CHAPTER 54-40
JOINT EXERCISE OF GOVERNMENTAL POWERS

54-40-01. Agreement - Exercise of joint powers - Bonds.

1. Two or more governmental units or municipal corporations having in common any portion of their territory or boundary, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise their respective separate powers, or any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised for the purpose of acquiring, constructing, and maintaining any building for their joint use. The term "governmental unit" as used in this section includes every city, county, park district, school district, states and United States governments and departments of each thereof, and all other political subdivisions even though not specifically named or referred to herein.
2. Two or more counties or cities, or any combination of counties or cities, whether or not they have in common any portion of their territory or boundary, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise their respective separate powers, or any power common to the contracting parties or any similar powers, for the purpose of acquiring equipment or constructing roads, bridges, and road and bridge improvements.
3. An agency, department, or institution of this state may enter an agreement with the state of South Dakota to form a bistate authority to jointly exercise any function that the entity is authorized by law to perform. Any agreement entered under this subsection must be submitted to the legislative assembly or, if the legislative assembly is not in session, to the legislative management for approval or rejection and may not become effective until approved by the legislative assembly or the legislative management.
4. Counties or cities, or any combination of counties or cities, may jointly issue bonds in the same manner and for the purposes provided for in chapter 21-03.

54-40-02. Agreement to state purpose.

Such agreement must state the purpose of the agreement or the power or powers to be exercised, and it must provide for the method by which the purpose sought shall be accomplished or the manner in which the power or powers shall be exercised.

54-40-02.1. Building management commission for county and city building - Lease authority.

Any agreement entered into between a county and a city under this chapter for the acquisition, construction, and maintenance of a building for their joint use by bonds issued pursuant to section 54-40-03 must provide for a building management commission composed of elected officials of the county, elected officials of the city, and representatives of the public, with the exact number of each to be specified in the agreement. The agreement must specify the powers to be exercised by the building management commission with respect to the acquisition, construction, and maintenance of the building, and with respect to any lease entered into by the commission and any noncounty and noncity governmental entity for use of a portion of the building. Notwithstanding section 48-08-07, a lease of a portion of any building used jointly by a county and a city pursuant to this section may be for a term longer than two years.

54-40-03. Disbursement of funds - Issuance of bonds.

The parties to such agreement may provide for disbursements from public funds, including funds already raised to buy real estate for public buildings, proceeds of bonds issued pursuant to chapter 21-03, and other proper funds or properties already on hand, to carry out the purposes of the agreement. The total amount of bonds issued by a county and a city under this section must be in proportion to the joint usage of the building by the county and the city and must also consider the tax base of the county and the tax base of the city. When a county and a

