

MUNICIPAL GOVERNMENT

CHAPTER 443

SENATE BILL NO. 2430
(Hanson, Fritzell, Lips, Tennefos)

REQUISITES FOR CITY INCORPORATION

AN ACT to create and enact a new subsection to section 40-02-01 of the North Dakota Century Code, relating to the requisites for incorporation as a city; to provide an expiration date; and declaring an emergency.

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

* SECTION 1.) A new subsection to section 40-02-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

3. Notwithstanding subsections 1 and 2 of this section, if such territory shall be within eight miles of an incorporated city exceeding ten thousand in population, it shall not become incorporated as a city unless it has residing therein at least one hundred fifty inhabitants. The form of government adopted shall be in accordance with subsections 1 and 2 of this section. The provisions of this subsection 3 shall expire on June 30, 1981.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved April 4, 1979

* NOTE: This subsection is temporary and is therefore not codified as North Dakota Century Code Section 40-02-01(3).

CHAPTER 444

HOUSE BILL NO. 1264
(Committee on Political Subdivisions)
(At the request of the Attorney General)

LICENSING OF THEATERS

AN ACT to amend and reenact subsection 30 of section 40-05-01 of the North Dakota Century Code, relating to licensing of bowling alleys, pool, billiards, theaters and motion picture theaters; and to repeal chapter 53-06 of the North Dakota Century Code, relating to licensing of games and amusements.

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

SECTION 1. AMENDMENT.) Subsection 30 of section 40-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 30. BOWLING ALLEYS, POOL, AND BILLIARDS, THEATERS AND MOTION PICTURE THEATERS. To license, regulate, and tax, ~~prohibit,--and--suppress~~ bowling alleys, theaters, motion picture theaters, and pool or billiard tables, or any other tables or implements kept or used for similar purposes in any public place;

SECTION 2. REPEAL.) Chapter 53-06 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1979

CHAPTER 445

SENATE BILL NO. 2122
(Committee on Judiciary)

(At the request of the Department of Public Instruction)

ELECTION DISTRICTS IN COUNCIL CITIES

AN ACT to amend and reenact section 40-21-09 of the North Dakota Century Code, relating to election districts.

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

SECTION 1. AMENDMENT.) Section 40-21-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-09. ELECTION DISTRICTS IN COUNCIL CITIES - DIVISION AND CONSOLIDATION BY ORDINANCE - BALLOTS TO BE KEPT SEPARATE BY WARDS.) Each city operating under the council form of government in which aldermen are elected at large shall constitute an election district or voting precinct, and in all other cities each ward shall constitute an election district or voting precinct. Whenever the number of electors in any two or more contiguous wards does not exceed one hundred as determined by the number of votes cast at the last city election, the council, by ordinance, may consolidate such two or more wards into one precinct for voting purposes. In any city containing less than four hundred electors as determined by the number of votes cast at the last city election, the council, by ordinance, may consolidate all the wards of such city into one precinct for voting purposes. An ordinance dividing or consolidating wards shall be passed and shall take effect before the time of giving notice of the election. Wards and precincts established under the provisions of this section shall constitute election districts for all state, county, and city, ~~and see~~ elections. In city elections, separate ballot boxes and pollbooks shall be provided and kept for each precinct. The terms "wards", "precincts", and "election districts" shall have the same meaning except in the case where two or more wards are consolidated into one precinct for voting purposes or where one ward is divided into more than one precinct for voting purposes. Nothing herein shall be construed as prohibiting the use of one building as the election polling place for more than one ward or the installation of voting machines from separate wards therein.

Approved March 21, 1979

CHAPTER 446

SENATE BILL NO. 2421
(Goodman)

TOWNHOUSE PROPERTY ASSESSMENT AND TAXATION

AN ACT to create and enact a new section to chapter 40-23; and to create and enact a new section to chapter 57-02 of the North Dakota Century Code, relating to assessment and taxation of townhouse property.

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

SECTION 1.) A new section to chapter 40-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

If a townhouse development includes a right in the townhouse owners to use any lot or tract as a common area in connection with the townhouse development, the common area shall not be separately assessed for benefits but each lot or tract whose owner has a right to use the common area shall be assessed for the benefit to the common area in the proportion that each owner's right in the common area bears to all of the owners' rights in the common area.

SECTION 2.) A new section to chapter 57-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

TOWNHOUSES - COMMON AREAS - ASSESSMENT AND TAXATION.) Townhouse property shall be classified and valued as is other property except that the value of the townhouse property shall be increased by the value added by the right to use any common areas in connection with the townhouse development. The common areas of the development shall not be separately taxed. The value of a common area of the townhouse development shall be assessed in an equal amount to each townhouse in the development unless a declaration setting out a different apportionment is recorded in the office of the county register of deeds. The total value of the townhouse property, including the value added as provided herein, shall have the benefit of any homestead credit under section 57-02-08.1 or other special classification if the townhouse otherwise qualifies.

