

HOUSE BILL NO. 1435

Introduced by

Representatives S. Kelsh, Kretschmar, Stenehjem

Senators Goetz, Lee, W. Stenehjem

1 A BILL for an Act to create and enact a new section to chapter 44-04 of the North Dakota  
2 Century Code, relating to political subdivision hearings concerning public health, natural  
3 resources, or the environment; and to amend and reenact section 11-35-01 of the North Dakota  
4 Century Code, relating to formation of joint zoning commissions by political subdivisions.

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

6 **SECTION 1.** A new section to chapter 44-04 of the North Dakota Century Code is  
7 created and enacted as follows:

8 **Conducting joint hearings and meetings on issues involving public health,**  
9 **natural resources, or the environment.** If the governing body of a political subdivision  
10 determines that a joint public hearing or meeting would facilitate public participation in a  
11 decision involving public health, natural resources, or the environment, the political subdivision  
12 may agree to conduct a joint hearing or meeting with another political subdivision or  
13 subdivisions on those issues, or may request that a state agency conduct a joint hearing with  
14 the political subdivision or subdivisions on those issues. The state agency may conduct a joint  
15 hearing with a political subdivision or subdivisions if it does not conflict with its other duties or  
16 enforcement responsibilities and does not place an undue burden on that agency's budget and  
17 resources. Two or more state agencies may agree to hold a joint public hearing or meeting  
18 when the jurisdictions of the agencies over the natural resources in question overlap and a  
19 single hearing or meeting would be less expensive than separate hearings or meetings, or  
20 when a joint hearing or meeting would facilitate public participation in a decision involving public  
21 health, natural resources, or the environment. Expenses for a joint hearing or meeting must be  
22 divided between political subdivisions and state agencies as agreed upon before the hearing or  
23 meeting. The joint hearing or meeting must be conducted as follows:

- 1       1. Notice of the joint hearing or meeting must be given or published as required by  
2       law for other hearings or meetings of the same nature conducted by that agency or  
3       body;
- 4       2. The hearing or meeting must be held in an accessible location and in an adequate  
5       facility, and electronic technologies may be used to allow participation by persons  
6       or communities affected by the proposed law or action;
- 7       3. An agenda must be set prior to the hearing or meeting and a chairman or hearing  
8       officer must be designated to conduct the hearing or meeting by the agencies or  
9       governmental bodies involved in the joint hearing, but the chairman or hearing  
10      officer may vary from the agenda to allow relevant information or material into the  
11      record;
- 12      4. The hearing or meeting must be recorded electronically;
- 13      5. The hearing or meeting must be conducted with the following principles in mind:
  - 14      a. The hearing or meeting should facilitate the participation of persons or  
15      communities potentially affected by a decision involving public health, natural  
16      resources, or the environment, and the record should remain open for written  
17      comments for an agreed upon time after the hearing or meeting;
  - 18      b. The hearing or meeting may examine what studies of development impacts or  
19      pollution impacts may be necessary, and may encourage discussion of overall  
20      community goals;
  - 21      c. The hearing or meeting may examine whether economic hardship variances  
22      or similar administrative relief may be appropriate in situations where  
23      proposed ordinances, or rules may have an extreme result;
  - 24      d. The hearing or meeting may examine ways to prevent uses of land or  
25      resources which adversely affect public health or the environment or create  
26      economically unusable or substandard parcels of land;
  - 27      e. The hearing or meeting may examine proposed ordinances or rules that affect  
28      more than one community or political subdivision;
  - 29      f. The ultimate decision made by each state agency or political subdivision must  
30      communicate how input from the joint hearing or meeting was, or was not,  
31      utilized; and

- 1           6.   Neither state agencies nor political subdivisions may delegate any of their ultimate  
2                    decisionmaking authority to the joint body conducting the joint hearing or meeting  
3                    under this process.

4   Political subdivisions may set up a procedure under which citizens of that political subdivision  
5   may petition for a joint hearing or meeting.

6           **SECTION 2. AMENDMENT.** Section 11-35-01 of the North Dakota Century Code is  
7   amended and reenacted as follows:

8           **11-35-01. Regional commissions - Appointment - Powers.**

- 9           1.   The governing boards of counties, cities, and organized townships may cooperate  
10                   to form, organize, and administer a regional planning and zoning commission for  
11                   the region defined as may be agreed upon by the governing bodies of such political  
12                   subdivisions. The regional commission membership shall consist of five members;  
13                   ~~namely,~~

- 14          2.   When the regional commission consists of a city, a county, and surrounding  
15                   townships, the regional commission must consist of one member from the board of  
16                   county commissioners, two members from the rural region affected, and two  
17                   members from the city, the members from each to be appointed by the respective  
18                   governing boards. When the regional commission consists of all or part of two  
19                   contiguous counties and townships located within those two counties, the regional  
20                   commission consists of one member from each of the boards of county  
21                   commissioners and three members from the rural region affected, the members  
22                   from each to be appointed jointly by the respective governing boards entering into  
23                   the agreement. When the regional commission consists of one county and  
24                   townships located within that county, the regional commission consists of one  
25                   member of the county commission and four members from the rural region  
26                   affected, the members from each to be appointed jointly by the respective  
27                   governing boards entering into the agreement.

- 28          3.   The proportion of cost of regional planning, zoning, studies, attorneys' fees, and  
29                   surveys to be borne respectively by each of the said political subdivisions in the  
30                   region, must be such as may be agreed upon by their governing boards. The  
31                   regional commissions, when requested by the governing board of a political

1 subdivision in its region, may exercise any of the powers which are specified and  
2 granted to counties, cities, or organized townships in matters of planning and  
3 zoning. The jurisdiction of the regional commission is limited to the particular  
4 planning or zoning project or other matter specifically delegated to the regional  
5 commission, and does not otherwise limit the jurisdiction of the political subdivision  
6 making the delegation. Upon organization of such commission, publication and  
7 hearing procedures must be conducted pursuant to sections 11-33-08 and  
8 11-33-09. Appeal from a decision of the commission may be taken to the district  
9 court in accordance with the procedure provided in section 28-34-01.