

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1026
(Legislative Council)
(Agriculture Committee)

AN ACT to provide for the control of noxious weeds; to amend sections 4-33-11 and 57-15-06.10 of the North Dakota Century Code, relating to pest control and consolidated levies; to repeal chapter 63-01.1 of the North Dakota Century Code, relating to noxious weed control and pest control; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-33-11 of the North Dakota Century Code is amended and reenacted as follows:

4-33-11. Authority for financing local control programs - County pest coordinator.

1. The governing body of any political subdivision may appropriate money for the control of pests under this chapter ~~or chapter 63-01.1~~. If state funds are involved, the money must be expended according to control plans approved by the commissioner. The governing body of a political subdivision shall determine the portion, if any, of control program costs ~~that should to~~ be paid by the political subdivision. Costs of the control program may be paid by moneys in the emergency fund. If the emergency fund is not sufficient to carry out the program, the governing body may expend money from the general fund and in this event the governing body, except the governing body of a park district, upon approval of sixty percent of those voting in any special election or the next regularly scheduled primary or general election, may levy a tax during the following year upon all taxable property in the political subdivision to fully reimburse the general fund for the amount expended except that the levy may not exceed the limitation in subsection 1 of section 57-15-28.1.
2. The board of county commissioners for any county shall designate ~~a person~~ an individual to serve as county pest coordinator. The county weed control officer may serve in that capacity if approved by the board of county commissioners. The county pest coordinator shall administer local and private funds in cooperation with state and federal pest control programs. When state funds are involved, the county pest coordinator shall submit county and township control plans to the agriculture commissioner for approval.

SECTION 2. Definitions. As used in sections 2 through 33 of this Act:

1. "Board member area" means a geographical area within the county from which a member of the weed board is appointed.
2. "City weed control officer" means an individual designated by a city weed board to be responsible for the operation and enforcement of sections 2 through 33 of this Act within the city.
3. "Commissioner" means the agriculture commissioner or the commissioner's designee.
4. "Control" means to prevent a noxious weed from spreading by:
 - a. Suppressing its seeds or propagating parts; or
 - b. Destroying either the entire plant or its propagating parts.

5. "County weed control officer" means an individual designated by the county weed board to be responsible for the operation and enforcement of sections 2 through 33 of this Act within each county.
6. "Noxious weed" means a plant propagated by either seed or vegetative parts and determined to be injurious to public health, crops, livestock, land, or other property by:
 - a. The commissioner in accordance with section 6 of this Act;
 - b. A county weed board in accordance with section 11 of this Act; or
 - c. A city weed board in accordance with section 22 of this Act.
7. "Township road" means an improved public road that is:
 - a. Located outside of an incorporated city;
 - b. Not designated as part of a county, state, or federal-aid road system; and
 - c. Constructed, maintained, graded, and drained by the township, or by the county if the township is unorganized.

SECTION 3. Control of noxious weeds - Responsibility. Each person shall do all things necessary and proper to control the spread of noxious weeds.

SECTION 4. Noxious weed control - Agriculture commissioner - Powers. The commissioner may enter upon any land in the state to perform duties and to exercise powers under sections 2 through 33 of this Act, including taking specimens of weeds or other materials, without the consent of the landowner or other person responsible for the land and without being subject to any action for trespass or damages, provided reasonable care is exercised.

SECTION 5. Noxious weed control - Agriculture commissioner - Duties. The commissioner shall:

1. Maintain a state noxious weed list;
2. Direct the removal of a noxious weed from a county or city noxious weed list if the commissioner, after consultation with the respective weed board and the North Dakota state university extension service, determines there is insufficient justification for the continued inclusion of that particular noxious weed;
3. Except as otherwise provided, forward all signed complaints to the proper weed control authority; and
4. Call an annual meeting of all weed control officers to review noxious weed control efforts in this state.

SECTION 6. State noxious weed list - Compilation.

1. Before the commissioner may add a weed to or remove a weed from the state noxious weed list, the commissioner shall consult with the North Dakota state university extension service.
2. Before January 1, 2010, and at least every five years thereafter, the commissioner shall review the state noxious weed list. The commissioner shall provide each county and city weed board with at least fourteen days' notice of the time and place at which the list will be reviewed and, no later than fourteen days after conclusion of the review, shall provide each county and city weed board with written notice of any changes to the state noxious weed list.