Approved March 15, 1979

CHAPTER 447

HOUSE BILL NO. 1293
(Representatives Langley, Berge, Hedstrom)
(Senators Mutch, Strand, Vosper)

MUNICIPAL POWER AGENCIES

AN ACT to create and enact a new section to chapter 40-33.2 of the North Dakota Century Code, relating to joint exercise of powers by a city with another public agency in respect to its electric utility system or any project and relating to joint exercise of powers by a municipal power agency with another public agency; to create and enact two new subsections to section 40-33.2-05 of the North Dakota Century Code, relating to exempting bonds and notes issued by a municipal power agency from taxation, and right of any holder of bonds or notes issued by a municipal power agency to bring suit; and to amend and reenact subsection 6 of section 40-33.2-02, subdivision g of subsection 1 of section 40-33.2-03, subsection 4 of section 40-33.2-03, subsection 9 of section 40-33.2-03, subsection 2 of section 40-33.2-05, and section 40-33.2-08 of the North Dakota Century Code, relating to definition of governing body of a city, requirements for agency agreements, bylaws of municipal power agencies, amendment of agency agreements, issuance of bonds and notes and pledges of revenues by the municipal power agencies, and city powers in regard to municipal power agencies, and contracts for electric power and energy and related services.

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

SECTION 1.) A new section to chapter 40-33.2 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

JOINT EXERCISE OF POWERS.) Any power or powers exercised or capable of exercise by a city with respect to its electric utility system, or any project, or by a municipal power agency, may be exercised jointly with any other public agency having such power or powers. In furtherance of joint exercise of powers, a city or municipal power agency may enter into an agreement with one or more public agencies for joint or cooperative action pursuant to this section, including the creation of a separate entity to carry out the purpose of the agreement. Appropriate action, by resolution or

otherwise pursuant to law of the governing bodies of the cities, municipal power agencies, or other public agencies involved authorizing or approving the agreement, shall be necessary before any agreement may become effective. Any agreement shall specify its duration, the precise organization, composition, and nature of any separate legal or administrative entity created, together with the powers delegated, its purpose or purposes, the manner of financing the joint or cooperative undertaking, the permissible method or methods to be employed in accomplishing the termination of the agreement and for disposing of property upon termination, and any other matters deemed necessary or appropriate. In addition, the agreement may provide for the joint or cooperative undertaking through the use of a separate legal entity already in existence. No agreement pursuant to this section shall relieve any city or municipal power agency of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance of the agreement by another party to the agreement or by a legal or administrative entity created by the agreement, which performance may be offered in satisfaction of the obligation or responsibility. Agreements pursuant to this section shall not be subject to any of the provisions, limitations, or restrictions contained in chapter 54-40.

SECTION 2. AMENDMENT.) Subsection 6 of section 40-33.2-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Governing body", with respect to a city, means the city council or, if another board, commission, or body is empowered by law or its charter or by resolution of the city council to establish and regulate rates and charges for the distribution of electric energy within the city, ~~such the board, commission, or body shall be deemed to be the "governing body", provided, however, that when~~ the levy of a tax or the incurring of an obligation payable from taxes or any other action of ~~such the board, commission, or body requires the concurrence, approval, or independent action of the city council or another body under the city's charter or any other law, such the action shall not be taken until such concurrence or approval is received or such independent action is taken and, if required under the city's charter or any other law, approved by not less than sixty percent of the qualified electors voting on the question at any regular or special election, and provided further, that the~~ The concurrence of the city council or other elected body charged with the general management of a city shall be required, prior to the adoption by the city of any resolution approving an agency agreement.

SECTION 3. AMENDMENT.) Subdivision g of subsection 1 of section 40-33.2-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- g. The location of the initial registered office of the municipal power agency.

SECTION 4. AMENDMENT.) Subsection 4 of section 40-33.2-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Unless otherwise provided by the agency agreement, the bylaws of the municipal power agency, and any amendments thereto, shall be proposed by the board of directors and shall be adopted by a majority vote of the representatives of the member cities, at a meeting held after notice. The initial agency agreement or the initial bylaws shall not take effect until approved by not less than sixty percent of the qualified electors ~~who voted~~ voting on the question in--the--last at any regular or special election in each of the member cities. The agency agreement or the bylaws shall state:
- a. The qualifications of member cities, and any limitations upon their number.
 - b. Any conditions of membership.
 - c. Manner and time of calling regular meetings of representatives of member cities.
 - d. Manner and conditions of terminating membership.
 - e. Such other provisions for regulating the affairs of the municipal power agency as the representatives of the member cities shall determine to be necessary.

