

**FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED HOUSE BILL NO. 1286**

Introduced by

Representatives Kasper, Beadle, Brabandt, Dosch, Headland, Ruby, Streyle, Thoreson
Senators Burckhard, Campbell, Klein, Wardner

1 A BILL for an Act to create and enact section 21-03-06.1 and a new section to chapter 48-05 of
2 the North Dakota Century Code, relating to voter approval of public building projects funded
3 through a building authority or other indirect means and the governing body of a building
4 authority; to amend and reenact section 21-03-07 of the North Dakota Century Code, relating to
5 voter approval of bond issues; and to repeal section 57-15-59 of the North Dakota Century
6 Code, relating to county or city authority to enter lease agreements for court, corrections, and
7 law enforcement facilities.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1.** Section 21-03-06.1 of the North Dakota Century Code is created and enacted
10 as follows:

11 **21-03-06.1. Voter approval of building authority or other building project funding**
12 **methods - Building construction project approval.**

13 1. Notwithstanding any other provision of law, a municipality or governing body of a
14 municipality may not enter an agreement pursuant to internal revenue service revenue
15 ruling 63-20 under which payments of any kind would be required by the municipality
16 to any building authority or other entity that incurs indebtedness or other obligation in
17 connection with acquisition, improvements, or construction of any property or structure
18 at a total cost of four million dollars or more to be used by the municipality unless the
19 agreement has been approved by a vote of at least fifty-five percent of the qualified
20 electors of the municipality voting on the question if the agreement is for acquisition,
21 improvements, or construction of any property or structure for which an election would
22 be required if the municipality undertook the acquisition or construction project through
23 issuance of bonds of the municipality. A municipality or governing body of a
24 municipality, regardless of the funding source, may not enter an agreement after

1 June 30, 2013, in connection with acquisition, improvement, or construction of any
2 property or structure at a total cost of four million dollars or more to be used by the
3 municipality unless the agreement has been approved by a vote of at least fifty-five
4 percent of the qualified electors of the municipality voting on the question, except for a
5 public-private partnership agreement or agreement to implement a project under a
6 bond issue approved by the electors under section 21-03-07. The governing body of a
7 city or county may not supersede this subsection under home rule authority. This
8 subsection does not apply to buildings to be used primarily for fire protection, police, or
9 emergency medical services.

- 10 2. The school board of a school district may not enter an agreement pursuant to internal
11 revenue service revenue ruling 63-20 under which payments of any kind would be
12 required by the school district to any building authority or other entity that incurs
13 indebtedness or other obligation regarding construction, purchase, repair,
14 improvement, modernization, or renovation of any building or facility to be used by the
15 school district without approval by the superintendent of public instruction in the
16 manner provided in section 15.1-36-01, if the approval by the superintendent of public
17 instruction would be required for the project under section 15.1-36-01 if the school
18 district undertook the project itself.

19 **SECTION 2. AMENDMENT.** Section 21-03-07 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **21-03-07. Election required - Exceptions.**

22 No municipality, and no governing board thereof, may issue bonds without being first
23 authorized to do so by a vote equal to ~~sixty~~fifty-five percent or more of all the qualified voters of
24 such municipality voting upon the question of such issue except:

- 25 1. As otherwise provided in section 21-03-04.
26 2. The governing body may issue bonds of the municipality for the purpose and within
27 the limitations specified by subdivision e of subsection 1 of section 21-03-06,
28 subdivision g of subsection 2 of section 21-03-06, and subsections 4.1 and 7 of
29 section 21-03-06 without an election.
30 3. The governing body of any municipality may issue bonds of the municipality for the
31 purpose of providing funds to meet its share of the cost of any federal aid highway

