

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1458

Introduced by

Representatives Gulleason, Eckre, Koppang, Meyer

Senators Heitkamp, Thane

1 A BILL for an Act to provide for the deposit of bond forfeitures in the county treasury; to amend
2 and reenact sections 11-10-02, 11-10-06, subsection 2 of section 11-10-10, sections 11-10-11,
3 11-17-04, 27-01-01.1, 29-26-22, 29-27-02.1, and subdivision j of subsection 1 of section
4 40-01.1-04 of the North Dakota Century Code, relating to the office of clerk of district court and
5 bond forfeitures; and to repeal section 11-17-11 of the North Dakota Century Code, relating to
6 state funding of clerk of district court.

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

8 **SECTION 1. AMENDMENT.** Section 11-10-02 of the 1997 Supplement to the North
9 Dakota Century Code is amended and reenacted as follows:

10 **11-10-02. Number and election of county officers.** Each organized county, unless it
11 has adopted one of the optional forms of county government provided by the code or has
12 combined or separated the functions of county offices or redesignated offices as elective or
13 appointive pursuant to chapter 11-10.2 or 11-10.3, must have the following officers:

- 14 1. One county auditor.
- 15 2. One register of deeds, except as otherwise provided by this section.
- 16 3. One clerk of the district court, ~~except as otherwise provided by this section.~~
- 17 4. One state's attorney.
- 18 5. One sheriff.
- 19 6. One county treasurer.
- 20 7. One coroner.
- 21 8. A board of county commissioners consisting of three or five members as provided
22 in this title.

23 ~~In counties having a population of six thousand or less, the register of deeds shall perform the~~
24 ~~functions of the clerk of the district court, unless the board of county commissioners adopts a~~

~~resolution separating the offices no less than thirty days before petitions for nomination to county offices may first be filed for the primary election. In a county having a population of more than six thousand, the~~ The offices of clerk of district court and register of deeds may be combined into an office of ~~register of deeds~~ clerk of district court if the board of county commissioners, ~~following consultation with the supreme court,~~ adopts a resolution combining the offices no less than thirty days before petitions for nominations to county offices may first be filed for the primary election. ~~For a county that has properly initiated the option pursuant to section 11-17-11, and the office of the clerk of court is funded by the legislative assembly, the board of county commissioners may provide for the functions of the register of deeds, which may include functions of the clerk of district court and other functions as determined by the board of county commissioners. Counties having a population of six thousand or less and exercising the option provided in section 11-17-11 may contract with the state court administrator for the provision of shared funding for register of deeds' services. The required officers must be chosen by the qualified electors of the respective counties at the general election in each even-numbered year, except the register of deeds, county auditor, treasurer, sheriff, state's attorney, and clerk of the district court, who must be chosen in 1966 and every four years thereafter, the members of the board of county commissioners, who must be chosen in the manner prescribed in section 11-11-02, and the county coroner, who must be chosen in the manner prescribed in section 11-19.1-03. The clerk of district court elected pursuant to this section is not subject to election in any future general election that occurs after the start of the state biennium after the county has properly initiated the option and the legislative assembly has provided appropriations pursuant to section 11-17-11.~~

SECTION 2. AMENDMENT. Section 11-10-06 of the North Dakota Century Code is amended and reenacted as follows:

11-10-06. Bonds of county officers. Before entering upon the duties of their respective offices, the following county officers must be bonded for the faithful discharge of their respective duties in the same manner as other civil officers are bonded and in the following amounts:

1. The county auditor, clerk of the district court, register of deeds, and sheriff, fifteen thousand dollars, except in counties having a population of less than ten thousand, where the amount must be ten thousand dollars.

2. A county commissioner, two thousand dollars.
 3. The county coroner, five hundred dollars.
 4. The state's attorney, three thousand dollars.
 5. The county surveyor, an amount, not to exceed two thousand dollars, as may be determined by the board of county commissioners.
 6. The public administrator, not less than ten thousand dollars.
 7. The county treasurer, an amount fixed by the board of county commissioners of not less than seventy-five thousand dollars, except in counties having a population of less than ten thousand, an amount of not less than forty thousand dollars.
- When the total amount of taxes to be collected by the county treasurer in any one year is less than the minimum amount of bond specified in this subsection, the bond may be in a sum equal to the amount of taxes to be collected.
8. ~~Repealed by S.L. 1989, ch. 137, § 10, effective January 1, 1993.~~

