

OFFICES AND OFFICERS

CHAPTER 440

SENATE BILL NO. 2247
(Senators Lindgren, Maxson)
(Representative Soukup)

CITY AND COUNTY OFFICER RESIDENCY

AN ACT to amend and reenact section 44-03-04 of the North Dakota Century Code, relating to residency requirements for deputy officers in county and city government.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-03-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-03-04. Officials to be residents and citizens — ~~Exception for deputy clerks of district court.~~ No person may be appointed as deputy in any state, county, or municipal office nor as a member or officer upon any official board of the state, or of any county or municipality of the state, who is not a citizen of the United States and who is not a bona fide resident of the state. ~~However, a clerk of the district court may appoint a deputy who is a bona fide resident of an adjoining county in another state.~~

Approved March 10, 1993
Filed March 11, 1993

CHAPTER 441

HOUSE BILL NO. 1497
 (Representatives Poolman, Wald, Mahoney, Dorso)
 (Senators Holmberg, Keller)

OPEN RECORDS AND CONFIDENTIALITY

AN ACT to amend and reenact sections 44-04-18 and 44-04-18.4 of the North Dakota Century Code, relating to copying of open records and confidentiality of trade secrets and commercial and financial information.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-04-18 of the North Dakota Century Code is amended and reenacted as follows:

44-04-18. Access to public records - Penalty.

1. Except as otherwise specifically provided by law, all records of public or governmental bodies, boards, bureaus, commissions or agencies of the state or any political subdivision of the state, or organizations or agencies supported in whole or in part by public funds, or expending public funds, shall be public records, open and accessible for inspection during reasonable office hours.
2. Upon request for a copy of specific public records, any entity subject to subsection 1 shall furnish the requester one copy of the public records requested. The entity may charge a reasonable fee for making the copy. Fees received under this subsection are public moneys and must be deposited as provided by law. An entity may require payment before making the copy. If the entity is not authorized to use the fees to cover the cost of providing the copy, the entity may make arrangements for the copy to be provided by another entity, public or private, and the requester shall pay the fee to that other entity.
3. Violations of this section shall be punishable as an infraction.

SECTION 2. AMENDMENT. Section 44-04-18.4 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-04-18.4. Confidentiality of trade ~~secrets and secret,~~ proprietary, commercial, and financial information.

1. Trade ~~secrets and secret,~~ proprietary, commercial, and financial information are is confidential if it is of a privileged or confidential nature and obtained by any state agency, institution, department, or board from any person or organization under a contract or license agreement entered into by any state agency, institution, department, or board it has not been previously publicly disclosed. The term "trade secrets"

2. "Trade secret" includes a:

- a. A computer software program and components of a computer software program which are subject to a copyright or a patent, and any formula, pattern, compilation, program, device, method, technique, or process supplied to any state agency, institution, department, or board which is the subject of efforts by the supplying person or organization to maintain its secrecy and that may derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons or organizations that might obtain economic value from its disclosure or use; and
 - b. A discovery or innovation which is subject to a patent or a copyright, and any formula, pattern, compilation, program, device, method, technique, or process supplied to or prepared by any state agency, institution, department, or board which is the subject of efforts by the supplying person, business, or industry to maintain its secrecy and that may derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, any person who might obtain economic value from its disclosure or use.
3. "Proprietary information" includes information received from a sponsor of research conducted by an institution, as well as any discovery or innovation generated by that research, technical, financial, and marketing information and other documents related to the commercialization, and any other discovery or innovation produced at the institution which an employee, institution, or the board intends to commercialize.
4. This section does not limit or otherwise affect a record pertaining to any rule of the state department of health and consolidated laboratories or to any record pertaining to the application for a permit or license necessary to do business or to expand business operations within this state, except as otherwise provided by law.
5. An institution of higher education shall include justification for maintaining the confidentiality of information as to each grant or contract involving confidential information in the institution's regular report to the board of higher education of grants and contracts received. The justification must contain general information required by the board, and must include at least the following nonconfidential information:
- a. A general description of the nature of the information sought to be protected;
 - b. A general explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons;
 - c. A general explanation of why the information is not readily ascertainable through proper means by other persons;

- d. A general description of the persons or entities that would obtain economic value from disclosure or use of the information, and how they would obtain this value; and
- e. A general description of the efforts used to maintain the secrecy of the information.

The board of higher education shall review the justification at a public meeting of the board, and shall decide if the confidential status should be maintained for the project. If the board decides against granting the confidential status, the justification may be resubmitted at the next meeting of the board and the confidential status may be maintained until that time. If the board again decides, upon reconsideration, not to grant confidentiality, the information becomes public.

Approved April 8, 1993
Filed April 9, 1993

CHAPTER 442

SENATE BILL NO. 2273
(Senators Graba, B. Stenehjem)
(Representative Glassheim)

EXAMINATION INFORMATION CONFIDENTIALITY

AN ACT to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to an exception to the open records law for certain examinations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Confidentiality of examination questions and procedures. The following records are not subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota: examination or test questions, scoring keys, and other data used to administer any licensing, employment, academic, or certification examination or test, if the examination or test is to be used again in whole or in part; and records establishing examination or test procedures and instructions regarding the administration, grading, or evaluation of any examination or test, if disclosure may affect scoring outcomes.

