

MUNICIPAL GOVERNMENT

CHAPTER 346

HOUSE BILL NO. 1346

(Representatives Kretschmar, Kilichowski)
(Senators Anderson, Nodland)

AN ACT to amend and reenact section 40-01.1-02 of the North Dakota Century Code, relating to the placement of a question on the ballot to establish a local advisory study committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-01.1-02 of the North Dakota Century Code is amended and reenacted as follows:

40-01.1-02. Local advisory study committee.

1. The governing body or electors of a county, city, city park district, township, school district, or any other political subdivision of this state may establish an advisory committee to study the existing form and powers of that political subdivision for comparison with other forms and powers available under the laws of this state. A local advisory study committee is established:
 - a. By a majority vote of the governing body; or
 - b. By a petition signed by ten percent or more of the total number of qualified electors of the political subdivision voting for governor at the most recent gubernatorial election and submitted to the governing body.
2. ~~Notwithstanding subsection 1, an election on the question of establishing a five-member advisory study committee for a county or city must be held at the next regular election in the county or city if five years have elapsed since the latter of:~~
 - a. ~~August 1, 1993;~~
 - b. ~~The date of the most recent election held on the question of establishing an advisory study committee pursuant to this subsection; or~~
 - c. ~~The date of issue of a written report prepared for a comprehensive study and analysis of the cooperative and restructuring options available to the county or city conducted by the governing body, an advisory study committee established pursuant to this section, a home rule charter commission, or through another study process for which a written report was prepared.~~

- ~~3.~~ The question of establishing an advisory study committee pursuant to subsection 2 requires an affirmative vote of a majority of those voting on the question for passage.
4. 2. The governing body shall appoint the members of the advisory study committee and set the duration of the committee. The members are not entitled to receive compensation, but may receive actual and necessary expenses incurred in the performance of official duties as determined by the governing body.
5. 3. The governing body may provide office and meeting space and legal, clerical, facilitation, training, and other assistance to the study committee, and may appropriate funds in its final budget, or expend any unexpended balances in its general fund otherwise designated for current expenditure, for the necessary expenses of the advisory study committee. The committee, with the approval of the governing body, may:
- a. Employ and fix the compensation and duties of necessary staff;
 - b. Contract and cooperate with other individuals and public or private agencies considered necessary for assistance, including institutions of higher education;
 - c. Establish advisory subcommittees that may include persons who are not members of the study committee;
 - d. Hold public hearings and community forums and use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the committee's purpose, progress, conclusions, and recommendations;
 - e. Cooperate with a like committee established pursuant to this section by another political subdivision in the conduct of the study. A cooperative study does not preclude a study committee from making separate recommendations to the governing body; and
 - f. Do any other act consistent with and reasonably required to perform its advisory function.

Approved April 21, 2009
Filed April 22, 2009

CHAPTER 347**SENATE BILL NO. 2191**

(Senators Anderson, Cook)
(Representatives Frantsvog, Kaldor)

AN ACT to amend and reenact subsection 23 of section 40-05-02 of the North Dakota Century Code, relating to a city lien on unfit property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 23 of section 40-05-02 of the North Dakota Century Code is amended and reenacted as follows:

23. Substandard buildings or structures. The governing body of any city shall have the authority to provide by ordinance for the demolition, repair, or removal of any building or structure located within the limits of such city or other territory under its jurisdiction, which creates a fire hazard, is dangerous to the safety of the occupants or persons frequenting such premises, or is permitted by the owner to remain in a dilapidated condition. Any such ordinance must provide for written notice to the owner of a hearing by the governing body before final action is taken by such body. It must also provide a reasonable time within which an appeal may be taken by the owner from any final order entered by such governing body to a court of competent jurisdiction. The amount of the cost of any demolition, repair, or removal of a building or structure constitutes a lien against the real property from which the cost was incurred and the lien may be foreclosed in judicial proceedings in the manner provided by law for loans secured by liens on real property. If this amount is not adequate to cover the cost of demolition, repair, or removal, the city has a lien for the amount of the additional costs on all real property owned, or later acquired, by the owner in the city. If the city provides the amount of the lien and the name of the owner, the county auditor shall enter on the tax list the amount of the additional cost as a tax lien. The tax lien is enforceable by the city in the same manner as a tax lien by a county. This subsection in no way limits or restricts any authority which is now or may hereafter be vested in the state fire marshal for the regulation or control of such buildings or structures.