When the amount of any bond required under this section is dependent upon the population of a county, the population must be determined as provided in section 11-10-10. ~~The bond for the clerk of a district court which is state funded pursuant to section 11-17-11 must be set by the supreme court.~~

SECTION 3. AMENDMENT. Subsection 2 of section 11-10-10 of the North Dakota Century Code is amended and reenacted as follows:

2. The county treasurer, county superintendent of schools, register of deeds, county auditor, and clerk of district court each shall receive the following annual salary, payable monthly, for official services rendered:
 - a. Seventeen thousand dollars in counties having a population of less than eight thousand.
 - b. Seventeen thousand five hundred dollars in counties having a population of or exceeding eight thousand plus additional compensation of one hundred dollars per year for each one thousand additional population or major fraction thereof over eight thousand. However, in counties where the population consists of more than twenty-five percent Indians who have not severed tribal relations, the county commissioners may adjust the salaries provided for herein within the limitations contained in this subdivision.

~~The compensation for the clerk of a district court which is funded by the state pursuant to section 11-17-11 must be set by the supreme court as a part of the judicial branch personnel system.~~

SECTION 4. AMENDMENT. Section 11-10-11 of the North Dakota Century Code is amended and reenacted as follows:

11-10-11. Appointment and salary of deputies and clerks. The salaries of deputies, clerks, and assistants for the county auditor, county treasurer, sheriff, register of deeds, clerk of the district court, and state's attorney must be fixed by a resolution of the board of county commissioners. Each of the named officers may appoint such deputies, clerks, and assistants, in accordance with the budget, except none of the officers mentioned in this section may appoint as deputy any other officer mentioned in this section. ~~The number and compensation of deputies, clerks, and assistants for a clerk of district court which is funded by the state pursuant to section 11-17-11 must be set by the supreme court.~~

SECTION 5. AMENDMENT. Section 11-17-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

11-17-04. (Effective through March 31, 1999) Fees to be charged by the clerk of the district court.

1. The clerk of the district court shall charge and collect the following fees in civil cases:
 - a. For filing a case for decision that is not a small claims action, eighty dollars.
 - (1) Fifteen dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the civil legal services fund. Any fees collected under this paragraph which exceed four hundred thousand dollars in any biennium must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
 - (2) For the filing of a petition for dissolution of marriage, annulment, or separation from bed and board, fifty dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the displaced homemaker account created by section 14-06.1-14.
 - (3) For all other filings, forty-five dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the state general fund.

- b. For filing an answer to a case that is not a small claims action, fifty dollars.
The clerk shall deposit this fee with the state treasurer for deposit in the general fund in the state treasury.
- c. For filing a small claims action in district court, ten dollars.
- d. For filing any matter authorized to be filed in the office of the clerk of court other than under subdivision a, b, or c, ten dollars.
- e. For preparing, certifying, issuing, or transmitting any document, ten dollars; or a lesser fee as may be set by the state court administrator.
- f. For filing a motion or an answer to a motion to modify an order for alimony, property division, child support, or child custody, thirty dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund of the state treasury.

2. Section 27-01-07 applies to fees charged under this section. The clerk of court may not charge or collect any fee, prescribed by this or any other section, from the state or an agency thereof or from a political subdivision or agency thereof.

(Effective April ~~April~~ July 1, 1999) Fees to be charged by the clerk of the district court.

1. The clerk of the district court shall charge and collect the following fees in civil cases:
 - a. For filing a case for decision that is not a small claims action, eighty dollars.
 - (1) Fifteen dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the civil legal services fund. Any fees collected under this paragraph which exceed four hundred thousand dollars in any biennium must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
 - (2) For the filing of a petition for dissolution of marriage, annulment, or separation from bed and board, fifty dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the displaced homemaker account created by section 14-06.1-14 and fifteen dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the state general fund.

(3) For all other filings, ~~sixty-five~~ thirty-five dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the state general fund.

b. For filing an answer to a case that is not a small claims action, fifty dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund in the state treasury.

c. For filing a small claims action in district court, ten dollars.

d. For filing any matter authorized to be filed in the office of the clerk of court other than under subdivision a, b, or c, ten dollars.

e. For preparing, certifying, issuing, or transmitting any document, ten dollars; or a lesser fee as may be set by the state court administrator.

f. For filing a motion or an answer to a motion to modify an order for ~~alimony~~ spousal support, property division, child support, or child custody, thirty dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund of the state treasury.

