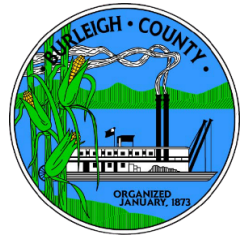




Burleigh County Home Rule Charter Commission
Tom Baker Room, City/County Office Building, 221 N 5th St, Bismarck
3:00 pm



October 25, 2023

3:00 PM

HOME RULE CHARTER COMMISSION

1. Meeting called to order.
2. Roll call of members.
3. Approval of October 4th meeting minutes.
4. Review of requested information from October 4th meeting:
 - a. Ballot language.
5. Added discussion items for future meetings.
6. Other Business:
7. Adjourn.

Mark Splonskowski
Burleigh County Auditor/Treasurer/Tax

**HOME RULE CHARTER COMMISSION
MEETING MINUTES
OCTOBER 4TH, 2023**

3:00PM

Chair Munson called the meeting of the Home Rule Charter Commission to order.

Roll call of members: Chair Munson, Emergency Manager Mary Senger, Kay LaCoe, Representative Pat Heinert, Dustin Gawrylow and State's Attorney Julie Lawyer. Auditor Mark Splonskowski and Deputy Finance Director Justin Schulz were also present. Absent was Comm. Schwab.

Motion by Mary Senger, 2nd by Rep. Heinert to approve the Sept. 6th, 2023 meeting minutes. All members present voted "AYE". Motion carried.

Chair Munson began a discussion of potential ballot language. He stated that at the previous meeting the commission agreed to a one cent sales tax to be used for the Detention Center, the Sheriff's Department, and State's Attorney's Office all in the name of tax reform. State's Attorney Lawyer stated that the ballot language should be short and to the point because the county is publishing that in the newspaper record. She suggested possible language such as "...As printed in the Bismarck Tribune, do you approve or not approve?" Chair Munson asked the State's Attorney if the two of them could meet separately to craft the language and then present it to the HRC Committee for approval, followed by the County Commission's approval. Rep. Heinert stated that there should be a conversation with the County Commission, the City Commission, and the Burleigh County Sheriff as to their rates per inmate charged and to utilize some of those funds to offset the city's costs. Sheriff Leben stated that the jail's daily rate is decided by their own board with no city officials on it as spelled out in the Joint Powers Agreement. He added that the commissions had no direct influence on that. He also stated that trying to set the daily rates would get convoluted and preferred using a percentage of the daily rate rather than setting a dollar amount which was the established practice right now. He felt that the more convoluted this process becomes, the less people would support it. Chair Munson asked Deputy Finance Director Justin Schulz if the income from the one cent sales tax would cover 100% of each of those three line items previously discussed. Mr. Schulz stated that the Detention center was \$6.8 million, Sheriff's Department was \$8,156,000, and State's Attorney was \$4,940,000 with the Commission Discretionary Fund of \$1,710,000 (which could be identified as a rate buy down for the city). State's Attorney Lawyer recommended that the HRC language not designate buckets because if something changed and the commission wanted to delegate the funds to something else, they would have to go through this whole process all over again. She said that instead of delegating it to a specific department, it could be done generically. She also added that instead of the bucket theory, it could be stated that it would go towards the allocation of the county commission to offset money coming in from property taxes. She stated that the committee doesn't need to give percentages to each department. She also added that this would save the commission from unforeseen changes that might come up in the future. The State's Attorney then recommended that the language not be so specific that it paints the county into a corner yet be specific enough that it would accomplish the goal of offsetting property taxes. Comm. Munson then asked if the term "Public Safety" should be used instead of listing the Detention Center, Sheriff's Department, and State's Attorney's office. State's Attorney Lawyer responded by saying that

