

MUNICIPAL GOVERNMENT

CHAPTER 300

H. B. No. 799

(Loewen, Karabensh, Dahl, Muggli, Hornstein)

AUDIT AND PAYMENT OF CLAIMS AND ACCOUNTS

AN ACT

To amend and reenact section 40-0112 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the audit and allowance of claims and accounts against municipalities.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 40-0112 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-0112. Claims and Accounts Against Municipalities Audited.) No account or claim against a municipality to be paid from any fund, including a municipal utilities fund, shall be allowed by the governing body thereof unless the claim is made out in full and is both itemized and certified in the form prescribed in section 54-1404. The governing body, in its discretion, may require the filing of any additional information which it may deem necessary to the proper understanding and audit of any claim or account and it may require the filing of a sworn statement in such form as it may prescribe. Every account or claim which is allowed by the governing body shall be shown in the minutes of the proceedings of the governing body except that wages and salaries of persons employed by the city may be consolidated and allowed in one order as provided by section 40-1706 and reference made in the proceedings of the governing body to the payroll record certified to the city treasurer.

Approved March 14, 1959.

CHAPTER 301

H. B. No. 770
(Hilleboe)

CHANGE FROM COMMISSION SYSTEM OF CITY GOVERNMENT

AN ACT

To amend and reenact section 40-0408 of the 1957 Supplement to the North Dakota Revised Code of 1943 relating to the changing from a commission system of city government.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 40-0408 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-0408. Change From Commission System of Government; Petition Required.) Any city which shall have operated for more than six years under the city commission system of government may change its organization thereunder and adopt the city council form of government. The proceeding to change shall be initiated by a petition asking for such change signed by not less than forty percent of the electors of the city. For the purpose of this section the term "qualified electors of the city" shall mean the total number of electors voting at the preceding general election. The signatures to such petition need not be appended to a single paper, but one of the signers upon each paper shall make oath before an officer competent to administer oaths that each signature appearing upon such paper is the genuine signature of the person whose name it purports to be. Each petition, in addition to the names of the signers, shall contain the name of the street upon and the number of the house in which each petitioner resides, and the length of his residence in the city. Any petitioner shall be permitted to withdraw his name from a petition within five days after the petition is filed.

Approved March 11, 1959.

CHAPTER 302

H. B. No. 609

(Baldwin, Fitch, Hilleboe, Aamoth, Stockman)

MUNICIPAL PUBLIC WORKS PROJECTS

AN ACT

To amend and reenact subsection 59 of section 40-0501 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to the powers of municipalities to accept aid from and cooperate with the federal or any state government or any agency or municipality thereof in the establishment, construction and maintenance of public works projects, to give authority to municipalities having a population of more than thirty thousand according to the last federal census to agree to hold such governments, agencies and municipalities harmless from liability arising from such projects and to pay the cost of lands, rights-of-way and easements required in connection therewith, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Subsection 59 of section 40-0501 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-0501. Powers of All Municipalities.)

59. **Public Works Project.)** To accept aid from, cooperate and contract with, and to comply with and meet the requirements of any federal or state agency for the establishment, construction and maintenance of public works, including dams and reservoirs for municipal water supply, for water conservation, for flood control, for the prevention of stream pollution, or for sewage disposal; and in furtherance thereof to acquire by purchase, lease, gift or condemnation the necessary lands, rights-of-way and easements for such projects, and to transfer and convey to the state or federal government, or any agency thereof, such lands, rights-of-way and easements in consideration of the establishment and construction of, and the public benefits which will be derived from any such project. Cities having a population of more than thirty thousand according to the last federal census shall in addition hereto have the power to accept aid from, cooperate and contract with, and to comply with and meet the requirements of the federal or any state government or any agency or municipality thereof, for the establishment, construction and maintenance of public works, including dams and reservoirs

and other facilities for municipal water supply, for water conservation, for flood control, for the prevention of stream pollution, or for sewage disposal; to enter into an agreement with any such government, agency or municipality within or without this state, to hold such government, agency or municipality harmless from any and all liability or claim of liability arising from the establishment, construction and maintenance of such works, and to indemnify such government, agency or municipality for any such liability sustained by it and to pay all costs of defending against any such claim; and in furtherance thereof to acquire by purchase, lease, gift or condemnation the necessary lands, rights-of-way and easements for such projects, and to transfer and convey to such government, agency or municipality, such lands, rights-of-way and easements in consideration of the establishment and construction of, and the public benefits which will be derived from any such project, or to pay the cost of the acquisition of such lands, rights-of-way and easements by such government, agency or municipality. All actions herein authorized may be taken by resolution duly adopted by the governing body of the municipality. Any and all actions and proceedings heretofore taken by any municipality which are within the authority granted by this subsection are hereby legalized and validated.

