

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1031
(Legislative Council)
(Advisory Commission on Intergovernmental Relations)

AN ACT to amend and reenact subsection 1 of section 4-33-11, section 32-12.1-08, subsection 13 of section 40-49-12, section 40-55-09, subdivision a of subsection 2 of section 57-15-01.1, and sections 57-15-12, 57-15-12.1, 57-15-12.2, 57-15-12.3, 57-15-28.1, 57-15-36, and 57-15-60 of the North Dakota Century Code, relating to consolidation of property tax levy authority of park districts; to repeal section 57-15-37 of the North Dakota Century Code, relating to a tax levy for airport purposes in park districts; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 4-33-11 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The governing body of any political subdivision ~~of this state~~ may appropriate money for the control of pests ~~pursuant to~~ under this chapter or section 63-01.1-04.2. If state funds are involved, the money must be expended according to control plans approved by the commissioner. The governing body of a political subdivision shall determine the portion, if any, of control program costs that should be paid by the political subdivision. Costs of the control program may be paid by moneys in the emergency fund. If the emergency fund is not sufficient to carry out the program, the governing body may expend money from the general fund and in this event the governing body ~~may, except the governing body of a park district,~~ upon approval of sixty percent of those voting in any special election or the next regularly scheduled primary or general election, may levy a tax during the following year upon all taxable property in the political subdivision to fully reimburse the general fund for the amount expended except that the levy may not exceed the limitation in subsection 1 of section 57-15-28.1.

SECTION 2. AMENDMENT. Section 32-12.1-08 of the North Dakota Century Code is amended and reenacted as follows:

32-12.1-08. Political subdivision insurance reserve fund - Tax levy.

1. A political subdivision, other than a school district or park district, may establish and maintain an insurance reserve fund for insurance purposes, and all political subdivisions including school districts and park districts may include in the annual tax levy of the political subdivision such amounts as are determined by the governing body to be necessary for the purposes and uses of the insurance reserve fund. ~~Except in the case of a school district, the~~ The tax levy authorized by this section shall ~~may~~ not exceed the limitation in section 57-15-28.1, except a levy by a school district or park district must be within the general fund levy authority of the school district or park district. If a political subdivision has no annual tax levy, the political subdivision may appropriate from any unexpended balance in its general fund such amounts as the governing body of the political subdivision ~~shall deem~~ determines necessary for the purposes and uses of the insurance reserve fund.
2. Except in the case of a school district or park district, the fund established pursuant to this section ~~shall~~ must be kept separate and apart from all other funds and ~~shall~~ may be used only for the payment of claims against the political subdivision which have been settled or compromised, judgments rendered against the political subdivision for injuries arising out of risks established by this chapter, or costs incurred in the defense of claims. Payments

by a school district ~~or park district~~ for the same purposes ~~shall must~~ be made out of the ~~district's political subdivision's general fund as established in section 57-15-14.2.~~

SECTION 3. AMENDMENT. Subsection 13 of section 40-49-12 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

13. Levy taxes upon all the property within the district, ~~subject to the limitations of section 57-15-12.2~~ within the general fund levy authority of section 57-15-12, for the purpose of funding a comprehensive health care program for district employees.

SECTION 4. AMENDMENT. Section 40-55-09 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-55-09. Favorable vote at election - Procedure. Except in the case of a school district ~~or park district~~, upon adoption of the public recreation system proposition at an election by a majority of the votes cast upon the proposition, the governing body of the municipality ~~or park district~~, by resolution or ordinance, shall provide for the establishment, maintenance, and conduct of a public recreation system, and thereafter levy and collect annually a tax of not more than two and five-tenths mills, or not more than eight and five-tenths mills if ~~the same is~~ authorized as ~~herein~~ provided by this section, on each dollar of the taxable valuation of all taxable property within the corporate limits or boundaries of the municipality ~~or park district~~. This tax is ~~to be~~ in addition to the maximum of taxes permitted to be levied in such municipality ~~or park district~~. The mill levy ~~herein~~ authorized by this section may be raised to not more than eight and five-tenths mills when the increase is approved by the citizens of the municipality ~~or park district~~ after submission of the question in the same manner as provided in section 40-55-08 for the establishment of the public recreation system. The governing body of the municipality ~~or park district~~ shall continue to levy the tax annually for public recreation purposes until the qualified voters, at a regular or special election, by a majority vote on the proposition, decide to discontinue the levy. The governing body of the municipality, ~~school district, or park district, in its discretion,~~ may appropriate additional funds for the operation of the public recreation system if in the opinion of the governing body additional funds are needed for the efficient operation thereof. This chapter does not limit the power of any municipality, school district, or park district to appropriate on its own initiative general municipal, school district, or park district tax funds for the operation of a public recreation system, a community center, or character building facility. A school district may levy a tax annually for the conduct and maintenance of a public recreation system pursuant to subdivision q of subsection 1 of section 57-15-14.2. A park district may levy a tax annually within the general fund levy authority of section 57-15-12 for the conduct and maintenance of a public recreation system.