Emergency Management also falls under Public Safety as do other departments. Mr. Gawrylow stated that people might think Public Health was Public Safety. Chair Munson felt it was still best to do the buckets and be specific, but instead of using the term “discretionary funds”, say “Other Public Safety Services”. Mr. Schulz reminded the commission that this reform would still be a win for city residents and would reduce their taxes. Mary Senger suggested using the term “priorities” instead of “buckets”. State’s Attorney Lawyer agreed. She said that language would put the intent in there but wouldn’t box the county in. She added that the Home Rule Charter language should be the specific one and the ballot language should just state what everyone’s vote means. Everyone on the Commission agreed that the priority list is preferred over buckets as well as clarifying “Burleigh county’s portion of other public safety services” instead of the verbiage of a discretionary fund. Rep. Heinert suggested saying “Any remaining funds would be dedicated to additional property tax relief.” Ms. LaCoe agreed with this. Mr. Gawrylow suggested the language “...one cent sales tax dedicated to offset property tax revenue that otherwise would go towards Detention Center, Sheriff’s Department, State’s Attorney, and other property tax relief.” Bismarck/Mandan Chamber EDC President Brenda Nagel shared what educating the public on this subject would look like going forward. She stated that the Chamber needed the approved ballot language from the County Commission and would then present that to the Local Issues Committee who would listen to the information and ask questions. They would then make a recommendation to the whole board to support the ballot language. She stated that the next available Local Issues Committee meeting is Nov. 7th, 2023, and they meet every other month. The Chamber would also have a request from the Board of the Chamber EDC to educate the citizens of Burleigh/Morton Counties to not support abolishing property taxes. She stated that the Chamber planned to educate not supporting a change to the ND Constitution. She added that there will be a lot of education happening in the next few months and expressed that getting the language clarified in a timely manner would be helpful. Chair Munson and Rep. Heinert agreed to present at the next Local Issues Committee on this subject. Auditor Splonskowski stated that the ballot language was due no later than 64 days before the Primary election which was April 8th, 2023. The earliest it could be submitted was Jan. 2nd, 2024. Chair Munson and State’s Attorney Lawyer agreed to meet together on Oct. 20th to finalize the ballot language. The next Home Rule Charter Commission meeting will be Oct. 25th with the ballot language being on the County Commission agenda Nov. 1st.

Meeting adjourned.

Mark Splonskowski, County Auditor/Treasurer

Wayne Munson, Chairman

Ballot Language proposal

Shall the Home Rule Charter, as published in the Bismarck Tribune authorizing a one percent sales tax to offset property taxes for the purpose of funding public safety departments, be approved?



**Home Rule Charter
for Burleigh County**

DATE

Submitted by the Home Rule Charter Commission Committee Members:

Dustin Gawrylow
Pat Heinert
Kay LaCoe
Julie Lawyer
Mary Senger
Steve Schwab
Wayne Munson

Table of Contents

	<u>Page</u>
Preamble	3
Article I – Board of County Commissioners to Exercise Powers	3
Article II – Home Rule Powers of County	3
Section 1. Sales, Use, and Gross Receipts Tax	3
Definitions	3
Collection and Administration	3
Sales Tax Imposed.....	3
Use Tax Imposed.....	3
Gross Receipts of Alcoholic Beverages	4
Gross Receipts of New Farm Machinery and New Farm Irrigation Equipment.....	4
Exemptions	4
Maximum Tax Imposed	4
Contract with Tax Commissioner.....	4
Dedication of Tax Proceeds	5
Compensation.....	5
Section 2. Adoption of Ordinances and Resolutions.....	5
Definitions	5
Procedures	5
Initiative and Referendum	6
Limitations.....	6
Article III – Elections.....	6
Article IV – Amendments, Repeal and Termination	6

Preamble

We, the people of Burleigh County, do establish this Home Rule Charter.

Article I – Board of County Commissioners to Exercise Powers

Subject to the limitations imposed by the North Dakota Constitution, state law, and this charter, the home rule powers of Burleigh County will be vested in the Board of County Commissioners.

