

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

SENATE BILL NO. 2294
(Senators Cook, Stenehjem, Wardner)
(Representatives Carlson, Belter, Froseth)

AN ACT to amend and reenact subsection 7 of section 57-01-02, sections 57-01-05 and 57-02-11, subsection 3 of section 57-12-06, and sections 57-13-04, 57-13-05, 57-13-07, 57-13-08, and 57-14-08 of the North Dakota Century Code, relating to assessments of property, powers and duties of the state supervisor of assessments, listing of individual property records, the duties of the state board of equalization, and the duties of county assessors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 57-01-02 of the North Dakota Century Code is amended and reenacted as follows:

7. May require a ~~reassessment~~new assessment of property in any county to be made in accordance with chapter 57-14, whenever that is deemed necessary, or may require county auditors to place on the assessment rolls property which may be discovered and which has not been taxed according to law. For purposes of this subsection, "new assessment" means a new assessment as defined in section 57-14-08.

SECTION 2. AMENDMENT. Section 57-01-05 of the North Dakota Century Code is amended and reenacted as follows:

57-01-05. State supervisor of assessments.

The state tax commissioner shall appoint a supervisor of assessments who must be a person trained and experienced in property appraisals and familiar with assessment and equalization procedures and techniques. The supervisor of assessments serves at the pleasure of the state tax commissioner and office space must be furnished to the supervisor of assessments by the commissioner.

The supervisor of assessments shall perform the following duties under the direction of the tax commissioner:

1. The supervisor of assessments shall advise and give the various assessors in the state the necessary instructions and directions as to their duties under the laws of this state, to the end that a uniform assessment of all real and personal property in this state will be attained.
2. The supervisor of assessments shall assist and instruct the various assessors in this state in the use of soil reconnaissance surveys, land classification methods, in the preparation and proper use of land maps and record cards, in the proper classification of real and personal property, and in the determination of proper standards of value.
3. The supervisor of assessments may require the attendance of groups of assessors at meetings called by the supervisor of assessments for the purpose of giving them further assistance and instruction as to their duties.
4. The supervisor of assessments may make sales, market, and productivity studies and other studies of property assessments in the various counties and cities of this state for the purpose of properly advising the various assessors and directors of tax equalization in the state and for the purpose of recommending to the tax commissioner changes to be made by the state board of equalization in the performance of the equalization powers and duties prescribed for it by section 57-13-04. In any sales, market, and productivity study made according to section

57-01-06, the county directors of tax equalization or city assessors, as the case may be, are responsible for compiling a record of sales of property made in the county or city, and in conjunction with the county commissioners shall analyze the sales for the purpose of advising the state supervisor of assessments as to the value of using the sales in any such study. The compilations must be forwarded to the state supervisor of assessments with the findings of the county director of tax equalization, city assessors, and the board of county commissioners. In any county or city or any part thereof where the number of sales of properties is insufficient for making a sales, market, and productivity study, the county director of tax equalization or city assessor, as the case may be, in cooperation with the state supervisor of assessments or that person's assistants shall make appraisals of properties in order to determine the market value.

5. The supervisor of assessments shall cooperate with North Dakota state university in the development of a soil mapping program, a land classification system, valuation studies, and other matters relating to the assessment of property and shall provide for the use of such information and procedure at the earliest possible date by the assessors of this state.
6. The supervisor of assessments has general supervision of assessors and county directors of tax equalization pertaining to methods and procedures of assessment of all property and has authority to require all county directors of tax equalization to do any act necessary to obtain uniform methods and procedures of assessment.
7. Whenever an investigation by the state supervisor of assessments shows there is probable cause to believe the holder of a certificate issued by the state supervisor of assessments under chapter 11-10.1 has failed to comply with any of the provisions of this title pertaining to assessments, or any rules prescribed by the tax commissioner, the state supervisor of assessments may petition the tax commissioner for a hearing to show cause why the certificate should be suspended or revoked.
 - a. The state supervisor of assessments must provide the certificate holder at least ten days' notice of the time and place of the hearing.
 - b. If cause to suspend or revoke the certificate is shown, the tax commissioner may suspend or revoke the certificate.
 - c. The tax commissioner may restore a certificate after suspension or revocation.
 - d. An individual whose certificate has been suspended or revoked in the manner provided in this section may appeal that determination to the district court.
8. If a certificate holder's certificate is suspended or revoked under this section, the governing body of the county in which the certificate holder performs duties shall ensure the continued administration of assessments within that county by a person authorized under section 11-10.1-05 and be responsible for any expenses associated with the fulfillment of this responsibility. Expenses incurred by a county to fulfill the duties of a township or city assessment official whose certificate has been suspended or revoked must be charged to the political subdivision in which the certificate holder is employed and must either be paid directly to the county by the political subdivision or deducted by the county treasurer from funds coming into the treasurer's control which are apportionable to the subdivision.
9. The supervisor of assessments shall perform such other duties relating to assessment and taxation of property as the tax commissioner directs.
10. The tax commissioner may prescribe rules necessary for the detailed and efficient administration of this section.

