

Introduced by

1 A BILL for an Act to create and enact a new section to chapter 61-16.1 of the North Dakota
2 Century Code, relating to calculations of costs and benefits for assessment projects; to amend
3 and reenact sections 61-16.1-02, 61-16.1-09.1, 61-16.1-12.1, 61-16.1-15, 61-16.1-17,
4 61-16.1-18, 61-16.1-19, 61-16.1-20, 61-16.1-21, 61-16.1-22, and 61-16.1-23 of the North
5 Dakota Century Code, relating to costs, benefits, and special assessments for water projects;
6 and to repeal section 61-16.1-01 of the North Dakota Century Code, relating to legislative intent;
7 and to provide a penalty.

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

9 **SECTION 1. AMENDMENT.** Section 61-16.1-02 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **61-16.1-02. Definitions.**

12 In this chapter, unless the context or subject matter otherwise provides:

- 13 1. "Affected land" or "affected property" means land or property subject to special
14 assessment or condemnation for a project.
- 15 2. "Affected landowners" means landowners whose land is subject to special
16 assessment or condemnation for a project.
- 17 ~~2-3.~~ "Assessment drain" means any natural watercourse opened, or proposed to be
18 opened, and improved for the purpose of drainage, and any artificial drain of any
19 nature or description constructed for the purpose of drainage, including dikes and
20 appurtenant works, which are financed in whole or in part by special assessment. This
21 definition may include more than one watercourse or artificial channel constructed for
22 the purpose of drainage when the watercourses or channels drain land within a
23 practical drainage area.

- 1 ~~3-4.~~ "Assessment project" means any project financed in whole or in part by a special
2 assessment.
- 3 5. "Benefited property" means property that accrues benefits from a project.
- 4 6. "Benefits" means the extent to which society and economies impacted by a project are
5 made better off through lower costs, fewer damages, or enhancements.
- 6 7. "Commission" means the state water commission.
- 7 ~~4-8.~~ "Conservation" means planned management of water resources to prevent
8 exploitation, destruction, neglect, or waste.
- 9 ~~5-9.~~ "Costs of the frivolous complaint" means all reasonable costs associated with the
10 requisite proceedings regarding the removal of obstructions to a drain, removal of a
11 noncomplying dike or dam, or closing a noncomplying drain, including all reasonable
12 construction costs; all reasonable attorney's fees and legal expenses; all reasonable
13 engineering fees, including investigation and determination costs; compliance
14 inspections; ~~and~~ necessary technical memorandum and deficiency review; and all
15 costs associated with any hearing conducted by a district, including preparation and
16 issuance of any findings of fact and any final closure order.
- 17 ~~6-10.~~ "District" means a water resource district.
- 18 ~~7-11.~~ "Frivolous" means allegations and denials in any complaint filed with a district made
19 without reasonable cause and not in good faith.
- 20 ~~8-12.~~ "Project" means any undertaking for water conservation, flood control, water supply,
21 water delivery, erosion control and watershed improvement, drainage of surface
22 waters, collection, processing, and treatment of sewage, or discharge of sewage
23 effluent, or any combination thereof, including of these undertakings and includes
24 incidental features of any such undertaking.
- 25 ~~9-13.~~ "Water resource board" means the water resource district's board of managers.

26 **SECTION 2. AMENDMENT.** Section 61-16.1-09.1 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **61-16.1-09.1. Watercourses, bridges, and low-water crossings.**

- 29 1. A water resource board may undertake the snagging, clearing, and maintaining of
30 natural watercourses and the debris removal of bridges and low-water crossings. The
31 board may finance the project in whole or in part with funds raised through the

1 collection of a special assessment levied against the land and premises benefited by
2 the project. The benefits of a project must be determined in the manner provided in
3 section ~~61-16.1-176~~ of this Act. Revenue from an assessment under this section may
4 not be used for construction of a drain or reconstruction or maintenance of an existing
5 assessment drain. Any question as to whether the board is maintaining a natural
6 watercourse or is constructing a drain or reconstructing or maintaining an existing
7 assessment drain must be resolved by the department of water resources. All
8 provisions of this chapter apply to assessments levied under this section except:

- 9 a. An assessment may not exceed fifty cents per acre [.40 hectare] annually on
10 agricultural lands and may not exceed fifty cents annually for each five hundred
11 dollars of taxable valuation of nonagricultural property; and
12 b. If the assessment is for a project costing less than one hundred thousand dollars,
13 no action is required for the establishment of the assessment district or the
14 assessments except the board must approve the project and assessment by a
15 vote of two-thirds of the members and the board of county commissioners of the
16 county in which the project is located must approve and levy the assessments to
17 be made by a vote of two-thirds of its members.

18 (1) If a board that undertakes a project finds the project will benefit lands
19 outside water resource district boundaries, the board shall provide notice to
20 the water resource board where the benefited lands are located together
21 with the report prepared under section 61-16.1-17.

22 (2) The board of each water resource district containing lands benefited by a
23 project must approve the project and assessment by a vote of two-thirds of
24 its members. The board of county commissioners in each county that
25 contains lands benefited by a project must approve and levy the
26 assessment to be made by a vote of two-thirds of its members.

27 (3) If a project and assessment is not approved by all affected water resource
28 boards and county commission boards, the board of each water resource
29 district and the board of county commissioners of each county shall meet to
30 ensure all common water management problems are resolved pursuant to
31 section 61-16.1-10. In addition, the water resource board that undertakes

1 the project may proceed with the project if the board finances the cost of the
2 project and does not assess land outside the boundaries of the district.

3 c. All revenue from an assessment under this section must be exhausted before a
4 subsequent assessment covering any portion of lands subject to a prior
5 assessment may be levied.

6 2. Before an assessment may be levied under this section, a public hearing must be held
7 and attended by a quorum of the affected water resource boards and a quorum of the
8 affected boards of county commissioners. The hearing must be preceded by notice as
9 to date, time, location, and subject matter published in the official newspaper in the
10 county or counties in which the proposed assessment is to be levied. The notice must
11 be published at least ten days but not more than thirty days before the public hearing.

12 **SECTION 3. AMENDMENT.** Section 61-16.1-12.1 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **61-16.1-12.1. Water resource boards - Agreements with state or federal agencies for**
15 **certain improvements.**

16 1. A water resource board may enter into an agreement with any federal or state agency,
17 or any combination thereof ~~of federal or state agencies~~, for the construction of a
18 project, under the terms of which the contract for the work is to be let by the federal or
19 state agency or any combination thereof ~~of federal or state agencies~~. If under the terms
20 of the agreement at least fifty percent of the total cost of constructing the project is to
21 be paid by the agency or agencies and if any portion of the cost of the project is to be
22 paid by the levy of special assessments, the board may by resolution may create a
23 project assessment district ~~for the purpose of levying to levy~~ special assessments to
24 finance the amount that the district will be obligated to pay in accordance with the
25 agreement, over and above any other funds which are on hand and properly available
26 for that purpose. The assessment district must be of a size and form as to include all
27 properties which in the judgment of benefited property as determined by the board,
28 after consultation with a registered engineer designated by the board for that purpose,
29 will be benefited by the construction of the proposed project, and the board shall direct
30 the engineer to prepare a map showing the boundaries of the proposed assessment
31 district.

