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Fifty-ninth
Legislative Assembly
of North Dakota

Introduced by

1 A BILL for an Act to amend and reenact sections 10-13-04, 49-21.1-01.1, and 57-06-01,
2 subsection 1 of section 57-06-02, section 57-06-03, subsection 2 of section 57-06-06, and
3 sections 57-06-14, 57-06-17.3, 57-60-06, and 57-60-14 of the North Dakota Century Code,
4 relating to elimination of gross receipts taxes for rural electric cooperatives and substitution of
5 centrally assessed property taxes; to repeal chapters 57-33 and 57-33.1 of the North Dakota
6 Century Code, relating to gross receipts taxes for rural electric cooperatives and cooperative
7 electrical generating plants; and to provide an effective date.

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

9 **SECTION 1. AMENDMENT.** Section 10-13-04 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **10-13-04. Members of electric cooperatives.** All persons who are not receiving
12 central station service and who reside in rural areas proposed to be served by a cooperative
13 organized under this chapter shall be eligible to membership in the cooperative. No person
14 other than the incorporators shall be, become, or remain a member of a cooperative unless
15 such person shall use or agree to use electrical energy or the facilities, supplies, equipment,
16 and services furnished by a cooperative.

17 "Rural area" means any area not included within the boundaries of an incorporated city
18 having a population in excess of twenty-five hundred inhabitants at the time a corporation or
19 cooperative commences to operate electric facilities or to furnish electric energy in such an
20 area, and includes both the farm and nonfarm population thereof. No change thereafter in the
21 population of a rural area, as defined herein, regardless of the reason for such change, shall
22 operate to affect in any way its status as a rural area for the purposes of this chapter ~~and of~~
23 ~~chapter 57-33.~~

1 An electric cooperative organized under this chapter may become a member of another
2 such electric cooperative and may avail itself fully of the facilities and services thereof.

3 **SECTION 2. AMENDMENT.** Section 49-21.1-01.1 of the North Dakota Century Code
4 is amended and reenacted as follows:

5 **49-21.1-01.1. Electricity transmission and distribution lines - Differentiation.**

6 Except for purposes of transmission facility siting under chapter 49-22 and regulatory
7 accounting including the determination of the demarcation between federal and state
8 jurisdiction over transmission in interstate commerce and local distribution, for purposes of this
9 title ~~and chapters 57-33 and 57-33.4~~, lines designed to operate at a voltage of 41.6 kilovolts or
10 more are transmission lines, and lines designed to operate at a voltage less than 41.6 kilovolts
11 are distribution lines.

12 **SECTION 3. AMENDMENT.** Section 57-06-01 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **57-06-01. ~~Public utilities~~ Companies subject to chapter.** This chapter governs the
15 assessment of the property of any ~~public utility~~ company defined in section 57-06-02, and of
16 any other company used directly or indirectly in carrying or conveying persons or property,
17 unless the operative property is subject to a lieu tax in place of a general property tax. This
18 chapter does not apply to the property of any railway or street railway company, nor to the
19 fixtures, buildings, and improvements owned by any cooperative or nonprofit corporation
20 organized under the laws of this state and used by it to furnish potable water to its members
21 and customers for uses other than irrigation of agricultural land, and except as otherwise
22 provided in chapter 57-32, does not apply to the property of any express or air transportation
23 company.

24 **SECTION 4. AMENDMENT.** Subsection 1 of section 57-06-02 of the North Dakota
25 Century Code is amended and reenacted as follows:

26 1. "Company" includes any individual, copartnership, business trust, corporation,
27 including an electric cooperative, limited liability company, joint-stock company, or
28 association.