Approved April 22, 2009
Filed April 23, 2009

CHAPTER 348**SENATE BILL NO. 2441**

(Senators Holmberg, Schneider)

(Representative Dahl)

(Approved by the Delayed Bills Committee)

AN ACT to amend and reenact section 40-23-07 of the North Dakota Century Code, relating to treatment of nonprofit cemetery property for special assessment purposes; to provide a statement of legislative intent; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-23-07 of the North Dakota Century Code is amended and reenacted as follows:

40-23-07. Determination of special assessments by commission - Political subdivisions not exempt. Whenever the commission makes any special assessment, the commission shall determine the particular lots and parcels of land which, in the opinion of the commission, will be especially benefited by the construction of the work for which the assessment is to be made. The commission shall determine the amount in which each of the lots and parcels of land will be especially benefited by the construction of the work for which such special assessment is to be made, and shall assess against each of such lots and parcels of land such sum, not exceeding the benefits, as ~~shall be~~ is necessary to pay its just proportion of the total cost of such work, or of the part thereof which is to be paid by special assessment, including all expenses incurred in making such assessment and publishing necessary notices with reference thereto and the per diem of the commission. However, as an alternative to the procedure ~~heretofore~~ provided in this section, the special assessment commission may, in its discretion, determine and allocate the cost of special assessments in accordance with the method provided for in chapter 40-23.1. Property owned by a nonprofit entity and used exclusively as a cemetery is exempt from collection of special assessments for benefits conferred under this title and the city in which such property is located shall provide for the payment of special assessments, installments, and interest against such property by the levy of taxes according to law or by payment from other funds available to the city which are derived from sources other than special assessments. Benefited property belonging to counties, cities, school districts, park districts, and townships ~~shall~~ is not be exempt from such assessment, and such public corporations whose property is so assessed shall provide for the payment of such assessments, installments thereof and interest thereon, by the levy of taxes according to law. Nothing in this section ~~shall~~ may be deemed to amend other provisions of law with reference to the levy of assessments on property sold for delinquent taxes.

SECTION 2. LEGISLATIVE INTENT. It is the intent of the sixty-first legislative assembly by enactment of this Act to provide for payment of special assessments against nonprofit cemetery property, including outstanding unpaid obligations, through levy of general property taxes within the city in recognition of the public benefit provided by operation of nonprofit cemeteries.

SECTION 3. EFFECTIVE DATE. This Act is effective for collection of special assessments regardless of the date of the assessment.

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

Approved April 24, 2009

Filed April 29, 2009

CHAPTER 349**HOUSE BILL NO. 1420**

(Representatives Frantsvog, Hofstad, Nathe)
(Senator Anderson)

AN ACT to amend and reenact section 40-40-10 of the North Dakota Century Code, relating to certified copies of the municipal levy and final budget being sent to the county auditor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-40-10 of the North Dakota Century Code is amended and reenacted as follows:

40-40-10. Certified copies of levy and final budget sent to county auditor. Immediately after the completion of the final budget and the adoption of the annual tax levy by the governing body of a municipality in accordance with the provisions of this chapter, and in no case later than October tenth, the auditor of the municipality shall send to the county auditor ~~two~~ a certified ~~copies~~ copy of the levy as adopted and ~~two~~ a certified ~~copies~~ copy of the final budget.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 350

HOUSE BILL NO. 1554

(Representatives Damschen, D. Johnson, Wrangham)
(Senator Klein)

AN ACT to amend and reenact section 40-47-01.1 of the North Dakota Century Code, relating to extraterritorial zoning jurisdiction of cities; to provide legislative intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-47-01.1 of the North Dakota Century Code is amended and reenacted as follows:

40-47-01.1. (Effective through July 31, 2009) Extraterritorial zoning - Mediation - Determination by administrative law judge.

