

MUNICIPAL GOVERNMENT

CHAPTER 277

SENATE BILL NO. 2166

(Senators Cook, Laffen, Unruh)
(Representatives Dockter, Headland, Olson)

AN ACT to create and enact a new section to chapter 40-05 of the North Dakota Century Code, relating to approval of property tax incentives granted by a city; to amend and reenact subsection 7 of section 40-57.1-03, section 40-58-20.2, subsection 2 of section 40-63-01, and subsection 3 of section 54-35-26 of the North Dakota Century Code, relating to approval of property tax incentives granted by a city and evaluation of economic development tax incentives; to provide for legislative management studies; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³¹ **SECTION 1.** A new section to chapter 40-05 of the North Dakota Century Code is created and enacted as follows:

Duties of cities granting property tax incentives.

1. Notwithstanding any other provision of law, before granting a property tax incentive on any parcel of property that is anticipated to receive a property tax incentive for more than five years, the governing body of a city shall send the chairman of each county commission and the president of each school district affected by the property tax incentive a letter, by certified mail, which provides notice of the terms of the proposed property tax incentive.
2. Within thirty days from receipt of the letter, each affected county and school district shall notify the city, in writing, whether the county or school district elects to participate in granting the tax incentive on the county or school district portion of tax levied on the property. The notification from a county or school district electing not to participate must include a letter explaining any reason for which the entity elected not to participate and whether the county or school district is willing to negotiate the terms of the property tax incentive with the city.
3. If the city does not receive a response from an affected county or school district within thirty days of delivery of the letter, the county and school district must be treated as participating in the property tax incentive.
4. The term "negotiation" as used in this section means the governing body of an affected county or school district may negotiate the terms of participating in the tax incentive, including the duration of the tax incentive and the taxable value selected for the base year for purposes of computing tax increments.

¹³¹ Section 40-05-24 was amended by section 22 of House Bill No. 1015, chapter 14.

5. If an agreement is reached through negotiation under this section, the property tax incentive must be applied in accordance with the agreement.

SECTION 2. AMENDMENT. Subsection 7 of section 40-57.1-03 of the North Dakota Century Code is amended and reenacted as follows:

7. During the negotiation and deliberation of a property tax exemption or the option to make payments in lieu of taxes under this chapter, a municipality shall include, as nonvoting ex officio members of its governing body, a representative appointed by the school board of each school district affected by the proposed action and a representative appointed by the board of township supervisors of each township affected by the proposed action. Before granting a property tax incentive on any parcel of property that is anticipated to receive a property tax incentive for more than five years, the governing body of a city must comply with the requirements in section 1 of this Act.

SECTION 3. AMENDMENT. Section 40-58-20.2 of the North Dakota Century Code is amended and reenacted as follows:

40-58-20.2. Tax increment financing proposal - Public hearing - Invitation to representatives of affected taxing districts.

1. Before approval of a development or renewal plan for any development or renewal area under section 40-58-20, the governing body of the municipality shall conduct a public hearing on the proposal. The governing body shall provide invitations to participate in the public hearing to the governing body of each county, school district, and park district within the development or renewal area. At a minimum, the governing body of the municipality shall provide the following information at the public hearing:
 1. a. The anticipated costs of development of property to be reimbursed by tax incentives.
 2. b. The anticipated annual revenue from tax increments which will be received to complete the development or renewal plan.
 3. c. The anticipated date when the plan will be completed, the costs will be fully paid, and the tax increments will be released.
 4. d. The estimate of the dollars annually attributable to the levies from each taxing entity which will be credited to the tax increment fund.
2. Before granting a property tax incentive on any parcel of property that is anticipated to receive a property tax incentive for more than five years, the governing body of the municipality must comply with the requirements in section 1 of this Act.

