

TOWNSHIPS

CHAPTER 553

SENATE BILL NO. 2328

(Senators Fischer, Lee, Wardner)
(Representatives Belter, Brekke, S. Kelsh)

TOWNSHIP SPECIAL ASSESSMENT DISTRICTS

AN ACT to create and enact a new subsection to section 57-15-20.2, a new section to chapter 57-15, a new section to chapter 58-01, a new subsection to section 58-03-07, and a new chapter to title 58 of the North Dakota Century Code, relating to the definition of the term freeholder of a township, the relevy of property taxes omitted by mistake, and to the creation of special assessment districts by townships; to provide for retroactive application; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁸⁵ **SECTION 1.** A new subsection to section 57-15-20.2 of the North Dakota Century Code is created and enacted as follows:

A township levying a tax for special assessment districts in accordance with section 5 of this Act.

SECTION 2. A new section to chapter 57-15 of the North Dakota Century Code is created and enacted as follows:

Mistake in levy - Levy increase the following year - Levy reverts.

1. Notwithstanding sections 57-15-01.1 and 57-15-14, if a mistake occurred in the 2000 tax year which would result in ten percent or more of the amount a taxing district intended to be levied, as of the October tenth deadline under section 57-15-31.1, not being levied and the mistake is brought to the attention of the county auditor or county treasurer of any county with land in the taxing district by February 1, 2001, the taxing district may include half of the amount which was mistakenly not levied in the taxing district's budget and general fund levy for the 2001 tax year, and the other half that was mistakenly not levied in the taxing district's budget and general fund for the 2002 tax year.
2. If the resulting general fund levy for the 2001 or 2002 tax year is above one hundred eighty-five mills, the taxing district need not comply with chapter 57-16.

²⁸⁵ Section 57-15-20.2 was also amended by section 16 of House Bill No. 1202, chapter 246, section 2 of House Bill No. 1405, chapter 511, and section 2 of Senate Bill No. 2334, chapter 513.

3. After the 2002 tax year, the taxing district's general fund levy must revert to the general fund levy for the 1999 tax year plus any increase authorized by law.
4. The 2001 and 2002 taxable years may not be used as a "base year" under section 57-15-01.1, and may not be considered a "prior school year" under section 57-15-14.

SECTION 3. A new section to chapter 58-01 of the North Dakota Century Code is created and enacted as follows:

Freeholder defined. As used in this title, unless the context or subject matter requires otherwise, "freeholder" means the legal title owner of the surface estate in real property.

²⁸⁶ **SECTION 4.** A new subsection to section 58-03-07 of the North Dakota Century Code is created and enacted as follows:

To establish special assessment districts in accordance with section 5 of this Act.

SECTION 5. A new chapter to title 58 of the North Dakota Century Code is created and enacted as follows:

Power of townships to defray expenses of improvements by special assessment. A township, upon complying with the provisions of this chapter, may defray the expenses of improvements through special assessment districts.

Improvement districts to be created. For the purpose of making an improvement project and defraying the cost by special assessment, a board of township supervisors may create an improvement district upon petition of sixty percent of the freeholders in a proposed improvement district area. The improvement district must be designated by a name appropriate to the type of improvement and by a number distinguishing it from other improvement districts.

Size and form of improvement districts. Each improvement district must be of such size and form as to include all properties, which in the judgment of the board of township supervisors will be benefited by the construction of the improvement project that is proposed to be made in or for the district.

Approval of plans, specifications, and cost estimates - Special meeting. After an improvement district has been created, the board of township supervisors shall direct a competent engineer to prepare a report as to the general nature, purpose, and feasibility of the proposed improvement and an estimate of the probable cost of the work. The board of township supervisors shall provide thirty days' written notice by first-class mail to each freeholder within the improvement district at the address shown on the records of the county treasurer and shall publish a notice in a legal newspaper published in the township or, if there is no such newspaper, then in the county's official newspaper at least ten days prior to a special meeting for public disclosure of the findings of the engineer.

²⁸⁶ Section 58-03-07 was also amended by section 20 of House Bill No. 1202, chapter 246.

Election for proceeding. At the special township meeting for public disclosure of the findings of the engineer, the freeholders of the township in attendance are entitled to vote on the question of whether to proceed with the improvement project. Upon approval by sixty percent or more of the votes cast at the meeting or votes filed with the township clerk within fifteen days after the meeting, the improvement project may proceed. A freeholder affected by the project is entitled to one vote for each dollar of the proposed special assessment against the freeholder's property within the proposed improvement district. If there is more than one owner of a parcel of property, the votes available for the parcel must be prorated among the owners in accordance with each owner's percentage interest in the property. If fewer than sixty percent of the votes cast or filed on the question approve the project, the election result is a bar against proceeding further with the improvement project described in the plans and specifications. An election result barring proceeding further with the improvement project does not preclude the payment of any costs incurred in developing the plans, specifications, cost estimates, or other costs which must be paid from the general fund of the township. If the costs incurred pose a financial burden on the general levy of a township of forty percent or more, the board of township supervisors may levy and collect assessments from the improvement district in yearly assessments not exceeding five years. If under forty percent, the township may use methods approved by law.

