

SENATE BILL NO. 2277

Introduced by

Senators Myrdal, Klein, Larson

Representatives K. Anderson, Koppelman

1 A BILL for an Act to amend and reenact sections 11-08-06, 11-08-11, 11-08-14, 11-10-02,
2 11-10-11, 11-10-14, 11-10-20, 11-10-22, 11-10-28, and 11-22-01, subsection 2 of section
3 12.1-32-08, and sections 27-01-01.1, 27-05.2-01, 27-05.2-02, and 27-05.2-04 of the North
4 Dakota Century Code, relating to clerks of district court; to repeal section 27-05.2-07 of the
5 North Dakota Century Code, relating to clerks of court; and to provide an appropriation.

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

7 **SECTION 1. AMENDMENT.** Section 11-08-06 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **11-08-06. Officers in county adopting consolidated office form of government.**

10 In addition to the board of county commissioners ~~provided for by this title~~, the officers in a
11 county ~~which~~that has adopted the county consolidated office form of government are ~~as follows~~:

- 12 1. One county auditor who ~~shall be~~is ex officio recorder and, unless the clerk of district
13 court serving the county is an employee of the state judicial system, ex officio clerk of
14 the district court.
- 15 2. One state's attorney.
- 16 3. One sheriff.
- 17 4. One county treasurer, unless the office with its attendant powers and duties is
18 combined with and conferred upon the county auditor by the board of county
19 commissioners but no added compensation may be paid the county auditor in ~~said~~that
20 capacity.
- 21 5. ~~Repealed by S.L. 1989, ch. 137, § 10.~~
- 22 6. One coroner.

23 **SECTION 2. AMENDMENT.** Section 11-08-11 of the North Dakota Century Code is
24 amended and reenacted as follows:

1 **11-08-11. Powers and duties of county auditor.**

2 The county auditor, in addition to the duties and powers conferred by law on that officer,
3 shall perform the duties and functions and exercise the powers conferred on the recorder ~~and,~~
4 ~~subject to subsection 1 of section 11-08-06, the clerk of the district court.~~ The auditor shall be is
5 the chief administrative officer of the county. The board of county commissioners may delegate
6 to the county auditor such duties of an administrative or executive nature as are not specifically
7 conferred by law upon other officers. ~~Such~~The delegated duties shall ~~shall~~must be exercised by the
8 county auditor under the supervision of the board of county commissioners.

9 **SECTION 3. AMENDMENT.** Section 11-08-14 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **11-08-14. Deputies and employees - Appointment - Compensation - Terms.**

12 Subject to the approval of the board of county commissioners, the county auditor may
13 appoint a deputy auditor, and a deputy recorder, ~~and,~~ ~~subject to subsection 1 of section~~
14 ~~11-08-06, a deputy clerk of the district court.~~ The compensation of any ~~such~~ deputy appointed
15 pursuant to this section shall ~~shall~~must be fixed by the board of county commissioners. The same
16 ~~person~~individual may be appointed to serve as deputy in two or more offices. Subject to the
17 approval of the board of county commissioners, the county auditor may employ such clerks,
18 stenographers, and other county employees as may be required to perform the duties of the
19 several offices under the auditor's direction. The compensation of the employees shall ~~shall~~must be
20 fixed by the board of county commissioners. Any deputy or employee shall serve at the
21 pleasure of the county auditor and may be appointed or employed to serve on a part-time basis.

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

24 **11-10-02. Number and election of county officers.**

25 Each organized county, unless it has adopted one of the optional forms of county
26 government ~~provided by the code~~ or has combined or separated the functions of county offices
27 or redesignated offices as elective or appointive pursuant to chapter 11-10.2 or 11-10.3, must
28 have the following officers:

- 29 1. One county auditor.
- 30 2. One recorder.
- 31 3. One county treasurer.

1 4. One coroner.

2 5. A board of county commissioners consisting of three or five members as provided in
3 this title.

4 In addition, unless otherwise provided in section 11-10-02.3, each county must have an elected
5 state's attorney and an elected sheriff. ~~In counties having a population of six thousand or less,~~
6 ~~the recorder also serves as ex officio clerk of the district court.~~ The required officers must be
7 chosen by the qualified electors of the respective counties at the general election in each
8 even-numbered year, except the recorder, county auditor, treasurer, sheriff, and state's attorney,
9 who must be chosen in 1966 and every four years thereafter, the members of the board of
10 county commissioners, who must be chosen in the manner prescribed in section 11-11-02, and
11 the county coroner, who must be chosen in the manner prescribed in section 11-19.1-03.

