

STATE HISTORICAL SOCIETY AND STATE PARKS

CHAPTER 484

HOUSE BILL NO. 1208

(Representatives Sveen, Boucher, Froseth)

INTERNATIONAL PEACE GARDEN SUPERVISION

AN ACT to amend and reenact subsection 7 of section 55-05-02 of the North Dakota Century Code, relating to supervision of the International Peace Garden by the state parks and recreation department; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 55-05-02 of the North Dakota Century Code is amended and reenacted as follows:

7. That the ~~state historical board of the state of North Dakota~~ state parks and recreation department, as trustee for the state of North Dakota, has general supervision of the lands herein described and comprising that part of the International Peace Garden located within the state of North Dakota, and the United States of America, for the purpose of seeing that the terms of this chapter, and the trust imposed by this chapter, are complied with by the International Peace Garden, Inc., and for the purpose of cooperating with ~~such~~ that corporation in the promulgation, promotion, and development of the International Peace Garden, in accordance with the original plans and purposes for the establishment of an International Peace Garden upon the International Boundary Line between the United States and Canada for the purpose of furthering international peace among the nations of the world.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on July 1, 1999.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 9, 1999
Filed March 9, 1999

CHAPTER 485

SENATE BILL NO. 2082

(Government and Veterans Affairs Committee)
(At the request of the Parks and Recreation Department)

STATE PARK PERMIT FEES

AN ACT to amend and reenact section 55-08-06 of the North Dakota Century Code, relating to fees for annual and daily state park permits and senior citizen discounts; and to repeal section 55-08-06.2 of the North Dakota Century Code, relating to state park entrance permits for senior citizens.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 55-08-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

55-08-06. Permits for motor vehicles. Unless authorized by the director, ~~no~~ a motor vehicle may not enter or be permitted to enter any state park, state recreational area, or reserve unless the operator of ~~such~~ the motor vehicle ~~shall display~~ displays upon request a permit issued as provided in this chapter. Permits must be of a size, form, and character as the director ~~shall prescribe~~ prescribes, and the director shall procure permits for each calendar year which by appropriate language must grant permission to use any state park, state recreational area, or reserve. Permits for each calendar year must be provided and placed on sale on or before November first next preceding, and used on or at any time after that date until May first of the year following the calendar year for which issued. ~~Such permits~~ Permits in each category must be numbered consecutively for each year of issue. Except ~~as provided in section 55-08-06.2~~ for senior citizen discounts, a fee of ~~twenty~~ twenty-five dollars must be charged for each permit issued, except that permits of appropriate special design may be sold individually at a maximum of ~~three~~ four dollars per permit covering the use of state parks, state recreational areas, or reserves under such conditions as the director may prescribe for a designated period of not more than three days. The director may authorize a discount on the sale of annual permits to any resident of North Dakota who is sixty-five years of age or older and who applies for a discount. The fees collected must be deposited in the state park operating fund in the state treasury, unless authorized by the director as follows:

1. The director may allow other agencies or organizations that have leased state parks, state ~~recreation~~ recreational areas, reserves, or facilities to retain entrance and special permit fees collected by the lessee.
2. The director may exempt all or any part of any state park, state recreational area, or reserve from the requirement of the motor vehicle permit and fee, for any activity or period, when in the director's judgment it is desirable to do so; provided, however, that no further exceptions ~~can~~ may be made after state park revenue bonds are issued and while ~~such~~ the bonds are outstanding.

SECTION 2. REPEAL. Section 55-08-06.2 of the 1997 Supplement to the North Dakota Century Code is repealed.

Approved March 15, 1999

Filed March 16, 1999

CHAPTER 486

SENATE BILL NO. 2264

(Senator St. Aubyn)
(Representative Dalrymple)

HISTORIC SITE ALTERATION OR DEMOLITION

AN ACT to amend and reenact section 55-10-08 of the North Dakota Century Code, relating to the authority of the state historical board and superintendent of the state historical board to prohibit the alteration or demolition of historic sites.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 55-10-08 of the North Dakota Century Code is amended and reenacted as follows:

55-10-08. Duties of the state and governmental subdivisions in regard to state historic sites - Historic easements - Prohibitions.

1. The state, its departments and agencies, each city, county, school district, and other body corporate and politic, are by this chapter notified of the existence of state historic sites on land and water areas in North Dakota listed in the state historic sites registry, as defined in subsection 4 of section 55-10-02.
2. ~~Neither the~~ The state ~~nor~~ or any of the instrumentalities of government enumerated in subsection 1 may not demolish or cause to alter the physical features or historic character of any site listed in the state historic sites registry, defined in subsection 4 of section 55-10-02, as a state historic site without first obtaining the prior approval thereof from the superintendent of the state historical board upon authorization of the state historical board. It is the responsibility of the state or instrumentalities of government enumerated in subsection 1 to cooperate with the state historical board in identifying and implementing any reasonable alternative to demolition or alteration of any state historic site before the board approves such demolition or alteration.
3. The state or any of the instrumentalities of government enumerated in subsection 1 may acquire fee title to a state historic site, or property listed in the national register of historic places, or may acquire a historic easement with respect to a privately owned state historic site, or property listed in the national register of historic places, and buildings and structures thereon when restored, reconstructed, or improved in accordance with plans approved by the superintendent of the state historical board. A historic easement is:
 - a. A nonpossessory interest in the real property, imposing limitations or affirmative obligations the purposes of which include preserving the historic aspects of the property as so restored, reconstructed, or improved;