city wholly within the county boundaries propose to issue bonds for the purpose of a building for their joint use, the governing body of the county may submit to its qualified voters the proposition of issuing bonds in the total amount required to be borrowed for the building, under an initial resolution and ballot stating the maximum total principal amount of the bonds and the maximum principal amount thereof for which the city shall be obligated. In this event the governing body of the city shall adopt an ordinance or resolution stating the maximum amount of the obligation proposed to be incurred by the city and the other matters of information required for an initial resolution for bonds under the provisions of section 21-03-09, which ordinance or resolution shall be subject to referral to the qualified electors of the city by petition of the percentage of the qualified electors referred to in chapter 40-12 and upon the conditions and in the manner therein set forth. If the issuance of the bonds is approved by the required majority of the qualified electors of the county voting thereon, and if the city ordinance or resolution is not referred or is approved by a majority of the qualified electors of the city voting thereon, the bonds may be issued by the county and the obligation incurred by the city. The principal amount of the obligation incurred by the city to the county, as provided in the agreement, must be a general obligation and indebtedness of the city as referred to and limited by section 21-03-04 and by section 15 of article X of the Constitution of North Dakota, and must be deducted from the principal amount of the bonds in determining the net indebtedness incurred by the county in the issuance thereof. The city shall levy a direct, annual, irrepealable tax for the payment of its obligation and the interest thereon as required for the payment of general obligation bonds under the provisions of section 21-03-15, which tax must be retained by the county auditor in the sinking and interest fund for the county bonds as provided in section 21-03-41. Each payment of principal, interest, and premium, if any, due with respect to the county bonds must be the obligation of the city in the proportion that the original principal amount of the city's obligation bears to the original principal amount of the bonds, for the purpose of ascertaining the amount of net indebtedness of the city and the county outstanding at any time, of determining the amounts of taxes required to be assessed and collected annually by the city and the county for the bond sinking and interest fund, and of determining the amounts of income from the investment of the sinking and interest fund which are to be credited against the obligations of the city and county, respectively, and for all other purposes whatsoever. Nothing herein requires the city-county agreement to be executed before the authorization of the bonds and the city's obligation thereon. The agreement when executed must fix the relative contributions of the city and county to the capital cost of the building in a manner consistent with the maximum net indebtedness authorized to be incurred by each of them, respectively. If so provided in the agreement, the city may evidence its obligation by the issuance of general obligation bonds of the city and appropriate the proceeds of its bonds for expenditure in accordance with the terms of the agreement, and the amount of the county bonds may be reduced by the amount issued by the city. Funds other than taxes for debt service may be paid to and disbursed by such agency as may be agreed upon, but the method of disbursement must agree as far as practicable with the method provided by law for the disbursement of funds by the parties to the agreement. Strict accountability of all funds and report of all receipts and disbursements must be provided for.

54-40-04. Termination of agreement.

Such agreement may be continued for a definite term or until rescinded or terminated in accordance with its terms.

54-40-05. Agreement shall provide for disposition of property.

Such agreement must provide for the disposition of any property acquired as the result of such joint or cooperative exercise of powers, and the return of any surplus moneys in proportion to contributions of the several contracting parties after the purpose of the agreement has been completed.

54-40-06. Residence requirement.

Residence requirements for holding office in any governmental unit do not apply to any officer appointed to carry out any such agreement.

54-40-07. Clarification of constitutional authority and effect of other statutes.

Repealed by S.L. 1993, ch. 401, § 53.

54-40-08. Agreements for the use by political subdivisions of buildings and facilities of the state.

1. Any county, city, township, city park district, school district, or other political subdivision of this state may enter into an agreement with any agency, board, or institution of the state for the use of buildings and facilities under the control of that state agency, board, or institution for a period of time as the parties may determine to be necessary. Before an agreement pursuant to this section is effective, the respective governing body or officer of the state agency, board, or institution must approve the agreement and the attorney general must determine that the agreement is legally sufficient.
2. The political subdivision, pursuant to an agreement for the use of buildings and facilities, may make improvements to the buildings or facilities instead of any rental or other payments, but all improvements must first be approved by the governing body or officer of the state agency, board, or institution. The buildings and facilities may be moved or replaced at any time during the term of an agreement, and the political subdivision may use the buildings and facilities constructed in place of the original buildings and facilities for the remainder of the term of the agreement.

54-40-09. Human service centers - Powers - Duties.

Redesignated as section 50-06-05.3.

54-40-10. Human services - Certification - Standards.

Repealed by S.L. 1981, ch. 486, § 37.

54-40-11. County social service board collocation with human service centers - Fiscal incentives.

Repealed by S.L. 1981, ch. 486, § 37.

54-40-12. Joint agreements for heat from a central heating source.

Any political subdivision, nonprofit hospital, or nursing home of this state, through its governing body, may enter into an agreement with any state agency or institution to furnish or receive heat from a central heating source. The director of the office of management and budget or any supervisory state agency must be the contracting party in an agreement involving a state institution under the director's or health officer's control. Political subdivisions, nonprofit hospitals, nursing homes, and state agencies and institutions are encouraged to enter into agreements pursuant to this section.