12 **SECTION 5. AMENDMENT.** Section 11-10-11 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **11-10-11. Appointment and salary of deputies and clerksassistants.**

15 The salaries of deputies, ~~clerks,~~ and assistants for the county auditor, county treasurer,
16 sheriff, recorder, ~~ex officio clerk of the district court,~~ and state's attorney must be fixed by a
17 resolution of the board of county commissioners. Each of the named officers may appoint
18 ~~such~~the deputies, ~~clerks,~~ and assistants, in accordance with the budget, except none of the
19 officers mentioned in this section may appoint as deputy any other officer mentioned in this
20 section.

21 **SECTION 6. AMENDMENT.** Section 11-10-14 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **11-10-14. Fees received by county officers turned over to county treasurer.**

24 The salaries fixed by this chapter ~~shall bear~~full compensation for all county officials,
25 deputies, ~~clerks,~~ and assistants, respectively, and all fees and compensation received by any
26 official, deputy, ~~clerk,~~ or assistant for any act or service rendered in an official capacity
27 ~~shall~~must be accounted for and paid over monthly to the county treasurer and be credited to the
28 general fund of ~~said~~the county, except that ~~such~~the official, deputy, ~~clerk,~~ and assistant ~~shall be~~
29 ~~entitled to~~may retain such fees as now are allowed to that officer and permitted by law or as
30 may be hereafter permitted and allowed.

1 **SECTION 7. AMENDMENT.** Section 11-10-20 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **11-10-20. Board of county commissioners to provide offices, courtroom, jail --Where-**
4 **public records kept -- Authorization for central filing of documents of recorder and clerk**
5 **of district court.**

6 The board of county commissioners shall provide a courtroom and jail, and shall provide
7 offices in the courthouse of the county for the sheriff, county treasurer, recorder, auditor, clerk of
8 the district court, state's attorney, county superintendent of schools, and any other officer who
9 has charge of public records. If there is no courthouse in the county or if the courthouse erected
10 has insufficient capacity, ~~such~~the offices must be furnished by the county in a suitable building
11 at the county seat for all elected officials, and at any place within the county for appointive or
12 administrative officials, at the lowest rent to be obtained, provided that this section does not
13 apply where county officials may serve more than one county as may be otherwise authorized
14 by law. ~~The board of county commissioners may provide by resolution for the filing in a single~~
15 ~~location of documents maintained by the recorder and the clerk of the district court. The~~
16 ~~resolution must state in which office the filing is to be done, the persons who are to have~~
17 ~~custody of and access to the central files, and must list the documents which are to be centrally~~
18 ~~filed.~~

19 **SECTION 8. AMENDMENT.** Section 11-10-22 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **11-10-22. Unlawful for officer to purchase county warrant or evidence of debt -**
22 **Penalty.**

23 Every ~~person~~individual who, while an officer of any county of this state or the deputy or
24 clerk of any such officer, directly or indirectly, buys or traffics in, or in anywise becomes a party
25 to the purchase of, any county warrant or order, or any bill, account, claim, or evidence of
26 indebtedness of the ~~person's~~individual's county, for any sum less than the full face value
27 thereof, is guilty of an infraction.

28 **SECTION 9. AMENDMENT.** Section 11-10-28 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **11-10-28. Newly elected or appointed county officials - Training.**

2 Within one year of assuming office, an individual who is elected or appointed to the office of
3 county commissioner, auditor, ~~clerk of district court~~, recorder, or treasurer shall attend training
4 based upon a curriculum specific to that office and approved by the statewide association for
5 that office.

6 **SECTION 10. AMENDMENT.** Section 11-22-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **11-22-01. Sheriff, clerk of court, and public administrator may deposit funds**
9 **entrusted to them with county treasurer.**

10 Any and all funds, other than fees and taxes, received by any sheriff, ~~ex officio clerk of the~~
11 ~~district court~~, or public administrator by virtue of the office may be paid over and delivered to the
12 treasurer of the county. Upon the delivery of the money to the treasurer, the officer depositing
13 the same ~~shall be~~ is absolved from all liability for the safekeeping of the funds.

