

Introduced by

1 A BILL for an Act to amend and reenact sections 48-09-01, 48-09-02, 48-09-03, 48-09-04, and
2 48-09-05 of the North Dakota Century Code, relating to concessions.

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

4 **SECTION 1. AMENDMENT.** Section 48-09-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **48-09-01. Granting of concessions for cafes, restaurants, and confectioneries, and**
7 **vending and merchandising machines on public buildings and grounds - Proceeds.**

8 1. Any state official, board, or commission, any county official, board, or commission, and
9 any municipal officer, board, or commission, having the supervision, control, and
10 management of any state, county, or municipal building and adjacent grounds, for the
11 public benefit and good, may grant a concession in the building or on the grounds ~~for,~~
12 ~~including any cafe, restaurant, or confectionery, by renting, leasing, and licensing a~~
13 ~~concession to the highest responsible bidder at a reasonable rental per month and~~
14 ~~may reject any and all bids for the concession or vending and merchandising machines~~
15 ~~only upon payment of adequate compensation for such privilege.~~ However, the board
16 of directors of any North Dakota fair association or board of county park
17 commissioners may grant a concession under this chapter without letting bids or
18 requesting proposals.

19 2. All proceeds received under this chapter must be deposited into an operating fund for
20 the entity awarding the concessions contract or deposited into the general fund of the
21 state, county, or municipality.

22 **SECTION 2. AMENDMENT.** Section 48-09-02 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **48-09-02. Concession advertised in legal newspaper - Solicitation of bids or**
2 **proposals - Exempt records.**

3 1. Except as otherwise provided in section 48-09-01, if a concession under section
4 48-09-01 has estimated gross sales worth more than ~~twenty-five~~fifty thousand dollars
5 annually, an advertisement for bids or proposals for the concession must occur once in
6 each week for three consecutive weeks in the official newspaper of the entity
7 requesting bids ~~and the concession must be awarded to the highest responsible-~~
8 ~~bidder~~or proposals.

9 2. If bids are solicited, the contract must be awarded to the responsible bidder offering
10 the highest compensation. If proposals are solicited, the concession must be awarded
11 to the responsible offeror providing a proposal determined to be most advantageous in
12 consideration of the offered compensation and other evaluation criteria stated in the
13 solicitation.

14 3. If the estimated gross sales amount is under fifty thousand dollars annually or no
15 acceptable bids or proposal is received in response to a competitive solicitation, a
16 concessions contract may be entered by negotiation of adequate compensation.

17 4. The solicitation must state the intended contract period, including any provision for
18 renewal or extension of the concession contract.

19 5. A bid or proposal received under this chapter pursuant to a competitive solicitation is
20 an exempt record as defined in section 44-04-17.1 except as otherwise provided
21 under section 44-04-18.4.

22 **SECTION 3. AMENDMENT.** Section 48-09-03 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **48-09-03. Security may be required of successful bidder or offeror.**

25 The governing body, ~~in its discretion,~~ may require a deposit of security by the successful
26 bidder or offeror for a concession within ten days after notice of the acceptance of the bid or
27 proposal. ~~If such a~~ deposit of security is not ~~so~~ furnished, the concession may be let to the next
28 highest bidder or most advantageous proposal, and if there is no other bidder or offeror, to
29 some other party. ~~Such a~~ deposit of security must be approved and accepted before the ~~renting,~~
30 ~~leasing, or licensing of such public property shall become~~concessions contract becomes
31 ~~effective. Vending, service, and merchandising machines shall be permitted in public buildings-~~

1 only upon payment of an adequate compensation for such privilege. All moneys received under
2 the provisions of this section and section 48-09-01 shall be turned into the general fund of the
3 state, county, or municipality, as the case may be.

4 **SECTION 4. AMENDMENT.** Section 48-09-04 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **48-09-04. Rules and regulations - Cancellation of contract.**

7 ~~The renting, leasing, or licensing~~A contract for a concession in a public building or on
8 adjacent grounds, including the use of any related public property under this chapter at all times
9 ~~shall be, are~~ subject to ~~the any~~ rules and regulations made and prescribed by the official,
10 department, board, or commission having the control and management of the ~~same~~property.
11 ~~The renting and leasing term~~terms of any concessions contract entered into in relation thereto
12 may be canceled upon thirty days' written notice to the holder of the concession. Any contract
13 granting a concession at any time after a breach of the terms ~~thereof of the contract~~, or after a
14 violation of any of the ~~provisions~~provision of this chapter, ~~shall~~must be canceled upon thirty
15 days' written notice ~~to that effect~~.

16 **SECTION 5. AMENDMENT.** Section 48-09-05 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **48-09-05. Penalty.**

19 ~~Any person violating~~individual that violates any of the ~~provisions~~provision of this chapter is
20 guilty of a class B misdemeanor.