

HOUSE BILL NO. 1257

Introduced by

Representatives Headland, Belter, Weiler

Senators Nodland, Wanzek

1 A BILL for an Act to amend and reenact subsection 2 of section 11-09.1-05 and subsection 2 of
2 section 40-05.1-06 of the North Dakota Century Code, relating to prohibiting use of home rule
3 authority to impose higher or lower property tax rates for certain properties; and to provide an
4 effective date.

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

6 **SECTION 1. AMENDMENT.** Subsection 2 of section 11-09.1-05 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 2. Control its finances and fiscal affairs; appropriate money for its purposes, and
9 make payments of its debts and expenses; subject to the limitations of this section
10 levy and collect property taxes, sales and use taxes, farm machinery gross receipts
11 taxes, alcoholic beverage gross receipts taxes, motor vehicle fuels and special
12 fuels taxes, motor vehicle registration fees, and special assessments for benefits
13 conferred, for its public and proprietary functions, activities, operations,
14 undertakings, and improvements; contract debts, borrow money, issue bonds,
15 warrants, and other evidences of indebtedness; establish charges for any county or
16 other services to the extent authorized by state law; and establish debt and mill
17 levy limitations; ~~provided, that all property in order to be subject to the assessment~~
18 ~~provisions of this subsection.~~ Notwithstanding any authority granted under this
19 chapter, all property must be assessed in a uniform manner as prescribed by the
20 state board of equalization and the state supervisor of assessments and all taxable
21 property must be taxed by the county at the same rate unless otherwise provided
22 by law. A charter or ordinance or act of a governing body of a home rule county
23 may not supersede any state law that determines what property or acts are subject
24 to, or exempt from, ad valorem taxes. A charter or ordinance or act of the

- 1 governing body of a home rule county may not supersede section 11-11-55.1
2 relating to the sixty percent petition requirement for improvements and of section
3 40-22-18 relating to the barring proceeding for improvement projects. After
4 December 31, 2005, sales and use taxes, farm machinery gross receipts taxes,
5 and alcoholic beverage gross receipts taxes levied under this chapter:
- 6 a. Must conform in all respects with regard to the taxable or exempt status of
7 items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be
8 imposed at multiple rates with the exception of sales of electricity, piped
9 natural or artificial gas, or other heating fuels delivered by the seller or the
10 retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes,
11 manufactured homes, or mobile homes.
 - 12 b. May not be newly imposed or changed except to be effective on the first day
13 of a calendar quarterly period after a minimum of ninety days' notice to the tax
14 commissioner or, for purchases from printed catalogs, on the first day of a
15 calendar quarter after a minimum of one hundred twenty days' notice to the
16 seller.
 - 17 c. May not be limited to apply to less than the full value of the transaction or item
18 as determined for state sales and use tax, except for farm machinery gross
19 receipts tax purposes.
 - 20 d. Must be subject to collection by the tax commissioner under an agreement
21 under section 57-01-02.1 and must be administered by the tax commissioner
22 in accordance with the relevant provisions of chapter 57-39.2, including
23 reporting and paying requirements, correction of errors, payment of refunds,
24 and application of penalty and interest.
- 25 After December 31, 2005, any portion of a charter or any portion of an ordinance or
26 act of a governing body of a home rule county passed pursuant to a charter which
27 does not conform to the requirements of this subsection is invalid to the extent that
28 it does not conform. The invalidity of a portion of a charter or ordinance or act of a
29 governing body of a home rule county because it does not conform to this
30 subsection does not affect the validity of any other portion of the charter or
31 ordinance or act of a governing body of a home rule county or the eligibility for a

1 refund under section 57-01-02.1. Any taxes imposed under this chapter on farm
2 machinery, farm irrigation equipment, and farm machinery repair parts used
3 exclusively for agricultural purposes, or on alcoholic beverages, which were in
4 effect on December 31, 2005, become gross receipts taxes after December 31,
5 2005.

6 **SECTION 2. AMENDMENT.** Subsection 2 of section 40-05.1-06 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 2. To control its finances and fiscal affairs; to appropriate money for its purposes, and
9 make payment of its debts and expenses; to levy and collect taxes, excises, fees,
10 charges, and special assessments for benefits conferred, for its public and
11 proprietary functions, activities, operations, undertakings, and improvements; to
12 contract debts, borrow money, issue bonds, warrants, and other evidences of
13 indebtedness; to establish charges for any city or other services; and to establish
14 debt and mill levy limitations, ~~provided that all real and personal property in order~~
15 ~~to be subject to the assessment provisions of this subsection shall.~~
16 Notwithstanding any authority granted under this chapter, all property must be
17 assessed in a uniform manner as prescribed by the state board of equalization and
18 the state supervisor of assessments and all taxable property must be taxed by the
19 city at the same rate unless otherwise provided by law. The authority to levy taxes
20 under this subsection does not include authority to impose income taxes.

21 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
22 December 31, 2008.