14 **SECTION 11. AMENDMENT.** Subsection 2 of section 12.1-32-08 of the North Dakota
15 Century Code is amended and reenacted as follows:

16 2. When the restitution ordered by the court under subsection 1 is the result of a finding
17 that the defendant issued a check or draft without sufficient funds or without an
18 account, the court shall impose as costs the greater of the sum of ten dollars or an
19 amount equal to twenty-five percent of the amount of restitution ordered. The costs
20 imposed under this subsection, however, may not exceed one thousand dollars. The
21 ~~state-employed~~ clerks of district court shall remit the funds collected as costs under
22 this subsection to the state treasurer for deposit in the restitution collection assistance
23 fund. The funds deposited into the restitution collection assistance fund are
24 appropriated to the judicial branch on a continuing basis for the purpose of defraying
25 expenses incident to the collection of restitution, including operating expenses and the
26 compensation of additional necessary personnel. The state's attorneys ~~and~~
27 ~~county-employed clerks of district court~~ shall remit the funds collected as costs under
28 this subsection to the county treasurer to be deposited in the county general fund.

29 **SECTION 12. AMENDMENT.** Section 27-01-01.1 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **27-01-01.1. Budgeting and financing of the supreme court and district courts.**

2 The state court administrator shall submit a comprehensive budget for the supreme court
3 and the district courts to the legislative assembly. An informational copy of the budget must be
4 delivered to the director of the budget pursuant to section 54-44.1-13. The budget for the district
5 courts must include all salary and expenses for the district courts, including the juvenile courts,
6 and their employees. Each county shall provide the district court in that county with adequate
7 chamber, court, and law library quarters, and lights and fuel and appropriate facilities for clerk of
8 court services ~~that are state-funded pursuant to section 27-05.2-02. Any equipment, furnishings,~~
9 ~~and law libraries in the control and custody of the district court on January 1, 1980, and any~~
10 ~~such property acquired from that date until July 1, 1981, must continue to be in the district~~
11 ~~court's custody and control until the state court administrator determines such items are no~~
12 ~~longer needed by the court.~~

13 **SECTION 13. AMENDMENT.** Section 27-05.2-01 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **27-05.2-01. Statement of intent.**

16 It is the intent of the legislative assembly that adequate and proper judicial services,
17 including clerk of district court services, be provided in each county in this state. It is also the
18 intent of the legislative assembly that funding for clerk of district court services be provided by
19 the state judicial system within the limits of legislative appropriations ~~and in cooperation with the~~
20 ~~several boards of county commissioners of the various counties in this state.~~

21 **SECTION 14. AMENDMENT.** Section 27-05.2-02 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **27-05.2-02. State funding of clerk of district court services - ~~Agreements to provide~~**
24 **~~services~~ - Transition schedule.**

25 1. ~~Except as provided in subsection 2, the~~The supreme court, within the limits of
26 legislative appropriations ~~and pursuant to subsection 7,~~ shall provide clerk of district
27 court services in each county in the state. The supreme court may provide such
28 services through clerks of district court, deputies, and assistants who are employees
29 of the judicial system ~~or through service agreements under subsection 6.~~ The supreme
30 court shall develop standards and procedures to ensure ~~that~~ adequate clerk of district
31 court services are provided. "Clerk of district court services" means those duties and

1 services, as provided by statute or rule of the supreme court, that directly serve the
2 judicial system and the provision of effective and efficient judicial services to the
3 public. ~~Beginning January 1, 2003, the individual designated by a board of county~~
4 ~~commissioners to provide clerk of district court services under subsection 2 or 6~~
5 ~~serves as ex officio clerk of district court. The salary and bond for the ex officio clerk of~~
6 ~~district court must be fixed by a resolution adopted by the board of county~~
7 ~~commissioners~~At least one clerk of court or deputy must be located in each county in
8 the state.

