

HOUSE BILL NO. 1299

Introduced by

Representative Kretschmar

1 A BILL for an Act to amend and reenact sections 4-02-27.2, 4-02-31, 11-09.1-06, subsection 2
2 of section 15-27.6-10, subsection 2 of section 15-28-01, subsection 3 of section 21-03-38.1,
3 sections 23-29-07, 40-05.1-07, 54-40.4-01, subsection 1 of section 54-40.4-05, sections
4 54-40.4-06, 57-15-12.1, 57-15-14.5, 57-15-50, 57-15-51, 57-15-55, 57-15-55.1, subsection 3 of
5 section 57-15-56, and subsection 3 of section 57-15-60 of the North Dakota Century Code,
6 relating to the required vote for approval of ballot issues by the qualified electors of political
7 subdivisions.

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

9 **SECTION 1. AMENDMENT.** Section 4-02-27.2 of the 1995 Supplement to the North
10 Dakota Century Code is amended and reenacted as follows:

11 **4-02-27.2. Additional levy in certain counties.** The board of county commissioners
12 of any county, when petitioned by at least five percent of the qualified electors of the county,
13 including qualified electors residing in at least one-half of the voting precincts of the county as
14 determined by the number of votes cast in the county for the office of governor at the preceding
15 general election, shall submit to the qualified electors of the county at any general election or
16 special election called for such purpose, the proposition of authorizing the board of county
17 commissioners to purchase or lease in the name of the county not to exceed two hundred forty
18 acres [97.12 hectares] of real estate and to construct thereon such buildings and other
19 improvements as may be deemed desirable for the conduct of a county fair and authorizing the
20 board of county commissioners, if the county general fund is deemed insufficient to provide
21 funds therefor, to levy a tax not exceeding the limitation in subsection 2 of section 57-15-06.7.
22 If a majority of the votes cast by qualified electors on the question at the election are in favor of
23 the proposition, including the proposed levy, the tax must be levied and collected as are other
24 property taxes, with the proceeds to be placed into a fund to be known as the "county fair fund".

1 The tax is in addition to any mill levy limitations provided by law, including the levies authorized
2 by sections 4-02-27 and 4-02-27.1.

3 **SECTION 2. AMENDMENT.** Section 4-02-31 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **4-02-31. Purchase or lease of land - Election required.** The board of county
6 commissioners in any county in the state may submit, or when petitioned by at least five
7 percent of the qualified electors of the county in at least one-half of the voting precincts, based
8 upon the votes cast in the county for secretary of state at the last general election, shall submit,
9 to the qualified electors of the county at any general election the proposition of purchasing or
10 leasing not more than eighty acres [32.37 hectares] of land in the name of the county to be
11 used for county fair purposes. If a majority of the qualified electors voting on the question at the
12 election vote in favor of purchasing or leasing land for such purposes, the board of county
13 commissioners shall purchase or lease, in conformity with this chapter, a tract of land not to
14 exceed eighty acres [32.37 hectares], in the name of the county. The board of county
15 commissioners shall construct such buildings and improvements on the land as it shall deem
16 necessary for the operation and management of the fair. The election on the purchase or lease
17 of land must be conducted and the votes counted as at other elections.

18 **SECTION 3. AMENDMENT.** Section 11-09.1-06 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **11-09.1-06. Amendment or repeal.** The home rule charter adopted by any county
21 may be amended or repealed by a proposal by the governing body of the county or by petition
22 of the number of electors provided in section 11-09.1-01, submitted to and ratified by the
23 qualified electors of the county. A petition to amend or repeal a home rule charter must be
24 submitted to the governing body of the county. Within thirty days of receipt of a valid petition or
25 approval of a proposal to amend or repeal a home rule charter, the governing body of the
26 county shall publish any proposed amendment or repeal of a home rule charter once in the
27 official newspaper of the county. At least sixty days after publication, the proposed amendment
28 or repeal must be submitted to a vote of the qualified electors of the county at the next primary
29 or general election. The electors may accept or reject any amendment or a repeal by a majority
30 vote of qualified electors voting on the question at the election.

1 **SECTION 4. AMENDMENT.** Subsection 2 of section 15-27.6-10 of the North Dakota
2 Century Code is amended and reenacted as follows:

- 3 2. If a majority of qualified electors residing within each school district and voting on
4 the question vote in favor of the formation of the new district, the county
5 superintendent shall make the proper adjustments and perform all necessary
6 duties as provided in subsection 5 of section 15-27.3-08.