1. A city may, by ordinance, extend the application of a city's zoning regulations to any quarter quarter section of unincorporated territory if a majority of the quarter quarter section is located within the following distance of the corporate limits of the city:
 - a. One-half mile [80 kilometer] if the city has a population of fewer than five thousand.
 - b. One mile [1.61 kilometers] if the city has a population of five thousand or more, but fewer than twenty-five thousand.
 - c. Two miles [3.22 kilometers] if the city has a population of twenty-five thousand or more.
2. Subject to subsections 5 and 6, a city, by ordinance, may extend the application of the city's zoning regulations to two times the distance allowed under subdivisions a, b, and c of subsection 1 if the extension is approved by at least five of six members of a committee established to review the proposed extension. The committee must consist of three members appointed by the governing body of the city and three members appointed, jointly, by the governing bodies of any political subdivision that is exercising zoning authority within the territory to be extraterritorially zoned.
3. If a quarter quarter section line divides a platted lot and the majority of that platted lot lies within the quarter quarter section, a city may apply its extraterritorial zoning authority to the remainder of that platted lot. If the majority of the platted lot lies outside the quarter quarter section, the city may not apply its extraterritorial zoning authority to any of that platted lot.
4. A city exercising its extraterritorial zoning authority shall hold a zoning transition meeting if the territory to be extraterritorially zoned is currently zoned. The city's zoning or planning commission shall provide at least fourteen days' notice of the meeting to the zoning board or boards of all

political subdivisions losing their partial zoning authority. The purpose of the zoning transition meeting is to review existing zoning rules, regulations, and restrictions currently in place in the territory to be extraterritorially zoned and to plan for an orderly transition. The zoning transition meeting must take place before the city's adoption of an ordinance exercising extraterritorial zoning.

5. If two or more cities have boundaries at a distance where there is an overlap of extraterritorial zoning authority under this section, the governing bodies of the cities may enter into an agreement regarding the extraterritorial zoning authority of each city. The agreement must be for a specific term and is binding upon the cities unless the governing bodies of the cities agree to amend or rescind the agreement or unless determined otherwise by an administrative law judge in accordance with this chapter. If a dispute arises concerning the extraterritorial zoning authority of a city and the governing bodies of the cities involved fail to resolve the dispute, the dispute must be submitted to a committee for mediation. The committee must be comprised of one member appointed by the governor, one member of the governing body of each city, and one member of the planning commission of each city who resides outside the corporate city limits. The governor's appointee shall arrange and preside over the meeting and act as mediator at the meeting. A meeting may be continued until the dispute has been resolved or until the mediator determines that continued mediation is no longer worthwhile.
6. If the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies of all the cities involved, the governing body of any of the cities may petition the office of administrative hearings to appoint an administrative law judge to determine the extraterritorial zoning authority of the cities in the disputed area. A hearing may not be held until after at least two weeks' written notice has been given to the governing bodies of the cities involved in the dispute. At the hearing, the governor's appointee who mediated the meetings under subsection 4 shall provide information to the administrative law judge on the dispute between the cities involved and any proposed resolutions or recommendations made by a majority of the committee members. Any resident of, or person owning property in, a city involved in the dispute or the unincorporated territory that is the subject of the proposed extraterritorial zoning, a representative of such a resident or property owner, and any representative of a city involved, may appear at the hearing and present evidence on any matter to be determined by the administrative law judge. A decision by the administrative law judge is binding upon all the cities involved in the dispute and remains effective until the governing bodies of the cities agree to a change in the zoning authority of the cities. The governing body of a city may request a review of a decision of an administrative law judge due to changed circumstances at any time ten years after the decision has become final. An administrative law judge shall consider the following factors in making a decision under this subsection:
 - a. The proportional extraterritorial zoning authority of the cities involved in the dispute;
 - b. The proximity of the land in dispute to the corporate limits of each city involved;

- e. The proximity of the land in dispute to developed property in the cities involved;
 - d. Whether any of the cities has exercised extraterritorial zoning authority over the disputed land;
 - e. Whether natural boundaries such as rivers, lakes, highways, or other physical characteristics affecting the land are present;
 - f. The growth pattern of the cities involved in the dispute; and
 - g. Any other factor determined to be relevant by the administrative law judge.
7. For purposes of this section, the population of a city must be determined by the last official regular or special federal census. If a city has incorporated after a census, the population of the city must be determined by a census taken in accordance with chapter 40-22.
8. When a portion of the city is attached to the bulk of the city by a strip of land less than one hundred feet [30.48 meters] wide, that portion and strip of land must be disregarded when determining the extraterritorial zoning limits of the city. This subsection does not affect the ability of a city to zone land within its city limits.
9. For the purposes of this section, a quarter quarter section shall be determined in the manner provided by 2 Stat. 313 [43 U.S.C. 752]. When appropriate, the phrase "quarter quarter section" refers to the equivalent government lot.

(Effective after July 31, 2009) Extraterritorial zoning - Mediation - Determination by administrative law judge - Definition.