§ 2. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 4, 1959.

CHAPTER 303

H. B. No. 797
(Lowe)

MUNICIPAL EMPLOYEE PENSION SYSTEM

AN ACT

To create and enact subsection 70 of section 40-0501 of the North Dakota Revised Code of 1943, as amended, relating to powers of all municipalities as to employee pension systems.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) Subsection 70 of section 40-0501 of the North Dakota Revised Code of 1943, as amended, is hereby created and enacted to read as follows:

70. **Employee Pension System.)** To adopt, by ordinance, a city employee pension system which may provide all rules and regulations governing its operation and discontinuance, provided other pension systems allowed by statute are not in effect, excepting Firemen's Relief Associations and Federal Social Security, or in order to consolidate existing pension plans. In addition to all other rules and regulations deemed necessary and proper by the governing body, it may provide as to matters pertaining to membership, tax levies in an amount not exceeding the total levies authorized by chapters 40-45 and 40-46, membership fees and assessments, management, investments, acceptance of money and property, retirement conditions and payment amount, continuance of system and discontinuance procedures, discontinuance payments, entrance into contracts with an insurance firm or firms for coverage of such employee pension system.

Approved March 21, 1959.

CHAPTER 304

H. B. No. 584

(Lowe, Hilleboe, Baldwin,
(Aamoth and Johnston)

CITY MANAGER PLAN

AN ACT

To amend and reenact section 40-1008 of the North Dakota Revised Code of 1943 relating to the city manager plan of local government for cities.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 40-1008 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-1008. Election to Determine Question of Retention of City Manager Plan; Procedure Thereafter.) At any time after the city manager plan has been in force in any city for a period of five years or more, the governing body of the city may submit at any regular election the question of whether or not such plan shall be retained. If a petition signed by forty percent or more of the qualified electors of the city as shown by the votes cast for the executive officer at the preceding city election, requesting the submission of such question is filed with the city auditor, the governing body shall submit such proposal to the voters of the city at an election to be held within ninety days after the filing of such petition. The signatures to such petition need not be appended to a single paper, but each single paper so used shall clearly state the purpose of the petition at the top of the paper, and each signature shall have been placed thereon not more than ninety days prior to the date on which the petition is filed in the office of the city auditor. Upon each paper one of the signers to such petition shall, under oath before an officer competent to administer oaths, swear that he witnessed the signing of each signature appearing on such paper and that each signature appearing upon such paper is the genuine signature of the person whose name it purports to be. Each petition, in addition to the names of the signers, shall contain the name of the street and the number of the house in which each petitioner resides, the length of his residence in the state of North Dakota, the length of his residence in the city, and the date on which the petitioner signed the petition. Any petitioner shall be permitted to withdraw his name from a petition at any time prior

to action by the governing body calling the election as provided herein. Such question shall not be submitted more than once in every five years. If a majority of the votes cast at the election shall be against retaining the city manager plan, the city shall revert to the plan in force previous to the adoption of the city manager plan, and the provisions of this chapter shall not be applicable to such city except after another compliance with its terms. The governing body shall fix the date, not less than three months nor more than six months after an election at which the majority vote is against the retention of the city manager plan, when such plan shall cease to be operative in the municipality.

Approved March 11, 1959.

CHAPTER 305

S. B. No. 220
(Wartner and Garaas)

IMPROVEMENTS BY SPECIAL ASSESSMENTS

AN ACT

To provide that irregularities and defects occurring in proceedings taken under the provisions of chapter 40-22 of the North Dakota Revised Code of 1943, as amended, relating to improvements by the special assessment method will not invalidate such proceedings, if the proceedings are for a lawful purpose and are unaffected by fraud, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Defects and Irregularities in Improvement Proceedings Are Not Fatal.) Defects and irregularities in any proceedings had or to be had under chapter 40-22 of the North Dakota Revised Code of 1943, as amended, relating to municipal improvements by the special assessment method, where the proceedings are for a lawful purpose and are unaffected by fraud, and do not violate any constitutional limitation or restriction, shall not invalidate such proceedings, and no action shall be commenced or maintained and no defense or counterclaim in any action shall be recognized in the courts of this state founded on any such defects or irregularities in such proceedings, unless commenced within sixty days of the adoption of the resolution of the governing board awarding the sale of warrants to finance the improvement.

