



Property Tax Newsletter

News and developments

A publication of the Property Tax Division

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2011 Property Tax Legislation

The following summary describes 2011 legislative changes that affect real property assessments and taxation in North Dakota. Some of the bills contain provisions that are not related to property tax. Those provisions are not discussed here. Note the effective date listed with each bill.

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HB 1046 Creates ch. 57-65 imposing a tax on potash and byproducts.

- In lieu of ad valorem taxes, except the land, processing plant, mining facility, or satellite facility must be assessed and taxed as other property within the taxing district.
- § 57-02-08(32) is amended to exempt minerals in the earth which at the time of removal are subject to taxes imposed under ch. 57-65.
- Effective July 1, 2011.

HB 1047 Extends property tax relief enacted by the 2009 legislature through June 30, 2013.

- Provides funding for mill levy reduction grants (MLRG) through June 30, 2013.
- Makes technical changes to ch. 57-64.
- Amends definition of “taxable valuation” for MLRG to include in-lieu properties and homestead credit and disabled veterans’ credit taxable valuations.
- Directs legislative management to consider the sustainability of state-funded property tax relief in view of the compounding effect of ongoing property taxable value increases.
- Provides reduction in the rates of financial institutions and reductions in income tax rates for corporations, individuals, estates, and trusts.
- Effective July 1, 2011, for MLRG; January 1, 2011, for other sections.

HB 1048 Amends § 57-02-27.2(10) regarding use of soil type and soil classification.

- For a county that has not fully implemented use of soil type and soil classification data by February 1 of any year after 2011, the state treasurer shall withhold 5 percent of that county’s allocation each quarter from the state aid distribution fund.
- The amount withheld must be deposited in the newly established agricultural land valuation fund.
- Funds withheld from a county must be allocated to that county upon certification from the tax commissioner of implementation of § 57-02-27.2(7).
- Effective January 1, 2011.

HB 1071 Amends § 57-02-01(1) concerning assessment of agricultural property.

- Agricultural land that is put to use for extraction of oil, natural gas, or subsurface minerals must continue to be assessed as agricultural property if the remainder of the surface owner’s parcel of property on which the subsurface mineral activity is occurring continues to qualify for assessment as agricultural property.
- Effective January 1, 2011.

HB 1100 Amends § 57-22-11 to remove former requirement.

- The county auditor no longer has to certify personal property tax items canceled to the director of the state office of management and budget.
- Effective August 1, 2011.



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HB 1101 Amends § 57-02-27.1 relating to assessment of vacant lots.

- The governing body of a township, as well as the governing body of a city, may establish valuations that recognize the supply of vacant lots available for sale.
- Effective January 1, 2011.

HB 1116 Property Tax housekeeping bill.

- Amends § 57-02-08.2(2) and § 57-02-08.2 to clarify that June 1 is the date by which the tax commissioner shall certify homestead credit payments and disabled veterans' payments to the state treasurer.
- Amends § 57-02-08.8(1) and (2) to provide that the maximum disabled veterans' credit is \$5,400 of taxable value of fixtures, buildings, and improvements of the homestead owned and occupied by the disabled veteran or unremarried surviving spouse.
- Amends § 57-02-11(2) to change the reference to "injured" property to property damaged by fire, flood, tornado, and adds property damaged by other natural disaster.
- Amends § 57-06-17.3 to provide for reduction in the taxable value, instead of reduction in property taxes, for transmission lines and associated transmission substations that qualify under that section.
- Effective January 1, 2011.

HB 1144 Creates ch. 57-02.4 concerning crew housing permit fees.

- Provides for a city, for property within city limits, or county, for property outside city limits, to impose crew housing permit fees that apply to crew housing facilities.
- Fees must be determined on the basis of the value of services and facilities provided to the crew housing facility.
- A city or county may share revenues from fees with other taxing districts in which the property is located.
- A city or county may establish reporting requirements for crew housing facilities.
- Chapter 57-02.4 does not apply to real property that is exempt from property taxation or subject to payments in lieu of taxes; mobile or manufactured homes; a recreational vehicle, camper, or camper trailer required to be licensed by the motor vehicle division of the department of transportation; or a park model trailer for which the owner has paid a park model trailer fee.
- Effective April 27, 2011.

