

House Bill No. 1435
with Senate Amendments

Fifty-fifth
Legislative Assembly
of North Dakota

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.** As provided by chapter 54-40.3 or chapter 11-35, if
10 the governing body of a political subdivision determines that a joint public hearing or meeting
11 would facilitate public participation in a decision involving public health, natural resources, or
12 the environment, the political subdivision may agree to conduct a joint hearing or meeting with
13 another political subdivision or subdivisions on those issues, or may request that a state
14 agency conduct a joint hearing with the political subdivision or subdivisions on those issues.
15 The state agency may conduct a joint hearing with a political subdivision or subdivisions if it
16 does not conflict with its other duties or enforcement responsibilities and does not place an
17 undue burden on that agency's budget and resources. Two or more state agencies may agree
18 to hold a joint public hearing or meeting when the jurisdictions of the agencies over the natural
19 resources in question overlap and a single hearing or meeting would be less expensive than
20 separate hearings or meetings, or when a joint hearing or meeting would facilitate public
21 participation in a decision involving public health, natural resources, or the environment.
22 Expenses for a joint hearing or meeting must be divided between political subdivisions and
23 state agencies as agreed upon before the hearing or meeting. The joint hearing or meeting
24 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. An agenda must be set prior to the hearing or meeting and a chairman or hearing
5 officer must be designated to conduct the hearing or meeting by the agencies or
6 governmental bodies involved in the joint hearing, but the chairman or hearing
7 officer may vary from the agenda to allow relevant information or material into the
8 record;
- 9 3. A record of the hearing or meeting must be kept as required by law;
- 10 4. The hearing or meeting must be conducted with the following principles in mind:
 - 11 a. The hearing or meeting should facilitate the participation of persons or
12 communities potentially affected by a decision involving public health, natural
13 resources, or the environment, and the record should remain open for written
14 comments for an agreed upon time after the hearing or meeting;
 - 15 b. The hearing or meeting may examine what studies of development impacts or
16 pollution impacts may be necessary, and may encourage discussion of
17 overall community goals;
 - 18 c. The hearing or meeting may examine whether economic hardship variances
19 or similar administrative relief may be appropriate in situations where
20 proposed ordinances, or rules may have an extreme result;
 - 21 d. The hearing or meeting may examine ways to prevent uses of land or
22 resources which adversely affect public health or the environment or create
23 economically unusable or substandard parcels of land;
 - 24 e. The hearing or meeting may examine proposed ordinances or rules that affect
25 more than one community or political subdivision;
 - 26 f. The ultimate decision made by each state agency or political subdivision must
27 communicate how testimony or evidence from the joint hearing or meeting
28 was, or was not, utilized; and
- 29 5. Neither state agencies nor political subdivisions may delegate any of their ultimate
30 decisionmaking authority to the joint body conducting the joint hearing or meeting
31 under this process.

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

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

5 **11-35-01. Regional commissions - Appointment - Powers.**

6 1. The governing boards of counties, cities, and organized townships may cooperate
7 to form, organize, and administer a regional planning and zoning commission for
8 the region defined as may be agreed upon by the governing bodies of such
9 political subdivisions. The composition of the regional commission membership
10 shall consist of five members; namely, board, unless otherwise agreed to under
11 chapter 54-40.3, may be in any of the following forms:

12 a. When the regional commission consists of a city, a county, and surrounding
13 townships, the regional commission must consist of one member from the
14 board of county commissioners, two members from the rural region affected,
15 and two members from the city, the members from each to be appointed by
16 the respective governing boards.

17 b. When the regional commission consists of all or part of two contiguous
18 counties and townships located within those two counties, the regional
19 commission consists of one member from each of the boards of county
20 commissioners and three members from the rural region affected, the
21 members from each to be appointed jointly by the respective governing
22 boards entering into the agreement.

23 c. When the regional commission consists of one county and townships located
24 within that county, the regional commission consists of one member of the
25 county commission and four members from the rural region affected, the
26 members from each to be appointed jointly by the respective governing
27 boards entering into the agreement.

28 2. 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.