

HIGHWAYS, BRIDGES, AND FERRIES

CHAPTER 271

HOUSE BILL NO. 1283
(Representatives Nichols, Sitz, Grosz)
(Senators Andrist, Kinnoin, O'Connell)

STATE HIGHWAY NO MOW AREAS

AN ACT to provide for restrictions on no mow areas in the rights of way of the state highway system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Entry into no mow agreements. No state agency or political subdivision of the state may enter into any agreement to increase the no mow acres contained in the rights of way of the state highway system.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 272

SENATE BILL NO. 2129
(Transportation Committee)
(At the request of the Department of Transportation)

MOTOR CARRIER INSURANCE REGISTRATION

AN ACT to create and enact a new section to chapter 39-19 of the North Dakota Century Code, relating to a single state insurance registration system; to amend and reenact sections 24-02-01.5 and 49-18-42 of the North Dakota Century Code, to delete references to sections being repealed; to repeal section 49-18-41.1 of the North Dakota Century Code, relating to interstate registration and identification; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-02-01.5 of the North Dakota Century Code is amended and reenacted as follows:

24-02-01.5. Department of transportation - Administrative rules. The department of transportation may adopt the administrative rules necessary to carry out its responsibilities and functions as created and transferred by sections 24-02-01.1 through 24-02-01.5, according to chapter 28-32. Rules adopted by the agencies whose functions relate to the functions or agencies created, transferred, or covered by sections 2-05-03, 24-02-01.1 through 24-02-01.5, subsections 7 and 11 of section 24-01-01.1, sections 24-02-13, 24-03-03, 24-16-02, 24-17-02, subsections 8, 12, and 13 of section 39-01-01, subsection 1 of section 39-16-01, subsection 7 of section 39-24-01, subsection 2 of section 49-17.1-01, ~~section 49-18-41.1,~~ subsection 1 of section 54-06-04, subsection 1 of section 54-27-19, subsection 6 of section 57-40.3-01, subsection 1 of section 57-43.1-01, section 57-43.1-44, subsection 2 of section 57-43.2-01, and section 57-43.2-37 shall remain in effect until they are specifically amended or repealed by the department.

SECTION 2. A new section to chapter 39-19 of the North Dakota Century Code is created and enacted as follows:

Single state insurance registration system. The director may adopt all rules necessary to enable this state to participate in the single state insurance registration system for motor carriers authorized by section 4005 of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. No. 102-240, 105 Stat. 1914, 49 U.S.C. 11506] and by applicable rules and regulations of the interstate commerce commission. In determining whether to adopt rules as permitted by this section, the director shall consider the costs and benefits to the state of participating in the single state insurance registration program. Any moneys derived from participation in the single state insurance registration program must be deposited in the highway fund.

SECTION 3. AMENDMENT. Section 49-18-42 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-18-42. Auto transportation fund. ~~Except as otherwise provided under section 49-18-41.1, all~~ All fees collected by the commission, under the provisions of this chapter, must be paid into the state treasury monthly and must be credited to the general fund for the purpose of defraying the general expenses of the state government.

SECTION 4. REPEAL. Section 49-18-41.1 of the 1991 Supplement to the North Dakota Century Code is repealed.

SECTION 5. EFFECTIVE DATE. Sections 1, 3, and 4 of this Act become effective January 1, 1994.

Approved March 10, 1993

Filed March 11, 1993

CHAPTER 273

HOUSE BILL NO. 1082
(Transportation Committee)
(At the request of the Department of Transportation)

OAHE BRIDGE

AN ACT to create and enact a new section to chapter 24-02 of the North Dakota Century Code, relating to the department of transportation's responsibilities and obligations with respect to the construction of a bridge over the Oahe Reservoir; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 24-02 of the North Dakota Century Code is created and enacted as follows:

