

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1422

Introduced by

Representatives Kasper, Koppelman, Ruby, Thoreson

Senator Cook

1 A BILL for an Act to create and enact section 57-15-01.2 of the North Dakota Century Code,
2 relating to property tax levy increase limitations; to amend and reenact sections 11-09.1-04 and
3 40-05.1-05, subsection 15 of section 57-02-01, and sections 57-02-11, 57-02-27, 57-09-04,
4 57-11-04, 57-12-05, and 57-12-06 of the North Dakota Century Code, relating to home rule
5 authority, property tax increase limitations, determination of true and full value, and appeals of
6 property tax assessments; and to provide an effective date.

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

8 **SECTION 1. AMENDMENT.** Section 11-09.1-04 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **11-09.1-04. Ratification by majority vote - Supersession of existing charter and**
11 **conflicting state laws - Filing of copies of new charter.** If a majority of the qualified electors
12 voting on the charter at the election vote in favor of the home rule charter, it is ratified and
13 becomes the organic law of the county on the first day of January or July next following the
14 election, and extends to all its county matters. The charter and the ordinances made pursuant
15 to the charter in county matters must be liberally construed to supersede within the territorial
16 limits and jurisdiction of the county any conflicting state law except for any state law as it
17 applies to cities or any power of a city to govern its own affairs, without the consent of the
18 governing body of the city. The charter may not authorize the enactment of ordinances to
19 diminish the authority of a board of supervisors of a township or to change the structure of
20 township government in any organized civil township, without the consent of the board of
21 supervisors of the township. ~~No A charter or ordinance of a home rule county shall may not~~
22 supersede section 49-22-16 nor any provision of state law relating to property tax assessments,
23 levy limitations, exemptions, credits, definitions, administration, or enforcement. One copy of
24 the charter as ratified and approved must be filed with the secretary of state; one with the

recorder for the county, unless the board of county commissioners designates a different official; and one with the auditor of the county to remain as a part of its permanent records. Courts shall take judicial notice of the charter.

SECTION 2. AMENDMENT. Section 40-05.1-05 of the North Dakota Century Code is amended and reenacted as follows:

40-05.1-05. Ratification by majority vote - Supersession of existing charter and state laws in conflict therewith - Filing of copies of new charter. If a majority of the qualified voters voting on the charter at the election vote in favor of the home rule charter, the charter is ratified and is the organic law of the city, and extends to all its local and city matters. The charter and the ordinances made pursuant to the charter in such matters supersede within the territorial limits and other jurisdiction of the city any law of the state in conflict with the charter and ordinances and must be liberally construed for such purposes. A charter or ordinance of a home rule city may not supersede any provision of state law relating to property tax assessments, levy limitations, exemptions, credits, definitions, administration, or enforcement. One copy of the charter ratified and approved must be filed with the secretary of state and one with the auditor of the city to remain as a part of its permanent records. Thereupon the courts shall take judicial notice of the new charter.

SECTION 3. AMENDMENT. Subsection 15 of section 57-02-01 of the North Dakota Century Code is amended and reenacted as follows:

15. "True and full value" means the value determined by considering the earning or productive capacity, if any, the market value, if any, and all other matters that affect the actual value of the property to be assessed. ~~This shall include, for~~ The relative age and location of residential property must be considered in determination of market value. For purposes of arriving at the true and full value of property used for agricultural purposes, factors to consider include the schedule of modifiers of the county, farm rentals, soil capability, soil productivity, and soils analysis. "True and full value" does not include any portion of the value or cost of improvements by special assessment unless the assessor has supporting evidence of an equivalent market value increase as shown by sales of property subject to those special assessments.

1 **SECTION 4. AMENDMENT.** Section 57-02-11 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **57-02-11. Listing of property - Assessment thereof - Limitations.** Property must be
4 listed and assessed as follows:

- 5 1. All real property subject to taxation must be listed and assessed every year with
6 reference to its value, on February first of that year.
- 7 2. Notwithstanding any other provision of law, the taxable valuation of real property
8 may not be increased by more than two percent from its taxable valuation from the
9 previous taxable year unless:
 - 10 a. Improvements have been made on the property which were not subject to
11 assessment in the previous taxable year, in which case the taxable valuation
12 of the property, without the improvements, from the previous taxable year
13 may not be increased by more than two percent and the taxable valuation of
14 the improvements may be added. For purposes of this subdivision, "taxable
15 valuation of the improvements" means the value determined by comparison
16 with taxable valuation of comparable property; or
 - 17 b. The classification of the property has changed from the previous taxable year.
- 18 3. Notwithstanding any other provision of law, the true and full value for residential
19 and commercial property must be based on a five-year rolling average of market
20 value of those properties as determined by the sales, market, and productivity
21 study for the locality where the property is located.
- 22 4. The true and full value of land underlying residential or commercial property may
23 not be uniformly increased within an assessment district. The true and full value of
24 land underlying residential or commercial property must be determined separately
25 for each parcel of residential or commercial property and must recognize the
26 valuation factors that uniquely apply, and the degree to which they apply, to each
27 individual parcel.
- 28 5. Whenever after the first day of February and before the first day of April in any
29 year, it is made to appear to the assessor by the oath of the owner that any
30 building, structure, or other improvement, or tangible personal property, which is
31 listed for taxation for the current year has been destroyed or injured by fire, flood,

or tornado, the assessor shall investigate the matter and deduct from the valuation of the property of the owner of such destroyed property an amount which in the assessor's judgment fairly represents such deduction as should be made.

