

# AERONAUTICS

## CHAPTER 57

### HOUSE BILL NO. 1132

(Government and Veterans Affairs Committee)  
(At the request of the North Dakota Aeronautics Commission)

AN ACT to amend and reenact sections 2-05-03, 2-05-04, 2-05-05, and 2-05-06.5, subsection 3 of section 2-05-11.1, and sections 2-05-11.3 and 57-43.3-06 of the North Dakota Century Code, relating to the powers and duties of the aeronautics commission and the distribution of aviation fuel tax revenue; to repeal sections 2-05-06.4, 2-05-08, 2-05-12, 2-05-15, 2-05-15.1, 2-05-16, and 2-05-17 of the North Dakota Century Code, relating to the powers and duties of the aeronautics commission; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 2-05-03 of the North Dakota Century Code is amended and reenacted as follows:

##### **2-05-03. Powers and duties of director.**

The director shall be the executive officer of the commission. The director shall attend all meetings of the commission, but has no voting power. At the direction of the commission, the director shall, together with the chairman of the commission, execute all contracts entered into by the commission which are legally authorized. The director shall appoint, subject to the approval of the commission, such employees as may be necessary for the proper discharge of the functions of the commission. The director shall act as the agent of the tax commissioner for purposes of enforcement of chapter 57-40.5. ~~Whenever requested by the director of the department of transportation as provided in section 24-02-01.3, the director shall report administratively concerning all activities of the aeronautics commission.~~

**SECTION 2. AMENDMENT.** Section 2-05-04 of the North Dakota Century Code is amended and reenacted as follows:

##### **2-05-04. Commission ~~organization~~—~~Reports~~reports - Offices.**

~~Within thirty days after its appointment, the commission shall organize and adopt rules for its administration as it may determine to be expedient.~~ The commission may submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04. The commission shall maintain its office in the state capitol or as authorized under section 54-21-24.

**SECTION 3. AMENDMENT.** Section 2-05-05 of the North Dakota Century Code is amended and reenacted as follows:

### **2-05-05. Duty of commission in development of aeronautics.**

The commission shall have general supervision over aeronautics within this state and shall:

1. Encourage the establishment of airports and air navigation facilities;
2. Cooperate with and assist the federal government, the municipalities of this state, and other persons in the development and coordination of all aeronautical activities;
3. Represent the state in aeronautical matters before state and federal agencies;  
~~and~~
4. Participate as party plaintiff or defendant or as intervener on behalf of the state or any municipality ~~or citizen thereof~~ in any controversy which involves the interest of the state in aeronautics;
5. Establish or promote with the public sector or private sector, or both, and provide financing, in whole or in part, of aeronautical educational programs and support of the educational programs of aeronautical museums in the state; and
6. Establish or promote with the public sector or private sector, or both, and provide financing, in whole or in part, of programs informing the public of commercial and general aviation services available in the state.

**SECTION 4. AMENDMENT.** Section 2-05-06.5 of the North Dakota Century Code is amended and reenacted as follows:

#### **2-05-06.5. State assistance for airports.**

Each public airport owned or operated by a public entity and each airport operated by an airport authority in this state which is served by at least one airline which is certified by the federal aviation administration or was at one time served by an airline certified by the federal aviation administration, ~~but is served by a scheduled commuter airline certified by the North Dakota aeronautics commission~~ may be provided assistance according to guidelines established by the commission by rule, within the limits of legislative appropriations. The governing body or airport authority which operates an airport that receives assistance under this section shall deposit the moneys received in the same account or accounts as other airport funds are deposited and may expend the moneys as provided by law for other airport funds, including matching any funds made available by the United States.

**SECTION 5. AMENDMENT.** Subsection 3 of section 2-05-11.1 of the North Dakota Century Code is amended and reenacted as follows:

3. "Warbird aircraft" means ~~an~~ military aircraft ~~built before January 1, 1948, expressly for the purpose of no longer in~~ military service.

**SECTION 6. AMENDMENT.** Section 2-05-11.3 of the North Dakota Century Code is amended and reenacted as follows:

### **2-05-11.3. Fee for a permanent registration - Issuance of registration decal - Disposition of fee.**

The fee for a permanent registration under section 2-05-11.2 is eighty-five dollars. The commission shall prepare a distinctive decal denoting permanent registration under section 2-05-11.2. ~~That decal must be displayed in the aircraft in the same manner required for the registration decal otherwise issued under this chapter. The fee must be deposited in the aeronautics commission special fund.~~

**SECTION 7. AMENDMENT.** Section 57-43.3-06 of the North Dakota Century Code is amended and reenacted as follows:

#### **57-43.3-06. (Effective through June 30, 2011) Distribution of revenue.**

The tax collected by the commissioner pursuant to section 57-43.3-04 must be deposited by the commissioner in the office of the state treasurer, who shall deposit such moneys in a special fund known as the state aeronautics commission special fund. These funds are appropriated to the commission, and must be disbursed by warrant-check prepared by the office of management and budget upon vouchers submitted by the commission and approved by the office of management and budget, for commission administration and the purpose of providing up to ninety percent of the project costs if the political subdivision or airport authority is not qualified for or does not receive any funds under section 2-05-06.5. These funds must be used for airport construction or improvement projects, including airport administration and terminal buildings, hangars, landing strips for aircraft, and purchase of sites for airports or landing fields and easements and for maintenance and maintenance equipment, clearing of sites, marking, lighting, and engineering and navigational aids, all related to aeronautics in amounts as the commission may determine and upon projects as the commission may approve.

