

**SENATE BILL NO. 2441**

Introduced by

Senators Holmberg, Schneider

Representative Dahl

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to amend and reenact section 40-23-07 of the North Dakota Century Code,  
2 relating to exemption of cemetery property from special assessment; to provide a statement of  
3 legislative intent; to provide an effective date; and to declare an emergency.

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

5 **SECTION 1. AMENDMENT.** Section 40-23-07 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **40-23-07. Determination of special assessments by commission - Political**

8 **subdivisions not exempt.** Whenever the commission makes any special assessment, the  
9 commission shall determine the particular lots and parcels of land which, in the opinion of the  
10 commission, will be especially benefited by the construction of the work for which the  
11 assessment is to be made. The commission shall determine the amount in which each of the  
12 lots and parcels of land will be especially benefited by the construction of the work for which  
13 such special assessment is to be made, and shall assess against each of such lots and parcels  
14 of land such sum, not exceeding the benefits, as ~~shall be~~ is necessary to pay its just proportion  
15 of the total cost of such work, or of the part thereof which is to be paid by special assessment,  
16 including all expenses incurred in making such assessment and publishing necessary notices  
17 with reference thereto and the per diem of the commission. However, as an alternative to the  
18 procedure ~~heretofore~~ provided in this section, the special assessment commission may, in its  
19 discretion, determine and allocate the cost of special assessments in accordance with the  
20 method provided for in chapter 40-23.1. Property owned by a nonprofit entity and used  
21 exclusively as a cemetery is exempt from assessment or collection of special assessments for  
22 benefits conferred under this chapter. Benefited property belonging to counties, cities, school  
23 districts, park districts, and townships ~~shall be~~ is not be exempt from such assessment, and such  
24 public corporations whose property is so assessed shall provide for the payment of such

1 assessments, installments thereof and interest thereon, by the levy of taxes according to law.  
2 Nothing in this section ~~shall~~ may be deemed to amend other provisions of law with reference to  
3 the levy of assessments on property sold for delinquent taxes.

4           **SECTION 2. LEGISLATIVE INTENT.** It is the intent of the sixty-first legislative  
5 assembly by enactment of this Act to confirm and continue the 1970 North Dakota supreme  
6 court decision holding that special assessments upon the property of a cemetery owned by a  
7 nonprofit corporation are void and that the supreme court decision has governed imposition of  
8 special assessments, at a minimum, since the time of that decision.

9           **SECTION 3. EFFECTIVE DATE.** This Act is effective for assessment or collection of  
10 special assessments regardless of the date of the assessment.

11           **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.