SECTION 4. AMENDMENT. Subsection 2 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Development plan" means a written plan that addresses the criteria in subsection 1 of section 40-63-03 and includes the following:
 - a. A map of the proposed renaissance zone which indicates the geographic boundaries and blocks, a description of the properties and structures on

- each block, identification of those properties and structures to be targeted for potential zone projects, and a description of the present use and conditions of the targeted properties and structures.
- b. A description of the existing physical assets, in particular natural or historical assets, of the zone and a plan for the incorporation and enhancement of the assets within the proposed development.
 - c. An outline of goals and objectives and proposed outcomes, including major milestones or benchmarks, by which to gauge success resulting from the designation of the zone.
 - d. A description of the types of projects the city would encourage in the city's targeted properties.
 - e. A description of the promotion, development, and management strategies to maximize investment in the zone.
 - f. A plan for the development, promotion, and use of a renaissance fund organization, if one is desired to be established. If a city is not ready to commit to establishing a renaissance fund organization, the city may indicate in the renaissance zone application the city's desire to submit a plan for approval at a later date.
 - g. Evidence of community support and commitment from residential and business interests. Evidence of community support must include letters of support from the governing bodies of each county and school district that contain property located within the boundaries of the proposed renaissance zone.

¹³² **SECTION 5. AMENDMENT.** Subsection 3 of section 54-35-26 of the North Dakota Century Code is amended and reenacted as follows:

3. The legislative management interim committee assigned the study responsibility under this section may examine economic development tax incentives, shall complete analysis of the ~~state-imposed tax aspects of the~~ incentives it designates for analysis during the interim, and shall approve a plan to provide that each of the economic development tax incentives listed in this subsection is subject to a complete analysis within each six-year period. The interim committee may include in its recommendations any amendments to this section, including amendments to add or remove incentives from the list of incentives subject to analysis under this subsection. Analysis must be completed for ~~state-imposed tax aspects of~~ economic development tax incentives, including each of the following:
 - a. Renaissance zone credits and exemptions.
 - b. Research expense credit.
 - c. Agricultural commodity processing facility investment credit.
 - d. Biodiesel fuel production facility construction or retrofit credit, biodiesel fuel blending credit, and biodiesel fuel equipment credit.

¹³² Section 54-35-26 was also amended by section 1 of House Bill No. 1049, chapter 390, and section 1 of House Bill No. 1050, chapter 389.

- e. Seed capital investment credit.
- f. Wage and salary credit.
- g. Internship program credit.
- h. Microbusiness credit.
- i. Angel fund investment credit.
- j. Workforce recruitment credit.
- k. Soybean or canola crushing facility construction or retrofit credit.
- l. Manufacturing automation equipment credit.
- m. New or expanding business exemption.
- n. Manufacturing and recycling equipment sales tax exemption.
- o. Coal severance and conversion tax exemptions.
- p. Oil and gas gross production and oil extraction tax exemptions.
- q. Fuel tax refunds for certain users.
- r. New jobs credit from income tax withholding.
- s. ~~Any economic development tax incentive created by the sixty-fourth legislative assembly~~ Development or renewal area incentives.
- t. Sales and use tax exemption for materials used to construct a fertilizer or chemical processing facility.
- u. Sales and use tax exemption for materials used in compressing, gathering, collecting, storing, transporting, or injecting carbon dioxide for use in enhanced recovery of oil or natural gas.
- v. Sales and use tax exemption for enterprise information technology equipment and computer software used in a qualified data center.

SECTION 6. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX IMPACTS FROM CITY GROWTH AND DEVELOPMENT. During the 2017-18 interim, the legislative management shall consider studying how city growth and infill development affects property taxes, and evaluate the return on investment for state and community projects. The study must examine various policies affecting city development patterns, including the impact of transfer payments between state and local governments; the cost of government services and infrastructure, including future liability; the amount of tax revenue generated per increment of assumed liability for downtown areas; and whether certain areas of a city generate more revenue than expenses while other areas generate more expenses than revenue. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

SECTION 7. LEGISLATIVE MANAGEMENT STUDY - APPLICATION OF PROPERTY TAX INCENTIVES. During the 2017-18 interim, the legislative management shall consider studying the duplicative application of property tax incentives, including benefits received by properties located in both a tax increment financing district and a renaissance zone; the duration for which a single property may benefit from the use of multiple property tax incentives; and the impacts on the remainder of the property tax base that is not receiving incentives created as a result of offering property tax incentives. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

SECTION 8. EFFECTIVE DATE. Sections 1 through 4 of this Act are effective for property tax incentives approved after July 31, 2017.

