

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2166

Introduced by

Senators Cook, Laffen, Unruh

Representatives Dockter, Headland, Olson

1 A BILL for an Act to create and enact a new section to chapter 40-05, a new subsection to
2 section 40-58-20, and a new subsection to section 40-63-03 of the North Dakota Century Code,
3 relating to approval of property tax incentives granted by a city and a prohibition on property
4 receiving benefits from both a renaissance zone and a tax increment financing district; to
5 amend and reenact subsection 7 of section 40-57.1-03, section 40-58-20.2, subsection 2 of
6 section 40-63-01, and subsection 3 of section 54-35-26 of the North Dakota Century Code,
7 relating to approval of property tax incentives granted by a city and evaluation of economic
8 development tax incentives; to provide for a legislative management study; and to provide an
9 effective date.

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

11 **SECTION 1.** A new section to chapter 40-05 of the North Dakota Century Code is created
12 and enacted as follows:

13 **Duties of cities granting property tax incentives.**

- 14 1. Notwithstanding any other provision of law, before granting a property tax incentive on
15 any parcel of property that is anticipated to receive a property tax incentive for more
16 than five years, the governing body of a city shall send the chairman of each county
17 commission and the president of each school district affected by the property tax
18 incentive a letter, by certified mail, which provides notice of the terms of the proposed
19 property tax incentive.
- 20 2. Within thirty days from receipt of the letter, each affected county and school district
21 shall notify the city, in writing, whether the county or school district elects to participate
22 in granting the tax incentive on the county or school district portion of tax levied on the
23 property. The notification from a county or school district electing not to participate
24 must include a letter explaining any reason for which the entity elected not to

1 participate and whether the county or school district is willing to negotiate the terms of
2 the property tax incentive with the city.

3 3. If the city does not receive a response from an affected county or school district within
4 thirty days of delivery of the letter, the county and school district must be treated as
5 participating in the property tax incentive.

6 4. The term "negotiation" as used in this section means the governing body of an
7 affected county or school district may negotiate the terms of participating in the tax
8 incentive, including the duration of the tax incentive and the taxable value selected for
9 the base year for purposes of computing tax instruments.

10 5. If an agreement is reached through negotiation under this section, the property tax
11 incentive must be applied in accordance with the agreement.

12 **SECTION 2. AMENDMENT.** Subsection 7 of section 40-57.1-03 of the North Dakota
13 Century Code is amended and reenacted as follows:

14 7. During the negotiation and deliberation of a property tax exemption or the option to
15 make payments in lieu of taxes under this chapter, a municipality shall include, as
16 nonvoting ex officio members of its governing body, a representative appointed by the
17 school board of each school district affected by the proposed action and a
18 representative appointed by the board of township supervisors of each township
19 affected by the proposed action. Before granting a property tax incentive on any parcel
20 of property that is anticipated to receive a property tax incentive for more than five
21 years, the governing body of a city must comply with the requirements in section 1 of
22 this Act.

23 **SECTION 3.** A new subsection to section 40-58-20 of the North Dakota Century Code is
24 created and enacted as follows:

25 A lot or parcel of property may not be approved for inclusion in a development or
26 renewal plan after July 31, 2017, for tax increment financing purposes if that lot or
27 parcel of property has been approved for inclusion in a renaissance zone under
28 chapter 40-63.

29 **SECTION 4. AMENDMENT.** Section 40-58-20.2 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **40-58-20.2. Tax increment financing proposal - Public hearing - Invitation to**
2 **representatives of affected taxing districts.**

3 1. Before approval of a development or renewal plan for any development or renewal
4 area under section 40-58-20, the governing body of the municipality shall conduct a
5 public hearing on the proposal. The governing body shall provide invitations to
6 participate in the public hearing to the governing body of each county, school district,
7 and park district within the development or renewal area. At a minimum, the governing
8 body of the municipality shall provide the following information at the public hearing:

- 9 ~~1.~~ a. The anticipated costs of development of property to be reimbursed by tax
10 incentives.
11 ~~2.~~ b. The anticipated annual revenue from tax increments which will be received to
12 complete the development or renewal plan.
13 ~~3.~~ c. The anticipated date when the plan will be completed, the costs will be fully paid,
14 and the tax increments will be released.
15 ~~4.~~ d. The estimate of the dollars annually attributable to the levies from each taxing
16 entity which will be credited to the tax increment fund.

17 2. Before granting a property tax incentive on any parcel of property that is anticipated to
18 receive a property tax incentive for more than five years, the governing body of the
19 municipality must comply with the requirements in section 1 of this Act.