HB 1194 Creates a new section to ch. 57-15.

- Requires a notice of property tax increase and public hearing if a taxing district intends to impose a property tax levy in a greater number of mills than the zero increase number of mills.
- Notice must be published in the official newspaper at least seven days before the public hearing.
- The hearing may not be scheduled to begin earlier than 6:00 p.m.
- The content and size of the required notice are prescribed.
 - Includes the date, time, and place of the public hearing.
 - Includes a statement that a public hearing will be held to consider increasing the property tax levy by a stated percentage, expressed as a percentage increase exceeding the zero increase number of mills (see definition below)
 - Includes a statement that there will be an opportunity for citizens to present oral or written comments regarding the property tax levy.
 - The notice must be at least two columns wide by five inches high.
 - Must have at least one-half inch white space margin on all four sides.
 - May include any other information the taxing district wishes to provide to inform taxpayers.
 - Heading must be capitalized in boldface type of at least 18 point stating "IMPORTANT NOTICE TO (NAME OF TAXING DISTRICT) TAXPAYERS".
 - Proposed percentage increase must be printed in boldface type no less than two points less than the heading.
 - Remaining portion of the ad must be printed in a type face no less than 4 points less than the heading.

Fees must be determined on the basis of the value of services and facilities provided to the crew housing facility.

- Defines “zero number of mills” as the number of mills against the taxing district’s current year taxable valuation, excluding consideration of new growth, which will provide the same amount of property tax revenue as the property tax levy in the prior year.
- Defines “new growth” as the taxable valuation of any property that was not taxable in the prior year. The Property Tax Division interprets that to mean new construction, property newly annexed into the political subdivision, and property that was exempt in the prior year but has become taxable for the current year.
- Applies only to cities, city parks, counties, and school districts.
- Does not include a taxing district that levied a property tax of less than \$100,000 for the prior year and sets a budget for the current year calling for a property tax levy of less than \$100,000.
- If the governing body of the taxing district does not make a final decision on the mill levy at the hearing, the governing body shall announce the time and place of the next public meeting and final adoption of a property tax levy exceeding the zero increase number of mills.
- All mill levies in the 1200 category for counties, the 1600 category for cities, the 1700 category for city park districts, and the 2100 category for school districts (see the Schedule of Levy Limitations on the Tax Department website – www.nd.gov/tax) should be included in “zero number of mills” calculations for the total taxing district levy. An explanation of any details may be published in the required notice, offered at the hearing, or provided in a handout, at the taxing district’s discretion.
- Effective August 1, 2011.

HB 1206 Creates ch. 61-40, western area water supply authority.

- The western area water supply authority is a political subdivision of the state.
- The authority has no power to levy property taxes or special assessments.
- Effective May 3, 2011.

HB 1217 Amends § 57-02-08.8(1) relating to benefits for disabled veterans.

- Includes a disabled veteran who has an extra-schedular rating to include individual unemployability that brings the veteran’s total disability rating to 100 percent as determined by the department of veterans’ affairs. Note: this will have little effect on administration of the disabled veterans’ property tax credit. Only a veteran having less than 50 percent disability and also having an extra-schedular rating that brings the veteran’s total disability rating to 100 percent will become eligible for the property tax credit. Few, if any, veterans meet those combined criteria.
- Provides that an unremarried surviving spouse who is receiving department of veterans’ affairs dependency and indemnity compensation receives a 100 percent exemption.
- The maximum property tax credit is changed to \$5,400 of taxable valuation of fixtures, buildings, and improvements, to correspond with the change in HB 1116.
- Effective January 1, 2011.

HB 1223 Amends § 57-02-08(3).