2. Section 27-01-07 applies to fees charged under this section. The clerk of court may not charge or collect any fee, prescribed by this or any other section, from the state or an agency thereof or from a political subdivision or agency thereof.

SECTION 6. Deposit of bond forfeitures. Except for forfeitures of bail bond or other property or money deposited as bail under section 29-27-02.1, all bond forfeitures collected by the clerk of district court for violations of state law must be deposited in the county treasury.

SECTION 7. AMENDMENT. Section 27-01-01.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-01-01.1. Budgeting and financing of the supreme court and district courts.

The state court administrator shall submit a comprehensive budget for the supreme court and the district courts to the legislative assembly. An informational copy of the budget must be delivered to the director of the budget pursuant to section 54-44.1-13. The budget for the district courts must include all salary and expenses for the district courts, including the juvenile courts, and their employees ~~except the clerks of district courts and their deputies and employees, whose salaries and expenses must be paid by the counties unless the county has properly exercised its option pursuant to section 11-17-11.~~ Each county shall provide the

1 district court in that county with adequate chamber, court, and law library quarters, and lights
2 and fuel ~~and appropriate facilities for clerk of court services that are state funded pursuant to~~
3 ~~section 11-17-14.~~ Any equipment, furnishings, and law libraries in the control and custody of
4 the district court on January 1, 1980, and any such property acquired from that date until July 1,
5 1981, must continue to be in district court's custody and control until the state court
6 administrator determines such items are no longer needed by the court. ~~Any equipment and~~
7 ~~furnishings in the control and custody of a clerk of district court on the date of the exercise of~~
8 ~~the county option pursuant to section 11-17-11, and any such property acquired from that date~~
9 ~~until the beginning of the next state biennium, must continue in the district court's custody and~~
10 ~~control until the state court administrator determines such items are no longer needed by the~~
11 ~~judicial system.~~ Upon that determination custody and control of the property must revert back
12 to the county.

13 **SECTION 8. AMENDMENT.** Section 29-26-22 of the 1997 Supplement to the North
14 Dakota Century Code is amended and reenacted as follows:

15 **29-26-22. Judgment for fines, costs, and court administration fee - Statement to**
16 **be filed by court - Docketing and enforcement.** In all criminal cases upon a plea or finding
17 of guilt, a court administration fee of up to thirty percent of the maximum allowable fine for the
18 offense may be taxed against the defendant in lieu of the assessment of court costs. If the
19 court does assess costs as part of its sentence, the court shall include in the judgment the facts
20 justifying the amount assessed. District court costs; and administration fees; ~~and forfeitures~~
21 must be deposited in the state general fund. A judgment that the defendant pay a fine, costs,
22 or court administration fee, or any combination thereof, may be docketed, and thereafter
23 constitutes a lien upon the real estate of the defendant in like manner as a judgment for money
24 rendered in a civil action. The court may allow the defendant to pay any assessed costs or
25 administrative fee in installments. When a defendant is assessed costs or administrative fees,
26 the court may not impose at the same time an alternative sentence to be served if the costs are
27 not paid.

28 **SECTION 9. AMENDMENT.** Section 29-27-02.1 of the 1997 Supplement to the North
29 Dakota Century Code is amended and reenacted as follows:

30 **29-27-02.1. Disposition of statutory fees, fines, ~~forfeitures~~, pecuniary penalties,**
31 **and bond forfeitures.** Except as otherwise provided by law, all statutory fees, fines,

1 forfeitures, and pecuniary penalties prescribed for a violation of state laws, when collected,
2 must be paid into the treasury of the proper county to be added to the state school fund. When
3 any bail bond or other property or money deposited as bail is forfeited to the state, the
4 proceeds collected therefrom must be paid over to the proper state official and credited to the
5 state general fund.

6 **SECTION 10. AMENDMENT.** Subdivision j of subsection 1 of section 40-01.1-04 of
7 the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 8 j. Exercise of county options with respect to register of deed services and clerk
9 of district court services pursuant to ~~sections~~ section 11-10-02 and ~~11-17-11~~.

10 **SECTION 11. REPEAL.** Section 11-17-11 of the North Dakota Century Code is
11 repealed.