SECTION 5. AMENDMENT.) Subsection 9 of section 40-33.2-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. The agency agreement may be amended as proposed at any meeting of the representatives of the member cities for which notice, stating the purpose, shall be given to each representative and unless the agency agreement or bylaws ~~require~~ provide otherwise, shall become effective when ratified by resolutions of ~~a--majority--of~~ a majority of the governing bodies of a majority of the member cities and approved by not less than sixty percent of the qualified electors ~~in each--of--these--cities~~ voting on the question at the last any regular or special election in each of those member cities constituting the majority. Each amendment and the resolutions of ~~such~~ the governing bodies approving it shall be filed for record with the secretary of state.

SECTION 6. AMENDMENT.) Subsection 2 of section 40-33.2-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Except as may be otherwise expressly provided by this chapter or by resolution of the municipal power agency agreement, every issue of bonds or notes of the agency shall be payable out of any revenues or funds of the agency, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or funds. A municipal power agency may issue such any types of bonds or notes as it may determine, including bonds or notes as to which the principal and interest are payable exclusively from the revenues from one or more projects, or from an interest therein or a right to capacity thereof, or from one or more revenue-producing contracts made by the municipal power agency with any person, or from its revenues generally. Any such bonds or notes may be additionally secured by a pledge of any grant, subsidy, or contribution from any person, or a pledge of any income or revenues, funds, or moneys of the municipal power agency from any source whatsoever. Any pledge of revenues or other funds made by a municipal power agency pursuant to this chapter shall be valid and binding from the date the pledge is made. The revenues and other funds pledged and held or thereafter received by the agency or any fiduciary shall immediately be subject to the lien of the pledge without physical delivery or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the agency without regard to whether the parties have notice. Neither the resolution, trust agreement, or security agreement by which a pledge is created nor any financing statement, continuation statement, or other instrument relating to the pledge need be filed or recorded in any manner. Subsection 10 of this section shall not apply to any pledge of or grant of a security interest in any revenues or funds of a municipal power agency to secure any bonds or notes issued by a municipal power agency.

SECTION 7.) Two new subsections to section 40-33.2-05 of the 1977 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

Bonds and notes of a municipal power agency issued under the provisions of this chapter and the income therefrom shall be exempt from all taxation by the state or any political subdivision thereof, excepting inheritance, estate, or transfer taxes.

Any holder of bonds or notes issued by a municipal power agency under the provisions of this chapter, and the trustee under any resolution, trust indenture, or other security agreement under which any bonds or notes are issued, except to the extent that the rights herein granted may be restricted by the resolution, trust

indenture, or security agreement, may bring suit upon the bonds or notes and may, either at law or in equity, by suit, action, mandamus, or other proceedings, which may include the appointment of a receiver to take control of the business and properties of the municipal power agency, protect and enforce any or all of its rights granted hereunder or under the resolution, trust indenture, or security agreement, and may enforce and compel the performance of any or all duties and obligations under this chapter and any or all covenants or obligations under the resolution, trust indenture, or security agreement to be performed by the municipal power agency or by any officer thereof, including the fixing, charging and collecting of rents, rates, fees, and charges.

SECTION 8. AMENDMENT.) Section 40-33.2-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-33.2-08. CITY POWERS.)

1. A city may by resolution of its governing body exercise any of the powers granted in this chapter to a municipal power agency, upon fulfillment of the conditions provided in this chapter for the exercise of ~~any--such~~ the power, but without complying with the terms of section 40-33.2-03 relating to incorporation, and notwithstanding any provision of any city charter or any other law denying, limiting, or placing conditions upon the exercise of any ~~such~~ the power. Nothing in this section shall be construed to repeal any charter provision or law requiring an election or other condition precedent to the establishment after January 1, 1977, of a city electric energy distribution system.
2. Every resolution adopted in accordance with subsection 1 shall be published in the official newspaper of the city. No action may be brought and no defense may be interposed in an action brought more than thirty days after publication of the resolution, placing at issue the validity of any provision of the resolution or the power of the city to make any contract or to issue any bond, note, or other obligation authorized thereby.
3. Nothing in this chapter authorizes any city to issue general obligation bonds for any purposes specified in this chapter without approval of its electors or performance of ~~such~~ other procedural conditions as may be required by its charter or the laws of this state. Notwithstanding any limitation contained in section 40-05-05, a city may,--however, by resolution of its governing body and without approval of the electors or performance of other conditions provided in any charter or other law, enter into contracts with a municipal power

agency or any other person for the purchase, sale, exchange, or transmission of electric energy and other services, on such the terms and for such the period of time as the resolution may provide. A city may appropriate and use tax and other revenues received to make payments due or to comply with covenants to be performed under any contract made by the city pursuant to this section or when acting as a municipal power agency, or any contract made by the city with a municipal power agency, as contemplated by this chapter, subject to the provisions of its charter and the laws of this state regarding budget and payment procedures and annual tax levy limitations.

