

MUNICIPAL CORPORATIONS

CHAPTER 198

H. B. No. 87—(Olson of Barnes)

TERM OF OFFICE OF ALDERMEN

An Act Amending and re-enacting Section 3583 of the Compiled Laws of North Dakota for the year 1913 as amended by Section 2 of Chapter 167 of the Session Laws of North Dakota for the year 1933 as amended by Chapter 190 of the Session Laws of North Dakota for the year 1935, relating to the term of office of aldermen. Repeal.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 3583 of the Compiled Laws of North Dakota for the year 1913 as amended by Section 2 of Chapter 167 of the Session Laws of North Dakota for the year 1933 as amended by Chapter 190 of the Session Laws of North Dakota for the year 1935, be amended and re-enacted to read as follows:

§ 3583. TERM OF OFFICE.] Aldermen shall hold their office for four year and until their successors are elected and qualified, provided, however, that the aldermen elected shall alternate in their respective terms of office by electing only one-half of the number of aldermen at any one election, provided further that when a city governed under the Commission system of city government adopts the City Council form of city government as provided by Section 3839 of the Compiled Laws of North Dakota for the year 1913, then to effect such alteration one-half of the aldermen in each ward, or in case the city is not divided into wards then the one-half of the aldermen in the city receiving the greatest number of votes when elected shall serve for four years, and the one-half of the aldermen in each ward, or in the city if the city is not divided into wards, receiving the lowest number of votes when elected shall serve for two years; and provided further that whenever, for any cause, more than one-half of the total number of aldermen in each ward, or more than one-half of the number of aldermen in the city in case the city is not divided into wards, are to be elected in any one election, then the number representing one-half of the total number of aldermen of the ward, or of the city in case the city is not divided into wards, and receiving the lowest number of votes at said election when elected shall serve for only two years and the others elected at said election shall serve for four years.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved February 24, 1941.

CHAPTER 199
S. B. No. 169—(Rue)

PROVIDING FOR DESTRUCTION OF BONDS, COUPONS, ETC.,
OF CITIES AND VILLAGES

An Act providing for the destruction of certain bonds, coupons, warrants and other evidences of debt of cities and villages, providing the procedure to be adopted and used before destruction and the time during which such documents must be kept before destruction thereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DOCUMENTS WHICH MAY BE DESTROYED DEFINED.] The documents referred to in this act shall be construed to mean all bonds, bond coupons for interest, warrants, special assessment warrants and any and all other documents evidencing debt and made or executed by any city or village in the State of North Dakota.

§ 2. TIME TO BE KEPT.] No such documents as hereinbefore defined shall be destroyed as hereinafter provided until ten years have elapsed after their payment; provided that no such documents shall be destroyed until the right of action to determine the validity of such documents has run.

§ 3. PROCEDURE FOR DESTRUCTION.] The governing body of any city or village desiring to destroy such documents as hereinbefore set forth shall at its first meeting in January of each year procure from the auditor or clerk of such city or village a list of such documents which have been paid more than ten years prior to such time or against which the right of action to determine the validity of such documents has run, which said list shall contain a full statement and description of the documents desired to be destroyed and thereupon shall check said documents with such lists, and if found correct the said governing body shall by resolution order that said documents be destroyed and shall in said resolution provide the manner of such destruction. The list provided for in this section shall be filed in the office of the city auditor or village clerk and retained as a permanent record.

Approved March 7, 1941.

CHAPTER 200

H. B. No. 211—(Johnson of Cass)

FILING OF FINAL BUDGETS AND TAX LEVIES
BY MUNICIPALITIES

An Act to amend and re-enact Section 3684a3 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 as amended and re-enacted by Chapter 175 of the Session Laws of North Dakota for 1939.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 3684a3 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913 as amended and re-enacted by Chapter 175 of the Session Laws of North Dakota for 1939 is hereby amended and re-enacted to read as follows:

§ 3684a3. PRELIMINARY BUDGET STATEMENT.] The Council of each municipality shall make annually between July 1st and July 15th of each year on suitable blanks prescribed by the State Tax Commissioner an itemized statement (to be known as the Preliminary Budget Statement) of the amounts of money which, in the opinion of such council, shall be required for the proper maintenance, expansion or improvement of the municipality during the fiscal year and such other information relating to the finances of the municipality as the State Tax Commissioner may require.

