

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

HOUSE BILL NO. 1043
(Legislative Management)
(Judiciary Committee)

AN ACT to amend and reenact section 1-02-12, subsection 10 of section 11-31-03, subsection 1 of section 14-20-12, subsection 1 of section 15.1-21-02.1, section 24-02-30, subsection 1 of section 25-02-01.1, sections 50-06-06.2 and 52-10-04, subsection 4 of section 52-10-05, section 52-10-07, subsection 3 of section 54-44.7-03, subsection 17 of section 54-52-01, subsection 3 of section 54-52-05, sections 57-15-06 and 57-15-08, subsection 1 of section 57-34-03, subsection 7 of section 57-38-30.3, section 57-51.1-03.1, and subsection 19 of section 58-03-07 of the North Dakota Century Code, relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references; to repeal sections 54-40.3-03, 57-15-10.2, 57-38-01.29, and 57-38-01.30 of the North Dakota Century Code, relating to obsolete provisions; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 1-02-12 of the North Dakota Century Code is amended and reenacted as follows:

1-02-12. HeadnoteCaption, cross-reference note, and source note.

No headnotecaption, source note, or cross-reference note, whether designating an entire title, chapter, section, subsection, or subdivision, constitutes any part of a statute. A headnotecaption may not be used to determine legislative intent or the legislative history for any statute. An effective date or expiration date note precedingimmediately following a headnotecaption is not a part of the headnotecaption and is a part of the statute.

SECTION 2. AMENDMENT. Subsection 10 of section 11-31-03 of the North Dakota Century Code is amended and reenacted as follows:

10. Cooperate with the ~~public roads~~federal highway administration or successors, the state department of transportation, and the townships of the county.

SECTION 3. AMENDMENT. Subsection 1 of section 14-20-12 of the North Dakota Century Code is amended and reenacted as follows:

1. An acknowledgment of paternity must:
 - a. Be in a record;
 - b. Be signed, or otherwise authenticated, under penalty of perjury by the mother and by the man seeking to establish his paternity;
 - c. State that the child whose paternity is being acknowledged:
 - (1) Does not have a presumed father, or has a presumed father whose full name is stated; and
 - (2) Does not have another acknowledged or adjudicated father;
 - d. State whether there has been genetic testing and, if so, that the acknowledging man's claim of paternity is consistent with the results of the testing; and

- e. State that the signatories understand that the acknowledgment is the equivalent of a judicial adjudication of paternity of the child and that a challenge to the acknowledgment is permitted only under limited circumstances and is barred after ~~one year~~two years.

SECTION 4. AMENDMENT. Subsection 1 of section 15.1-21-02.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The twenty-two units of high school coursework set forth in section ~~15.1-21-25~~15.1-21-02.2; and

SECTION 5. AMENDMENT. Section 24-02-30 of the North Dakota Century Code is amended and reenacted as follows:

24-02-30. Conditions precedent to demand for arbitration against director.

No right exists to demand arbitration against the director until the conditions specified in this section have been complied with. The contractor shall give the director notice in writing that the contractor claims the contract has been or will be performed fully on a day stated, which may not be less than ten days after the giving of such notice. At the time stated in the notice the director shall cause the work to be inspected, and if the director claims the work has not been completed, the director, with all reasonable dispatch, having regard to the early completion of the work, shall specify the particulars in which it is incomplete and shall direct that it be completed accordingly, or if the director considers further work necessary to bring the project up to the desired standard for acceptance either by the director or the ~~United States public roads~~federal highway administration, even though the director considers such contract complete, the director likewise may specify any such additional work. The contractor shall proceed with all reasonable dispatch, having due regard to weather conditions, with the performance of all such additional work with a view to a speedy completion of the project. When the contractor claims in good faith, supported by affidavit furnished to the director, that the contractor has completed such additional work according to the specifications furnished to the contractor, and the director fails for ten days to accept such work as completed, the contractor has the right to institute proceedings under this chapter.

SECTION 6. AMENDMENT. Subsection 1 of section 25-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The department of human services shall seek appropriations and resources sufficient to ensure maintenance of the state hospital's accreditation by the joint commission ~~on accreditation of health care organizations~~ and certification by the health care financing administration or by similar accrediting and certifying organizations and agencies possessing hospital standards recognized by the health care industry and accepted by the department.