4. Any contract made by a city pursuant to this section or when acting as a municipal power agency, or any contract made by a city with a municipal power agency, as contemplated by this chapter, may provide for the purchase of all or a portion of the capacity or output of one or more designated projects and may provide that the city contracting shall be obligated to make the payments required by the contract whether or not a project is completed, operable, or operating, and notwithstanding the suspension, interruption, interference, reduction, or curtailment of the output of a project or the power and energy contracted for. The contract may also provide that payments under the contract shall not be subject to any reduction, whether by offset or otherwise. The contract need not be conditioned upon the performance or nonperformance by any other party to the contract, or to any similar contract for the same project, under the contract or under any other instrument. The contract may also provide, in the event of default by any party to the contract or to any similar contract for the same project in the performance of its obligations thereunder, for other parties to the contract or any similar contract for the project to succeed to the rights and interests and assume the obligations of the defaulting party, pro rata or otherwise, as may be agreed upon in the contract.
5. Any contract made by a city pursuant to this section or when acting as a municipal power agency, or any contract made by a city with a municipal power agency, as contemplated by this chapter, may provide that payments by a city under the contract shall be made solely from, and shall be secured by a pledge of and lien upon, the revenues derived by the city from the ownership and operation of the electric system of the city, and that payments shall be made as an operating expense of the electric system. The contract may provide that no obligation under the contract shall constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the city or upon any of its income, receipts or revenues, except the revenues of its electric system,

and that neither the faith and credit nor the taxing power of the city are, or shall be, pledged for the payment of any obligation under the contract. The contract may provide that the city shall be obligated to fix, charge, and collect rents, rates, fees, and charges for the commodities or services sold, furnished, or supplied through its electric system sufficient to provide revenues adequate to meet its obligations under the contract and to pay any and all other amounts payable from or constituting a charge and lien upon revenues, including amounts sufficient to pay the principal of and interest on bonds of the city heretofore or hereafter issued for purposes related to its electric system. The municipal power agency may, either at law or in equity, by suit, action, mandamus, or other proceedings, enforce and compel the performance of any or all covenants or obligations of the city under the contract to be performed by the city or any officer thereof, including the fixing, charging, and collecting of rents, rates, fees, and other charges. Any pledge of revenues made by a city pursuant to this subsection shall be valid and binding from the date the pledge is made. The revenues pledged shall immediately be subject to the lien of the pledge without physical delivery or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the city without regard to whether the parties have notice. Neither the contract, pledge agreement, or trust agreement by which a pledge is created nor any financing statement, continuation statement, or other instrument relating thereto need be filed or recorded in any manner.

Approved March 19, 1979

CHAPTER 448

SENATE BILL NO. 2326
(Lashkowitz, Reiten)

POLICE RETIREMENT BENEFIT REDUCTION REPEALED

AN ACT to repeal section 40-45-17 of the North Dakota Century Code, relating to a reduction of police retirement benefits by the amount of benefits received from workmen's compensation.

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

SECTION 1. REPEAL.) Section 40-45-17 of the North Dakota Century Code is hereby repealed.

Approved March 15, 1979

CHAPTER 449

SENATE BILL NO. 2087
(Lodoen)

PLANNING COMMISSION EXPENSES

AN ACT to amend and reenact section 40-48-05 of the North Dakota Century Code, relating to members of the planning commission.

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

SECTION 1. AMENDMENT.) Section 40-48-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-48-05. TRAVELING EXPENSES.) ~~All members of the planning commission shall serve without compensation.~~ When duly authorized by the commission, members thereof may attend planning conferences or meetings of planning institutes or hearings upon pending legislation, and the commission may pay the reasonable traveling expenses incident to such attendance pursuant to a resolution spread upon its minutes.