SECTION 5. AMENDMENT. Subdivision a of subsection 2 of section 57-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

- a. "Base year" means the taxing district's taxable year with the highest amount levied in dollars in property taxes of the three taxable years immediately preceding the budget year. For a park district general fund the "amount levied in dollars in property taxes" is the sum of amounts levied in dollars in property taxes for the general fund under section 57-15-12 including any additional levy approved by the electors, the insurance reserve fund under section 32-12.1-08, the employee health care program under section 40-49-12, the public recreation system under section 40-55-09 including any additional levy approved by the electors, forestry purposes under section 57-15-12.1 except any additional levy approved by the electors, pest control under section 4-33-11, and handicapped person programs and activities under section 57-15-60;

SECTION 6. AMENDMENT. Section 57-15-12 of the North Dakota Century Code is amended and reenacted as follows:

57-15-12. Tax General fund levy limitations in park districts. ~~In park districts tax levies have the following limitations:~~

- 4- The aggregate amount levied for park district general fund purposes, exclusive of levies to pay interest on bonded debt and levies to pay and discharge the principal thereof, and

levies to pay the principal and interest on special assessments assessed and levied against park board properties by other municipalities, may not exceed ~~an amount produced by a levy~~ the sum of the number of mills levied by the park district in taxable year 2000 for the general fund under section 57-15-12 including any additional levy approved by the electors, the insurance reserve fund under section 32-12.1-08, the employee health care program under section 40-49-12, the public recreation system under section 40-55-09 including any additional levy approved by the electors, forestry purposes under section 57-15-12.1 except any additional levy approved by the electors, pest control under section 4-33-11, and handicapped person programs and activities under section 57-15-60. A park district may increase its general fund levy under this section to any number of mills approved by a majority of the electors of the park district voting on the question at a regular or special park district election, up to a maximum levy under this section of ~~four~~ thirty-five mills on the dollar of the taxable valuation of the district for the current year.

- 2- ~~Any park district, owning and operating an airport for which no city levy is made, may levy an additional tax of not to exceed four mills on the dollar of the taxable valuation of the district for the current year, such additional tax to be used solely for the purpose of purchasing or acquiring lands necessary for said airport, paying for land previously acquired for said airport, and for operating and maintaining the same.~~
- 3- ~~Whenever the board of park commissioners deems it advisable to raise moneys by taxes in excess of the levy herein provided, for any purpose for which the park district is authorized to expend moneys raised by taxes, the board of park commissioners shall submit to the voters of the district the question of increasing the levy by a certain number of mills, but not to exceed fifteen mills, on the dollar of the taxable valuation of the district. When authorized by a majority of the qualified electors of the park district voting on the question at an election in which the question has been submitted, the board may increase the levy in the amount so authorized. This excess levy may be continued from year to year by action of the park board except that if a petition containing the signatures of not less than ten percent of the qualified electors of the park district, as determined by the city auditor of the municipality in which the park district is situated, is presented to the park board requesting an election on the question of continuing the excess levy, that question must be submitted to the qualified electors of the park district at the next regular park district election. If the majority of the qualified electors voting on the question at that election determine not to continue the excess levy, no further excess levy may be made except that the election does not affect the tax levy in the calendar year in which the election is held.~~

SECTION 7. AMENDMENT. Section 57-15-12.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-12.1. City or park district tax levy or service charge for forestry purposes.