Agreement for the construction of the Oahe bridge. The director is authorized to execute an agreement with the federal government for the construction of a bridge over the Oahe Reservoir wherein the department agrees to hold the United States harmless and free from damages due to the construction or operation and maintenance of such bridge, except for damages due to the fault or negligence of the United States or its contractors.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 22, 1993
Filed March 23, 1993

CHAPTER 274

SENATE BILL NO. 2133
(Transportation Committee)
(At the request of the Department of Transportation)

DOT AUTHORITY, RECORDS, FEES, AND BIDS

AN ACT to create and enact a new section to chapter 24-02 of the North Dakota Century Code, relating to the authority of the director of the department of transportation to contract with adjoining states and provinces concerning highway projects; and to amend and reenact sections 24-02-11, 24-02-17, and 24-02-19 of the North Dakota Century Code, relating to the confidentiality of financial records of minority contractors, a fee for providing copies of records, and bidding requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 24-02 of the North Dakota Century Code is created and enacted as follows:

Authority to contract with adjoining states and provinces. The director may contract with adjoining states and provinces to provide for the construction, reconstruction, repair, or maintenance of highways located on or near the border of each jurisdiction.

SECTION 2. AMENDMENT. Section 24-02-11 of the North Dakota Century Code is amended and reenacted as follows:

24-02-11. Records of department open to public - Certain records not open to public - Certified copies. The director is custodian of, and shall preserve, the files and records of the department. The files and records of the department must be open to public inspection under reasonable regulations. However, records relating to the financial condition of any party that has applied for prequalification as a bidder, ~~or~~ is designated as a prequalified bidder pursuant to this chapter, or is an applicant under the disadvantaged business enterprise program are not open to public inspection. Copies of files and records of the department, when certified by the director as being true copies, must be received in evidence in any court in the state with the same force and effect as the originals.

The books of account of the department must be kept accurately and completely as must be prescribed or approved by the state auditor, which must show among other things the following facts:

1. The cost of maintaining the department, including the salaries and expenses of the individual members thereof.
2. The amounts of money expended for the construction or maintenance of the state highways, when and where, and upon what job or portion of the road expended, so that the cost per mile [1.61 kilometers] of such construction or maintenance can be ascertained with ease.

3. The amount of road equipment and materials purchased and when and where and from whom purchased. Such book also must show the price paid for each item. The original invoice or a photographic copy thereof must form a part of the permanent files and records in said department.
4. The director shall charge a uniform fee, by type of record.

SECTION 3. AMENDMENT. Section 24-02-17 of the North Dakota Century Code is amended and reenacted as follows:

24-02-17. Contracts - Bids. Whenever the cost of any construction improvement exceeds the sum of ~~five~~ twenty thousand dollars, the department shall proceed to advertise the same, request bids, and award such contracts in the manner provided in this chapter.

SECTION 4. AMENDMENT. Section 24-02-19 of the North Dakota Century Code is amended and reenacted as follows:

24-02-19. Request for bids - How solicited. Any request for bids for construction work or the improvement of any state highway, or any structure in excess of the amount specified in section 24-02-17, must be advertised by publication once prior to the opening of such bids, in the official newspaper of the county in which the project is located. Any other advertisement made by the director may utilize one or more of the following methods:

1. The publication of the solicitation in a daily newspaper having a general circulation in the area where the project is located.
2. The publication of the solicitation in commonly recognized trade journals or similar publications that advertise the solicitation of bids on public work projects.
3. The written solicitation of all qualified contractors appearing on the bidders' list as maintained by the department of transportation.

When the solicitation is by publication, it must be made at least three weeks prior to the date of the bid opening. The solicitation must state where the bidder may inspect the plans and specifications, with whom bids must be filed, and the time and place where bids must be opened. Such place must be the office of the department.

