

HIGHWAYS, BRIDGES, AND FERRIES

CHAPTER 251

HOUSE BILL NO. 1166

(Representatives Klein, Pollert, Weisz)
(Senators Krebsbach, G. Lee, Nething)

HIGHWAY 52 MULTILANE CONSTRUCTION

AN ACT to provide for a portion of a paved four-lane highway for United States highway 52.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Multilane highway for United States highway 52. The director of the department of transportation shall include, as part of the department's project development process, a four-lane alternate when it develops the environmental document for the next major reconstruction project for United States highway 52 from reference point 52-101.683 to reference point 52-122.789. It is recommended that the four-lane alternative be selected as the preferred alternate and be constructed if environmental clearance is obtained.

Approved April 17, 2007

Filed April 18, 2007

CHAPTER 252

HOUSE BILL NO. 1130

(Industry, Business and Labor Committee)
(At the request of the Department of Transportation)

HIGHWAY CONSTRUCTION ARBITRATION

AN ACT to amend and reenact sections 24-02-26.1 and 24-02-28 of the North Dakota Century Code, relating to highway construction arbitration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-02-26.1 of the North Dakota Century Code is amended and reenacted as follows:

24-02-26.1. Condition precedent to contractor demand for highway construction arbitration - Claims for extra compensation. In addition to the provisions of section 24-02-30, full compliance by a contractor with the provisions of this section is a condition precedent to the contractor's right to demand arbitration. If the contractor believes the contractor is entitled to additional compensation for work or materials not covered in the contract or not ordered by the engineer as extra work or force account work in accordance with the contract specifications, the contractor shall, prior to beginning the work which the claim will be based upon, notify the engineer in writing of the intent to make claim for additional compensation. If the basis for the claim does not become apparent until the contractor has commenced work on the project and it is not feasible to stop the work, the contractor shall immediately notify the engineer that the work is continuing and that written notification of the intent to make claim will be submitted within ten calendar days. Failure of the contractor to give the notification required and to afford the engineer facilities and assistance in keeping strict account of actual costs will constitute a waiver of claim for additional compensation in connection with the work already performed. Notification of a claim, and the fact that the engineer has kept account of the costs involved, may not be construed as proving or substantiating the validity or actual value of the claim.

~~Any person~~ A contractor submitting a claim for compensation under this section, personally or on behalf of another person or entity, must do so in writing, not later than ninety days after the department has submitted the final estimate to the contractor. The claim must state the monetary amount of the claim, the reason for the claim, when the loss was incurred, and a short statement of the factual situation under which the claim arose. The claim must be made under oath or equivalent affirmation. ~~The director shall provide claim forms to persons requesting or indicating a need for them.~~

The director shall act on ~~the claim~~ claims of less than three million dollars within sixty days after the claim is served upon the director. The director shall act on claims of three million dollars or more within one hundred eighty days after the claim is served upon the director. The contractor and the director may negotiate a supplemental agreement for the claim items that are accepted by the director, and the director shall immediately pay the contractor for any additional compensation resulting from the supplemental agreement. The contractor may demand arbitration on the remaining claim items within ninety days after the contractor has been notified of the director's action on the claim.

The contractor shall make available to the department and allow the department to examine and copy all of the contractor's records, documents, worksheets, and other data which are pertinent to the justification of the claim and to the substantiation of all costs related to the claim. The department shall also make available to the contractor all of the department's records, documents, worksheets, and other data which are pertinent to the department's response to the claim.

SECTION 2. AMENDMENT. Section 24-02-28 of the North Dakota Century Code is amended and reenacted as follows:

24-02-28. Procedure for arbitration. After a board of arbitration has been appointed, a submission in writing must be executed as provided in section 32-29.3-06, but the submission must provide for the entry of judgment upon the award by the district court of the county in which the improvement, or some part thereof, involved in the contract is located. The county must be specified in the submission. The submission must be executed by the director. After submission of the arbitration agreement, the arbitration must proceed in accordance with the provisions of chapter 32-29.3, unless a party submits the dispute to arbitration in accordance with the construction industry arbitration rules of the American arbitration association. If the rules of the American arbitration association conflict with North Dakota law, North Dakota law governs. The decision of the arbitrators must be in writing and must state the basis for the decision.

Approved March 13, 2007
Filed March 14, 2007

CHAPTER 253**SENATE BILL NO. 2305**

(Senators Triplett, Bowman, Cook)
(Representatives DeKrey, Griffin, Wieland)

**COUNTY HIGHWAY RIGHT OF WAY CONDEMNATION
DAMAGES**

AN ACT to amend and reenact section 24-05-10 of the North Dakota Century Code, relating to the membership of a special board to fix damages in county highway right of way condemnations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-05-10 of the North Dakota Century Code is amended and reenacted as follows:

24-05-10. Damages - How ascertained - Special board. If the board of county commissioners is unable to purchase the lands required for the purposes mentioned in section 24-05-09 at a price ~~which such~~ that the board deems ~~determines~~ reasonable, the board by order or resolution shall declare the necessity for the taking of ~~such the~~ lands and. The board of county commissioners shall direct appoint a special board consisting of the county auditor, the county treasurer, and the recorder or the county official responsible for the duties of the auditor and two other officials of such the county to fix the damages for such the taking.

Approved May 2, 2007

Filed May 3, 2007

CHAPTER 254**HOUSE BILL NO. 1344**
(Representatives Kerzman, Klemin)
(Senator Krauter)**SECTION LINE IMPROVEMENTS**

AN ACT to create and enact a new section to chapter 24-07 of the North Dakota Century Code, relating to section lines.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 24-07 of the North Dakota Century Code is created and enacted as follows:

Improvement of section line by landowner. A person having a surface interest in a parcel of land connected by a section line to another parcel of land in which that person has a surface interest or to a highway may petition the board of county commissioners in an unorganized township or the board of township supervisors in an organized township to authorize the petitioner to improve the section line or a portion of the section line for the purpose of travel for agricultural purposes. The petition may be approved if the section line cannot be traveled due to natural obstacles or difficulty of terrain and if the petitioner does not have a readily accessible alternative route of travel to the parcel of land. The petitioner must improve the section line or a portion of the section line at the petitioner's expense.

Approved April 10, 2007
Filed April 11, 2007