

FIRES

CHAPTER 278

HOUSE BILL NO. 1500
(Swiontek, Stenehjem)

INFORMATION DISCLOSURE TO FIRE MARSHAL

AN ACT to create and enact a new section to chapter 18-01 of the North Dakota Century Code, relating to the disclosure of information by insurance companies to the state fire marshal.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) A new section to chapter 18-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

DISCLOSURE OF INFORMATION - IMMUNITY - CONFIDENTIALITY.)

1. The state fire marshal may, in writing, require an insurance company at interest to release to him any or all relevant information or evidence deemed important which the company may have in its possession, relating to a fire loss when arson is suspected. This requirement shall be in addition to the information required to be reported by an insurance company under the provisions of section 18-01-05.
2. Relevant information may include, but is not limited to:
 - a. Pertinent insurance policy information relevant to a fire loss under investigation and any application for such a policy.
 - b. Policy premium payment records which are available.
 - c. History of previous claims made by the insured.
 - d. Material relating to the investigation of the loss, including statements of any person, proof of loss, and any other evidence relevant to the investigation.
3. When an insurance company has reason to believe that a fire loss in which it has an interest may be of other than

accidental cause, then, for the purpose of having such fire loss investigated by the state fire marshal, the company may, in writing, notify the state fire marshal and provide him with any or all material developed from the company's inquiry into the fire loss.

4. Any insurance company providing information to the state fire marshal pursuant to the provisions of this section shall have the right to request and receive relevant information from the state fire marshal within a reasonable time not to exceed thirty days.
5. Any insurance company, person acting in its behalf, or authorized agency, that releases information pursuant to the provisions of this section, whether written or oral, shall be immune from any liability arising out of the release of such information.
6. For the purposes of this section, "immune" shall mean that neither a civil action nor a criminal prosecution may arise from any action taken pursuant to the provisions of this section where actual malice, on the part of the insurance company, person acting in its behalf, or authorized agency, against the insured is not present.
7. The state fire marshal and any insurance company that receive any information furnished pursuant to the provisions of this section shall hold the information in confidence until such time as its release is required pursuant to a criminal or civil proceeding.

Approved March 18, 1979

CHAPTER 279

SENATE BILL NO. 2099
(Redlin)

INSURANCE PREMIUM TAX DISTRIBUTION

AN ACT to amend and reenact section 18-04-04 and section 18-04-05 of the North Dakota Century Code, relating to distribution of insurance premium tax to cities, rural fire departments, and rural fire protection districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 18-04-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-04-04. INSURANCE COMPANIES TO REPORT FIRE, ALLIED LINES, HOMEOWNER'S MULTIPLE PERIL, FARMOWNER'S MULTIPLE PERIL, AND COMMERCIAL MULTIPLE PERIL INSURANCE PREMIUM COLLECTIONS - FORM FURNISHED BY COMMISSIONER OF INSURANCE.) The commissioner of insurance, when he forwards to an insurance company which is issuing policies for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, and commercial multiple peril insurance in this state the form to be used in submitting its annual statement, shall forward a form containing the names of all cities and all rural fire protection districts or rural fire departments entitled to benefits under the provisions of this chapter. Every insurance company issuing policies for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, and commercial multiple peril insurance within this state shall complete such form by showing thereon the amount of all premiums received by it upon such policies issued on property within the corporate limits of each city shown on such form and on property within the boundaries of each rural fire protection district shown on such form or property within the boundaries of each rural fire department as certified by the state fire marshal during the year ending on the preceding thirty-first day of December, and shall file the same as a part of its annual statement.

SECTION 2. AMENDMENT.) Section 18-04-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-04-05. AMOUNT DUE CITIES, RURAL FIRE PROTECTION DISTRICTS, OR RURAL FIRE DEPARTMENTS - CERTIFICATE OF COMMISSIONER OF INSURANCE TO DEPARTMENT OF ACCOUNTS AND PURCHASES.) The commissioner of insurance shall compute the amounts due to the several cities, townships, certified rural fire departments, or fire protection districts entitled to benefits under this chapter, and shall certify such amounts for payment to the department of accounts and purchases on or before June first of each year, in the following manner:

1. To cities not within the boundaries of a fire protection district, a sum equal to two and one-fourth percent of the premiums received by insurance companies issuing policies for fire, allied lines, homeowner's multiple peril, farmowners's multiple peril, and commercial multiple peril insurance on property in such cities.
2. To each city fire department performing service outside of its incorporated limits, the sum of one hundred dollars. To each rural fire department not certified by the state fire marshal, the sum of two hundred dollars per year.
3. To each rural fire ~~department--ex~~ protection district organized within the provisions of this title or rural fire department certified by the state fire marshal, the sum of two hundred dollars per year plus two and one-fourth percent of the fire, allied lines, homeowner's multiple peril, and commercial multiple peril insurance premiums paid in any city, whether incorporated or not, and encompassed in a fire district two hundred dollars plus a sum equal to two and one-fourth percent of the premiums received by insurance companies issuing policies for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, and commercial multiple peril insurance on property within the boundaries of such rural fire protection districts or property served by certified rural fire departments.

There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated as a standing and continuing appropriation, such sums as may be necessary to make payments as provided in this section.

Approved March 27, 1979

CHAPTER 280

HOUSE BILL NO. 1046
(Legislative Council)
(Interim Committee on Corrections and Penology)

FIRE INSPECTION OF STATE BUILDINGS

AN ACT to provide for annual fire inspection of all state institutions and buildings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. ANNUAL FIRE INSPECTION OF STATE BUILDINGS AND INSTITUTIONS.) An annual fire inspection shall be performed at each state institution and building. The state fire marshal shall annually inspect the state penitentiary, the state farm, the state industrial school, the state hospital, and the San Haven state hospital. The annual inspection of all other state institutions and buildings shall be made by the fire department of the city or fire protection district in which the institution or building is located, at the direction of the officer in charge of the institution or building, who shall prepare a report based upon the findings of the fire inspection. The report, which shall contain specifications of any violations, shall be submitted to the responsible board, agency, or commission and a copy of the report shall be submitted to the state fire marshal.

If the report indicates that any violations can be corrected within the current budget of the responsible board, agency, or commission, action to correct the violations, unless good cause can be demonstrated to the attorney general, shall be initiated within thirty days of receipt of the report by the responsible board, agency, or commission.

For purposes of this section, a "fire inspection" is a procedure performed in accordance with standards set forth in the uniform building code, the code of the building officials and code administrators (BOCA), or the code of the national fire protection association (NFPA).

Approved April 7, 1979

CHAPTER 281

HOUSE BILL NO. 1518
(I. Jacobson, Schindler)

RURAL FIRE PROTECTION DISTRICT BOARD MEMBERSHIP

AN ACT to amend and reenact section 18-10-04 of the North Dakota Century Code, relating to organization of board of directors for rural fire protection districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 18-10-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-04. ORGANIZATION - BOARD OF DIRECTORS.)

1. At the time and place fixed by the county auditor for the public meeting as provided in section 18-10-03, the electors who are owners of any interest in real or personal property assessed for taxation in the district and who are residing within the boundaries of the district shall have the opportunity to decide by majority vote of those present whether the organization of the district shall be completed. Permanent organization shall be effected by the election of a board of directors consisting of not less than five residents of the district, at least one of whom shall reside in and represent each township if the district includes more than one township. If the district is composed of more than seven townships, the board may elect to have only seven members, but no more than one member may be from any township.
2. The board of directors shall meet as soon after the organizational meeting as possible to elect a president, a vice president, and a secretary-treasurer. All directors and officers shall be elected for two years and hold office until their successors have been elected and qualified, except that at the first election the vice president shall be elected as provided in this section for a one-year term, and one-half, or as close to one-half as possible depending upon the total number of directors, of the directors elected at the first election following the effective date of this section shall be selected by lot in the presence of a majority of such directors to serve one-year terms. All officers shall serve without pay.