SECTION 7. County weed board - Members - Terms - Compensation.

1. Each board of county commissioners shall:
 - a. Establish contiguous county weed board member areas; or
 - b. Determine that county weed board members must be appointed at large.
2. The board of county commissioners shall appoint a county weed board consisting of three, five, or seven members. Members shall serve for a term of four years or until their successors are appointed and qualified. The terms must be staggered so that no more than two expire each year.
3. If the board of county commissioners has established county weed board member areas as provided for in subsection 1, any qualified elector residing in the county weed board member area is eligible to represent that area on the board. If the board of county commissioners has determined that county weed board members must be appointed at large as provided for in subsection 1, any qualified elector residing in the county is eligible to serve on the county weed board.
4. A board member shall assume office at the first regular meeting of the county weed board following that member's appointment.
5. The board of county commissioners shall remove a member of the county weed board for repeated unexcused failures to attend meetings, for refusal to act as a board member, or for incapacity. If a vacancy occurs on a county weed board, the board of county commissioners, at its next regular meeting, shall appoint an individual who possesses the necessary qualifications to fill the unexpired term.
6.
 - a. The county weed board shall elect a chairman and a vice chairman from among its members.
 - b. The county weed board shall appoint a secretary and a treasurer. The secretary and treasurer need not be members of the board.
7. The board of county commissioners shall establish the rate of compensation for county weed board members.

SECTION 8. County weed board - Jurisdiction. The jurisdiction of a county weed board extends to all land within the county but does not include any land within the corporate limits of a city if that city has its own noxious weed control program under sections 2 through 33 of this Act.

SECTION 9. County weed board - Powers. A county weed board may:

1. Expend funds from all available sources if it determines that the extent of noxious weed infestation on certain land is so severe that control efforts would place an extreme financial burden on the landowner.
2. Employ and compensate additional personnel to assist with noxious weed control efforts.

SECTION 10. County weed board - Duties. Each county weed board shall:

1. Implement a program for the control of noxious weeds;
2. Provide for the control of noxious weeds along county and township roads and along county highways;
3. Establish the time and place of regular board meetings;
4. Meet at least once each year;

5. Keep minutes of its board meetings and a complete record of all official acts;
6. Control and disburse all moneys received by the county from any source for noxious weed control;
7.
 - a. Provide for the compensation of its members and its secretary and treasurer;
 - b. Reimburse its members and its secretary and treasurer for actual and necessary expenses; and
 - c. Provide a mileage allowance at the same rate as that established for state employees; and
8.
 - a. Employ and provide for the compensation of a weed control officer;
 - b. Reimburse the weed control officer for actual and necessary expenses; and
 - c. Provide a mileage allowance at the same rate as that established for state employees.

SECTION 11. County weed board - Development of county weed list.

1. A county weed board may designate as noxious certain weeds that are not on the state noxious weed list, provided the county weed board consults with the North Dakota state university extension service and that the designation is approved by the commissioner.
2. Before January 1, 2010, and at least every five years thereafter, each county weed board shall review its noxious weed list and, by majority vote, may remove any weed from its list. The county weed board shall provide the commissioner with at least fourteen days' notice of the time and place at which its list will be reviewed and, no later than fourteen days after conclusion of the review, shall provide the commissioner with written notice of any changes to the county list.
3. A county weed board shall immediately remove any noxious weed from its list when directed to do so by the commissioner in accordance with section 5 of this Act.

SECTION 12. County weed control officer - Membership on county weed board - Employment.

1. A county weed control officer may serve as a member of the weed control board by which the officer is employed if the officer is otherwise qualified to do so.
2. An individual may be employed as a weed control officer by several weed boards simultaneously.

SECTION 13. County weed control officer - Powers. A county weed control officer may enter upon any land within the jurisdiction of the officer to perform duties and to exercise powers under sections 2 through 31 of this Act, including taking specimens of weeds or other materials, without the consent of the landowner or other person responsible for the land and without being subject to any action for trespass or damages, provided reasonable care is exercised.

