

Soil Conservation Districts Mill Levy / Budgets – Supervisor Training Section

Note: The following is a summary of state laws relating to Soil Conservation Districts and should not be considered legal advice. Contact your local State’s Attorney for any legal services your SCD requires.

Mill Levy Authority - N.D.C.C. 4.1-20-24

The Legislative Assembly granted the Supervisors of North Dakota Soil Conservation Districts the authority to levy a tax, **not exceeding 2.5 mills**, for the payment of the expenses of the district, including mileage and other expenses of the supervisors, and technical, administrative, clerical, and other operating expenses. This authority is provided in the North Dakota Soil Conservation Districts Law, N.D.C.C. 4.1-20-24

Upon filing a certified copy of the levy, the county auditor of each county in the district will extend the levy upon the tax list of the county for the current year against each description of real property lying both within the county and the district in the same manner and with the same effect as other taxes are extended. The county treasurer collects all taxes and turns the funds over to the soil conservation district on a monthly basis. According to a February 21, 1992 Attorney General opinion, "Soil conservation districts are taxing districts because they are authorized to levy taxes under North Dakota Century Code - N.D.C.C. Section 4.1-20-24."

N.D.C.C. 57-02-01 says, "Municipality" or "taxing district" means a county, city, township, school district, water conservation or flood control district, Garrison Diversion Conservancy District, county park district, joint county park district, irrigation district, park district, rural fire protection district, or any other subdivision of the state empowered to levy taxes.

Therefore, soil conservation districts are also subject to Title 57 because they are subdivisions of the state and have the authority to levy taxes.

N.D.C.C. 57-15-31 provides the formula for determination of a levy. This determination is made by considering the estimated expenditures for the current fiscal year and the required reserve fund. The municipality may only levy for what is actually needed for the fiscal year. This process eliminates municipalities from creating a big "nest egg."

N.D.C.C. 57-15-27 provides that a municipality authorized to levy taxes may include in its budget an interim fund. The interim fund is to be carried over to meet any requirements of the next fiscal year that may become due prior to the receipt of taxes in that fiscal year. The interim fund cannot be in excess of what may be reasonably required to finance the municipality for the first nine months of the next fiscal year. The interim fund cannot exceed three fourths of the current appropriation for all purposes other than debt retirement and appropriations from bond sources.

N.D.C.C. 57-15 entitled "Tax Levies and Limitations." N.D.C.C. 57-15-02 provides for the determination of rate:

Determination of rate. The tax rate of all taxes, except taxes the rate of which is fixed by law, must be calculated and fixed by the county auditor within the limitations prescribed by statute. If any municipality levies a greater amount than the prescribed maximum legal rate of levy will produce, the county auditor shall extend only such amount of tax as the

prescribed maximum legal rate of levy will produce. The rate must be based and computed on the taxable valuation of taxable property in the municipality or district levying the tax. The rate of all taxes must be calculated by the county auditor in mills, tenths, and hundredths of mills.

The county auditor can limit the soil conservation district mill levy request and will only extend the amount of levy as allowed pursuant to title 57. The county auditor will not extend any levy in excess of the allowable levy which is the difference between the sum of the estimated expenditures, and interim fund needs and debt retirement and the sum of the projected revenues and cash balances. Allowance may be made for a permanent delinquency or loss in tax collection not to exceed five percent of the levy. N.D.C.C. 57-15-31.

The 1997 Legislature let stand the provision enacted in 1995 that, beginning with taxable year 1997, a soil conservation district may elect to levy the amount levied in dollars in the base year with no percentage increase. Any levy under this section must be specifically approved by the governing body of the soil conservation district.

Additional Mills – The ability of a Soil Conservation District to levy additional taxes, beyond 2.5 mills, with the approval of a majority vote of district residents, is currently unclear. Districts wishing to do so should work with their local State’s Attorney.

Preliminary Budgets - In 2017, the North Dakota Legislature made some important changes to budget deadlines and the notice process, which the county and other local governments need to comply with every year. All local governments need to file a preliminary budget with the County Auditor’s Office. County Auditors will provide information on submitting budgets and mill levy requests. Filing dates are typically in early August.

Whether you are a county, city, park district, school district, township, fire district, or soil conservation district you will need to file a preliminary budget with the County Auditor. If you fail to file the preliminary budget by early August. You will be limited to levying the same dollars as levied in the previous year. You also must file a final budget to actually levy taxes for your budget.

When you provide the preliminary information to the County Auditor, you also need to provide the date, time, and place of your budget hearing, if you levy over \$100,000 in taxes. The hearing date cannot be any earlier than early September nor later than early October. The reason for the new deadline is to allow the county time to prepare an Estimated Tax Statement that needs to be mailed by the end of August.

If you levy over \$100,000 in taxes, the County Auditors will put the hearing notice on the Estimated Tax Statement. If you levy less than \$100,000, you will need to publish the notice of the budget hearing in your official newspaper.

Once you have held your final budget hearing and your board has approved the current year budget, you will need to file your final budget with the County Auditor. Remember the amount requested for the final budget cannot be greater than the amount of your preliminary budget.

NOTE: Check with your County Auditor each year for budget hearing dates and deadline for the last day the board can make any changes and date for approval of the budget.