

Introduced by

Senators Grindberg, Dotzenrod, Oehlke

Representatives Belter, Streyle, Williams

1 A BILL for an Act to amend and reenact section 40-57.1-03 of the North Dakota Century Code,  
2 relating to certification that a project is a primary sector business before a city or county may  
3 grant a property tax exemption for that project; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 40-57.1-03 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **40-57.1-03. Municipality's authority to grant tax exemption or payments in lieu of**  
8 **taxes - Notice to competitors - Limitations.**

9 After negotiation with a potential project operator, a municipality may grant a partial or  
10 complete exemption from ad valorem taxation on all buildings, structures, fixtures, and  
11 improvements used in or necessary to the operation of a project for a period not exceeding five  
12 years from the date of commencement of project operations. A municipality may also grant a  
13 partial or complete exemption from ad valorem taxation on buildings, structures, fixtures, and  
14 improvements used in or necessary to the operation of a project that produces or manufactures  
15 a product from agricultural commodities for all or part of the sixth year through the tenth year  
16 from the date of commencement of project operations. Before a municipality may grant a partial  
17 or complete exemption from ad valorem taxation under this section, the governing body of the  
18 municipality must have received the certification of the department of commerce division of  
19 economic development and finance that the project is a primary sector business, as defined in  
20 subsection 3 of section 40-57.1-02.

21 In addition to, or in lieu of, a property tax exemption granted under this section, a  
22 municipality may establish an amount due as payments in lieu of ad valorem taxes on buildings,  
23 structures, fixtures, and improvements used in the operation of a project. The governing body of  
24 the municipality shall designate the amount of the payments for each year and the beginning

1 year and the concluding year for payments in lieu of taxes, but the option to make payments  
2 in lieu of taxes under this section may not extend beyond the twentieth year from the date of  
3 commencement of project operations. To establish the amount of payments in lieu of taxes, the  
4 governing body of the municipality may use actual or estimated levels of assessment and  
5 taxation or may establish payment amounts based on other factors. The governing body of the  
6 municipality may designate different amounts of payments in lieu of taxes in different years to  
7 recognize future project expansion plans or other considerations.

8 By November first of each year, the municipality that granted the option to make payments  
9 in lieu of taxes shall certify to the county auditor the amount of payments in lieu of taxes due  
10 under this section in the following year. After receiving the statement from the municipality, the  
11 county auditor shall certify the payments in lieu of taxes to the county treasurer for collection at  
12 the time when, and in the manner in which, ad valorem taxes must be certified. Upon receipt by  
13 the county treasurer of the amount of payments in lieu of taxes under this section, the county  
14 treasurer shall apportion and distribute that amount to taxing districts on the basis on which the  
15 general real estate tax levy is apportioned and distributed. The municipality may enter into a  
16 written agreement with the local school district and any other local taxing districts that wish to  
17 enter the agreement for an alternate method of apportionment and distribution. If such an  
18 agreement is entered into, the county treasurer shall apportion and distribute the money  
19 according to the written agreement. All provisions of law relating to enforcement, administration,  
20 collection, penalties, and delinquency proceedings for ad valorem taxes apply to payments  
21 in lieu of taxes under this section. However, the discount for early payment of taxes under  
22 section 57-20-09 does not apply to payments in lieu of taxes under this section. The buildings,  
23 structures, fixtures, and improvements comprising a project for which payments in lieu of taxes  
24 are allowed under this section must be excluded from the valuation of property in the taxing  
25 district for purposes of determining the mill rate for the taxing district.

26 Negotiations with potential project operators for tax exemption or payments in lieu of taxes  
27 must be carried on by the city council or commission if the project is proposed to be located  
28 within the boundaries of a city, and by the board of county commissioners if the project is  
29 proposed to be located outside the corporate limits of any city. A partial exemption must be  
30 stated as a percentage of the total ad valorem taxes assessed against the property. Unless the  
31 governing body of the municipality determines that there is no existing business within the

1 municipality for which the potential project would be a competitor, the potential project operator  
2 shall publish two notices to competitors, the form of which must be prescribed by the tax  
3 commissioner, of the application for tax exemption or payments in lieu of taxes in the official  
4 newspaper of the municipality at least one week apart. The publications must be completed not  
5 less than fifteen nor more than thirty days before the governing body of the municipality is to  
6 consider the application. The municipality shall determine whether the granting of the exemption  
7 or payments in lieu of taxes, or both, is in the best interest of the municipality, and if it so  
8 determines, shall give its approval.

9       During the negotiation and deliberation of a property tax exemption or the option to make  
10 payments in lieu of taxes under this chapter, a municipality shall include, as nonvoting ex officio  
11 members of its governing body, a representative appointed by the school board of each school  
12 district affected by the proposed action and a representative appointed by the board of township  
13 supervisors of each township affected by the proposed action.

14       **SECTION 2. EFFECTIVE DATE.** This Act is effective for property tax exemptions granted  
15 by a municipality after July 31, 2013.