§ 2. FILING OF FINAL BUDGETS AND ANNUAL TAX LEVIES.] As soon as the governing board of any municipality subject to the provisions of Article 17-a of Chapter 44 of the Political Code of the Supplement to the Compiled Laws of North Dakota for 1913 and acts amendatory thereof and supplementary thereto shall have completed the final budget and shall have adopted the annual tax levy, the auditor or clerk of said municipality shall immediately thereafter send two certified copies of the levy as adopted and two certified copies of the final budget to the county auditor. As soon as the county auditor has available the data showing the total assessed valuation of said municipality, he shall proceed to calculate the necessary tax rates to produce the sums called for in said final budgets; provided, however, that if the county auditor shall find that any amount or amounts called for in the levy cannot be produced by a tax rate which is within the limits prescribed by statute, said auditor shall reduce the amount so that it can be produced by a tax rate which is within legal limits; and said auditor shall at once notify the council of the reductions so made by him. As soon as the county auditor shall have calculated the necessary tax rates to produce the sums called for in the said final budget or such reduced amount or amounts which can be produced by a tax rate which is within legal limits, and not later than November first of each year,

he shall transmit one copy of said annual tax levy and said final budget to the State Tax Commissioner.

Approved March 20, 1941.

CHAPTER 201

S. B. No. 146—(Bridston, Morgan of Richland and Thatcher)

FOOD MARKETS

An Act Authorizing city councils of cities in the state having a population of 15,000 and over to provide ordinances for the regulating and inspecting of food markets, stores and other places of business where food intended for human consumption is sold at retail and to prohibit the operation thereof on Sundays and legal holidays not inconsistent with the provisions of any state laws relating to the same subject matter and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. The city council of any city in this state having a population of 15,000 and over, shall have the power to enact ordinances providing for the regulating and inspecting of food markets, stores and other places where food intended for human consumption is sold at retail and to prohibit the operation thereof on Sundays and legal holidays.

§ 2. No ordinance or ordinances enacted under the provisions of this act shall be in conflict with any state laws covering the same subject matter.

§ 3. EMERGENCY.] This act is hereby declared to be an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 7, 1941.

CHAPTER 202

H. B. No. 187—(Fleck)

SEWER AND WATER IMPROVEMENTS, CITIES

An Act Relating to Payment of the Costs of Sewer and Water Improvements in Cities and Villages Partly by Special Assessments and Partly by Service Charges, and Declaring an Emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Any city or village hereafter constructing a sewer or water improvement under the provisions of Sections 3697 to 3743, Compiled Laws of 1913, or acts amendatory thereof or supplemental thereto, may, in the resolution required by Section 3704 as amended, resolve that a portion of the costs of the improvement shall be raised by service charges for use of the improvement. If so resolved, the city or village may, in its resolutions or ordinances and other proceedings relating to the levying of special assessments and the issuance of warrants to pay the costs of such improvement, determine the portion of such costs to be specially assessed against specially benefited property and cause to be specially assessed only the portion so determined. Except as to the portion resolved or ordained to be paid by service charges, all of the provisions of Sections 3697 to 3743 and acts amendatory thereof and supplemental thereto shall be applicable to such improvements. The city or village acting through its governing body shall provide for the establishment, imposition and collection of service charges for the services furnished by such improvement, and in connection therewith shall have all the rights and powers respecting such service charges and the pledging thereof and the making of covenants in respect thereto for the benefit and security of the warrant holders which it would have with respect to like matters if such improvement were made under authority of, and in accordance with, the Revenue Bond Law of 1937, being Chapter 104, Session Laws of 1937, and amendments thereto. The net revenues derived from the imposition and collection of such service charges shall be paid into the appropriate improvement district funds created pursuant to Section 3711, as amended, and shall be used and applied in like manner as moneys paid into such funds from the collection of special assessments.

§ 2. It is hereby found and declared that many (many) cities and villages are in need of sewer and water improvements, which they are unable to obtain by any of the methods presently permitted by law, and that there is immediate need of this law to protect the health and safety of the people. This Act is hereby declared to be an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 15, 1941.

CHAPTER 203

H. B. No. 188—(Fleck and Fitch)

STREET, WATER MAIN AND SEWER IMPROVEMENTS,
CITIES

An Act Authorizing cities to enter into agreement with the State Highway Department or Board of County Commissioners of any County, or both, for the Improvement of Streets, Water Mains and Sewers within the Limits of Such City, to Create a Special Improvement District for such purpose, Providing for the Assessment of a Proportionate Share of the Cost Thereof Against the Property Benefited, and Dispensing with Proceedings Leading up to the Construction of Such Improvement; Emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AGREEMENT FOR PUBLIC IMPROVEMENT.] Any City in this State through its governing body is hereby authorized to enter into an agreement with the Highway Department of the State of North Dakota, or the Board of County Commissioners of the County in which such city is located, or either or both, for the improvement of streets, sewers and water mains, and for this purpose may create a special improvement district or districts. Provided, however, that before any such agreement is entered into the owners of a majority of the property liable to be specially assessed for a portion of the cost of such improvement shall have filed with the governing body of such city, a petition in writing, requesting such improvement, and which petition shall have been thoroughly checked, the authenticity of the signatures and the ownership of the property affected established, and the petition approved by such governing body.