Election approval of project - Assessment levy. If the election under this chapter results in approval of a project, the board of township supervisors may cause the improvement to be made and may levy and collect assessments from the improvement district.

Appeal notice - Special meeting - Assessment determination - Limitations. Any aggrieved freeholder may appeal the special assessment against the freeholder's real property by providing the township clerk a written notice of appeal, stating the grounds upon which the appeal is based, within twenty days after the special township meeting. The clerk shall notify the township board of supervisors of the appeal and schedule a special meeting to hear the appeals by publishing a notice of the special meeting at least ten days before the meeting in a legal newspaper published in the township or, if no such newspaper exists, in the county's official newspaper. Any aggrieved freeholder who submitted an appeal may be heard and may present reasons to change the freeholder's assessment at the special meeting. The board of township supervisors may hear the appeals and reasons and may increase or diminish any of the assessments as it may deem just, providing that the total amount of the assessments may not be changed and an assessment as adjusted may not exceed the benefits to the parcel of land on which it is assessed.

SECTION 6. RETROACTIVE APPLICATION OF ACT. Section 2 of this Act applies retroactively to cases arising after December 31, 1999.

SECTION 7. EXPIRATION DATE. Section 2 of this Act is effective through the 2005 tax year and after that date is ineffective.

Approved April 23, 2001

Filed April 23, 2001

CHAPTER 554

HOUSE BILL NO. 1327

(Representatives Eckre, Aarsvold, Kretschmar, Nicholas)
(Senators O'Connell, Wardner)

TOWNSHIP OFFICER COMPENSATION

AN ACT to amend and reenact sections 58-06-02, 58-07-01, 58-08-01, and 58-09-02 of the North Dakota Century Code, relating to compensation of township officers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 58-06-02 of the North Dakota Century Code is amended and reenacted as follows:

58-06-02. Compensation of supervisors. A township supervisor ~~shall~~ is entitled to receive as compensation for services ~~fifteen~~ twenty dollars a day for each day necessarily devoted to the work of ~~the~~ a supervisor's office not exceeding six hundred dollars in a calendar year. Additional compensation over six hundred dollars may be provided for reimbursement of expenses and ~~twenty cents per mile [1.61 kilometers]~~ mileage at a rate not exceeding the allowable mileage rate accepted by the United States internal revenue service for each mile [1.61 kilometers] necessarily traveled in the performance of a supervisor's duties; but the compensation may not exceed four hundred fifty dollars in any one year.

SECTION 2. AMENDMENT. Section 58-07-01 of the North Dakota Century Code is amended and reenacted as follows:

58-07-01. Compensation of clerk. The township clerk ~~shall~~ is entitled to receive as compensation for services ~~fifteen~~ twenty dollars a day for each day necessarily devoted to the work of the clerk's office not exceeding six hundred dollars in a calendar year. The clerk shall receive as reimbursement for expenses ~~twenty cents per mile [1.61 kilometers]~~ Additional compensation over six hundred dollars may be provided for reimbursement of expenses and mileage at a rate not exceeding the allowable mileage rate accepted by the United States internal revenue service for each mile [1.61 kilometers] actually and necessarily traveled in the performance of the clerk's duties. The clerk may not receive more than four hundred fifty dollars in any year. In those townships in which the offices of township clerk and treasurer have been merged, the person elected to fill the new office ~~shall~~ is entitled to receive compensation as township clerk only.

SECTION 3. AMENDMENT. Section 58-08-01 of the North Dakota Century Code is amended and reenacted as follows:

58-08-01. Compensation of treasurer. ~~Each~~ The township treasurer ~~shall~~ is entitled to receive as compensation for services ~~fifteen~~ twenty dollars a day for each day necessarily devoted to the work of the treasurer's office not exceeding six hundred dollars in a calendar year. Additional compensation over six hundred dollars may be provided for reimbursement of expenses and ~~twenty cents for each mile [1.61 kilometers]~~ mileage at a rate not exceeding the allowable mileage rate accepted by the United States internal revenue service for each mile [1.61 kilometers] necessarily traveled in the performance of ~~such~~ the treasurer's duties.

