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Sixty-fifth  
Legislative Assembly  
of North Dakota

FIRST DRAFT:  
Prepared by the Legislative Council staff for the  
Agriculture and Natural Resources Committee  
February 2016

Introduced by

1 A BILL for an Act

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

3 **SECTION 1. AMENDMENT.** Section 4-02-08 of the North Dakota Century Code is amended  
4 and reenacted as follows:

5 **4-02-0811-38-01. OrganizationCounty fair association organization under nonprofit**  
6 **corporation laws.**

7 A county fair association ~~may~~must be organized by three or more persons as in the case of  
8 other corporations, with all the rights, privileges, and liabilities pertaining to corporations under  
9 the nonprofit corporation laws of this state, ~~including.~~ In addition to the powers and duties of  
10 nonprofit corporations under the laws of this state, a county fair association has the rights and  
11 privilegespowers and duties specified in sections ~~4-02-04 and 4-02-05~~this chapter.

**NOTE:** Section 4-02-04 currently requires an association to be not for profit. Corporations  
only require one person to be an incorporator.

12 **SECTION 2. AMENDMENT.** Section 4-02-26 of the North Dakota Century Code is amended  
13 and reenacted as follows:

14 **4-02-2611-38-02. County fairs - AssociationFair association - County funding.**

15 A county fair association may be organized in any county. The executive officers and  
16 directors must be residents of the county or, if the association is to conduct a multicounty fair,  
17 residents of one of the participating counties. The association may make written application to  
18 the board of county commissioners ~~of the county~~ for a grant to aid in the erection of ~~suitable~~  
19 buildings and other improvements ~~to accommodate its patrons and exhibits~~suitable to conduct  
20 the fair and to pay premiums and expenses that may be awarded on fair exhibits. An application  
21 must ~~state~~include evidence that the incorporation of the association is incorporated in this state  
22 as a nonprofit corporation, the names and places of residence of all its executive officers and

1 directors, and the evidence of ownership or right to use of sufficient real property in the county  
2 sufficient in area for the purpose of its to conduct the fair.

3 The board of county commissioners may not provide county funding or official county fair  
4 authorization under this chapter to more than one fair association or to any association  
5 organized for profit.

6 If the board of county commissioners is satisfied that the statements in the application are  
7 true and that the association intends in good faith to annually hold a fair within the county  
8 annually for the exhibition of agricultural, livestock, horticultural, mining, mechanical, industrial,  
9 and manufactured products of the county, and of such articles as are usually exhibited at fairs,  
10 and other public displays of human art, industry, and skill, it may provide it official county fair  
11 authorization and funding from revenues derived from the county general fund levy authority. If  
12 the funding is approved, the county treasurer shall pay to the secretary of the association, by  
13 the following July thirty-first, the amount of funding approved and shall take the receipt of the  
14 association for the payment.

15 Any amount received by the county fair association must be deposited by the secretary of  
16 the association in a special fund ~~to be known as the "county fair fund"~~.

17 To promote holding a county fair, the board of county commissioners may purchase or lease  
18 in the name of the county not to exceed two hundred forty acres [97.12 hectares] of real estate  
19 and construct buildings and improvements for the conduct of a county fair. The board of county  
20 commissioners may issue bonds in the name of the county if approved by electors of the county  
21 in accordance with sections 21-03-06 and 21-03-07 to purchase, not to exceed two hundred  
22 forty acres [97.12 hectares], of real estate and construct buildings and improvements for the  
23 conduct of a county fair.

24 The board of county commissioners may continue to provide funding under this section  
25 after the first year's grant of aid upon the board's own motion.

26 The authority of this section may be used by a county to join in formation and funding of a  
27 multicounty fair association under terms of an agreement with one or more other counties.

**NOTE:** A fair association may or may not own land...this section and other provisions of the chapter provide for the county to purchase land and buildings for a fair.

The county fair fund was eliminated as a special fund when the levy for that purpose was consolidated into the county general fund by 2015 Senate Bill No. 2144.

In this chapter, there is reference to forfeiture of official authorization as a county fair. The reference is added to make clear that the county grants that authorization and is limited to one such authorization at a time.

