

Fifty-fifth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1432

Introduced by

Representatives Berg, Carlson, Maragos

Senators Grindberg, Lee, Mutzenberger

1 A BILL for an Act to amend and reenact subdivision a of subsection 4 of section 21-03-07,  
2 sections 40-22-01, 40-22-15, 40-22-17, 40-23-06, 40-23-07, 40-23-08, and 40-23.1-06 of the  
3 North Dakota Century Code, relating to financing of business improvement districts by special  
4 assessments.

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

6 **SECTION 1. AMENDMENT.** Subdivision a of subsection 4 of section 21-03-07 of the  
7 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

8 a. Any street improvement, as defined in ~~subsection 2 of~~ section 40-22-01, to be  
9 made in or upon any federal or state highway or any other street designated  
10 by ordinance as an arterial street.

11 **SECTION 2. AMENDMENT.** Section 40-22-01 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **40-22-01. Power of municipalities to defray expense of improvements by special**  
14 **assessments.**

15 1. Any municipality, upon complying with ~~the provisions of~~ this chapter, may defray  
16 the expense of any ~~or all~~ of the following types of improvements by special  
17 assessments:

18 ~~4-~~ a. The construction, improvement, extension, or replacement of a water supply  
19 system; or a sewerage system, ~~or both, or any part thereof, or any~~  
20 ~~improvement thereto or extension or replacement thereof,~~ including the  
21 construction and erection of wells, intakes, pumping stations, settling basins,  
22 filtration plants, standpipes, water towers, reservoirs, water mains, sanitary  
23 and storm sewer mains and outlets, facilities for the treatment and disposal of  
24 sewage and other municipal, industrial, and domestic wastes, and all other

appurtenances, contrivances, and structures used or useful for a complete water supply and sewerage system.

~~2-~~ b. The improvement of the municipal street system ~~and any part thereof,~~ including any ~~one or more~~ of the processes of acquisition, opening, widening, grading, graveling, paving, repaving, surfacing with tar, asphalt, bituminous, or other appropriate material, resurfacing, resealing, and repairing of any street, highway, avenue, alley, or public place within the municipality, and the construction and reconstruction of overhead pedestrian bridges, pedestrian tunnels, storm sewers, curbs and gutters, sidewalks, and service connections for water and other utilities, and the installation, operation, and maintenance of streetlights and all types of decorative streetlighting, including ~~but not restricted to~~ Christmas streetlighting decorations.

~~3-~~ c. The improvement of boulevards and other public places by the planting of trees, the construction of grass plots and the sowing of grass seed ~~therein,~~ and the maintenance and preservation of ~~such~~ those improvements by the watering of ~~such~~ the trees and grass, the cutting of ~~such~~ the grass, and the trimming of ~~such~~ the trees, or otherwise in any manner ~~which may appear~~ necessary and proper to the governing body of the municipality.

~~4-~~ d. The acquiring of the necessary land and easements and the construction of the necessary works, within and without the municipality, for flood protection of properties within the municipality.

~~5-~~ e. The acquiring or leasing of the necessary property and easements and the construction of parking lots, ramps, garages, and other facilities for motor vehicles.

f. The improvements of a business improvement district created by a municipality under chapter 40-22.1 or through the authority granted by a home rule charter.

2. In planning an improvement project of a type specified in ~~any one of the foregoing subsections~~ this section, the governing body may include in ~~such~~ the plans any ~~and all~~ items of work and materials ~~which in its judgment~~ that are necessary or

1 reasonably incidental to the completion of an improvement project of ~~such~~ that  
2 type.

3 **SECTION 3. AMENDMENT.** Section 40-22-15 of the 1995 Supplement to the North  
4 Dakota Century Code is amended and reenacted as follows:

5 **40-22-15. Resolution declaring improvements necessary - Exception for sewer**  
6 **and water improvements - Contents of resolution - Publication of resolution.** After the  
7 engineer's report required by section 40-22-10 has been filed and approved, the governing  
8 body of the municipality, by resolution, shall declare that it is necessary to make the  
9 improvements described therein. A resolution ~~shall~~ is not be required, however, if the  
10 improvement constitutes a water or sewer improvement as described in ~~subsection 1 of~~ section  
11 40-22-01, nor if the governing body determines by resolution that a written petition for the  
12 improvement, signed by the owners of a majority of the area of the property included within the  
13 district, has been received. The resolution ~~shall~~ must refer intelligibly to the engineer's report;  
14 and ~~shall~~ must include a map of the municipality showing the proposed improvement districts.  
15 The resolution ~~shall~~ must then be published once each week for two consecutive weeks in the  
16 official newspaper of the municipality.

17 **SECTION 4. AMENDMENT.** Section 40-22-17 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 **40-22-17. Protest against resolution of necessity - Meeting to hear protest.** If,  
20 within thirty days after the first publication of the resolution declaring the necessity of an  
21 improvement project of the type specified in ~~any one of the subsections of~~ section 40-22-01, the  
22 owners of any property within the improvement district file written protests describing the  
23 property ~~which~~ that is the subject of the protest with the city auditor protesting against the  
24 adoption of ~~said~~ the resolution, the governing body of the municipality, at its next meeting after  
25 the expiration of the time for filing ~~such~~ the protests, shall hear and determine the sufficiency  
26 ~~thereof~~ of the protests.

