

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2328
(Senators Fischer, Lee, Wardner)
(Representatives Belter, Brekke, S. Kelsh)

AN ACT to create and enact a new subsection to section 57-15-20.2, a new section to chapter 57-15, a new section to chapter 58-01, a new subsection to section 58-03-07, and a new chapter to title 58 of the North Dakota Century Code, relating to the definition of the term freeholder of a township, the relevy of property taxes omitted by mistake, and to the creation of special assessment districts by townships; to provide for retroactive application; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 57-15-20.2 of the North Dakota Century Code is created and enacted as follows:

A township levying a tax for special assessment districts in accordance with section 5 of this Act.

SECTION 2. A new section to chapter 57-15 of the North Dakota Century Code is created and enacted as follows:

Mistake in levy - Levy increase the following year - Levy reverts.

1. Notwithstanding sections 57-15-01.1 and 57-15-14, if a mistake occurred in the 2000 tax year which would result in ten percent or more of the amount a taxing district intended to be levied, as of the October tenth deadline under section 57-15-31.1, not being levied and the mistake is brought to the attention of the county auditor or county treasurer of any county with land in the taxing district by February 1, 2001, the taxing district may include half of the amount which was mistakenly not levied in the taxing district's budget and general fund levy for the 2001 tax year, and the other half that was mistakenly not levied in the taxing district's budget and general fund for the 2002 tax year.
2. If the resulting general fund levy for the 2001 or 2002 tax year is above one hundred eighty-five mills, the taxing district need not comply with chapter 57-16.
3. After the 2002 tax year, the taxing district's general fund levy must revert to the general fund levy for the 1999 tax year plus any increase authorized by law.
4. The 2001 and 2002 taxable years may not be used as a "base year" under section 57-15-01.1, and may not be considered a "prior school year" under section 57-15-14.

SECTION 3. A new section to chapter 58-01 of the North Dakota Century Code is created and enacted as follows:

Freeholder defined. As used in this title, unless the context or subject matter requires otherwise, "freeholder" means the legal title owner of the surface estate in real property.

SECTION 4. A new subsection to section 58-03-07 of the North Dakota Century Code is created and enacted as follows:

To establish special assessment districts in accordance with section 5 of this Act.

SECTION 5. A new chapter to title 58 of the North Dakota Century Code is created and enacted as follows:

Power of townships to defray expenses of improvements by special assessment. A township, upon complying with the provisions of this chapter, may defray the expenses of improvements through special assessment districts.

Improvement districts to be created. For the purpose of making an improvement project and defraying the cost by special assessment, a board of township supervisors may create an improvement district upon petition of sixty percent of the freeholders in a proposed improvement district area. The improvement district must be designated by a name appropriate to the type of improvement and by a number distinguishing it from other improvement districts.

Size and form of improvement districts. Each improvement district must be of such size and form as to include all properties, which in the judgment of the board of township supervisors will be benefited by the construction of the improvement project that is proposed to be made in or for the district.

Approval of plans, specifications, and cost estimates - Special meeting. After an improvement district has been created, the board of township supervisors shall direct a competent engineer to prepare a report as to the general nature, purpose, and feasibility of the proposed improvement and an estimate of the probable cost of the work. The board of township supervisors shall provide thirty days' written notice by first-class mail to each freeholder within the improvement district at the address shown on the records of the county treasurer and shall publish a notice in a legal newspaper published in the township or, if there is no such newspaper, then in the county's official newspaper at least ten days prior to a special meeting for public disclosure of the findings of the engineer.

Election for proceeding. At the special township meeting for public disclosure of the findings of the engineer, the freeholders of the township in attendance are entitled to vote on the question of whether to proceed with the improvement project. Upon approval by sixty percent or more of the votes cast at the meeting or votes filed with the township clerk within fifteen days after the meeting, the improvement project may proceed. A freeholder affected by the project is entitled to one vote for each dollar of the proposed special assessment against the freeholder's property within the proposed improvement district. If there is more than one owner of a parcel of property, the votes available for the parcel must be prorated among the owners in accordance with each owner's percentage interest in the property. If fewer than sixty percent of the votes cast or filed on the question approve the project, the election result is a bar against proceeding further with the improvement project described in the plans and specifications. An election result barring proceeding further with the improvement project does not preclude the payment of any costs incurred in developing the plans, specifications, cost estimates, or other costs which must be paid from the general fund of the township. If the costs incurred pose a financial burden on the general levy of a township of forty percent or more, the board of township supervisors may levy and collect assessments from the improvement district in yearly assessments not exceeding five years. If under forty percent, the township may use methods approved by law.

Election approval of project - Assessment levy. If the election under this chapter results in approval of a project, the board of township supervisors may cause the improvement to be made and may levy and collect assessments from the improvement district.

Appeal notice - Special meeting - Assessment determination - Limitations. Any aggrieved freeholder may appeal the special assessment against the freeholder's real property by providing the township clerk a written notice of appeal, stating the grounds upon which the appeal is based, within twenty days after the special township meeting. The clerk shall notify the township board of supervisors of the appeal and schedule a special meeting to hear the appeals by publishing a notice of the special meeting at least ten days before the meeting in a legal newspaper published in the township or, if no such newspaper exists, in the county's official newspaper. Any aggrieved freeholder who submitted an appeal may be heard and may present reasons to change the freeholder's assessment at

the special meeting. The board of township supervisors may hear the appeals and reasons and may increase or diminish any of the assessments as it may deem just, providing that the total amount of the assessments may not be changed and an assessment as adjusted may not exceed the benefits to the parcel of land on which it is assessed.

SECTION 6. RETROACTIVE APPLICATION OF ACT. Section 2 of this Act applies retroactively to cases arising after December 31, 1999.

SECTION 7. EXPIRATION DATE. Section 2 of this Act is effective through the 2005 tax year and after that date is ineffective.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2328.

Senate Vote: Yeas 48 Nays 0 Absent 1

House Vote: Yeas 89 Nays 7 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,

at _____ o'clock _____ M.

Secretary of State