

Fifty-fifth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Monday, the sixth day of January, one thousand nine hundred and ninety-seven

HOUSE BILL NO. 1380
(Representatives Grosz, Belter, Clark)
(Senators Andrist, Kinnoin, Tomac)

AN ACT to amend and reenact sections 21-03-15 and 21-03-42 of the North Dakota Century Code, relating to payment of the principal and interest on bonds issued by political subdivisions and termination of tax levies; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 21-03-15 of the North Dakota Century Code is amended and reenacted as follows:

21-03-15. Direct, annual, irrevocable tax. The governing body of every municipality issuing bonds under the authority of this chapter, before the delivery thereof, shall levy by recorded resolution or ordinance a direct, annual tax which, together with any other moneys provided by, or sources of revenue authorized by, the legislative assembly, shall be sufficient in amount to pay, and for the express purpose of paying, the interest on such bonds as it falls due, and also to pay and discharge the principal thereof at maturity. The municipality shall be and continue without power to repeal such levy or levies or to obstruct the collection of any such tax until such payments have been made or provided for, except that if the governing body in any year makes an irrevocable appropriation to the sinking fund of moneys actually on hand, or if there is on hand in the sinking fund an ~~excess~~ amount that would be sufficient to retire the bonds, the governing body ~~may~~ shall cause its recording officer to certify the fact and amount to the county auditor with the direction that the county auditor should reduce by the amount so certified the amount otherwise to be included in the tax rolls next thereafter prepared. A copy of such resolution or ordinance must be certified to and filed with the county auditor, and after the issuance of such bonds, any such tax on property from year to year must be carried into the tax roll of the municipality and collected as other property taxes are collected. No further annual levy for that purpose is necessary. The governing body may, in its discretion and in anticipation of the sale of bonds, at any time after the issuance of bonds has been authorized by the electors or by resolution of the governing body where no election is required, levy and certify to the county auditor for collection a portion of the tax herein required, which must be credited against the amount otherwise required to be levied after the bonds have been sold. Any other tax or source of revenue authorized by the legislative assembly for such purposes and imposed or pledged by the municipality for those purposes is likewise irrevocable and subject to the same conditions and limitations as any taxes levied on property for the same purposes. Any annual or periodic amounts provided for the municipality issuing such bonds by the legislative assembly out of state funds for paying the interest and principal of such bonds constitute an irrevocable and continuing appropriation until the liability for all interest and principal payments of the bonds have been satisfied. When insufficient funds are available to pay the matured bonds, the county auditor shall notify the governing body of such municipality of such deficiency and the governing body thereupon may levy a direct tax on the taxable property to pay said deficiency and interest thereon. If the governing body of the issuing municipality no longer exists, the county auditor shall levy a direct tax against the taxable property in the original issuing municipality to pay said deficiency and the interest thereon. The manner of levy, certification, and collection of said tax must be the same as provided by this section for the levy, certification, and collection of taxes by this section. When such bonds are further sustained by revenue of a revenue-producing utility, industry, or enterprise, said resolution or ordinance may provide that the tax to be levied and assessed may be reduced by such amount and under such conditions as must be determined in said resolution or ordinance so long as adequate provision is always made for the payment of such bonds and interest thereon.

SECTION 2. AMENDMENT. Section 21-03-42 of the North Dakota Century Code is amended and reenacted as follows:

21-03-42. Sinking fund - Sources and uses. The sinking fund must be disbursed by the county treasurer or treasurer of the municipality, as the case may be, upon the directions therefor by resolution of the governing body of the municipality issuing such bonds. As such bonds mature, the county treasurer, upon warrant drawn upon ~~him~~ the county treasurer by the county auditor, shall apply such sinking fund in retirement thereof, and also in payment of the interest thereon as it becomes payable. The county auditor shall draw such warrants so as to pay the interest and retire the bonds at as early a date as possible. If the bonds are retired or if the balance in the sinking fund is sufficient to retire the bonds, the county auditor shall notify the governing body of the municipality of its obligation under section 21-03-15 to terminate the levy for payment of principal and interest on the bonds. The county treasurer or treasurer of the municipality may not disburse any of such fund contrary to the provisions of this chapter, even though so directed by such governing body. The county treasurer or treasurer of the municipality may disburse such fund for the purpose of paying the principal and interest, or either, of the bonds for which such fund was created without any authorization therefor by the governing body. The sinking fund of each bond issue must be kept separate and must be designated by a name indicative of the issue of bonds on account of which it was created. The sources of such fund must be:

1. All moneys accruing to the borrowed money fund prescribed by section 21-03-38 which at any stage are not needed for the purpose for which the money was borrowed, and any moneys becoming applicable to the sinking fund must be transmitted by the treasurer of the municipality to the county treasurer, in case such municipality has a population of four thousand or less, upon direction therefor by the governing body of the municipality.
2. All moneys raised by taxation and received from other sources pursuant to section 21-03-15 for the purpose of paying said bond.
3. Moneys derived from licenses or other sources, the expenditure of which is not otherwise provided for by law, as the governing body may elect to place in the sinking fund, and which must be paid over to the county treasurer for deposit in such sinking fund by the treasurer of the municipality, in case such municipality has a population of four thousand or less, upon a resolution directing such payment by the governing body.
4. The premium, if any, for which the bonds have been sold over and above the par value and accrued interest.

SECTION 3. EFFECTIVE DATE. This Act is effective for bond issues outstanding after July 31, 1997.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1380.

House Vote: Yeas 96 Nays 0 Absent 2

Senate Vote: Yeas 46 Nays 0 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

Secretary of State