Approved March 7, 1979

CHAPTER 450

HOUSE BILL NO. 1560
(R. Hausauer, Dietz)

PARK DISTRICT PROPERTY OUTSIDE OF STATE

AN ACT to amend and reenact subsection 1 of section 40-49-12 of the North Dakota Century Code, relating to ownership by a park district of property located outside this state.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 40-49-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Acquire by purchase, gift, devise, condemnation, or otherwise, land anywhere within this state, or outside this state if located adjacent to a boundary of this state and of the park district, for parks, boulevards, and ways. The board shall have the sole and exclusive authority to maintain, govern, and improve the land, and to provide for the erection of structures thereon. Such parks, boulevards, and ways shall be considered for purposes of taxation and for all other purposes as being within the territorial limits of the municipality. Where the board has acquired the legal title in fee to such lands, it may sell and convey the same. A conveyance shall be executed by the president and clerk of the board upon a resolution approved by not less than two-thirds of the members thereof;

Approved March 3, 1979

CHAPTER 451

HOUSE BILL NO. 1667
(Conmy)

TOWNSITE AND SUBDIVISION PLATTING

AN ACT to create and enact section 40-50-19.1 and section 40-50-19.2 of the North Dakota Century Code, relating to the platting of townsites, additions and subdivisions; and to amend and reenact section 40-50-01, section 40-50-03 and section 40-50-04 of the North Dakota Century Code, relating to the platting of townsites, additions and subdivisions; and to repeal section 40-50-02 of the North Dakota Century Code, relating to the platting of townsites, additions and subdivisions.

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

SECTION 1. AMENDMENT.) Section 40-50-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-50-01. LAYING OUT TOWNSITES, ADDITIONS, AND SUBDIVISIONS - SURVEY AND PLAT REQUIRED - CONTENTS OF PLAT.) Any person desiring to lay out a townsite in this state, or an addition thereto, or a subdivision of outlots therein, shall cause the same to be surveyed and a plat thereof made. ~~Such plat shall describe particularly and set forth all the streets, alleys, and public grounds, and all outlets or fractional lots within or adjoining the townsite or municipality, together with the names, widths, courses, boundaries, and extent of all such streets, alleys, and public grounds. The contents of the plat shall include the following:~~

1. Such plat shall describe particularly and set forth all the streets, alleys, and public grounds, and all outlots or fractional lots within or adjoining the townsite or municipality, together with the names, widths, courses, boundaries, and extent of all such streets, alleys, and public grounds, and giving the dimensions of all lots, streets, alleys, and public grounds.
2. All lots and blocks, however designated, shall be numbered in progressive numbers and their precise length and width shall be stated on the map or plat. The streets, alleys,

- or roads which divide or border the lots shall be shown on the map or plat.
3. The plat shall indicate that all outside boundary monuments have been set. There shall be shown on the plat all survey and mathematical information and data necessary to locate all monuments and to locate and retrace any and all interior and exterior boundary lines appearing thereon. The outside boundary lines of the plat shall be correctly designated on the plat and shall show bearings on all straight lines, or angles at all angle points, and central angle, radius and arc length for all curves. All distances shall be shown between all monuments as measured to the hundredth of a foot. All lot distances shall be shown on the plat to the nearest hundredth of a foot and all curved lines within the plat shall show central angles, radii and arc distances. A north arrow and the scale of the plat shall be shown on the plat, which scale shall be of such dimension that the plat may be easily interpreted. If a curved line constitutes the line of more than one lot in any block of a plat, the central angle for that part of each lot on the curved line shall be shown.
 4. Ditto marks shall not be used on the plat for any purposes.
 5. In any instance where a river, stream, creek, lake or pond constitutes a boundary line within or of the plat, a survey line shall be shown with bearings or angles and distances between all angle points and their relation to a water line, and all distances measured on the survey line between lot lines shall be shown, and the survey line shall be shown as a dashed line.
 6. The outside boundary lines of the plat shall close by latitude and departure with an error not to exceed one foot in ten thousand feet.
 7. All rivers, streams, creeks, lakes, ponds, swamps, and all public highways, streets and alleys laid out, opened, or traveled (existing before the platting) shall be correctly located and plainly shown and designated on the plat.
 8. The names and adjacent boundary lines of any adjoining platted lands shall be dotted on the plat.
 9. A border line shall be placed one-half inch inside the outer edges of the plat on the top, bottom and right hand side of the plat; a border line shall be placed two inches inside the outer edge on the left hand side of the plat.
 10. The scale shall be shown graphically and the basis of bearings shall be shown.