1. a. A city may, by ordinance, extend the application of a city's zoning regulations to any quarter quarter section of unincorporated territory if a majority of the quarter quarter section is located within the following distance of the corporate limits of the city:
- a. (1) One mile [1.61 kilometers] if the city has a population of less fewer than five thousand. A city that has exercised its authority under this subdivision has joint zoning and subdivision regulation jurisdiction from one-half mile [.80 kilometer] to one mile [1.61 kilometers] with the other political subdivision.
 - b. (2) Two miles [3.22 kilometers] if the city has a population of five thousand or more, but less fewer than twenty-five thousand. A city that has exercised its authority under this subdivision has joint zoning and subdivision regulation jurisdiction from one mile [1.61 kilometers] to two miles [3.22 kilometers] with the other political subdivision.
 - e. (3) Four miles [6.44 kilometers] if the city has a population of twenty-five thousand or more. A city that has exercised its authority under this subdivision has joint zoning and subdivision regulation jurisdiction from two miles [3.22

kilometers] to four miles [6.44 kilometers] with the other political subdivision.

- b. Any section or portion of a section of unincorporated territory within the area of joint zoning and subdivision regulation jurisdiction in which a plat or site plan has been presented before May 1, 2009, remains subject to the zoning designations and the regulations in place on May 1, 2009, unless changed as allowed under this section.
 - c. The extraterritorial zoning jurisdiction and authority to receive applications and issue permits under this section may be changed by written agreement between the city and the other political subdivision.
2. Joint jurisdiction is jurisdiction in which the other political subdivision has jurisdiction to receive applications and issue permits and impose administrative fees for applications and permits. In addition, under this jurisdiction the other political subdivision may adopt, modify, and enforce any zoning designation or regulation and approve any subdivision plat or regulation. For a decision to be final, the other political subdivision shall give written notice to the city. The city may request negotiation as to any decision made by the other political subdivision under the other political subdivision's jurisdiction within thirty days of notice. If negotiation is not requested, the decision of the other political subdivision is final. If the governing body of the other political subdivision and the city do not come to an agreement as to the disputed zone or subdivision regulation within thirty days of request for negotiation, the dispute must be submitted to a committee for mediation. The committee must be comprised of one member appointed by the governor and two members of the governing body of the other political subdivision and two members of the governing body of the city. The governor's appointee shall arrange and preside over the meeting and act as mediator at the meeting. A meeting may be continued until the dispute has been resolved or until the mediator determines that continued mediation is no longer worthwhile. If the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies, the dispute must be resolved by the board of county commissioners.
 3. Notwithstanding subsection 2, in any section or portion of a section of unincorporated territory in which there would otherwise be joint jurisdiction and in which a plat or site plan has been presented before May 1, 2009, the city has jurisdiction to receive applications and issue permits and impose administrative fees for applications and permits relating to zoning and subdivision regulation. In addition, under this jurisdiction the city may adopt, modify, and enforce any zoning designation or regulation and approve any subdivision plat or regulation. For a decision of the city made after May 1, 2009, to be final, the city shall give written notice of the decision of the governing body of the political subdivision that would otherwise have jurisdiction. The governing body may request negotiation as to any decision made by the city under the city's jurisdiction within thirty days of notice. If negotiation is not requested, the decision of the city is final. If the city and governing body of the political subdivision that would otherwise have jurisdiction do not come to an agreement as to the disputed zoning or subdivision

regulation within thirty days of the request for negotiation, the dispute must be submitted to a committee for mediation. The committee must be comprised of one member appointed by the governor and two members of the governing body of the other political subdivision and two members of the governing body of the city. The governor's appointee shall arrange and preside over the meeting and act as mediator at the meeting. A meeting may be continued until the dispute has been resolved or until the mediator determines that continued mediation is no longer worthwhile. If the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies, the dispute must be resolved by the board of county commissioners.