- b. Created and capable of being conveyed, recorded, assigned, released, modified, terminated, or otherwise altered or affected in the same manner as other easements, except as otherwise provided in this subsection; provided, that no right or duty in favor of or against a holder or another party having a right of enforcement arises under a historic easement before it is accepted by the holder and the acceptance is recorded;
 - c. Held by the grantee for the benefit of its citizens and the people of the state generally;
 - d. Specifically enforceable by the grantee or, if so provided by the grant, by the state or another instrumentality of government enumerated in subsection 1;
 - e. Binding upon the holder of the servient tenement and ~~his~~ that person's successors and assigns;
 - f. Limited to a term of years provided in the grant and approved by the superintendent of the state historical board, not exceeding the estimated useful life of the real property as restored, reconstructed, or improved, and not less than the term of any loan made by the holder to finance in whole or in part the cost of the restoration, reconstruction, or improvement;
 - g. Subject to no other legal limitation upon the duration of estates or of restraint on the alienation thereof, except the limitation contained in section 47-05-02.1; and
 - h. Subordinate to any interest existing when the easement is created, in the real property affected thereby, unless the owner of the interest is the grantor of the easement or consents to it.
4. A historic easement is valid even though:
 - a. It is not appurtenant to an interest in real property;
 - b. It can be or has been assigned to another holder;
 - c. It is not of a character that has been recognized traditionally at common law;
 - d. It imposes a negative burden;
 - e. It imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;
 - f. The benefit does not touch or concern real property; or
 - g. There is no privity of estate or of contract.
 5. A project comprising the acquisition of a state historic site or of a historic easement with reference thereto, and the restoration, reconstruction, and improvement of the site and buildings and structures thereon to preserve physical characteristics of historic importance, is declared to be a proper and necessary purpose for the expenditure of

public funds. The proceeds of tax increments or bonds or both may be expended by a city for such a project within an urban renewal area, when determined by the governing body to be desirable for the redevelopment, rehabilitation, and conservation of the area in accordance with the provisions of chapter 40-58.

6. If any state agency or department or a city, county, school district, or other political subdivision objects to any decision of the state historical board to disallow alteration or demolition of a site listed on the state historical sites registry, ~~such political subdivision~~ the objecting party may submit the objection to arbitration as provided in this subsection. Arbitration may also be demanded by either the board or ~~such political subdivision~~ the objecting party if the board or the ~~political subdivision~~ objecting party determines that the other has failed to cooperate in identifying or implementing reasonable alternatives to demolition or alteration. The party desiring arbitration shall make a written demand therefor of the other and in such demand shall name three arbitrators. The demand must also set forth the objections which the party desires to submit to arbitration, with reference to the particular state historic site. ~~Such~~ The demand must be made within ninety days of a decision by the board. The demand must be served upon the other party, which, within ten days, shall name in writing three arbitrators, and in connection therewith shall set forth in writing its response to the objections set forth in the demand served upon it and any additional objections which it desires to submit to arbitration on its part. The six arbitrators so selected shall name a seventh arbitrator. If the party proceeded against fails or refuses to name three arbitrators, the moving party may apply ex parte to the judge of the district court of the county in which the state historical site in question, or any part thereof, may be located, for the appointment of the unnamed arbitrators, and if upon the appointment of three arbitrators by each of the parties, the six so appointed have been unable to agree upon a seventh arbitrator within five days, then either party, upon five days' notice may apply to ~~such the~~ district court for the appointment of ~~such the~~ seventh arbitrator. The political subdivision may select its arbitrators from among the governing board of the affected political subdivision, from any regular or special committee appointed by the governing board, whether serving on such governing board or not, or from any combination thereof. A state agency may select its arbitrators from its officers or employees. The state historical board may select its arbitrators from among the board itself, from an executive committee of the board, or from any combination thereof. When a panel of arbitrators has been appointed, a submission in writing must be acknowledged by the parties thereto in the same manner as a conveyance of real property and may fix the time on or before which the award must be made. The submission must provide for the entry of judgment upon the award by the district court of the county within which the state historical site or some part thereof is located. The submission must also provide that each party shall bear its own arbitration costs and expenses, however the costs and expenses relating to the seventh arbitrator must be borne equally by both parties to the dispute. The seven arbitrators shall proceed to resolve the controversies brought before them, and the decision of the arbitrators, or a majority of

them, must be given in writing to the ~~board or the officials~~ parties concerned and is binding upon both parties. Thereafter, the arbitration must proceed in accordance with the provisions of chapter ~~32-29.4~~ 32-29.2.

Approved March 22, 1999

Filed March 22, 1999