- The leasehold interest in property leased by a political subdivision from another political subdivision is exempt from property tax.
- Effective August 1, 2011.

HB 1225 Amends sections relating to the county emergency levy.

- Section 1 amends § 15-15-06.7(22) to provide a county may levy a tax for emergency purposes according to the following schedule:
 - 2 mills in a county with a population of 30,000 or more;
 - 4 mills in a county with a population under 30,000 but more than 5,000;
 - 6 mills in a county with a population of 5,000 or fewer.
 - Effective January 1, 2011.
- Section 2 amends § 57-15-28 to provide that the county emergency fund may not be used for the purchase of road equipment.
 - Effective August 1, 2011.

The western area water supply authority is a political subdivision of the state.

- The legislative management shall consider studying county and city emergency fund levies and expenditures and jurisdictional responsibilities and issues relating to emergency fund levies and expenditures.

HB 1246 Amends § 57-02-08(9) regarding exemption of church-owned property.

- “All buildings owned by any religious corporation or organization and used for the religious services of the organization, and if on the same parcel, dwellings with usual outbuildings, intended and ordinarily used for the residence of the bishop, priest, rector, or other minister in charge of services, land directly under and within the perimeter of those buildings, improved off-street parking or reasonable landscaping or sidewalk area adjoining the main church building, and up to a maximum of two additional acres [.81 hectare] must be deemed to be property used exclusively for religious services, and exempt from taxation, whether the real property consists of one tract or more. If the residence of the bishop, priest, rector, or other minister in charge of services is located on property not adjacent to the church, that residence with usual outbuildings and land on which it is located, up to two acres [.81 hectare], is exempt from taxation. The exemption for a building used for the religious services of the owner continues to be in effect if the building in whole, or in part, is rented to another otherwise tax-exempt corporation or organization, provided no profit is realized from the rent.”
- Repeals § 57-02-08(7).
- Effective January 1, 2011.

HB 1318 Creates ch. 61-24.8 relating to Garrison Diversion Conservancy District.

- Garrison Diversion Conservancy District is authorized to finance projects through improvement bonds or special assessments.
- Includes creation of improvement districts, notice and hearing requirements, and other provisions similar to those relating to city special assessments.
- A special assessment imposed by the district is a lien upon the property from the time the assessment list is approved by the board until the assessment is fully paid.
- The lien has precedence over all other liens except general tax liens.
- The district treasurer certifies to the county auditor(s) all installments that are to be extended upon the tax lists of the improvement district by August 20.
- Special assessments, interest, and penalties must be collected as general taxes are collected by the county treasurer.
- This Act is ineffective after July 31, 2013, except for projects for which all steps up to and including approval are completed before August 1, 2013.
- Effective August 1, 2011.

HB 1322 Concerns special assessments against agricultural property.

- Amends § 40-26-01 to provide for de novo review of special assessments against agricultural property by the court, if an action challenges the determination of benefits and special assessments imposed for agricultural property.
- Amends § 40-26-07 to provide that unless an action challenges the determination of benefits and special assessments imposed for agricultural property, the amount of the assessment as it appears on the assessment list shall be prima facie evidence of the true and just amount.
- Directs legislative management to study use and administration of special assessments and alternative funding mechanisms available, with emphasis on agricultural property, especially within and near city boundaries.
- Effective August 1, 2011.

SB 2048 Creates a new subsection to § 40-63-03.

- If there is property within a renaissance zone that is included in a tax increment financing (TIF) district, the city shall provide the department of commerce an annual report regarding any such property at the time requested by the department of commerce. The report must identify the property, provide the expected duration of inclusion of the property in the TIF district and the renaissance zone, and identify any property and income tax benefits and the expected duration of those benefits.

Special assessments, interest, and penalties must be collected as general taxes are collected by the county treasurer.

- The department of commerce shall deliver an annual report compiling the required information to the legislative management interim committee on taxation issues or upon request of any other interim committee of the legislative management.
- Effective August 1, 2011.

