

HOUSE BILL NO. 1205

Introduced by

Representatives Klemin, Mahoney

Senator Trenbeath

1 A BILL for an Act to amend and reenact section 54-03-22 of the North Dakota Century Code,
2 relating to the continuance of civil proceedings when a party, witness, or attorney is a member
3 of the legislative assembly.

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

5 **SECTION 1. AMENDMENT.** Section 54-03-22 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **54-03-22. When party or attorney is member of legislative assembly.** ~~In any civil~~
8 ~~action pending in any court in this state at any time when the legislative assembly is in session,~~
9 ~~it is sufficient cause for a continuance of such action to a succeeding term of court, if it is made~~
10 ~~to appear by affidavit of any attorney of record that the party to said action applying for such~~
11 ~~continuance, or any attorney who has been the attorney of record of such party since~~
12 ~~commencement of such action or for more than fifteen days prior to filing such affidavit, is a~~ A
13 member of the legislative assembly who is a witness or party to a civil action or has been the
14 attorney of record for a party in a civil action for more than fifteen days is entitled to a
15 continuance or an extension of time for any matter related to the civil action during the time the
16 ~~member of either house of the legislative assembly and is then, or, at the beginning of the term~~
17 ~~of the court in which such action is pending, will be,~~ actually engaged in the performance of his
18 the member's duties at a session of the legislative assembly; and that the attendance of such
19 ~~party or the attorney of record~~ the member of the legislative assembly is necessary to the fair
20 ~~and proper trial of said~~ in the action. Upon application for the continuance or extension, the
21 proceeding must be continued and may not proceed within ten days after the adjournment of
22 the legislative assembly over the objection of the party, witness, or attorney of record. Notice of
23 motion, together with a copy of the an affidavit stating that the party, witness, or the attorney of
24 record is a member of the legislative assembly, must be served upon the every other party to

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1 the action at least ten days ~~prior to~~ before the opening of the term of court at which said action
2 is pending, if said action is pending in such court at the opening of the term. Upon the proof of
3 ~~service of such notice and affidavit, the case must be continued over to the next succeeding~~
4 ~~term and may not be tried over the objection of the party within ten days after the adjournment~~
5 ~~of the legislative assembly~~ date of the matter sought to be continued. It is sufficient cause for
6 the continuance of any proceeding before any board, commission, or agency of the state or its
7 political subdivisions that any witness, party to the proceeding, or ~~his~~ a party's attorney; is a
8 member of the legislative assembly and the legislative assembly is in session. The witness,
9 party, or ~~his~~ the party's attorney shall give written notice of the fact of ~~his~~ membership in the
10 legislative assembly along with a request for continuance of the proceeding to the board,
11 commission, or agency before which ~~he~~ the member of the legislative assembly was to appear;
12 ~~and upon~~. Upon receipt thereof of the notices, the board shall ~~cause~~ continue the proceeding
13 ~~to be continued~~ to a date not less than ten days after adjournment of the legislative assembly;
14 and shall notify the other parties to the proceeding, and their attorneys, of ~~such~~ the
15 continuance.