Approved March 22, 1993
Filed March 23, 1993

CHAPTER 443

SENATE BILL NO. 2239
(Senator Nalewaja)
(Representative Wald)

NOTARY PUBLIC RESIDENCY

AN ACT to amend and reenact section 44-06-01 of the North Dakota Century Code, relating to the appointment and qualifications of notaries public.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-06-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-06-01. Appointment and qualification of notaries public. The secretary of state shall appoint ~~in each county in this state one or more~~ notaries public, ~~who shall hold.~~ A notary holds office for six years unless sooner removed by the secretary of state. Each notary shall have power and authority anywhere in the state ~~to~~ may administer oaths and perform all other duties required by law. A person, ~~to be eligible to such appointment, at the time of appointment,~~ notary public must have the qualifications of an elector as to age and residence or must reside in a county that borders this state and which is in a state that extends reciprocity to a notary public who resides in a border county of this state. If the person resides in a county bordering this state, that person must designate the secretary of state as the agent for service of process, for all purposes relating to notarial acts, including the receipt of correspondence relating to notarial acts.

Approved March 25, 1993
Filed March 26, 1993

CHAPTER 444

HOUSE BILL NO. 1408
(Representative Christopherson)

STATE EMPLOYEE OUT-OF-STATE MEALS

AN ACT to amend and reenact section 44-08-04 of the North Dakota Century Code, relating to reconciliation of state law to federal laws regarding out-of-state meal reimbursement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-08-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-08-04. Expense account - Amount allowed - Verification. Except as provided in section 44-08-04.1, each elective or appointive officer, employee, representative, or agent of this state, or of any of its subdivisions, agencies, bureaus, boards, or commissions, may make claim for meals and lodging while engaged ~~within this state~~ in the discharge of a public duty away from the claimant's normal working and living residence for all or any part of any quarter of a day. Claims may also be made for meals which are included as part of a registration fee for a conference, seminar, or other meeting and for meals attended at the request of and on behalf of the state or any of its subdivisions, agencies, bureaus, boards, or commissions; however, if a meal is included in a registration fee, the applicable quarter allowance cannot be claimed for that meal. Claims for meals specifically included in a registration fee for a conference, seminar, or other meeting must be allowed even if the city at which the conference, seminar, or meeting is held or the meal is provided is the claimant's normal working and living residence. Upon approval of the claim, it must be paid as an allowance at the following rates for each quarter of any twenty-four-hour period:

1. First quarter is from six a.m. to twelve noon and the sum may not exceed three dollars and fifty cents in state, ~~or six dollars out of state~~. No reimbursement may be made if travel began after seven a.m.
2. Second quarter is from twelve noon to six p.m. and the sum may not exceed five dollars in state, ~~or nine dollars out of state~~.
3. Third quarter is from six p.m. to twelve midnight and the sum may not exceed eight dollars and fifty cents in state, ~~or fifteen dollars out of state~~.
4. Fourth quarter is from twelve midnight to six a.m. and the sum must be the actual lodging expenses not to exceed thirty-five dollars.
5. Provided, however, that the ~~preceding four subsections~~ allowances provided by this section are not applicable unless the person concerned has been out of the headquarters or normal place of employment for four hours or overnight.

The allowance for out-of-state meals, within the continental United States, is equal to the per diem meals rate in the city for which a claim is made on that day as established by rule for federal employees by the United States general services administration and must be allocated twenty percent to the first quarter, thirty percent to the second quarter, and fifty percent to the third quarter.

Verifications of claims may not be required for the first three quarters listed above and only a lodging receipt is required for the fourth quarter.

Such persons engaged in travel outside state boundaries shall receive actual lodging expenses. Verification by receipt for such out-of-state travel expense is required only for lodging expense claimed.

Those persons engaged in foreign travel outside the continental United States shall receive reimbursement for meals at a rate not to exceed two times the regular out-of-state meal allowance with the exception of Canadian travel, which will be reimbursed at regular out-of-state meal allowance rates. Verification by receipt for such foreign travel expense outside the continental United States is required only for the lodging expense claimed. For purposes of this section, "regular out-of-state meal allowance" means the per diem meals rate on that day as established for federal employees in nonhigh rate geographical areas by the United States general services administration.

The head of any department, institution, or agency of this state may set a rate for such expenses less than those set forth in this section for any person or persons under his authority. Verification of any other type of expense not prescribed by this section must be as prescribed by the office of the budget except no receipt may be required for taxi or cab fares up to and including the sum of ten dollars. The office of management and budget shall disapprove any claim it determines to be in error or unlawful or not within the limits of legislative appropriations.

Approved April 8, 1993
Filed April 9, 1993