

FIRES

CHAPTER 212

SENATE BILL NO. 2149 (Political Subdivisions Committee) (At the request of the Attorney General)

FIRE AND SAFETY INSPECTIONS

AN ACT to create and enact a new section to chapter 18-01 of the North Dakota Century Code, relating to the state fire marshal authorizing fire and safety inspections to be performed by other agencies of government; and to amend and reenact section 18-01-02, subsection 3 of section 18-01-05.1, and section 23-09.3-04 of the North Dakota Century Code, relating to the duties of the state fire marshal, release of information to the state fire marshal or a law enforcement officer, and fire safety inspections of basic care facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 18-01-02 of the North Dakota Century Code is amended and reenacted as follows:

18-01-02. Duties of fire marshal and deputy state fire marshal marshals. The state fire marshal and his deputy ~~or deputies shall~~ state fire marshals may enforce all the laws of the state providing for:

1. The prevention of fires.
2. The storage, sale, and use of combustibles and explosives.
3. The installation and maintenance of automatic or other fire alarms and fire extinguishing equipment.
4. The means and adequacy of exits in case of fires from ~~churches, schools, hospitals, hotels, halls, theaters, amphitheaters, and all other public places and other places~~ in which ~~numbers of~~ fifty or more persons congregate from time to time for any purpose.
5. The suppression of arson and the investigation of the cause and origin of fires.
6. The education of the citizens of North Dakota on the hazards of fire, through organized programs.

SECTION 2. A new section to chapter 18-01 of the North Dakota Century Code is created and enacted as follows:

Delegation of authority. The state fire marshal may delegate to the state department of health or any political subdivision the authority to conduct investigations, surveys, or inspections, and the authority to enforce compliance where violations are discovered, which become the responsibility of the state department of

health or political subdivision and otherwise would be the responsibility of the fire marshal. Any delegation to the state department of health is limited to authority over basic care facilities. Any political subdivision that meets the fire marshal's minimum standard requirements may be delegated authority under this section. A political subdivision may refuse the delegation.

SECTION 3. AMENDMENT. Subsection 3 of section 18-01-05.1 of the North Dakota Century Code is amended and reenacted as follows:

3. When an insurance company has reason to believe that a fire loss in which it has an interest may be of other than accidental cause, ~~then, for the purpose of having such fire loss investigated by the state fire marshal, or a law enforcement officer as defined by section 12.1-01-04,~~ the company shall, in writing, notify the state fire marshal, or a law enforcement officer as defined by section 12.1-01-04, and provide any or all material developed from the company's inquiry into the fire loss.

SECTION 4. AMENDMENT. Section 23-09.3-04 of the North Dakota Century Code is amended and reenacted as follows:

23-09.3-04. Department to establish standards - Licensing - Inspection - Prosecute violations. It is the duty of the department to establish standards for basic care facilities. The department shall inspect all places and grant annual licenses to basic care facilities as conform to the standards established and comply with the rules prescribed, as provided in this chapter. The department shall prosecute all violations of this chapter. ~~Upon request of the department, the state fire marshal shall inspect any place for which a license is applied or issued and shall report these findings to the department.~~

Approved April 13, 1995

Filed April 18, 1995

CHAPTER 213

SENATE BILL NO. 2176

(Finance and Taxation Committee)

(At the request of the Office of Management and Budget)

INSURANCE TAX ALLOCATION METHODS

AN ACT to amend and reenact section 18-04-05 and subsection 1 of section 26.1-03-17 of the North Dakota Century Code, relating to payments from the insurance tax distribution fund and allocation of the insurance premium tax.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 18-04-05 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

18-04-05. Amount due cities, rural fire protection districts, or rural fire departments - ~~Certificate of Payments by commissioner of insurance to office of management and budget.~~ The commissioner of insurance shall compute the amounts due to the ~~cities, townships~~ city fire departments, certified rural fire departments, or fire protection districts entitled to benefits under this chapter on or before September first of each year; ~~in the following manner:~~

1. ~~To a.~~ The commissioner of insurance shall allocate one-half of the biennial legislative appropriation for distribution under this section to each eligible city not within a fire protection district, a sum equal to eighty-four percent of the tax collected on premiums received by insurance companies pursuant to section 26.1-03-17 issuing policies for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, and commercial multiple peril insurance on property in the city.
2. ~~To~~ each rural fire protection district organized under this title or, and each rural fire department certified by the state fire marshal, a sum equal to eighty-four percent of the tax collected on and pay the amount allocated in September of each year. The allocation must be made in proportion to the amount of insurance company premiums received by insurance companies pursuant to section 26.1-03-17 issuing for policies for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, and commercial multiple peril, and crop hail insurance on property within the city, rural fire protection district, or property area served by the certified rural fire department to the total of those premiums for those policies in the state.

