

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1394

Introduced by

Representatives Mueller, Berg, D. Johnson, Lundgren, Warner

Senator Kroeplin

1 A BILL for an Act to amend and reenact section 40-57.1-03 of the North Dakota Century Code,
2 relating to a municipality's authority to grant tax exemptions and accept payments in lieu of
3 taxes.

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

5 **SECTION 1. AMENDMENT.** Section 40-57.1-03 of the 1997 Supplement to the North
6 Dakota Century Code is amended and reenacted as follows:

7 **40-57.1-03. Municipality's authority to grant tax exemption or payments in lieu of**
8 **taxes - Notice to competitors - Limitations.** After negotiation with a potential project
9 operator, a municipality may grant a partial or complete exemption from ad valorem taxation on
10 all buildings, structures, fixtures, and improvements used in or necessary to the operation of a
11 project for a period not exceeding five years from the date of commencement of project
12 operations. After negotiation with a potential beginning farmer, a municipality may grant a
13 partial or complete exemption from ad valorem taxation on up to one hundred sixty acres [64.75
14 hectares] of newly acquired farmland and ranchland for a period not exceeding five years from
15 the date of commencement of farming or ranching operations. Farmland or ranchland may not
16 be granted an exemption under this section unless it contains, or is contiguous to property that
17 contains, the residence of the farmer seeking the exemption and that residence is exempt from
18 taxation under subsection 15 of section 57-02-08. A municipality may also grant a partial or
19 complete exemption from ad valorem taxation on buildings, structures, fixtures, and
20 improvements used in or necessary to the operation of a project that produces or manufactures
21 a product from agricultural commodities for all or part of the sixth year through the tenth year
22 from the date of commencement of project operations.

23 In addition to, or in lieu of, a property tax exemption granted under this section, a
24 municipality may establish an amount due as payments in lieu of ad valorem taxes on

1 buildings, structures, fixtures, and improvements used in the operation of a project upon which
2 initial construction is begun after June 30, 1994. The governing body of the municipality shall
3 designate the amount of the payments for each year and the beginning year and the concluding
4 year for payments in lieu of taxes, but the option to make payments in lieu of taxes under this
5 section may not extend beyond the twentieth year from the date of commencement of project
6 operations. To establish the amount of payments in lieu of taxes, the governing body of the
7 municipality may use actual or estimated levels of assessment and taxation or may establish
8 payment amounts based on other factors. The governing body of the municipality may
9 designate different amounts of payments in lieu of taxes in different years to recognize future
10 project expansion plans or other considerations.

11 By November first of each year, the municipality that granted the option to make
12 payments in lieu of taxes shall certify to the county auditor the amount of payments in lieu of
13 taxes due under this section in the following year. After receiving the statement from the
14 municipality, the county auditor shall certify the payments in lieu of taxes to the county treasurer
15 for collection at the time when, and in the manner in which, ad valorem taxes must be certified.
16 Upon receipt by the county treasurer of the amount of payments in lieu of taxes under this
17 section, the county treasurer shall apportion and distribute that amount to taxing districts on the
18 basis on which the general real estate tax levy is apportioned and distributed. The municipality
19 may enter into a written agreement with the local school district and any other local taxing
20 districts that wish to enter the agreement for an alternate method of apportionment and
21 distribution. If such an agreement is entered into, the county treasurer shall apportion and
22 distribute the money according to the written agreement. All provisions of law relating to
23 enforcement, administration, collection, penalties, and delinquency proceedings for ad valorem
24 taxes apply to payments in lieu of taxes under this section. However, the discount for early
25 payment of taxes under section 57-20-09 does not apply to payments in lieu of taxes under this
26 section. The buildings, structures, fixtures, and improvements comprising a project for which
27 payments in lieu of taxes are allowed under this section must be excluded from the valuation of
28 property in the taxing district for purposes of determining the mill rate for the taxing district.

29 Negotiations with potential project operators for tax exemption or payments in lieu of
30 taxes must be carried on by the city council or commission if the project is proposed to be
31 located within the boundaries of a city, and by the board of county commissioners if the project

1 is proposed to be located outside the corporate limits of any city. A partial exemption must be
2 stated as a percentage of the total ad valorem taxes assessed against the property. Unless the
3 governing body of the municipality determines that there is no existing business within the
4 municipality for which the potential project would be a competitor, the potential project operator
5 shall publish two notices to competitors, the form of which must be prescribed by the tax
6 commissioner, of the application for tax exemption or payments in lieu of taxes in the official
7 newspaper of the municipality at least one week apart. The publications must be completed
8 not less than fifteen nor more than thirty days before the governing body of the municipality is
9 to consider the application. The municipality shall determine whether the granting of the
10 exemption or payments in lieu of taxes, or both, is in the best interest of the municipality, and if
11 it so determines, shall give its approval.