

Fifty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1037

Introduced by

Legislative Council

(Information Technology Committee)

1 A BILL for an Act to create and enact a new section to chapter 32-12 of the North Dakota
2 Century Code, relating to the liability of the state for a contract claim resulting from the failure of
3 computers or computer equipment; and to amend and reenact subsection 3 of section
4 32-12.1-03 and subsection 3 of section 32-12.2-02 of the North Dakota Century Code, relating
5 to the liability of political subdivisions and the state for a claim resulting from the failure of
6 computers or computer equipment as a result of the year 2000 date change.

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

8 **SECTION 1.** A new section to chapter 32-12 of the North Dakota Century Code is
9 created and enacted as follows:

10 **Claims resulting from year 2000 date change computer failures prohibited.** The
11 state is not liable for a claim arising upon contract which is the result of the failure of any
12 computer hardware or software, telecommunications network, or device containing a computer
13 processor to interpret, produce, calculate, generate, or account for a date that is compatible
14 with the year 2000 date change if the state has made a good-faith effort to make the computer
15 hardware or software, telecommunications network, or device containing a computer processor
16 compliant with the year 2000 date change. For the purposes of this section, computer or
17 telecommunications equipment or devices are compliant with the year 2000 date change if:

- 18 1. The date structures provide four-digit date recognition.
- 19 2. Any stored data contains date century recognition, including data stored in data
20 bases and hardware or device internal system dates.
- 21 3. The calculations and program logic accommodate same century and multcentury
22 formulas and data values.
- 23 4. The interfaces prevent noncompliant dates and data from entering or exiting any
24 state system.

5. The user interfaces accurately show four-digit years when critical to business functions.

6. The year 2000 or any other leap year is correctly treated as a leap year within all calculation and calendar logic.

SECTION 2. AMENDMENT. Subsection 3 of section 32-12.1-03 of the North Dakota Century Code is amended and reenacted as follows:

3. A political subdivision is not liable for any claim based upon an act or omission of ~~an a political subdivision~~ employee of a political subdivision, exercising due care, in the execution of a valid or invalid statute or regulation, ~~whether or not such statute or regulation be valid~~, or based upon the exercise or performance, exercising due care, or the failure to exercise or perform a discretionary function or duty on the part of a political subdivision or its employees, whether or not the discretion involved ~~be~~ is abused. Specifically, a political subdivision or ~~an a~~ political subdivision employee ~~thereof~~ is not liable for any claim that results from:

- a. The decision to undertake or the refusal to undertake any legislative or quasi-legislative act, including the decision to adopt or the refusal to adopt any statute, charter, ordinance, order, regulation, resolution, or resolve.
- b. The decision to undertake or the refusal to undertake any judicial or quasi-judicial act, including the decision to grant, to grant with conditions, to refuse to grant, or to revoke any license, permit, order, or other administrative approval or denial.
- c. The decision to perform or the refusal to exercise or perform a discretionary function or duty, whether or not such discretion ~~be~~ is abused and whether or not the statute, charter, ordinance, order, resolution, regulation, or resolve under which the discretionary function or duty is performed is valid or invalid.
- d. The failure to provide or maintain sufficient personnel, equipment, or other fire protection facilities; or doing any fire extinguishment or fire prevention work, rescue, resuscitation, or first aid; or any other official acts within the scope of official duties; provided, however, this ~~subsection~~ subdivision does not provide immunity for damages resulting from acts of gross negligence.

- 1 e. The failure of any computer hardware or software, telecommunications
2 network, or device containing a computer processor to interpret, produce,
3 calculate, generate, or account for a date that is compatible with the year
4 2000 date change if the political subdivision has made a good-faith effort to
5 make the computer hardware or software, telecommunications network, or
6 device containing a computer processor compliant with the year 2000 date
7 change. For the purposes of this subdivision, computer or
8 telecommunications equipment or devices are compliant with the year 2000
9 date change if:
- 10 (1) The date structures provide four-digit date recognition.
11 (2) Any stored data contains date century recognition, including data stored
12 in data bases and hardware or device internal system dates.
13 (3) The calculations and program logic accommodate same century and
14 multicentury formulas and data values.
15 (4) The interfaces prevent noncompliant dates and data from entering or
16 exiting any system operated or used by the political subdivision.
17 (5) The user interfaces accurately show four-digit years when critical to
18 business functions.
19 (6) The year 2000 or any other leap year is correctly treated as a leap year
20 within all calculation and calendar logic.