29 **SECTION 5. AMENDMENT.** Section 57-06-03 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **57-06-03. Operative property defined.** The term "operative property" means any and
2 all property reasonably necessary for use by any company mentioned in section 57-06-02
3 exclusively in the operation and conduct of the particular kind of business engaged in by it. Any
4 such property held under a contract for the purchase thereof must be considered for all
5 purposes of taxation as the property of the company holding the same. Any such property, real
6 or personal, held by any company under a rental lease must be assessed by the state board of
7 equalization in the name of such company, if an agreement in writing between the owner
8 thereof and such company is filed with the tax commissioner requesting that such leased
9 property be so assessed. Whenever any property of a ~~public-utility~~ company required to be
10 assessed by the state board of equalization under the provisions of this chapter is used partly
11 for operative purposes and partly for other purposes, either by the company or by others, all
12 such property must be assessed by the state board of equalization as operative property of the
13 company.

14 **SECTION 6. AMENDMENT.** Subsection 2 of section 57-06-06 of the North Dakota
15 Century Code is amended and reenacted as follows:

16 2. The nature of the company, whether a person, association, corporation, including
17 an electric cooperative, or limited liability company, and under the laws of what
18 state or country organized, the date of original organization, the date of
19 reorganization, consolidation, or merger, with specific reference to laws authorizing
20 the same.

21 **SECTION 7. AMENDMENT.** Section 57-06-14 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **57-06-14. Method of valuation.** The operative property of each company assessed
24 under this chapter must be assessed in the following manner:

25 1. For the purpose of determining the value of the property, the tax commissioner and
26 the state board of equalization shall take into consideration the earning power of
27 the property as shown by its gross earnings and net operating income, the market
28 or actual value of its stocks and bonds, the value of its franchises, rights, and
29 privileges granted under the laws of this state to do business in this state, and any
30 other legally established evidences of value as enable the board to make a just
31 and equitable assessment.

- 1 2. In the case of a company that owns or operates properties or lines partly within and
2 partly without this state, the tax commissioner and state board of equalization shall
3 value only the property within this state.
- 4 3. In determining the value of the portion within this state of an interconnected, or
5 continuous system, the tax commissioner and state board of equalization may take
6 into consideration the value of the entire system and of the part within this state,
7 the mileage of the whole system and of the part within this state, the total operating
8 earnings within and without this state, together with any other information, facts,
9 and circumstances as will enable the officers to make a just and correct
10 assessment.
- 11 4. The board may take into consideration the reports, annual or otherwise, filed by
12 any company required to be assessed under this chapter with the public service
13 commission, if applicable, and shall take into consideration any valuation of such
14 company by the public service commission.

15 **SECTION 8. AMENDMENT.** Section 57-06-17.3 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **57-06-17.3. New transmission line property tax exemption.** A transmission line of
18 two hundred thirty kilovolts or larger, and its associated transmission substations, which is
19 initially placed in service on or after October 1, 2002, is exempt from property taxes for the first
20 taxable year after the line is initially placed in service, and property taxes as otherwise
21 determined by law on the transmission line and its associated transmission substations must be
22 reduced by:

- 23 1. Seventy-five percent for the second taxable year of operation of the transmission
24 line.
- 25 2. Fifty percent for the third taxable year of operation of the transmission line.
- 26 3. Twenty-five percent for the fourth taxable year of operation of the transmission line.

27 After the fourth taxable year of operation of the transmission line, the transmission line
28 and its associated transmission substations are exempt from property taxes and are subject to
29 a tax at the rate of three hundred dollars per mile [1.61 kilometers] or fraction thereof of the line
30 located in this state. The per mile tax imposed by this section applies to the transmission line
31 and its associated transmission substations and is subject to ~~the same manner of imposition~~

1 ~~and allocation as the tax imposed by subsection 2 of section 57-33.1-02 to each county in~~
2 ~~which the transmission lines are located in the proportion that the miles of such lines in a county~~
3 ~~bear to the total miles of such transmission lines located within the state. Revenues received~~
4 ~~by each county must be deposited in the county general fund.~~

5 For purposes of this section, "initially placed in service" includes both new construction
6 and substantial expansion of the carrying capacity of a preexisting line, and "substantial
7 expansion" means an increase in carrying capacity of fifty percent or more.

