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Fifty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2165

Introduced by

Senator J. Lee

Representatives Koppelman, Hawken

1 A BILL for an Act to create and enact section 40-58-20.2 of the North Dakota Century Code,
2 relating to establishment of a joint review board for approval of tax increment financing districts;
3 to amend and reenact subsection 2 of section 40-58-01.1, subsections 1 and 8 of section
4 40-58-20, and section 40-58-20.1 of the North Dakota Century Code, relating to tax increment
5 financing by cities; and to provide an effective date.

6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

7 **SECTION 1. AMENDMENT.** Subsection 2 of section 40-58-01.1 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 2. "Blighted area" means an area other than a slum area which by reason of the
10 presence of a substantial number of slums, deteriorated or deteriorating structures,
11 predominance of defective or inadequate street layout, faulty lot layout in relation to
12 size, adequacy, accessibility, or usefulness, insanitary or unsafe conditions,
13 deterioration of site or other improvements, diversity of ownership, tax or special
14 assessment delinquency exceeding the fair value of the land, defective or unusual
15 conditions of title, improper subdivision or obsolete platting, or the existence of
16 conditions which endanger life or property by fire and other causes, or any
17 combination of these factors, substantially impairs or arrests the sound growth of a
18 municipality, retards the provision of housing accommodations or constitutes an
19 economic or social liability and is a menace to the public health, safety, morals, or
20 welfare in its present condition and use. "Blighted area" does not include
21 predominantly open land area that has been developed only for agricultural
22 purposes.

23 **SECTION 2. AMENDMENT.** Subsections 1 and 8 of section 40-58-20 of the North
24 Dakota Century Code are amended and reenacted as follows:

- 1 1. At any time after the governing body of a municipality has approved a development
2 or renewal plan and has obtained approval of that plan from a joint review board
3 under section 40-58-20.2 for any development or renewal area, it may request the
4 county auditor and treasurer to compute, certify, and remit tax increments resulting
5 from the development or renewal of the area in accordance with the plan and any
6 modifications thereof, and the county auditor and treasurer shall do so in
7 accordance with this section.
- 8 8. The cost of development or renewal subject to reimbursement from the tax
9 increment fund for each development or renewal area ~~must include all~~ may not
10 exceed the just proportion of the total cost of a development or renewal project
11 which equals the just proportion of the total benefit of that development or renewal
12 project to property within the development or renewal area as compared with the
13 total benefit of that project to all property that will benefit from the project. The cost
14 of development or renewal subject to reimbursement from the tax increment fund
15 for a development or renewal area may include the development or renewal area's
16 just proportion of expenditures incident to carrying out the development or renewal
17 plan for the area and any modifications thereof, not otherwise reimbursed in one of
18 the ways referred to below, including all expenses of the clearance, development,
19 redevelopment, rehabilitation, and conservation of the area, and all interest and
20 redemption premiums paid on bonds, notes, or other obligations issued by the
21 municipality or urban renewal agency to provide funds for payment of those
22 expenses, subject to section 40-58-20.1 for the purpose of determining eligible cost
23 of development of industrial or commercial property. From the total cost to be
24 reimbursed there must be deducted, except as provided below, all amounts
25 received from the federal government or others, and all special assessments,
26 revenues, and other receipts except property taxes, which are actually collected
27 and applied to the payment of the cost or the bonds, notes, or other obligations, at
28 the times when those payments are due. However, if the proceeds of tax
29 increments or of bonds, notes, or other obligations are loaned to finance part or all
30 of the cost of a project comprising the restoration, reconstruction, and improvement
31 of a privately owned state historical site situated within the development or renewal

1 area or any buildings or structures thereon, as contemplated in section 55-10-08,
2 or of a property listed in the national register of historic places, as contemplated in
3 section 55-10-11, in consideration of the grant to the city of a historic easement
4 with respect thereto, repayments of the loan may not be deducted from the cost of
5 development or renewal subject to reimbursement.

6 **SECTION 3. AMENDMENT.** Section 40-58-20.1 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **40-58-20.1. Use of tax increment financing for the development of certain**
9 **industrial or commercial property - Public hearing - Eligible costs of development.**

- 10 1. The governing body of a municipality may use the tax increment financing method
11 authorized by section 40-58-20 to assist a project developer in the development of
12 industrial or commercial property, as limited by this section, pursuant to an
13 agreement between the municipality and the project developer.
- 14 2. Prior to entering into an agreement with a project developer under subsection 1,
15 the governing body of the municipality shall consider the agreement at a public
16 hearing, which may be held in conjunction with the public hearing required by
17 subsection 3 of section 40-58-06, after providing written notice of the hearing at
18 least fifteen days prior to the hearing to potential competitors of the prospective
19 industrial or commercial enterprise, and may enter into the agreement only if it
20 determines that the agreement will not result in unfair competition and that the
21 agreement is in the best interests of the municipality as a whole.
- 22 3. Prior to entering into an agreement with a project developer under subsection 1,
23 the governing body of the municipality shall obtain approval of that agreement from
24 a joint review board under section 40-58-20.2.
- 25 4. For the purpose of determining costs of development of industrial or commercial
26 property to be reimbursed by tax increments under section 40-58-20, only the
27 following public costs necessarily incurred, by either the municipality or the project
28 developer, for the purpose of preparing the property for private development by the
29 project developer may be included in the agreement as reimbursable public costs
30 of development:

- a. The cost of acquiring, or the market value, of all or a part of the industrial or commercial property;
- b. Costs of demolition, removal, or alteration of buildings and improvements on the industrial or commercial property, including the cost of clearing and grading land;
- c. Costs of installation, construction, or reconstruction of streets, utilities, parks, and other public works or improvements necessary for carrying out the development or renewal plan; and
- d. All interest and redemption premiums paid on bonds, notes, or other obligations issued by the municipality to provide funds for the payment of eligible public costs of development.

SECTION 4. Section 40-58-20.2 of the North Dakota Century Code is created and enacted as follows:

40-58-20.2. Joint review board.

1. A city that seeks to create a development or renewal area under section 40-58-20 or 40-58-20.1 or to amend an existing plan or agreement adopted under either of those sections shall convene a joint review board to review the proposal.
2. The joint review board must consist of one representative appointed by the governing body of each city, county, school district, and each other political subdivision that has power to levy taxes on property within the development or renewal area and one member chosen to represent the public.
3. The public member and the chairman of the board shall be selected by a majority of the other board members before the public hearing on the proposed creation and designation of the boundaries of the development or renewal area.
4. All board members must be appointed and the first board meeting must be held within not fewer than fourteen days and not more than thirty days after publication of notice under subsection 5.
5. The city shall publish notice of a public hearing held by the joint review board in the official newspaper of the city. Before publication, the city shall send a copy of the notice by first-class mail to the chief executive officer or administrator of each

1 political subdivision having the power to levy taxes on property located within the
2 proposed development or renewal area.

3 6. The public hearing may be adjourned and reconvened upon approval by a majority
4 of the members of the board.

5 7. The city that seeks to create the proposed development or renewal area shall
6 provide administrative support for the joint review board.

7 8. A development or renewal area under section 40-58-20 or 40-58-20.1 may not be
8 created and an existing plan or agreement may not be amended unless the joint
9 review board approves the action by a majority vote not more than thirty days after
10 receiving the proposal from the governing body of the city.

11 **SECTION 5. EFFECTIVE DATE.** This Act is effective for any action by a city governing
12 body occurring after July 31, 2003.