SECTION 14. County weed control officer - Duties. The county weed control officer shall:

1. Cooperate with the board and be responsible for the operation and enforcement of this chapter within the county;
2. Become acquainted with the location of noxious weeds within the county;
3. Meet the pesticide certification requirements set forth in chapter 4-35;

4. Encourage noxious weed control by all landowners and land occupants within the county;
5. Investigate all signed complaints received by the officer regarding noxious weeds;
6. Post or publish in the official newspaper of the county any notices the commissioner deems necessary to further noxious weed control under sections 2 through 33 of this Act;
7. Prepare reports as requested by the commissioner; and
8. Attend meetings called by the commissioner to further noxious weed control under sections 2 through 33 of this Act.

SECTION 15. County noxious weed control program - Payment of expenses - Mill levy authorization.

1. The board of county commissioners may pay the expenses of a county noxious weed control program authorized under sections 2 through 33 of this Act from the county general fund, the noxious weed control fund, or both.
2.
 - a. The county weed board may annually certify to the board of county commissioners a tax, not to exceed two mills on the taxable valuation of all property in the county, other than that which lies within the boundaries of a city having a noxious weed control program under sections 2 through 33 of this Act.
 - b. In addition to the levy authorized in subdivision a, the board of county commissioners may levy an amount not to exceed two mills per dollar on the taxable valuation of all property in the county, other than that which lies within the boundaries of a city having a noxious weed control program under sections 2 through 33 of this Act.
 - c. The board of county commissioners shall levy the taxes authorized by this subsection and shall place those moneys in a separate fund designated as the noxious weed control fund, which is used to pay the expenses of a county noxious weed control program.
 - d. The tax may be levied in excess of the mill levy limit prescribed by law for general purposes.
3. For purposes of this section, the expenses of a county noxious weed control program include compensation for and the reimbursement of expenses incurred by the county weed board, the county weed control officer, and other employees of the board, and expenses incurred in the provision of noxious weed control, as authorized by sections 2 through 33 of this Act.

SECTION 16. State appropriations for noxious weed control - County share - Determination.

1. The commissioner shall consult with the county weed boards and develop a method for the distribution to county weed boards of all moneys appropriated by the state for noxious weed control, other than the landowner assistance grants provided for in section 17 of this Act.
2. The method must:
 - a. Limit the amount that any county weed board is entitled to receive under this section to fifty percent of the board's actual expenditures under this section; and
 - b. Allow the commissioner to waive the limit provided for in this subsection if the commissioner determines that a noxious weed is seriously endangering areas of the county or the state.

SECTION 17. State appropriations for noxious weed control - Landowner assistance program.

1. The commissioner shall consult with representatives of county and city weed boards and develop a formula for the distribution to eligible county weed boards and eligible city weed boards of all moneys appropriated by the state for the landowner assistance program.
2.
 - a. The formula must require that county officials budget, from county sources, an amount equal to the revenue that could be raised by a levy of at least three mills for noxious weed control; provided, however, that this amount does not apply to property that lies within the boundaries of a city having a noxious weed control program under sections 2 through 33 of this Act.
 - b. The formula must require that city officials budget, from city sources, an amount equal to the revenue that could be raised by a levy of at least three mills for noxious weed control.
3. The formula must require that the landowner contribute an amount equal to at least twenty percent of the cost to be expended on behalf of the landowner. The formula may include payment-in-kind criteria by which the landowner's contribution may be realized.

SECTION 18. Control of noxious weeds within cities. The governing body of any city having a population of three thousand or more may establish a program for the control of noxious weeds within the jurisdictional limits of the city. If a program is not established, the county weed board shall administer a program for the city.

SECTION 19. City weed board members - Terms - Compensation.

