

## **CHAPTER 55-02**

### **STATE HISTORICAL BOARD DIRECTOR**

**55-02-01. State historical board - Appointment of director - Duties.** The board shall appoint a director of the state historical society who shall act as chief administrative and executive officer in carrying out the policies and directives of the board and shall have charge of all employees and activities and shall perform such other duties as may be assigned to the director by the board.

**55-02-01.1. Term of office - Vacancy - Salary and expenses.** The director shall serve at the pleasure of the state historical board and until a successor is appointed and qualified. In case of vacancy by death, removal, resignation, or any other cause, the board shall fill the vacancy by appointment. The salary must be determined by the board within the limits of legislative appropriation. The director is entitled to compensation for expenses incurred while in the discharge of official duties, paid in the same manner and amounts as other state officials are paid, from funds available to the board.

**55-02-01.2. Duties of the director.** The director shall:

1. Collect artifacts, books, maps, charts, and other papers and materials illustrative of the history of this state in particular and of the west generally.
2. Procure facts and statements relative to the history of the state so as to exhibit faithfully the antiquities and the past and present resources and conditions of this state.
3. Purchase books to strengthen the society's collections and any other books, maps, charts, microforms, photographs, and other materials to facilitate the investigation of historic, scientific, and literary subjects. The secretary of state and all other state departments and agencies including the colleges and universities shall furnish to the director at least one copy of each state publication produced by that agency.
4. Catalog, index, and duplicate all of the collections of the society for the more convenient references of all persons who have occasion to consult the same.
5. Prepare publications relating to the society as may be useful to the public. The society is responsible for the distribution and sale of the reports and shall account for the proceeds to the office of the budget.
6. Keep the museum exhibition rooms in the North Dakota heritage center open to visitors at all reasonable hours on business days without fee, except that admission fees may be charged for leased exhibitions. Admission fees collected for a leased exhibition must be deposited in a special account in the special revolving fund established under section 55-02-04 and may be used only to pay the associated costs of the exhibition. Any admission fees collected in excess of the costs of a leased exhibition must be deposited in the state general fund.
7. Organize, develop, and present educational materials and programs concerning the history of North Dakota for the use, information, and benefit of the public.
8. Cooperate with historical societies and associations duly organized under the laws of the state; provide the historical societies and associations with publications, technical assistance, and advice; and administer a grant system to assist with the development and operation of the societies and associations.

**55-02-01.3. Director to advise director of parks and recreation department.** The director shall advise the director of the parks and recreation department on matters pertaining to

the preservation of historical and archaeological artifacts and historical structures in the state parks. These duties may be performed by the director's duly designated representative.

**55-02-02. Transfer of property from state historical society board to North Dakota park service.** Repealed by S.L. 2001, ch. 503, § 57.

**55-02-03. Rules to protect property administered by the state historical society - Penalty.** The director of the state historical society, when so authorized by the state historical board, has the power to make and enforce suitable rules relating to the protection, care, and use of any property administered by the society and the violation of any rule constitutes an infraction.

**55-02-04. Fees for use of facilities - Concession agreements - Duration - Appropriation.**

1. The director of the state historical society when so authorized by the state historical board shall:
  - a. Fix and collect reasonable fees for the use of the facilities of any property administered by the society.
  - b. Enter into concession agreements or leases with private persons, firms, corporations, or limited liability companies for the operation of any services, including motels, cabins, or other lodging places, within the areas of any property administered by the society. A concession agreement or lease may not run for more than twenty years.
  - c. Establish fees for admissions, use charges, and services provided by the society.
2. All revenues collected for services, shipping or postage charges, fees, admissions, use charges, rentals, compensation for concession agreements, or funds received in the normal course of business from concession operations actually carried on by the state as a proprietor must be deposited in the state treasury in a special revolving fund. All moneys in the fund are appropriated on a continuing basis for expenditure in the course of carrying on the business activities of the concession operations or providing the services from which the income is derived.

**55-02-05. Contracting supervision and maintenance with other divisions of federal and state government - Compensation for expenses incurred.** The director of the state historical society, when so authorized by the state historical board, shall, for the purpose of avoiding undue expense or inconvenience, by contract with divisions of federal and state governments or political subdivisions, make suitable arrangements whereby one may supervise and maintain the holdings and property of the other. The board, service, department, or division providing the services is entitled to compensation for actual and necessary expenses incurred in the amounts agreed upon.

**55-02-06. State historical museum at Pembina - Chateau de Mores.** The director of the state historical society shall maintain and operate the state historical museum located at or near the city of Pembina, in the county of Pembina, and shall have custody of and preserve in the museum at Pembina, for the people of the state of North Dakota, objects of primitive Indian art and other articles of historical value to the state which are acquired for that purpose. The state historical society may accept gifts, donations, or contributions to be used or expended in the maintenance and operation of the historical museum and may transfer the operation of the museum to the city of Pembina upon such terms and conditions as the state historical board may require. The Chateau de Mores at Medora must be maintained and operated as a historic house museum under the direction of the state historical society.