§ 2. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 17, 1959.

CHAPTER 306

H. B. No. 827

(Trom)

(By request)

IMPROVEMENT DISTRICTS

AN ACT

To amend and reenact sections 40-2201, 40-2208 and 40-2209 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to defraying expense of improvements by special assessments, creation of improvement districts, size and form thereof, and regulations governing the same, to amend and reenact sections 40-2217 and 40-2218 of the North Dakota Revised Code of 1943, relating to protests against improvements, and hearings thereon, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 40-2201 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended to read as follows:

40-2201. Power of Municipalities to Defray Expense of Improvements by Special Assessments.) Any municipality, upon complying with the provisions of this chapter, may defray the expense of any or all of the following types of improvements by special assessments:

1. The construction of a water supply system, or a sewerage system, or both, or any part thereof, or any improvement thereto or extension or replacement thereof, including the construction and erection of wells, intakes, pumping stations, settling basins, filtration plants, standpipes, water towers, reservoirs, watermains, sanitary and storm sewer mains and outlets, facilities for the treatment and disposal of sewage and other municipal, industrial and domestic wastes, and all other appurtenances, contrivances and structures used or useful for a complete water supply and sewerage system;
2. The improvement of the municipal street system and any part thereof, including any one or more of the processes of acquisition, opening, widening, grading, graveling, paving, repaving, surfacing with tar, asphalt, bituminous or other appropriate material, resurfacing, re-sealing, and repairing of any street, highway, avenue, alley, or public place within the municipality, and the construction and reconstruction of storm sewers, curbs and gutters, sidewalks, and service connections for water and other utilities, and street lights;

3. The improvement of boulevards and other public places by the planting of trees, the construction of grass plots and the sowing of grass seed therein, and the maintenance and preservation of such improvements by the watering of such trees and grass, the cutting of such grass, and the trimming of such trees, or otherwise in any manner which may appear necessary and proper to the governing body of the municipality;
4. The acquiring of the necessary land and easements and the construction of the necessary works, within and without the municipality, for flood protection of properties within the municipality; and
5. The acquiring or leasing of the necessary property and easements and the construction of parking lots, ramps, garages, and other facilities for motor vehicles.

In planning an improvement project of a type specified in any one of the foregoing subsections, the governing body may include in such plans any and all items of work and materials which in its judgment are necessary or reasonably incidental to the completion of an improvement project of such type.

§ 2. **Amendment.**) Section 40-2208 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended to read as follows:

40-2208. Improvement Districts To Be Created.) For the purpose of making an improvement project of one of the types specified in section 40-2201 and defraying the cost thereof by special assessments, a municipality may create water districts, sewer districts, water and sewer districts, street improvement districts, boulevard improvement districts, flood protection districts, and parking districts, and may extend any such district when necessary. The appropriate special improvement district may be created by ordinance or resolution. The district shall be designated by a name appropriate to the type of improvement for the making of which is created, and by a number distinguishing it from other improvement districts. Nothing herein, however, shall prevent a municipality from making and financing any improvement and levying special assessments therefor under any alternate procedure set forth in this title.

§ 3. **Amendment.**) Section 40-2209 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended to read as follows:

40-2209. Size and Form of Improvement Districts: Regulations Governing.) Any improvement district created by a municipality may embrace two or more separate property areas. Each improvement district shall be of such size and

form as to include all properties which in the judgment of the governing body, after consultation with the engineer planning the improvement, will be benefited by the construction of the improvement project which is proposed to be made in or for such district, or by any portion or portions of such project. A single district may be created for an improvement of the type specified in any one of the subsections of section 40-2201, notwithstanding any lack of uniformity among the types, items or quantities of work and materials to be used at particular locations throughout the district. The jurisdiction of a municipality to make, finance and assess the cost of any improvement project shall not be impaired by any lack of commonness, unity, or singleness of the location, purpose or character of the improvement, or by the fact that any one or more of the properties included in the district is subsequently determined not to be benefited by the improvement, or by a particular portion thereof, and is not assessed therefor. There may be omitted from a water or sewer district, in the discretion of the governing body, properties within the corporate limits which are benefited by the improvement therein but do not abut upon a water or sewer main, without prejudice to the right and power of the municipality subsequently to assess such properties to the extent and in the manner permitted by law.

