

Sixty-second
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1331

Introduced by

Representatives Owens, Belter, Headland, Weiler

Senator Fischer

1 A BILL for an Act to amend and reenact sections 40-23-05, 40-23-07, 40-23.1-01, and
2 40-23.1-04 of the North Dakota Century Code, relating to restriction of the amount of an
3 improvement which may be paid by levy of special assessments; to provide for a legislative
4 management study; and to provide an effective date.

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

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

8 **40-23-05. Notice to special assessment commission.**

9 At any time after the contract and bond for any work for which a special assessment is
10 required have been executed and approved by the governing body of the municipality and the
11 total cost of such work shall have been estimated as nearly as practicable, the governing body
12 may direct assessments to be levied for the payment of all or any part up to fifty percent of such
13 cost, and the city auditor shall notify the chairman of the special assessment commission and
14 shall certify to the chairman the items of the total cost thereof so far as the same have been
15 ascertained. The chairman immediately shall call a meeting of the commission, which shall
16 proceed as expeditiously as possible to make and return the special assessment as provided in
17 this chapter. The total cost of the improvement which may be certified to the assessment
18 commission shall include up to fifty percent of the cost of the estimated construction cost under
19 the terms of the contract, a reasonable allowance as determined by the governing body for cost
20 of extra work which may be authorized under the plans and specifications, engineering, fiscal
21 agent's and attorney's fees for any services in connection with the authorization and financing of
22 the improvement, cost of publication of required notices and printing of improvement warrants,
23 and all expenses incurred in the making of the improvement and levy of assessments therefor.

1 If any error is made in estimating the cost, the governing body may direct a supplemental
2 assessment to be made as provided in section 40-26-02.

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

5 **40-23-07. Determination of special assessments by commission - Political**
6 **subdivisions not exempt.**

7 Whenever the commission makes any special assessment, the commission shall determine
8 the particular lots and parcels of land which, in the opinion of the commission, will be especially
9 benefited by the construction of the work for which the assessment is to be made. The
10 commission shall determine the amount in which each of the lots and parcels of land will be
11 especially benefited by the construction of the work for which such special assessment is to be
12 made, and shall assess against each of such lots and parcels of land such sum, not exceeding
13 the benefits, as is necessary to pay its just proportion of fifty percent of the total cost of such
14 ~~work, or of the part thereof~~ which is to be paid by special assessment, including all expenses
15 incurred in making such assessment and publishing necessary notices with reference thereto
16 and the per diem of the commission. However, as an alternative to the procedure provided in
17 this section, the special assessment commission may, in its discretion, determine and allocate
18 the cost of special assessments in accordance with the method provided for in chapter 40-23.1.
19 Property owned by a nonprofit entity and used exclusively as a cemetery is exempt from
20 collection of special assessments for benefits conferred under this title and the city in which
21 such property is located shall provide for the payment of special assessments, installments, and
22 interest against such property by the levy of taxes according to law or by payment from other
23 funds available to the city which are derived from sources other than special assessments.
24 Benefited property belonging to counties, cities, school districts, park districts, and townships is
25 not exempt from such assessment, and such public corporations whose property is so
26 assessed shall provide for the payment of such assessments, installments thereof and interest
27 thereon, by the levy of taxes according to law. Nothing in this section may be deemed to amend
28 other provisions of law with reference to the levy of assessments on property sold for delinquent
29 taxes.

30 **SECTION 3. AMENDMENT.** Section 40-23.1-01 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **40-23.1-01. Improvement district - All property to be assessed - Basis.**

2 All property included within the limits of a local improvement district shall be considered to
3 be the property specially benefited by the local improvement and shall be the property to be
4 assessed to pay up to fifty percent of the cost and expense thereof or such part thereof as may
5 be chargeable against the property specially benefited. The cost and expense shall be
6 assessed upon all the property in accordance with the special benefits conferred thereon in
7 proportion to area and distance back from the marginal line of the public way or area improved.

8 **SECTION 4. AMENDMENT.** Section 40-23.1-04 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **40-23.1-04. Levy of assessments - Items included in cost of improvement.**

11 At any time after the contract and bond for any work for which a special assessment is
12 required have been executed and approved by the governing body of the municipality and the
13 total cost of such work shall have been estimated as nearly as practicable, the governing body
14 may direct assessments to be levied for the payment of ~~all or any part of such~~ up to fifty percent
15 of the total cost of such work, and the city auditor shall ascertain and return, as provided in this
16 chapter, the total assessment against each separate lot, tract, or parcel of land in the
17 improvement district. The total cost of the improvement ~~shall include that may be paid by special~~
18 assessments is up to fifty percent of the estimated construction cost under the terms of the
19 contract; a reasonable allowance as determined by the governing body for cost of extra work
20 which may be authorized under the plans and specifications; engineering, fiscal agent's, and
21 attorney's fees for any services in connection with the authorization and financing of the
22 improvement; cost of publication of required notices and printing of improvement warrants; and
23 all expenses incurred in the making of the improvement and levy of assessment therefor. In the
24 event that any error is made in estimating the cost, the governing body may direct a
25 supplemental assessment to be made as provided in section 40-26-02.

26 **SECTION 5. LEGISLATIVE MANAGEMENT STUDY - SPECIAL ASSESSMENTS.** During
27 the 2011-12 interim, the legislative management shall consider studying use of special
28 assessments for public improvements, use and administration of special assessments across
29 the state, and alternative funding mechanisms available. The legislative management shall
30 report its findings and recommendations, together with any legislation required to implement the
31 recommendations, to the sixty-third legislative assembly.

- 1 **SECTION 6. EFFECTIVE DATE.** This Act is effective for special assessments within an
- 2 improvement district established or altered after July 31, 2013.