SB 2049 Amends subsection 8 of § 57-02-08.

- For purposes of subsection 8 and section 5 of article X of the Constitution of North Dakota, property is not used wholly or in part for public charity or charitable or other public purposes if that property is residential rental units leased to tenants based on income levels that enable the owner to receive a federal low-income housing income tax credit.
- Effective January 1, 2012.

SB 2050 Makes several changes to ch. 40-58 urban renewal law.

- Amends subsection 2 of § 40-58-01 to provide that “blighted area” does not include any land that has been assessed as agricultural property within the last ten years unless it was located within the interior boundaries of a city for at least ten years.
- Amends subsection 1 of § 40-58-20 to require the governing body of a municipality to file an approved development or renewal plan for any development or renewal area with the department of commerce division of community services. Also provides that:
 - For a tax increment financing (TIF) district established before July 1, 2011, the base year for tax increments computed for a development or renewal area under § 40-58-20 or § 40-58-20.1 may not be used for more than 25 taxable years without the governing body of the municipality establishing a new base year using taxable values established as of February 1 of the following year, which are not more than 15 years old. Regardless of the length of the initial district, the new base year may be used to compute tax increments for up to an additional 15 years after which time the tax increment district must be closed, except that the original base year for tax increments pledged for an indebtedness incurred before July 1, 2011, may continue until the indebtedness is paid.
 - For a TIF district established after July 1, 2011, the base year for tax increments computed for a development or renewal area under § 40-58-20 or § 40-58-20.1 may not be used for more than 25 taxable years without the governing body of the municipality establishing a new base year using taxable values, established as of February 1 of the following year, which are not more than 15 years old. The new base year may be used to compute tax increments for up to an additional five years after which time the tax increment district must be closed.
- Creates a new subsection to § 40-58-20 as follows: The governing body of a municipality with an active TIF district may at any time identify funds on hand that are in excess of the costs it determines necessary to complete the activities included in the last approved urban renewal plan for that district. The governing body shall cause the identified surplus to be transferred to the county treasurer to be distributed to the state and all political subdivisions having power to tax property in the area, in amounts proportionate to the most recent five-year average of the property tax levy within the district.
- Creates § 40-58-20.2 as follows: Before approval of a development or renewal plan for any development or renewal area under § 40-58-20, the governing body of the municipality shall provide invitations to participate in the public hearing to the governing body of each county, school district, and park district within the development or renewal area. At a minimum, the governing body of the municipality shall provide the following information at the public hearing:
 - The anticipated costs of development of property to be reimbursed by tax incentives.
 - The anticipated annual revenue from tax increments which will be received to complete the development or renewal plan.
 - The anticipated date when the plan will be completed, the costs will be fully paid, and the tax increments will be released.
 - The estimate of the dollars annually attributable to the levies from each taxing entity which will be credited to the tax increment fund.

“Blighted area” does not include any land that has been assessed as agricultural property within the last ten years unless it was located within the interior boundaries of a city for at least ten years.

- Creates § 40-58-20.3 as follows: For each development or renewal plan for any development or renewal area under § 40-58-20 in existence at the end of a calendar year, the governing body of the municipality shall file an annual report with the department of commerce, by the following July 31, which is in a format prescribed by the department. The report must include:
 - The total outstanding indebtedness.
 - The balance of funds on hand.
 - The name of the TIF district.
- Effective August 1, 2011.

SB 2168 Amends subsection 3 of § 11-18-05 regarding fees the recorder may charge.

- For providing any electronic data from a recorded instrument, the recorder may charge not more than 50 cents per instrument.
- Effective August 1, 2011.

SB 2242 Amends subsection 5 of § 57-15-56 and § 57-39.2-26.