Article II – Home Rule Powers of County

In addition to powers granted counties under the constitution and laws of the State of North Dakota, Burleigh County will have the power to:

1. Levy a one percent (1%) sales, use, and gross receipts tax.
2. Provide for the adoption, amendment, repeal, initiation, referral, enforcement, and penalties for violation of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, and welfare. However, this subsection does not confer any authority to regulate any industry or activity which is exclusively regulated by state or federal law or by rules adopted by a state or federal agency. This subsection does not confer the authority to regulate the private use of agricultural chemicals.

Section 1. Sales, Use, and Gross Receipts Tax

Definitions: All terms defined in chapters 11-09.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6, and 57-40.2 of the North Dakota Century Code (N.D.C.C.), including any future amendments, are adopted by reference. All references to the N.D.C.C. include amendments adopted by the North Dakota Legislative Assembly.

Collection and Administration: Where not in conflict with the provisions herein, the provisions of N.D.C.C. chapters 11-09.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6, and 57-40.2, and all administrative rules adopted by the Tax Commissioner, pertaining to the collection and administration of the retail sales, use, and gross receipts tax, including provisions for liability, refund, penalty, interest or credit, govern the administration by the North Dakota Office of State Tax Commissioner (hereinafter “Tax Commissioner”) of the taxes imposed.

Sales Tax Imposed: Subject to the provisions of N.D.C.C. § 11-09.1-05, and except as otherwise provided, or the sales and use tax laws of the State of North Dakota, a tax of one percent (1%) is imposed upon the gross receipts of retailers from all sales at retail, including the leasing or renting of tangible personal property, within the corporate limits of the county of Burleigh, North Dakota.

Use Tax Imposed: Subject to the provisions of N.D.C.C. § 11-09.1-05, and except as otherwise provided, or the sales and use tax laws of the State of North Dakota, an excise tax is imposed upon the storage, use, or consumption within the corporate limits of the county of Burleigh, North Dakota of tangible personal property purchased at retail for storage, use, or

consumption in this county, at the rate of one percent (1%) of the purchase price of the property. An excise tax is imposed on the storage, use, or consumption within the corporate limits of the county of Burleigh, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in this county at the rate of one percent (1%) of the fair market value of the property at the time it was brought into this county.

With respect to the purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in N.D.C.C. § 57-40.2-03.3, the tax imposed by this section applies only to bids submitted on or after the effective date of this Ordinance.

Gross Receipts of Alcoholic Beverages: Subject to the provisions of N.D.C.C. § 11-09.1-05, and except as otherwise provided, a gross receipts tax of one percent (1%) is imposed upon all gross receipts from the sale of alcoholic beverages within the county. A person who receives alcoholic beverages for storage, use, or consumption in this state is subject to tax on storage, use, or consumption of those alcoholic beverages at the rate of one percent (1%).

Gross Receipts of New Farm Machinery and New Farm Irrigation Equipment: Subject to the provisions of N.D.C.C. § 11-09.1-05, and except as otherwise provided, a gross receipts tax of one percent (1%) is imposed upon all gross receipts from the sale of new farm machinery and new farm irrigation equipment within the county. A person who receives new farm machinery or new farm irrigation equipment for storage, use, or consumption in this state is subject to tax on storage, use, or consumption of that machinery and/or equipment at the rate of one percent (1%).

Exemptions: No additional exemptions from imposition and computation of the county sales and use tax other than those provided by state law are provided for.

Sales to contractors that are exempt pursuant to subsection 15 of N.D.C.C. § 57-39.2-04 shall be exempt from any county sales tax, but contractors shall be subject to the county use tax on those items used within the county that would be taxed pursuant to N.D.C.C. § 57-40.2-03.3 on which the county sales tax has not previously been paid.

Maximum Tax Imposed: Any patron or user paying a tax imposed in excess of \$25 upon any single transaction of one or more items may obtain a credit or refund of the excess tax at the time of purchase directly from the vendor or request a refund of the excess tax payment by filing a request for refund upon the forms provided by the Tax Commissioner.