20 **SECTION 5. AMENDMENT.** Subsection 2 of section 40-63-01 of the North Dakota Century
21 Code is amended and reenacted as follows:

- 22 2. "Development plan" means a written plan that addresses the criteria in subsection 1 of
23 section 40-63-03 and includes the following:
24 a. A map of the proposed renaissance zone which indicates the geographic
25 boundaries and blocks, a description of the properties and structures on each
26 block, identification of those properties and structures to be targeted for potential
27 zone projects, and a description of the present use and conditions of the targeted
28 properties and structures.
29 b. A description of the existing physical assets, in particular natural or historical
30 assets, of the zone and a plan for the incorporation and enhancement of the
31 assets within the proposed development.

- 1 c. An outline of goals and objectives and proposed outcomes, including major
2 milestones or benchmarks, by which to gauge success resulting from the
3 designation of the zone.
- 4 d. A description of the types of projects the city would encourage in the city's
5 targeted properties.
- 6 e. A description of the promotion, development, and management strategies to
7 maximize investment in the zone.
- 8 f. A plan for the development, promotion, and use of a renaissance fund
9 organization, if one is desired to be established. If a city is not ready to commit to
10 establishing a renaissance fund organization, the city may indicate in the
11 renaissance zone application the city's desire to submit a plan for approval at a
12 later date.
- 13 g. Evidence of community support and commitment from residential and business
14 interests. Evidence of community support must include letters of support from the
15 governing bodies of each county and school district that contain property located
16 within the boundaries of the proposed renaissance zone.

17 **SECTION 6.** A new subsection to section 40-63-03 of the North Dakota Century Code is
18 created and enacted as follows:

19 The department of commerce division of community services may not designate a
20 renaissance zone after July 31, 2017, which includes a lot or parcel of property that
21 has been approved for inclusion in a development or renewal plan for tax increment
22 financing purposes under section 40-58-20.

23 **SECTION 7. AMENDMENT.** Subsection 3 of section 54-35-26 of the North Dakota Century
24 Code is amended and reenacted as follows:

- 25 3. The legislative management interim committee assigned the study responsibility under
26 this section may examine economic development tax incentives, shall complete
27 analysis of the ~~state-imposed tax aspects of the~~ incentives it designates for analysis
28 during the interim, and shall approve a plan to provide that each of the economic
29 development tax incentives listed in this subsection is subject to a complete analysis
30 within each six-year period. The interim committee may include in its
31 recommendations any amendments to this section, including amendments to add or

- 1 remove incentives from the list of incentives subject to analysis under this subsection.
2 Analysis must be completed for ~~state-imposed tax aspects of~~ economic development
3 tax incentives, including each of the following:
- 4 a. Renaissance zone credits and exemptions.
 - 5 b. Research expense credit.
 - 6 c. Agricultural commodity processing facility investment credit.
 - 7 d. Biodiesel fuel production facility construction or retrofit credit, biodiesel fuel
8 blending credit, and biodiesel fuel equipment credit.
 - 9 e. Seed capital investment credit.
 - 10 f. Wage and salary credit.
 - 11 g. Internship program credit.
 - 12 h. Microbusiness credit.
 - 13 i. Angel fund investment credit.
 - 14 j. Workforce recruitment credit.
 - 15 k. Soybean or canola crushing facility construction or retrofit credit.
 - 16 l. Manufacturing automation equipment credit.
 - 17 m. New or expanding business exemption.
 - 18 n. Manufacturing and recycling equipment sales tax exemption.
 - 19 o. Coal severance and conversion tax exemptions.
 - 20 p. Oil and gas gross production and oil extraction tax exemptions.
 - 21 q. Fuel tax refunds for certain users.
 - 22 r. New jobs credit from income tax withholding.
 - 23 s. ~~Any economic development tax incentive created by the sixty-fourth legislative-~~
24 ~~assembly~~Development or renewal area incentives.
 - 25 t. Sales and use tax exemption for materials used to construct a fertilizer or
26 chemical processing facility.
 - 27 u. Sales and use tax exemption for materials used in compressing, gathering,
28 collecting, storing, transporting, or injecting carbon dioxide for use in enhanced
29 recovery of oil or natural gas.
 - 30 v. Sales and use tax exemption for enterprise information technology equipment
31 and computer software used in a qualified data center.

1 **SECTION 8. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX IMPACTS FROM**
2 **CITY GROWTH AND DEVELOPMENT.** During the 2017-18 interim, the legislative management
3 shall consider studying how city growth and infill development affects property taxes, and
4 evaluate the return on investment for state and community projects. The study must examine
5 various policies affecting city development patterns, including the impact of transfer payments
6 between state and local governments; the cost of government services and infrastructure,
7 including future liability; the amount of tax revenue generated per increment of assumed liability
8 for downtown areas; and whether certain areas of a city generate more revenue than expenses
9 while other areas generate more expenses than revenue. The legislative management shall
10 report its findings and recommendations, together with any legislation required to implement the
11 recommendations, to the sixty-sixth legislative assembly.

12 **SECTION 9. EFFECTIVE DATE.** Sections 1 through ~~4~~⁶ of this Act are effective for property
13 tax incentives approved after ~~December~~^{July} 31, 2017.