7 **SECTION 5. AMENDMENT.** Subsection 2 of section 15-28-01 of the 1995 Supplement
8 to the North Dakota Century Code is amended and reenacted as follows:

- 9 2. The number of school board members in any public school district may be
10 increased to either five, seven, or nine or decreased to seven or five if a petition
11 signed by at least one-third of the qualified electors of the school district as
12 determined by the number of persons voting at the most recent annual school
13 district election is filed with the school board asking for such change, and the
14 change is approved by a majority of the qualified electors of the district voting on
15 the question at a special election called for that purpose. If approved, the
16 additional members must be elected to the board at the next annual school district
17 election in the same manner as other school board members. If the total number
18 of board members after the increase is approved is five, two shall serve until the
19 first annual election, two until the second annual election, and one until the third
20 annual election thereafter. If the total number of board members after the increase
21 is approved is seven, three shall serve until the first annual election, two until the
22 second annual election, and two until the third annual election thereafter. If the
23 total number of board members after the increase is approved is nine, three shall
24 serve until the first annual election, three until the second annual election, and
25 three until the third annual election thereafter. All such members shall serve for the
26 terms prescribed ~~above~~ in this section and until their successors are elected and
27 qualified, and the length of the respective terms of those members elected as a
28 result of the increase in membership of the board shall be determined by lot. The
29 length of any term which existed prior to the increase in membership and which is
30 held by a member who has duly qualified, may not be modified by such
31 determination. Terms subsequent to the first must be for the normal term of three

years, and until a successor is elected and qualified. School board members must be elected at large, except that if the district in which they are elected has been reorganized, such members may be elected either at large or by geographical area. In reorganized districts, in which an increase in the membership of the board is proposed, the election on the reorganization proposal takes the place of the petition and election requirements of this subsection, and approval of the reorganization proposal has the same effect as if the approval were by the election provided for in this subsection. Should a decrease to not fewer than five members be approved by the qualified electors voting on the question, the excess number of members will serve out existing terms until the number approved by the qualified electors has been reached.

SECTION 6. AMENDMENT. Subsection 3 of section 21-03-38.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The governing body, upon approval by a majority vote of the qualified electors, voting on the question at an election called therefor, may use the funds for some other purpose authorized by law.

SECTION 7. AMENDMENT. Section 23-29-07 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-29-07. Permits.

1. The department may issue permits for solid waste management facilities and solid waste transporters. It is unlawful for any person to own, operate, or use a facility for solid waste disposal or transport solid wastes without a valid permit. Upon receipt of a permit application, the department shall give public notice, in the official newspaper of the county in which the facility is to be located, that the department is considering an application for a solid waste management facility. The notice must state the name of the applicant, the location of the facility, and a description of the facility. The department shall require as a condition of a permit for a solid waste management facility, not owned or operated by the state or a political subdivision, that any entity that controls the permitholder agrees to accept responsibility for any remedial measures, closure and postclosure care, or penalties incurred by the permitholder. For purposes of this section, "control" means ownership or control,

1 directly, indirectly, or through the actions of one or more persons of the power to
2 vote twenty-five percent or more of any class of voting shares of a permitholder, or
3 the direct or indirect power to control in any manner the election of a majority of the
4 directors of a permitholder, or to direct the management or policies of a
5 permitholder, whether by individuals, corporations, partnerships, trusts, or other
6 entities or organizations of any type. All permits are nontransferable, are for a term
7 of not more than ten years from the date of issuance, and are conditioned upon the
8 observance of the laws of the state and the rules adopted under this chapter.

9 2. For any permit application completed after July 1, 1994, the department shall notify
10 the board of county commissioners of a county in which a new solid waste
11 management facility will be located of the department's intention to issue a permit
12 for the facility. The board of county commissioners may call a special election to
13 be held within sixty days after receiving notice from the department to allow the
14 qualified electors of the county to vote to approve or disapprove of the facility
15 based on public interest and impact on the environment. If a majority of the
16 qualified electors voting on the question in the election vote to disapprove of the
17 facility, the department may not issue the permit and the facility may not be located
18 in that county.

19 3. Notwithstanding subsection 2, if the new solid waste management facility for which
20 the permit application was completed after July 1, 1994, will be owned or operated
21 by a solid waste management authority, a special election to approve or
22 disapprove of a facility may be called only if the boards of county commissioners
23 from a majority of the counties in the solid waste management district call for a
24 special election. However, a special election must be conducted in each county
25 within the authority. If a majority of the qualified electors voting on the question in
26 the election vote to disapprove of the facility, the department may not issue the
27 permit.