SECTION 3. AMENDMENT. Section 57-02-11 of the North Dakota Century Code is amended and reenacted as follows:

57-02-11. Listing of property - Assessment thereof.

~~Property must be listed and assessed~~Certified assessment officials must list and assess property as follows:

1. All real property subject to taxation must be listed and assessed every year with reference to its value, on February first of that year.
2. An individual property record must be kept by the appropriate assessment official for each parcel of taxable property. The record may be in electronic or paper form and must include identifying information as prescribed by the state supervisor of assessments. Assessors shall prepare the records and provide copies of all property records prepared by the assessor to the county director of tax equalization. The county director of tax equalization shall maintain those records for ten years from the date the records were received from the assessors. A city with a population of five thousand or more may elect to maintain the records required under this subsection on behalf of the county. A city that makes this election must include these records in a city database of taxable property to be maintained in the office of city assessor for ten years from the assessment date.
3. Whenever after the first day of February and before the first day of April in any year, it is made to appear to the assessor by the oath of the owner that any building, structure, or other improvement, or tangible personal property, which is listed for taxation for the current year has been destroyed or ~~injured~~damaged by fire, flood, ~~or~~ tornado, or other natural disaster, 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 4. AMENDMENT. Subsection 3 of section 57-12-06 of the North Dakota Century Code is amended and reenacted as follows:

3. The owner of any separate piece or parcel of real estate that has been assessed may appeal the assessment thereon to the state board of equalization as provided in ~~subdivision a of subsection 3 of~~ section 57-13-04; provided, however, that such owner has first appealed the assessment to the local equalization board of the taxing district in which the property was assessed and to the county board of equalization of the county in which the property was assessed. Notwithstanding this requirement, an owner of property which has been subjected to a new assessment authorized under section 57-14-08 may appeal the new assessment to the state board of equalization in the manner provided for in section 57-14-08.

SECTION 5. AMENDMENT. Section 57-13-04 of the North Dakota Century Code is amended and reenacted as follows:

57-13-04. General duties and powers of board.

The state board of equalization shall equalize the valuation and assessment of property throughout the state, and has power to equalize the assessment, classification, and exemption status of property in this state between assessment districts of the same county, and between the different counties of the state. It shall:

1. Equalize the assessment of real property by adding to the aggregate value thereof in any assessment district in a county and in every county in the state in which the board may believe the valuation too low, such percentage rate as will raise the same to its proper value as provided by law, and by deducting from the aggregate assessed value thereof, in any assessment district in a county and every county in the state in which the board may believe the value too high, such percentage as will reduce the same to its proper value as provided by law. City lots must be equalized in the manner provided for equalizing other real property.