Contract with Tax Commissioner: The Burleigh County Auditor/Treasurer is hereby authorized to contract with the Tax Commissioner for administration and collection of taxes imposed. The County Auditor/Treasurer has all powers granted to the Tax Commissioner and in the absence of a valid contract with the Tax Commissioner or failure of the Tax Commissioner to perform the delegated duties, shall perform these duties in place of the Tax Commissioner.

Dedication of Tax Proceeds: All revenues raised and collected under this charter, less administrative expenses shall be dedicated only to offset property taxes used for public safety department budgets within Burleigh County. Revenues raised and collected from July 1 of the proceeding year through June 30 of the current year shall be used towards the budgetary needs of the public safety departments for the following year. Specifically, revenues shall be used for the following departments in the following priority order:

- A. Burleigh County's obligation to the Burleigh Morton County Detention Center;
- B. Sheriff; and
- C. State's Attorney.

Any proceeds remaining that exceed the budgetary needs of the listed departments shall be used to offset property taxes by dedicating the excess revenue to other public safety needs of the county as determined by the County Commission.

Compensation: County sales, use, and gross receipts tax permit holders are allowed to retain a portion of tax collected to help recover administrative expenses. This compensation shall equal three percent (3%) of the county tax due; however, the deduction is limited to \$83.33 per month or \$250 per quarter. A tax return must be filed and paid in full by the scheduled due date or the compensation will be disallowed and the tax obligation will be subject to penalty and interest.

Section 2. Adoption of Ordinances and Resolutions

Definitions: An ordinance is any enactment by the Board of County Commissioners or the people which prescribes a permanent rule or statute governing the actions of persons or bodies.

A resolution is any enactment by the Board of County Commissioners or the people which defines policies or procedures governing the actions of persons or bodies for a limited period of time.

Procedures: Any enactments by the people or the Board of County Commissioners implementing charter provisions, or expanding or curtailing any of the powers or authorizations provided herein, will be in the form of ordinances or resolutions. Each ordinance or resolution introduced through the Board of County Commissioners will have two readings, with the first reading consisting of announcement of the title of the ordinance or resolution at a meeting of the Board of County Commissioners and publication of a summary of the enactment in the official newspaper of the county at least twenty (20) days before the second reading.

The proposed enactment will then be given second reading, which will be by title, and submitted to a roll call vote of the Board of County Commissioners. If a majority of the elected commissioners concur, the enactment will become effective on the date stated in the enactment or if no date is stated, on the first day of the month following the date of enactment.

Initiative and Referendum: The powers of initiative and referendum are reserved to the electors of Burleigh County. The applicable provisions of state law will govern the exercise of powers of initiative and referendum under this charter. The number of signatures required to exercise these powers is at least equal in number to fifteen per cent of the number of electors voting in the county of the office of governor in the last general election.

Limitations: No ordinance enacted under this charter will supersede any ordinance of any political subdivision without its consent.

No ordinance may be enacted to diminish the authority of the boards of supervisors of townships or change the structure of organized township government.

Article III – Elections

1. The Board of County Commissioners shall consist of five members who shall be elected on a nonpartisan ballot. All of the candidates seeking the office of county commissioner shall be voted upon by the qualified electors.
2. The Board of County Commissioners may follow state law concerning the organization and structure of elected county offices in accordance with state law.
3. The Board of County Commissioners may follow state law converting the elected offices of the county auditor/treasurer and the county recorder into appointed offices. Any resolution to convert an elected office to an appointed office shall not shorten the term for which the official was elected nor reduce the salary of the official's office for that term.
4. The elected offices of the County Sheriff, and State's Attorney shall remain as elected positions voted upon by the qualified electors.

Article IV – Amendments, Repeal and Termination

In the manner provided by state law, this charter may be amended or repealed by a proposal of the Board of County Commissioners or by petition bearing signatures of qualified voters at least equal in number to fifteen percent (15%) of the number of electors voting in the county for the office of governor in the last general election.

Respectfully submitted by the Burleigh County Home Rule Charter Commission, this _____ day of _____, 2023.