All requests for bids for the purchase of equipment, materials, and supplies, exclusive of repairs to equipment and except as provided in section 25-16.2-02 in excess of the sum of ~~ten~~ twenty thousand dollars must be advertised in the official newspaper of the county in which the department district is located. The advertisement must be published once a week for a period of two successive weeks prior to the opening of such bids.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 275

SENATE BILL NO. 2493
(Senator Lips)

DEPARTMENT OF TRANSPORTATION CONSULTANTS

AN ACT relating to the prequalification, selection, and contracting of consultants by the department of transportation for the purpose of receiving requests for proposals, proposals, and solicitations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Department of transportation - Prequalification, selection, and contracting for consultants - Solicitations. The director of the department of transportation may prequalify, select, and contract for consultants in the area of engineering, land surveying, architecture, traffic safety, business administration, and related matters. The prequalification of the consultant must be based on detailed information regarding firm organization, qualifications of personnel, type of work the firm is qualified to perform, previous work experience, and financial status. If a consultant meets the criteria set by the director, the director shall prequalify the consultant, noting any limitations as to the type or amount of the work the consultant may perform. When a consultant is prequalified, the consultant is entitled to receive requests for proposals, proposals, and other solicitations for work without any other screening or qualification process. The period of prequalification may not exceed three years. The qualifications of the consultant for a specific project must be determined according to the criteria in subsection 5 of section 54-44.7-03. The director shall publish a prequalification solicitation at least once each year and need not comply with the provision in subdivision c of subsection 2 of section 54-44.7-03 requiring the publication of an invitation for a specific project. The selection and contract negotiation must be performed according to subsections 6 and 7 of section 54-44.7-03.

Approved March 25, 1993
Filed March 26, 1993

CHAPTER 276

SENATE BILL NO. 2128
(Transportation Committee)
(At the request of the Department of Transportation)

DOT SHORT-TERM FINANCING

AN ACT to amend and reenact section 24-02-40 of the North Dakota Century Code, relating to short-term financing for the department of transportation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-02-40 of the North Dakota Century Code is amended and reenacted as follows:

24-02-40. Short-term financing. The department is hereby authorized, whenever needed, to arrange, with any state-owned or private financing agency, ~~state-owned or private including the Bank of North Dakota~~, short-term loans in the event that construction funds on hand are insufficient to meet current obligations ~~and federal aid allocations due or to become due have not been received, and state apportionment of highway user revenues are due but have not been made.~~ Short-term financing as provided herein must be in amounts no larger than can be repaid within ~~six months~~ four years from moneys known to be due and forthcoming ~~from normal sources to the department.~~ The rate of interest authorized to be paid by the department must be at a rate not greater than three percent per annum, payments for such interest must be made ~~from present sources of revenue of the department.~~ In no event may such short-term financing be used in anticipation of increased federal-aid highway grants or increased state highway user revenue funds, nor may such loans be obligated for road construction that cannot be financed from known source of income.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 277

HOUSE BILL NO. 1257
(Representatives Laughlin, Hagle)
(Senator Kelsh)

SECTION LINE OBSTRUCTIONS

AN ACT to amend and reenact subsection 1 of section 24-06-28, sections 24-06-29, and 24-06-30 of the North Dakota Century Code, relating to obstruction of section lines by trees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 24-06-28 of the North Dakota Century Code is amended and reenacted as follows:

1. No person may place or cause to be placed any permanent obstruction, stones, trees, or rubbish within thirty-three feet [10.06 meters] of any section line, unless written permission is ~~first~~ secured from the board of county commissioners or the board of township supervisors, as the case may be. ~~Such~~ The permission must be granted where the section line has been closed pursuant to section 24-07-03 or where the topography of the land along ~~such the~~ section line is such that in the opinion of the board of county commissioners or board of township supervisors, as the case may be, the construction of a road on the section line is impracticable.