- 1 2. The board by resolution shall ~~by resolution~~ declare the necessity of the project, set
2 forth the general nature and purpose of the proposed project, estimate the total cost of
3 the project; and the approximate amount or fraction of the cost ~~which~~ the district will be
4 obligated to pay under the agreement, and the fact ~~that~~ this amount, or a lesser
5 amount as the board may specify, is proposed to be paid by the levy of special
6 assessments upon benefited property within the assessment district ~~determined to be~~
7 ~~benefited by the project~~. The board shall ~~cause~~mail the resolution of necessity
8 ~~together with,~~ a copy of the map showing the boundaries of the assessment district,
9 and a notice stating the date and time by which the owners of any property liable to be
10 specially assessed for the proposed project must ~~file their~~cast votes on the proposed
11 project with the secretary of the board ~~to be mailed to each~~ affected landowner
12 ~~affected by the proposed project~~ as determined by the tax rolls of the county in which
13 the affected property is located. The board may send the material by certified mail or
14 by regular mail attested by an affidavit of mailing signed by the attorney or secretary of
15 the board. The notice must ~~also~~ set forth the time and place ~~where~~ the board shall
16 meet to determine whether the project is approved. The notice must ~~also~~ be published
17 once in a newspaper of general circulation in the district and once in the official county
18 newspaper of each county in which the ~~benefited lands are~~affected property is located.
19 Within five days after the first mailing of the resolution the board shall ~~cause~~serve a
20 copy of the resolution ~~to be personally served~~ upon any county, city, or township, in its
21 corporate capacity which may be benefited directly or indirectly from the construction
22 of the proposed project and upon any county ~~which that~~ may become liable for any
23 deficiency in the fund to be created for the project, by delivering a copy of the
24 resolution to any member of the governing body ~~thereof~~of the county, city, or township.
25 3. The meeting must be held not less than thirty days after the mailing of the resolution,
26 at which time the board shall determine whether the project is approved. If the board
27 finds ~~that~~ fifty percent or more of the total votes filed are against a proposed project,
28 ~~then~~ the board may not proceed further with the proposed project. If the board finds
29 ~~that~~ less than fifty percent of votes filed are against the proposed project, the board
30 may proceed with the project. In any assessment district created under this section,

1 the board may dispense with all other ~~the~~ requirements of this chapter, other than
2 those stated in this section.

3 4. After the contract for the work has been let, the board may issue warrants on the fund
4 of the project for the total amount of the cost thereof ~~of the project~~, and the board,
5 without holding the hearing required by section 61-16.1-18, shall ~~proceed to~~ determine
6 and levy any assessments against benefited property ~~benefited by the project~~ and
7 prepare an assessment list ~~all~~ in accordance with the procedures required by section 6
8 of this Act and sections ~~61-16.1-21~~ 61-16.1-22 through 61-16.1-24. The provisions of
9 sections 61-16.1-25 through 61-16.1-36 are applicable to the assessments and the
10 special warrants issued pursuant to this section.

11 **SECTION 4. AMENDMENT.** Section 61-16.1-15 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **~~61-16.1-15. Financing project through revenue bonds, general taxes, or special-~~**
14 **~~assessments -- Apportionment of benefits~~ Initiating an assessment project - Policy.**

15 A water resource board ~~shall have the authority~~, either upon request or by its own motion,
16 ~~to~~ may acquire needed interest in property and provide for the cost of construction, alteration,
17 repair, operation, and maintenance of a project through issuance of improvement warrants or
18 with funds raised by special assessments, general tax levy, issuance of revenue bonds, or by a
19 combination of general ad valorem tax, special assessments, and revenue bonds. ~~Whenever a~~
20 ~~water resource board decides to acquire property or interests in property to construct, operate,~~
21 ~~alter, repair, or maintain a project with funds raised in whole or in part through special~~
22 ~~assessments, such assessments shall be apportioned to and spread upon lands or premises~~
23 ~~benefited by the project in proportion to and in accordance with benefits accruing thereto. The~~
24 ~~board shall assess the proportion of the cost of the project, or the part of the cost to be financed~~
25 ~~with funds raised through levy and collection of special assessments which any lot, piece, or~~
26 ~~parcel of land shall bear in proportion to the benefits accruing thereto and any county, city, or~~
27 ~~township which is benefited thereby. In determining the amounts of assessments under this~~
28 chapter, the water resource board shall carry out to the maximum extent possible the water
29 management policy of this chapter that upstream landowners must share with downstream
30 landowners the responsibility to provide for the proper management of surface waters.