1. If the governing body of a city elects to establish a noxious weed control program, as authorized by section 18 of this Act, the governing body shall appoint a weed board consisting of three, five, or seven members.
2. The term of office for a board member is four years or until a successor is appointed and qualified. The terms must be staggered so that no more than two expire each year.
3. Any qualified elector residing within the city is eligible to serve on the board.
4. A board member shall assume office at the first regular meeting of the city weed board following the member's appointment.
5. The governing body of the city shall remove a member of the city weed board for repeated unexcused failures to attend meetings, for refusal to act as a board member, or for incapacity. If a vacancy occurs on a city weed board, the governing body of the city, at its next regular meeting, shall appoint an individual who possesses the necessary qualifications to fill the unexpired term.
6. The city weed board shall elect a chairman and a vice chairman from among its members.
7. The city weed board shall appoint a secretary and a treasurer. The secretary and treasurer need not be members of the board.
8. The governing body of the city shall establish the rate of compensation for city weed board members.

SECTION 20. City weed board - Powers. A city weed board may:

1. Expend funds from all available sources if it determines that the extent of noxious weed infestation on certain land is so severe that undertaking control efforts would place an extreme financial burden on the landowner.

2. Employ and compensate additional personnel to assist with noxious weed control efforts.

SECTION 21. City weed board - Duties. Each city weed board shall:

1. Implement a program for the control of noxious weeds;
2. Establish the time and place of regular board meetings;
3. Meet at least once each year;
4. Keep minutes of its meetings and a complete record of all official acts;
5. Control and disburse all moneys received by the city from any source for noxious weed control;
6.
 - a. Provide for the compensation of its members and its secretary and treasurer;
 - b. Reimburse its members and its secretary and treasurer for actual and necessary expenses; and
 - c. Provide a mileage allowance at the same rate as that established for state employees; and
7.
 - a. Employ and provide for the compensation of a weed control officer;
 - b. Reimburse the weed control officer for actual and necessary expenses; and
 - c. Provide a mileage allowance at the same rate as that established for state employees.

SECTION 22. City weed board - Development of city weed list - Review - Removal.

1. A city weed board may designate as noxious certain weeds that are not on the state or county noxious weed list, provided the city weed board first consults with the North Dakota state university extension service and that the designation is approved by the commissioner.
2. Before January 1, 2010, and at least every five years thereafter, each city weed board shall review its noxious weed list and, by majority vote, may remove any weed from its list. The city weed board shall provide the commissioner with at least fourteen days' notice of the time and place at which its list will be reviewed and, within fourteen days of the review, shall provide the commissioner with written notice of any changes to the city list.
3. A city weed board immediately shall remove any noxious weed from the board's list when directed to do so by the commissioner in accordance with section 5 of this Act.

SECTION 23. City weed control officer - Membership on city weed board - Employment.

1. A city weed control officer may serve as a member of the weed control board by which the officer is employed if the officer is otherwise qualified to do so.
2. An individual may be employed as a weed control officer by several weed boards simultaneously.

SECTION 24. City weed control officer - Powers. A city weed control officer may enter upon any land within the jurisdiction of the officer to perform duties and to exercise powers under sections 2 through 33 of this Act, including taking specimens of weeds or other materials, without the consent of the landowner or other person responsible for the land and without being subject to any action for trespass or damages, provided reasonable care is exercised.

SECTION 25. City weed control officer - Duties. The city weed control officer shall:

1. Cooperate with the board and be responsible for the operation and enforcement of sections 2 through 33 of this Act within the city;
2. Become acquainted with the location of noxious weeds within the city;
3. Meet the pesticide certification requirements set forth in chapter 4-35;
4. Encourage noxious weed control by all landowners and land occupants within the city;
5. Investigate all signed complaints received by the officer regarding noxious weeds within the city;
6. Post or publish in the official newspaper of the city any notices the commissioner deems necessary to further noxious weed control under sections 2 through 33 of this Act;
7. Prepare reports as requested by the commissioner; and
8. Attend meetings called by the commissioner to further noxious weed control under sections 2 through 33 of this Act.

SECTION 26. City noxious weed control program - Payment of expenses - Mill levy authorization.