1. The governing body of a city or park district may ~~annually~~ annually levy ~~annually~~ a tax ~~not in excess of two mills on the taxable valuation of property within the city or park district for the purpose of providing~~ to provide funds for the establishment, operation, and maintenance of forestry activities within the city or park district. A tax levied by a city governing body under this section may not exceed two mills per dollar of taxable valuation of property within the city. A tax levied by a park district under this section must be within the general fund levy authority of the park district. The governing board of a city or park district, upon approval by a majority vote of the qualified electors voting on the question at any citywide or districtwide election, may also ~~annually~~ annually levy annually an additional tax not in excess of three mills on the taxable valuation of property within the city or park district for the purpose of providing funds for forestry activities within the city or park district. Any ~~such~~ park district levy approved by the electors and any city levy under this section is in addition to and not restricted by any mill levy limit prescribed by law. The proceeds of any ~~such~~ levy under this section may be used for forestry activities, including the following: prevention or control of Dutch elm disease or other diseases which may affect trees, shrubs, and other vegetation; purchasing, planting, or removal of trees, shrubs, and other

vegetation; pruning and maintenance of trees, shrubs, and other vegetation; purchasing of necessary equipment; hiring of personnel; contracting for services; public information and technical assistance; and other items related to forestry activities which may be necessary to provide for proper care, maintenance, propagation, and improvement of forestry resources within the city or park district.

2. In lieu of a mill levy as specified in subsection 1, a city or park district may propose a service charge as an alternative form of financing. Such alternative form of financing must be approved by a majority vote of the qualified electors voting on the question at any general or special citywide or districtwide election. The proceeds of any service charge may be used for forestry activities, as specified in subsection 1.

SECTION 8. AMENDMENT. Section 57-15-12.2 of the North Dakota Century Code is amended and reenacted as follows:

57-15-12.2. Exceptions to tax levy limitations in for park districts. The ~~tax~~ general fund levy limitations specified in section 57-15-12 do not apply to the following ~~mill levies, expressed in mills per dollar of taxable valuation of property~~ in a park district:

1. ~~A park district levying~~ Levying a tax for an employees' pension fund according to sections 40-49-21 and 40-49-22 and a park district may levy a tax not exceeding the amount necessary for the district's annual contribution to the employees' pension fund.
2. ~~A park district levying a tax to establish a public recreation system in accordance with section 40-55-09 may levy a tax not exceeding two and five tenths mills, or not more than eight and five tenths mills if authorized as provided in section 40-55-09.~~
3. ~~A park district may levy a~~ Levying an additional tax approved by the electors providing for forestry activities in accordance with section 57-15-12.1 in an amount not exceeding ~~five~~ three mills.
4. ~~A park district levying a tax for airport purposes in accordance with section 57-15-37 may levy a tax not exceeding four mills.~~
5. 3. ~~A park district levying~~ Levying a tax for parks and recreational facilities in accordance with section 57-15-12.3 ~~may levy a tax in an amount~~ not exceeding five mills.
6. ~~A park district levying a tax for a comprehensive health care program for district employees in accordance with section 40-49-12 may levy a tax not exceeding one mill.~~

~~Tax levy or mill levy limitations do not apply to any statute which expressly provides that taxes authorized to be levied therein are not subject to mill levy limitations provided by law.~~

SECTION 9. AMENDMENT. Section 57-15-12.3 of the North Dakota Century Code is amended and reenacted as follows:

57-15-12.3. Tax levy for parks and recreational facilities. A board of park commissioners established pursuant to chapter 40-49 may levy taxes annually not exceeding the limitation in subsection ~~5~~ 3 of section 57-15-12.2 for a fund for the purpose of acquiring real estate as a site for public parks, construction of recreational facilities, renovation and repair of recreational facilities, and the furnishing of recreational facilities. The tax is to be levied, spread, and collected in the same manner as are other taxes in the park district. The question of whether the levy is to be discontinued must be submitted to the qualified electors at the next regular election upon petition of twenty-five percent or more of the qualified electors voting in the last regular park district election, if the petition is filed not less than sixty days before the election. If the majority of the qualified electors voting on the question vote to discontinue the levy, it may not again be levied without a majority vote of the qualified electors voting on the question at a later regular election on the question of relevying the tax, which question may be submitted upon petition as above provided or by decision of the governing board.

SECTION 10. AMENDMENT. Section 57-15-28.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-28.1. Exceptions to tax levy limitations in political subdivisions. The tax levy limitations specified by law do not apply to the following mill levies, expressed in mills per dollar of taxable valuation of property in the political subdivision. For purposes of this section, "political subdivision" has the same meaning as in section 32-12.1-02.

