

STATE HISTORICAL SOCIETY AND STATE PARKS

CHAPTER 510

SENATE BILL NO. 2416

(Senators Thane, Lindaas)

(Approved by the Delayed Bills Committee)

HISTORICAL SOCIETY PROJECTS AND BONDS

AN ACT to provide an appropriation for capital projects of the state historical society of North Dakota; to authorize the industrial commission to issue and sell bonds for capital projects; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. PROJECT AUTHORIZATIONS. The industrial commission, acting as the North Dakota building authority, shall arrange for the funding of the projects authorized in this section, hereby declared to be in the public interest, through the issuance of evidences of indebtedness under chapter 54-17.2, during the biennium beginning July 1, 2003, and ending June 30, 2005. The limitation provided in section 54-17.2-23 does not apply to repayments allocable to evidences of indebtedness issued pursuant to this section. The proceeds of the evidences of indebtedness and other available funds are hereby appropriated during the biennium beginning July 1, 2003, and ending June 30, 2005, for the following projects:

Chateau de Mores state historic site interpretive center	\$1,000,000
Fort Abercrombie state historic site interpretive center	\$1,000,000

The industrial commission shall issue evidences of indebtedness under this section with the condition that lease rental payments need not begin until July 1, 2005. The authority of the industrial commission to issue evidences of indebtedness ends June 30, 2005, but the industrial commission may continue to exercise all other powers granted to it under chapter 54-17.2 and this Act and to comply with any covenants entered into before that date.

Grand total special funds appropriation	\$2,000,000
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SECTION 2. BOND ISSUANCE REPAYMENT RESPONSIBILITY. Debt service on the evidences of indebtedness issued under the provisions of section 1 of this Act must be paid from federal, local, or donated funds collected by the state historical society.

SECTION 3. LEGISLATIVE INTENT - STATE HISTORICAL SOCIETY OF NORTH DAKOTA - INTERPRETIVE CENTERS EXPANSION. It is the intent of the fifty-eighth legislative assembly that \$600,000 of the required federal, local, or donated funds responsibility as provided in section 2 of this Act, \$300,000 for each interpretive center, must be collected before the state historical society may begin the expansion of the interpretive centers.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved May 2, 2003
Filed May 2, 2003

CHAPTER 511

SENATE BILL NO. 2249

(Senators J. Lee, Cook, Polovitz)
(Representatives DeKrey, Porter, Warner)

HISTORICAL AND ARCHAEOLOGICAL SITE PROTECTION

AN ACT to create and enact a new section to chapter 55-02 of the North Dakota Century Code, relating to protection of historical sites; to amend and reenact section 55-02-07 and subsection 2 of section 55-10-08 of the North Dakota Century Code, relating to the powers of the state historical board; to provide for a legislative council study of the protection of historical or archaeological artifacts or sites; to provide for application; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 55-02-07 of the North Dakota Century Code is amended and reenacted as follows:

55-02-07. Protection of historical or archaeological artifacts or sites.

Any historical or archaeological artifact or site that is found or located upon any land owned by the state or its political subdivisions or otherwise comes into its custody or possession and which is, in the opinion of the director of the state historical society, significant in understanding and interpreting the history and prehistory of the state, may not be destroyed, defaced, altered, removed, or otherwise disposed of in any manner without the approval of the state historical board, unless section 2 of this Act applies to the site. Notification of the director's opinion of significance must be communicated to the appropriate governing official. The state historical board through the director ~~shall~~, within sixty days of written notification to it by the appropriate governing official of the state or political subdivision's desire, need, or intent to destroy, alter, remove, or otherwise dispose of a significant artifact or site, shall provide the governing official written direction for the care, protection, excavation, storage, destruction, or other disposition of the significant artifact or site. The state and its political subdivisions shall cooperate with the director in identifying and implementing any reasonable alternative to destruction or alteration of any historical or archaeological artifact or site significant in understanding and interpreting the history and prehistory of the state before the state historical board may approve the demolition or alteration.