- Increases the matching grant to eligible counties for senior citizen services and programs to three-fourths of the amount levied in dollars in the county for the taxable year, but the grant applies only to a levy of up to one mill.
- Provides that a portion of sales, use, and motor vehicle excise tax collections equal to the amount of revenue that would have been generated by a levy of three-fourths of one mill on the taxable value of all property in the state subject to a levy under § 57-15-56 in the prior taxable year must be deposited in the senior citizen services and programs fund.
- Effective January 1, 2011.

SB 2263 Amends parts of ch. 57-33.2, electric generation, distribution, and transmission taxes.

- Amends § 57-33.2-06 to change to February 1 the date by which the county auditor must provide a map of the county to each transmission or distribution company having a transmission or distribution line in the county.
- Changes to April 15 the date by which each transmission or distribution company must file a report with the county auditor of each county in which any of its transmission or distribution line is located.
- Amends § 57-33.2-07 to change to June 1 the date by which each wind farm, wind generator, and generator of electricity from sources other than coal subject to the coal conversion tax and each transmission company, distribution company, and each company that is both a transmission company and a distribution company shall file a required form with the tax commissioner.
- Amends subsection 3 of § 57-33.2-19 to require that revenue from generation taxes under § 57-33.2-04 must be allocated among taxing districts in which the generator is located, in proportion to their respective most recent property tax mill rates that apply to the land on which the generator is located.
- Revenue from generation taxes under § 57-33.2-04 from wind farms must be allocated among taxing districts in which the wind farm is located in proportion to their respective most recent property tax mill rates that apply to the land on which the wind farm is located. When generation turbines are located in more than one county or other taxing district, the capacity tax in subdivision a of subsection 1 of § 57-33.2-04 must be based on the capacity of the turbines within each county or taxing district.
- The electricity output for the kilowatt-hour tax in subdivision b of subsection 1 of § 57-33.2-04 must be allocated according to the proportionate share of wind generation capacity within each county or other taxing district in relation to the total capacity of the wind farm.
- Effective January 1, 2011.

SB 2283 Amends § 61-21-47.

- Increases the maximum levy in any year for cleaning out and repairing a drain to \$2.00 per acre, in compliance with § 61-21-46.
- Effective August 1, 2011.

For providing any electronic data from a recorded instrument, the recorder may charge not more than 50 cents per instrument.

SB 2294 Relates to assessments of property, powers and duties of the state supervisor of assessments, listing of individual property records, duties of the state board of equalization (SBOE), and duties of county assessors.

- Changes the reference to “reassessment” in subsection 7 of § 57-01-02 to “new assessment.”
- New subsection 7 of § 57-01-05 provides for suspension or revocation of a certificate issued by the state supervisor of assessments if, upon investigation, probable cause is shown. Provides for a hearing and appeal to the district court. The tax commissioner may restore a certificate after suspension or revocation.
- New subsection 8 of § 57-01-05 provides that if a certificate holder’s certificate is suspended or revoked, the county governing body shall ensure continued administration of assessments by an authorized person and be responsible for expenses incurred. Expenses incurred by a county must be charged to the political subdivision in which the certificate holder is employed and must be deducted by the county treasurer from funds apportionable to the subdivision.
- New subsection 10 of § 57-01-05 authorizes the tax commissioner to prescribe rules for administration of this section.
- Amends § 57-02-11 to require that:
 - An individual property record must be kept by the appropriate assessment official for each parcel of taxable property.
 - Assessors must provide copies of all property records to the county director of tax equalization.
 - The tax director shall maintain the records in that office for ten years.
 - A city of 5,000 population or more may maintain its records in a city database for ten years, on behalf of the county.
- Amends subsection 3 of § 57-12-06 to allow an owner of property which has been subjected to a new assessment under section 57-14-08 to appeal to the SBOE.
- Amends § 57-13-04 as follows:
 - The SBOE has authority to equalize the classification and exemption status of real property.
 - The SBOE does not have authority to reduce a new assessment provided for under § 57-14-08 unless the taxpayer has first appealed the assessment to the county board of equalization.
 - The SBOE may equalize property if information is received indicating that property is erroneously classified or the property’s taxable status is incorrect.
 - The SBOE may equalize property if a property owner has first appealed the property’s classification or taxable status determination to the local and county boards of equalization.
 - The tax commissioner, state supervisor of assessments, or their designee may review selected properties within each county to verify the accuracy of listings, valuation, classifications, and eligibility for exemptions.
 - The SBOE shall examine the reviews and make necessary corrections.
 - The SBOE may prescribe necessary rules and regulations.
 - If any county or county official fails to take action ordered by the SBOE, the SBOE 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 SBOE. The judgment must include costs in favor of the prevailing party.
 - The SBOE may order a new assessment of any class of property or all property in a political subdivision if, in its opinion, taxable property has escaped assessment or has been assessed unfairly.
- Amends § 57-13-05 to add determination of classification or determination of taxable status to subjects for which any board of county commissioners, city council, board of city commissioners, township supervisors, representative groups of taxpayers or taxpayers’ associations, or any individual representing the same may be heard in opposition to a determination by a county board of equalization or a change proposed by the SBOE.
- Amends 57-13-07 to require the secretary of the SBOE to include in the abstract of proceedings for each county, information that will enable the county auditor to make corrections to the valuation or classification of taxable property or status with regard to exemption of property.

