

Fifty-ninth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1438

Introduced by

Representatives Wald, Carlson, Damschen, Sitte

Senators Christmann, Mutch

1 A BILL for an Act to amend and reenact sections 11-10.2-03 and 40-01.1-02 of the North  
2 Dakota Century Code, relating to local governance option advisory studies.

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

4 **SECTION 1. AMENDMENT.** Section 11-10.2-03 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **11-10.2-03. Analysis required - Contents of plan - Limitations.**

- 7 1. A proposed plan for combining or separating county elective offices, or  
8 redesignating a county office as elective or appointive, must be based on an  
9 analysis of each affected office, which may include an analysis of:
- 10 a. The existing office organization, functions, and procedures established for  
11 providing governmental services;
- 12 b. The proposed office organization, functions, and procedures; and
- 13 c. How the proposal may improve the effectiveness and efficiency of county  
14 government and its responsiveness and accountability to local citizens.
- 15 2. The analysis may be performed as part of a study process initiated pursuant to  
16 chapter 40-01.1.
- 17 3. A proposed plan for combining or separating county elective offices, or  
18 redesignating a county office as elective or appointive, may include provision for:
- 19 a. The selection, powers, duties, functions, qualifications and training, terms,  
20 and compensation of the affected county offices, notwithstanding any other  
21 law;
- 22 b. Selection, transfer, reassignment, or termination of personnel associated with  
23 each affected office;

- 1 c. The election or appointment of a county manager, notwithstanding the  
2 provisions of chapter 11-09;
- 3 d. Transition in implementation of the plan, including elements that consider the  
4 reasonable expectations of current officeholders such as delayed effective  
5 dates for implementation at the end of a current term or a future term, upon  
6 the occurrence of a vacancy, or on a date certain;
- 7 e. The limited application or temporary implementation of the plan, including  
8 provisions that permit implementation on an experimental or pilot basis such  
9 as the expiration of the plan on a date certain in the future, required  
10 reappraisal of the plan by the electors at a future date, or a phased-in  
11 implementation of different components of the plan; and
- 12 f. Any other provision deemed necessary for combining or separating the  
13 offices or redesignating an office as elective or appointive.
- 14 4. A plan may not propose to diminish the term of office for which a current county  
15 officer was elected, redesignate that elected office during that term as appointed,  
16 or reduce the salary of the office for that term. The plan may not diminish the  
17 general responsibility of county government to perform any function or provide any  
18 service that is required by law to be performed or provided by county government.
- 19 ~~5. A proposed plan may not diminish the future term of office, or redesignate an  
20 elected office as appointed, with respect to any person who, on August 1, 1993,  
21 holds an elected county office and continues to hold that specific office for future  
22 terms on an uninterrupted basis. This subsection does not apply after January 1,  
23 2002, or if the person holding the affected office consents in writing to the  
24 proposed plan and submits that written document prior to the scheduled  
25 implementation of the plan to a district judge serving the judicial district in which  
26 the county is located.~~

27 **SECTION 2. AMENDMENT.** Section 40-01.1-02 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **40-01.1-02. Local advisory study committee.**

- 30 1. The governing body or electors of a county, city, city park district, township, school  
31 district, or any other political subdivision of this state may establish an advisory

- 1 committee to study the existing form and powers of that political subdivision for  
2 comparison with other forms and powers available under the laws of this state. A  
3 local advisory study committee is established:
- 4 a. By a majority vote of the governing body; or
  - 5 b. By a petition signed by ten percent or more of the total number of qualified  
6 electors of the political subdivision voting for governor at the most recent  
7 gubernatorial election and submitted to the governing body.
- 8 2. Notwithstanding subsection 1, ~~an election on~~ the question of establishing a  
9 five-member advisory study committee for a county or city must be ~~held at the next~~  
10 ~~regular election in the county or city~~ placed on the agenda of a regular meeting for  
11 definitive action by the governing body if five years have elapsed since the latter  
12 of:
- 13 a. ~~August 1, 1993;~~
  - 14 ~~b.~~ The date of the most recent ~~election held~~ governing board action on the  
15 question of establishing an advisory study committee pursuant to this  
16 subsection; or
  - 17 e- b. The date of issue of a written report prepared for a comprehensive study and  
18 analysis of the cooperative and restructuring options available to the county  
19 or city conducted by the governing body, an advisory study committee  
20 established pursuant to this section, a home rule charter commission, or  
21 through another study process for which a written report was prepared.
- 22 3. ~~The question of establishing an advisory study committee pursuant to subsection 2~~  
23 ~~requires an affirmative vote of a majority of those voting on the question for~~  
24 ~~passage.~~
- 25 4. The governing body shall appoint the members of the advisory study committee  
26 and set the duration of the committee. The members are not entitled to receive  
27 compensation, but may receive actual and necessary expenses incurred in the  
28 performance of official duties as determined by the governing body.
- 29 ~~5.~~ 4. The governing body may provide office and meeting space and legal, clerical,  
30 facilitation, training, and other assistance to the study committee, and may  
31 appropriate funds in its final budget, or expend any unexpended balances in its

- 1            general fund otherwise designated for current expenditure, for the necessary  
2            expenses of the advisory study committee. The committee, with the approval of  
3            the governing body, may:
- 4            a.    Employ and fix the compensation and duties of necessary staff;
  - 5            b.    Contract and cooperate with other individuals and public or private agencies  
6            considered necessary for assistance, including institutions of higher  
7            education;
  - 8            c.    Establish advisory subcommittees that may include persons who are not  
9            members of the study committee;
  - 10           d.    Hold public hearings and community forums and use other suitable means to  
11           disseminate information, receive suggestions and comments, and encourage  
12           public discussion of the committee's purpose, progress, conclusions, and  
13           recommendations;
  - 14           e.    Cooperate with a like committee established pursuant to this section by  
15           another political subdivision in the conduct of the study. A cooperative study  
16           does not preclude a study committee from making separate  
17           recommendations to the governing body; and
  - 18           f.    Do any other act consistent with and reasonably required to perform its  
19           advisory function.