§ 4. Amendment.) Section 40-2217 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2217. Protest Against Resolution of Necessity; Meeting to Hear Protest.) If, within thirty days after the first publication of the resolution declaring the necessity of an improvement project of the type specified in any one of the subsections of section 40-2201, the owners of any property within the improvement district file written protests with the city auditor or village clerk, as the case may be, protesting against the adoption of said resolution, the governing body of the municipality, at its next meeting after the expiration of the time for filing such protests, shall hear and determine the sufficiency thereof.

§ 5. Amendment.) Section 40-2218 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2218. Protest Bar to Proceeding; Invalid or Insufficient Protests.) If the governing body finds the protests to contain the names of the owners of a majority of the area of the property included within the improvement district the protests shall be a bar against proceeding further with the improvement project described in the plans and specifications. If the

governing body finds the protests to contain the names of the owners of a majority of any separate property area included within the district, such protests shall be a bar against proceeding with the portion of such improvement project, the cost of which is to be assessed in whole or in part upon property within such area, but shall not bar against proceeding with the remainder of the improvement project or assessing the cost thereof against other areas within the district, unless such protests represent a majority of the area of the entire district. If the protests are found to be insufficient or invalid, the governing body may cause the improvement to be made and may contract or otherwise provide in accordance with this title for the construction thereof and the acquisition of property required in connection therewith and may levy and collect assessments therefor.

§ 6. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 12, 1959.

CHAPTER 307

H. B. No. 705

(Muggli, Solberg, Doherty, Kitzmann, Burk)

CLAIMS AGAINST MUNICIPALITIES

AN ACT

To amend and reenact section 40-4201 of the North Dakota Revised Code of 1943 relating to time for filing a claim against a municipality for damages arising from defective streets, sidewalks, or bridges.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 40-4201 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4201. Claim Against Municipality for Damages Arising From Defective Streets, Sidewalks, or Bridges Must Be Filed.) Any claim against a municipality for damages or injuries alleged to have arisen from the defective, unsafe, dangerous, or obstructed condition of any street, cross walk, sidewalk, culvert, or bridge of the municipality or from the negligence of the municipal authorities in respect to any such street,

sidewalk, cross walk, culvert, or bridge, shall be filed in the office of the city auditor or village clerk, as the case may be, within ninety days after the happening of such injury. Such claim shall be signed and verified by the claimant and shall describe the time, place, cause, and extent of the damage or injury, shall contain an abstract of the facts upon which the claim is based, and shall specify the amount of damages claimed therefor. If it shall appear by the affidavit of a reputable physician that the injured person was rendered, by the injury complained of, mentally incapable of making the claim within the time specified in this section, the claim may be filed, if the claimant survives, within ninety days after the claimant becomes competent to make the same. The affidavit of the physician shall be prima facie evidence of mental incapacity, and may be controverted on the trial of an action for such damages. If the injured person shall die within ninety days after the happening of the injury, or before he shall become mentally competent to make the claim, the claim may be made within ninety days after the death of the injured person by any person having knowledge of the facts, and the person making such claim shall set forth therein specifically the facts relating to the injury of which he has personal knowledge and shall verify such facts positively. The facts of which the person making the claim has no personal knowledge shall be verified to the best of his knowledge, information, and belief.

Approved March 12, 1959.

CHAPTER 308

H. B. No. 795
(Lowe and Stockman)

MUNICIPAL POLICE PENSIONS, CONTINUANCE

AN ACT

Pertaining to police pensions in cities.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Question of Continuance of Policemen's Pension Plan.)

The governing body of a city having a policemen's pension plan may discontinue such plan upon receipt of a petition requesting such discontinuance signed by sixty percent of the police employees and pensioners of the city as of the date of the filing of such petition and upon the subsequent adoption by the governing body of a resolution by two-thirds vote of the members present stating that the plan is not desirable or workable.