~~Payments by the commissioner of insurance must be distributed in September of each year. If the appropriation is less than the amount determined by applying the formula pursuant to this section, the commissioner of insurance by proration shall provide each eligible recipient the same proportion of the appropriation as the percent of the total funds it would have received pursuant to such formula.~~

¹⁰⁹ SECTION 2. AMENDMENT. Subsection 1 of section 26.1-03-17 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Before issuing the annual certificate required by law, the commissioner shall collect from every stock and mutual insurance company, nonprofit health service corporation, health maintenance organization, and prepaid legal service organization, except a fraternal benefit society, doing business in this state, a tax on the gross amount of premiums, assessments, membership fees, subscriber fees, policy fees, service fees collected by any third-party administrator providing administrative services to a group that is self-insured for health care benefits, and finance and service charges received in this state during the preceding calendar year, at the rate of two percent with respect to life insurance, one and three-fourths percent with respect to accident and health insurance, and one and three-fourths percent with respect to all other lines of insurance. This tax does not apply to considerations for annuities. The total tax is payable on or before March first following the year for which the tax is assessable. ~~Eighty-four percent of the revenue from the tax imposed upon policies for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, and commercial multiple peril insurance~~ Collections from this tax must be deposited in the insurance tax distribution fund under section 18-04-04.1 and the remaining sixteen percent as well as revenue from the tax imposed upon policies for any other line of insurance but not in an amount exceeding one-half of the biennial amount appropriated for distribution under section 18-04-05 in any fiscal year. Collections from this tax exceeding the amount deposited in the insurance tax distribution fund each fiscal year must be deposited in the general fund in the state treasury. If the due date falls on a Saturday or legal holiday, the tax is payable on the next succeeding business day.

Approved April 4, 1995
Filed April 4, 1995

¹⁰⁹ Section 26.1-03-17 was also amended by section 17 of Senate Bill No. 2070, chapter 54.

CHAPTER 214

HOUSE BILL NO. 1116

(Industry, Business and Labor Committee)
(At the request of the Attorney General)

LIQUEFIED PETROLEUM GAS RULES

AN ACT to amend and reenact section 18-09-02, subsection 2 of section 23-13-02.3, and section 23-13-16 of the North Dakota Century Code, relating to liquefied petroleum gas regulations, self-service motor fuel dispensing facilities, and limitations on aboveground petroleum storage tanks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 18-09-02 of the North Dakota Century Code is amended and reenacted as follows:

18-09-02. Fire marshal to make rules. The state fire marshal shall ~~make and promulgate regulations~~ adopt rules setting forth minimum general standards covering the design, construction, location, installation, and operation of equipment for storage, handling, transporting by tank truck, tank trailer, and utilizing liquefied petroleum gases and specifying the odorization of said gases and the degree thereof. ~~Said regulations~~ The rules must be such as are reasonably necessary for the protection of the health, welfare, and safety of the public and persons using such materials, and must be in substantial conformity with the generally accepted standards of safety concerning the same subject matter. ~~Said regulations~~ The rules must substantially comply with the 1969 national standards of the national fire protection association for the design, installation, construction of containers, and pertinent equipment for the handling and storage of liquefied petroleum gases, such as those promulgated by the national fire protection association.

SECTION 2. AMENDMENT. Subsection 2 of section 23-13-02.3 of the North Dakota Century Code is amended and reenacted as follows:

2. At all times during the operation of a self-service motor fuel dispensing facility, the owner, operator, employee, or authorized attendant shall be on the premises and shall supervise the operation thereof. The person attending the operation shall refuse service to anyone who appears for any reason to be unable to dispense motor fuel safely. If, however, the filling station provides pump island service to its customers, the attendant must provide refueling services to any mobility-impaired person stopped at a self-service motor fuel dispensing unit who requests assistance and whose vehicle displays a certificate issued under section 39-01-15. No additional cost may be charged to a mobility-impaired person because of the service. This subsection does not apply to any self-service motor fuel dispensing unit equipped with a card-operated, credit card-operated, ~~cash-operated~~, or key-operated dispensing device. Self-service motor fuel dispensing units equipped with a card-operated, credit card-operated, ~~cash-operated~~, or key-operated dispensing device are subject to and must conform with the emergency controls, emergency contact, and fire control standards as specified by the national fire protection association. In addition, the operating instructions, warning signs, and emergency instructions specified in the standards of the

national fire protection association must be conspicuously posted in the dispensing area.

SECTION 3. AMENDMENT. Section 23-13-16 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-13-16. Aboveground storage tanks permitted - Limitations. Subject to local zoning ordinances, a business selling petroleum products ~~at retail~~ for dispensing into motor vehicles may utilize aboveground tanks with a maximum capacity not exceeding nineteen thousand gallons [71922.6 liters] for the storage of petroleum products. No business selling petroleum products ~~at retail~~ for dispensing into motor vehicles may use ~~more than five~~ aboveground storage tanks with an aggregate capacity of more than ninety-five thousand gallons [359613 liters] for the storage of petroleum products at one location.