21 This subsection does not limit the liability of a political subdivision or an employee
22 thereof for a personal injury arising out of the execution of any legislative or
23 quasi-legislative act, judicial or quasi-judicial act, or discretionary function.

24 **SECTION 3. AMENDMENT.** Subsection 3 of section 32-12.2-02 of the 1997
25 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 26 3. Neither the state nor a state employee may be held liable under this chapter for
27 any of the following claims:
- 28 a. A claim based upon an act or omission of a state employee exercising due
29 care in the execution of a valid or invalid statute or rule.
- 30 b. A claim based upon a decision to exercise or perform or a failure to exercise
31 or perform a discretionary function or duty on the part of the state or its

employees, regardless of whether the discretion involved is abused or whether the statute, order, rule, or resolution under which the discretionary function or duty is performed is valid or invalid. Discretionary acts include acts, errors, or omissions in the design of any public project but do not include the drafting of plans and specifications that are provided to a contractor to construct a public project.

- c. A claim resulting from the decision to undertake or the refusal to undertake any legislative or quasi-legislative act, including the decision to adopt or the refusal to adopt any statute, order, rule, or resolution.
- d. A claim resulting from a decision to undertake or a refusal to undertake any judicial or quasi-judicial act, including a decision to grant, to grant with conditions, to refuse to grant, or to revoke any license, permit, order, or other administrative approval or denial.
- e. A claim resulting from the assessment and collection of taxes.
- f. A claim resulting from snow or ice conditions, water, or debris on a highway or on a public sidewalk that does not abut a state-owned building or parking lot, except when the condition is affirmatively caused by the negligent act of a state employee.
- g. A claim resulting from any injury caused by a wild animal in its natural state.
- h. A claim resulting from the condition of unimproved real property owned or leased by the state.
- i. A claim resulting from the loss of benefits or compensation due under a program of public assistance.
- j. A claim resulting from the reasonable care and treatment, or lack of care and treatment, of a person at a state institution where reasonable use of available appropriations has been made to provide care.
- k. A claim resulting from damage to the property of a patient or inmate of a state institution.
- l. A claim resulting from any injury to a resident or an inmate of a state institution if the injury is caused by another resident or inmate of that institution.

- 1 m. A claim resulting from environmental contamination, except to the extent that
2 federal environmental law permits the claim.
- 3 n. A claim resulting from a natural disaster, an act of God, a military action, or an
4 act or omission taken as part of a disaster relief effort.
- 5 o. A claim for damage to property owned by the state.
- 6 p. A claim for liability assumed under contract, except this exclusion does not
7 apply to liability arising from a state employee's operation of a rental vehicle if
8 the vehicle is rented for a period of thirty days or less and the loss is not
9 covered by the state employee's personal insurance or by the vehicle rental
10 company.
- 11 q. A claim resulting from the failure of any computer hardware or software,
12 telecommunications network, or device containing a computer processor to
13 interpret, produce, calculate, generate, or account for a date that is
14 compatible with the year 2000 date change if the state has made a good-faith
15 effort to make the computer hardware or software, telecommunications
16 network, or device containing a computer processor compliant with the year
17 2000 date change. For the purposes of this subdivision, computer or
18 telecommunications equipment or devices are compliant with the year 2000
19 date change if:
- 20 (1) The date structures provide four-digit date recognition.
- 21 (2) Any stored data contains date century recognition, including data stored
22 in data bases and hardware or device internal system dates.
- 23 (3) The calculations and program logic accommodate same century and
24 multicentury formulas and data values.
- 25 (4) The interfaces prevent noncompliant dates and data from entering or
26 exiting any state system.
- 27 (5) The user interfaces accurately show four-digit years when critical to
28 business functions.
- 29 (6) The year 2000 or any other leap year is correctly treated as a leap year
30 within all calculation and calendar logic.