Approved April 24, 2017

Filed April 25, 2017

CHAPTER 278

SENATE BILL NO. 2238

(Senator Oehlke)

AN ACT to amend and reenact sections 40-08-09 and 40-09-17 of the North Dakota Century Code, relating to employing as city employees members of a city council or city commission; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-08-09 of the North Dakota Century Code is amended and reenacted as follows:

40-08-09. Restrictions on members of council.

1. Except as provided in ~~subsection 2~~this section, no member of the city council shall:
 - a. Be eligible to any other office the salary of which is payable out of the city treasury;
 - b. Hold any other office under the city government; or
 - c. Hold a position of remuneration in the employment of the city.
2. A member of the city council may serve as an ambulance crew member employed by the city or under a contract with the city and be remunerated for those services or as a volunteer firefighter or ambulance crew member for the city and be compensated for attending training or responding to emergency calls or may be reimbursed for expenses incurred in attending training or in responding to emergency calls.
3. A member of the city council in a city having a population of five hundred or fewer may hold a position of remuneration in the employment of the city if no other qualified individual is available to hold the position of remuneration at an equal cost to the city. The decision to employ the member of the city council must receive the unanimous approval of the other members of the council, and the approval must be documented in the official minutes of the council. This subsection does not apply to appointed officer positions under section 40-14-04.

SECTION 2. AMENDMENT. Section 40-09-17 of the North Dakota Century Code is amended and reenacted as follows:

40-09-17. Restrictions on members of board.

1. Except as provided in ~~subsection 2~~this section, a member of the board of city commissioners may not:
 - a. Be eligible to any other office the salary of which is payable out of the city treasury;

- b. Hold any other office under the city government; and
 - c. Hold a position of remuneration in the employment of the city.
2. A member of a board of city commissioners may serve as an ambulance crew member employed by the city or under a contract with the city and be remunerated for those services or as a volunteer firefighter or ambulance crew member for the city and be compensated for attending training or responding to emergency calls or may be reimbursed for expenses incurred in attending training or in responding to emergency calls.
3. A member of the board of city commissioners in a city having a population of five hundred or fewer may hold a position of remuneration in the employment of the city if no other qualified individual is available to hold the position of remuneration at an equal cost to the city. The decision to employ the member of the city commission must receive the unanimous approval of the other members of the commission, and the approval must be documented in the official minutes of the commission. This subsection does not apply to appointed officer positions under section 40-15-05.

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

Approved March 22, 2017

Filed March 22, 2017

CHAPTER 279

SENATE BILL NO. 2148

(Senators Kreun, Campbell)
(Representatives D. Anderson, Sukut)

AN ACT to create and enact a new subsection to section 40-16-03 of the North Dakota Century Code, relating to training for city auditors; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 40-16-03 of the North Dakota Century Code is created and enacted as follows:

Training. For an individual who is appointed to the position of city auditor, to complete, within one year of assuming office, training based on a curriculum specific to that office and approved by a statewide association representing cities.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 2018.

Approved March 22, 2017

Filed March 22, 2017

CHAPTER 280

SENATE BILL NO. 2132

(Senators Armstrong, Hogue)
(Representatives Maragos, Toman)

AN ACT to amend and reenact section 40-18-15.1 of the North Dakota Century Code, relating to transfer to district court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-18-15.1 of the North Dakota Century Code is amended and reenacted as follows:

40-18-15.1. Transfer to district court - Expenses of prosecution - Division of funds and expenses between city, county, and state.

