CHAPTER 57-08
REVIEW OF PUBLIC UTILITY ASSESSMENTS

57-08-01. Action to review assessment of public utility.

If any company whose property has been valued and assessed for taxation purposes by the state board of equalization under the constitution or statutes of this state, or against whom any tax is levied or assessed by said board, feels aggrieved for any reason with the assessment so made, the company may bring an action in the district court of the county in which the company maintains its principal place of business in this state, against the state and any subdivisions thereof which may be interested, for relief therefrom. Any such action must be brought on or before the date on which the taxes to be collected under the assessment involved become due.

57-08-02. Procedure - Action for relief by utility from assessment.

At any time after an action is brought pursuant to section 57-08-01, the district court, either before or during trial, may allow the plaintiff to pay to the state or municipalities interested any part of the taxes involved in the action under such agreement as may be made between the plaintiff or plaintiffs and the attorney general on behalf of all defendants, or under such terms as the court may fix. Such agreement, when ratified by the court, is binding upon all parties to the action. At the time the action is brought, the plaintiff is required to file with the clerk of the district court a bond payable to the state of North Dakota, in such form as may be fixed by the district court, and in an amount sufficient to cover all anticipated costs of the action, said bond to be approved as to amount and form by the clerk of the district court. The decision of the district court in such action is subject to appeal to the supreme court in the manner now provided by statute for appeal in civil actions. No application need be submitted to the board of county commissioners before such action is commenced.

57-08-03. Action against state for refund of excessive taxes paid by utility - Limitation.

Any company claiming to be aggrieved by the levy of a tax upon its property and alleging facts showing substantial injustice in the determination by the state board of equalization, within six months after the payment of the tax under protest, may bring and maintain an action against the state to recover such part of the tax as exceeds the amount the company should have paid.

57-08-04. Refund of excess paid by utility.

If the amount of tax justly and equitably due from a utility is determined finally to be less than the amount paid, the excess must be refunded to the utility by the direction of the court, and for that purpose the county auditor of each county which was a party to the action, upon the filing in the auditor's office of a certified copy of such final determination, shall draw a warrant upon the county treasurer for the amount to be refunded. The amount refunded must be charged against the funds of the state, county, township, city, school district, or other taxing district in the hands of the county treasurer or funds which thereafter may be collected in such proportion as the amount refunded bears to the amount collected for the benefit of each such taxing district on the original assessment.

57-08-05. Tax actions by utility - Manner of trial - Tender.

In any action, suit, or proceeding brought by a utility, in the state courts, to set aside, restrain, or postpone the payment or collection of any tax levied upon the property of the utility, no injunction, order, or writ to enjoin or restrain the payment or collection of the tax may issue, or be continued in force, unless said company pays to the county treasurer of each county in which a portion of such property is located, for the use of the county, the amount of taxes which the court shall determine primarily to be justly and equitably due from such company. Such primary determination must be made by the state court in which the action, suit, or proceeding is pending, upon motion, summarily and without delay.

57-08-06. When reassessment to be made.

If any tax levied upon property which is assessed by the state board of equalization is adjudged illegal or nonenforceable, or is set aside by any state or federal court of competent jurisdiction, the board, whether any part of the taxes assessed and levied have been paid or not, forthwith shall reascertain and redetermine the value of the property involved.

57-08-07. Notice to be given.

The tax commissioner, by mail, shall give notice to the company owning such property of the action of the state board of equalization in redetermining the value of such property. In such notice, the tax commissioner shall describe the property in general terms, and shall notify such company to appear before the board at the office of the tax commissioner at a specified time within fifteen days after such notice, and show cause, if any, why such property should not be reassessed at the valuation determined by the board.

57-08-08. Hearing.

At a hearing held pursuant to section 57-08-07, the company shall present evidence relating to the value of its property. After consideration of the evidence presented at such hearing, if any, the state board of equalization shall fix the final assessment of such property according to the best judgment of the board. The proceedings for such reassessment, as near as may be, must be conducted as the proceedings for the original assessment are conducted.

57-08-09. Taxation of reassessed property.

The reassessment shall be of the same force and effect as the original assessment made in accordance with law. The valuation of reassessed property must be allocated as the valuation upon the original assessment of such property is allocated, and the provisions of law governing the levy and collection of taxes upon an original assessment are applicable to property reassessed under the provisions of this chapter.

57-08-10. How often reassessment may be made.

The power to reassess the property of any company may be exercised as often as may be necessary until the amount of taxes legally due from any company for any year under the assessment and taxation laws of this state has been determined finally and definitely. Whenever any tax or part thereof levied upon the property of any company has been declared illegal and such tax has been paid and not refunded, the payment so made must be applied, in case of reassessment, upon said property, and the reassessment of taxes to that extent must be deemed to be satisfied.