SECTION 7. AMENDMENT. Section 50-06-06.2 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.2. Clinic services - Provider qualification - Utilization of federal funds.

Within the limits of legislative appropriation therefor and in accordance with rules established by the department, the department may defray the costs of preventive diagnostic, therapeutic, rehabilitative, or palliative items or services furnished medical assistance eligible individuals by regional human service centers. Within the limits of legislative appropriations and to the extent permitted by state and federal law and regulations established thereunder, it is the intent of the legislative assembly that federal funds available under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] be utilized to defray the costs of identifiable mental health clinic services furnished eligible individuals in regional human service centers and that federal funds available under title XX of the Social Security Act [42 U.S.C. 1397 et seq.] be utilized to defray the costs of identifiable social services furnished to eligible individuals by county social service boards and regional human service centers.

SECTION 8. AMENDMENT. Section 52-10-04 of the North Dakota Century Code is amended and reenacted as follows:

52-10-04. Contributions by employees of the state and of political subdivisions.

1. Every employee of the state or of a political subdivision and every employer is required to pay for the period of such coverage, into the contribution fund established by section 52-10-06, contributions, with respect to wages, as defined in section 52-10-02, equal to the amount of the tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of that Act. Such employee's liability shall arise in consideration of the employee's retention in the service of the state or of a political subdivision or the employee's entry upon such service, after the enactment of this chapter.
2. The employee's contribution imposed by this section must be collected by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction does not relieve the employee from liability for such contribution.
3. If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, must be made, without interest, in such manner and at such times as the state agency shall prescribe.
4. ~~All unexpended employer contributions in the social security contribution fund paid in to provide a fund out of which the legislative assembly could appropriate for the administration of this chapter and chapter 52-09 as of June 30, 1987, must be transferred by the office of management and budget to the bureau for deposit by the bureau into the old age survivors' fund established by section 52-09-05.~~

SECTION 9. AMENDMENT. Subsection 4 of section 52-10-05 of the North Dakota Century Code is amended and reenacted as follows:

4. Delinquent payments due under subdivision a of subsection 3 must bear interest at the rate specified in the Social Security Act at 42 U.S.C. 418 and may be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such subdivision by any department or agency of the state. In no case may the interest imposed hereby be less than five dollars. In addition, a penalty may be assessed on delinquent reports if such penalty is provided for in the Social Security Act at 42 U.S.C. 418. Any such penalty must be under the terms, conditions, and in the amounts specified in the Social Security Act. In no case may any penalty imposed hereby be less than five dollars. ~~Annually, on each September thirtieth, the bureau shall determine the balance in the fund created by section 52-10-06 resulting from interest and penalties collected which are not or will not be due to the secretary of the treasury. The bureau shall transfer this balance on September thirtieth to the old age survivors' fund created by section 52-09-05.~~

SECTION 10. AMENDMENT. Section 52-10-07 of the North Dakota Century Code is amended and reenacted as follows:

52-10-07. Referenda and certification.

1. ~~With respect to employees of the state and political subdivisions who are under chapter 52-09 or who may by election come under that chapter, the governor is empowered to authorize a referendum, and with respect to the employees of any political subdivision who are under a locally administered retirement system, the governor shall authorize a referendum upon request of the governing body of such subdivision; and with respect to employees covered by any other retirement system, the governor may authorize a referendum; and in either case the referendum must be conducted and the governor shall designate an agency or individual to supervise its conduct, in accordance with the requirements of section 218(d)(3) of the Social~~

Security Act [42 U.S.C. 418], on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under an agreement under this chapter. The notice of referendum required by section 218(d)(3)(C) of the Social Security Act [42 U.S.C. 418] to be given to employees must contain or must be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient, to inform the employees of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject, if their services are included under an agreement under this chapter.

2. Upon receiving evidence satisfactory to the governor that with respect to any such referendum the conditions specified in section 218(d)(3) of the Social Security Act [42 U.S.C. 418] have been met, the governor, or an official designated by the governor to act in the governor's behalf in respect to this subsection, shall so certify to the secretary of health and human services.