²³⁴ **SECTION 2.** A new section to chapter 55-02 of the North Dakota Century Code is created and enacted as follows:

Protection of public health and safety on sites having a public function. Notwithstanding any other provision of law, if the state or a political subdivision has a property interest in real property and that property has an existing public function in addition to any historical site registration or historical significance determination, the

²³⁴ Section 55-02-07.2 was also amended by section 25 of Senate Bill No. 2015, chapter 36.

governing body of the agency or political subdivision owning the property interest may, subject to the following provisions, improve, alter, modify, or destroy that property if the agency or governing body determines that action is necessary to protect public health or safety, to provide access for disabled persons, or to ensure structural integrity. If an action is to be taken by an agency or governing body under this section, notice of intent to take the action must be given to the director at the onset of the planning process. At the director's request, the agency or governing body shall inform the director of each meeting at which planning or decisions on a project are on the agenda. At each meeting, the agency or governing body shall provide the director with an opportunity to comment or provide preservation funding for the proposed project and the agency or governing body shall consider the director's comments or offers of funding in the development and implementation of the project. If the agency or governing body and the director do not agree on the action to be taken, the differences must be submitted to a mediator selected by the governor to facilitate a consensus between the parties. The cost of the mediator must be shared equally by the parties. The mediator shall issue a report within sixty days of appointment by the governor. The report of the mediator must be published once in the official newspaper of the state and political subdivision. Although the agency or governing body may take the action it deems necessary, the agency or governing body shall make all reasonable effort to preserve the historical characteristics of a site taking into consideration economic and technical feasibility. The decision of the agency or governing body must be published once in the official newspaper of the state and political subdivision. After mediation, if any, if the governing body of a political subdivision determines to proceed with actions that will result in completely demolishing, removing, or significantly degrading the historical characteristics of a building or real property, a resident of the political subdivision where the building or real property is located may submit a written notice to the county auditor of intention to petition for a public vote. The notice must be filed with the county auditor within fourteen days of the publication of the decision of the governing body. A petition for a public vote must contain the names of at least ten percent of the qualified electors from that governing body's jurisdiction who voted in the last general election and must be filed with the county auditor within one hundred twenty days of the governing body's publication of notice of its final action. If a petition is filed, the matter must be submitted for a vote of the qualified electors at the next special, primary, or general election held in that jurisdiction. All actions to remove, demolish, or significantly degrade the historical characteristics of a building or real property are stayed for fourteen days after the governing body's publication of notice of its final action, and if notice of intention to seek a public vote is filed, actions are stayed until either the petition fails or the public vote is held. If the political subdivision is a home rule jurisdiction with its own referendum procedures, however, the home rule referendum procedures apply to the action of the governing body.

SECTION 3. AMENDMENT. Subsection 2 of section 55-10-08 of the North Dakota Century Code is amended and reenacted as follows:

2. The state or a political subdivision may not demolish or cause to alter the physical features or historic character of any site listed in the state historic sites registry as a state historic site without first obtaining the prior approval from the director of the state historical society upon authorization of the state historical board, unless section 2 of this Act applies to the site. The state and political subdivisions shall cooperate with the director of the state historical society in identifying and implementing any reasonable alternative to demolition or alteration of any state historic site before the board approves the demolition or alteration.

SECTION 4. LEGISLATIVE COUNCIL STUDY OF THE PROTECTION OF HISTORICAL OR ARCHAEOLOGICAL ARTIFACTS OR SITES. The legislative council shall consider studying, during the 2003-04 interim, issues relating to the protection of historical or archaeological artifacts or sites that are found or located upon land owned by the state or its political subdivisions or otherwise come into the custody or possession of the state or its political subdivisions and the role of the director of the state historical society of North Dakota in the protection of historical or archaeological artifacts or sites. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly.

