

Fifty-sixth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1456

Introduced by

Representatives S. Kelsh, Berg, Clark, Glassheim, Winrich

Senator Grindberg

1 A BILL for an Act to amend and reenact section 40-57.1-03 and 57-02.2-03 of the North Dakota  
2 Century Code, relating to tax exemptions for new industries and improvements to commercial  
3 and residential buildings; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 40-57.1-03 of the 1997 Supplement to the North  
6 Dakota Century Code is amended and reenacted as follows:

7 **40-57.1-03. Municipality's authority to grant tax exemption or payments in lieu of**  
8 **taxes - Notice to competitors - Limitations.** After negotiation with a potential project  
9 operator, a municipality may grant a partial or complete exemption from ad valorem taxation on  
10 all buildings, structures, fixtures, and improvements used in or necessary to the operation of a  
11 project for a period not exceeding five years from the date of commencement of project  
12 operations. A municipality may also grant a partial or complete exemption from ad valorem  
13 taxation on buildings, structures, fixtures, and improvements used in or necessary to the  
14 operation of a project that produces or manufactures a product from agricultural commodities  
15 for all or part of the sixth year through the tenth year from the date of commencement of project  
16 operations.

17 In addition to, or in lieu of, a property tax exemption granted under this section, a  
18 municipality may establish an amount due as payments in lieu of ad valorem taxes on buildings,  
19 structures, fixtures, and improvements used in the operation of a project ~~upon which initial~~  
20 ~~construction is begun after June 30, 1994.~~ The governing body of the municipality shall  
21 designate the amount of the payments for each year and the beginning year and the concluding  
22 year for payments in lieu of taxes, but the option to make payments in lieu of taxes under this  
23 section may not extend beyond the twentieth year from the date of commencement of project  
24 operations. To establish the amount of payments in lieu of taxes, the governing body of the

1 municipality may use actual or estimated levels of assessment and taxation or may establish  
2 payment amounts based on other factors. The governing body of the municipality may  
3 designate different amounts of payments in lieu of taxes in different years to recognize future  
4 project expansion plans or other considerations.

5 By November first of each year, the municipality that granted the option to make  
6 payments in lieu of taxes shall certify to the county auditor the amount of payments in lieu of  
7 taxes due under this section in the following year. After receiving the statement from the  
8 municipality, the county auditor shall certify the payments in lieu of taxes to the county treasurer  
9 for collection at the time when, and in the manner in which, ad valorem taxes must be certified.  
10 Upon receipt by the county treasurer of the amount of payments in lieu of taxes under this  
11 section, the county treasurer shall apportion and distribute that amount to taxing districts on the  
12 basis on which the general real estate tax levy is apportioned and distributed. The municipality  
13 may enter into a written agreement with the local school district and any other local taxing  
14 districts that wish to enter the agreement for an alternate method of apportionment and  
15 distribution. If such an agreement is entered into, the county treasurer shall apportion and  
16 distribute the money according to the written agreement. All provisions of law relating to  
17 enforcement, administration, collection, penalties, and delinquency proceedings for ad valorem  
18 taxes apply to payments in lieu of taxes under this section. However, the discount for early  
19 payment of taxes under section 57-20-09 does not apply to payments in lieu of taxes under this  
20 section. The buildings, structures, fixtures, and improvements comprising a project for which  
21 payments in lieu of taxes are allowed under this section must be excluded from the valuation of  
22 property in the taxing district for purposes of determining the mill rate for the taxing district.

23 Negotiations with potential project operators for tax exemption or payments in lieu of  
24 taxes must be carried on by the city council or commission if the project is proposed to be  
25 located within the boundaries of a city, and by the board of county commissioners if the project  
26 is proposed to be located outside the corporate limits of any city. A partial exemption must be  
27 stated as a percentage of the total ad valorem taxes assessed against the property. Unless the  
28 governing body of the municipality determines that there is no existing business within the  
29 municipality for which the potential project would be a competitor, the potential project operator  
30 shall publish two notices to competitors, the form of which must be prescribed by the tax  
31 commissioner, of the application for tax exemption or payments in lieu of taxes in the official

1 newspaper of the municipality at least one week apart. The publications must be completed not  
2 less than fifteen nor more than thirty days before the governing body of the municipality is to  
3 consider the application. The municipality shall determine whether the granting of the  
4 exemption or payments in lieu of taxes, or both, is in the best interest of the municipality, and if  
5 it so determines, shall give its approval.

6 **SECTION 2. AMENDMENT.** Section 57-02.2-03 of the 1997 Supplement to the North  
7 Dakota Century Code is amended and reenacted as follows:

8 **57-02.2-03. Tax exemption for improvements to commercial and residential**  
9 **buildings and structures - Property owner's certificate.** Improvements to commercial and  
10 residential buildings and structures as defined in this chapter may be exempt from assessment  
11 and taxation for up to ~~three~~ five years from the date of commencement of making the  
12 improvements, if the exemption is approved by the governing body of the city, for property  
13 within city limits, or the governing body of the county, for property outside city limits. The  
14 governing body of the city or county may limit or impose conditions upon exemptions under this  
15 section, including limitations on the time during which an exemption is allowed. A resolution  
16 adopted by the governing body of the city or county under this section may be rescinded or  
17 amended at any time. The exemption provided by this chapter shall apply only to that part of  
18 the valuation resulting from the improvements which is over and above the assessed valuation,  
19 exclusive of the land, placed upon the building or structure for the last assessment period  
20 immediately preceding the date of commencement of the improvements. Any person,  
21 corporation, limited liability company, association, or organization owning real property and  
22 seeking an exemption under this chapter shall file with the assessor a certificate setting out the  
23 facts upon which the claim for exemption is based. The assessor shall determine whether the  
24 improvements qualify for the exemption based on the resolution of the governing body of the  
25 city or county, and if the assessor determines that the exemption should apply, upon approval  
26 of the governing body, the exemption is valid for the prescribed period and shall not terminate  
27 upon the sale or exchange of the property but shall be transferable to subsequent owners. If  
28 the certificate is not filed as herein provided, the assessor shall regard the improvements as  
29 nonexempt and shall assess them as such.

30 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
31 December 31, 1998.