

**Sixty-third Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1069  
(Judiciary Committee)  
(At the request of the Office of Management and Budget)

AN ACT to amend and reenact sections 32-12.2-15 and 32-12.2-16 of the North Dakota Century Code, relating to authorization of agencies to limit the liability of certain contracting parties to the state.

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

**SECTION 1. AMENDMENT.** Section 32-12.2-15 of the North Dakota Century Code is amended and reenacted as follows:

**32-12.2-15. Contracts limiting liability to the state ~~Assumption of certain excess liability by the risk management fund.~~**

Notwithstanding any provision in this chapter to the contrary, ~~if the attorney general and the director of the office of management and budget determine it is in the best interest of the state, an agency may agree to limit the liability of a contractor to the state. The liability limitation must be approved by the attorney general and director of the office of management and budget in writing and may only be approved for if the agency determines such services or products cannot be effectively obtained without such limitation and the limitation does not pose any significant risk of loss to the state and is in the best interests of the state. The agency, in consultation with the office of management and budget and the attorney general's office, shall prepare a written documentation before agreeing to any liability limitation. An agency's authority to agree to a limitation of liability is limited to contracts for the purchase or lease of, or services related to, software, communication, or electronic equipment and economic forecasting and may only limit the agency's ability to recover indirect consequential damages. For any uninsured losses, the director of the office of management and budget may approve the risk management fund to assume all or part of the contractor's liability to the state in excess of the limitation. Contracts for economic forecasting for the office of management and budget may contain a provision limiting the state's ability to seek and recover indirect consequential damages if the director of the office of management and budget and the attorney general determine that such services cannot be effectively obtained without such limitation and that the limitation does not pose any significant risk of loss to the state and is in the best interests of the state. A contract under this section may not limit any direct loss to the state or loss resulting from property damage or personal injury.~~

**SECTION 2. AMENDMENT.** Section 32-12.2-16 of the North Dakota Century Code is amended and reenacted as follows:

**32-12.2-16. Ratifying contracts limiting liability to the state.**

Any employee or official of an agency who ~~entered into~~enters a contract prior to ~~March 17, 2005,~~ requiring the agency to limit the liability of the contracting party without first consulting with the office of management and budget and the attorney general's office will be deemed to be acting within the scope of the employee's or official's employment provided the contract is approved or ratified by the attorney general and the director of the office of management and budget and otherwise meets the conditions contained in section 32-12.2-15.

\_\_\_\_\_  
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-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1069.

House Vote:      Yeas 89              Nays 0              Absent 5

Senate Vote:      Yeas 45              Nays 2              Absent 0

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2013.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2013.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2013,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State