1 **SECTION 5. AMENDMENT.** Section 61-16.1-17 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **61-16.1-17. Financing of special improvements - Procedure.**

4 When it is proposed to finance in whole or in part the construction of a project with funds
5 raised through the collection of special assessments levied against lands and premises
6 benefited by construction and maintenance of such project an assessment project is proposed,
7 the water resource board shall examine the proposed project, and if in its opinion the board
8 decides further proceedings are warranted, it the board shall adopt a resolution and declare that
9 it is necessary to construct and maintain construction and maintenance of the project is
10 necessary. The resolution shall briefly must state the nature and purpose of the proposed
11 project and shall designate a registered engineer to assist the board. For the purpose of making
12 examinations or surveys, the board or its employees the board's agents, after written notice to
13 each landowner, may enter upon any land on which the proposed project is located or any other
14 lands necessary to gain access. The engineer shall prepare profiles, plans, and specifications of
15 the proposed project and estimates of the proposed project's total cost thereof. The estimate of
16 costs prepared by the engineer shall include acquisition of must include the cost to acquire right
17 of way and shall be in sufficient detail to allow sufficiently detailed for the board to determine the
18 probable share of the total costs that will to be assessed against each of the affected
19 landowners in the proposed project assessment district under section 6 of this Act.

20 **SECTION 6.** A new section to chapter 61-16.1 of the North Dakota Century Code is created
21 and enacted as follows:

22 **Determining costs and benefits for assessment projects - Limitations on**
23 **assessments.**

- 24 1. For each proposed assessment project, the board or the board's agents shall inspect
25 all lots, pieces, and parcels of land which may be subject to assessment for the
26 proposed project to gather information necessary to calculate the benefits, in dollars,
27 of the project to each lot, piece, or parcel. The calculation of benefits must occur
28 before the hearing on the project under section 61-16.1-18.
- 29 2. For each proposed assessment project that will cost one million dollars or more, the
30 water resource board shall prepare a cost-benefit analysis of the project before the
31 board may hold a hearing on the project under section 61-16.1-18. To prepare the

1 cost-benefit analysis, the board shall use the economic analysis process developed
2 under section 61-03-21.4 and calculate, in dollars, the total benefits anticipated from
3 the project and the total costs anticipated for the project. If the calculated dollar
4 amount of benefits does not exceed the calculated dollar amount of costs, the board
5 may not levy special assessments for the project.

6 3. Although the costs of a project must be assessed against property in proportion to
7 benefits received from the project, a water resource board may not assess any lot,
8 piece, or parcel of land or any county, city, or township an amount exceeding the dollar
9 amount of benefits anticipated to accrue to the lot, piece, parcel, county, city, or
10 township from a project.

11 4. Property belonging to the United States is exempt from assessment for projects unless
12 the United States has provided for the payment of any assessment that may be levied
13 against the property for benefits received. Benefited property belonging to counties,
14 cities, school districts, park districts, and townships is not exempt from assessment,
15 and political subdivisions whose property is assessed shall provide for the payment of
16 the assessments, installments, and interest by the levy of taxes according to law. Any
17 county, township, or city assessed in its corporate capacity for benefits received shall
18 provide for the payment of the assessments, installments, and interest from the
19 political subdivision's general fund or by levy of a general property tax against all the
20 taxable property in the political subdivision in accordance with law. A tax limitation
21 provided by any statute of this state does not apply to tax levies made by a political
22 subdivision for the purpose of paying any special assessments made in accordance
23 with this chapter.

24 **SECTION 7. AMENDMENT.** Section 61-16.1-18 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **61-16.1-18. Hearing - Notice - Contents - Results of cost and benefit calculations.**

27 Upon the filing of the engineer's report provided for in section 61-16.1-17, and after
28 satisfying the requirements of section ~~61-16.1-216~~ of this Act, the water resource board shall fix
29 a date and place for a public hearing on the proposed project. The place of hearing must be in
30 the vicinity of the proposed project and must be convenient and accessible for the majority of
31 ~~the affected~~ landowners subject to assessment for the project or whose property is subject to