§ 2. PRELIMINARY REQUIREMENTS DISPENSED WITH.] Where such an agreement is entered into, and under the terms thereof the contract for such work is to be let by the State Highway Department or the Board of County Commissioners, or either, or both, and where under the terms of such agreement the portion of the cost of such project to be borne by the city will not exceed twenty per cent, and the portion of such cost to be borne by the owners of the property benefited thereby will not exceed thirty per cent, the governing body of such city, after taking steps to create such special improvement district, or districts, as the case may be, is hereby expressly authorized to dispense with the balance of the requirements set forth in Article 20 of Chapter 44, of the Compiled Laws of North Dakota for the year 1913, and acts amendatory thereof, relating to plans for, bids upon, contract for the construction, and any other steps therein provided leading up to the construction of such improvement work; provided, however, that, upon the completion of such work, the governing body of such city shall cause to be certified to the Special Assessment Commission that portion of the

cost of such project to be borne by the property owners within such special improvement district, and the assessment of such amount to the owners of the property benefited shall be made as in other cases provided for in said Article 20, of Chapter 44, above referred to.

§ 3. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 18, 1941.

CHAPTER 204

S. B. No. 82—(Committee on Tax and Tax Laws)

FUNDING AND REFUNDING MUNICIPAL INDEBTEDNESS

An Act to amend and re-enact Chapter 178, Session Laws for the year 1939 Relating to the Funding and Refunding of Existing Indebtedness of Municipalities and Declaring an Emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 1 of Chapter 178 of Session Laws of 1939 be and the same is hereby amended and re-enacted to read as follows:

§ 1. A municipality may issue bonds under the provisions of this act for the purpose of funding and refunding its existing indebtedness at any time prior to July 1, 1943. The terms "governing body" and "municipality" as used herein, shall be deemed and construed to mean the same as such terms are respectively defined in Chapter 196, Laws of 1927. The terms "floating indebtedness" and "bonded indebtedness" shall collectively be deemed to include orders, certificates of indebtedness, bonds, contracts and warrants and other instruments evidencing a general municipal indebtedness, issued and outstanding prior to January 1, 1941.

§ 2. AMENDMENT.] That Section 2 of Chapter 178 of the Session Laws of 1939 be, and the same is hereby amended and re-enacted to read as follows:

§ 2. (a) Any municipality may by resolution of the governing body propose or accept and adopt a plan for refunding (funding) and refunding floating indebtedness and/or bonded indebtedness or any part thereof existing prior to January 1, 1941. Such resolution shall recite the plan in detail and contain such provisions not inconsistent with this act as shall be found to be for the best interest of the municipality, its creditors, and its taxpayers. The plan may contem-

plate the issuance of bonds to refund any or all outstanding bonds, including bonds which are not due or about to become due, may provide that bonds may be exchanged in whole or in part for unmatured bonds with the consent of the holders thereof, and may provide for the execution and sale or exchange and delivery of bonds from time to time as needed to meet maturing obligations. Any such plan may provide for the issuance of one series of bonds or more than one series. The governing body may fix a time limit within which creditors may surrender obligations for payment of (or) exchange and may thereafter extend such time if it is found beneficial to the municipality to do so. The plan may require the consent of any specified percentage or amount of the holders of the obligations included in such plan before it shall become effective. Any municipality may take any action authorized by any present or future bankruptcy or similar law enacted by the Congress of the United States designed to assist in the compounding or compromising and refinancing of indebtedness, including the payment of fees and expenses necessary to make use of such act and approved by the court having jurisdiction thereof.

(b) OPTION OR REDEMPTION.] All bonds hereafter issued under this act and which bear interest at the rate of three (3%) per cent or less payable semi-annually and mature serially in twenty (20) years or less, in annual installments of not less than 5 per cent of the principal amount of the bond issue, commencing not later than the third year, may be issued without option of payment and redemption prior to maturity or with such provisions as to prior payment and redemption as the governing body shall adopt.

