

Fifty-fifth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1307

Introduced by

Representatives R. Kelsch, C. Johnsen

Senators Robinson, Yockim

1 A BILL for an Act to create and enact a new section to chapter 40-13 of the North Dakota  
2 Century Code, relating to removal of appointive city officers; to amend and reenact sections  
3 40-13-09, 40-14-04, and 40-15-05 of the North Dakota Century Code, relating to appointive city  
4 officers; and to repeal sections 40-14-05, 40-15-06, and 40-15-07 of the North Dakota Century  
5 Code, relating to terms and removal of appointive city officers.

### 6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

9 **Appointive officers - Removal upon hearing - Suspension - Appointment and**  
10 **removal of temporary officer.** Any person appointed to any city office and any employee of  
11 the city may be removed by a majority vote of all of the members of the city governing body, but  
12 an officer or employee may not be removed except for cause and unless charges are filed  
13 against the officer or employee and the officer or employee is given an opportunity to be heard.  
14 Within ten days after charges are filed in the office of the city auditor against any officer or  
15 employee, the city governing body shall hear and determine the case upon its merits. The  
16 mayor, the president of the board of city commissioners, or the city governing body, by a  
17 majority vote of its members, may suspend any officer or employee against whom charges  
18 have been filed until the disposition of the charges. The mayor or president of the board of city  
19 commissioners may appoint a person to fill any vacancy temporarily until the disposition of the  
20 charges against the incumbent. Any person appointed without confirmation by the city  
21 governing body may be removed when it is determined to be in the best interests of the city by  
22 the mayor or president of the board of city commissioners.

23 **SECTION 2. AMENDMENT.** Section 40-13-09 of the North Dakota Century Code is  
24 amended and reenacted as follows:

1           **40-13-09. Vacancies to be filled for unexpired term.** Unless otherwise specifically  
2 provided in this title, every person elected ~~or appointed~~ to fill a vacancy in a municipal office  
3 shall hold ~~his~~ office and discharge the duties ~~thereof~~ of the office for the unexpired term.

4           **SECTION 3. AMENDMENT.** Section 40-14-04 of the 1995 Supplement to the North  
5 Dakota Century Code is amended and reenacted as follows:

6           **40-14-04. Appointive officers in council cities - ~~Appointment of more than one~~**  
7 **~~assessor~~ Right to dispense with offices.**

8           1. The mayor, with the approval of the city council, shall appoint the following officers  
9 when necessary to fill a vacancy:

- 10           a. A city auditor;  
11           b. A city assessor;  
12           c. A city attorney;  
13           d. A city engineer; and  
14           e. ~~Such other~~ Other officers as the city council deems necessary and expedient.

15           2. ~~The city assessor shall be appointed at the first meeting of the city council in~~  
16 ~~September of each odd-numbered year. If the city council of a city containing five~~  
17 ~~thousand or more inhabitants shall declare, by resolution, that it is necessary to~~  
18 ~~appoint more than one assessor, the mayor, with the approval of the council, may~~  
19 ~~appoint one or two additional city assessors.~~

20           ~~3.~~ The city council, including a city council under the modern council form of  
21 government, by a majority vote of all of the members may dispense with any  
22 appointive office and provide that the duties of that office be performed through  
23 contract or by other officers.

24           **SECTION 4. AMENDMENT.** Section 40-15-05 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26           **40-15-05. Appointive officers in commission cities - Right to dispense with**  
27 **offices.** ~~At the first meeting after the qualification of its members, or as soon thereafter as~~  
28 ~~possible, the~~ The board of city commissioners shall appoint the following officers when  
29 necessary to fill a vacancy:

- 30           1. A treasurer;  
31           2. An auditor;

- 1           3.    An attorney;
- 2           4.    One or more assessors;
- 3           5.    A city health officer who ~~shall~~ must be a physician;
- 4           6.    A street commissioner;
- 5           7.    A chief of the fire department;
- 6           8.    A chief of police;
- 7           9.    One or more ~~police men~~ police officers;
- 8          10.   A city engineer;
- 9          11.   A board of public works; and
- 10        12.   ~~Such other~~ Other officers or boards as the board of city commissioners may deem
- 11                necessary.

12   The board of city commissioners by a majority vote of all the members may dispense with any  
13   appointive office and provide that the duties ~~thereof~~ of the office shall be performed through  
14   contract, by other officers or boards, by the board of city commissioners, or by a committee or  
15   committees thereof.

16        **SECTION 5. REPEAL.** Section 40-15-07 of the North Dakota Century Code and  
17   sections 40-14-05 and 40-15-06 of the 1995 Supplement to the North Dakota Century Code are  
18   repealed.