1 ~~condemnation for the proposed project. The board shall cause a complete list of the benefits-~~
2 ~~and assessments to be made, setting forth each county, township, or city assessed in its-~~
3 ~~corporate capacity as well as each lot, piece, or parcel of land assessed, the amount each is-~~
4 ~~benefited by the improvement and the amount assessed against each. At least ten days before~~
5 ~~the hearing, the board shall file with the county auditor of each county or counties in which the~~
6 ~~project is or will be located the list~~results, in dollars, of the calculations required under section 6
7 of this Act and the engineer's calculation of costs for the project. A certificate signed by a
8 majority of the members of the board attesting the calculations constitute a true and correct
9 valuation of the anticipated benefits of the proposed project described to the best of the
10 members' judgment and identifying the several costs for the project must be attached to the
11 results. Notice of the filing must be included in the notice of ~~the~~ hearing. ~~Notices~~The notice of
12 the hearing must contain a copy of the resolution of the board to proceed with the project as
13 well as the time and place where the board will conductof the hearing. The notice of ~~the~~ hearing
14 must specify the general nature of the project as finally determined by the engineer and the
15 board. ~~The notice of hearing must also~~ and specify when and where votes concerning the
16 proposed project may be filed. ~~The assessment list showing the percentage assessment-~~
17 ~~against each parcel of land benefited by the proposed project and the approximate assessment-~~
18 ~~in terms of money apportioned thereto, along with~~cost and benefit calculations and a copy of
19 the notice of the hearing; must be mailed to each affected landowner at the landowner's
20 address as shown by the tax rolls of the county ~~or counties~~ in which the affected property is
21 located. The board may send the ~~assessment list~~cost and benefit calculations and notice by
22 regular mail attested by an affidavit of mailing signed by the attorney or secretary of the board.
23 The board shall ~~cause the notice of hearing to be published~~publish the notice of the hearing
24 once a week for two consecutive weeks in the newspaper or newspapers of general circulation
25 in the area in which the affected landowners reside and in the official county newspaper of each-
26 county in which the benefited~~affected~~ lands are located. The date set for the hearing must not
27 be less than twenty days after the mailing of the notice. A record of the hearing must be made
28 by the board, ~~including~~include a list of affected landowners present in person or by agent, and
29 ~~the record must~~ be preserved in the minutes of the meeting. Affected landowners, and the
30 governing body of any county, township, or city to be assessed, must be informed at the hearing

1 of the probable total cost of the project and their individual share of the cost and the portion of
2 their property, if any, to be condemned for the project cost and benefit calculations.

3 **SECTION 8. AMENDMENT.** Section 61-16.1-19 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **61-16.1-19. Voting on proposed projects.**

6 At the hearing under section 61-16.1-18, the affected landowners, and any county,
7 township, or city to be assessed, must ~~also~~ be informed when and where votes concerning the
8 proposed project may be filed. Affected landowners, and the governing body of any county,
9 township, or city to be assessed, have thirty days after the date of the hearing to file ~~their~~the
10 votes with the secretary of the water resource board ~~concerning the project.~~ Once the deadline
11 for filing votes has been reached, ~~no more~~ votes may not be filed ~~and no person may withdraw~~
12 ~~a vote or~~ withdrawn. Any withdrawal of a vote concerning the proposed project before that time
13 must be in writing. When the votes have been filed and the deadline for filing votes has passed,
14 the board immediately shall ~~immediately~~ determine whether the project is approved. If the board
15 finds ~~that~~ fifty percent or more of the total votes filed are against the proposed project, then the
16 vote constitutes a bar against proceeding further with the project. If the board finds ~~that~~ the
17 number of votes filed against the proposed project is less than fifty percent of the votes filed, the
18 board shall issue an order establishing the proposed project and ~~may proceed,~~ after complying
19 with the requirements of ~~sections 61-16.1-21~~section 6 of this Act and section 61-16.1-22, ~~to~~may
20 contract or provide for the construction or maintenance of the project in substantially the
21 manner and according to the forms and procedure provided in title 40 for the construction of
22 sewers within municipalities. The board may enter ~~into~~ an agreement with any federal or state
23 agency under the terms of which the contract for the project is to be let by the federal agency,
24 the state agency, or a combination ~~thereof~~ of federal and state agencies. ~~In projects in which~~if
25 there is an agreement ~~that~~for a party other than the board ~~will~~to let the contract, the board may
26 dispense with all of the requirements of title 40. Upon making an order establishing or denying
27 establishment of a project, the board shall publish notice of the order in a newspaper of general
28 circulation in the area in which the affected landowners reside and in the official county
29 newspaper of each county in which the ~~benefited~~affected lands are located. Any right of appeal
30 begins to run on the date of publication of the notice. ~~As used in this section, "board" means~~
31 ~~water resource board.~~