§ 3. AMENDMENT.] That Section 3 of Chapter 178 of the Session Laws of 1939 be amended and re-enacted to read as follows:

§ 3. Bonds issued hereunder may be sold or exchanged for outstanding bonds or other indebtedness, or part sold and part exchanged in such manner as the governing body shall determine, but none shall be sold or exchanged upon such terms that the annual interest cost of the proceeds, computed to maturities of the bonds of the series according to standard tables of bond values now in general nationwide use by financial institutions and insurance companies, will be more than the interest rate on the bonds or other indebtedness funded or refunded thereby, or exceed three (3%) per cent per annum, provided that except as to bonds heretofore contracted to be sold no bonds shall be sold or exchanged hereafter until the municipality has first advertised for bids at a public sale in the manner prescribed by Section 17 of Chapter 196, Laws of 1927 or acts amendatory thereof; provided, further, that it shall be unlawful for any municipality as herein defined or for the governing body thereof, to issue any bonds for any purpose under this act without first being authorized so to do by a vote of the qualified electors of such municipality, which election shall be held and conducted as

provided in Chapter 196 of the Session Laws of 1927 or acts amendatory thereof, excepting, however, that this proviso shall not apply to funding bonds which have been contracted to be sold by any such municipality prior to January 1, 1941. The officers may use the proceeds of bonds sold to purchase the outstanding bonds, for the refunding of which such bonds were issued, at the best price obtainable, not exceeding par and accrued interest to date of purchase, or may use such proceeds to pay a certain percentage of all bonds or other indebtedness surrendered for exchange and deliver bonds in exchange for the remainder of said bonds or indebtedness. Prior to or contemporaneously with the delivery of bonds, an equal value of outstanding bonds or other indebtedness shall be surrendered and cancelled. Insofar as any exchanges are made, the outstanding obligations shall be taken at not more than face amount with accrued interest and the bonds delivered shall be valued at not less than the face amount with accrued interest.

§ 4. It is expressly provided that no funding or refunding bonds may be issued hereunder unless approved by a vote of the people of the "municipality" as provided by Chapter 196, laws of 1927 and acts amendatory thereto.

§ 5. In all proceedings had or taken hereunder no attorney fees, brokerage or other fees, or commission of any kind shall be paid to any person, firm or corporation for assisting in the proceedings, or in the preparation of the bonds, or in negotiating the sale thereof.

§ 6. EMERGENCY.] This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Filed March 26, 1941.

CHAPTER 205

H. B. No. 71—(Olson of Barnes)

POWER OF MAYORS

An Act to amend and re-enact Section 3576, Compiled Laws of 1913, relating to the power of the mayor to keep the peace.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 3576, Compiled Laws of 1913, be and the same is hereby amended and re-enacted to read as follows:

§ 3576. POWER TO KEEP THE PEACE.] He shall have power,

when necessary, to call on each male inhabitant of the city over the age of 18 years to aid in enforcing the laws and ordinances of the city.

Approved February 18, 1941.

CHAPTER 206

H. B. No. 176—(Shure and Smart)

PARK DISTRICT TAX LEVIES FOR AIRPORTS

An Act to Amend and Re-enact Section 6 of Chapter 235 of the Session Laws of the State of North Dakota for the year 1929 as Amended by Chapter 176 of the Session Laws of 1939, Relating to Park District Tax Levies and Providing for a Levy by Park Districts Owning and Maintaining Air Ports Purchasing or Acquiring Lands for Air Ports and for Operating and Maintaining the Same; and Declaring an Emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 6 of Chapter 235 of the Session Laws of the State of North Dakota for the year 1929, as amended by Chapter 176 of the Session Laws of 1939, be and the same hereby is amended and re-enacted to read as follows:

§ 6. PARK DISTRICT TAX LEVIES.] Park district taxes shall be levied by the park commission at the annual budget meeting of the commission on the fourth Wednesday of July of each year or within ten days thereafter. In levying park district taxes the park commission shall be limited by the amount necessary to raise to meet appropriations included in its annual budget of the current fiscal year, and the sum necessary to be provided as a reserve fund (as hereinafter provided in Section 10) together with a tax sufficient in amount to pay the interest on the bonded debt of the municipality and provide a sinking fund to pay and discharge the principal thereof at maturity. The aggregate amount levied for park district purposes, exclusive of levies to pay interest on bonded debt and levies to pay and discharge the principal thereof, shall not exceed such amount as will be produced by a levy of 2 mills on the dollar of the net taxable assessed valuations of the district for the current year;

Provided further that any park district owning and operating an airport may levy an additional tax, regardless of the foregoing limitations and in addition to the levies hereinbefore provided for, of not to exceed two (2) mills on the dollar of the net taxable assessed valuation of the district for the current year, such additional tax to be used solely for the purpose of purchasing or acquiring lands necessary for said airport, paying for land heretofore acquired for said air port and for operating and maintaining the same.

Provided further, that park districts having a population of more than twenty thousand as shown by the last United States census may levy for general park purposes for the fiscal year beginning July 1, 1941 and also for the fiscal year beginning July 1, 1942, an additional one-half mill on the dollar of the net taxable assessed valuation of the district for each of said years.

§ 2. EMERGENCY.] Since the present law makes no provision for a special tax for the operation and maintenance of air ports by park districts, or for emergency levies for park districts having a population of more than twenty thousand, therefore, this act is declared to be an emergency measure and the same shall be in full force and effect from and after its passage and approval.