1. The governing body of a city may pay the expenses of a city noxious weed control program authorized under sections 2 through 33 of this Act from the city general fund, the noxious weed control fund, or both.
2.
 - a. The city weed board may annually certify to the governing body of a city a tax, not to exceed two mills on the taxable valuation of all property in the city.
 - b. In addition to the levy authorized in subdivision a, the governing body of a city may levy an amount not to exceed two mills per dollar on the taxable valuation of all property in the city.
 - c. The governing body of a city shall levy the taxes authorized by this subsection and shall place those moneys in a separate fund designated as the noxious weed control fund, which is used to pay the expenses of a city noxious weed control program.
 - d. The tax may be levied in excess of the mill levy limit prescribed by law for general purposes.
3. For purposes of this section, the expenses of a city noxious weed control program include compensation for and the reimbursement of expenses incurred by the city weed board, the city weed control officer, and other employees of the board, and expenses incurred in the provision of noxious weed control, as authorized by sections 2 through 33 of this Act.

SECTION 27. Publicly owned land - Noxious weed control. Each state agency shall provide for the control of noxious weeds on land within its jurisdiction. If a state agency fails to control noxious weeds on land under its jurisdiction, the county weed board, upon approval of the commissioner, may enter upon the land to control the noxious weeds. The state agency shall reimburse the county weed board for expenses incurred in controlling the noxious weeds, within thirty days after the agency receives the bill.

SECTION 28. Noxious weed control - Enforcement responsibilities of other agencies. Law enforcement agents shall cooperate with the commissioner, a weed control board, and a weed control officer for the purpose of enforcing sections 2 through 33 of this Act.

SECTION 29. Entry upon land for noxious weed control purposes - Notices - Landowner rights - Remedial requirements - Liens.

1.
 - a. If a county weed officer determines that any land other than that referenced in subsection 2 contains noxious weeds, the county weed control officer may serve upon the landowner written notice, either personally or by certified mail, requiring the landowner to control the noxious weeds within the time period prescribed by the county weed control officer.
 - b. The notice must:
 - (1) Specify the minimal remedial requirements;
 - (2) Specify the time within which the landowner must meet the minimum remedial requirements;
 - (3) Specify that the landowner may be subject to penalties provided under sections 2 through 33 of this Act if the landowner fails to comply with the remedial requirements;
 - (4) Include a statement of costs if the landowner fails to control the noxious weeds and the county weed officer must provide for control of the weeds; and
 - (5) Provide that the landowner may stay any efforts by the county weed officer to control noxious weeds on the land by requesting in writing that the county weed board hold a hearing on the matter.
 - c. The county weed officer shall deliver a copy of the notice personally or forward a copy of the notice by certified mail to any tenant, lessee, or operator of the land on which the noxious weeds are located.
 - d. If the landowner does not meet the minimum remedial requirements within the time specified in the notice and does not request a hearing on the matter by the county weed board, the county weed control officer may cause the noxious weeds to be controlled and the expenses charged against the land of the landowner. These expenses are part of the taxes to be levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes.
 - e. If after holding a hearing on the matter, the county weed board directs that the noxious weeds be controlled by the county weed officer, the landowner may appeal the decision to the board of county commissioners. A decision by the board of county commissioners is final.
 - f. If the landowner does not appeal the decision to the board of county commissioners, or if the board of county commissioners upholds the decision of the county weed board, the county weed control officer may cause the noxious weeds to be controlled and any expenses incurred by the county weed officer in controlling the weeds must be charged against the land of the landowner. These expenses are part of the taxes to be levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes.
2.
 - a. If a city weed control officer determines that land within the officer's jurisdiction contains noxious weeds, the officer may serve upon the landowner written notice either personally or by certified mail, requiring the landowner to control the noxious weeds within the time period prescribed by the city weed control officer.
 - b. The notice must:
 - (1) Specify the minimal remedial requirements;