1       **SECTION 3. AMENDMENT.** Section 4-02-30 of the North Dakota Century Code is amended  
2 and reenacted as follows:

3       **4-02-3011-38-03. TaxCounty fair association funding to be submitted to vote.**

4       If the board of county commissioners has voted and ordered a ~~tax levied in aid of an~~  
5 ~~agricultural county general fund funding for a fair association~~ and a petition is addressed to the  
6 board ~~and filed with the county auditor~~, asking the discontinuance of the ~~tax funding~~ and  
7 containing the signatures of the qualified electors of the county in a number equal to twenty  
8 percent or more of the total vote cast in the county at the last preceding general election, ~~and~~  
9 ~~the petition is filed in the office of the county auditor~~, the board shall submit to the qualified  
10 electors of the county at the next succeeding general election the question of whether ~~or not~~ the  
11 ~~levying of the tax funding~~ shall be continued. The ballot must be in the following form:

12               Shall the board of county commissioners continue the annual levy               Yes   
13               of a ~~tax funding~~ in aid of a county fair?   No

14 If a majority of all the ballots cast on the question at the election is in favor of discontinuing the  
15 ~~tax funding~~, the board of county commissioners may not thereafter ~~levy any tax provide funding~~  
16 in aid of a county fair under this chapter until the question of resuming the annual ~~levy and~~  
17 ~~collection of the tax funding~~ is submitted to a vote of the qualified electors of the county. The  
18 ~~ballots to be used at the election~~ ballot must be in the following form:

19               Shall the board of county commissioners resume the annual levy               Yes   
20               of a ~~tax funding~~ in aid of a county fair?   No

21 If a majority of ~~all of~~ the ballots cast on the question at the election is in favor of resuming the  
22 ~~tax funding~~, the board of county commissioners shall resume the annual ~~levy as long as the~~  
23 ~~provisions of section 4-02-29 are complied with and until otherwise directed as herein~~  
24 provided funding subject to the other provisions of this chapter.

25       ~~Before every election, the county auditor shall certify and give notice of the submission of~~  
26 ~~the question as provided by law.~~

**NOTE:** After 2015 legislative changes, there is no longer a dedicated tax for county fairs. This was replaced by authority to provide "funding" from the county general fund.

The auditor is already required to give notice of ballot contents under Section 16.1-13-05 so the final sentence is unnecessary.

1       **SECTION 4. AMENDMENT.** Section 4-02-26.1 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       ~~4-02-26.111-38-04.~~ **County fair authorization - Forfeiture.**

4       Any county fair association ~~which~~that fails to hold a county fair for ten consecutive years  
5 ~~shall forfeit~~forfeits its official authorization. After such ~~time~~a forfeiture, ~~either~~another fair  
6 ~~associations~~association may organize within a county and apply, or the forfeiting organization  
7 may reapply, to the board of county commissioners for official county fair authorization and aid  
8 ~~as provided by~~under this chapter.

**NOTE:** Ten years of not holding a fair results in forfeiture of county fair authorization. The word "consecutive" is added. Language is added to allow an association that forfeits authorization to reapply.

The ten-year forfeiture provision should be considered in light of the two-year and five-year sale of property and fund transfer provisions in the following section.

9       **SECTION 5. AMENDMENT.** Section 4-02-27.3 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11       ~~4-02-27.311-38-05.~~ **Disposition of property.**

12       ~~Any~~The board of county commissioners may sell property used for county fair purposes  
13 ~~may be sold by the board of county commissioners and held in the name of the county upon~~  
14 such terms and conditions asset by the board shall determine, and the. The proceeds of such  
15 sale shall be placed in the county fair~~general~~ fund ~~and used exclusively for county fair~~  
16 ~~purposes.~~

17       If the county fair association fails to hold a fair within the county for two  
18 ~~successive~~consecutive years, the board of county commissioners may direct that any county  
19 property on hand may be sold and the proceeds of such~~the sale, together with any other~~ and  
20 any unexpended balance in the county fair fund, at the discretion of the board of county  
21 ~~commissioners, may be transferred to the county general fund.~~

22       ~~The board of county commissioners of any county in which a county fair has not been held~~  
23 If the county fair association fails to hold a fair within the county for five consecutive years, the  
24 board of county commissioners shall direct the transfer of any funds in the special fund for the  
25 county fair fund~~association~~ or funds budgeted for county fairs to the county general fund ~~to be~~  
26 ~~used for general county purposes. The funding from revenues derived from the county general~~  
27 ~~fund levy authority authorized by section 4-02-26, expenditures of those proceeds, and the~~

1 ~~conduct of the fair shall be governed by sections 4-02-07 through 4-02-31 to the extent such-~~  
2 ~~sections are consistent with section 4-02-26 and this section.~~

**NOTE:** Sale of property authority has language added so it is limited to county property. After five years of no fair, this section makes it mandatory for the county commission to empty the county fair fund and cancel county funding. This should be considered in light of the 10-year forfeiture of county fair authorization in the previous section.

