

Introduced by

Senator Laffen

1 A BILL for an Act to amend and reenact sections 11-09.1-05 and 40-05.1-06 of the North Dakota
2 Century Code, relating to the authority of home rule counties and cities to levy certain taxes.

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

4 **SECTION 1. AMENDMENT.** Section 11-09.1-05 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **11-09.1-05. Powers.**

7 After the filing with the secretary of state of a charter approved in reasonable conformity
8 with this chapter, the county and its citizens may, if included in the charter and implemented
9 through ordinances:

- 10 1. Acquire, hold, operate, and dispose of property within or without the county limits, and,
11 subject to chapter 32-15, exercise the right of eminent domain for those purposes.
- 12 2. Control its finances and fiscal affairs; appropriate money for its purposes, and make
13 payments of its debts and expenses; subject to the limitations of this section levy and
14 collect property taxes, sales and use taxes, farm machinery gross receipts taxes,
15 alcoholic beverage gross receipts taxes, ~~motor vehicle fuels and special fuels taxes,~~
16 motor vehicle registration fees, and special assessments for benefits conferred, for its
17 public and proprietary functions, activities, operations, undertakings, and
18 improvements; contract debts, borrow money, issue bonds, warrants, and other
19 evidences of indebtedness; establish charges for any county or other services to the
20 extent authorized by state law; and establish debt and mill levy limitations. The
21 authority to levy taxes under this subsection does not include authority to impose
22 motor vehicle fuels or special fuels taxes. Notwithstanding any authority granted under
23 this chapter, all property must be assessed in a uniform manner as prescribed by the
24 state board of equalization and the state supervisor of assessments and all taxable

1 property must be taxed by the county at the same rate unless otherwise provided by
2 law. A charter or ordinance or act of a governing body of a home rule county may not
3 supersede any state law that determines what property or acts are subject to, or
4 exempt from, ad valorem taxes. A charter or ordinance or act of the governing body of
5 a home rule county may not supersede section 11-11-55.1 relating to the sixty percent
6 petition requirement for improvements and of section 40-22-18 relating to the barring
7 proceeding for improvement projects. After December 31, 2005, sales and use taxes,
8 farm machinery gross receipts taxes, and alcoholic beverage gross receipts taxes
9 levied under this chapter:

- 10 a. Must conform in all respects with regard to the taxable or exempt status of items
11 under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed
12 at multiple rates with the exception of sales of ~~fuel used to power motor vehicles,~~
13 ~~aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas,~~
14 ~~or other fuels delivered by the seller or the retail sale or transfer of motor~~
15 vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile
16 homes.
- 17 b. May not be newly imposed or changed except to be effective on the first day of a
18 calendar quarterly period after a minimum of ninety days' notice to the tax
19 commissioner or, for purchases from printed catalogs, on the first day of a
20 calendar quarter after a minimum of one hundred twenty days' notice to the
21 seller.
- 22 c. May not be limited to apply to less than the full value of the transaction or item as
23 determined for state sales and use tax, except for farm machinery gross receipts
24 tax purposes.
- 25 d. Must be subject to collection by the tax commissioner under an agreement under
26 section 57-01-02.1 and must be administered by the tax commissioner in
27 accordance with the relevant provisions of chapter 57-39.2, including reporting
28 and paying requirements, correction of errors, payment of refunds, and
29 application of penalty and interest.

30 After December 31, 2005, any portion of a charter or any portion of an ordinance or
31 act of a governing body of a home rule county passed pursuant to a charter which

1 does not conform to the requirements of this subsection is invalid to the extent that it
2 does not conform. The invalidity of a portion of a charter or ordinance or act of a
3 governing body of a home rule county because it does not conform to this subsection
4 does not affect the validity of any other portion of the charter or ordinance or act of a
5 governing body of a home rule county or the eligibility for a refund under section
6 57-01-02.1. Any taxes imposed under this chapter on farm machinery, farm irrigation
7 equipment, and farm machinery repair parts used exclusively for agricultural purposes,
8 or on alcoholic beverages, which were in effect on December 31, 2005, become gross
9 receipts taxes after December 31, 2005.