SECTION 11. AMENDMENT. Subsection 3 of section 54-44.7-03 of the North Dakota Century Code is amended and reenacted as follows:

3. The date for submission of information from interested persons or firms in response to an invitation must be not less than twenty-one days after publication of the invitation. Interested architect, engineer, and land surveying persons or firms must be required to respond to the invitation with the submission of the information required in general services administration forms ~~SF 254 and SF 255~~ form SF330, architect-engineer related services questionnaire for specific project, or such similar information as the agency selection committee may prescribe by rule.

SECTION 12. AMENDMENT. Subsection 17 of section 54-52-01 of the North Dakota Century Code, which becomes effective after July 31, 2017, is amended and reenacted as follows:

17. "Retirement board" or "board" means the ~~seven persons designated by this chapter as the governing authority for the retirement system created under section 54-52-03.~~

SECTION 13. AMENDMENT. Subsection 3 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee ~~or from the levy authorized by subsection 5 of section 57-15-28.1.~~ The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the board in writing.

SECTION 14. AMENDMENT. Section 57-15-06 of the North Dakota Century Code is amended and reenacted as follows:

57-15-06. County general fund levy.

The board of county commissioners may levy property taxes for county general fund purposes at a tax rate not exceeding sixty mills per dollar of taxable valuation of property in the county.

A county that levied more than sixty mills for taxable year 2015 for the combined number of mills levied for general fund purposes plus the number of mills levied for other purposes consolidated into the general fund levy by this Act which were combined into the general fund for taxable years after 2014 may levy for general fund purposes for taxable year 2016 the same number of mills that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2017 sixty mills plus seventy-five percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2018 sixty mills plus fifty percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2019 sixty mills plus twenty-five percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015.

Unless a specific exception is provided by statute, the county general fund levy limitation under this section applies to all property taxes the board of county commissioners is authorized to levy for general county purposes.

SECTION 15. AMENDMENT. Section 57-15-08 of the North Dakota Century Code is amended and reenacted as follows:

57-15-08. General fund levy limitations in cities.

The aggregate amount levied for city general fund purposes may not exceed an amount produced by a levy of one hundred five mills on the taxable valuation of property in the city. A city, when authorized by a majority vote of the electors of the city voting on the question at a regularly scheduled or special election called for such purpose pursuant to a resolution approved by the governing body of the city, may increase the maximum mill levy for general city purposes by not more than ten mills.

A city that levied more than one hundred five mills for taxable year 2015 in the combined number of mills levied for general fund purposes plus the number of mills levied for other purposes consolidated into the general fund levy by this Act which were combined into the general fund for taxable years after 2014 may levy for general fund purposes for taxable year 2016 the same number of mills that was levied for those purposes for taxable year 2015. A city may levy for general fund purposes for taxable year 2017 one hundred five mills plus seventy-five percent of the combined number of mills exceeding one hundred five that was levied for those purposes for taxable year 2015. A city may levy for general fund purposes for taxable year 2018 one hundred five mills plus fifty percent of the combined number of mills exceeding one hundred five that was levied for those purposes for taxable year 2015. A city may levy for general fund purposes for taxable year 2019 one hundred five mills plus twenty-five percent of the combined number of mills exceeding one hundred five that was levied for those purposes for taxable year 2015.

SECTION 16. AMENDMENT. Subsection 1 of section 57-34-03 of the North Dakota Century Code is amended and reenacted as follows:

1. On or before July fifteenth of each year, the tax commissioner shall review the report under ~~subsection 3~~ of section 57-34-02 and compute the total tax to be assessed against each telecommunications carrier in this state at a rate of two and one-half percent of adjusted gross receipts. If the tax commissioner's computation of the total tax differs from the amount computed by a telecommunications carrier, the tax commissioner shall give notice of the change by mail to that telecommunications carrier on or before July fifteenth. The state board

of equalization shall assess the tax under this section after consideration of any contest presented.