4. If a quarter quarter section line divides a platted lot and the majority of that platted lot lies within the quarter quarter section, a city may apply its extraterritorial zoning authority to the remainder of that platted lot. If the majority of the platted lot lies outside the quarter quarter section, the city may not apply its extraterritorial zoning authority to any of that platted lot.
- ~~3-~~ 5. A city exercising its extraterritorial zoning authority shall hold a zoning transition meeting if the territory to be extraterritorially zoned is currently zoned. The city's zoning or planning commission shall provide at least fourteen days' notice of the meeting to the zoning board or boards of all political subdivisions losing their partial zoning authority. The purpose of the zoning transition meeting is to review existing zoning rules, regulations, and restrictions currently in place in the territory to be extraterritorially zoned and to plan for an orderly transition. The zoning transition meeting must take place before the city's adoption of an ordinance exercising extraterritorial zoning.
- 4- 6. If two or more cities have boundaries at a distance where there is an overlap of extraterritorial zoning authority under this section, the governing bodies of the cities may enter into an agreement regarding the extraterritorial zoning authority of each city. The agreement must be for a specific term and is binding upon the cities unless the governing bodies of the cities agree to amend or rescind the agreement or unless determined otherwise by an administrative law judge in accordance with this chapter. If a dispute arises concerning the extraterritorial zoning authority of a city and the governing bodies of the cities involved fail to resolve the dispute, the dispute must be submitted to a committee for mediation. The committee must be comprised of one member appointed by the governor, one member of the governing body of each city, and one member of the planning commission of each city who resides outside the corporate city limits. The governor's appointee shall arrange and preside over the meeting and act as mediator at the meeting. A meeting may be continued until the dispute has been resolved or until the mediator determines that continued mediation is no longer worthwhile.
- ~~5-~~ 7. If the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies of all the cities involved, the governing body of any of the cities may petition the office of administrative hearings to appoint an administrative law judge to determine the extraterritorial zoning authority of the cities in the disputed area. A hearing may not be held until after at least two weeks' written notice has been given to the governing bodies of the cities involved in

the dispute. At the hearing, the governor's appointee who mediated the meetings under subsection 4 6 shall provide information to the administrative law judge on the dispute between the cities involved and any proposed resolutions or recommendations made by a majority of the committee members. Any resident of, or person owning property in, a city involved in the dispute or the unincorporated territory that is the subject of the proposed extraterritorial zoning, a representative of such a resident or property owner, and any representative of a city involved, may appear at the hearing and present evidence on any matter to be determined by the administrative law judge. A decision by the administrative law judge is binding upon all the cities involved in the dispute and remains effective until the governing bodies of the cities agree to a change in the zoning authority of the cities. The governing body of a city may request a review of a decision of an administrative law judge due to changed circumstances at any time ten years after the decision has become final. An administrative law judge shall consider the following factors in making a decision under this subsection:

- a. The proportional extraterritorial zoning authority of the cities involved in the dispute;
 - b. The proximity of the land in dispute to the corporate limits of each city involved;
 - c. The proximity of the land in dispute to developed property in the cities involved;
 - d. Whether any of the cities has exercised extraterritorial zoning authority over the disputed land;
 - e. Whether natural boundaries such as rivers, lakes, highways, or other physical characteristics affecting the land are present;
 - f. The growth pattern of the cities involved in the dispute; and
 - g. Any other factor determined to be relevant by the administrative law judge.
- 6- 8. For purposes of this section, the population of a city must be determined by the last official regular or special federal census. If a city has incorporated after a census, the population of the city must be determined by a census taken in accordance with chapter 40-22.
- 7- 9. When a portion of the city is attached to the bulk of the city by a strip of land less than one hundred feet [30.48 meters] wide, that portion and strip of land must be disregarded when determining the extraterritorial zoning limits of the city. This subsection does not affect the ability of a city to zone land within its city limits.
- 8- 10. For the purposes of this section, a section or a quarter quarter section ~~shall be~~ is as determined in the manner provided by 2 Stat. 313 [43 U.S.C. 752]. When appropriate, the phrase "quarter quarter section" refers to the equivalent government lot.

11. As used in this section, "other political subdivision" means a political subdivision, not including another city, which would otherwise have zoning or subdivision regulation jurisdiction.

SECTION 2. LEGISLATIVE INTENT. It is the intent of the sixty-first legislative assembly that land use regulations under consideration by local governments be readily available to the public. Local governments are encouraged to jointly discuss their land use regulations and consider the cumulative impact of local regulations.