Approved March 7, 1941.

CHAPTER 207

S. B. No. 68—(Committee on State Affairs)

PENSIONS FOR CITY EMPLOYEES

An Act Creating pensions for disabled or retired City employees, other than policemen, their widows, and children under sixteen years of age; and widows of City employees who die in the service and their children under sixteen years of age; in cities now or hereafter having a population of 10,000 or over by the last official census, Federal or State; and providing for a fund out of which such pensions shall be paid; and for the establishment of a Pension Board for the management, control and distribution of such fund, and declaring an Emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CITY EMPLOYEE PENSION FUND.] Any City now or hereafter having a population of 10,000 inhabitants or over according to the last official census, Federal or State, and having adopted a Civil Service for City employees, may annually levy a tax of not more than one mill, in addition to any other levy authorized by law for general purposes for the purpose of creating a City Employee Pension Fund.

Whenever there is a sufficient balance in said fund to meet any proper or legitimate charges that may be made against the same, such City shall not be required to levy a tax for this purpose.

All the moneys derived from each tax so levied, and all moneys received as membership fees and dues, and all moneys received from grants, donations and devises for the benefit of such fund shall constitute a fund to be known and designated as a City Employee Pension Fund.

§ 2. BOARD OF TRUSTEES: OFFICERS.] The Executive Officer of the City, with the City Treasurer and the City Attorney of such Cities shall be ex-officio members of and shall constitute the Board of Trustees for the management of such fund. The executive officer of the City shall be President and the City Treasurer, Treasurer of such Board, and the faithful performance of the duties of the Treasurer shall be secured by his official bond as City Treasurer. Such Trustees shall not receive any compensation for their services as members of said Board.

§ 3. INVESTMENT OF SURPLUS.] The Board shall have power to invest any surplus left in such fund at the end of the fiscal year, but no part of the funds realized from any tax levy shall be used for any purpose other than the payment of pensions. Investments shall be limited to interest-bearing bonds of the United States, of the State of North Dakota, of any County, Township, or Municipal Corporation of the State of North Dakota. All such securities shall be deposited with the Treasurer of the Board of Trustees for safe keeping.

§ 4. GIFTS, DEVISES, OR BEQUESTS.] Such Board may take by gift, grant, devise or bequest any money or property, real or personal, or other thing of value for the benefit of said funds; and when so received, shall become a part of the pension fund as herein established.

§ 5. MEMBERSHIP FEE — ASSESSMENTS.] Every full-time municipal employee shall be required to pay to the Treasurer of said fund a membership fee to be fixed by the Board of Trustees not exceeding five dollars (\$5.00) and shall also be assessed and be required to pay annually an amount equal to two per cent (2%) per annum upon the amount of the annual salary paid to him, which assessment shall be deducted and retained in equal, monthly installments out of the salary for such employees.

§ 6. WHO ENTITLED TO PENSION. CONDITION.] Any appointed, full-time employee of such City, except members of the police force, who shall have served 20 years or more as an employee and shall have reached the age of 60 years; or who shall while employed by such City become mentally or physically, totally and permanently disabled for discharging his duties, shall be entitled to be retired and upon retirement shall be paid out of the Pension Fund of such city a monthly pension not to exceed sixty per cent (60%) of the amount of the average salary received by him monthly during his employment up to the date he actually retired from such service as provided for in the plan adopted, but in no event shall such pension exceed the sum of \$100.00 per month. If any member shall have served twenty years (20) in such City but shall not have reached the age of sixty (60) years, he shall be entitled to retirement, but no pension shall be paid while he lives until he reaches the age of sixty (60) years.

Provided further that no employee nor the dependents of any employee of such City shall be eligible for a pension unless such employee shall have been on active duty with the City for a period of ten (10) years regardless of age of such employee, unless the retirement of such employee shall be caused by mental or physical impairment received in line of duty totally and permanently disabling such employee.

Provided further that whenever the amount realized from the levies, assessments and fees as herein provide (provided) for shall not be sufficient to meet the demands of the withdrawels due to such retirement, then and in that event the Board of Trustees shall in their judgment apportion among the said employees entitled to a pension such amount as is available in said pension fund.

Provided further that any employee, who has been in the service of the City for a period of five (5) years and has for such period contributed into the employee's pension fund and who shall voluntarily and while in good standing as an employee of said City leave the employment of said City, shall upon application be entitled to a refund of fifty per cent (50%) of the amount contributed by said employee upon such retirement.

§ 7. MILITARY SERVICE.] Any employee of a City who resigns therefrom to serve in the army, navy or marine reserve, or marine corps, of the United States, or as a member of the United States army and navy reserve, or shall have been selected for training under the Selective Service provision of the Federal government and has returned with an honorable discharge from such service, shall have the period of such service included as part of his period of service to such City.