9 2. ~~A county may elect to provide clerk of district court services at the county's own~~
10 ~~expense. The board of county commissioners shall forward to the supreme court a~~
11 ~~resolution indicating its election to provide services under this subsection. Such~~
12 ~~services must be provided in a manner consistent with standards and procedures~~
13 ~~established by the supreme court. If the county is unable to provide adequate clerk of~~
14 ~~district court services, the supreme court shall provide for those services in any~~
15 ~~manner it considers appropriate. If a county has entered into an agreement under~~
16 ~~subsection 6, the county may not provide clerk of district court services under this~~
17 ~~subsection until after the agreement has expired.~~

18 3. ~~In a county in which the supreme court determines that at least five full-time~~
19 ~~employees are necessary to provide adequate clerk of district court services, the~~
20 ~~elected clerk of district court and clerk of court staff designated by the supreme court~~
21 ~~shall become employees of the state judicial system if the board of county~~
22 ~~commissioners consents to the transition after consultation with the elected clerk. This~~
23 ~~subsection applies upon receipt by the supreme court of a resolution adopted by the~~
24 ~~board of county commissioners indicating its consent. Any equipment, including~~
25 ~~technology-related equipment, and furnishings in the control and custody of the clerk~~
26 ~~of district court on the date the clerk becomes a state employee must remain in the~~
27 ~~control and custody of the clerk until the state court administrator determines the items~~
28 ~~are no longer needed. The clerk, upon becoming a state employee, shall receive a~~
29 ~~salary in an amount not less than the salary received as a county employee and shall~~
30 ~~remain an employee of the state judicial system until the clerk retires, resigns, or the~~
31 ~~term for which the clerk was initially elected expires, whichever occurs earlier.~~

1 Thereafter, the clerk of district court must be appointed in the manner provided by
2 supreme court rule. If the board of county commissioners does not consent to the clerk
3 and designated staff becoming employees of the state judicial system, the county
4 must provide clerk of district court services at its own expense in accordance with
5 subsection 2.

6 4. In a county in which the supreme court determines that one or more, but less than five,
7 full-time employees are necessary to provide clerk of district court services, the
8 elected clerk of district court and clerk of court staff designated by the supreme court
9 shall become employees of the state judicial system in the manner described in
10 subsection 3. If the board of county commissioners does not consent to the clerk and
11 designated staff becoming employees of the state judicial system, the county may
12 provide clerk of district court services at its own expense under subsection 2 or the
13 supreme court may provide funding for clerk of district court services in accordance
14 with an agreement under subsection 6.

15 5. In a county in which the supreme court determines that less than one full-time
16 employee is necessary to provide clerk of district court services, the supreme court
17 may provide funding for such services in accordance with an agreement under
18 subsection 6.

19 6. The supreme court may enter into an agreement with one or more boards of county
20 commissioners to provide funding for the provision of clerk of district court services in
21 a manner consistent with standards and procedures established by the supreme court.
22 Funding for personnel under the agreement must be equal to the amount, based on
23 county employee compensation levels, necessary for the number of full-time
24 employees needed to provide clerk of district court services. Funding must be
25 available under the agreement to defray the cost of technology-related equipment
26 considered necessary by the supreme court for the delivery of adequate clerk of
27 district court services. After entering into an agreement under this subsection, a county
28 may, under chapter 11-10.2 or 11-10.3, provide for the delivery of clerk of district court
29 services in a manner consistent with the agreement. If a county fails to fulfill the terms
30 of an agreement or is unable to provide clerk of district court services consistent with

1 standards and procedures established by the supreme court, the supreme court shall
2 provide for those services in any manner it considers appropriate.

3 ~~7.~~ a.

4 ~~3.~~ State ~~funding for the provision~~ employment of ~~clerk~~ clerks of district court ~~services~~
5 ~~may~~ must be provided must commence beginning January 1, 2001. Before April 1,
6 2000, each board of county commissioners shall notify the supreme court of its
7 election to provide clerk of district court services under subsection 2, of its consent to
8 the elected clerk of court and designated staff becoming state employees under
9 subsection 3 or 4, or of its election to enter into an agreement under subsection 6. If a
10 board of county commissioners elects to enter into an agreement under subsection 6,
11 the agreement must be executed before July 1, 2000. If an agreement is not executed
12 before that date, the county must provide clerk of district court services at its own
13 expense under subsection 2.