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

Approved May 4, 2009
Filed May 5, 2009

CHAPTER 351

SENATE BILL NO. 2270

(Senators Robinson, Lyson)

(Representatives Bellew, Metcalf, Mueller)

AN ACT to amend and reenact section 40-49-14 of the North Dakota Century Code, relating to bid requirements for park districts; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-49-14 of the North Dakota Century Code is amended and reenacted as follows:

40-49-14. When ye and nay vote taken - Letting contracts - Debt limit - Bills, claims, and demands against board. Ye and nay votes must be taken on all propositions involving the expenditure of money, levying of taxes, or the issuance of bonds or certificates of indebtedness. Approval of an expenditure of money must be recorded in the record of the board's proceedings and ~~this shall be~~ is sufficient to indicate approval without requiring the members to sign or initial the voucher or order for payment. Except as provided in chapter 48-01.2, all contracts exceeding ~~ten~~ twenty-five thousand dollars must be let to the lowest responsible bidder after advertisement in the official newspaper of the municipality once each week for two successive weeks. The board may reject any or all bids. All contracts must be in writing and must be signed by the president of the board or a designated representative and unless so executed, they shall be void. The debt of a park district may not exceed one percent of the taxable property within the district according to the last preceding assessment. No bill, claim, account, or demand against the district may be audited, allowed, or paid until a full, written, itemized statement has been filed with the governing body or unless otherwise authorized by the governing body pursuant to contract or other action. The governing body; ~~in its discretion,~~ may require the filing of any additional information which it may deem necessary to the proper understanding and audit of any claim or account and it may require the filing of a sworn statement in such form as it may prescribe or as noted below:

CERTIFICATE

I do hereby certify that the within bill, claim, account, or demand is just and true; that the money therein charged was actually paid for the purposes therein stated; that the services therein charged were actually rendered and of the value therein charged; and that no part of such bill, claim, account, or demand has been paid; and that the goods therein charged were actually delivered and were of the value charged.

Sign here _____

If signed for a firm or company,
show authority on this line.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 24, 2009

Filed April 29, 2009

CHAPTER 352**HOUSE BILL NO. 1266**
(Representatives Klemin, Mueller)
(Senators Cook, Krebsbach)

AN ACT to amend and reenact subsection 2 of section 40-57-02, subsection 11 of section 40-57-03, sections 40-57-04, 40-57-05, 40-57-07, and 40-57-14, and subsection 1 of section 40-57-19.1 of the North Dakota Century Code, relating to municipal industrial development bonds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

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

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

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

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

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

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

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

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

40-57-07. Cost of project - How determined. In determining the cost of a project, the governing body may include all costs and estimated costs of the issuance of the revenue bonds; all engineering, inspection, fiscal, and legal expenses; any bond reserves and the interest that it is estimated will accrue during the construction period and for six months thereafter on money borrowed or which it is estimated will be borrowed ~~pursuant to under~~ this chapter; and ~~with respect to any hospital, nursing home, or other health care facilities comprising a project,~~ the cost of retiring any existing indebtedness ~~in connection with the project which that~~ the governing body of the municipality determines to be necessary or desirable and in

furtherance of the public health or welfare, ~~regardless of whether or not such~~ the existing indebtedness constitutes all or a portion of the cost being financed by the issuance of the bonds.

SECTION 6. AMENDMENT. Section 40-57-14 of the North Dakota Century Code is amended and reenacted as follows:

40-57-14. Covenants that may be inserted in ordinance or resolution authorizing bonds.

1. Any ordinance or resolution authorizing the issuance of bonds under this chapter to finance, in whole or in part, the cost of any project may contain covenants, notwithstanding that ~~such~~ the covenants may limit the exercise of powers conferred by this chapter, as to:
 - 1- a. The rents or payments to be charged with respect to the project.
 - 2- b. The use and disposition of the revenues of ~~said~~ the projects.
 - 3- c. The creation and maintenance of sinking funds and the regulation, use, and disposition thereof.
 - 4- d. The creation and maintenance of funds to provide for maintaining the project and replacement of those properties ~~which~~ that are subject to depreciation.
 - 5- e. The purpose, or purposes, to which the proceeds of this sale of ~~said~~ bonds may be applied and the use and disposition of ~~said~~ the proceeds.
 - 6- f. The nature of mortgages or other encumbrances on the project made in favor of the holder ~~or holders~~ of ~~such~~ the bonds, or a trustee therefor.
 - 7- g. The events of default and the rights and liabilities arising thereon and the terms and conditions upon which the holders of bonds issued under this chapter may bring any suit or action on ~~said~~ the bonds or on any coupons thereof.
 - 8- h. The issuance of other or additional bonds or instruments payable from or constituting a charge against the revenue of ~~said~~ the project.
 - 9- i. The insurance to be carried upon the project and the use and disposition of insurance moneys.
 - 10- j. The keeping of books of account and the inspection and audit thereof.
 - 11- k. The terms and conditions upon which ~~any or all of~~ the bonds ~~shall~~ become or may be declared due before maturity and the terms and conditions upon which ~~such~~ the declaration and its consequences may be waived.
 - 12- l. The rights, liabilities, powers, and duties arising upon the breach by the municipality of any covenants, conditions, or obligations.