Approved March 3, 1979

CHAPTER 282

HOUSE BILL NO. 1524
(F. Larson)

RURAL FIRE PROTECTION DISTRICT BONDS

AN ACT to create and enact a new subsection to section 21-03-06 of the North Dakota Century Code, relating to permissible purposes for issuing rural fire protection district bonds; and to amend and reenact subsection 7 of section 18-10-06, sections 18-10-08 and 18-10-14, and subsection 1 of section 21-03-01 of the North Dakota Century Code, relating to the authority of rural fire protection districts to issue bonds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 7 of section 18-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. To incur indebtedness on behalf of the district in accordance with chapter 21-03, or, with respect to this chapter, within the limits prescribed by section 18-10-08, and to authorize the issuance of evidences of such indebtedness as permitted by chapter 21-03, or, with respect to this chapter, as permitted under section 18-10-08, and to pledge any real or personal property owned or acquired by the district as security for the same.

SECTION 2. AMENDMENT.) Section 18-10-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-08. INDEBTEDNESS OF DISTRICT LIMITED.) No district shall become indebted for an amount that may not be payable from ninety percent of twenty times the current annual maximum tax levy as authorized by section 18-10-07. Within the limits herein authorized, the district shall have power to borrow money and to issue appropriate evidence of indebtedness thereof. No evidence of indebtedness issued under the provisions of this chapter shall bear interest at a rate or rates and be sold privately at a price resulting in an average annual net interest cost higher than eight

percent per annum. There shall be no interest rate ceiling on those issues sold at public sale. No evidence of indebtedness issued under the provisions of this chapter shall be sold for less than ninety-eight percent of par value plus accrued interest, if any interest has accrued as of the date of delivery thereof. The provisions of this section shall not limit the authority of the district to incur indebtedness and issue bonds in accordance with chapter 21-03.

SECTION 3. AMENDMENT.) Section 18-10-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-14. RATE OF TAX FIXED.) The rate of tax for functions pursuant to this chapter shall not exceed for the purchase of rural firefighting equipment in rural fire districts which may be organized upon petition of sixty percent of the freeholders, comprising an area of one or more townships, or for the purpose of assisting and contributing to the purchase and upkeep of firefighting equipment in adjoining cities not more than five mills per dollar valuation upon the property in such rural fire district. The provisions of this section shall not limit the authority of the district to issue bonds and levy taxes for their payment in accordance with chapter 21-03.

SECTION 4. AMENDMENT.) Subsection 1 of section 21-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Municipality" shall mean a county, city, township, public school district, park district, ~~or~~ recreation service district, or rural fire protection district empowered to borrow money and issue written obligations to repay the same out of public funds or revenue.

SECTION 5.) A new subsection to section 21-03-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

By any rural fire protection district for the purchase of such firefighting equipment, ambulances, or other emergency vehicles, or the acquisition, construction and equipping of such real property and improvements thereto, as shall be necessary and proper to carry out the general fire protection program of the district.

Approved March 12, 1979

CHAPTER 283

HOUSE BILL NO. 1148
(Schindler, Langley, Leibhan, Meyer)

FIRE PROTECTION CONTRACTS

AN ACT to amend and reenact section 18-10-10 of the North Dakota Century Code, relating to rural fire protection districts entering into contracts with other rural fire protection districts or state and local government agencies and requiring federal, state, and local agencies to reimburse the districts for fire protection services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 18-10-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-10. RURAL FIRE DEPARTMENT MAY ENTER INTO CONTRACT - POWER OF STATE AND LOCAL GOVERNMENT AGENCIES TO MAKE CONTRACT - REIMBURSEMENT.) Any rural fire protection district may elect to enter into a contract with another rural fire protection district to consolidate or cooperate for mutual fire protection and prevention purposes, including ambulance or emergency vehicle services,--or. Any rural fire protection district, or two or more districts operating in conjunction pursuant to this section, may enter into a contract with any federal, state, or local government agency for fire protection service or fire protection cooperation, including ambulance or emergency vehicle services,--upon terms suitable to all concerned,--and power to make such contracts is hereby conferred upon such--state or local government agency--in addition to such powers as have been heretofore provided by law. State and local government agencies shall have the power to contract for fire protection service or fire protection cooperation. Federal, state, and local government agencies shall reimburse rural fire protection districts for fire protection services provided on real property owned by such agencies. Reimbursement shall be on a reasonable annual fee based on the agency's acreage within the rural fire protection district, but in no event shall such fee be an amount greater than if such property had been subject to property tax levies.