SECTION 5. AMENDMENT. Section 57-02-27 of the North Dakota Century Code is amended and reenacted as follows:

57-02-27. Property to be valued at a percentage of assessed value - Classification of property - Limitation on valuation of annexed agricultural lands. All property subject to taxation based on the value thereof must be valued as follows:

1. All residential property to be valued at nine percent of assessed value. If any property is used for both residential and nonresidential purposes, the valuation must be prorated accordingly.
2. All agricultural property to be valued at ten percent of assessed value as determined pursuant to section 57-02-27.2.
3. All commercial property to be valued at ten percent of assessed value.
4. All centrally assessed property to be valued at ten percent of assessed value except as provided in section 57-06-14.1.

The resulting amounts must be known as the taxable valuation. However, taxable valuation of property may not be increased by more than two percent from the taxable valuation of the property from the previous taxable year, except under the conditions in subsection 2 of section 57-02-11. In determining the assessed value of real and personal property, except agricultural property, the assessor may not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor may the assessor adopt as a criterion of value the price at which said property would sell at auction, or at forced sale, or in the aggregate with all the property in the town or district, but the assessor shall value each article or description by itself, and at such sum or price as the assessor believes the same to be fairly worth in money. In assessing any tract or lot of real property, there must be determined the value of the land, exclusive of improvements, and the value of all taxable improvements and structures thereon, and the aggregate value of the property, including all taxable structures and other improvements, excluding the value of crops growing upon cultivated lands. In valuing any real property upon which there is a coal or other mine, or stone or other quarry, the same must be valued at such a price as such property, including the mine or quarry, would sell for at a fair

1 voluntary sale for cash. Agricultural lands within the corporate limits of a city which are not
2 platted constitute agricultural property and must be so classified and valued for ad valorem
3 property tax purposes until such lands are put to another use. Agricultural lands, whether
4 within the corporate limits of a city or not, which were platted and assessed as agricultural
5 property prior to March 30, 1981, must be assessed as agricultural property for ad valorem
6 property tax purposes until put to another use. Such valuation must be uniform with the
7 valuation of adjoining unannexed agricultural land.

8 **SECTION 6. AMENDMENT.** Section 57-09-04 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **57-09-04. Duties of board - Notice of right to appeal.** The township board of
11 equalization shall ascertain whether all taxable property in its township has been properly
12 placed upon the assessment list and duly valued by the assessor. In case any real property
13 has been omitted by inadvertence or otherwise, the board shall place the same upon the list
14 with the true value thereof. The board shall proceed to correct the assessment so that each
15 tract or lot of real property is entered on the assessment list at the true value thereof. The
16 assessment of the property of any person may not be raised until such person has been
17 notified of the intent of the board to raise the same. All complaints and grievances of residents
18 of the township must be heard and decided by the board and it may make corrections as
19 appear to be just. Complaints by nonresidents with reference to the assessment of any real
20 property and complaints by others with reference to any assessment made after the meeting of
21 the township board of equalization must be heard and determined by the county board of
22 equalization. The board shall advise any person who has expressed a complaint or grievance
23 to the board regarding a property assessment of the person's right to appeal the board's
24 decision to the county board of equalization and of the time and place the county board of
25 equalization will meet for that purpose as required by section 57-12-01.

26 **SECTION 7. AMENDMENT.** Section 57-11-04 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **57-11-04. Application for correction of assessment.** During the session of the
29 board, any person, or the attorney or agent of any person feeling aggrieved by anything in the
30 assessment roll, may apply to the board for the correction of alleged errors in the listing or
31 valuation of real property, and the board may correct the errors as it may deem just. The board

1 shall advise any person who has expressed a complaint or grievance to the board regarding a
2 property assessment of the person's right to appeal the board's decision to the county board of
3 equalization and of the time and place the county board of equalization will meet for that
4 purpose as required by section 57-12-01.

5 **SECTION 8. AMENDMENT.** Section 57-12-05 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-12-05. ~~Requirements to be followed in equalization~~ Equalization of individual**
8 **assessments.** The county board of equalization, when equalizing individual assessments,
9 shall observe the following rules:

- 10 1. The valuation of each tract or lot of real property which is returned below its true
11 and full value must be raised to the sum believed by such board to be the true and
12 full value thereof.
- 13 2. The valuation of each tract or lot of real property which, in the opinion of the board,
14 is returned above its true and full value must be reduced to such sum as is
15 believed to be the true and full value thereof.
- 16 3. The board may not make any adjustment in taxable valuation of property which
17 would exceed the limitations of subsection 2 of section 57-02-11 or section
18 57-02-27.