1 **SECTION 9. AMENDMENT.** Section 61-16.1-20 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **61-16.1-20. Voting right ~~or powers~~ of landowners.**

4 In order that there may be a fair relation between the amount of liability for assessments
5 and the power of objecting to the establishment of a proposed project, the voting rights of
6 affected landowners on the question of establishing the project are as provided in this section.
7 ~~The landowner or landowners of tracts of land affected by the project~~Affected landowners have
8 one vote for each dollar of assessment ~~that~~to which the land is subject ~~to~~ or one vote for each
9 dollar of the assessed valuation of land condemned for the project, as determined in
10 accordance with title 57. The governing body of any county, township, or city to be assessed
11 ~~also~~ has one vote for each dollar of assessment against ~~such~~the county, township, or city. There
12 may be only one vote for each dollar of assessment, regardless of the number of owners of
13 ~~such~~the tract of land. ~~Where~~if more than one owner of ~~such~~the land exists, the votes must be
14 prorated among ~~them~~the owners in accordance with each owner's property interest. A written
15 power of attorney authorizes an agent to protest a project on behalf of ~~any~~the affected
16 landowner ~~or landowners~~that executed the power of attorney.

17 **SECTION 10. AMENDMENT.** Section 61-16.1-21 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **61-16.1-21. Assessment of cost of project.**

20 ~~Whenever~~

- 21 1. ~~If~~ If the water resource board proposes to make any special assessment under ~~the~~
22 ~~provisions of this chapter, the board, prior to~~before the hearing required under section
23 61-16.1-18, shall inspect ~~any and all~~ lots and parcels of land; which may be subject to
24 assessment and shall determine from the inspection the particular lots and parcels of
25 ~~lands~~land which, in the opinion of the board, will be especially benefited by the
26 construction of the work for which the assessment is made ~~and~~. The board shall
27 ~~assess the proportion of the total cost of acquiring right of way and constructing and~~
28 ~~maintaining such improvement in accordance with~~the assessment project in proportion
29 to the benefits received ~~but not exceeding such benefits,~~ against:
30 4. ~~Any~~ any county, township, or city, in its corporate capacity, which may be benefited
31 directly or indirectly ~~thereby~~.

- 1 2. Any and any lot, piece, or parcel of land which is directly benefited by such-
2 improvement. However, no political subdivision or landowner may be assessed an
3 amount that exceeds the benefits the political subdivision or lands owned by the
4 landowner will derive from the assessment project.
- 5 2. In determining benefits the board shall consider, among other factors, property values,
6 degree of improvement of properties, and productivity, and the water management
7 policy as expressed in section 61-16.1-15. Property belonging to the United States
8 shall ~~be~~ exempt from ~~such~~the assessment, unless the United States has provided for
9 the payment of any assessment ~~which may~~to be levied against its property for benefits
10 received. Benefited property belonging to counties, cities, school districts, park
11 districts, and townships ~~shall not be~~are not exempt from ~~such~~the assessment, and
12 political subdivisions whose property is ~~so~~ assessed shall provide for the payment of
13 ~~such~~the assessments, installments thereof, and interest thereon, by the levy of taxes
14 according to law. Any county, township, or city assessed in its corporate capacity for
15 benefits received shall provide for the payment of ~~such~~the assessments, installments
16 thereof, and interest thereon from its general fund or by levy of a general property tax
17 against all the taxable property ~~therein~~in the political subdivision in accordance with
18 law. ~~No~~A tax limitation ~~provided by any statute of this state shall in this code does not~~
19 apply to tax levies made by ~~any such~~a political subdivision for the purpose of paying
20 any special assessments made ~~in accordance with the provisions of~~under this chapter.
21 ~~There shall be attached to the~~
- 22 3. Each list of assessments afor an assessment project under this chapter must have an
23 attached certificate signed by a majority of the members of the board certifying ~~that the~~
24 ~~same~~the list of assessments is a true and correct assessment of the ~~benefit~~
25 ~~therein~~project's benefits described to the best of ~~their~~the board members' judgment
26 and ~~stating~~identifying the several items of expense included in the assessment.