SECTION 2. AMENDMENT. Section 24-06-29 of the North Dakota Century Code is amended and reenacted as follows:

24-06-29. Removal of obstructions when section lines opened - Cost. ~~In case~~ If any person places or causes to be placed any stones, trees, or rubbish within thirty-three feet [10.06 meters] of any section line, the board of county commissioners or board of township supervisors, as the case may be, when a public highway is opened along ~~such the~~ section line, shall notify the owners of adjacent property to remove ~~such the~~ the stones, trees, or rubbish. Written notice by registered ~~or certified~~ mail to the record owner of ~~such the~~ adjacent property mailed to ~~such the~~ owner's last known address ~~last known to such board~~ and by registered ~~or certified~~ mail to any other persons, ~~if any~~, in possession of ~~such the~~ property constitutes valid notice. If ~~such the~~ owners fail to remove the ~~same~~ stones, trees, or rubbish within thirty days after ~~such the~~ notice ~~has been~~ is mailed, the board of county commissioners or the board of township supervisors, as the case may be, shall ~~cause such~~ remove the stones, trees, or rubbish ~~to be removed and the~~. The cost thereof must be returned and of removal must be entered the same as taxes against the adjacent property from which the stones originally were taken, and must be paid in the same manner as taxes.

SECTION 3. AMENDMENT. Section 24-06-30 of the North Dakota Century Code is amended and reenacted as follows:

24-06-30. Removal of fences - Notice - Cost. When a public highway is opened along any section line, the board of county commissioners or the board of township

supervisors, as the case may be, shall notify the owner of adjacent property to remove any fences not constructed pursuant to subsection 2 of section 24-06-28 within thirty-three feet [10.06 meters] of the section line in the manner provided for notice to remove stones, trees, or rubbish. If the owner of adjacent property fails to remove the fences within thirty days after the notice ~~has been~~ is given, the board of county commissioners or the board of township supervisors, as the case may be, shall ~~cause~~ remove the fences ~~to be removed, and the~~ _____. The cost thereof ~~must be returned and~~ of removal must be entered the same as taxes against the adjacent property and ~~must be paid~~ in the same manner as taxes ~~are paid~~.

Approved March 22, 1993
Filed March 23, 1993

CHAPTER 278

SENATE BILL NO. 2383
(Senators Schoenwald, Nething)

RAILROAD CROSSING CLOSING

AN ACT to amend and reenact section 24-09-10 of the North Dakota Century Code, relating to changing railroad crossings; and to repeal section 49-11-05 of the North Dakota Century Code, relating to railroad highway crossings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-09-10 of the North Dakota Century Code is amended and reenacted as follows:

24-09-10. Changing or closing railroad crossing - Power of public service commission - Hearing. It is in the interest of public safety to eliminate unnecessary railroad grade crossings whenever reasonable access can be safely provided at another crossing. Whenever it is desired, either by the public officials having the necessary authority or by the railway company operating the railroad, to establish, vacate, or relocate any crossing of a public highway and a railroad, or to separate grades, and an agreement cannot be reached between the public official and the railway company, either as to the necessity for establishing, vacating, or relocating a crossing or for separating grades, as to place, manner of construction, or a reasonable division of the expense, either party may file a petition with the commission, setting forth the facts and submitting the matter to it for determination. The commission, after giving notice as it shall deem reasonable, shall conduct a hearing and shall issue its order determining whether there should be an establishment, vacation, or relocation of the crossing in question, or a separation of grades, and dividing the expense of the establishment, relocation, or separation of grades. ~~Whenever a railroad crossing of any kind has been established, or relocated, in order to eliminate an adjacent or nearby crossing deemed by the commission to be unreasonably dangerous, the commission has the power to order the dangerous crossing closed.~~ Irrespective of the establishment or relocation, or the consideration of further reasonable protection of a crossing, if the commission deems finds any railroad crossing to be unreasonably dangerous unnecessary or unsafe, it may shall order the crossing closed after reasonable notice and hearing. Whenever a final order is entered vacating or closing a crossing, it must be vacated or closed at the railroad company's expense.

SECTION 2. REPEAL. Section 49-11-05 of the 1991 Supplement to the North Dakota Century Code is repealed.

Approved March 11, 1993
Filed March 11, 1993