§ 8. TOTAL AND PERMANENT DISABILITY—HOW DETERMINED.] The question of total and permanent disability shall be determined by the Trustees upon the concurring report of at least two out of three physicians designated by the Board of Trustees to make a complete physical examination of the employee. After any employee shall become entitled to be retired, such right shall not be lost or forfeited by discharge or for any other reason except conviction for felony.

§ 9. RETIRED MEMBERS ASSIGNED FOR LIGHT DUTY.] The Chief Executive of such City may assign any employee of such City, retired or drawing pensions under the provisions of this Chapter, to the performance of light duties in the work of such City.

§ 10. PENSIONS—WIDOW—CHILDREN—DEPENDENTS.] Upon the death of any acting or retired City employee leaving a widow, dependent husband or minor children, or dependent father or mother surviving him, there shall be paid out of said funds as follows:

- (1) To the surviving widow or husband so long as she or

he remains unmarried and of good moral character, forty dollars (\$40.00) per month.

(2) If there be no surviving widow or husband, or upon the death or re-marriage of such widow or husband, then to the dependent father and mother, if both survive, or to either dependent parent, if one survives, forty dollars (\$40.00) per month.

(3) To the guardian of each surviving child under sixteen years of age, ten dollars (\$10.00) per month.

The aggregate of all such payments shall not exceed the amount provided for in the plan and in no event more than sixty per cent (60%) of the amount of the average salary of such employee at the time of his death or retirement, or the maximum amount provided for in this act. Provided, however, that the benefits provided by this Section shall be subject to the following definitions: The term "widow" or "husband" shall mean only such surviving spouse of a marriage contracted prior to retirement of deceased employee from active service, or of a marriage of a retired employee contracted prior to the date this Act takes effect. The term "child" and "children" shall mean only the surviving issue of a deceased active or retired employee, or the child or children legally adopted by a deceased employee prior to his retirement from active service, or by an employee now retired prior to the date this Act takes effect. The masculine pronoun used in this Act shall include the feminine.

§ 11. EXEMPTION.] All pensions paid under the provisions of this Chapter shall not be subject to assignment and shall be exempt from liability for debts of the person to or on account of whom the same is paid, and shall not be subject to seizure upon execution or other process.

§ 12. RE-EXAMINATION OF RETIRED EMPLOYEES.] The Board of Trustees created hereunder shall have power, at any time, to cause any employee of such City retired by reason of physical or mental disability to be brought before it and again examined by three competent physicians appointed by the Board of Trustees to discover whether such disability yet continues and can be improved and whether such retired employee should be continued on the pension roll, and shall have power to examine witnesses for the same purpose. The question of continued disability or ability to perform regular or light duties shall be determined by the concurring report of at least two of the three examining physicians. Such employee shall be entitled to reasonable notice that such examination will be made, and to be present at the time of the taking of any testimony, shall have the right to examine the witnesses brought before the Board and to introduce evidence in his own behalf. All witnesses shall be examined under oath, which may be administered by any member of such Board. Any employee having reached the retirement age, or being physically or mentally unfit to continue in the

services of the City, shall upon request from the Executive Officer of said City government retire from active service and the Board of Trustees shall make provisions for the payment of the pensions herein provided for.

§ 13. DECISION OF BOARD.] The decision of such Board upon such matters shall be final and conclusive, in the absence of fraud, and no appeal shall be allowed therefrom. Such disabled employee shall remain upon the pension roll unless and until reinstated in service by reason of such examination.

§ 14. MONEYS DRAWN—HOW PAID—REPORT.] All pensions paid and all moneys drawn from the pension fund under the provisions of this Chapter shall be upon warrants authorized by the appropriate Board of Trustees and issued by the Treasurer of such Board, which warrants shall designate the name of the person and the purpose for which payment is made. The Treasurer's annual report shall show the receipts and expenditures of each fund for the preceding fiscal year, the money on hand, and how invested. Such report shall be made to the Board of Trustees and shall be filed with the City Auditor.

§ 15. HOW ACT SHALL BECOME OPERATIVE.] The provisions of this Act shall become operative in any City qualified under the provisions of this Act by the adoption by the governing body of such City of a plan substantially setting forth the provisions of this Act and executed by the employees of such City at the time of the adoption of the pension plan herein provided for. After the adoption of the plan by this Act provided for by any City and concurred in by the employees, all employees thereafter employed by such City, shall be bound by the provisions of the said plan without further action on the part of the City government or the City employees.

Provided, however, that when said plan has been in operation in such city for a period of five years or more, it shall then be determined by the governing body of said city that the plan as adopted is not desirable or workable, then the governing body of such city may upon a two-thirds vote of the members present adopt a resolution submitting the question of the continuance of said plan to the voters of said city at any general or special city election.

