

OFFICES AND OFFICERS

CHAPTER 476

SENATE BILL NO. 2408
(Heigaard)

ADVERSARIAL ADMINISTRATIVE PROCEEDINGS DEFINITION

AN ACT to amend and reenact subsection 6 of section 44-04-19.1 of the North Dakota Century Code, relating to the definition of "adversarial administrative proceedings" for the purpose of the exemptions to the open records and open meetings law for attorney work product and attorney consultations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 44-04-19.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6. "Adversarial administrative proceedings" include only those administrative proceedings where the administrative agency acts as a complainant or respondent in an adverse administrative proceeding ~~before another agency~~. This term does not refer to those instances where the administrative agency acts in its own rulemaking, ~~adjudicative, or quasi-judicial~~ capacity.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 477

SENATE BILL NO. 2363
(Stenehjem)

PUBLIC MEETING NOTICE

AN ACT to amend and reenact section 44-04-20 of the North Dakota Century Code, relating to notice of public meetings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-04-20 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-04-20. Notice of public meetings required - Exceptions - Schedule set by statute, ordinance, or resolution. Unless otherwise provided by law, public notice must be given in advance of all meetings governed by section 44-04-19, including conference call meetings. This notice must contain the date, time, and location of the meeting and, where practicable, the topics to be considered. However, the lack of an agenda in the notice, or a departure from, or an addition to, the agenda at a meeting, shall not affect the validity of the meeting or the actions taken thereat. In cases where the public body holds regularly scheduled meetings, the schedule of these meetings, including the aforementioned notice information, must be filed annually in January, ~~for state-level bodies, with the main office of the public body and, if requested to do so by an interested party,~~ with the secretary of state for state-level bodies, the city auditor for city-level bodies, and the county auditor for all other public bodies. This schedule must be furnished to anyone who requests the information. In addition, every public body shall post public notice of each of its meetings at its principal office, if such exists, and at the location of the meeting. The public body's presiding officer shall have the responsibility of assuring that such public notice is given at the same time as such public body's members are notified, and that this notice is available to anyone requesting such information. In the event of emergency or special meetings of a public body, the person calling such a meeting shall notify representatives of the news media, if any, located where the meeting is to be held and which have requested to be so notified of such special or emergency meetings, of the time, place, date, and topics to be considered at the same time as such public body's members are notified. Where reasonable and practicable, a public body should attempt to set a regular schedule for its meetings by statute, ordinance, or resolution. The attorney general shall prepare general guidelines to assist public bodies in following the provisions of this section. Unless otherwise specified by law, resolution, or ordinance, or as decided by the public body, notices required by this section do not have to be published. The provisions of section 12.1-11-06 do not apply to this section.

Approved March 25, 1991
Filed March 26, 1991

CHAPTER 478

SENATE BILL NO. 2570
(Keller)

OATH OF OFFICE FILING

AN ACT to create and enact a new section to chapter 44-05 of the North Dakota Century Code, relating to oaths of office; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 44-05 of the North Dakota Century Code is created and enacted as follows:

Place of filing oath of office. Unless otherwise provided by law, any public officer required to take an oath of office must file the oath as follows:

1. If a state official or member of a state board, with the secretary of state.
2. If a county official or member of a county board, with the county auditor.
3. If a city official or member of a city board, with the city auditor.
4. If a member of a district or political subdivision that is larger than a county, with the secretary of state.

SECTION 2. EFFECTIVE DATE. This Act is effective for terms of office that commence on or after January 1, 1992.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 479

HOUSE BILL NO. 1366
(Representatives Mahoney, Henegar)
(Senator Stenehjem)

COURT OR OFFICER SEAL

AN ACT to amend and reenact section 44-08-06 of the North Dakota Century Code, relating to dimensions of the seal of a court or officer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-08-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-08-06. Dimensions of seal of court or officer. Upon every seal of a court or officer of this state required or authorized to have a seal, there must be engraved the words "State of North Dakota" and the name of the court or office in which the seal is to be used. All such seals, except the great seal, must be surrounded by a border, and be either one and five-eighths inch [41.28 millimeters] in diameter or if of a rectangular design, may be up to or equal to seven-eighths inch [22.23 millimeters] vertically by two and five-eighths inches [66.68 millimeters] horizontally.

Approved March 13, 1991
Filed March 13, 1991

CHAPTER 480

SENATE BILL NO. 2569
(Marks)

RECALL SPECIAL ELECTION TIME

AN ACT to amend and reenact section 44-08-21 of the North Dakota Century Code, relating to recall petitions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 44-08-21 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-08-21. Recall of elected officials of political subdivisions. An elected official of a political subdivision, except an official subject to recall pursuant to section 10 of article III of the Constitution of North Dakota, is subject to recall for misconduct, malfeasance, crime in office, neglect of duty in office, habitual drunkenness, or gross incompetency by petition of electors equal in number to twenty-five percent of voters voting in the political subdivision at the last election that the office of the official sought to be recalled was on the ballot, except in any political subdivision with a population of not more than one hundred, the petition must be signed by at least six electors. The provisions of section 16.1-01-09, as they relate to signing and circulating recall petitions, apply to petitions under this section.

The petition must be filed with the official with whom a petition for nomination to the office in question is filed unless that official is the person subject to recall, in which case the petition must be filed with the secretary of state. The official with whom the petition is filed shall pass on the sufficiency of a petition under this section in the manner required of the secretary of state under section 16.1-01-10. Except as otherwise provided in this section, the official shall call a special election to be held within ~~thirty~~ forty days if the official finds the petition valid and sufficient. No special election may be called if the date would be within ninety days of the next scheduled election. An elector's name may not be removed from a recall petition.

The name of the official to be recalled must be placed on the ballot unless the official resigns within ten days after the filing of the petition. Other candidates for the office may be nominated in a manner provided by law. If the official resigns, the appropriate political subdivision governing body may call a special election or appoint a person to complete the unexpired term of the office. When the election results have been officially declared, the candidate receiving the highest number of votes is elected for the remainder of the term. No official is subject to recall twice during the term for which the official was elected.

Approved April 5, 1991
Filed April 8, 1991

* NOTE: Section 44-08-21 was also amended by section 2 of House Bill No. 1256, chapter 208.