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Fifty-sixth
Legislative Assembly
of North Dakota

Introduced by

Legislative Council

(Taxation Committee)

SENATE BILL NO. 2051
with House Amendments

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1 A BILL for an Act to amend and reenact section 40-57.1-03 of the North Dakota Century Code,

2 relating to inclusion of school board and township representatives in negotiations and

3 deliberations on granting property tax exemptions or payments in lieu of taxes for new

4 industries.

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

6   **SECTION 1. AMENDMENT.** Section 40-57.1-03 of the 1997 Supplement to the North

7 Dakota Century Code is amended and reenacted as follows:

8   **40-57.1-03. Municipality's authority to grant tax exemption or payments in lieu of**

9 **taxes - Notice to competitors - Limitations.** After negotiation with a potential project

10 operator, a municipality may grant a partial or complete exemption from ad valorem taxation on

11 all buildings, structures, fixtures, and improvements used in or necessary to the operation of a

12 project for a period not exceeding five years from the date of commencement of project

13 operations. A municipality may also grant a partial or complete exemption from ad valorem

14 taxation on buildings, structures, fixtures, and improvements used in or necessary to the

15 operation of a project that produces or manufactures a product from agricultural commodities

16 for all or part of the sixth year through the tenth year from the date of commencement of project

17 operations.

18   In addition to, or in lieu of, a property tax exemption granted under this section, a

19 municipality may establish an amount due as payments in lieu of ad valorem taxes on

20 buildings, structures, fixtures, and improvements used in the operation of a project upon which

21 initial construction is begun after June 30, 1994. The governing body of the municipality shall

22 designate the amount of the payments for each year and the beginning year and the concluding

23 year for payments in lieu of taxes, but the option to make payments in lieu of taxes under this

24 section may not extend beyond the twentieth year from the date of commencement of project

1 operations. To establish the amount of payments in lieu of taxes, the governing body of the

2 municipality may use actual or estimated levels of assessment and taxation or may establish

3 payment amounts based on other factors. The governing body of the municipality may

4 designate different amounts of payments in lieu of taxes in different years to recognize future

5 project expansion plans or other considerations.

6   By November first of each year, the municipality that granted the option to make

7 payments in lieu of taxes shall certify to the county auditor the amount of payments in lieu of

8 taxes due under this section in the following year. After receiving the statement from the

9 municipality, the county auditor shall certify the payments in lieu of taxes to the county treasurer

10 for collection at the time when, and in the manner in which, ad valorem taxes must be certified.

11 Upon receipt by the county treasurer of the amount of payments in lieu of taxes under this

12 section, the county treasurer shall apportion and distribute that amount to taxing districts on the

13 basis on which the general real estate tax levy is apportioned and distributed. The municipality

14 may enter into a written agreement with the local school district and any other local taxing

15 districts that wish to enter the agreement for an alternate method of apportionment and

16 distribution. If such an agreement is entered into, the county treasurer shall apportion and

17 distribute the money according to the written agreement. All provisions of law relating to

18 enforcement, administration, collection, penalties, and delinquency proceedings for ad valorem

19 taxes apply to payments in lieu of taxes under this section. However, the discount for early

20 payment of taxes under section 57-20-09 does not apply to payments in lieu of taxes under this

21 section. The buildings, structures, fixtures, and improvements comprising a project for which

22 payments in lieu of taxes are allowed under this section must be excluded from the valuation of

23 property in the taxing district for purposes of determining the mill rate for the taxing district.

24   Negotiations with potential project operators for tax exemption or payments in lieu of

25 taxes must be carried on by the city council or commission if the project is proposed to be

26 located within the boundaries of a city, and by the board of county commissioners if the project

27 is proposed to be located outside the corporate limits of any city. A partial exemption must be

28 stated as a percentage of the total ad valorem taxes assessed against the property. Unless the

29 governing body of the municipality determines that there is no existing business within the

30 municipality for which the potential project would be a competitor, the potential project operator

31 shall publish two notices to competitors, the form of which must be prescribed by the tax

1 commissioner, of the application for tax exemption or payments in lieu of taxes in the official

2 newspaper of the municipality at least one week apart. The publications must be completed

3 not less than fifteen nor more than thirty days before the governing body of the municipality is

4 to consider the application. The municipality shall determine whether the granting of the

5 exemption or payments in lieu of taxes, or both, is in the best interest of the municipality, and if

6 it so determines, shall give its approval.

7 During the negotiation and deliberation of a property tax exemption or the option to

8 make payments in lieu of taxes under this chapter, a municipality shall include, as nonvoting ex

9 officio members of its governing body, a representative appointed by the school board of each

10 school district affected by the proposed action and a representative appointed by the board of

11 township supervisors of each township affected by the proposed action.