3 **SECTION 6. AMENDMENT.** Section 4-02-28 of the North Dakota Century Code is amended  
4 and reenacted as follows:

5 ~~**4-02-28. Associations entitled to aid.**~~

6 ~~The aid provided for by this chapter shall not be granted to more than one agricultural-~~  
7 ~~association in any one county or to any association organized for profit.~~

**NOTE:** The requirements of this section are included in other sections.

8 **SECTION 7. AMENDMENT.** Section 4-02-29 of the North Dakota Century Code is amended  
9 and reenacted as follows:

10 ~~**4-02-2911-38-06. Levy of taxesCounty funding to cease when fair not held -**~~  
11 ~~**Misappropriation of funds.**~~

12 ~~The board of county commissioners shall refuse to make a further levy of taxesprovide~~  
13 ~~funding for anya county fair association failingthat failed to hold a fair within the county in any~~  
14 ~~year for which it has received aidfunding from the county. In such a case, the board of county~~  
15 ~~commissioners shall inquire into the disposition of moneys paid by the county to the association~~  
16 ~~after its last annual report, and if there has been any misappropriation it shall institute~~  
17 ~~proceedings at once to recover the sum misappropriated. For any such misappropriation, the~~  
18 ~~officers, trustees, or directors of the association shall be liable personally to the county.~~

19 **SECTION 8. AMENDMENT.** Section 4-02-31 of the North Dakota Century Code is amended  
20 and reenacted as follows:

21 ~~**4-02-31. Purchase or lease of land – Election required.**~~

22 ~~The board of county commissioners in any county in the state may submit, or when-~~  
23 ~~petitioned by at least five percent of the qualified electors of the county in at least one-half of the-~~  
24 ~~voting precincts, based upon the votes cast in the county for secretary of state at the last-~~  
25 ~~general election, shall submit, to the qualified electors of the county at any general election the-~~  
26 ~~proposition of purchasing or leasing not more than eighty acres [32.37 hectares] of land in the-~~  
27 ~~name of the county to be used for county fair purposes. If a majority of the qualified electors-~~  
28 ~~voting on the question at the election vote in favor of purchasing or leasing land for such-~~

1 ~~purposes, the board of county commissioners shall purchase or lease, in conformity with this~~  
2 ~~chapter, a tract of land not to exceed eighty acres [32.37 hectares], in the name of the county.~~  
3 ~~The board of county commissioners shall construct such buildings and improvements on the~~  
4 ~~land as it shall deem necessary for the operation and management of the fair. The election on~~  
5 ~~the purchase or lease of land must be conducted and the votes counted as at other elections.~~

**NOTE:** Section 4-02-26 currently allows the board of county commissioners to purchase or lease in the name of the county not to exceed 240 acres of land for a fair. The section requires voter approval for bonding such a purchase. It appears unlikely that a county would use the authority of this section.

6 **SECTION 9. AMENDMENT.** Section 4-02-36 of the North Dakota Century Code is amended  
7 and reenacted as follows:

8 **~~4-02-36. Chapter not applicable to state fair association.~~**

9 ~~The provisions of this chapter shall not be applicable to the holding of the state fair and~~  
10 ~~shall not apply to the North Dakota state fair association.~~

**NOTE:** This chapter could not be interpreted to apply to the state fair. It is not necessary to state this.

11 **SECTION 10. AMENDMENT.** Section 4-02-01 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **~~4-02-0111-38-07. Power to make regulations governing premises.~~**

14 Fair associations may make rules, regulations, and provisions necessary and proper for the  
15 government, management, and control of the premises used by them for the holding of fairs and  
16 expositions and for the regulation of the use of ~~such~~the premises ~~by and department of the~~  
17 ~~public thereon.~~

