

April 23, 2013

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1025

That the Senate recede from its amendments as printed on pages 1227-1229 of the House Journal and pages 1068-1070 of the Senate Journal and that Engrossed House Bill No. 1025 be amended as follows:

Page 1, line 1, remove "subsection 3 of section 37-17.1-12 and"

Page 1, line 1, after "sections" insert "37-17.1-12,"

Page 1, line 2, replace the first "and" with a comma

Page 1, line 2, after "37-17.1-17" insert ", and 40-22-01.1"

Page 1, line 3, after "responses" insert "and financing of repairs"

Page 1, replace lines 5 through 13 with:

"SECTION 1. AMENDMENT. Section 37-17.1-12 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-12. Compensation - Entitlement - Time - Amount.

1. Persons within this state shall conduct themselves and keep and manage their affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public to effectively prevent, mitigate, prepare for, respond to, and recover from a disaster or emergency. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster or emergency. This chapter neither increases nor decreases these obligations but recognizes their existence under the Constitution of North Dakota and statutes of this state and the common law. Compensation for services or for the taking or use of property must be only to the extent that obligations recognized herein are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered that person's services or property without compensation.
2. Personal services may not be compensated by the state or any county or city thereof, except pursuant to statute or local law or ordinance.
3. Compensation for property ~~must~~ may be ~~only~~ paid if the property was commandeered or otherwise used in management of a disaster or emergency declared by the governor and its use or destruction was ~~ordered by the governor~~ under proper authority to the extent not otherwise waived or agreed upon before the use of property.
4. A claim made against a county or city must be made in writing to the appropriate governing body within two years after the use, damage, loss, or destruction of the property under proper authority is discovered or reasonably should have been discovered, may only be for actual damages not recovered from claimants' property or other applicable insurance, and may be paid from any combination of funds provided under section

40-22-01.1, disaster relief funds made available to a county or city for this purpose, or other funds at the discretion of the governing body. A city or county may establish reasonable provisions for the payment of compensation.

5. Any person claiming compensation for the use, damage, loss, or destruction of property by the state under this chapter shall file a written claim therefor with the office of management and budget in the form and manner required by the office. The claim for compensation must be received by the office of management and budget within ~~one year~~two years after the use, damage, loss, or destruction of the property pursuant to the governor's order under section 37-17.1-05 is discovered or reasonably should have been discovered or compensation under this chapter is waived.

5-6. Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed between the claimant and the office of management and budget, the amount of compensation must be calculated in the same manner as compensation due for a taking of property pursuant to the condemnation laws of this state."

Page 1, line 18, remove the overstrike over "~~The state, a county or city, any~~"

Page 1, line 18, remove "Any"

Page 1, line 21, remove the overstrike over "~~person~~"

Page 1, line 21, remove "individual"

Page 1, line 22, remove the overstrike over "~~person~~"

Page 1, line 22, remove "individual"

Page 2, line 4, after "property" insert "except as compensation may be provided in section 37-17.1-12"

Page 2, line 23, after "negligence" insert "or willful and malicious failure to guard or warn against a dangerous condition, use, structure, or activity"

Page 2, after line 24, insert:

"SECTION 4. AMENDMENT. Section 40-22-01.1 of the North Dakota Century Code is amended and reenacted as follows:

40-22-01.1. Restoration of certain property damaged in flood control or during a declared disaster or emergency - Special assessments for costs.

When any city shall ~~have~~has constructed any temporary emergency flood control protection devices or works to protect property located within a portion of a city from flood damage or expended funds for the protection of the city from flood or other peril under chapter 37-17.1 or otherwise, the city may ~~cause the removal of~~maintain and remove material used in the construction of ~~such~~the temporary emergency flood control protection devices or works and the repair ~~of~~ damages to land, buildings, or personal property caused by the operation of its equipment upon the property while in the process of installing or removing ~~such~~the temporary emergency flood protection systems. ~~Such~~The city may create by resolution of its governing board a special assessment district encompassing the protected area. Special assessments against

the property within the district ~~shall~~must be imposed to cover the costs incurred by the city in constructing and maintaining the emergency flood protection devices or works and in removing the material used and in repairing the damages caused by the operation of equipment while installing or removing suchthe temporary emergency flood protection systems. The amount to be assessed must be established by a resolution adopted by the governing board. Special assessments against any property in the district ~~shall~~must be determined and made in the same manner as is provided for improvements by special assessments to the extent consistent herewith, and the certification and collection, including lien provisions, applicable to other special assessments ~~shall be~~are applicable hereto. Provided, however, that the provisions of sections 40-22-15, 40-22-17, and 40-22-18, relating to a resolution of necessity and protests against special assessments, ~~shall~~sections 40-22-10, 40-22-11, and 40-22-29, relating to engineers' reports, plans, and estimates, and section 40-22-19, relating to contract proposals, do not apply to special assessment districts created pursuant-~~to~~under this section."

Renumber accordingly