SECTION 17. AMENDMENT. Subsection 7 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

7. A taxpayer filing a return under this section is entitled to the following tax credits:
 - a. Family care tax credit under section 57-38-01.20.
 - b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.
 - c. Agricultural business investment tax credit under section 57-38.6-03.
 - d. Seed capital investment tax credit under section 57-38.5-03.
 - e. Planned gift tax credit under section 57-38-01.21.
 - f. Biodiesel fuel or green diesel fuel tax credits under sections 57-38-01.22 and 57-38-01.23.
 - g. Internship employment tax credit under section 57-38-01.24.
 - h. Workforce recruitment credit under section 57-38-01.25.
 - i. Angel fund investment tax credit under section 57-38-01.26.
 - j. Microbusiness tax credit under section 57-38-01.27.
 - k. Marriage penalty credit under section 57-38-01.28.
 - ~~l. Homestead income tax credit under section 57-38-01.29.~~
 - ~~m. Commercial property income tax credit under section 57-38-01.30.~~
 - ~~n. Research and experimental expenditures under section 57-38-30.5.~~
 - ~~o.m. Geothermal energy device installation credit under section 57-38-01.8.~~
 - ~~p.n. Long-term care partnership plan premiums income tax credit under section 57-38-29.3.~~
 - ~~q.o. Employer tax credit for salary and related retirement plan contributions of mobilized employees under section 57-38-01.31.~~
 - ~~r.p. Automating manufacturing processes tax credit under section 57-38-01.33 (effective for the first five taxable years beginning after December 31, 2012).~~
 - ~~s.q. Income tax credit for passthrough entity contributions to private education institutions under section 57-38-01.7.~~

SECTION 18. AMENDMENT. Section 57-51.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-03.1. Stripper well, new well, ~~work-over~~, and secondary or tertiary project certification for tax exemption or rate reduction - Filing requirement.

1. To receive the benefits of a tax exemption or tax rate reduction, a certification of qualifying well status prepared by the industrial commission must be submitted to the tax commissioner as follows:

4. a. To receive, from the first day of eligibility, a tax exemption on production from a stripper well property or individual stripper well under subsection 2 of section 57-51.1-03, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after the end of the stripper well property's or stripper well's qualification period.
- ~~2. To receive, from the first day of eligibility, a tax exemption under subsection 3 of section 57-51.1-03 and a rate reduction on production from a new well under section 57-51.1-02, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after a new well is completed.~~
- ~~3. To receive, from the first day of eligibility, a tax exemption under subsection 4 of section 57-51.1-03 and a rate reduction for a work-over well under section 57-51.1-02, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after the work-over project is completed.~~
4. b. To receive, from the first day of eligibility, a tax exemption under subsection 3 of section 57-51.1-03 and a tax rate reduction under section 57-51.1-02 on production from a secondary or tertiary project, the industrial commission's certification must be submitted to the tax commissioner within the following time periods:
 - a. For a tax exemption, within eighteen months after the month in which the first incremental oil was produced.
 - b. For a tax rate reduction, within eighteen months after the end of the period qualifying the project for the rate reduction.
5. c. To receive, from the first day of eligibility, a tax exemption or the reduction on production for which any other tax exemption or rate reduction may apply, the industrial commission's certification must be submitted to the tax commissioner within eighteen months of the completion, recompletion, or other qualifying date.
- ~~6. To receive, from the first day of eligibility, a tax exemption under subsection 6 of section 57-51.1-03 on production from a two-year inactive well, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after the end of the two-year inactive well's qualification period.~~
2. If the industrial commission's certification is not submitted to the tax commissioner within the eighteen-month period provided in this section, then the exemption or rate reduction does not apply for the production periods in which the certification is not on file with the tax commissioner. When the industrial commission's certification is submitted to the tax commissioner after the eighteen-month period, the tax exemption or rate reduction applies to prospective production periods only and the exemption or rate reduction is effective the first day of the month in which the certification is received by the tax commissioner.

SECTION 19. AMENDMENT. Subsection 19 of section 58-03-07 of the North Dakota Century Code is amended and reenacted as follows:

19. To support an airport or to support or create an airport authority and to levy a tax for airport purposes within the limitations of section ~~57-15-37-12-06-15~~.

SECTION 20. REPEAL. Sections 54-40.3-03, 57-15-10.2, 57-38-01.29, and 57-38-01.30 of the North Dakota Century Code are repealed.

SECTION 21. EFFECTIVE DATE. Section 18 of this Act is effective for taxable events occurring after December 31, 2015.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1043.

House Vote: Yeas 85 Nays 0 Absent 9

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2017.

Approved at _____ M. on _____, 2017.

Governor

Filed in this office this _____ day of _____, 2017,

at _____ o'clock _____ M.

Secretary of State