A matter may be transferred to district court for trial ~~only~~ if within twenty-eight days after arraignment the defendant has requested in writing to transfer the case to district court and to exercise the defendant's right to a jury trial. After a transfer to district court, if the defendant waives a jury trial, the matter must be remanded to the municipal court ~~unless the defendant and the prosecuting attorney agree that jurisdiction for the matter should remain with the district court for disposition if the defendant and prosecuting attorney agree to the remand. If the defendant does not waive a jury trial~~ Unless remanded to the municipal court by agreement of the parties, the district court shall retain jurisdiction for sentencing. The city shall provide a prosecuting attorney and, in the case of any indigent defendant, a defense attorney. The city may contract with the county, state, or any individual or entity for prosecution or defense services. In the contract, the city, county, and state may agree to a division of all fees, fines, costs, forfeitures, and any other monetary consideration collected from cases transferred under this section, which must be paid to the city and county treasury and state general fund at least once each quarter. At the time of payment, the clerk of district court shall account under oath to the city auditor, county, and state treasurer for all money collected. In the contract the city, county, and state may also agree to a division of expenses, including jury and witness expenses, related to cases transferred under this section. In the absence of a contract all fees, fines, costs, forfeitures, and any other monetary consideration collected from transferred cases must be deposited in the state general fund.

Approved March 24, 2017

Filed March 24, 2017

CHAPTER 281

SENATE BILL NO. 2304

(Senators Roers, Bekkedahl, Kreun)
(Representatives Beadle, Dockter, Sukut)

AN ACT to amend and reenact section 40-29-11 of the North Dakota Century Code, relating to payment of assessments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-29-11 of the North Dakota Century Code is amended and reenacted as follows:

40-29-11. Payment of assessments - Interest.

All assessments for sidewalks ~~shall~~must be payable in equal annual amounts extending over a period of not exceeding ~~ten~~twenty years and ~~shall~~must bear interest at an annual rate of not more than two percentage points above the average net annual interest rate on ~~any~~ warrants for the total amount of the assessments remaining unpaid. Anyone may pay the sidewalk assessment in one single payment, and anyone who has paid ~~any~~ one or more installments may pay the balance in one payment.

Approved March 22, 2017

Filed March 23, 2017

CHAPTER 282

HOUSE BILL NO. 1385

(Representative Klemin)

AN ACT to create and enact section 40-57-19.2 of the North Dakota Century Code, relating to municipal refunding bonds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 40-57-19.2 of the North Dakota Century Code is created and enacted as follows:

40-57-19.2. Refunding bonds.

1. Any municipality may provide for the issuance of refunding bonds to refund, in whole or in part, bonds previously issued by the 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.
2. The principal amount of the refunding bonds may include:
 - a. The principal amount of the outstanding bonds to be refunded.
 - b. Any interest accrued or to accrue to the earliest or subsequent date of redemption, or maturity of the outstanding bonds to be refunded.
 - c. Any redemption premium required to be paid on the outstanding bonds to be refunded.
 - d. Any expenses related to the issuance of the refunding bonds.
 - e. Any interest on the refunding bonds to be paid with the proceeds of the refunding bonds.
3. When the refunding bonds are issued and sold by more than six months in advance of the date or dates determined by the issuer for the redemption or retirement of all of the outstanding bonds to be refunded, the proceeds of the refunding bonds, including any premium or accrued interest, must be deposited in escrow with a suitable bank or trust company. The escrowed proceeds must be invested and reinvested in direct obligations of the United States or any agency or instrumentality of the United States, in any obligations of which the principal and interest are unconditionally guaranteed by the United States, in certificates of deposit or time deposits secured by direct obligations of the United States, or by obligations of which the principal and

interest are unconditionally guaranteed by the United States. Funds other than proceeds of the refunding bonds, including moneys on hand in a bond fund or sinking fund maintained for the payment of the outstanding bonds to be refunded and not immediately needed for the payment of interest or principal due, also may be deposited in the escrow fund and invested in the same manner as the proceeds of the refunding bonds. The principal of and earnings on the obligations or securities in the escrow fund may be used to retire or redeem the outstanding bonds, pay any principal of or interest on the refunding bonds, or pay any expenses relating to the retirement or redemption of the outstanding bonds or the issuance of the refunding bonds. Any proceeds of the refunding bonds or money in the escrow fund not expended as set forth in this section may be returned to the industrial or commercial enterprise as an overpayment of rentals or purchase price installments.

Approved March 22, 2017

Filed March 23, 2017