

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1380

Introduced by

Representatives Keiser, Kasper

1 A BILL for an Act to create and enact chapter 40-22.2 of the North Dakota Century Code,
2 relating to creation of safety and emergency services improvement districts and levy of special
3 assessments against certain property exempt from property taxes for a share of the cost of
4 providing law enforcement, fire, and ambulance service benefiting those properties.

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

6 **SECTION 1.** Chapter 40-22.2 of the North Dakota Century Code is created and enacted as
7 follows:

8 **40-22.2-01. Special assessments for safety and emergency services - Safety and**
9 **emergency services defined.**

10 A municipality may provide for the levy of special assessments against certain property not
11 subject to property taxes for the equitable share of the cost of safety and emergency services
12 provided by the municipality which benefit such property. The governing body of the municipality
13 may make and execute necessary or convenient agreements to exercise the powers and
14 functions under this chapter, including joint powers agreements and contracts with any entity. In
15 planning and administering an improvement district under this chapter, the governing body may
16 include any work and materials which are deemed necessary or reasonably incidental to the
17 project. A municipality may not issue warrants, bonds, or any other form of indebtedness in
18 anticipation of the levy and collection of assessments under this chapter.

19 For purposes of this chapter, "safety and emergency services" means police, fire protection,
20 and ambulance services and directly related services which provide a benefit to all property in
21 the municipality. Provision of safety and emergency services to benefited properties is an
22 improvement project for purposes of this chapter.

23 **40-22.2-02. Safety and emergency services improvement districts to be created.**

1 For an improvement project under this chapter and defraying the costs of the project by
2 special assessments, a municipality may create and alter a safety and emergency services
3 improvement district by ordinance or resolution. The governing body of the municipality shall
4 designate the district by an appropriate name and by a number distinguishing it from other
5 improvement districts.

6 **40-22.2-03. Size and form of improvement district - Regulations governing.**

7 Any safety and emergency services improvement district created by a municipality may
8 embrace two or more separate property areas. A safety and emergency services improvement
9 district must include all property tax-exempt properties for which the owner's primary revenue
10 source is fees charged to users or clients or revenues from federal funding sources, or a
11 combination of both of those revenue sources, which in the judgment of the governing body,
12 after consultation with the city auditor or city auditor's designee planning the improvement, are
13 or will be benefited by the safety and emergency services provided by the municipality.
14 However, property of a governmental entity for which at least eighty percent of revenue comes
15 from state or local tax sources may not be included in a safety and emergency services
16 improvement district under this chapter. A district may be created without uniformity among the
17 types, items, or safety and emergency services to be used at particular locations throughout the
18 district. The jurisdiction of a municipality to make, finance, and assess the cost of any safety
19 and emergency services improvement project may not be impaired by any lack of commonness,
20 unity, or singleness of the location, purpose, or character of the properties included in the
21 district. Upon receipt of a petition signed by the owners of three-fourths of the area to be added
22 to a safety and emergency services improvement district in which an improvement is proposed
23 or created, the governing body may enlarge the district. Any district created under this chapter
24 shall include only property exempt from property taxes and which is benefited by safety and
25 emergency services provided by the municipality.

26 **40-22.2-04. Auditor's report required - Contents.**

27 After a safety and emergency services improvement district has been created, the
28 governing body of a municipality, to make any of the improvements set out in section 40-22.2-01
29 in the manner provided in this chapter, shall direct the city auditor for the municipality or some
30 other person, group, or entity to prepare a report as to the general nature, purpose, and cost of
31 safety and emergency services to property in the improvement district as a share of the cost of

1 the services relative to the share of the cost of the services imposed upon taxable property in
2 the municipality.

3 **40-22.2-05. Approval of plans, specifications, and estimates.**

4 At any time after receiving the report required by section 40-22.2-04, the governing body
5 may direct the city auditor or other person, group, or other entity preparing the report to prepare
6 detailed plans and specifications concerning the improvement. The plans and specifications
7 must be approved by a resolution of the governing body of the municipality. The plans,
8 specifications, and estimates are the property of the municipality and must be filed in the office
9 of the city auditor and shall remain on file in that office subject to inspection by the public.

10 **40-22.2-06. Resolution declaring improvements necessary - Contents of resolution -**
11 **Publication of resolution.**

12 After the report required by section 40-22.2-04 has been filed and approved, the governing
13 body of the municipality shall declare by resolution that it is necessary to make the
14 improvements. A resolution is not required if the governing body determines that a written
15 petition for the improvement, signed by the owners of a majority of the area of the property
16 included within a district, has been received. The resolution must refer intelligibly to the report
17 and must include a map of the municipality showing the proposed safety and emergency
18 services improvement district. The resolution must be published once each week for two
19 consecutive weeks in the official newspaper of the municipality.

20 **40-22.2-07. Abbreviations, letters, and figures may be used in proceedings for levy**
21 **and collection of special assessments.**

22 In all proceedings for the levy and collection of special assessments abbreviations, letters,
23 and figures may be used to denote full or partial additions, lots, blocks, sections, townships, and
24 ranges or years, days of the month, and amounts of money.

25 **40-22.2-08. City auditor to keep complete record of improvements - Record as**
26 **evidence.**

27 The city auditor shall keep a complete record of all the proceedings in the matter of making
28 any improvements under this chapter. The records must include all reports, confirmations,
29 petitions, orders, appointments of commissioners, notices and proofs of publication, and
30 resolutions of the governing body. The records, a certified transcript of the records, or the
31 original papers, proofs, publications, orders, or resolutions on file in the auditor's office may be

1 admitted in evidence in any court or place in this state without further proof as evidence of the
2 facts they contain.

3 **40-22.2-09. Defects and irregularities in improvement proceedings are not fatal.**

4 If the proceedings are for a lawful purpose, unaffected by fraud, and do not violate any
5 constitutional limitation or restriction, defects or irregularities in proceedings under this chapter
6 do not invalidate the proceedings. No action may be commenced or maintained and no defense
7 or counterclaim in any action may be recognized in the courts of this state founded on any
8 defects or irregularities in proceedings under this chapter, unless commenced within thirty days
9 of the adoption of the resolution of the governing body imposing assessments for the
10 improvement.

11 **40-22.2-10. Reduction of property tax levy.**

12 Upon imposition of special assessments for an equitable share of the cost of safety and
13 emergency services upon property in the improvement district relative to the share of the cost of
14 the services imposed upon taxable property in the municipality under this chapter, the governing
15 body of the municipality shall provide an equivalent reduction in the property taxes levied for the
16 cost of safety and emergency services upon taxable property in the municipality.

17 **40-22.2-11. Governing body to hear and determine appeals and objections to**
18 **assessments - Altering assessments - Limitations.**

19 At the regular or special meeting of the governing body at which the assessment list is to be
20 acted upon, any person aggrieved by the determination of the special assessment commission
21 in regard to any assessment may appear before the governing body and present the person's
22 reasons why the assessment of the person's property should not be confirmed. The governing
23 body shall hear and determine the appeals and objections and may increase or diminish any of
24 such assessments as it may determine just, except that the aggregate amount of all the
25 assessments returned by the commission may not be changed and no assessments as
26 adjusted may exceed the benefits to the parcel of land on which it is assessed as determined by
27 the assessment commission.