2. In making such equalization, add to or deduct from the aggregate assessed valuation of lands and city lots such percentage as may be deemed by the board to be equitable and just, but in all cases of addition to or deduction from the assessed valuation of any class of property in the several assessment districts in each county and in the several counties of the state, or throughout the state, the percentage rate of addition or deduction must be even and not fractional.
3. In equalizing individual assessments:
 - a. If it believes an assessment to be too high, the board may reduce the assessment on any separate piece or parcel of real estate if the ~~taxpayer~~owner of the property has appealed such assessment to the board either by appearing personally or by a representative before the board or by mail or other communication to the board in which the ~~taxpayer's~~property owner's reasons for asking for the reduction are made known to the board.
 - (1) The board does not have authority to reduce an assessment until the ~~taxpayer~~owner of the property has established to the satisfaction of the board that the ~~taxpayer~~owner of the property had first appealed the assessment to the local equalization board of the taxing district in which the property was assessed and to the county board of equalization of the county in which the property was assessed.
 - (2) The board does not have authority to reduce a new assessment provided for under section 57-14-08 until the owner of the property has established to the satisfaction of the board that the owner of the property had first appealed the assessment to the county board of equalization of the county in which the property was assessed.
 - b. If it believes an assessment to be too low, the board may increase the assessment on any separate piece or parcel of real estate. The secretary of the board, by mail sent to the last-known address of the owner to whom the property was assessed, shall notify such person of the amount of increase made by the board in such assessment.
 - c. The percentage of reduction or increase made by the board under this subsection in any assessment must be a whole-numbered amount and not a fractional amount.
4. Equalize the classification and taxable status of real property in any assessment district in a county and in every county in the state in which the board determines the classification or taxable status is incorrect or inequitable. The board may equalize property under this subsection if information is received indicating that property within the assessment district or county may be erroneously classified or the property's taxable status is incorrect. The board may also equalize property under this subsection if a property owner has properly appealed the property's classification or taxable status. In the case of an appeal, the owner of the property must establish to the satisfaction of the board that the owner of the property had first appealed the classification or taxable status determination to the local equalization board of the taxing district in which the property is situated and to the county board of equalization of the county in which the property is situated.
5. Provide for reviews of selected properties, parcels, or lots within each county by the tax commissioner, state supervisor of assessments, or their designee, to verify the accuracy of real property assessment listings, valuations, classifications, and eligibility for exemptions. The reviews must be examined by the state board of equalization at its annual meeting in August. The board may make necessary corrections in the property assessment listings, valuations, classifications, and eligibility for exemptions or direct the affected township, city, or county governing body to make the corrections ordered by the state board of equalization resulting from its examination of the reviews provided for in this section.
6. The board may prescribe rules and regulations necessary and advisable for the detailed administration of and compliance with this section.

7. If any county or county official fails to take action ordered by the state board of equalization under the authority granted to it in this chapter or chapter 57-02, the board may petition any judge of the district court to issue a restraining order, writ of mandamus, or other form of declaratory or injunctive relief requiring the county or county official to comply with the order of the board. The order or notice upon the petition shall be returnable not more than ten days after the filing of the petition. The petition must be heard and determined on the return day, or on such day thereafter as the court shall fix, having regard to the speediest possible determination of the case consistent with the rights of the parties. The county or county official must show cause why the county or county official should not comply with any directive or order of the board. The judgment must include costs in favor of the prevailing party.
8. The board may order a new assessment of any class of property, or of all the property, located within any political subdivision if, in its opinion, taxable property located within that subdivision has escaped assessment in whole or in part, has been assessed unfairly, or has not been assessed according to law. A new assessment ordered by the board must be made as provided in section 57-14-08.

SECTION 6. AMENDMENT. Section 57-13-05 of the North Dakota Century Code is amended and reenacted as follows:

57-13-05. Hearing before state board of equalization.

The board of county commissioners of any of the several counties, or any representative thereof in its place or stead, or any city council or board of city commissioners or any representative thereof, any township supervisors, or representative groups of taxpayers or taxpayers' associations, or any individual representing the same, may appear before the state board of equalization to be heard for the purpose of opposing any unreasonable or unjust increase or decrease in the valuation or determination of classification of the taxable property of the county, city, or township represented as equalized by the county board of equalization, ~~or of~~ opposing any increase or decrease in ~~such~~ the valuation or determination of classification as proposed by the state board of equalization, or opposing a determination of taxable status made by a county board of equalization, to the end that all valuations or classifications of like taxable property may be uniform and equal throughout the state and exemption determinations made by a county board of equalization are found reasonable by the state board of equalization.

