

HIGHWAYS AND BRIDGES

CHAPTER 259

HOUSE BILL NO. 1342

(Representative Nicholas)

TRIBAL-DEPARTMENT OF TRANSPORTATION AGREEMENTS

AN ACT to create and enact a new section to chapter 24-02 of the North Dakota Century Code, relating to agreements between the department of transportation and tribal governments; and to amend and reenact section 54-40.2-02 of the North Dakota Century Code, relating to agreements between public agencies and tribal governments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 24-02 of the North Dakota Century Code is created and enacted as follows:

Director may enter into agreements with tribal governments. Notwithstanding the provisions of chapter 54-40.2, the director may enter into agreements with any one or more tribal governments for the purpose of construction and maintenance of highways, streets, roads, and bridges. Each agreement may not exceed twenty-five thousand dollars.

SECTION 2. AMENDMENT. Section 54-40.2-02 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-40.2-02. Authorization to enter agreements - General contents. Any one or more public agencies may enter into an agreement with any one or more tribal governments to perform any administrative service, activity, or undertaking that any of the public agencies or tribal governments are authorized to perform by law and to resolve any disputes. The agreement must set forth fully the powers, rights, obligations, and responsibilities of the parties to the agreement. The Indian affairs commission may propose agreements entered into pursuant to this chapter and may assist, at the request of any tribe affected by such an agreement, in the negotiation and development of such agreements. This chapter does not apply to agreements entered into under section 1 of this Act.

Approved April 4, 1995

Filed April 4, 1995

CHAPTER 260**HOUSE BILL NO. 1493**

(Representatives Boehm, Drovdal, Klein, Monson)

BOARD OF HIGHER EDUCATION MOTOR VEHICLES

AN ACT to create and enact a new section to chapter 24-02 of the North Dakota Century Code, relating to a fleet committee to represent the board of higher education's interests in state-owned motor vehicles; to amend and reenact sections 24-02-03.3 and 24-02-03.4 of the North Dakota Century Code, relating to the central management system for state-owned motor vehicles and the transfer of titles; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-02-03.3 of the North Dakota Century Code is amended and reenacted as follows:

24-02-03.3. Central management system for all state-owned licensed motor vehicles. The director shall establish within the department a central vehicle management system to regulate the operation, maintenance, and management of all motor vehicles owned or leased by the state subject to registration under chapters 39-04 and 39-05. The director shall provide a uniform method of documenting the use and cost of operation of motor vehicles in the system. The director shall advise the director of the office of management and budget as to the need to acquire or dispose of system motor vehicles. The specifications for highway patrol vehicles to be acquired may be set by the highway patrol superintendent. Every state agency, institution, department, board, bureau, and commission unless exempted by the director must use the system. ~~The board of higher education and institutions under its jurisdiction are not required to use the system.~~

Each entity required to use the system shall submit records of the operation of each vehicle as directed by the director.

SECTION 2. AMENDMENT. Section 24-02-03.4 of the North Dakota Century Code is amended and reenacted as follows:

24-02-03.4. Transfer of motor vehicles. The title or other documents representing ownership of a motor vehicle owned or leased by the state, ~~except~~ the board of higher education and the institutions under its jurisdiction, must be transferred to the director on ~~July~~ August 1, ~~1987~~ 1995. ~~The director may assign motor vehicles purchased with federal funds to the original purchaser or may pay the market value of the vehicle to the original purchaser.~~

SECTION 3. A new section to chapter 24-02 of the North Dakota Century Code is created and enacted as follows:

Board of higher education fleet committee. The director shall adopt rules that include provisions for meeting the special motor vehicle-related needs of the board of higher education and institutions under its jurisdiction and for the assignment of motor vehicles purchased with student fees and private or federal funds. The director shall seek advice in adopting these rules from the higher education fleet committee. The commissioner of higher education shall appoint the

fleet committee. The members of the committee must represent the campuses and agriculture.

SECTION 4. EXPIRATION DATE. Section 3 of this Act is effective through August 1, 1999, and after that date is ineffective.