27 **SECTION 5. AMENDMENT.** Section 40-23-06 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **40-23-06. Assessments in improvement districts before work completed.** If the  
30 work consists of improvements of a business improvement district or improvements on or  
31 additions to sewers or water mains already installed or paving already laid, and all bids for ~~such~~

1 ~~the~~ work were rejected and the work done by the municipality, and if, in the opinion of the  
2 engineer acting for the municipality, the work can be done in separate sections or work units, it  
3 ~~shall is~~ not be necessary that all of the work be completed before the special assessments are  
4 made. The governing body, by resolution adopted at any time ~~before or after the work has~~  
5 ~~been commenced~~, may specify what part of the improvements ~~shall~~ constitute a separate  
6 section or work unit, and upon completion of the work in one or more of ~~such~~ the separate  
7 sections or work units, the special assessments may be made in the same manner and with the  
8 same force and effect as if all of the work in the entire improvement district had been  
9 completed. Failure for any reason to complete the work in any remaining separate section or  
10 work unit included within ~~such~~ the improvement district ~~shall~~ does not affect the validity of the  
11 special assessments made or the special assessment warrants issued for the work completed.

12 **SECTION 6. AMENDMENT.** Section 40-23-07 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **40-23-07. Determination of special assessments by commission - Political**  
15 **subdivisions not exempt.** Whenever the commission is required to make any special  
16 assessment under ~~the provisions of~~ this title, the members ~~thereof~~ of the commission  
17 personally shall inspect ~~any and~~ all lots and parcels of land ~~which may be~~ subject to ~~such~~ the  
18 special assessment and shall determine from ~~such~~ the inspection the particular lots and parcels  
19 of land ~~which, in the opinion of the commission, that~~ will be especially benefited by the  
20 construction of the work for which the assessment is to be made. The commission shall  
21 determine the amount in which each of the lots and parcels of land will be especially benefited  
22 by the construction of the work for which ~~such~~ the special assessment is to be made, and shall  
23 assess against each of ~~such~~ the lots and parcels of land ~~such~~ a sum, not exceeding the  
24 benefits, as ~~shall be~~ is necessary to pay its just proportion of the total cost of ~~such~~ the work, or  
25 of the part thereof which is to be paid by special assessment, including all expenses incurred in  
26 making ~~such~~ the assessment and publishing necessary notices with reference ~~thereto~~ to the  
27 assessment and the per diem of the commission. However, as an alternative to ~~the~~ that  
28 procedure ~~heretofore provided in this section~~, the special assessment commission may, ~~in its~~  
29 ~~discretion~~, determine and allocate the cost of special assessments in accordance with the  
30 method provided for in chapter 40-23.1 or any other basis reasonably representative of the  
31 distribution of benefits from the improvement. The municipality may adjust the assessments by

1 zone if the benefit of the improvement varies from one area to another to delineate the  
2 approximate difference in beneficial impact. A municipality may also adjust assessments based  
3 upon land use classification. Special assessments may be determined by utilizing assessed  
4 valuation or true and full value as determined by a municipality from time to time on a given  
5 property. If no such value exists, the commission may establish the value for the purpose of  
6 making any special assessments under this title. Benefited property belonging to real estate  
7 tax-exempt organizations or to counties, cities, school districts, park districts, and townships,  
8 ~~shall is not be exempt from such the assessment, and such public corporations whose property~~  
9 ~~is so assessed~~ those governmental entities shall provide for the payment of such the  
10 ~~assessments, installments thereof and interest thereon, by the levy of taxes according to law.~~  
11 ~~Nothing in this~~ This section shall be deemed to does not amend other provisions of law with  
12 reference to the levy of assessments on property sold for delinquent taxes.

13 **SECTION 7. AMENDMENT.** Section 40-23-08 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **40-23-08. Assessments collected by suit from beneficial user of exempt property.**  
16 Whenever any real property is exempt from special assessments; or cannot be assessed; for  
17 any reason as otherwise provided in this title, for any improvement for any reason, and such  
18 the real property otherwise would be assessable for such the improvement, an assessment  
19 may be levied against the record title owner, occupant, or beneficial user of the property and  
20 collected by suit from the occupant or person enjoying the beneficial use thereof initiating a  
21 lawsuit in district court naming as defendants either or any of those persons.

22 **SECTION 8. AMENDMENT.** Section 40-23.1-06 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **40-23.1-06. ~~Political subdivisions~~ Entities not exempt from special assessments.**

25 Benefited property belonging to real estate tax-exempt organizations or to counties, cities,  
26 school districts, park districts, and townships, shall is not be exempt from assessment, and  
27 ~~such public corporations whose property is assessed~~ those governmental entities shall provide  
28 for the payment of such the assessments, installments thereof and interest thereon, by the levy  
29 of taxes according to law. Nothing in this This section shall be deemed to does not amend  
30 other provisions of law with reference to the levy of assessments on property sold for delinquent  
31 taxes.