Approved March 3, 1979

CHAPTER 284

SENATE BILL NO. 2319
 (Senators Peterson, Hanson)
 (Representative Kloubec)

ALTERNATE FIREMEN'S RELIEF ASSOCIATIONS

AN ACT to amend and reenact section 18-11-07, subsection 2 of section 18-11-15, and section 18-11-18 of the North Dakota Century Code, relating to officers of an alternate firemen's relief association, service pensions for association members, and proportional decrease in benefits for association members.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 18-11-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-11-07. OFFICERS.) The officers of the association shall be a president and a vice president, both of whom shall be elected from among members of the board of trustees, a secretary-treasurer, a board of trustees and a finance committee. All such officers shall be elected in the manner and for the terms prescribed in its articles of incorporation and bylaws. The board of trustees shall manage the affairs of the association. The secretary-treasurer shall furnish a corporate bond to the association for the faithful performance of his duties in an amount to be determined by the association. The premium on the bond shall be paid by the association. The secretary-treasurer may be paid ~~a salary not to exceed two dollars per member--annually~~ an annual salary not to exceed one-half of one percent of the current monthly salary of a first-class fireman for each member account.

SECTION 2. AMENDMENT.) Subsection 2 of section 18-11-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. All members must serve twenty years before they shall be eligible for a service pension; however, any member who has twenty years of service and who has not attained the retirement age of fifty years, shall have the right to retire from the department without forfeiting his right to a service pension. ~~Such person~~ The association, in its bylaws, may establish a retirement age of not less than

fifty years, at which time the service pension shall become payable. Such retirement age may be established for all firemen or classes of firemen by birth dates. A person who has served twenty years or more and who is separated from service, shall, upon application, be placed on the deferred pension roll of the association, and after he has reached the retirement age of fifty years, the association shall, upon application therefor, pay his service pension from the date he attains eligibility at a rate of forty percent of the monthly salary of a first-class fireman as determined on January first of the year in which the pension is paid. A member having thirty years' service can be placed upon the deferred pension roll until he reaches the age of sixty years, at which time he shall be allowed the maximum payment provided for in the schedule in subsection 1 of this section. Any person making such application thereby waives all other rights, claims, or demands against the association for any cause, except those causes that may have arisen from, or that may be attributable to, his service on the fire department.

SECTION 3. AMENDMENT.) Section 18-11-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-11-18. PROPORTIONAL DECREASE IN BENEFITS IF FUNDS NOT SUFFICIENT.) If the balances of the funds in a city with a population of fifty thousand or more shall decrease to four hundred thousand dollars, in a city with a population of over forty thousand but less than fifty thousand shall decrease to one hundred thousand dollars, in a city with a population of thirty-eight thousand or less shall decrease to fifty thousand dollars, the benefit provided for in sections 18-11-15, 18-11-16, and 18-11-17 shall be proportionately decreased, but in no case shall the benefit be decreased more than twenty percent at any one time. When the balances return to the above figures, then the benefits shall again be paid as prescribed in sections 18-11-15, 18-11-16, and 18-11-17. If at any time the association's actuary certifies that the balance of the association's fund, together with future contributions by active members and contributions by the state, or the city, or both, and earnings thereon, will be inadequate to provide future prescribed benefits for active and inactive members and their beneficiaries, the board of trustees of the association, by majority vote, may proportionately decrease the benefits provided for in sections 18-11-15, 18-11-16, and 18-11-17 by a total sum not to exceed twenty percent thereof, and not more than two percent in any one calendar year, subject to the following conditions:

1. In no event shall the benefit, payable in any calendar year, be less than the benefit paid in the previous calendar year, except to the extent that the reduction is attributable to a reduction in the salary of a first-class fireman upon which the benefit is computed.

2. The decrease in benefits authorized by this section shall not exceed the lesser of twenty percent of the benefits or so much thereof as is certified by the association's actuary to be necessary, from time to time. The duration of the decrease shall not extend beyond the period recommended by the association's actuary.
3. When the balance of the association's state fund, together with future contributions by active members, and contributions by the state, or the city, or both, and earnings thereon, are sufficient to provide future prescribed benefits for active and inactive members and their beneficiaries, benefits shall again be paid as prescribed by sections 18-11-15, 18-11-16, and 18-11-17.

Approved March 15, 1979