11. The purpose of any easement shown on the plat must be clearly stated and shall be confined to only those that deal with public utilities, and such drainage easements as deemed necessary for the orderly development of the land encompassed within the plat. Building setbacks shall not be shown on the plat. All easements created or dedicated by such plat must be approved by the governing or jurisdictional body or its agent prior to recording of the final plat.
12. Any such plat which includes lands abutting upon any lake or stream shall show, for the purpose of information only, a contour line denoting the present shore line, water elevation and the date of survey. If any portion of a plat lies within the intermediate regional flood plain (100 year flood plain) of a river or stream as designated by the North Dakota Water Commission, or United States Corps of Engineers, the mean sea level elevation of the said intermediate regional flood (100 year flood) shall be denoted on the plat by numerical figures. Topographic contours at a two foot contour interval referenced to mean sea level shall be shown for the portion of the plat lying within said flood plain. All elevations shall be referenced to a durable bench mark described on the plat together with its location and elevation to the nearest hundredth of a foot, which shall be given in mean sea level datum if such bench mark with known sea level datum is available within one-half mile or such longer distance as may be practicable.

SECTION 2. AMENDMENT.) Section 40-50-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-50-03. ~~BASE--LINE--FORMED--BY--STONES--PLACED--IN--GROUND--)--At the time of surveying--and--laying--out--a--townsite--addition--or subdivision--of--outlets--the--proprietor--of--the--townsite--either personally--or--by--his--agent--shall--plant--and--fix--firmly--in--the--ground on--the--line--of--the--main--streets--of--the--townsite--addition--or subdivision--two--good--and--sufficient--stones--of--such--size--and dimension--as--the--surveyor--shall--direct--The--stones--shall--be--at least--two--hundred--fifty--yards--apart--and--the--point--or--points--where the--same--may--be--found--shall--be--designated--on--the--plat--or--map--The line--thus--formed--shall--be--a--base--line--from--which--to--make--future surveys-~~ MONUMENTS REQUIRED FOR SURVEY - PENALTY FOR DESTRUCTION THEREOF.) Durable ferromagnetic monuments shall be set at all angle and curve points on the outside boundary lines of the plat. Any monuments or permanent evidence of the survey shall have inscribed thereon the registration number of the land surveyor making the survey. Any person who removes or destroys any existing survey or reference monuments or landmarks evidencing property lines or corner posts shall be guilty of a class B misdemeanor.

SECTION 3. AMENDMENT.) Section 40-50-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-50-04. CERTIFYING AND RECORDING OF PLAT OR MAP.)--After the plat or map has been completed, it shall be certified by the surveyor and the officers, if it is correct. No plat shall be recorded until it is approved by the engineer of the municipality affected by the plat, or if there is no such municipal engineer, by the governing body of such municipality. Every person whose duty it is to comply with the provisions of this chapter, before the plat or map is offered for record, shall acknowledge the same before a person authorized to take acknowledgments. A certificate of the acknowledgment shall be endorsed on the plat or map by the officer taking the same, and such certificate or survey and acknowledgment shall be recorded and shall form a part of the record. INSTRUMENTS OF DEDICATION - CERTIFYING AND RECORDING OF PLAT.) The plat shall contain a written instrument of dedication, which shall be signed and acknowledged by the owner of the land. All signatures on the plat shall be written with black ink (not ball point). The instrument of dedication shall contain a full and accurate description of the land platted. The surveyor shall certify on the plat that the plat is a correct representation of the survey, that all distances are correct and monuments are placed in the ground as shown, that the outside boundary lines are correctly designated on the plat. The certificate shall be sworn to before any officer authorized to administer an oath. The plat shall be presented for approval to the governing body affected by such plat together with a title opinion stating the name of the owner of record.

Every plat, when duly certified, signed, and acknowledged, shall be filed and recorded in the office of the county register of deeds. No plat shall be recorded until it is approved by the governing body affected by the plat and a certificate evidencing such approval is presented to the register of deeds.

SECTION 4.) Section 40-50-19.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-50-19.1. NOTICE OF ERRORS ON RECORDED PLAT - CERTIFICATE BY ORIGINAL SURVEYOR.) Notwithstanding section 40-50-12, in any case where a land plat or subdivision, or what purports to be a land plat or subdivision, has been executed and filed in the office of the register of deeds of the county where the land is situated, which fails to identify or correctly describe the land to be so platted or subdivided, or to show correctly upon its face the tract of land intended or purported to be platted or subdivided thereby or is defective by reason of the plat or subdivision and the description of land purported to be so platted or subdivided thereby being inconsistent or incorrect, the registered surveyor who prepared such plat or subdivision may execute a certificate stating the nature of the error, omission or defect and stating the information which said surveyor believes corrects such error, supplies such omission or cures such defect, referring, by correct book and page, to such plat or subdivision and designating its name, if there is a name. Such certificate shall be dated and signed by such registered surveyor.