43. m. The vesting in a trustee ~~or trustees~~ of the rights to enforce any covenants made to secure, to pay, or in relation to, the bonds and the powers and duties of ~~such the~~ trustee ~~or trustees~~ and the limitation of liabilities thereof.
44. n. The terms and conditions upon which the holder ~~or holders~~ of the bonds, or the holders of any proportion or percentage of them, may enforce any covenants made under this chapter or any duties imposed thereby.
45. o. A procedure by which the terms of any ordinance or resolution authorizing bonds or of any other contract with bondholders, including an indenture of trust or similar instrument, may be amended or abrogated, and the amount of bonds the holders of which must consent thereto, and the manner in which ~~such~~ consent may be given.
46. p. The subordination of the security of any bonds issued ~~hereunder~~ and the payment of principal and interest thereof, to the extent deemed feasible and desirable by the governing body, to other bonds or obligations of ~~the a~~ municipality issued to finance the project or that may be outstanding when the bonds thus subordinated are issued and delivered.
2. Nothing in this ~~section, or in this~~ chapter, except as provided in section 40-57-19, ~~shall authorize~~ authorizes any municipality to do anything or for any purpose ~~which that~~ would result in the creation or incurring of a debt or indebtedness or the issuance of any instrument ~~which that~~ would constitute a bond or debt within the meaning of any provisions, limitation, or restriction of the Constitution of North Dakota relating to the creation or incurring of a debt or indebtedness or the issuance of an instrument constituting a bond or debt.

SECTION 7. AMENDMENT. Subsection 1 of section 40-57-19.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Any municipality is authorized to provide for the issuance of refunding bonds to refund, in whole or in part, bonds previously issued ~~by such municipality under the authority~~ of this chapter for any of the following purposes:
 - a. To extend the maturities of the outstanding bonds.
 - b. To consolidate or restructure or reduce the debt service of the outstanding bonds.
 - c. To remove covenants made with respect to the issuance of the outstanding bonds.

CHAPTER 353

SENATE BILL NO. 2060

(Legislative Council)
(Workforce Committee)

AN ACT to amend and reenact subsection 7 of section 40-63-01, subdivision g of subsection 1 of section 40-63-03, and sections 40-63-04 and 40-63-05 of the North Dakota Century Code, relating to renaissance zone rehabilitation of public utility infrastructure and renaissance zone boundaries; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Rehabilitation", as used in sections 40-63-04 and 40-63-05, means the repair or remodeling of a building or public utility infrastructure at a cost that is equal to or exceeds fifty percent of the current true and full value for commercial buildings or public utility infrastructure and twenty percent for single-family homes.

¹⁴⁵ **SECTION 2. AMENDMENT.** Subdivision g of subsection 1 of section 40-63-03 of the North Dakota Century Code is amended and reenacted as follows:

- g. The proposed renaissance zone may have a single exception to the continuous boundary and contiguous block requirements under subdivision d if the area of the excepted noncontiguous blocks does not exceed three square blocks ~~and if the shortest distance between the noncontinuous boundaries of the two portions of the zone does not exceed one-half mile [-80 kilometer].~~

¹⁴⁶ **SECTION 3. AMENDMENT.** Section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

40-63-04. Income tax exemptions.

1. An individual taxpayer who purchases or rehabilitates single-family residential property for the individual's primary place of residence as a zone project is exempt from up to ten thousand dollars of personal income tax liability as determined under section 57-38-29 or 57-38-30.3 for five taxable years beginning with the date of occupancy or completion of rehabilitation.

¹⁴⁵ Section 40-63-03 was also amended by section 1 of House Bill No. 1428, chapter 354, and section 30 of House Bill No. 1436, chapter 482.

¹⁴⁶ Section 40-63-04 was also amended by section 6 of House Bill No. 1324, chapter 545.

