

Introduced by

1 A BILL for an Act to amend and reenact sections 40-23-05, 40-23-07, and 40-23.1-04 of the
2 North Dakota Century Code, relating to the determination of expenses under a special
3 assessment improvement project; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 40-23-05 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **40-23-05. Notice to special assessment commission.** At any time after the contract
8 and bond for any work for which a special assessment is required have been executed and
9 approved by the governing body of the municipality and the total cost of such work shall have
10 been estimated as nearly as practicable, the governing body may direct assessments to be
11 levied for the payment of all or any part of such cost, and the city auditor shall notify the
12 chairman of the special assessment commission and shall certify to ~~him~~ the chairman the items
13 of the total cost ~~thereof~~ so far as the same have been ascertained. The chairman immediately
14 shall call a meeting of the commission, which shall proceed as expeditiously as possible to
15 make and return the special assessment as provided in this chapter. The total cost of the
16 improvement which may be certified to the assessment commission ~~shall~~ may include not more
17 than the estimated or actual construction cost under the terms of the contract; ~~a reasonable~~
18 ~~allowance as determined by the governing body for;~~ the actual cost of extra work which may be
19 authorized under the plans and specifications; the actual engineering, fiscal agents', and
20 attorneys' fees for any services in connection with the authorization and financing of the
21 improvement; the actual cost of publication of required notices and printing of improvement
22 warrants; and all actual expenses incurred in the making of the improvement and levy of
23 assessments ~~therefor~~. In the event that any error is made in ~~estimating~~ determining the cost,

the governing body may direct a supplemental assessment to be made as provided in section 40-26-02.

SECTION 2. AMENDMENT. Section 40-23-07 of the North Dakota Century Code is amended and reenacted as follows:

40-23-07. Determination of special assessments by commission - Political subdivisions not exempt. Whenever the commission makes any special assessment, the commission shall determine the particular lots and parcels of land which, in the opinion of the commission, will be especially benefited by the construction of the work for which the assessment is to be made. The commission shall determine the amount in which each of the lots and parcels of land will be especially benefited by the construction of the work for which such special assessment is to be made, and shall assess against each of such lots and parcels of land such sum, not exceeding the benefits, as shall be necessary to pay its just proportion of the total cost of such work, or of the part thereof which is to be paid by special assessment, including all actual expenses incurred in making such assessment and publishing necessary notices with reference thereto and the per diem of the commission. However, as an alternative to the procedure heretofore provided in this section, the special assessment commission may, in its discretion, determine and allocate the cost of special assessments in accordance with the method provided for in chapter 40-23.1. Benefited property belonging to counties, cities, school districts, park districts, and townships, shall not be exempt from such assessment, and such public corporations whose property is so assessed shall provide for the payment of such assessments, installments thereof and interest thereon, by the levy of taxes according to law. Nothing in this section shall be deemed to amend other provisions of law with reference to the levy of assessments on property sold for delinquent taxes.

SECTION 3. AMENDMENT. Section 40-23.1-04 of the North Dakota Century Code is amended and reenacted as follows:

40-23.1-04. Levy of assessments - Items included in cost of improvement. At any time after the contract and bond for any work for which a special assessment is required have been executed and approved by the governing body of the municipality and the total cost of such work shall have been estimated as nearly as practicable, the governing body may direct assessments to be levied for the payment of all or any part of such cost, and the city auditor shall ascertain and return, as provided in this chapter, the total assessment against each

1 separate lot, tract, or parcel of land in the improvement district. The total cost of the
2 improvement ~~shall~~ may include not more than the estimated or actual construction cost under
3 the terms of the contract, ~~a reasonable allowance as determined by the governing body for;~~ the
4 actual cost of extra work which may be authorized under the plans and specifications; the
5 actual engineering, fiscal agents', and attorneys' fees for any services in connection with the
6 authorization and financing of the improvement; the actual cost of publication of required
7 notices and printing of improvement warrants; and all actual expenses incurred in the making
8 of the improvement and levy of the assessment ~~therefor~~. In the event that any error is made in
9 ~~estimating~~ determining the cost, the governing body may direct a supplemental assessment to
10 be made as provided in section 40-26-02.

11 **SECTION 4. EFFECTIVE DATE.** This Act is effective for special assessment
12 improvement projects for which a resolution of necessity is adopted after July 31, 2003.