27 **SECTION 11. AMENDMENT.** Section 61-16.1-22 of the North Dakota Century Code is
28 amended and reenacted as follows:

1 **61-16.1-22. Assessment list**~~Cost and benefit calculations to be published - Notice of~~
2 **hearing on assessments - Alteration of assessments - Confirmation of assessment list -**
3 **Filing.**

4 After entering an order establishing ~~the an assessment~~ project, the water resource board
5 shall ~~cause the assessment list to be published~~ publish a notice including the results, in dollars,
6 of the calculations required under section 6 of this Act and the calculations of costs prepared by
7 the engineer once each week for three successive weeks in the newspaper ~~or newspapers~~ of
8 general circulation in the district ~~and in the official county newspaper of each county~~ area in
9 which the ~~benefited~~ affected lands are located ~~together with a notice of.~~ The published notice
10 also must specify the time when, and place where, the board will meet to hear objections to any
11 assessment by any interested party, or an agent or attorney for that party. The board also shall
12 mail a copy of the published notice ~~of the hearing~~ in an envelope clearly marked
13 "ASSESSMENT NOTICE" to each affected landowner at the landowner's address as shown by
14 the tax rolls of the county ~~or counties~~ in which the affected property is located. The date set for
15 the hearing may not be less than thirty days after the mailing of the notice. At the hearing, the
16 board may make ~~such~~ alterations in the assessments as ~~in its opinion may be~~ the board
17 determines are just and necessary to correct any error in the assessment ~~but must make the~~
18 ~~aggregate of all assessments equal to the total amount required to pay the entire cost of the~~
19 ~~work for which the assessments are made, or the part of the cost to be paid by special~~
20 ~~assessment.~~ An assessment may not exceed the benefit as determined by the board to the
21 parcel of land or political subdivision assessed. The board shall ~~then~~ confirm ~~the an~~ assessment
22 list ~~and that~~ at the hearing. The secretary shall attach to the list a certificate ~~that the same~~ stating
23 the list is correct as confirmed by the board and shall file the list in the office of the secretary.

24 **SECTION 12. AMENDMENT.** Section 61-16.1-23 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **61-16.1-23. Appeal to department of water resources.**

27 After the hearing provided for in section 61-16.1-22, affected landowners and any political
28 subdivision subject to assessment, having not less than twenty percent of the possible votes as
29 determined by section 61-16.1-20, ~~whewhich~~ which believe the assessment was not made fairly or
30 equitably or the project is not located or designed properly, may appeal to the department of
31 water resources by petition, within ten days after the hearing on assessments, to ~~make a review~~

1 of the assessments and to examine the location and design of the proposed project. Upon
2 receipt of the petition the department shall examine the lands assessed and the location and
3 design of the proposed project, and if it appears the assessments were not made equitably, the
4 department may correct the assessments, subject to section 6 of this Act, and the department's
5 correction and adjustment of the assessment is final. If the department believes the project was
6 located or designed improperly, the department may order a relocation and redesign that must
7 be followed in the construction of the proposed project. Upon filing a bond for two hundred fifty
8 dollars with the board for the payment of the costs of the department in the matter, any
9 landowner or political subdivision claiming the landowner or political subdivision will receive no
10 benefit from the construction of a new project may appeal that issue to the department within
11 ten days after the hearing on assessments. Upon an appeal by an individual landowner or
12 political subdivision, the department may determine whether there is any benefit to the
13 landowner or political subdivision, but not the specific amount of benefit. The determination of
14 the department regarding whether there is a benefit is final.

15 **SECTION 13. REPEAL.** Section 61-16.1-01 of the North Dakota Century Code is repealed.