10 3. Provide for county elected and appointed officers and employees, their selection,
11 powers, duties, qualifications, and compensation, and the terms of county appointed
12 officers and employees. However, after adoption of a home rule charter, a county
13 elected office may not be eliminated or combined with another office except upon
14 approval of a majority of the electors of the county voting upon the question at a
15 primary or general election or pursuant to the county officer combination, separation,
16 or redesignation procedures of chapter 11-10.2. A home rule charter may not diminish
17 the term of office for which a current county officer was elected, redesignate that
18 elected office during that term as appointed, or reduce the salary of the office for that
19 term. This subsection does not authorize a county to redesignate the elected offices of
20 sheriff and state's attorney as appointed, except as provided in section 11-10-02.3.

21 4. Provide for all matters pertaining to county elections, except as to qualifications of
22 electors.

23 5. Provide for the adoption, amendment, repeal, initiative, referral, enforcement, and civil
24 and criminal penalties for violation of ordinances, resolutions, and regulations to carry
25 out its governmental and proprietary powers and to provide for public health, safety,
26 morals, and welfare. However, this subsection does not confer any authority to
27 regulate any industry or activity which is regulated by state law or by rules adopted by
28 a state agency.

29 6. Lay out or vacate public grounds, and provide through its governing body for the
30 construction, use, operation, designation, and regulation of a county road system.

- 1 7. Provide for zoning, planning, and subdivision of public or private property within the
- 2 county limits but outside the zoning authority of any city or organized township.
- 3 8. Exercise in the conduct of its affairs all powers usually exercised by a corporation.
- 4 9. Contract with and receive grants from any other governmental entity or agency, with
- 5 respect to any local, state, or federal program, project, or works.

6 The people of all counties coming within this chapter have the full right of self-government in all
7 matters within the powers enumerated in this chapter. The statutes of this state, so far as
8 applicable, continue to apply to counties, except as superseded by the charters of the counties
9 or by ordinances passed pursuant to the charters.

10 **SECTION 2. AMENDMENT.** Section 40-05.1-06 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **40-05.1-06. Powers.**

13 From and after the filing with the secretary of state of a charter framed and approved in
14 reasonable conformity with the provisions of this chapter, such city, and the citizens thereof,
15 shall, if included in the charter and implemented through ordinances, have the following powers
16 set out in this chapter:

- 17 1. To acquire, hold, operate, and dispose of property within or without the corporate
- 18 limits, and, subject to chapter 32-15, exercise the right of eminent domain for such
- 19 purposes.
- 20 2. To control its finances and fiscal affairs; to appropriate money for its purposes, and
- 21 make payment of its debts and expenses; to levy and collect taxes, excises, fees,
- 22 charges, and special assessments for benefits conferred, for its public and proprietary
- 23 functions, activities, operations, undertakings, and improvements; to contract debts,
- 24 borrow money, issue bonds, warrants, and other evidences of indebtedness; to
- 25 establish charges for any city or other services; and to establish debt and mill levy
- 26 limitations. Notwithstanding any authority granted under this chapter, all property must
- 27 be assessed in a uniform manner as prescribed by the state board of equalization and
- 28 the state supervisor of assessments and all taxable property must be taxed by the city
- 29 at the same rate unless otherwise provided by law. The authority to levy taxes under
- 30 this subsection does not include authority to impose income taxes or motor vehicle
- 31 fuels or special fuels taxes.