SECTION 5. APPLICATION OF ACT. This Act applies to any proceeding or determination not finalized before the effective date of this Act.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 24, 2003

Filed April 24, 2003

CHAPTER 512

HOUSE BILL NO. 1416

(Representatives R. Kelsch, Carlisle, Martinson)

(Senators Cook, Krauter, Nething)

STATE PARKS ALCOHOL SALES

AN ACT to amend and reenact section 55-08-05 of the North Dakota Century Code, relating to alcoholic beverage sales on state parks and recreation department property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 55-08-05 of the North Dakota Century Code is amended and reenacted as follows:

55-08-05. Charges for services. The director ~~is hereby authorized to~~ may provide special services within state parks, state campgrounds, state recreation areas, and reserves; provide special technical assistance services; and ~~to~~ make rules ~~and regulations~~ for the use of ~~such~~ those services. The director shall establish and cause to be collected charges, fees, and rentals for the use of all ~~such~~ special services, and shall revise the same, when necessary, in ~~such~~ the manner that the revenue derived ~~therefrom~~ will be sufficient to pay the cost of providing each ~~such~~ service and to pay the principal of and interest on all bonds issued for projects furnishing the facilities for ~~any such~~ the services, and to maintain a reserve for the security of ~~said the~~ bonds ~~as herein provided~~. The director may waive the collection of charges, fees, and rentals for the use of ~~all such~~ special services by health care-related charitable organizations conducting group camp activities without charge to participants. However, the director shall waive the collection of charges, fees, and rentals for the use of all special services by any care-related charitable organization sponsoring or conducting summer group camp activities without charge for fourteen days for children from age eight through age fourteen who have diabetes. Nothing in this section requires the director to provide camp services if the camp facilities are otherwise closed due to adverse administrative or fiscal impacts upon the department. Specifically, ~~but without limitation of said general authorization,~~ the director may:

1. Provide special parking space for automobiles or other motor-driven vehicles in any state park or state recreation area.
2. Provide special parking spurs and campgrounds for automobiles and sites for tent camping and special auto trailer coach parking spaces for the use of the individual charged for ~~such~~ the space according to the daily rate which must be determined and fixed by the director consistent with the type of facility provided for the accommodation of visitors in any particular park and with similar facilities offered for tourist camping in the area.
3. Charge a fee for entrance to any pageant grounds ~~which may be~~ created in any state park, state recreation area, or reserve for the purpose of having historical or other pageants conducted by the agent of any authorized agency.

4. Provide water, sewer, and electric service to trailer or tent campsites and buildings and structures included in projects authorized by the legislative assembly.
5. Provide facilities for the sale to the public of food, nonintoxicating beverages, except beer and wine sales as provided in ~~subsection~~ subsections 6 and 7, and other merchandise and personal services of a suitable nature, and make buildings, structures, and other recreational facilities available for use and occupancy by the public, or contract for the lease of ~~any such~~ the buildings, structures, and facilities to a concessionaire to be operated on ~~such the~~ the terms and compensation basis as the director determines to be in the best interest of the state. A bond must be required of each concessionaire in ~~such the~~ the amount as the director determines, conditioned upon the faithful performance of all duties under the lease and proper accounting for all funds.
6. Allow the sale of beer and wine by concessionaires on property leased to the department by the United States department of the army, corps of engineers, ~~provided if~~ if the concessionaire also obtains the appropriate local and state licenses required by section 5-02-01.
7. Allow the sale of on-sale beer and wine by operating, liquor-licensed concessionaires for fourteen events per year on property under the management of the director which borders the Missouri river and which is within fifteen miles [24.14 kilometers] of a city with a population in excess of twenty thousand, if the concessionaire also obtains the appropriate local and state licenses required by section 5-02-01.
8. Charge and collect motor vehicle permit fees in the amounts prescribed by the legislative assembly, which fees are and must be imposed for the sole purposes of paying capital costs of projects required to provide the special services herein described and referred to, and of meeting the principal and interest and reserve requirements of bonds issued to finance such projects.
8. 9. Charge a fee for providing special technical assistance to groups requesting information from the natural heritage inventory data base.

Approved April 9, 2003

Filed April 9, 2003