02-13 of the North Dakota Century Code, relating to the payments of estimates on highway contracts and the deposit of money with the clerk of district court in condemnation cases upon the certification by the chief engineer of the state highway department and the approval of the state highway commissioner without presentation to the state auditing board.

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

§ 1. **Amendment.)** Section 24-02-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-13. Payment of Estimates on Contract or Deposits in Condemnation.) Whenever any estimate or allowance for payment, except a final estimate or payment subsequent to a final estimate, is allowed, or granted, on a contract entered into by the department, or a deposit is to be made with the clerk of district court in a condemnation proceedings, and the same is vouchered by the department for presentation to the department of accounts and purchases, instead of submitting the same to the contractor or clerk of district court for certification by him, the chief engineer of said department shall make the following certificate, in lieu of the certificate otherwise required by law, which shall be printed on the said voucher or claim:

Estimate Certificate. I hereby certify that the within estimate or claim is just and true, that the contractor herein named has rendered the services and furnished the material herein charged, that they are of the value claimed, that no part thereof has been paid, and that the foregoing estimate or claim is supported by a proper contract and bond on file in the department or that the purpose of the payment to a clerk of district court is pursuant to law and for the taking of property by condemnation.

Chief Engineer, State Highway Department

After a certified estimate or deposit with a clerk of district court has been approved for payment by the commissioner,

the same shall be presented to the department of accounts and purchases for payment. The department of accounts and purchases thereupon shall prepare and issue a warrant therefor signed by the state auditor without submitting such voucher or claim to the state auditing board for examination and allowance. The foregoing procedure shall not apply to the final estimate or allowance to a contractor, nor to any estimate or allowance subsequent or supplemental to such final estimate, but such final estimate or supplemental allowance, shall conform to the provisions of law relative to the certification and approval of any other claim or demand; nor shall such procedure apply to payments to property owners involved in the taking of property in any condemnation proceeding.

Approved March 6, 1963.

CHAPTER 215

S. B. No. 172
(Lips)

BID BONDS ON PUBLIC CONTRACTS

AN ACT

To amend and reenact section 24-02-20 and subsection 4 of section 48-02-04 of the North Dakota Century Code, relating to the amount of bonds required as a prerequisite to submitting a bid on any construction work in connection with any state highway or public building.

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

§ 1. **Amendment.)** Section 24-02-20 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

24-02-20. Bids, Where Opened — Requirements — Bonds or Checks of Three Lowest Bidders Retained.) All bids shall be opened at the time and place specified in the advertised request for bids. Each bid shall be accompanied by a certified or cashier's check of the bidder on a solvent North Dakota bank, in an amount equal to five percent of his bid, to be forfeited to the state highway fund should the bidder fail to effect a contract within ten days after a notice of an award or by a bidder's bond in a sum equal to ten percent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state, conditioned that if the principal's bid be accepted and the contract awarded to him, he, within ten days after notice

of award, will execute and effect a contract in accordance with the terms of his bid and a contractor's bond as required by law and the regulations and determinations of the department.

All bonds or checks, except those of the responsible bidders submitting the three lowest and best bids, shall be returned to the bidders promptly upon opening such bids. The bond or check of the responsible bidder submitting the lowest and best bid may be cashed or retained until the contract has been awarded and executed properly. The bonds or checks of the responsible bidders submitting the second and third lowest and best bids may be returned to the bidders when the department has determined to whom the contract is to be awarded.

§ 2. Amendment.) Subsection 4 of section 48-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Each bid shall be accompanied by a certified check of the bidder on a solvent North Dakota bank, in the amount equal to five percent of his bid, to be forfeited to the governing board should the bidder fail to effect a contract within ten days after a notice of an award or by a bidder's bond in a sum equal to ten percent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state, conditioned that if the principal's bid be accepted and the contract awarded to him, he, within ten days after notice of award, will execute and effect a contract in accordance with the terms of his bid and a contractor's bond as required by law and the regulations and determinations of the department;

Approved March 9, 1963.

CHAPTER 216

H. B. No. 708
(Hauf, Stallman, Tough)

STATE HIGHWAY FUND EXPENDITURES

AN ACT

To amend and reenact section 24-02-37 of the North Dakota Century Code, relating to the expenditure of state highway funds.

