

**HOUSE BILL NO. 1394**

Introduced by

Representatives Mueller, Berg, D. Johnson, Lundgren, Warner

Senator Kroeplin

1 A BILL for an Act to amend and reenact section 40-57.1-03 of the North Dakota Century Code,  
2 relating to a municipality's authority to grant tax exemptions and accept payments in lieu of  
3 taxes.

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

5 **SECTION 1. AMENDMENT.** Section 40-57.1-03 of the 1997 Supplement to the North  
6 Dakota Century Code is 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.** After negotiation with a potential project  
9 operator, a municipality may grant a partial or complete exemption from ad valorem taxation on  
10 all buildings, structures, fixtures, and improvements used in or necessary to the operation of a  
11 project for a period not exceeding five years from the date of commencement of project  
12 operations. After negotiation with a potential beginning farmer, a municipality may grant a  
13 partial or complete exemption from ad valorem taxation on all newly acquired farmland and  
14 ranchland for a period not exceeding five years from the date of commencement of farming or  
15 ranching operations. A municipality may also grant a partial or complete exemption from ad  
16 valorem taxation on buildings, structures, fixtures, and improvements used in or necessary to  
17 the operation of a project that produces or manufactures a product from agricultural  
18 commodities for all or part of the sixth year through the tenth year from the date of  
19 commencement of project operations.

20 In addition to, or in lieu of, a property tax exemption granted under this section, a  
21 municipality may establish an amount due as payments in lieu of ad valorem taxes on buildings,  
22 structures, fixtures, and improvements used in the operation of a project upon which initial  
23 construction is begun after June 30, 1994. The governing body of the municipality shall  
24 designate the amount of the payments for each year and the beginning year and the concluding

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

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