2. Any taxpayer that purchases, leases, ~~or~~ rehabilitates, or makes leasehold improvements to residential, public utility infrastructure, or commercial property for any business or investment purpose as a zone project is exempt from any tax on income derived from the business or investment locations within the zone for five taxable years, beginning with the date of purchase, lease, or completion of rehabilitation.
3. If the cost of a new business purchase, leasehold improvement, or expansion of an existing business, approved as a zone project, exceeds seventy-five thousand dollars, and the business is located in a city with a population of not more than two thousand five hundred, an individual taxpayer may, in lieu of the exemption provided in subsection 2, elect to take an income tax exemption of up to two thousand dollars of personal income tax liability as determined under section 57-38-29 or 57-38-30.3. The election must be made on the taxpayer's zone project application. The election is irrevocable and binding for the duration of the exemptions provided in subsection 2 or this subsection. If no election is made on the zone project application, the taxpayer is only eligible for the exemption provided in subsection 2.
4. If a property owner not participating in a renaissance zone project is required to make changes in utility services or in a building structure because of changes made to property that is part of a zone project, the owner of the nonparticipating property is entitled to state income tax credits equal to the total amount of the investment necessary to complete the required changes. The credit must be approved by the local renaissance zone authority. The credit must be claimed in the taxable year in which the related project was completed. The credit may not exceed the taxpayer's tax liability, and an unused credit may be carried forward up to five taxable years.
5. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter 57-35.3 or 57-38.

SECTION 4. AMENDMENT. Section 40-63-05 of the North Dakota Century Code is amended and reenacted as follows:

40-63-05. Property tax exemptions.

1. A municipality may grant a partial or complete exemption from ad valorem taxation on single-family residential property, exclusive of the land on which it is situated, if the property was purchased or rehabilitated by an individual for the individual's primary place of residence as a zone project. An exemption granted under this subsection may not extend beyond five taxable years following the date of acquisition or completion of rehabilitation.
2. A municipality may grant a partial or complete exemption from ad valorem taxation on buildings, structures, fixtures, and improvements purchased or rehabilitated as a zone project for any business or investment purpose. The state board of equalization may grant a partial or complete exemption from ad valorem taxation on public utility infrastructure rehabilitated as a zone project. An exemption under this subsection may not extend beyond five taxable years following the date of purchase or completion of rehabilitation.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2008.

Approved April 30, 2009
Filed May 1, 2009

CHAPTER 354

HOUSE BILL NO. 1428

(Representatives Thoreson, Dosch, S. Kelsh, Kempenich)
(Senators Holmberg, Triplett)

AN ACT to amend and reenact subdivisions c and f of subsection 1 of section 40-63-03 and subsection 5 of section 40-63-07 of the North Dakota Century Code, relating to extension of the duration of a renaissance zone program, available income tax credits for renaissance zone investments, and designation of additional blocks as part of a renaissance zone; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴⁷ **SECTION 1. AMENDMENT.** Subdivisions c and f of subsection 1 of section 40-63-03 of the North Dakota Century Code are amended and reenacted as follows:

- c. The proposed renaissance zone is not more than twenty-three square blocks, except in a city with a population of greater than five thousand the renaissance zone may exceed twenty-three square blocks at the rate of one additional block for each additional five thousand population to a maximum size of thirty-eight blocks. Population is based upon the most recent federal decennial census.

If a city finds that renaissance zone projects have satisfactorily completed one or more blocks within the renaissance zone, the city may apply for and the department of commerce division of community services may approve withdrawal of those blocks from the renaissance zone and replacement of those blocks with other blocks that otherwise meet the requirements of this chapter.

- f. The application includes the proposed duration of renaissance zone status, not to exceed fifteen years. Upon application by the city, the department of commerce division of community services may extend the duration of renaissance zone status in increments of up to five years.

¹⁴⁸ **SECTION 2. AMENDMENT.** Subsection 5 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

5. The total amount of credits allowed under this section may not exceed, in the aggregate, ~~an initial limit of two million five hundred thousand~~

¹⁴⁷ Section 40-63-03 was also amended by section 30 of House Bill No. 1436, chapter 482, and section 2 of Senate Bill No. 2060, chapter 353.

¹⁴⁸ Section 40-63-07 was also amended by section 8 of House Bill No. 1324, chapter 545, and section 98 of House Bill No. 1436, chapter 482.

dollars. Upon exhaustion of this initial limit, an additional two seven million five hundred thousand dollars in credits is available for investments in renaissance fund organizations. A renaissance fund organization that has received investments that qualify for these additional credits under this subsection may not use more than fifty percent of such investments for organization investments outside of a renaissance zone.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2008.

Approved April 8, 2009
Filed April 9, 2009