~~(Effective after June 30, 2011) Distribution of revenue.~~ The tax collected by the commissioner pursuant to section 57-43.3-04 must be deposited by the commissioner in the office of the state treasurer, who shall deposit such moneys in a special fund known as the state aeronautics commission special fund. These funds are appropriated to the commission, and must be disbursed by warrant check prepared by the office of management and budget upon vouchers submitted by the commission and approved by the office of management and budget, for commission administration and the purpose of matching of any funds made available by political subdivisions or airport authorities of this state, the state, or the United States, only if the political subdivision or airport authority is not qualified for or does not receive any funds under section 2-05-06.5. These funds must be used for airport construction or improvement projects, including airport administration and terminal buildings, hangars, landing strips for aircraft, and purchase of sites for airports or landing fields and easements and for maintenance, clearing of sites, marketing, lighting, and engineering and navigational aids, all related to aeronautics in amounts as the commission may determine and upon projects as the commission may approve.

**SECTION 8. REPEAL.** Sections 2-05-06.4, 2-05-08, 2-05-12, 2-05-15, 2-05-15.1, 2-05-16, and 2-05-17 of the North Dakota Century Code are repealed.

**SECTION 9. EMERGENCY.** Section 7 of this Act is declared to be an emergency measure.

Approved April 11, 2011  
Filed April 11, 2011

## CHAPTER 58

### SENATE BILL NO. 2206

(Senators Miller, Olafson, Murphy)  
(Representatives Belter, Boe, Schmidt)

AN ACT to create and enact a new section to chapter 2-05 of the North Dakota Century Code, relating to anemometer towers; to provide a penalty; to provide an appropriation; to provide for application; and to declare an emergency.

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

**SECTION 1.** A new section to chapter 2-05 of the North Dakota Century Code is created and enacted as follows:

##### **Anemometer towers - Definitions - Penalty.**

1. As used in this section, unless the context otherwise requires:
  - a. "Anemometer" means an instrument for measuring and recording the speed of wind.
  - b. "Anemometer tower" means a structure, including all guy wires and accessory facilities, on which an anemometer is mounted for the purposes of documenting wind resources for the operation of a wind turbine generator.
  - c. "Commission" means the North Dakota aeronautics commission.
2. An anemometer tower that is fifty feet [15.24 meters] in height above the ground or higher, is located outside the zoning jurisdiction of a city, and the appearance of which is not otherwise regulated by state or federal law must be marked, painted, flagged, or otherwise constructed to be recognizable in clear air during daylight hours and:
  - a. Must be painted in equal, alternating bands of orange and white, beginning with orange at the top of the tower and ending with orange at the bottom of the tower;
  - b. One or more seven-foot [2.13-meter] safety sleeves must be placed at each anchor point and must extend from the anchor point along each guy wire attached to the anchor point; and
  - c. At least one marker ball must be attached to each guy wire in the highest set of guy wires which does not affect the stability of the tower and the measurement of wind speed.
3. The commission may establish and maintain a database that contains locations of all existing anemometer towers by January 1, 2012. The commission may contract with a governmental entity or a private entity to create and maintain the database.

- a. Within sixty days after the effective date of this Act, an owner of any anemometer tower erected in the state shall provide the commission with global positioning system coordinates of the center of the anemometer tower.
  - b. At least ten days before the erection of an anemometer tower, an owner of the tower shall provide coordinates to the commission.
  - c. Within ten days after the removal of an anemometer tower, an owner of the tower shall notify the commission.
4. The commission may enforce this section. A violation of this section is an infraction.

**SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$4,500, or so much of the sum as may be necessary, to the aeronautics commission for the purpose of establishing a database for anemometer towers, for the biennium beginning July 1, 2011, and ending June 30, 2013.

**SECTION 3. APPLICATION.** Any anemometer tower that was erected before August 1, 2011, must be marked as required in this Act before August 1, 2014. Any anemometer tower that is erected after July 31, 2011, must be marked as required in this Act at the time the tower is erected. An anemometer tower that has been erected in an existing wind energy generating facility on the effective date of this Act is exempt from the provisions of this Act.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 26, 2011  
Filed April 26, 2011