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

§ 1. **Amendment.)** Section 24-02-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-37. State Highway Fund—How Expended.) The state highway fund, created by law and not otherwise appropriated and allocated, shall be applied and used for the purposes herein named and in the following order of priority:

1. The cost of maintaining the state highway system;
2. The cost of construction and reconstruction of highways in the amount necessary to match in whatever proportion may be required, federal aid granted to this state by the United States Government for road purposes in North Dakota; and
3. Any portion of the highway fund not allocated as provided in subsections 1 and 2 may be expended for the construction of state highways without federal aid or may be expended in the construction, improvement, or maintenance of such state highways.

All funds heretofore appropriated or hereafter appropriated or transferred to the department, whether earmarked or designated for special projects or special purposes or not, shall be placed or transferred into a single state highway fund in the office of the state treasurer and any claims for money expended by the department upon warrants prepared and issued by the department of accounts and purchases and signed by the state auditor under the provisions of this title shall be paid out of the state highway fund by the state treasurer; provided however that the commissioner shall keep and maintain complete and accurate records showing that all expenditures have been made in accordance with legislative appropriations and authorizations.

Approved March 13, 1963.

CHAPTER 217

S. B. No. 251

(Kautzmann, by request)

COUNTY BRIDGE PROJECTS

AN ACT

To amend and reenact section 24-08-03, relating to the supervision and repair of county road system bridges.

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

§ 1. **Amendment.)** Section 24-08-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-08-03. Supervision and Repairs of Bridge—Limit of County Liability for Negligence.) Any bridge built under the provisions of section 24-08-01 shall be under the supervision of the board of county commissioners, and the cost of rebuilding or repairing the same shall be paid by the county. Should any emergency arise requiring the immediate rebuilding or repairing of any such bridge, the board of county commissioners may rebuild or repair the same, as the circumstances require, and without advertising for bids, in case said work can be performed by a responsible party at a price not to exceed the last bid accepted by said board of county commissioners for like work. The board of county commissioners at least every two years, and so far as time and conditions may permit, shall cause an inspection to be made of all bridges on the county road system in the county. In case any bridge on the county road system shall be deemed unsafe for public use by the said board of commissioners, it forthwith shall take steps to close the same and prevent the use thereof by the public. In case any bridge on the county road system shall be deemed unsafe for loads in excess of a certain weight, the board of commissioners forthwith shall post notices on both ends of such bridge stating that such bridge is unsafe for loads beyond that weight. The county shall not be immune from claims or suits for damages arising out of negligent failure to perform the inspection and repair duties set out above, but the maximum recovery from the county on such suit or suits shall not exceed the sum of ten thousand dollars for each accident or occurrence caused by any negligent failure to inspect and repair.

Approved March 8, 1963.

CHAPTER 218

S. B. No. 290

(Nelson, Dahlund, Forkner, Roen, Chesrown, Kee, Bopp.)
(Kjos, Thompson, Baeverstad)

GRADE CROSSING SIGNALS

AN ACT

To create and enact section 24-09-08.1 of the North Dakota Century Code, relating to apportionment of cost of automatic grade crossing protection devices and making an appropriation for the payment of the state of North Dakota's share of such cost.

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

§ 1.) Section 24-09-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

24-09-08.1. Public Service Commission to Apportion Cost.)

In order to promote public safety at intersections of railroad lines and all classes of highways, excepting those for which federal aid is available for automatic grade crossing protection devices, the public service commission shall apportion the cost thereof in accordance with this section. In the event that the public service commission in accordance with the provisions of section 24-09-08 orders that any grade crossing shall be protected by automatic grade crossing protection devices, the public service commission shall in its order apportion the cost thereof between the railroad interested, the political subdivision having jurisdiction of the highway involved, and the state of North Dakota. Such cost shall be apportioned to such parties or to any one or more of such parties on the basis of the benefit derived respectively by highway users and the railroad from the installation of such crossing protection device. For the purpose of this section, the cost attributable to the benefit of the highway users shall be apportioned to the state of North Dakota or to the political subdivision having jurisdiction of the highway involved or to both of such parties.

§ 2. **Appropriation.)** There is hereby appropriated out of the state highway fund in the state treasury the sum of fifty thousand dollars, or so much thereof as may be necessary, to pay the share of cost of such crossing protection device as shall be apportioned to the state of North Dakota in accordance with section 1 of this Act, payment to be made by the state highway department upon order of the public service commission.

Approved March 21, 1963.