1 project undertaken under an agreement entered into by the governing body with the
2 United States government, the director of the department of transportation, the board
3 of county commissioners, or any of them, including the cost of any construction,
4 improvement, financing, planning, and acquisition of right of way of a bridge eligible for
5 federal matching funds, federal aid highway routed through the municipality and of any
6 bridges and controlled access facilities thereon and any necessary additional width or
7 capacity of the bridge or roadway thereof greater than that required for federal or state
8 bridge or highway purposes, and of any necessary relaying of utility mains and
9 conduits, curbs and gutters, and the installation of utility service connections and
10 streetlights. The portion of the total cost of the project to be paid by the municipality
11 under the agreement, including all items of cost incurred directly by the municipality
12 and all amounts to be paid by it for work done or contracted for by other parties to the
13 agreement, may not exceed a sum equal to thirty percent of the total cost, including
14 engineering and other incidental costs, of all construction and reconstruction work to
15 be done plus fifty percent of the total cost of all right of way to be acquired in
16 connection therewith. The initial resolution authorizing issuance of bonds under this
17 subsection must be published in the official newspaper of the municipality. Within sixty
18 days after publication, an owner of taxable property within the municipality may file
19 with the auditor or chief fiscal officer of the municipality a written protest against
20 adoption of the resolution. A protest must describe the property that is the subject of
21 the protest. If the governing body finds protests have been signed by the owners of
22 taxable property having an assessed valuation equal to five percent or more of the
23 assessed valuation of all taxable property in the municipality, as most recently finally
24 equalized, all further proceedings under the initial resolution are barred. Nothing
25 herein may be deemed to prevent any municipality from appropriating funds for or
26 financing out of taxes, special assessments, or utility revenues any work incidental to
27 any such project, in the manner and to the extent otherwise permitted by law, and the
28 cost of any work so financed may not be included in computing the portion of the
29 project cost payable by the municipality, within the meaning of this subsection, unless
30 the work is actually called for by the agreement between the municipality and the other
31 governmental agencies involved.

- 1 4. The governing body of any city may also by resolution adopted by a two-thirds vote
2 authorize and issue general obligation bonds of the city for the purpose of providing
3 funds to pay the cost of any improvement of the types stated below, to the extent that
4 the governing body determines that such cost should be paid by the city and should
5 not be assessed upon property specially benefited thereby; provided that the initial
6 resolution authorizing such bonds must be published in the official newspaper, and
7 any owner of taxable property within the city may, within sixty days after such
8 publication, file with the city auditor a protest against the adoption of the resolution. If
9 the governing body finds such protests to have been signed by the owners of taxable
10 property having an assessed valuation equal to five percent or more of the assessed
11 valuation of all taxable property within the city, as theretofore last finally equalized, all
12 further proceedings under such initial resolution are barred. This procedure is
13 authorized for the financing of the following types of improvements:
- 14 a. Any street improvement, as defined in subsection 2 of section 40-22-01, to be
15 made in or upon any federal or state highway or any other street designated by
16 ordinance as an arterial street.
- 17 b. The construction of a bridge, culvert, overpass, or underpass at the intersection
18 of any street with a stream, watercourse, drain, or railway, and the acquisition of
19 any land or easement required for that purpose.
- 20 c. Any improvement incidental to the carrying out of an urban renewal project, the
21 issuance of bonds for which is authorized by subsection 4 of section 40-58-13.
- 22 Nothing herein may be deemed to prevent any municipality from appropriating funds
23 for or financing out of taxes, special assessments, or utility revenues any work
24 incidental to any such improvement, in the manner and to the extent otherwise
25 permitted by law.
- 26 5. The governing body of any city may also by resolution adopted by a two-thirds vote
27 dedicate the mill levies as authorized by sections 57-15-42 and 57-15-44 and may
28 authorize and issue general obligation bonds to be paid by these dedicated levies for
29 the purpose of providing funds for the purchase, construction, reconstruction, or repair
30 of public buildings or fire stations; provided, that the initial resolution authorizing the
31 mill levy dedication and general obligation bonds must be published in the official

1 newspaper, and any owner of taxable property within the city may, within sixty days
2 after publication, file with the city auditor a protest against the adoption of the
3 resolution. Protests must be in writing and must describe the property which is the
4 subject of the protest. If the governing body finds such protests to have been signed
5 by the owners of taxable property having an assessed valuation equal to five percent
6 or more of the assessed valuation of all taxable property within the city, as theretofore
7 last finally equalized, all further proceedings under the initial resolution are barred.