§ 2. Procedure Upon Discontinuance of Policemen's Pension Plan.) If the governing body of the city shall determine by a two-thirds vote as provided in section one of this Act that the policemen's pension plan shall be discontinued, the plan shall be discontinued in such city and the governing body shall proceed to liquidate the pension fund created under such plan. Liquidation shall be accomplished by returning to each employee still in the employ of the city ten days after the date of the adoption of the resolution provided for in section one of this Act the entire amount which has been deducted from his salary as an assessment or membership fee and then by payment of pension claims theretofore allowed in the same amounts as are then in effect until the death or disqualification of the pension claimant, and thereafter continuing such payments as would have accrued to survivors of such pension claimants under the local pension provisions if the plan had been continued. If the fund is insufficient to return the amount to which each employee is entitled as provided herein and to pay such pension claims in full, the governing body shall make an annual tax levy, which shall be in addition to any other tax levies authorized by law, in an amount sufficient to assure the payment in full of the pension claims theretofore allowed. If the fund exceeds the amount required to satisfy such returns and such claims, such excess shall be placed in the general fund of the city.

Approved March 21, 1959.

CHAPTER 309

H. B. No. 796

(Lowe)

CITY LEVY FOR SOCIAL SECURITY

AN ACT

Establishing a tax levy for a city having provided its employees with the federal social security plan.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Tax Levy for City Having Provided Its Employees With the Federal Social Security Plan.) In addition to any other levies authorized by law for general purposes, any city or village having provided its employees with the federal social security plan and not making any of the tax levies authorized by sections 40-4501, 40-4602, and 57-1543 of the North Dakota

Revised Code of 1943, as amended, may levy an annual tax of not more than three mills upon its taxable valuation for the purpose of paying such city's or village's share as employer of the cost of providing its employees with the federal social security plan.

Approved March 21, 1959.

CHAPTER 310

H. B. No. 784
(Stockman)

CITY LEVY FOR EMPLOYEES' PENSION FUND AND
SOCIAL SECURITY

AN ACT

To amend and reenact sections 40-4602, 40-4604, 40-4609, and 40-4620 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to a tax levy for a city employees' pension fund and for the city's share of federal social security; membership fees and assessments; requirements for and amounts of retirement pay; and refunds to employees upon termination of employment or upon retirement from pension fund.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 40-4602 of the 1957 Supplement to the North Dakota Revised Code is hereby amended and reenacted to read as follows:

40-4602. Tax Levy for City Employees' Pension Fund and Federal Social Security Authorized; Limitations.) In addition to any other levies authorized by law for general purposes, any city having a population in excess of ten thousand inhabitants according to the last official federal or state census which has adopted a civil service system for city employees may levy an annual tax of not more than two mills for the purpose of creating and maintaining a city employees' pension fund and for the purpose of paying the city's share of federal social security payments to the United States for coverage of city employees under federal social security.

§ 2. Amendment.) Section 40-4604 of the 1957 Supplement to the North Dakota Revised Code is hereby amended and reenacted to read as follows:

40-4604. Membership Fees and Assessments.) Every full time city employee shall, at the time of employment, state in writing whether or not he desires to become a member of

the city employees' pension fund and if his statement is in the affirmative he shall pay to the treasurer of the pension fund a membership fee to be fixed by the board of trustees in an amount not exceeding five dollars. Each member shall be assessed and required to pay annually an amount not more than five percent, to be determined by the board of trustees, upon the amount of annual salary paid to him, and such assessment shall be deducted and retained out of such salary in equal monthly installments.

§ 3. **Amendment.**) Section 40-4609 of the 1957 Supplement to the North Dakota Revised Code is hereby amended and reenacted to read as follows:

40-4609. Who May Be Retired on Pension; Amount Paid to Retiring Employee.) Any appointed full-time employee of a city having an employees' pension fund who shall have served two hundred forty months or more, whether or not consecutive, as an employee and shall have reached the age of sixty years, or who, while employed by such city, shall suffer permanent mental or physical disability so that he is unable to discharge his duties, shall be entitled to be retired. Upon retirement, he shall be paid out of the pension fund of such city a monthly pension of not to exceed sixty percent of the amount of the average salary received by him monthly during the most recent one hundred twenty months of his employment as provided for in the plan adopted by the governing body of the city, but such pension shall not exceed the sum of one hundred fifty dollars per month. If any member shall have served two hundred forty months in such city employment but shall not have reached the age of sixty years, he shall be entitled to retirement, but no pension shall be paid while he lives until he reaches the age of sixty years.