SECTION 7. AMENDMENT. Section 57-13-07 of the North Dakota Century Code is amended and reenacted as follows:

57-13-07. Proceedings to be published - Abstract sent to county auditors.

The secretary shall keep a record of the proceedings of the board, which must be published by the secretary in an annual report. Upon final adjournment, the secretary shall transmit to each county auditor an abstract of such proceedings specifying the percentage added to or deducted from the valuation of the real property of each of the counties, in case an equal percentage has not been added to or deducted from each, and specifying also the percentage added to or deducted from the several classes of personal property in each of the counties in the state, and such other information as will enable each auditor properly to equalize or make corrections to the valuation or classification of taxable property or status with regard to exemption of property in the auditor's county, and to determine the taxable rates thereof.

SECTION 8. AMENDMENT. Section 57-13-08 of the North Dakota Century Code is amended and reenacted as follows:

57-13-08. Duty of county auditor after equalization by state board.

Upon receipt of the report of the proceedings of the state board of equalization, the county auditor shall add to or deduct from each tract or lot of real property in the auditor's county the required percentage of the valuation thereof, as it stands after the same has been equalized by the county board

of equalization, adding in each case any fractional sum of fifty cents or more, and deducting in each case any fractional sum of less than fifty cents, so that the value of any separate tract or lot contains no fraction of a dollar. The county auditor shall revalue each tract or lot of real property that is reclassified by the state board of equalization using the proper valuation method for the class of taxable property as specified by the state board of equalization. The county auditor shall adjust the status of a tract or lot to comply with any determinations made by the state board of equalization in which the tract or lot is found by the state board of equalization to be taxable or exempt.

SECTION 9. AMENDMENT. Section 57-14-08 of the North Dakota Century Code is amended and reenacted as follows:

57-14-08. ~~General reassessment~~New assessment of property - Allowance.

For purposes of this section, a "new assessment" means an assessment ordered by a board of county commissioners, or as authorized under section 57-01-02 or 57-13-04, of any class of property, or of all property, located within any political subdivision of the county if taxable property located within a subdivision has escaped assessment in whole or in part, has been assessed unfairly, or has not been assessed according to law. A reassessment~~new assessment~~ may be made as follows:

1. Upon the filing of a petition signed by not less than ten freeholders in a political subdivision, or by the governing body of that subdivision, requesting a ~~reassessment~~new assessment of property in the subdivision or upon investigation by the board of county commissioners, the board of county commissioners, before October first, may order a ~~reassessment~~new assessment of any class of property, or of all property, located within the subdivision or within any subdivision if, in its opinion, ~~taxable property located within the subdivision has escaped assessment in whole or in part, or has been assessed unfairly, or has not been assessed according to law. The state board of equalization or the tax commissioner may order a new assessment of any class of property or all property located in any political subdivision. The new assessment and equalization must be conducted under the terms and conditions as set forth in the state board of equalization or tax commissioner's order. The local governing body responsible for performing the new assessment may petition the state board of equalization or tax commissioner for a modification of any or all of the order's terms and conditions. The state board of equalization or tax commissioner may for good cause shown grant all or part of the modification request.~~
2. The board of county commissioners then may appoint a competent citizen of this state as a special assessor who shall make a ~~reassessment~~new assessment of the property specified by the board and who shall proceed in accordance with the provisions of law governing assessors. The special assessor may be selected by competitive bidding or a process determined by the board of county commissioners. The special assessor is entitled to reasonable compensation by the board of county commissioners for the special assessor's services, together with meals and lodging as allowed by law, and mileage expense at the rate allowed by law for each mile [1.61 kilometers] actually and necessarily traveled in the performance of that person's duties, which must be audited and allowed by the board of county commissioners and paid out of the county treasury upon warrant of the county auditor. If the ~~reassessment~~new assessment was ordered by the ~~state board of equalization or tax commissioner, the state board of equalization or tax commissioner shall appoint a competent citizen of this state as a special assessor who shall make a reassessment~~new assessment of the property specified by the ~~state board of equalization or tax commissioner and who to be completed under the terms and conditions set forth in the order; the special assessor shall proceed in accordance with the provisions of the law governing assessors; the special assessor is entitled to reasonable compensation by the state board of equalization or tax commissioner for that person's services plus meals, lodging, and mileage expense at the rates provided by law, and the state board of equalization or tax commissioner shall audit and allow the bill, and the same must be paid out of the county treasury. In either case, the compensation must be charged to the political subdivision in which the reassessmentnew assessment was made and must be deducted by the county treasurer from funds coming into~~