- (2) Specify the time within which the landowner must meet the minimum remedial requirements;
 - (3) Specify that the landowner may be subject to penalties provided under sections 2 through 33 of this Act if the landowner fails to comply with the remedial requirement;
 - (4) Include a statement of costs if the landowner fails to control the noxious weeds and the city weed officer must provide for control of the weeds; and
 - (5) Provide that the landowner may stay any efforts by the city weed officer to control noxious weeds on the land, by requesting in writing that the city weed board hold a hearing on the matter.
- c. The city weed officer shall deliver a copy of the notice personally or forward a copy of the notice by certified mail to any tenant, lessee, or operator of the land on which the noxious weeds are located.
 - d. If the landowner does not meet the minimum remedial requirements within the time specified in the notice and does not request a hearing on the matter by the city weed board, the city weed control officer may cause the noxious weeds to be controlled and the expenses charged against the land of the landowner. These expenses are part of the taxes to be levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes.
 - e. If after holding a hearing on the matter the city weed board directs that the noxious weeds be controlled by the city weed officer, the landowner may appeal the decision to the governing body of the city. A decision by the governing body is final.
 - f. If the landowner does not appeal the decision to the governing body of the city, or if the governing body of the city upholds the decision of the city weed board, the city weed control officer may cause the noxious weeds to be controlled and any expenses incurred by the city weed officer in controlling the weeds must be charged against the land of the landowner. These expenses are part of the taxes to be levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes.

SECTION 30. Quarantine - Declaration - Hearing - Penalty.

1. If the commissioner determines that a quarantine of this state or any portion thereof may be necessary to prevent the spread of noxious weeds, the commissioner shall schedule a public hearing on the matter and provide notice of the hearing by publishing its time, place, and date in the official newspaper of each county having land within the area of the proposed quarantine. If after the hearing the commissioner orders the imposition of a quarantine, the order must include the date by which or the circumstances under which the commissioner shall lift the quarantine order.
2. If the commissioner determines that the imposition of an emergency quarantine is necessary to prevent the spread of noxious weeds, the commissioner may impose such an order for a period not to exceed fourteen days. Within the fourteen-day period, the commissioner shall hold a public hearing as provided for in subsection 1 and determine whether a quarantine order under subsection 1 should be imposed.
3. Following the establishment of a quarantine, the movement of any product or material described in the quarantine order is subject to the order.
4. Any person who violates a quarantine order issued under this section is guilty of a class B misdemeanor.

SECTION 31. Preventing the dissemination of noxious weeds - Penalty.

1.
 - a. A person may not willfully transport any material that contains noxious weed seeds or propagating parts, on a public road, in a manner that allows for the dissemination of noxious weeds.
 - b. A person may not willfully drive or transport any equipment, on a public road, in a manner that allows for the dissemination of noxious weeds.
 - c. A person may not willfully dispose of any material that contains noxious weed seeds or propagating parts in a manner that allows for the dissemination of noxious weeds.
2. Any person who violates this section is guilty of a class B misdemeanor.

SECTION 32. Civil penalty.

1.
 - a. In addition to any other penalties provided for in sections 2 through 33 of this Act, a person who violates sections 2 through 33 of this Act or any rules adopted under this chapter is subject to a civil penalty in an amount not to exceed eighty dollars per day for each day of violation, subject to a maximum penalty of four thousand dollars per year.
 - b. Penalties imposed upon a landowner for failing to comply with the remedial requirements, as set forth in section 29 of this Act, are a lien against the property of the landowner from the day the notice is delivered to the landowner under section 29 of this Act.
2. All penalties collected under this section must be credited to the noxious weed control fund of:
 - a. The city in which the violation occurred if the city has a noxious weed control program under sections 2 through 33 of this Act; or
 - b. The county in which the violation occurred.
3. Any penalties provided for under this section may be adjudicated by a court, a county weed board, or a city weed board after a hearing.
4. An aggrieved person may appeal the imposition of a penalty by a county weed board to the board of county commissioners. An aggrieved person may appeal the imposition of a penalty by a city weed board to the governing body of the city.

SECTION 33. Action on complaint - Request for hearing.

1.
 - a. If an individual filed a signed complaint with a county weed board or the county weed control officer and if the individual believes that the complaint has not been addressed satisfactorily within twenty-one days from the date of the complaint, the individual may file a written request for a hearing with the board of county commissioners.
 - b. Upon receiving a request for a hearing, the board of county commissioners shall schedule a public hearing within twenty-one days and shall provide notice of the hearing by publishing its time, place, and date in the official newspaper of the county.
 - c. Within fourteen days after the hearing, the board of county commissioners shall issue a determination regarding the matter and shall issue appropriate directives to the county weed board.
 - d. A decision by the board of county commissioners under this section is final.