14 b. Before April 1, 2002, and thereafter before April first of each succeeding
15 even-numbered year, each board of county commissioners that has executed an
16 agreement under subsection 6 or whose county is providing clerk of district court
17 services under subsection 2 must notify the supreme court of its election to
18 continue the existing arrangement or initiate a different option. If a board of
19 county commissioners elects to enter into an agreement under subsection 6, the
20 agreement must be executed before July first of the year the election is made. If
21 an agreement is not executed before that date, the county must provide clerk of
22 district court services at its own expense under subsection ~~2~~ 2024, in all counties
23 of the state except those counties with an elected clerk of district court. In
24 counties with an elected clerk of district court, state ~~funding~~ employment must
25 begin upon expiration of the elected clerk of district court's term. In those
26 counties in which the clerk of district court also holds another office, the
27 employee shall choose which office to hold before the expiration of the elected
28 term.

29 **SECTION 15. AMENDMENT.** Section 27-05.2-04 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **27-05.2-04. Clerk to keep record of fees - Monthly report to county auditor or state**
2 **treasurer - Continuing appropriation.**

3 ~~A clerk of the district court providing clerk services in accordance with subsection 2 or 6 of~~
4 ~~section 27-05.2-02 shall keep a public record of all money received as fees for services~~
5 ~~rendered as clerk. Within three days after the close of each calendar month, the clerk shall file~~
6 ~~with the county auditor a statement under oath showing the amount of fees received as clerk~~
7 ~~since the date of the clerk's last report and within three days thereafter the clerk shall deposit~~
8 ~~with the county treasurer the total sum of such fees which must be used for facilities, except~~
9 ~~fees that the clerk is directed to deposit with the state treasurer or is authorized expressly to~~
10 ~~retain. Within three days after the close of each calendar month, at the clerk who has become a~~
11 ~~state employee under subsection 3 or 4 of section 27-05.2-02 of district court shall file with the~~
12 ~~state treasurer a statement under oath showing the amount of fees received by the clerk since~~
13 ~~the date of the clerk's last report. Within three days thereafter, the clerk shall deposit with the~~
14 ~~state treasurer the total sum of fees required to be deposited in the general fund or in a~~
15 ~~designated special fund. The clerk shall forward to the county treasurer any fees received under~~
16 ~~section 27-05.2-03 which are not required to be deposited in the state general fund or a~~
17 ~~designated special fund. Those fees must be used for facilities. A special court receivables fund~~
18 ~~is established in the state treasury for purposes of depositing any money received by the clerk~~
19 ~~which is not required to be deposited in the state general fund, a different special fund, or the~~
20 ~~county treasury and which is received as bail or restitution, or otherwise received pursuant to an~~
21 ~~order of the court. Moneys in the special fund are appropriated to the judicial branch on a~~
22 ~~continuing basis for purposes of refunding bail, forwarding restitution amounts to the entitled~~
23 ~~recipient, or otherwise making payments as directed by an order of the court. To facilitate~~
24 ~~making payments from the special fund, the clerk may establish a special account in the Bank~~
25 ~~of North Dakota or in a banking institution designated as a depository of public funds under~~
26 ~~chapter 21-04. If money deposited as bail is forfeited, the clerk shall submit the appropriate sum~~
27 ~~to the state treasurer for deposit in the state general fund. If the clerk is unable to make~~
28 ~~payments from the special account because the address of the recipient is unknown or the~~
29 ~~recipient cannot otherwise be located, the clerk shall dispose of the deposited money in~~
30 ~~accordance with chapter 47-30.2.~~

31 **SECTION 16. REPEAL.** Section 27-05.2-07 of the North Dakota Century Code is repealed.

1 **SECTION 17. APPROPRIATION - JUDICIAL BRANCH - TRANSFER OF COUNTY**

2 **CLERKS.** There is appropriated out of any moneys in the general fund in the state treasury, not
3 otherwise appropriated, the sum of ~~\$12,267,050~~\$13,799,866 or so much of the sum as may be
4 necessary, to the judicial branch for the purpose of funding the transfer of county clerk of court
5 staff to state employment and providing for the equipment, furnishings, technology, and
6 administrative support necessary to effectuate the transfer, for the biennium beginning July 1,
7 2023, and ending June 30, 2025. The judicial branch is authorized sixty-three full-time
8 equivalent positions for this purpose.