SECTION 5.) Section 40-50-19.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-50-19.2. FILING AND RECORDING OF SURVEYORS CERTIFICATES.)
The register of deeds of the county in which the land so platted or subdivided is located shall accept each such certificate for filing and recording in his office upon payment of a fee therefor commensurate with the length of the certificate. Neither witnesses nor an acknowledgment shall be required on any such certificate, but it shall be signed by the registered surveyor and shall state following his signature that he is a registered surveyor in the state of North Dakota. The register of deeds shall make suitable notations on his record of the plat or subdivision to which such certificate refers to direct the attention of anyone examining such plat or subdivision to the record of such certificate. No such certificate shall have the effect of destroying or changing vested rights acquired based upon an existing plat or subdivision despite errors or defects therein or omissions therefrom.

SECTION 6. REPEAL.) Section 40-50-02 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1979

CHAPTER 452

HOUSE BILL NO. 1409
(Mertens)

RECREATION BOARD OR COMMISSION

AN ACT to amend and reenact sections 40-55-06 and 40-55-07 of the North Dakota Century Code, relating to rural representation on recreation boards.

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

SECTION 1. AMENDMENT.) Section 40-55-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-55-06. ESTABLISHING RECREATION BOARD OR COMMISSION - MEMBERS - TERMS - VACANCY - COMPENSATION.) If the governing body of any municipality, school district, or park district ~~determined~~ determines that ~~the power to provide, establish, conduct and maintain~~ a public recreation system shall be ~~exercised by a recreation board or commission, such~~ established, the governing body shall by resolution or ordinance establish in such municipality, school district or park district, a recreation board or commission which shall possess all the powers and be subject to all the responsibilities of the local authorities under this chapter. ~~Such~~ The members of the recreation board or commission shall be appointed by the mayor or presiding officer of the municipality, park district or school district involved, whichever of said political subdivisions establishes the recreation system. The recreation board or commission when established shall consist of at least five but not more than nine persons, as the governing body may determine, to be appointed by the mayor or presiding officer of such the municipality, park district or school district, with the consent of the governing body. One member of such the recreation board or commission shall be chosen from the legal membership of the park district board, or board of park commissioners of the municipality area involved, one shall be chosen from the membership of the governing body of the municipality, and one member of from the legal membership of the school district board or boards within the corporate limits of such municipality involved. The remaining members shall be chosen at large from the largest geographic area represented by the municipality, park district or school district involved. The term of office of all members of such recreation

board or commission shall be for three years except that the members of such recreation board or commission first appointed shall be for staggered terms so that the terms of at least one but not more than three members expire annually. If a vacancy occurs during the term of office of any member, the mayor or presiding officer of the municipality, school district or park district involved, with the consent of the governing body, shall appoint a successor to serve for the unexpired term. Membership on ~~such~~ the recreation board or commission shall be without compensation or remuneration.

SECTION 2. AMENDMENT.) Section 40-55-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-55-07. GOVERNING BODY, BOARD, OR COMMISSION MAY ACCEPT GRANTS OF REAL ESTATE AND MONEY - CONDITIONS.) The governing body of a municipality, school district, or park district, recreation board or commission or other authority in which is vested the power to provide, establish, maintain and conduct such supervised recreation system may accept any grant or devise of real estate or any gift or bequest of money or other personal property or any donation to be applied, principal or income, for either temporary or permanent use for playgrounds or recreation purposes, but if the acceptance thereof for such purposes will subject such municipality, school district, or park district, to additional expense for improvement, maintenance or removal, the acceptance of any grant or devise of real estate shall always be subject to the approval of the governing body of such municipality, school district, or park district. Money received for such purpose, unless otherwise provided by the terms of the gift or bequest shall be deposited with the treasurer of ~~such municipality~~ the governing body to the account of the recreation board or commission or other body having charge of such work, and the same may be withdrawn and paid out by such body in the same manner as money appropriated for recreation purposes.

Approved April 7, 1979

CHAPTER 453

HOUSE BILL NO. 1308
(Berg)

MIDA PROJECT BIDDING REQUIREMENT

AN ACT to amend and reenact subsection 12 of section 40-57-03 of the North Dakota Century Code, relating to the powers of a municipality under the Municipal Industrial Development Act, and providing that construction, reconstruction, improvement, and betterment projects where the lessee is a governmental entity or public institution are subject to chapter 48-02 which deals with government construction projects.