Approved March 31, 1995

Filed March 31, 1995

CHAPTER 215

SENATE BILL NO. 2296

(Senators B. Stenehjem, Lips, Nalewaja)
(Representatives Keiser, Martinson, Nicholas)

FIREFIGHTERS' RETIREMENT BENEFITS

AN ACT to create and enact two new sections to chapter 18-11 and a new subsection to section 18-11-15 of the North Dakota Century Code, relating to commencement of benefit payments, vesting, and benefit limitations under the alternate firefighters relief association plan; and to amend and reenact sections 18-11-13 and 18-11-19 of the North Dakota Century Code, relating to the alternate firefighters relief association plan state fund and treatment of forfeitures under the alternate firefighters relief association plan.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 18-11-13 of the North Dakota Century Code is amended and reenacted as follows:

18-11-13. Association state fund - Expenditures - Investment. The moneys received by the association must be kept in a trust fund known as the association state fund. The assets of the fund must be held in trust. No part of the assets of the fund may be used for or diverted to purposes other than for the exclusive benefit of the members, their spouses, or the members' beneficiaries prior to the satisfaction of all liabilities of the fund with respect to them, provided that the fund may be used to pay reasonable administration expenses of the association. The moneys received from the state, city, or employee's salary contribution must be deposited in the association state fund and may be expended only for the purposes set forth in section 18-11-14. The relief association shall manage and control all moneys that come into its possession. Moneys in the fund may be invested in bonds of the United States of America, bonds of the state of North Dakota or any other state, in certificates of indebtedness of the state of North Dakota, in any bonds or certificates of indebtedness of any political subdivision of the state of North Dakota which constitute the general obligations of the issuing tax authority, or the Bank of North Dakota or any other bank or savings and loan association which is insured by the United States of America. The board may also invest all or part of the moneys in the fund in other investments by selecting a funding agent or agents and establish an investment agreement contract. The contract must authorize the funding agent or agents to hold and invest those moneys for the board. The moneys invested must be placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed.

¹¹⁰ **SECTION 2.** A new subsection to section 18-11-15 of the North Dakota Century Code is created and enacted as follows:

Benefits with respect to a member may not exceed the maximum benefits specified under section 415 of the Internal Revenue Code;

¹¹⁰ Section 18-11-15 was also amended by section 1 of Senate Bill No. 2297, chapter 216.

26 U.S.C. 415 for governmental plans. This section does not constitute an election under section 415(b)(10)(C) of the Internal Revenue Code; 26 U.S.C. 415(b)(10)(C).

SECTION 3. A new section to chapter 18-11 of the North Dakota Century Code is created and enacted as follows:

Commencement of benefits. Notwithstanding any provision of this plan to the contrary, benefits payable under the plan are subject to the following:

1. A member's benefit may not commence later than April first of the calendar year following the latter of the calendar year in which the member attains age seventy and one-half or the calendar year in which the member terminates employment. In any case in which a lump sum death benefit is payable to a deceased member's beneficiary, the benefit must be paid no later than sixty days following the member's date of death.
2. The member's entire interest in the plan must be distributed over the life of the member or the lives of the member and a designated beneficiary, over a period not extending beyond the life expectancy of the member or the life expectancy of the member and the designated beneficiary.
3. When a member dies after distribution of benefits has begun, the remaining portion of the member's interest must be distributed at least as rapidly as under the method of distribution prior to the member's death.
4. When a member dies before distribution of benefits has begun, the entire interest of the member must be distributed within five years of the member's death. The five-year payment rule does not apply to any portion of the member's interest that is payable to a surviving spouse payable over the life or life expectancy of the spouse and which begins no later than the date the member would have reached age seventy and one-half.
5. The benefits payable must meet the minimum distribution incidental benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code; 26 U.S.C. 401(a)(9)(G).

SECTION 4. A new section to chapter 18-11 of the North Dakota Century Code is created and enacted as follows:

Vesting on plan termination. If the retirement plan established under this chapter is terminated, the accrued benefits of each member immediately become one hundred percent vested and nonforfeitable to the extent funded.

SECTION 5. AMENDMENT. Section 18-11-19 of the North Dakota Century Code is amended and reenacted as follows:

18-11-19. Fund based upon actuarial tables - Treatment of forfeitures.

1. The pension fund must be based upon actuarial tables and the association ~~shall have the authority~~ is authorized to engage an actuary for studies of the plan when ~~such a practice~~ is deemed necessary by the association.