8 **SECTION 9. AMENDMENT.** Section 57-60-06 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **57-60-06. Property classified and exempted from ad valorem taxes - In lieu of**
11 **certain other taxes –~~Credit for certain other taxes.~~** Each coal conversion facility must be
12 classified as personal property and is exempt from all ad valorem taxes except for taxes on the
13 land on which such facility is located. ~~The taxes imposed by this chapter are in lieu of~~
14 ~~ad valorem taxes on the property so classified as personal property. The taxes imposed by this~~
15 ~~chapter are also in lieu of those taxes imposed by chapters 57-33 and 57-33.1 on cooperative~~
16 ~~electrical generating plants that qualify as coal conversion facilities as defined in this chapter for~~
17 ~~gross receipts derived from the operation of such plants on or after July 1, 1975. Each~~
18 ~~cooperative electrical generating plant shall receive a credit against the taxes imposed by this~~
19 ~~chapter for any taxes imposed pursuant to chapters 57-33 and 57-33.1 and payable after~~
20 ~~July 1, 1975. Such credit applies only for such taxes actually paid and must be applied against~~
21 ~~the taxes imposed by this chapter in the years in which such payments are made.~~

22 **SECTION 10. AMENDMENT.** Section 57-60-14 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **57-60-14. Allocation of revenue - Continuing appropriation.**

25 1. The state treasurer shall no less than quarterly allocate all moneys received from
26 all coal conversion facilities in each county pursuant to the provisions of this
27 chapter ~~and moneys received for those taxes for which a credit is allowed pursuant~~
28 ~~to section 57-60-06, notwithstanding the provisions of section 57-33.1-08, fifteen~~
29 percent to the county and eighty-five percent to the state general fund, except
30 moneys received from the tax imposed by subsection 3 of section 57-60-02 and
31 through December 31, 2009, the first \$41,666.67 each month from the tax imposed

- 1 by subsections 1 and 4 of section 57-60-02, which must be deposited in the state
2 general fund.
- 3 2. Notwithstanding any other provision of law, the allocation under this section to
4 each county may not be less in each calendar year than the amount certified to the
5 state treasurer for each county under this section in the immediately preceding
6 calendar year, except that through December 31, 2009, the portion of the revenue
7 allocation to each county which is attributable to a coal gasification coal conversion
8 facility must exclude consideration of calendar year 2001, and be based on
9 calendar year 2000 or the appropriate year after 2001, whichever is greater. For a
10 county that has received less in a calendar year than the amount certified to the
11 state treasurer for that county in the immediately preceding calendar year, not later
12 than January tenth of the following year, the county auditor shall calculate the
13 amount that is due under this subsection and submit a statement of the amount to
14 the state treasurer. The state treasurer shall verify the stated amount and make
15 the required payment under this subsection to the county, from collections received
16 under section 57-60-02, not later than March first of the following year. The funds
17 needed to make the distribution to counties under this subsection are appropriated
18 on a continuing basis for making these payments. Money received by a county
19 under this subsection must be distributed pursuant to section 57-60-15.
- 20 3. Notwithstanding any other provision of law, for a county in which is located a coal
21 conversion facility that was not a coal conversion facility under this chapter before
22 January 1, 2002, that county must receive for calendar year 2002 at least as much
23 under this section as was received by that county and taxing districts in that county
24 in property taxes for that facility for taxable year 2001. For years after 2002,
25 subsection 2 applies to allocations to that county under this section, except that for
26 a county described in this subsection, amounts received for any calendar year
27 must be allocated by the county in the same manner property taxes for the facility
28 were allocated for taxable year 2001.

29 **SECTION 11. REPEAL.** Chapters 57-33 and 57-33.1 of the North Dakota Century
30 Code are repealed.

1 **SECTION 12. EFFECTIVE DATE.** This Act is effective for taxable events occurring
2 after December 31, 2005.