28 4. Subsections 2 and 3 do not apply to a solid waste management facility operated as
29 part of an energy conversion facility or part of a surface coal mining and
30 reclamation operation, if the solid waste management facility disposes of only

waste generated by the energy conversion facility or surface coal mining and reclamation operation.

SECTION 8. AMENDMENT. Section 40-05.1-07 of the North Dakota Century Code is amended and reenacted as follows:

40-05.1-07. Amendment or repeal. The home rule charter adopted by any city may be amended or repealed by proposals submitted to and ratified by the qualified electors of the city in the same general manner provided in section 40-05.1-02 and section 40-05.1-04 for the adoption of such charter. Amendments may be proposed by the governing body of the city or by petition of the number of electors provided in section 40-05.1-02 and submitted to the voters at the same election. The voters may at their option accept or reject any or all of such amendments by a majority vote of qualified electors voting on the question at the election. A proposal to repeal a home rule charter that has been adopted shall likewise be submitted to the electors of the city as set forth in this section.

SECTION 9. AMENDMENT. Section 54-40.4-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-40.4-01. County-city home rule - City participation. One or more counties and one or more cities within each county may frame and adopt a home rule charter to form a single unit of local government pursuant to this chapter. A county-city home rule charter may include a city that participates in proposing the charter if a majority of the qualified electors of the city voting on the question approve the proposed charter.

SECTION 10. AMENDMENT. Subsection 1 of section 54-40.4-05 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. If a majority of the qualified electors of the county and a majority of the qualified electors of at least one city in the county voting on the question approves the charter, it is ratified and becomes the organic law of the area on the first day of January or July next following the election. However, the proposed charter may condition the approval of the charter on separate approval by any number of specified counties or cities participating in the charter process.

SECTION 11. AMENDMENT. Section 54-40.4-06 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-40.4-06. Amendment or repeal - Discontinuance of participation.

1. A county-city home rule charter may be amended or repealed by a proposal submitted by the governing body of the unified county-city government or by a petition filed with the governing body signed by ten percent or more of the total number of qualified electors within the jurisdiction of the county-city government who voted in the last preceding general election. The governing body may appoint a charter commission to draft amendments to the charter. The proposals must be submitted to a vote of the qualified electors of the unified county-city government at the next primary or general election. The voters may accept or reject any amendment or a repeal by a majority vote of the qualified electors of the unified government voting on the question at the election.
2. A participating county or city may discontinue its participation in the unified county-city government by filing with the governing body a petition proposing the action that is signed by ten percent or more of the total number of qualified electors within the county or city. The proposal must be submitted to a vote of the qualified electors at the next primary or general election. The voters may accept or reject the proposal by a majority vote of the qualified electors of the county or city voting on the question at the election.

SECTION 12. 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 levy 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 funds for the establishment, operation, and maintenance of forestry activities within the city or 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 levy 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 tax is in addition to and not restricted by any mill levy limit prescribed by law. The proceeds of any such levy may be used for forestry activities, including, ~~but not limited to,~~ 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 13. AMENDMENT. Section 57-15-14.5 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-15-14.5. Long-distance learning and educational technology levy - Voter approval.

1. The school board of a public school district may, upon approval by a majority vote of the qualified electors of the school district voting on the question at any regular or special election, dedicate a tax levy for purposes of this section not to exceed five mills on the dollar of taxable valuation of property within the district.
2. All revenue accruing from the levy under this section must be used only for purposes of establishing and maintaining long-distance learning and purchasing and maintaining educational technology. For purposes of this section, educational technology includes computer software, computers and computer networks, and other computerized equipment, which must be used for student instruction.
3. If the need for the fund terminates, the governing board of the public school district shall order the termination of the levy and shall transfer the remaining balance to the general fund of the school district.