Approved April 7, 1995
Filed April 7, 1995

CHAPTER 261**SENATE BILL NO. 2399**

(Senators Tennesos, Freborg)
(Representatives Belter, Gorman)

HIGHWAY CONTRACT ARBITRATION

AN ACT to amend and reenact sections 24-02-26, 24-02-27, and 24-02-28 of the North Dakota Century Code, relating to highway construction or repair contract arbitration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-02-26 of the North Dakota Century Code is amended and reenacted as follows:

24-02-26. Controversies to be arbitrated - Arbitrators - How named. All controversies arising out of any contract for the construction or repair of highways entered into by the director must be submitted to arbitration as provided in this chapter; ~~if the parties cannot agree and chapter 32-29.2.~~ Any person who voluntarily enters into a contract for the construction or repair of highways must be considered as having agreed to arbitration of all controversies arising out of ~~such~~ that contract. ~~Three~~ For a claim for less than fifty thousand dollars, only one arbitrator may be jointly selected by the parties. For a claim for fifty thousand dollars or more, three persons ~~compose~~ comprise the arbitration board; ~~one of whom must be appointed by each of the parties and the two thus appointed shall name a third.~~

SECTION 2. AMENDMENT. Section 24-02-27 of the North Dakota Century Code is amended and reenacted as follows:

24-02-27. Arbitration demand - District court may appoint arbitrators if parties fail - Arbitration pool. Unless a party submits the dispute to the American arbitration association, the arbitrators must be selected in accordance with this section. The party desiring arbitration of claims for more than fifty thousand dollars shall serve a written demand upon the adverse party. The demand must designate an arbitrator and must describe and detail all claim items that are submitted to arbitration. The party served with the demand shall respond in writing within thirty days, and the response must designate a second arbitrator and must explain the respondent's position concerning each claim item. If the respondent does not designate the second arbitrator within thirty days, the claimant may apply to the district court of the judicial district in which the project, or any part of the project, is located for the appointment of the second arbitrator. If the two arbitrators do not designate the third arbitrator within thirty days after the second arbitrator is designated, either party may apply to the district court for the appointment of the third arbitrator. The proceedings in the district court are governed by the rules of civil procedure concerning motions.

~~All arbitrators must be selected from an arbitration pool which must consist of fifteen members. The members of the pool must be appointed by the governor. The governor shall select members to the arbitration pool from lists submitted by the society of professional engineers; the association of general contractors; and the director. The governor may not select more than five names from any one of the~~

lists submitted. Members of the arbitration pool shall serve a term of two years. If any vacancy occurs for any reason, the governor shall fill the vacancy for the unexpired term in the same manner as the original selection. The parties shall follow the same procedure for claims involving less than fifty thousand dollars, except that the parties shall jointly select the arbitrator after the demand and response.

SECTION 3. AMENDMENT. Section 24-02-28 of the North Dakota Century Code is amended and reenacted as follows:

24-02-28. Procedure for arbitration. After a board of arbitration has been appointed, a submission in writing must be executed as provided in section 32-29.2-01, but the submission must provide for the entry of judgment upon the award by the district court of the county in which the improvement, or some part thereof, involved in the contract is located. The county must be specified in the submission. The submission must be executed by the director. After submission of the arbitration agreement the arbitration must proceed in accordance with the provisions of sections 32-29.2-01 through 32-29.2-20, unless a party submits the dispute to arbitration in accordance with the construction industry arbitration rules of the American arbitration association. If the rules of the American arbitration association conflict with North Dakota law, North Dakota law governs.

Approved April 4, 1995

Filed April 4, 1995

CHAPTER 262**HOUSE BILL NO. 1324**

(Representatives Sveen, Walker, Kerzman)

COUNTY ROAD TAX RETENTION

AN ACT to amend and reenact section 24-05-01 of the North Dakota Century Code, relating to the allocation of county road tax funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-05-01 of the North Dakota Century Code is amended and reenacted as follows:

24-05-01. County road tax - Allocation and use of funds. In each county having a population of two thousand or more, there must be levied and collected a property tax of not less than one-fourth of one mill, nor more than the maximum rate permitted by section 57-15-06, on each dollar of the taxable valuation of all taxable property in the county for the improvement of highways. When authorized by sixty percent of the qualified electors voting upon the question at a regular or special election in the county, the county commissioners may levy and collect a property tax not exceeding the limitation in subsection 14 of section 57-15-06.7. The levy pursuant to such an election may be discontinued at the discretion of the county commissioners; or, upon petition of five percent of the qualified electors of such county, the question of discontinuance of the levy must be submitted to the qualified electors of the county at any regular or special election and, upon a favorable vote of sixty percent of the qualified electors voting, such levy must be discontinued. Of the proceeds of the tax collected on account of property situated within any city, by the county treasurer of the county in which the city is located, twenty percent must be turned over by the treasurer to the auditor of the city, in the manner provided in section 11-13-06 to be expended under the direction of the governing body of the city in the improvement of its streets and highways. ~~All other proceeds~~ The county treasurer shall retain and deposit in a fund known as the county road fund the proceeds of this tax totaling less than twenty dollars in a taxable year which is collected on account of property situated within any city. Proceeds of the tax not turned over to cities pursuant to this section must be kept in ~~a distinct fund to be known as~~ the county road fund and must be expended in the improvement of highways as provided in this chapter under the direction of the board of county commissioners. The provisions of this section in regard to allocation apply to the proceeds of any tax originally levied for other purposes if appropriated or transferred to the county road fund or for expenditure for road and bridge purposes. No allocation pursuant to this section may include the proceeds received by the county as its share of the allocation made pursuant to section 54-27-19, nor may any allocation under this section include moneys received from the state as the result of any other intergovernmental transfer.

Approved March 21, 1995

Filed March 23, 1995

CHAPTER 263**HOUSE BILL NO. 1394**

(Representatives Laughlin, Bateman, Hagle)

(Senators Kinnoin, G. Nelson, Wogsland)

SECTION LINE OBSTRUCTION

AN ACT to amend and reenact subsection 1 of section 24-06-28 of the North Dakota Century Code, relating to the obstruction of section lines.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 24-06-28 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. No person may place or cause to be placed any permanent obstruction, stones, trees, or rubbish within thirty-three feet [10.06 meters] of any section line, unless written permission is first secured from the board of county commissioners or the board of township supervisors, as the case may be. The permission must be granted where the section line has been closed pursuant to section 24-07-03 or where the topography of the land along the section line is such that in the opinion of the board of county commissioners or board of township supervisors, as the case may be, the construction of a road on the section line is impracticable.

Approved April 11, 1995

Filed April 12, 1995

CHAPTER 264

SENATE BILL NO. 2086

(Senator Solberg)

OUTDOOR ADVERTISING SIGNS

AN ACT to amend and reenact section 24-17-03 of the North Dakota Century Code, relating to outdoor advertising signs; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-17-03 of the North Dakota Century Code is amended and reenacted as follows:

24-17-03. Limitations of outdoor advertising within six hundred sixty feet [201.17 meters]. Subject to the provisions of this chapter, ~~no sign may~~, after January 1, 1968, or any later date established by the Congress of the United States in relation to 23 U.S.C. 131, or waiver ~~thereof of that date~~ pursuant to ~~said~~ title 23 of the United States Code, no sign may be erected or maintained within six hundred sixty feet [201.17 meters] from the nearest edge of the right of way and visible from the main traveled way of any highway which that is a part of the state highway system in this state except the following:

1. Official signs and notices; and directional signs and notices, ~~which shall include, but not be limited to;~~ including signs and notices pertaining to natural wonders, scenic and historic attractions, and outdoor recreational areas subject to the national standards to be promulgated by the secretary of transportation.
2. Signs advertising the sale or lease of property upon which they are located.
3. Signs specifically advertising activities conducted, services rendered, goods sold, stored, produced, or mined, or the name of the enterprise that is located on the property and which are within fifty feet [15.24 meters] of the area used for the purpose advertised and upon which they are located or on property contiguous to the advertised activity which is under the same ownership, lease, rent, or control as the property with the advertised activity.
4. Signs in unzoned commercial or industrial areas, which now or hereafter qualify as such, pursuant to the agreement between the ~~commissioner~~ director and the secretary of transportation according to 23 U.S.C. 131.
5. Signs relocated by reason of the construction or reconstruction of the state highway system.
6. Official highway signs within interstate rights of way giving specific information for the traveling public pursuant to 23 U.S.C. 131(f) and the rules and regulations promulgated thereunder.
7. Signs calling attention to the location of buried utility lines.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 10, 1995

Filed March 10, 1995