The township treasurer may not ~~receive more than four hundred fifty dollars in any year nor~~ be allowed a percentage on the balance turned over to the treasurer's successor in office.

SECTION 4. AMENDMENT. Section 58-09-02 of the North Dakota Century Code is amended and reenacted as follows:

58-09-02. Compensation of assessor. The township assessor ~~shall receive as~~ is entitled to compensation for services ~~a~~ in the sum determined by the board of township supervisors for the time actually and necessarily employed in making and completing the assessment of the township and ~~twenty cents per mile~~ [1.61 kilometers] mileage at a rate not exceeding the allowable mileage rate accepted by the United States internal revenue service for each mile [1.61 kilometers] necessarily traveled in the performance of the duties of office. The compensation must be paid out of the township treasury upon an itemized statement setting forth the actual time spent in the work of assessor, approved by the board of township supervisors.

Approved March 21, 2001
Filed March 21, 2001

CHAPTER 555

SENATE BILL NO. 2315

(Senators Andrist, Lindaas)
(Representatives D. Johnson, Schmidt)

POUNDS AND POUNDMASTERS

AN ACT to create and enact two new sections to chapter 58-13 of the North Dakota Century Code, relating to immunity from liability and to estrays; and to amend and reenact sections 58-13-01, 58-13-03, 58-13-04, and 58-13-05 of the North Dakota Century Code, relating to pounds and poundmasters.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 58-13-01 of the North Dakota Century Code is amended and reenacted as follows:

58-13-01. Poundmaster to have direction of pound. Any pound established by the township electors must be under the care and direction of such a poundmaster as is chosen or appointed for that purpose by the board of township supervisors. If a poundmaster is not appointed, the chairman of the board of township supervisors may contract with the county sheriff to perform the duties. The poundmaster shall enforce the ordinances, bylaws, or resolutions enacted by the board of township supervisors.

SECTION 2. AMENDMENT. Section 58-13-03 of the North Dakota Century Code is amended and reenacted as follows:

58-13-03. Poundmaster has lien - Lien for all legal charges and expenses. The poundmaster has a lien on every ~~horse, ass, mule, sheep, lamb, goat, hog, and neat~~ animal taken into the pound for the full amount of the poundmaster's legal actual charges and expenses and is entitled to the possession of any ~~such~~ animal until the same charges and expenses are paid.

SECTION 3. AMENDMENT. Section 58-13-04 of the North Dakota Century Code is amended and reenacted as follows:

58-13-04. Notice of impounding impoundment - Foreclosure of lien. If the legal actual charges and expenses of the poundmaster are not paid and the animals are not removed within ~~ten~~ five days after they are impounded, the poundmaster shall give notice by posting in the three most public places in publication in the official newspaper of the township notices that if one has been designated or, if one has not been designated, in the official newspaper of the county in which the animals, describing them, are impounded and. The notice must provide that unless ~~they~~ the animals are taken away removed and the fees charges and expenses paid within ~~thirty~~ ten days after the date of the notice, the poundmaster will ~~shall~~ sell ~~them~~ the animals at a public auction at the place where the township meetings usually are held sale, as provided in the notice. On the day designated in the notice, the poundmaster shall expose the animals for sale and sell them to the highest bidder.

SECTION 4. AMENDMENT. Section 58-13-05 of the North Dakota Century Code is amended and reenacted as follows:

58-13-05. Humane treatment of animals - Poundmaster may destroy worthless animals. The poundmaster shall provide humane treatment and care for any animal in the pound. If any animal taken up by the poundmaster is deemed by the poundmaster to be worthless and cannot be sold, the poundmaster may offer the animal for adoption. If after five days the animal has not been adopted, the poundmaster shall destroy the animal and dispose of it; and the. The board of township supervisors shall pay the poundmaster out of the general fund of the township.

SECTION 5. A new section to chapter 58-13 of the North Dakota Century Code is created and enacted as follows:

Immunity from liability. A poundmaster or an agent of the poundmaster who has custody of an animal under this chapter, is acting in an official capacity, and making a good-faith effort to comply with this chapter is immune from any civil or criminal liability for acts taken or omitted while attempting to comply with this chapter.

SECTION 6. A new section to chapter 58-13 of the North Dakota Century Code is created and enacted as follows:

Estray - Notification of North Dakota stockmen's association. If the poundmaster comes into possession of any animal that the poundmaster believes is an estray, the poundmaster shall contact the brand inspector and deliver or arrange for the delivery of the animal to a licensed livestock auction market. The brand inspector shall provide for the disposition of the animal under chapter 36-22. The poundmaster may recover charges and expenses for the delivery of the estray.

Approved April 19, 2001
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