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

SECTION 1. AMENDMENT.) Subsection 12 of section 40-57-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12. In any instance where the project acquired by the municipality consists of the construction, reconstruction, improvement, betterment of real property, buildings and improvements on real property and buildings, the provisions of chapter 48-02 and other applicable statutes shall apply; except that the municipality, in the lease and resolution or mortgage defining the terms and conditions upon which the project is to be constructed, leased, and financed, or in a preliminary agreement establishing the general terms of the lease and financing of the project when constructed, may permit the a lessee which is not a governmental entity or a public institution, subject to such terms and conditions as the municipality shall find necessary or desirable and proper, to provide for the construction, acquisition, and installation of the buildings, improvements, and equipment to be included in the project by any means available to the lessee, whether or not the procedure followed by the lessee is in conformity with said chapter 48-02.

Approved March 3, 1979

CHAPTER 454

SENATE BILL NO. 2068
(Legislative Council)
(Interim Committee on Industry, Business and Labor)

MIDA BOND ISSUANCE NOTICE AND HEARING

AN ACT to amend and reenact section 40-57-04 of the North Dakota Century Code, relating to project authorization and bond issuance under the Municipal Industrial Development Act of 1955 and requiring a public notice and hearing prior to project authorization and bond issuance.

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

SECTION 1. AMENDMENT.) Section 40-57-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57-04. RESOLUTION AUTHORIZING PROJECT AND THE ISSUANCE OF REVENUE BONDS - PUBLIC NOTICE AND HEARING - NO ELECTION REQUIRED.) The acquisition, construction, reconstruction, improvement, betterment, extension, or financing of any project, and the issue of bonds in anticipation of the collection of the revenues of such project to provide funds to pay for the cost thereof, may be authorized by an ordinance or resolution of the governing body adopted at a regular meeting thereof by the affirmative vote of a majority of its members. No Prior to the issuance of revenue or refunding bonds under authority of this chapter, the governing body shall give notice and hold a public hearing on the proposed bond issue. Notice of the hearing shall be published in the official newspaper of the municipality once a week for two successive weeks prior to the time set for the hearing. The notice shall specify the time and place of the hearing, and the amount and purpose of the proposed bond issue. The governing body shall not approve the bond issue unless it appears, after the public hearing, that such approval is in the public interest of the municipality. Except as provided in section 40-57-19, no election shall be required to authorize the use of any of the powers conferred by this chapter.

Approved March 12, 1979

CHAPTER 455

SENATE BILL NO. 2069
(Legislative Council)
(Interim Committee on Industry, Business and Labor)

MIDA BOND ISSUANCE FOR COMPETING
ENTERPRISES

AN ACT to create and enact a new section to chapter 40-57 of the North Dakota Century Code, relating to limitations on a municipality's authority to issue bonds under the Municipal Industrial Development Act of 1955 if the proposed project would receive an unfair competitive advantage to the substantial detriment of existing enterprises.

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

SECTION 1.) A new section to chapter 40-57 of the North Dakota Century Code is hereby created and enacted to read as follows:

NOTICE TO COMPETITORS - AUTHORITY TO ISSUE BONDS LIMITED IF PROJECT WOULD COMPETE WITH EXISTING ENTERPRISES.) Prior to approval of the issuance of any bonds under authority of this chapter, the governing body of the municipality shall, when a competitive project is involved, include notice of the competitive nature of the proposed project in the public notice required to be published prior to the public hearing required under section 40-57-04. The governing body shall not approve the bond issue unless it appears that the impact and effect of the issue upon existing industry and business will not result in an unfair advantage for the proposed project to the substantial detriment of existing enterprises.

Approved March 12, 1979

CHAPTER 456

SENATE BILL NO. 2067
(Legislative Council)
(Interim Committee on Industry, Business and Labor)

MIDA BOND ISSUANCE NOTIFICATION

AN ACT to amend and reenact section 40-57-05 of the North Dakota Century Code, relating to notification to the state securities commissioner of the issuance of bonds under the Municipal Industrial Development Act of 1955 and ensuring that the consent of any governmental body or public officer of the state is not required to authorize the issuance or sale of bonds.

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

SECTION 1. AMENDMENT.) Section 40-57-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57-05. NO NOTICE TO SECURITIES COMMISSIONER - APPROVAL OF PUBLIC OFFICER NOT REQUIRED. ~~No notice to or~~ Upon the issuance of bonds under this chapter, the project lessee shall furnish the state securities commissioner the following information concerning the project:

1. The name of the project lessee.
2. The location and nature of the project.
3. The amount and nature of the bonds issued.
4. The general terms and nature of the financing arrangement.
5. A copy of the official statement of the offering.

The consent of any governmental body or public officer of the state shall not be required to authorize the issuance or sale of bonds or the making of any mortgage in connection therewith.

Approved March 12, 1979