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- 1 3. To fix the fees, number, terms, conditions, duration, and manner of issuing and
2 revoking licenses in the exercise of its governmental police powers.
- 3 4. To provide for city officers, agencies, and employees, their selection, terms, powers,
4 duties, qualifications, and compensation. To provide for change, selection, or creation
5 of its form and structure of government, including its governing body, executive officer,
6 and city officers.
- 7 5. To provide for city courts, their jurisdiction and powers over ordinance violations,
8 duties, administration, and the selection, qualifications, and compensation of their
9 officers; however, the right of appeal from judgment of such courts shall not be in any
10 way affected.
- 11 6. To provide for all matters pertaining to city elections, except as to qualifications of
12 electors.
- 13 7. To provide for the adoption, amendment, and repeal of ordinances, resolutions, and
14 regulations to carry out its governmental and proprietary powers and to provide for
15 public health, safety, morals, and welfare, and penalties for a violation thereof.
- 16 8. To lay out or vacate streets, alleys, and public grounds, and to provide for the use,
17 operation, and regulation thereof.
- 18 9. To define offenses against private persons and property and the public health, safety,
19 morals, and welfare, and provide penalties for violations thereof.
- 20 10. To engage in any utility, business, or enterprise permitted by the constitution or not
21 prohibited by statute or to grant and regulate franchises therefor to a private person,
22 firm, corporation, or limited liability company.
- 23 11. To provide for zoning, planning, and subdivision of public or private property within the
24 city limits. To provide for such zoning, planning, and subdivision of public or private
25 property outside the city limits as may be permitted by state law.
- 26 12. To levy and collect franchise and license taxes for revenue purposes.
- 27 13. To exercise in the conduct of its affairs all powers usually exercised by a corporation.
- 28 14. To fix the boundary limits of said city and the annexation and deannexation of territory
29 adjacent to said city except that such power shall be subject to, and shall conform with
30 the state law made and provided.

- 1 15. To contract with and receive grants from any other governmental entity or agency, with
2 respect to any local, state, or federal program, project, or works.
- 3 16. To impose registration fees on motor vehicles, farm machinery gross receipts taxes,
4 alcoholic beverage gross receipts taxes, or sales and use taxes in addition to any
5 other taxes imposed by law. After December 31, 2005, sales and use taxes and gross
6 receipts taxes levied under this chapter:
- 7 a. Must conform in all respects with regard to the taxable or exempt status of items
8 under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed
9 at multiple rates with the exception of sales of ~~fuel used to power motor vehicles,~~
10 ~~aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas,~~
11 ~~or other fuels delivered by the seller~~ or the retail sale or transfer of motor
12 vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile
13 homes.
- 14 b. May not be newly imposed or changed except to be effective on the first day of a
15 calendar quarterly period after a minimum of ninety days' notice to the tax
16 commissioner or, for purchases from printed catalogs, on the first day of a
17 calendar quarter after a minimum of one hundred twenty days' notice to the
18 seller.
- 19 c. May not be limited to apply to less than the full value of the transaction or item as
20 determined for state sales and use tax purposes, except for farm machinery
21 gross receipts tax.
- 22 d. Must be subject to collection by the tax commissioner under an agreement under
23 section 57-01-02.1 and must be administered by the tax commissioner in
24 accordance with the relevant provisions of chapter 57-39.2, including reporting
25 and paying requirements, correction of errors, payment of refunds, and
26 application of penalty and interest.

27 It is the intention of this chapter to grant and confirm to the people of all cities coming within
28 its provisions the full right of self-government in both local and city matters within the powers
29 enumerated herein. The statutes of the state of North Dakota, so far as applicable, shall
30 continue to apply to home rule cities, except insofar as superseded by the charters of such
31 cities or by ordinance passed pursuant to such charters.

1 After December 31, 2005, any portion of a charter or any portion of an ordinance passed
2 pursuant to a charter which does not conform to the requirements of subsection 16 is invalid to
3 the extent that it does not conform. The invalidity of a portion of a charter or ordinance because
4 it does not conform to subsection 16 does not affect the validity of any other portion of the
5 charter or ordinance or the eligibility for a refund under section 57-01-02.1. Any taxes imposed
6 under this chapter on farm machinery, farm irrigation equipment, and farm machinery repair
7 parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect
8 on December 31, 2005, become gross receipts taxes after December 31, 2005.