the treasurer's hands apportionable to the subdivision. The board of county commissioners, state board of equalization, or tax commissioner who appoints a special assessor may authorize such assistants as may be necessary to aid the special assessor and shall allow reasonable compensation for each of the assistants plus meals, lodging, and mileage expense at the rates provided by law, which amounts must be audited, allowed, and paid and must be charged to the political subdivision reassessed in which the new assessment occurred in the manner provided for the special assessor.

3. Upon completion of the ~~reassessment~~ terms and conditions of the new assessment order, the assessor shall certify the result to the county auditor, who forthwith shall give notice by mail to the state tax commissioner and the board of county commissioners and the governing boards of each township, city, and school district which is wholly or partially within the ~~reassessment~~ newly assessed district, that a ~~reassessment~~ new assessment has been completed in the named assessment district as provided under this section and that a meeting for the purpose of equalizing the assessment will be held in the county courthouse on the day and at the time specified ~~in the notice for the meeting of the county board of equalization~~. Each board shall appoint one of its members to attend the equalization meeting and the tax commissioner shall attend or appoint a representative from the commissioner's office to attend the meeting. ~~The group of persons comprise the special board of equalization for the reassessment. The member representing the board of county commissioners serves as chairman and the county auditor serves as secretary for the special board of equalization. The meeting must be held not later than thirty days from the date of the written notice of the meeting mailed by the county auditor. A notice of the special meeting and its purpose that the new assessment provided for under this section will be considered during the meeting of the county board of equalization must be published at least once in the official newspaper of the county in which the reassessment new assessment was made not less than one week prior to the meeting. Each person, except the tax commissioner or the commissioner's appointee, serving on this special board of equalization is entitled to compensation at the rate of up to forty-five dollars per day plus mileage expense and necessary expenses for meals and lodging at the rate allowed by law for attendance at the meeting. Claims therefor must be audited and allowed by the board of county commissioners and must be paid, charged, and deducted in the same manner as the claim of the special assessor. The claims for mileage expense and necessary expenses for meals and lodging of the tax commissioner or the commissioner's appointee in attending the special equalization meeting must be audited, allowed, and paid as are other similar claims made by them.~~
4. When any special assessor has increased the true and full valuation of any lot or tract of land including any improvements to that lot or tract of land by three thousand dollars or more and ~~to~~ by ten percent or more of the last assessment as a result of the new assessment provided for under this section, written notice of the amount of increase over the last assessment and the amount of the last assessment must be delivered in writing by the special assessor to the property owner, mailed in writing to the property owner at the property owner's last-known address, or provided to the property owner by electronic mail directed with verification of receipt to an electronic mail address at which the property owner has consented to receive notice. The tax commissioner shall prescribe suitable forms for this notice and the notice must also show the true and full value as defined by law of the property, including improvements, that the special assessor used in making the ~~reassessment~~ new assessment and must also show the date prescribed by law for the meeting of the ~~special~~ county board of equalization of the ~~assessment district~~ county in which the property is located. Delivery of notice to the property owner under this section must be completed at least fifteen days in advance of the meeting date of the ~~special~~ county board of equalization and at the expense of the assessment district for which the special assessor is employed.
5. At the meeting, the ~~special~~ county board of equalization shall hear all grievances and complaints in regard to the ~~reassessment~~ new assessment provided for under this section and shall proceed to equalize the same. All tax lists must be corrected to comply with the action.

6. Any property owner aggrieved by a decision of the county board of equalization with regard to the new assessment provided for under this section may appeal that decision to the state board of equalization at its August meeting. The board does not have authority to reduce a new assessment until the owner of property has established to the satisfaction of the board that the owner of the property had first appealed the new assessment to the county board of equalization of the county in which the property was assessed.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2294.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 89 Nays 4 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State