§ 4. **Amendment.**) Section 40-4620 of the 1957 Supplement to the North Dakota Revised Code is hereby amended and reenacted to read as follows:

40-4620. Employee Entitled to Refund From Fund Upon Termination of Employment With City or Upon Coverage Under Federal Social Security.) Any employee who shall have been in the service of the city for a period of two years and shall have contributed to the city employees' pension fund, and who voluntarily and while in good standing as an employee of said city shall have left the employment of such city, shall be entitled, upon application at the time of such retirement to a refund of all contributions made by him except fifty percent of the contributions made by him during the first two years of his city employment.

Approved March 21, 1959.

CHAPTER 311

H. B. No. 794
(Lowe)

CITY EMPLOYEES' PENSION PLAN, CONTINUANCE

AN ACT

To amend and reenact sections 40-4623 and 40-4625 of the North Dakota Revised Code of 1943 relating to employees' pension plan in cities and to repeal section 40-4624 of the North Dakota Revised Code of 1943.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 40-4623 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4623. Question of Continuance of Employees' Pension Plan.) The governing body of a city having an employees' pension plan may discontinue such plan upon receipt of a petition requesting such discontinuance signed by sixty percent of the employees and pensioners of the city under such plan as of the date of the filing of such petition and upon the subsequent adoption by the governing body of a resolution by two-thirds vote of the members present, stating that the plan is not desirable or workable.

§ 2. **Amendment.**) Section 40-4625 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4625. Procedure Upon Discontinuance of Employees' Pension Plan.) If the governing body of the city shall determine by a two-thirds vote as provided in section 40-4623 that the employees' pension plan be discontinued, the plan shall be discontinued in such city and the governing body shall proceed to liquidate the pension fund created under such plan. Liquidation shall be accomplished by returning to each employee still in the employ of the city ten days after the date of the adoption of the resolution, provided for in section 40-4623, the entire amount which has been deducted from his salary as an assessment or membership fee and then by payment of pension claims theretofore allowed in the same amounts as are then in effect until the death or disqualification of the pension claimant, and thereafter continuing such payments as would have accrued to survivors of such pension claimant under the local pension provisions if the plan had

been continued. If the fund is insufficient to return the amount to which each employee is entitled as provided herein and to pay such claims in full, the governing body shall make an annual tax levy, which shall be in addition to any other tax levies authorized by law, in an amount sufficient to assure the payment in full of the pension claims theretofore allowed. If the fund exceeds the amount required to satisfy such returns and such claims, such excess shall be placed in the general fund of the city.

§ 3. Repeal.) Section 40-4624 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 21, 1959.

CHAPTER 312

H. B. No. 681
(Lindberg)
(By request)

EXPENDITURES OF MUNICIPAL PLANNING COMMISSIONS

AN ACT

To amend and reenact section 40-4807 of the North Dakota Revised Code of 1943, relating to the limitations on expenditures to be made by planning commissions of municipalities and authorizing tax levies therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 40-4807 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4807. Limitations on Expenditures of Commission; Tax Levy Authorized.) The expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the governing body of the municipality. Such governing body shall provide the funds, equipment, and accommodations necessary for the commission's work. Each municipality which has established a planning commission, in making its annual tax levy and as a part thereof, may levy and collect a tax of not to exceed one mill on the dollar of assessed valuation in any fiscal year for the purpose of defraying the lawful expenses incurred by the planning commission in carrying out the purposes of this chapter. Provided that any municipality, in order to obtain the funds necessary to initiate or undertake a comprehensive

study of the planning requirements of such municipality, may, without regard to any tax limitation herein contained, or otherwise provided by any statute of this state, levy a tax, for a period of not to exceed five successive years, of not more than one mill to raise funds required for such comprehensive study.

Approved March 4, 1959.

CHAPTER 313

H. B. No. 610
(Muggli, Burk, Baldwin)

MEETINGS OF PARK COMMISSIONERS

AN ACT

To amend and reenact section 40-4911 of the North Dakota Revised Code of 1943, relating to meetings of the board of park commissioners of municipalities.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 40-4911 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-4911. Regular and Special Meetings of the Park Commission; Procedure.) The board of park commissioners shall hold a regular meeting at least once each month at a time and place to be designated by ordinance and such special meetings as it may deem necessary. A special meeting may be called at any time by the president, or any two members of the board to consider matters specified in the call of such meeting. Written notice of any special meeting shall be given to each member of the board prior to such meeting. The commission may adopt such rules of procedure as it deems necessary.

Approved March 9, 1959.