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Fifty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1037

Introduced by

Legislative Council

(Information Technology Committee)

1   A BILL for an Act to create and enact a new section to chapter 32-12 of the North Dakota

2   Century Code, relating to the liability of the state for a contract claim resulting from the failure of

3   computers or computer equipment; and to amend and reenact subsection 3 of section

4   32-12.1-03 and subsection 3 of section 32-12.2-02 of the North Dakota Century Code, relating

5   to the liability of political subdivisions and the state for a claim resulting from the failure of

6   computers or computer equipment as a result of the year 2000 date change.

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

8   **SECTION 1.** A new section to chapter 32-12 of the North Dakota Century Code is

9   created and enacted as follows:

10   **Claims resulting from year 2000 date change computer failures prohibited.** The

11   state is not liable for a claim arising upon contract which is the result of the failure of any

12   computer hardware or software, telecommunications network, or device containing a computer

13   processor to interpret, produce, calculate, generate, or account for a date that is compatible

14   with the year 2000 date change if the state has made a good-faith effort to make the computer

15   hardware or software, telecommunications network, or device containing a computer processor

16   compliant with the year 2000 date change. For the purposes of this section, computer or

17   telecommunications equipment or devices are compliant with the year 2000 date change if:

18   1.   The date structures provide four-digit date recognition.

19   2.   Any stored data contains date century recognition, including data stored in data

20   bases and hardware or device internal system dates.

21   3.   The calculations and program logic accommodate same century and multicentury

22   formulas and data values.

23   4.   The interfaces prevent noncompliant dates and data from entering or exiting any

24   state system.

1   5.   The user interfaces accurately show four-digit years when critical to business

2   functions.

3   6.   The year 2000 or any other leap year is correctly treated as a leap year within all

4   calculation and calendar logic.

5   **SECTION 2. AMENDMENT.** Subsection 3 of section 32-12.1-03 of the North Dakota

6 Century Code is amended and reenacted as follows:

7   3.   A political subdivision is not liable for any claim based upon an act or omission of

8   an a political subdivision employee of a political subdivision, exercising due care,

9   in the execution of a valid or invalid statute or regulation, whether or not such

10   statute or regulation be valid, or based upon the exercise or performance,

11   exercising due care, or the failure to exercise or perform a discretionary function or

12   duty on the part of a political subdivision or its employees, whether or not the

13   discretion involved be is abused. Specifically, a political subdivision or an a

14   political subdivision employee thereof is not liable for any claim that results from:

15   a.   The decision to undertake or the refusal to undertake any legislative or

16   quasi-legislative act, including the decision to adopt or the refusal to adopt

17   any statute, charter, ordinance, order, regulation, resolution, or resolve.

18   b.   The decision to undertake or the refusal to undertake any judicial or

19   quasi-judicial act, including the decision to grant, to grant with conditions, to

20   refuse to grant, or to revoke any license, permit, order, or other administrative

21   approval or denial.

22   c.   The decision to perform or the refusal to exercise or perform a discretionary

23   function or duty, whether or not such discretion be is abused and whether or

24   not the statute, charter, ordinance, order, resolution, regulation, or resolve

25   under which the discretionary function or duty is performed is valid or invalid.

26   d.   The failure to provide or maintain sufficient personnel, equipment, or other fire

27   protection facilities; or doing any fire extinguishment or fire prevention work,

28   rescue, resuscitation, or first aid; or any other official acts within the scope of

29   official duties; provided, however, this subsection subdivision does not

30   provide immunity for damages resulting from acts of gross negligence.

1   e.   The failure of any computer hardware or software, telecommunications

2   network, or device containing a computer processor to interpret, produce,

3   calculate, generate, or account for a date that is compatible with the year

4   2000 date change if the political subdivision has made a good-faith effort to

5   make the computer hardware or software, telecommunications network, or

6   device containing a computer processor compliant with the year 2000 date

7   change. For the purposes of this subdivision, computer or

8   telecommunications equipment or devices are compliant with the year 2000

9   date change if:

10   (1)   The date structures provide four-digit date recognition.

11   (2)   Any stored data contains date century recognition, including data stored

12   in data bases and hardware or device internal system dates.

13   (3)   The calculations and program logic accommodate same century and

14   multicentury formulas and data values.

