

N.D.A.G. Letter to Gibbens (Nov. 14, 1988)

November 14, 1988

Ms. Lisa Beckstrom Gibbens
Towner County State's Attorney
P.O. Box 601
Cando, ND 58324

Dear Ms. Gibbens:

Thank you for your letter of September 12, 1988, regarding tax levy limitations for cities with a population of less than five thousand people. Specifically, you ask whether the tax levy limitations for cities provided in N.D.C.C. § 57-15-08 may be exceeded because of the language of 1987 N.D. Sess. Laws, ch. 673, § 1. I apologize for the delay in answering your letter.

N.D.C.C. § 57-15-08 provides that "[t]he aggregate amount levied for general city purposes shall not exceed such an amount as will be produced by a levy of thirty-eight mills on the taxable valuation of property in the city." This amount may be increased by a maximum of ten mills upon the approval of a city's electors. *Id.* This statute was last amended in 1983. See 1983 N.D. Sess. Laws, ch. 593, § 47.

The 1987 Legislative Assembly enacted Senate Bill 2076 which "is effective for the first two taxable years beginning after December 31, 1986, and is thereafter ineffective." 1987 N.D. Sess. Laws, ch. 673, § 3. Because Senate Bill 2076 is temporary legislation, it is not codified. It is published as a footnote under N.D.C.C. § 57-15-01.

Section 1 of Senate Bill 2076 applies to all taxing districts (including cities), with the exception of school districts and certain home rule cities and counties. That will authorize additional optional levy limitations. See 1987 N.D. Sess. Laws, ch. 673, § 1.

Subsections 5 and 6 of section 1 of Senate Bill 2076 provide as follows:

5. A taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.
6. Under the Provisions of this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:
 - a. Any irrevocable tax to pay bonded indebtedness levied

pursuant to section 16 of article X of the Constitution of North Dakota.

- b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.

1987 N.D. Sess. Laws, ch. 673, § 1 (emphasis supplied).

Thus, during the time that Senate Bill 2076 is temporarily effective, a city may supersede any mill levy limitations provided by N.D.C.C. § 57-15-08 and utilize additional optional levy limitations as authorized by Senate Bill 2076.

I hope that I have answered your question. If you wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

Nicholas J. Spaeth

cv