18 **SECTION 11. AMENDMENT.** Section 4-02-02 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **~~4-02-0211-38-08. Director's liability limited~~civil immunity.**

21 The individual members of the board of directors of any fair association are ~~not~~  
22 ~~liable~~immune from civil liability for any act or omission relating to service as a director for the  
23 negligence of any person, firm, corporation, or limited liability company staging any show, race,  
24 or other amusement at any county or municipal fair, ~~nor for the~~ and are immune from civil  
25 liability for any negligence of any person employed by the board of directors or the association  
26 conducting such fair.

1       **SECTION 12. AMENDMENT.** Section 4-02-04 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       ~~**4-02-04. Income and expenses – Membership in association and terms thereof.**~~

4       ~~An agricultural fair association may not be conducted for profit and may not have capital~~  
5 ~~stock. The bylaws of the association must provide for charges to the public for admission to the~~  
6 ~~grounds, fees for concessions, charges to exhibitors, and rental of the association's property,~~  
7 ~~and the amounts thereof may not be greater than is sufficient to discharge the association's~~  
8 ~~debts for real estate and improvements thereon, to defray the current expenses of fairs, to carry~~  
9 ~~on the business of the association, and to create a sinking fund in an amount not exceeding~~  
10 ~~twenty thousand dollars. However, if the association is receiving property tax levy funds, the~~  
11 ~~association with the consent of the board of county commissioners may establish a sinking fund~~  
12 ~~in excess of twenty thousand dollars. The method of acquiring membership in the association,~~  
13 ~~and the term of such membership, must be provided in the association's bylaws.~~

**NOTE:** Nonprofit status is required by section 1 of this draft. The only provision here that  
may be worth retention is the limit of \$20,000 sinking fund balance unless the board of  
county commissioners approves a higher amount. The \$20,000 limit has been in place  
since 1985 and may not be a realistic number at this time.

14       **SECTION 13. AMENDMENT.** Section 4-02-05 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16       ~~**4-02-05. Real property – District associations – Limitations on holding.**~~

17       ~~Any district fair association may purchase, hold, or lease any quantity of land, with the~~  
18 ~~buildings and improvements erected thereon, and may sell, lease, or otherwise dispose of the~~  
19 ~~same at pleasure. The real estate shall be held for the purpose of erecting buildings and making~~  
20 ~~other improvements thereon, to promote and encourage agriculture, horticulture, mechanics,~~  
21 ~~manufactures, stockraising, and general domestic industry.~~

**NOTE:** As a nonprofit corporation, a multicounty fair association has the authority  
described in this section.

22       **SECTION 14. AMENDMENT.** Section 4-02-07 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24       ~~**4-02-0711-38-09. Treasurer to give bond - Duty of officers and directors.**~~

25       The officers and directors of any fair association shall require the treasurer thereof of the  
26 association to give a sufficient bond to such officers and directors, conditioned for the faithful  
27 keeping of such money as may come into the treasurer's hands as such treasurer. ~~No funds-~~

1 shall be received by the ~~The~~ treasurer may not receive funds of a fair association until the  
2 treasurer is properly bonded.

3 **SECTION 15. AMENDMENT.** Section 4-02-10 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **~~4-02-10. Purpose of fair associations.~~**

6 ~~An association conducting a fair under any provision of this chapter shall exhibit agricultural,~~  
7 ~~livestock, horticultural, mining, mechanical, industrial, and other products and resources of the~~  
8 ~~state of North Dakota, including proper exhibits of the arts and sciences, and may exhibit other~~  
9 ~~public displays of human art, industry, and skill.~~

**NOTE:** Section 4-02-26 requires exhibition of agricultural, horticultural, mechanical, and  
manufactured products of the county, and of such articles as are usually exhibited at fairs.  
Some of the language from this section has been blended into that section in this draft.

10 **SECTION 16. AMENDMENT.** Section 4-02-12 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **~~4-02-12~~11-38-10. Nonliability of state for debts - Exception.**

13 The state ~~shall~~is not be liable for any of the debts or liabilities of a fair association except  
14 ~~asto the extent~~ appropriations are made ~~therefor from time to time~~for that purpose by the  
15 legislative assembly.