1. A political subdivision, except a park district, levying a tax for the control of pests in accordance with section 4-33-11 may levy a tax not exceeding one mill.
2. A political subdivision, except a school district or park district, levying a tax for an insurance reserve fund according to section 32-12.1-08 may levy a tax not exceeding five mills.
3. A political subdivision, except a school district, levying a tax for the payment of a judgment in accordance with section 32-12.1-11 may levy a tax not exceeding five mills.
4. A political subdivision levying a tax for railroad purposes in accordance with section 49-17.2-21 may levy a tax not exceeding four mills.
5. A political subdivision, except a school district or county, levying a tax for old-age and survivors' insurance according to section 52-09-08, for social security, or for an employee retirement program established by the governing body, or for any combination of those purposes, may levy a tax not exceeding thirty mills.
6. A county levying a tax for comprehensive health care insurance employee benefit programs in accordance with section 52-09-08 may levy a tax not exceeding four mills.

~~Additionally, tax levy limitations do not apply to taxes levied pursuant to any statute which expressly provides that the taxes authorized to be levied therein are not subject to mill levy limitations provided by law.~~

SECTION 11. AMENDMENT. Section 57-15-36 of the North Dakota Century Code is amended and reenacted as follows:

57-15-36. Tax levy for airport purposes. In cities supporting airports for which no levy has been made by a ~~park board or other~~ taxing district within the corporate limits of such city, a levy not exceeding the limitation in subsection 18 of section 57-15-10 may be made for such purposes.

SECTION 12. AMENDMENT. Section 57-15-60 of the North Dakota Century Code is amended and reenacted as follows:

57-15-60. Authorization of tax levy for programs and activities for handicapped persons - Elections to authorize or remove the levy - Handicapped person programs and activities.

1. The board of county commissioners of any county ~~is hereby authorized to~~ may levy a tax, or if no levy is made by the board of county commissioners, the governing body of any city ~~or park district~~ in the county ~~is authorized to~~ may levy a tax, in addition to all levies now authorized by law, for the purpose of establishing or maintaining programs and activities for handicapped persons, including recreational and other leisure-time activities and informational, health, welfare, transportation, counseling, and referral services. If the tax authorized by this section is levied by the board of county commissioners, any existing levy under this section by a city ~~or park district~~ in the county is void for subsequent taxable years. The removal of the levy is not subject to the requirements of subsection 3. This tax may not exceed the limitation in subsection 33 of section 57-15-06.7 and subsection 29 of section 57-15-10. The proceeds of the tax must be kept in a separate fund and used exclusively for the public purposes provided for in this section. This levy is in addition to any moneys expended by the board of county commissioners pursuant to section 11-11-65 or by the governing body of any city or park district pursuant to section 40-05-20.
2. The levy authorized by this section may be used to fund an intergovernmental program under a joint powers agreement pursuant to chapter 54-40 but may not be used to defray any expenses of any organization or agency until the organization or agency is

incorporated under the laws of this state as a nonprofit corporation and has contracted with the board of county commissioners or the governing body of the city or park district in regard to the manner in which the funds will be expended and the services will be provided. An organization or agency that receives funds under this section must be reviewed or approved annually by the board of county commissioners or the governing body of the city or park district to determine its eligibility to receive funds under this section.

3. The levy authorized by this section may be imposed or removed only by a vote of a majority of the qualified electors voting on the question in an election in the county, city, or park district. The governing body shall put the issue before the qualified electors either on its own motion or when a petition in writing, signed by qualified electors of the county or city equal in number to at least ten percent of the total vote cast in the county or city for the office of governor of the state at the last general election, is presented to that governing body. A park district may levy a tax annually within the general fund levy authority of section 57-15-12 for the purpose of establishing or maintaining programs and activities for handicapped persons.

SECTION 13. REPEAL. Section 57-15-37 of the North Dakota Century Code is repealed.

SECTION 14. EFFECTIVE DATE. Except as otherwise provided in this Act, this Act is effective for taxable years beginning after December 31, 2000.

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-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1031.

House Vote: Yeas 93 Nays 1 Absent 4

Senate Vote: Yeas 44 Nays 1 Absent 4

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,
at _____ o'clock _____ M.

Secretary of State