

HOUSE BILL NO.

Introduced by

Representative Klemin

1 A BILL for an Act to amend and reenact subsection 2 of section 40-57-02, subsection 11 of
2 section 40-57-03, sections 40-57-04, 40-57-05, 40-57-07, subsection 16 of 40-57-14, and
3 subsection 1 of section 40-57-19.1 of the North Dakota Century Code, relating to municipal
4 industrial development bonds.

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

6 **SECTION 1. AMENDMENT.** Subsection 2 of section 40-57-02 of the North Dakota
7 Century Code is amended and reenacted as follows:

- 8 2. "Project" means any real property, buildings, and improvements on real property or
9 the buildings thereon, and any equipment located on such real property or in such
10 buildings, or elsewhere, or personal property, including working capital, which is
11 used or useful in connection with a revenue-producing enterprise, or any
12 combination of two or more such enterprises, engaged or to be engaged in:
- 13 a. Assembling, fabricating, manufacturing, mixing, or processing of any
14 agricultural, mineral, or manufactured products, or any combination thereof.
 - 15 b. Storing, warehousing, distributing, or selling any products of agriculture,
16 mining, or manufacture.
 - 17 c. Providing hospital, nursing home, or other health care facilities and service.
 - 18 d. Improvements or equipment used or to be used for the abatement or control
19 of environmental pollution in connection with any new or existing
20 revenue-producing enterprise.
 - 21 e. Public career and technical education.
 - 22 f. Any other industry or business not prohibited by the constitution or laws of the
23 state of North Dakota.

1 In no event, however, does the term "project" include those undertakings defined in
2 chapter 40-35, with the exception of projects referred to in this subsection.

3 **SECTION 2. AMENDMENT.** Subsection 11 of section 40-57-03 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 11. Issue said revenue bonds to refund, in whole or in part, bonds previously issued ~~by~~
6 ~~such municipality~~ under authority of this chapter.

7 **SECTION 3. AMENDMENT.** Section 40-57-04 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **40-57-04. Resolution authorizing project and the issuance of revenue bonds -**
10 **Public notice and hearing - No election required.** The acquisition, construction,
11 reconstruction, improvement, betterment, extension, or financing of any project, and the issue
12 of bonds in anticipation of the collection of the revenues of such project to provide funds to pay
13 for the cost thereof, may be authorized by an ordinance or resolution of the governing body
14 adopted at a regular or special meeting thereof by the affirmative vote of a majority of its
15 members. Prior to the issuance of revenue bonds under authority of this chapter, the governing
16 body shall give notice and hold a public hearing on the proposed bond issue. Notice of the
17 hearing shall be published in the official newspaper of the municipality once a week for two
18 successive weeks prior to the time set for the hearing. The notice shall specify the time and
19 place of the hearing, and the amount and purpose of the proposed bond issue. The governing
20 body shall not approve the bond issue unless it appears, after the public hearing, that such
21 approval is in the public interest of the municipality. Except as provided in section 40-57-19, no
22 election shall be required to authorize the use of any of the powers conferred by this chapter.
23 No public hearing is required prior to the issuance of refunding bonds issued pursuant to
24 section 40-57-19.1.

25 **SECTION 4. AMENDMENT.** Section 40-57-05 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 ~~**40-57-05. Notice to securities commissioner-- Approval of public officer not**~~
28 ~~**required.**~~ ~~Upon the issuance of bonds under this chapter, the contracting party shall furnish~~
29 ~~the state securities commissioner the following information concerning the project:~~

- 30 ~~1. The name of the contracting party.~~
31 ~~2. The location and nature of the project.~~

- 1 ~~3. The amount and nature of the bonds issued.~~
- 2 ~~4. The general terms and nature of the financing arrangement.~~
- 3 ~~5. A copy of the official statement of the offering, if one was prepared.~~

4 The consent of any governmental body or public officer of the state shall not be required to
5 authorize the issuance or sale of bonds or the making of any mortgage in connection therewith.

6 **SECTION 5. AMENDMENT.** Section 40-57-07 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **40-57-07. Cost of project - How determined.** In determining the cost of a project, the
9 governing body may include all costs and estimated costs of the issuance of the revenue
10 bonds; all engineering, inspection, fiscal, and legal expenses; any bond reserves and the
11 interest that it is estimated will accrue during the construction period and for six months
12 thereafter on money borrowed or which it is estimated will be borrowed pursuant to this chapter;
13 and ~~with respect to any hospital, nursing home, or other health care facilities comprising a~~
14 ~~project,~~ the cost of retiring any existing indebtedness ~~in connection with the project~~ which the
15 governing body of the municipality determines to be necessary or desirable and in furtherance
16 of the public health or welfare, whether or not such existing indebtedness constitutes all or a
17 portion of the cost being financed by the issuance of the bonds.

18 **SECTION 6. AMENDMENT.** Subsection 16 of section 40-57-14 of the North Dakota
19 Century Code is amended and reenacted as follows:

20 16. The subordination of the security of any bonds issued hereunder and the payment
21 of principal and interest thereof, to the extent deemed feasible and desirable by the
22 governing body, to other bonds or obligations of ~~the~~ a municipality issued to
23 finance the project or that may be outstanding when the bonds thus subordinated
24 are issued and delivered.

25 Nothing in this section, or in this chapter, except as provided in section 40-57-19, shall
26 authorize any municipality to do anything or for any purpose which would result in the creation
27 or incurring of a debt or indebtedness or the issuance of any instrument which would constitute
28 a bond or debt within the meaning of any provisions, limitation, or restriction of the Constitution
29 of North Dakota relating to the creation or incurring of a debt or indebtedness or the issuance of
30 an instrument constituting a bond or debt.

- 1 **SECTION 7. AMENDMENT.** Subsection 1 of section 40-57-19.1 of the North Dakota
2 Century Code is amended and reenacted as follows:
- 3 1. Any municipality is authorized to provide for the issuance of refunding bonds to
4 refund, in whole or in part, bonds previously issued ~~by such municipality~~ under the
5 authority of this chapter for any of the following purposes:
- 6 a. To extend the maturities of the outstanding bonds.
- 7 b. To consolidate or restructure or reduce the debt service of the outstanding
8 bonds.
- 9 c. To remove covenants made with respect to the issuance of the outstanding
10 bonds.