8 6. The governing body of any county may also by resolution adopted by a two-thirds vote
9 dedicate the tax levies as authorized by sections 57-15-06.6 and 57-15-06.9 and may
10 authorize and issue general obligation bonds to be paid by these dedicated levies for
11 the purpose of providing funds for the purchase, construction, reconstruction, or repair
12 of regional or county correction centers, or parks and recreational facilities; provided,
13 that the initial resolution authorizing the tax levy dedication and general obligation
14 bonds must be published in the official newspaper, and any owner of taxable property
15 within the county may, within sixty days after publication, file with the county auditor a
16 protest against the adoption of the resolution. Protests must be in writing and must
17 describe the property which is the subject of the protest. If the governing body finds
18 such protests to have been signed by the owners of taxable property having an
19 assessed valuation equal to five percent or more of the assessed valuation of all
20 taxable property within the county, as theretofore last finally equalized, all further
21 proceedings under the initial resolution are barred.

22 7. The governing body of any public school district may also by resolution adopted by a
23 two-thirds vote dedicate the tax levies as authorized by section 15.1-09-47,
24 15.1-09-49, or 57-15-16 and may authorize and issue general obligation bonds to be
25 paid by these dedicated levies for the purpose of providing funds for the purchase,
26 construction, reconstruction, or repair of public school buildings or for the construction
27 or improvement of a project under section 15.1-36-02 or 15.1-36-03. The initial
28 resolution authorizing the tax levy dedication and general obligation bonds must be
29 published in the official newspaper of the school district, and any owner of taxable
30 property within the school district may, within sixty days after publication, file with the
31 business manager of the school district a protest against the adoption of the

1 resolution. Protests must be in writing and must describe the property that is the
2 subject of the protest. If the governing body finds the protests to have been signed by
3 the owners of taxable property having an assessed valuation equal to five percent or
4 more of the assessed valuation of all taxable property within the school district, as
5 theretofore last finally equalized, all further proceedings under the initial resolution are
6 barred.

7 8. The governing body of any city having a population of twenty-five thousand persons or
8 more may use the provisions of subsection 3 to provide funds to participate in the cost
9 of any construction, improvement, financing, and planning of any bypass routes,
10 interchanges, or other intersection improvements on a federal or state highway system
11 which is situated in whole or in part outside of the corporate limits of the city; provided,
12 that the governing body thereof shall determine by resolution that the undertaking of
13 such work is in the best interest of the city for the purpose of providing access and
14 relieving congestion or improving traffic flow on municipal streets.

15 9. The governing body of a municipality or other political subdivision, located at least in
16 part within a county that is included within a disaster or emergency executive order or
17 proclamation of the governor under chapter 37-17.1, may by resolution adopted by a
18 two-thirds vote authorize and issue general obligation bonds of the political subdivision
19 without an election for the purpose of providing funds to pay costs associated with the
20 emergency condition. The political subdivision may dedicate and levy taxes for
21 retirement of bonds under this subsection and such levies are not subject to limitations
22 as otherwise provided by law.

23 10. The governing board of any county, city, public school district, park district, or township
24 may by resolution adopted by a two-thirds vote dedicate the tax levy authorized by
25 section 57-15-41 and authorize and issue general obligation bonds to be paid by the
26 dedicated levy for the purpose of providing funds to prepay outstanding special
27 assessments made in accordance with the provisions of title 40 against property
28 owned by the county, city, public school district, park district, or township.

29 **SECTION 3.** A new section to chapter 48-05 of the North Dakota Century Code is created
30 and enacted as follows:

1 **Building authority governing body - Contract conflict of interest.**

2 The governing body of a building authority established after June 30, 2013, may not include
3 any officer, employee, or member of the governing body of a political subdivision that contracts
4 with the building authority.

5 The governing body of a building authority may not enter a contract after June 30, 2013,
6 relating to a public improvement with an entity of which a member of the governing body of the
7 building authority is an owner, officer, or employee.

8 **SECTION 4. REPEAL.** Section 57-15-59 of the North Dakota Century Code is repealed.