19 **SECTION 9. AMENDMENT.** Section 57-12-06 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **57-12-06. ~~Requirements to be followed in equalizing~~ Equalization of assessments**
22 **between assessment districts and in equalizing between property owners among**
23 **properties.**

- 24 1. The rules prescribed in section 57-12-05 apply when the board of county
25 commissioners is equalizing assessments between the several assessment and
26 taxing districts in the county provided that in such case, except as otherwise
27 provided in subsection 2, the board may raise or lower the valuation of classes of
28 property only so as to equalize the assessments as between districts.
- 29 2. Notwithstanding any other provision of this section:
30 a. The county board of equalization after notice to the local board of equalization
31 may reduce the assessment on any separate piece or parcel of real estate

1 even though such property was assessed in a city or township having a local
2 board of equalization; provided, that the county board of equalization does not
3 have authority to reduce any such assessment unless the owner of the
4 property or the person to whom it was assessed first appeals to the county
5 board of equalization, either by appearing personally or by a representative
6 before the board or by mail or other communication to the board, in which the
7 owner's reasons for asking for the reduction are made known to the board.

8 The proceedings of the board shall show the manner in which the appeal was
9 made known to the board and the reasons for granting any reduction in any
10 such assessment.

11 b. The county board of equalization after notice to the local board of equalization
12 may increase the assessment on any separate piece or parcel of real
13 property even though such property was assessed in a city or township
14 having a local board of equalization; provided, that the county board of
15 equalization does not have authority to increase any such assessment unless
16 it first gives notice by mail to the owner of the property that such person may
17 appear before the board on the date designated in the notice, which date
18 must be at least five days after the mailing of the notice. The county auditor
19 as clerk of the board shall send such notice to the person or persons
20 concerned.

21 c. If the county board of equalization during the course of its equalization
22 sessions determines that any property of any person has been listed and
23 assessed in the wrong classification, it shall direct the county auditor to
24 correct the listing so as to include such assessment in the correct
25 classification.

26 3. The owner of any separate piece or parcel of real estate that has been assessed
27 may appeal the assessment thereon to the state board of equalization as provided
28 in subdivision a of subsection 3 of section 57-13-04; provided, however, that such
29 owner has first appealed the assessment to the local equalization board of the
30 taxing district in which the property was assessed and to the county board of
31 equalization of the county in which the property was assessed.

- 1 4. The county board of equalization shall advise any person who has appealed an
2 assessment to the board of county board of equalization of the person's right to
3 appeal the board's decision to the state board of equalization and the time and
4 place the state board of equalization will meet for that purpose as required by
5 section 57-13-03.

6 **SECTION 10.** Section 57-15-01.2 of the North Dakota Century Code is created and
7 enacted as follows:

8 **57-15-01.2. Limitation on levies by taxing districts.**

- 9 1. Notwithstanding that a taxing district may have unused or excess levy authority
10 under any other provision of law, this section limits that authority. This section may
11 not be interpreted as authority to increase any levy limitation otherwise provided by
12 law and may be applied only to limit any unused or excess levy authority that a
13 taxing district may otherwise be entitled to use. Property taxes levied in dollars by
14 a taxing district against a parcel of property may not exceed the amount the taxing
15 district levied in dollars against that parcel of property in the preceding taxable year
16 by more than two percent, except:
- 17 a. When improvements to property have been made which were not taxable in
18 the previous taxable year, the additional taxable valuation attributable to the
19 improvements is taxable without regard to the limitation under this subsection
20 but the limitation on the taxable valuation of the improvements under
21 subdivision a of subsection 2 of section 57-02-11 applies to those
22 improvements.
- 23 b. When a property tax exemption existed in the previous taxable year which
24 has been reduced or does not exist, the portion of the taxable valuation of the
25 property which is no longer exempt is not subject to the limitation in this
26 subsection.
- 27 c. When temporary mill levy increases authorized by the electors of the taxing
28 district or mill levies authorized by state law existed in the previous taxable
29 year but are no longer applicable or have been reduced, the amount levied in
30 dollars in the previous taxable year by the taxing district must be adjusted to
31 reflect the expired temporary mill levy increases and the reduced or

eliminated mill levies authorized by state law before the percentage increase allowable under this subsection is applied.

2. The limitation on the total amount levied by a taxing district under subsection 1 does not apply to:

- a. New or increased mill levies authorized by state law or the electors of the taxing district which did not exist in the previous taxable year.
- b. Any irrevocable tax to pay bonded indebtedness levied under section 16 of article X of the Constitution of North Dakota.
- c. Levies for a building fund or capital improvements.
- d. Levies for fire protection, law enforcement, or emergency services.
- e. Budget expenditures for substantial equipment purchases for infrastructure maintenance, repair, or construction such as road equipment, mowers, equipment for collection of solid waste, and similar equipment but not including office or computer equipment.

3. The mill rate applied to property that was not taxed in the previous taxable year may not exceed the mill rate determined by law for the current taxable year for property that was taxed in the previous taxable year.

4. Application of this section may be suspended and additional levy authority approved for a taxing district upon approval by sixty percent or more of the qualified electors of the taxing district voting on the question at a regular election of the taxing district.

SECTION 11. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2008.