SECTION 14. AMENDMENT. Section 57-15-50 of the North Dakota Century Code is amended and reenacted as follows:

1 **57-15-50. Levy authorized for county ambulance service.** Upon petition of ten
2 percent of the number of qualified electors of the county voting in the last election for governor
3 or upon its own motion, the board of county commissioners of each county shall levy annually a
4 tax not exceeding the limitation in subsection 23 of section 57-15-06.7, for the purpose of
5 subsidizing county ambulance services; provided, that this tax must be approved by a majority
6 of the qualified electors of the county voting on the question at a regular or special countywide
7 election. The county may budget, in addition to its annual operating budget for subsidizing
8 ambulance service, no more than ten percent of its annual operating budget as a depreciation
9 expense to be set aside in a dedicated ambulance sinking fund deposited with the treasurer for
10 the replacement of equipment and ambulances. The ten percent ambulance sinking fund must
11 be in addition to the annual operating budget for subsidization, but the total of the annual
12 operating budget and the annual ten percent ambulance sinking fund may not exceed the
13 approved mill levy. If the county contains a rural ambulance service district or rural fire
14 protection district that levies for and provides ambulance service, the property within that district
15 is exempt from the county tax levy under this section upon notice from the governing body of
16 the district to the board of county commissioners of the existence of the district.

17 **SECTION 15. AMENDMENT.** Section 57-15-51 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **57-15-51. Levy authorized for city ambulance service.** Upon petition of ten percent
20 of the number of qualified electors of the city voting in the last election for governor or upon its
21 own motion, the governing body of each city in this state shall levy annually a tax of not to
22 exceed five mills upon its taxable valuation, for the purpose of subsidizing city ambulance
23 services; provided, that such tax must be approved by a majority of the qualified electors of the
24 city voting on the question at a regular or special city election. Whenever a tax for county
25 ambulance services is levied by a county, any city levying a tax for, or subsidizing city
26 ambulance services, shall upon written application to the county board of such county be
27 exempted from such county tax levy. The city may set aside, as a depreciation expense, up to
28 ten percent of its annual ambulance service operating or subsidization budget in a dedicated
29 ambulance sinking fund, deposited with the auditor for replacement of equipment and
30 ambulances. The ten percent ambulance sinking fund may be in addition to the actual annual

1 ambulance budget but the total of the annual ambulance budget and the annual ten percent
2 ambulance fund may not exceed the approved mill levy.

3 **SECTION 16. AMENDMENT.** Section 57-15-55 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **57-15-55. Tax levy for public transportation.** The governing body of any city, upon
6 approval by a majority vote of the qualified electors of the city voting on the question at any
7 citywide election, may annually levy a tax not exceeding the limitation in subsection 25 of
8 section 57-15-10 to provide funds for the provision and operation of a public transportation
9 system within the city under a contract approved by the governing body with a private
10 contractor, or by the city itself.

11 **SECTION 17. AMENDMENT.** Section 57-15-55.1 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **57-15-55.1. City tax levy for transportation of public school students.** The
14 governing body of any city, upon approval by a majority vote of the qualified electors of the city
15 voting on the question at any citywide election, may annually levy a tax on the taxable valuation
16 of property within the city to provide funds for fees charged by a school district pursuant to
17 section 15-34.2-06.1 for transportation for public school students who reside in the city but who
18 attend school in another city in the same school district. A city levying a tax pursuant to this
19 section may levy only so much as will be required to provide an amount representing the
20 difference between the estimated state transportation payment to be received by the school
21 district on behalf of students residing in the city but attending school outside of the city and the
22 estimated actual cost to be incurred by the district in providing transportation for those students.

23 **SECTION 18. AMENDMENT.** Subsection 3 of section 57-15-56 of the North Dakota
24 Century Code is amended and reenacted as follows:

- 25 3. The levy authorized by this section may be imposed or removed only by a vote of a
26 majority of the qualified electors of the county or city voting on the question
27 directing the governing body to do so. The governing body shall put the issue
28 before the qualified electors either on its own motion or when a petition in writing,
29 signed by qualified electors of the county or city equal in number to at least ten
30 percent of the total vote cast in the county or city for the office of governor of the
31 state at the last general election, is presented to ~~said~~ the governing body.

1 **SECTION 19. AMENDMENT.** Subsection 3 of section 57-15-60 of the 1995
2 Supplement to the North Dakota Century Code is amended and reenacted as follows:
3 3. The levy authorized by this section may be imposed or removed only by a vote of a
4 majority of the qualified electors voting on the question in an election in the county,
5 city, or park district. The governing body shall put the issue before the qualified
6 electors either on its own motion or when a petition in writing, signed by qualified
7 electors of the county or city equal in number to at least ten percent of the total
8 vote cast in the county or city for the office of governor of the state at the last
9 general election, is presented to that governing body.