

Fifty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2284

Introduced by

Senator Heitkamp

1 A BILL for an Act to create and enact a new section to chapter 47-10 of the North Dakota
2 Century Code, relating to the duty of a seller to provide notice of unpaid special assessments to
3 the buyer of real property; and to amend and reenact sections 40-23-05, 40-23-07, 40-23.1-04,
4 and 40-24-02 of the North Dakota Century Code, relating to additional allowable costs on
5 special assessment projects and allowable interest on unpaid special assessments.

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

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

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

warrants, and all expenses incurred in the making of the improvement and levy of assessments therefor. In the event that any error is made in estimating 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 allowable expenses under section 40-23-05 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 separate lot, tract, or parcel of land in the improvement district. The total cost of the improvement shall include the estimated construction cost under the terms of the contract, ~~a reasonable allowance as determined by the governing body for cost~~ and may include an additional amount that does not exceed ten percent of the estimated construction cost under the terms of the contract, to cover the additional costs of extra work which may be authorized under the plans and specifications, engineering, fiscal agents', and attorneys' fees for any services in connection with the authorization and financing of the improvement, cost of publication of required notices and printing of improvement warrants, and all expenses incurred in the making of the improvement and levy of assessment therefor. In the event that any error is made in estimating the cost, the governing body may direct a supplemental assessment to be made as provided in section 40-26-02.

SECTION 4. AMENDMENT. Section 40-24-02 of the North Dakota Century Code is amended and reenacted as follows:

40-24-02. Payment of special assessments - Interest. All special assessments levied under this title may be paid without interest within ten days after they have been approved by the governing body and thereafter shall bear interest at an annual rate not exceeding ~~one and one-half of one percentage points~~ one point above the average net annual interest rate on any warrants or bonds for the payment of which they are pledged on the total amount thereof remaining unpaid.

SECTION 5. A new section to chapter 47-10 of the North Dakota Century Code is created and enacted as follows:

Buyer's right to rescind for failure to provide notice of unpaid special assessments. The buyer of real property has ninety days from the date of purchase to rescind the purchase of the property if there are unpaid special assessments against the property and the seller did not provide the buyer written notice of the amount of the unpaid special assessments.