Provided further, that upon a petition signed by a majority of the employees of such city requesting that the plan be discontinued, then the governing body of said city shall submit such question to the voters of said city. The question to be voted upon shall be, "shall the city employees' pension plan be continued?" If the voters of said city shall by a majority vote determine that the plan be discontinued, then such pension plan shall be discontinued in such city and the governing body thereof, shall proceed to liquidate such pension fund created thereunder, by discontinuing payments of any and all pensions and by refunding to the employees or their heirs the pro

rata share of such fund remaining as said employees have paid into such fund, and shall further transfer to the general fund of the city such proportion of the city share in such fund derived from taxes not expended for pensions.

§ 16. EMERGENCY.] This act is hereby declared to be an emergency and shall be in full force and effect after its passage and approval.

Approved February 21, 1941.

CHAPTER 208

H. B. No. 156—(Boulden, Benno, Fitch and Fleck)

POLICE PENSION AMENDMENT

An Act to amend and re-enact Section 1 of Chapter 174 of the Session Laws of North Dakota for the year 1937 as amended by Chapter 177 of the Session Laws of North Dakota for the year 1939, Relating to Pensions for Policemen and Dependents in Cities now, or Hereafter, Having a Population in Excess of Ten Thousand (10,000) Inhabitants.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 1 of Chapter 174 of the Session Laws of North Dakota for the year 1937, as amended by Chapter 177 of the Session Laws of North Dakota for the year 1939, be and the same is hereby amended and re-enacted to read as follows:

§ 1. POLICE PENSION FUND.] Any city now or hereafter having a population in excess of ten thousand (10,000) inhabitants, according to the last official census, Federal or State, and having an organized paid police department, may annually levy a tax of not more than one-quarter of one mill, in addition to any other levies authorized by law for general purposes, for the purpose of creating a policemen's pension fund.

Provided, further, that cities in which a police retirement system based upon actuarial tables shall be established by law, may levy for the police pension fund a total tax of not more than one-half mill in addition to any other levies authorized by law for general purposes.

Provided, further, that in the event a one-half mill levy, as hereinbefore provided for, together with contributions from beneficiaries and funds received from other sources as herein provided, shall be found to be inadequate or insufficient for the purpose of establishing a retirement system based upon actuarial tables, the governing body of such municipality shall, in order to establish such

a system upon an actuarial basis, have the power and it is hereby authorized to decrease the benefits hereinafter provided for; to extend the age at which retirement shall commence; to increase the amount of the contributions from beneficiaries; to limit the classes of beneficiaries; and to restrict the benefits payable to beneficiaries who may not have served twenty-two years in such department.

Whenever there is a sufficient balance in said fund to meet any proper or legitimate charges that may be made against the same, such city shall not be required to levy a tax for this purpose.

All moneys derived from each tax so levied, and all moneys received as membership fees and dues, and all moneys received from grants, donations, and devises for the benefit of such fund shall constitute a fund to be known and designated as a policemen's pension fund.

PROVIDED further, that in the event the provisions of the Federal Social Security Act shall be by the United States Congress extended to municipal employees, the governing body of any municipality may, and it is hereby authorized, to take all steps necessary to qualify its employees subject to terms of this act for benefits under the retirement provisions of such act. In such event the benefits received under and by virtue of any pension plan established under the provisions of this act shall be reduced by the benefits received under the Federal Social Security Act.

Provided further, that where any beneficiary, under a retirement system established under the provisions of this Act, shall be retired by reason of physical or mental disability and shall by reason thereof be entitled to benefits or awards under the provisions of the Workmens' Compensation Law for the State of North Dakota, the benefits or awards to which such beneficiary would be entitled under the provisions of the retirement plan herein provided for, shall be decreased in an amount equal to those received under the Workmens' Compensation Act.

Provided, further, that no member of such police department who shall become mentally or physically unable to perform his duties, nor any of his dependents, shall be entitled to retire and to receive benefits under this act unless he shall have been on active duty with the department for a period of ten years, or unless such mental or physical impairment was received in line of duty and permanently disabled such member.

Approved March 17, 1941.

CHAPTER 209

S. B. No. 69—(Committee on State Affairs)

REFUNDING ACT, SPECIAL IMPROVEMENT WARRANTS
IN CITIES AND VILLAGES

An Act to amend Sections 1, 3 and 4 of Chapter 207 Session Laws of 1935, relating to refunding special improvement warrants and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. That Section 1 of Chapter 207 Session Laws of 1935 is hereby amended and re-enacted to read as follows:

§ 1. Any city or village having valid outstanding special improvement warrants issued under Article 20 of Chapter 44 Political Code Compiled Laws of 1913, or acts amendatory thereof or supplementary thereto, may issue refunding special improvement warrants for the purpose of extending the maturity thereof, or for the purpose of reducing the rate of interest, or for more nearly equalizing the general taxes which the city or village may be or become obligated to levy for discharging deficiencies in the funds on which such warrants are drawn, whenever any of said warrants are past due or are redeemable, either at the option of the city or village or with the consent of the holders thereof, and there is not sufficient money in the improvement funds on which the warrants are respectively drawn for their payment.