15   (4)   The interfaces prevent noncompliant dates and data from entering or

16   exiting any system operated or used by the political subdivision.

17   (5)   The user interfaces accurately show four-digit years when critical to

18   business functions.

19   (6)   The year 2000 or any other leap year is correctly treated as a leap year

20   within all calculation and calendar logic.

21   This subsection does not limit the liability of a political subdivision or an employee

22   thereof for a personal injury arising out of the execution of any legislative or

23   quasi-legislative act, judicial or quasi-judicial act, or discretionary function.

24   **SECTION 3. AMENDMENT.** Subsection 3 of section 32-12.2-02 of the 1997

25   Supplement to the North Dakota Century Code is amended and reenacted as follows:

26   3.   Neither the state nor a state employee may be held liable under this chapter for

27   any of the following claims:

28   a.   A claim based upon an act or omission of a state employee exercising due

29   care in the execution of a valid or invalid statute or rule.

30   b.   A claim based upon a decision to exercise or perform or a failure to exercise

31   or perform a discretionary function or duty on the part of the state or its

1   employees, regardless of whether the discretion involved is abused or

2   whether the statute, order, rule, or resolution under which the discretionary

3   function or duty is performed is valid or invalid. Discretionary acts include

4   acts, errors, or omissions in the design of any public project but do not include

5   the drafting of plans and specifications that are provided to a contractor to

6   construct a public project.

7   c.   A claim resulting from the decision to undertake or the refusal to undertake

8   any legislative or quasi-legislative act, including the decision to adopt or the

9   refusal to adopt any statute, order, rule, or resolution.

10   d.   A claim resulting from a decision to undertake or a refusal to undertake any

11   judicial or quasi-judicial act, including a decision to grant, to grant with

12   conditions, to refuse to grant, or to revoke any license, permit, order, or other

13   administrative approval or denial.

14   e.   A claim resulting from the assessment and collection of taxes.

15   f.   A claim resulting from snow or ice conditions, water, or debris on a highway or

16   on a public sidewalk that does not abut a state-owned building or parking lot,

17   except when the condition is affirmatively caused by the negligent act of a

18   state employee.

19   g.   A claim resulting from any injury caused by a wild animal in its natural state.

20   h.   A claim resulting from the condition of unimproved real property owned or

21   leased by the state.

22   i.   A claim resulting from the loss of benefits or compensation due under a

23   program of public assistance.

24   j.   A claim resulting from the reasonable care and treatment, or lack of care and

25   treatment, of a person at a state institution where reasonable use of available

26   appropriations has been made to provide care.

27   k.   A claim resulting from damage to the property of a patient or inmate of a state

28   institution.

29   l.   A claim resulting from any injury to a resident or an inmate of a state

30   institution if the injury is caused by another resident or inmate of that

31   institution.

1   m.   A claim resulting from environmental contamination, except to the extent that

2   federal environmental law permits the claim.

3   n.   A claim resulting from a natural disaster, an act of God, a military action, or an

4   act or omission taken as part of a disaster relief effort.

5   o.   A claim for damage to property owned by the state.

6   p.   A claim for liability assumed under contract, except this exclusion does not

7   apply to liability arising from a state employee's operation of a rental vehicle if

8   the vehicle is rented for a period of thirty days or less and the loss is not

9   covered by the state employee's personal insurance or by the vehicle rental

10   company.

11   q.   A claim resulting from the failure of any computer hardware or software,

12   telecommunications network, or device containing a computer processor to

13   interpret, produce, calculate, generate, or account for a date that is

14   compatible with the year 2000 date change if the state has made a good-faith

15   effort to make the computer hardware or software, telecommunications

16   network, or device containing a computer processor compliant with the year

17   2000 date change. For the purposes of this subdivision, computer or

18   telecommunications equipment or devices are compliant with the year 2000

19   date change if:

20   (1)   The date structures provide four-digit date recognition.

21   (2)   Any stored data contains date century recognition, including data stored

22   in data bases and hardware or device internal system dates.

23   (3)   The calculations and program logic accommodate same century and

24   multicentury formulas and data values.

25   (4)   The interfaces prevent noncompliant dates and data from entering or

26   exiting any state system.

27   (5)   The user interfaces accurately show four-digit years when critical to

28   business functions.

29   (6)   The year 2000 or any other leap year is correctly treated as a leap year

30   within all calculation and calendar logic.