2. As required by section 401(a)(8) of the Internal Revenue Code; 26 U.S.C. 401(a)(8), no part of any benefit forfeitures of a member resulting from the application of any provisions of this chapter may be applied to increase the benefits a member would otherwise receive.

Approved March 24, 1995

Filed March 27, 1995

CHAPTER 216

SENATE BILL NO. 2297

(Senators B. Stenehjem, Lips, Nalewaja)
(Representatives Keiser, Martinson, Nicholas)

FIREFIGHTERS' PENSIONS

AN ACT to amend and reenact section 18-11-15 of the North Dakota Century Code, relating to qualifications for service pensions under the alternate firefighters relief association plan; and to provide for application of this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹¹ SECTION 1. AMENDMENT. Section 18-11-15 of the North Dakota Century Code is amended and reenacted as follows:

18-11-15. Service pensions - Qualifications.

- 1. A monthly service pension must be paid to members of the association with the following qualifications:

Years of service	Years of age at retirement	Percent of first-class firefighter's monthly salary on January first during year the pension is paid
20	50	40%
21	51	42%
22	52	44%
23	53	46%
24	54	48%
25	55	50%
26	56	52%
27	57	54%
28	58	56%
29	59	58%
30	60	60%

- 2. All Except for members participating in a firefighters relief association paying a monthly service pension to members of the association under subsection 4, all members must serve twenty years before they are eligible for a service pension. Members participating in a firefighters relief association paying a monthly service pension to members of the association under subsection 4 must serve ten years before they are eligible for a service pension. However, any member who has twenty years of service or ten years of service with a firefighters relief association paying a monthly service pension to members of the association under subsection 4, and who has not attained retirement age

¹¹¹ Section 18-11-15 was also amended by section 2 of Senate Bill No. 2296, chapter 215.

may retire from the department without forfeiting the right to a service pension. The association, in its bylaws, may establish a retirement age of not less than fifty years, at which time the service pension ~~shall become~~ becomes payable. This retirement age may be established for all firefighters or classes of firefighters by birth dates. A person who has served twenty years or ten years with a firefighters relief association paying monthly service pensions to members of the association under subsection 4 or more and who is separated from service must, upon application, be placed on the deferred pension roll of the association, and after reaching retirement age, the association shall, upon application therefor, pay the service pension from the date the member attains eligibility at a rate of forty percent of the monthly salary of a first-class firefighter as determined on January first of the year in which the pension is paid. Any person making such application waives all other rights, claims, or demands against the association for any cause, except those causes that may have arisen from, or that may be attributable to, the person's service on the fire department.

3. With the consent of the governing body of the city involved, and in substitution for the pension payment schedule provided in subsection 1, a firefighters relief association shall pay a monthly service pension to members of the association with the following qualifications, the following amounts:

Years of service	Years of age	Percent of first-class firefighter's monthly salary on January first during year the pension is paid
20	50	40%
21	51	42%
22	52	44%
23	53	46%
24	54	48%
25	55	50%
26	56	52%
27	57	54%
28	58	56%
29	59	58%
30	60	60%

4. With the consent of the governing body of the city involved, and in substitution for the pension payment schedule provided in subsection 1 or 3, a firefighters relief association shall pay a monthly service pension to members of the association with the following qualifications, the following amounts:

<u>Years of service</u>	<u>Years of age</u>	<u>Percent of first-class firefighter's monthly salary on January first during year the pension is paid</u>
<u>10</u>	<u>50</u>	<u>20%</u>
<u>11</u>	<u>50</u>	<u>22%</u>
<u>12</u>	<u>50</u>	<u>24%</u>
<u>13</u>	<u>50</u>	<u>26%</u>
<u>14</u>	<u>50</u>	<u>28%</u>
<u>15</u>	<u>50</u>	<u>30%</u>

<u>16</u>	<u>50</u>	<u>32%</u>
<u>17</u>	<u>50</u>	<u>34%</u>
<u>18</u>	<u>50</u>	<u>36%</u>
<u>19</u>	<u>50</u>	<u>38%</u>
<u>20</u>	<u>50</u>	<u>40%</u>
<u>21</u>	<u>51</u>	<u>42%</u>
<u>22</u>	<u>52</u>	<u>44%</u>
<u>23</u>	<u>53</u>	<u>46%</u>
<u>24</u>	<u>54</u>	<u>48%</u>
<u>25</u>	<u>55</u>	<u>50%</u>
<u>26</u>	<u>56</u>	<u>52%</u>
<u>27</u>	<u>57</u>	<u>54%</u>
<u>28</u>	<u>58</u>	<u>56%</u>
<u>29</u>	<u>59</u>	<u>58%</u>
<u>30</u>	<u>60</u>	<u>60%</u>

SECTION 2. APPLICATION OF ACT. This Act applies to benefits payable after January 1, 1992.

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