2.
 - a. If an individual filed a signed complaint with a city weed board or the city weed control officer and if the individual believes that the complaint has not been addressed satisfactorily within twenty-one days from the date of the complaint, the individual may file a written request for a hearing with the governing body of the city.
 - b. Upon receiving a request for a hearing, the governing body of the city shall schedule a public hearing and shall provide notice of the hearing by publishing its time, place, and date in the official newspaper of the county.
 - c. Within fourteen days after the hearing, the governing body of the city shall issue a determination regarding the matter and shall issue appropriate directives to the city weed board.
 - d. A decision by the governing body of the city under this section is final.

SECTION 34. AMENDMENT. Section 57-15-06.10 of the North Dakota Century Code is amended and reenacted as follows:

57-15-06.10. Optional consolidation of county mill levies.

1. In lieu of determining its general fund levy limitation under section 57-15-01.1 or 57-15-06, a county may determine its general fund levy authority as provided in this section. A county may consolidate the levies provided for under sections 4-02-26, 4-02-27, 4-02-27.1, 4-02-27.2, 4-02-37, 4-08-15, 4-08-15.1, 4-16-02, 4-33-11, 11-11-24, 11-11-53, 11-11-60, 11-11-65, 11-11.1-06, 11-28-06, 18-07-01, 24-05-01, 32-12.1-08, 40-38-02, 40-57.2-04, 49-17.2-21, 52-09-08, 57-15-06.4, 57-15-06.5, 57-15-06.6, 57-15-06.9, 57-15-10.1, 57-15-27.2, 57-15-54, 57-15-59, 57-47-04, and 61-04.1-26; and ~~63-01.1-06~~ section 15 of this Act, with its general fund levy under section 57-15-06 to provide for a county general fund levy which may not exceed one hundred thirty-four mills on the dollar of taxable valuation of the county. A county that elects to determine its general fund levy authority under this section may not impose separate levies under the sections listed in this subsection and may not increase the number of mills levied in any one year over the number levied in the previous year by more than the increase in the consumer price index for all urban consumers, all items, United States city average, as completed by the United States department of labor, bureau of labor statistics.
2. The consolidation of mill levies under subsection 1 may be accomplished by resolution of the board of county commissioners, subject to the right of referendum by the county electors. The board of county commissioners may by majority vote adopt a preliminary resolution providing for the consolidated levy. The board shall publish the preliminary resolution in the official newspaper of the county, at least once during two different weeks within the thirty-day period immediately following the adoption of the preliminary resolution. The board of county commissioners shall hold at least one public hearing and receive comments regarding the consolidation of mill levies. The preliminary resolution may be referred to the qualified electors of the county by a petition protesting the consolidation. The petition must be signed by ten percent or more of the total number of qualified electors of the county voting for governor at the most recent gubernatorial election, and filed with the county auditor before four p.m. on the ninetieth day after the preliminary resolution is adopted. If the petition contains the signatures of a sufficient number of qualified electors, the board of county commissioners shall rescind the preliminary resolution or submit the resolution to a vote of the qualified electors of the county at the next regular election or at a special election called by the board of county commissioners to address the question. If a majority of the qualified electors voting on the question approve the resolution, the consolidation becomes effective for the next tax year and subsequent tax years. If a petition protesting the consolidation is not submitted within ninety days, the board of county commissioners shall consider the comments received regarding the consolidation and either adopt a final resolution implementing the consolidation or rescind the preliminary

resolution. The consolidation of mill levies may be reversed by resolution of the board of county commissioners following the same procedure provided for implementation of the consolidation or by a majority vote of the qualified electors of the county voting on the question pursuant to submission of a petition to reverse the consolidation signed by ten percent or more of the total number of qualified electors of the county voting for governor at the most recent gubernatorial election.

3. A contractual obligation entered by a county with respect to a dedicated mill levy may not be impaired as a result of consolidation of levies under this section.

SECTION 35. Chapter 63-01.1 of the North Dakota Century Code is repealed.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1026.

House Vote: Yeas 88 Nays 4 Absent 2

Senate Vote: Yeas 43 Nays 0 Absent 4

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State