§ 2. That Section 3 of Chapter 207 Session Laws of 1935 is hereby amended and re-enacted to read as follows:

§ 3. Refunding warrants may be sold for cash in such manner as the governing body may direct and the proceeds used to pay the warrants described in the initial resolution, or may be exchanged for such warrants but no such sale or exchange shall be made at less than par and accrued interest. Refunding warrants may be issued from time to time as the original warrants mature or are called for payment and redemption, or may be sold to pay, or exchanged for, warrants which are not due by agreement with the holders thereof. The governing body may enter into an agreement with the holders of outstanding warrants relating to an exchange for refunding warrants and may, but need not, provide that such agreement shall be effective when the holders of not less than seventy-five per cent of said warrants shall have entered into said agreement. Provided further that any city or village issuing refunding warrants under this act may incur and pay reasonable expenses incidental thereto for printing, and legal fees, and all such expenses shall be payable solely out of moneys in the special improvement fund or funds from which the refunded warrants are payable or out of moneys derived from

the sale of warrants drawn on the fund or funds which the refunding warrants are payable.

§ 3. That Section 4 of Chapter 207 Session Laws of 1935 is hereby amended and re-enacted to read as follows:

§ 4. Refunding warrants shall be made payable from a special fund created for that purpose. Such special fund may be created as a single consolidated fund for warrants issued to refund warrants of more than one district, or separate special funds may be created for warrants issued to refund warrants of each respective district. In either case, the warrants refunded shall not be cancelled, but shall be retained by the city or village as an asset of the fund from which the refunding warrants are payable. The special improvement fund or funds from which the refunded warrants are payable shall be continued, and payments therefrom shall be made on the warrants drawn thereon in the same manner as though none of such warrants had been refunded. All payments made on principal and interest of refunded warrants shall be credited to the fund from which the appropriate refunding warrants are payable and shall be applied in payment of principal and interest on the refunding warrants in the manner prescribed by the resolution or authorizing their issuance. It shall be the duty of the city or village to preserve and enforce, for the security of the refunding warrants, all rights and duties which constituted security for the refunded warrants. Among the rights and duties so to be preserved shall be the duty of the governing body of the city or village to levy a tax for the payment of any deficiency in the special improvement fund, and such tax shall be levied at the date of maturity of the last maturing warrant of the original issue, but may be payable in the years and amounts required to pay principal of and interest on the refunding warrants as the same become due.

§ 4. EMERGENCY.] Whereas, many cities and villages have outstanding special improvement warrants which are callable for redemption on interest payment dates occurring prior to July 1, 1941, and whereas there is no assurance that the present low rates of interest on municipal borrowings will continue for any considerable period, this act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved February 15, 1941.

CHAPTER 210

H. B. No. 186—(Fleck, Storman and Olson of Barnes)

TAX LIMITATION OF CITIES

An Act to Amend and Re-enact Sub-section (b) of Section 5 of Chapter 235 of the Session Laws of North Dakota for the Year 1929, as Amended and Re-enacted by Chapter 297 of the Session Laws of North Dakota for the Year 1931, and as Amended and Re-enacted by Chapter 208 of the Session Laws of North Dakota for the Year 1935, and as Amended and Re-enacted by Chapter 175 of the Session Laws of North Dakota for the Year 1937, Relating to Tax Limitations of Cities.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ I. AMENDMENT.] That Sub-section (b) of Section 5 of Chapter 235 of the Session Laws of North Dakota for the year 1929, as amended and re-enacted by Chapter 297 of the Session Laws of North Dakota for the year 1931, and as amended and re-enacted by Chapter 208 of the Session Laws of North Dakota for the year 1935, and as amended and re-enacted by Chapter 175 of the Session Laws of North Dakota for the year 1937, be and the same is hereby amended and re-enacted to read as follows:

(b) The aggregate amount levied for general city purposes shall not exceed such an amount as will be produced by a levy of fourteen mills on the net taxable assessed valuation of property in the city, provided that in cities supporting bands or public libraries an additional levy not to exceed two mills on the net taxable assessed valuation of property in such cities may be made for these purposes; provided further, that in cities supporting bands, public libraries and airports a levy, in addition to the above 14 mills, but not to exceed three mills on the net taxable assessed valuation of property in such city may be made for these purposes.

Approved March 15, 1941.