An individual property record must be kept by the appropriate assessment official for each parcel of taxable property.

The board of county commissioners, tax commissioner, or SBOE may order a new assessment and equalization of any class of property or all property located in a political subdivision.

- Amends § 57-13-08 to:
 - Require the county auditor to revalue each tract or lot of real property reclassified by the SBOE using the proper valuation method for the class of taxable property specified by the SBOE.
 - Require the county auditor to adjust the status of a tract or lot to comply with any determination made by the SBOE in which the tract or lot is found by the SBOE to be taxable or exempt.
- Amends § 57-14-08 to change “general reassessment” to “new assessment” of property.
 - The board of county commissioners, tax commissioner, or SBOE may order a new assessment and equalization of any class of property or all property located in a political subdivision.
 - A new assessment order by the tax commissioner or SBOE must be conducted under terms and conditions as set forth in the tax commissioner’s or SBOE’s order.
 - A meeting for the purpose of equalizing the new assessment shall be held on the day and at the time specified for the meeting of the county board of equalization.
 - Any property owner aggrieved by a decision of the county board of equalization with regard to a new assessment may appeal that decision to the SBOE, if the property owner has first appealed the new assessment to the county board of equalization.
- Effective August 1, 2011.

SB 2301 Relates to dissolution of a township.

- Amends § 58-02-28 to provide:
 - If a majority of votes cast at the township meeting are in favor of dissolution, the township ceases to be a corporation on the next succeeding January 1.
 - After payment of the township’s debts and liabilities, any funds on hand derived from property taxes levied by the township may be allocated among the taxpayers.
 - Allocation is in proportion to the taxpayers’ relative ownership shares of the taxable valuation of property in the township.
 - Any funds on hand from sources other than property taxes levied by the township must be transferred to the county treasurer for deposit in the county general fund.
 - Any real or personal property must be disposed of in the matter directed by a majority of the voters of the township at any special meeting.
 - All township records must be turned over for preservation and safekeeping to the county auditor.
- Effective March 9, 2011 (emergency).

SB 2356 Amends § 40-22.1-01 concerning special assessments for business promotion.

- Includes maintenance of public places as an approved purpose for special assessments for business promotion.
- Removes the size limitation on cities that may defray the expense of improvements by special assessments for the promotion of business activity and new business development.
- Prohibits a municipality from issuing warrants, bonds, or any other form of indebtedness in anticipation of the levy and collection of assessments under ch. 40-22.1.
- Directs the legislative management to study the use of special assessments for public improvements, use and administration of special assessments across the state, and alternative funding mechanisms available and possible processes and procedures that would facilitate a transition to any recommended alternative funding mechanisms.
- Effective August 1, 2011.

Electronic Newsletter

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