**55-02-07. Protection of historical or archaeological artifacts or sites.** Any historical or archaeological artifact or site that is found or located upon any land owned by the state or its

political subdivisions or otherwise comes into its custody or possession and which is, in the opinion of the director of the state historical society, significant in understanding and interpreting the history and prehistory of the state, may not be destroyed, defaced, altered, removed, or otherwise disposed of in any manner without the approval of the state historical board, unless section 55-02-07.2 applies to the site. Notification of the director's opinion of significance must be communicated to the appropriate governing official. The state historical board through the director, within sixty days of written notification to it by the appropriate governing official of the state or political subdivision's desire, need, or intent to destroy, alter, remove, or otherwise dispose of a significant artifact or site, shall provide the governing official written direction for the care, protection, excavation, storage, destruction, or other disposition of the significant artifact or site. The state and its political subdivisions shall cooperate with the director in identifying and implementing any reasonable alternative to destruction or alteration of any historical or archaeological artifact or site significant in understanding and interpreting the history and prehistory of the state before the state historical board may approve the demolition or alteration.

**55-02-07.1. Protection of prehistoric or historic site locational data.** The director of the state historical society may limit access to, and release of, information from files of the state historical society which contain data that specifically identifies the location of archaeological, historical, or paleontological sites in North Dakota. No access to, or release of, information from files that contain site-specific locational data may be made until the director is satisfied that the applicant has a reasonable need for the information contained in those files and professionally acceptable qualifications to assure that release of the information will not result in unnecessary destruction of the resource.

**55-02-07.2. Protection of public health and safety on sites having a public function.** Notwithstanding any other provision of law, if the state or a political subdivision has a property interest in real property and that property has an existing public function in addition to any historical site registration or historical significance determination, the governing body of the agency or political subdivision owning the property interest may, subject to the following provisions, improve, alter, modify, or destroy that property if the agency or governing body determines that action is necessary to protect public health or safety, to provide access for disabled persons, or to ensure structural integrity. If an action is to be taken by an agency or governing body under this section, notice of intent to take the action must be given to the director at the onset of the planning process. At the director's request, the agency or governing body shall inform the director of each meeting at which planning or decisions on a project are on the agenda. At each meeting, the agency or governing body shall provide the director with an opportunity to comment or provide preservation funding for the proposed project and the agency or governing body shall consider the director's comments or offers of funding in the development and implementation of the project. If the agency or governing body and the director do not agree on the action to be taken, the differences must be submitted to a mediator selected by the governor to facilitate a consensus between the parties. The cost of the mediator must be shared equally by the parties. The mediator shall issue a report within sixty days of appointment by the governor. The report of the mediator must be sent to the director and must be published once in the official newspaper of the political subdivision. Although the agency or governing body may take the action it deems necessary, the agency or governing body shall make all reasonable effort to preserve the historical characteristics of a site taking into consideration economic and technical feasibility. The agency or governing body must notify the director of its decision and must publish it once in the official newspaper of the political subdivision. After mediation, if any, if the governing body of a political subdivision determines to proceed with actions that will result in completely demolishing, removing, or significantly degrading the historical characteristics of a building or real property, a resident of the political subdivision where the building or real property is located may submit a written notice to the county auditor of intention to petition for a public vote. The notice must be filed with the county auditor within fourteen days of the publication of the decision of the governing body. A petition for a public vote must contain the names of at least ten percent of the qualified electors from that governing body's jurisdiction who voted in the last general election and must be filed with the county auditor within one hundred twenty days of the governing body's publication of notice of its final action. If a petition is filed, the matter must be submitted for a vote of the qualified electors at the next special, primary, or general election held in that jurisdiction. All actions to remove, demolish, or significantly degrade the historical

characteristics of a building or real property are stayed for fourteen days after the governing body's publication of notice of its final action, and if notice of intention to seek a public vote is filed, actions are stayed until either the petition fails or the public vote is held. If the political subdivision is a home rule jurisdiction with its own referendum procedures, however, the home rule referendum procedures apply to the action of the governing body.

**55-02-08. Custody and control of former executive mansion - Maintenance responsibility.** The custody and control of the former executive mansion located at 320 Avenue B East in the city of Bismarck, North Dakota, with the legal description of lots 3 and 4, Block 11, Northern Pacific Addition to the city of Bismarck, is the responsibility of the state historical society.

**55-02-09. Historical impact emergency fund - Administration by director of state historical society - Emergency commission authorization.** The director of the state historical society shall administer the historical impact emergency fund for the purpose of emergency mitigation of adverse effects on cultural resources and historical buildings, structures, or objects in the state. The director may use the moneys in the historical impact emergency fund only after the emergency commission has authorized the proposed use and expenditure. The historical impact emergency fund may receive moneys from unexpended appropriations for the state historical society, by legislative appropriation, and by gift, grant, devise, or bequest of any money or property to the fund. The historical impact emergency fund may not receive moneys from the state historical society's unexpended appropriations when the fund balance is greater than two hundred fifty thousand dollars. When the historical impact emergency fund balance is greater than two hundred fifty thousand dollars, any unexpended appropriations for the state historical society are canceled. The fund is not subject to section 54-44.1-11 and all income and moneys derived from the investment of the fund must be credited to the fund.