

JUDICIAL PROCEDURE, CIVIL

CHAPTER 265

SENATE BILL NO. 2264

(Senators Unruh, Klein, Schaible)
(Representatives Howe, Nathe, Porter)

AN ACT to amend and reenact subsection 2 of section 28-32-01 of the North Dakota Century Code, relating to the board of university and school lands and exempt administrative agencies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁸ **SECTION 1. AMENDMENT.** Subsection 2 of section 28-32-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Administrative agency" or "agency" means each board, bureau, commission, department, or other administrative unit of the executive branch of state government, including one or more officers, employees, or other persons directly or indirectly purporting to act on behalf or under authority of the agency. An administrative unit located within or subordinate to an administrative agency must be treated as part of that agency to the extent it purports to exercise authority subject to this chapter. The term administrative agency does not include:
 - a. The office of management and budget except with respect to rules made under section 32-12.2-14, rules relating to conduct on the capitol grounds and in buildings located on the capitol grounds under section 54-21-18, rules relating to the classified service as authorized under section 54-44.3-07, and rules relating to state purchasing practices as required under section 54-44.4-04.
 - b. The adjutant general with respect to the department of emergency services.
 - c. The council on the arts.
 - d. The state auditor.
 - e. The department of commerce with respect to the division of economic development and finance.
 - f. The dairy promotion commission.
 - g. The education factfinding commission.

¹¹⁸ Section 28-32-01 was also amended by section 6 of House Bill No. 1521, chapter 472, and section 2 of Senate Bill No. 2215, chapter 144.

- h. The educational technology council.
- i. The board of equalization.
- j. The board of higher education.
- k. The Indian affairs commission.
- l. The industrial commission with respect to the activities of the Bank of North Dakota, North Dakota housing finance agency, public finance authority, North Dakota mill and elevator association, North Dakota farm finance agency, the North Dakota transmission authority, and the North Dakota pipeline authority.
- m. The department of corrections and rehabilitation except with respect to the activities of the division of adult services under chapter 54-23.4.
- n. The pardon advisory board.
- o. The parks and recreation department.
- p. The parole board.
- q. The state fair association.
- r. The attorney general with respect to activities of the state toxicologist and the state crime laboratory.
- s. The administrative committee on veterans' affairs except with respect to rules relating to the supervision and government of the veterans' home and the implementation of programs or services provided by the veterans' home.
- t. The industrial commission with respect to the lignite research fund except as required under section 57-61-01.5.
- u. The attorney general with respect to guidelines adopted under section 12.1-32-15 for the risk assessment of sexual offenders, the risk level review process, and public disclosure of information under section 12.1-32-15.
- v. The commission on legal counsel for indigents.
- w. The attorney general with respect to twenty-four seven sobriety program guidelines and program fees.
- x. The industrial commission with respect to approving or setting water rates under chapter 61-40.
- y. The board of university and school lands with respect to the adjudicative proceeding requirements and procedures under sections 28-32-21 through 28-32-51.

Approved April 15, 2019

Filed April 15, 2019

CHAPTER 266

HOUSE BILL NO. 1275

(Representatives K. Koppelman, D. Anderson, Hatlestad, Heinert, Lefor, Louser,
Toman)
(Senators Heckaman, Kreun, J. Roers)

AN ACT to amend and reenact section 28-32-02 of the North Dakota Century Code, relating to limitations on the adoption of administrative rules; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 28-32-02 of the North Dakota Century Code is amended and reenacted as follows:

28-32-02. Rulemaking power of agency - Organizational rule.

1. The authority of an administrative agency to adopt administrative rules is authority delegated by the legislative assembly. As part of that delegation, the legislative assembly reserves to itself the authority to determine when and if rules of administrative agencies are effective. Every administrative agency may adopt, amend, or repeal reasonable rules in conformity with this chapter and any statute administered or enforced by the agency. An administrative agency may not adopt a rule that prescribes a criminal penalty unless authorized by another chapter.
2. In addition to other rulemaking requirements imposed by law, each agency may include in its rules a description of that portion of its organization and functions subject to this chapter and may include a statement of the general course and method of its operations and how the public may obtain information or make submissions or requests.

SECTION 2. RETROACTIVE APPLICATION. This Act is retroactive in application and any rule adopted before the effective date of this Act which prescribes a penalty in violation of this Act is void.

Approved April 17, 2019

Filed April 18, 2019

CHAPTER 267

HOUSE BILL NO. 1422

(Representative Devlin)

AN ACT to amend and reenact sections 28-32-20 and 54-03-24 of the North Dakota Century Code, relating to electronic notification of the administrative code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 28-32-20 of the North Dakota Century Code is amended and reenacted as follows:

28-32-20. ~~Printing, sales, and distribution~~Notification of code and code supplement.

1. The legislative council shall publish the code and code supplement on the legislative branch website.
2. The secretary of state shall ~~distribute~~send electronic notification of quarterly updates to the code and code supplement and shall distribute copies of the code, revisions, and the code supplement without charge to the following:
 - a. Governor, ~~one copy.~~
 - b. Attorney general, ~~one copy.~~
 - c. Each supreme court judge, ~~one copy~~justice.
 - d. Each district court judge, ~~one copy.~~
 - e. Each county auditor of this state, ~~for the use of county officials and the public, one copy.~~
 - f. Supreme court library, ~~one copy.~~
 - g. State library, ~~one copy.~~
 - h. Law library of the university of North Dakota, ~~one copy.~~
 - i. Each of the five depository libraries in this state, ~~one copy, upon request.~~
 - j. Secretary of state, ~~one copy.~~
 - k. Legislative council, ~~four copies.~~
 - l. Each member of the legislative assembly, one copy, upon requestUpon request, to any person requesting electronic notification of quarterly updates to the code.
2. The legislative council, each county auditor in the state, and the librarians for the supreme court library, the state library, the university of North Dakota law

~~library, and the five depository libraries as designated according to subsection 1 and section 54-24-09 shall maintain a complete, current set of the code, including revisions and the code supplement.~~

- ~~3. The secretary of state shall make copies of and subscriptions to the code and code supplement available to any person upon payment of the appropriate subscription fee.~~
- ~~4. The legislative council shall determine the appropriate fee for subscribing to the code and code supplement.~~
- ~~5. All fees collected by the secretary of state must be deposited in the general fund of the state treasury.~~
- ~~6. If applicable, the administrative code, revisions to the administrative code, and the code supplement must be considered sixth-class printing under sections 46-02-04 and 46-02-09.~~

SECTION 2. AMENDMENT. Section 54-03-24 of the North Dakota Century Code is amended and reenacted as follows:

54-03-24. Administrative Code distributed to each legislator -- Retention code.

~~Each member of the legislative assembly is entitled to receive a current set of the North Dakota Administrative Code~~electronic notification of quarterly updates to the North Dakota administrative code as provided in section 28-32-20. ~~The legislator is entitled to current supplements and volumes as provided in section 28-32-20 to maintain the code during the legislator's service. The code received by a legislator under this section is not subject to section 46-04-04. After a legislator's service in the legislative assembly is terminated, the secretary of state shall inform the legislator how to obtain a subscription to maintain the legislator's code.~~

Approved April 4, 2019

Filed April 5, 2019