

Introduced by

Representatives Kreun, Frantsvog, J. Nelson, Boe

Senators Burckhard, Laffen, Sorvaag

1 A BILL for an Act to amend and reenact sections 61-16.1-17, 61-16.1-18, 61-16.1-19,
2 61-16.1-20, 61-16.2-21, 61-16.1-22, 61-16.1-24, and 61-16.1-28 of the North Dakota Century
3 Code, relating to financing water resource district projects.

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

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

7 **61-16.1-17. Financing of special improvements - Procedure.**

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

22 **SECTION 2. AMENDMENT.** Section 61-16.1-18 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **61-16.1-18. Hearing - Notice - Contents.**

2 Upon the filing of the engineer's report provided for in section 61-16.1-17, and after
3 satisfying the requirements of section 61-16.1-21, the water resource board shall fix a date and
4 place for public hearing on the proposed project. The place of hearing must be in the vicinity of
5 the proposed project and must be convenient and accessible for the majority of the landowners
6 subject to assessment for the project or whose property is subject to condemnation for the
7 proposed project. The board shall cause a complete list of the benefits and assessments to be
8 made, setting forth each county, city, school district, park district, township, or city ~~other political~~
9 subdivision assessed in its corporate capacity as well as each lot, piece, or parcel of land
10 assessed, the amount each is benefited by the improvement and the amount assessed against
11 each; however, the board may only assess land, counties, townships, and cities in North
12 Dakota. At least ten days before the hearing, the board shall file with the county auditor of each
13 county or counties in which the project is or will be located the list showing the percentage
14 assessment against each parcel of land benefited by the proposed project and the approximate
15 assessment in terms of money apportioned thereto. ~~Notice of the filing must be included in the~~
16 ~~notice of hearing;~~ the list will indicate each landowner as shown by the tax rolls of the county or
17 counties in which the affected property is located Notices of the hearing must contain a copy of
18 the resolution of the board as well as the time and place where the board will conduct the
19 hearing. The notice of hearing must specify the general nature of the project as finally
20 determined by the engineer and the board. The notice of hearing must also specify when and
21 where votes concerning the proposed project may be filed. The board shall mail notice of the
22 filing of the assessment list showing the ~~with the county auditor of each county or counties,~~
23 along with notice to each landowner of their percentage assessment against each parcel of land
24 ~~benefited by the proposed project and the~~ their approximate assessment in terms of money
25 ~~apportioned thereto, along with a copy of the notice of the hearing, must be mailed to each~~
26 affected landowner at the landowner's address as shown by the tax rolls of the county or
27 counties in which the affected property is located. The board may send the ~~assessment list and~~
28 notice by regular mail attested by an affidavit of mailing signed by the attorney or secretary of
29 the board. The board shall cause the notice of hearing to be published once a week for two
30 consecutive weeks in the newspaper or newspapers of general circulation in the area in which
31 the affected landowners reside and in the official county newspaper of each county in which the

1 benefited lands are located. The date set for the hearing must not be less than twenty days
2 after the mailing of the notice. A record of the hearing must be made by the board, including a
3 list of affected landowners present in person or by agent, and the record must be preserved in
4 the minutes of the meeting. Affected landowners, and the governing body of any county, city,
5 school district, park district, township, or cityother political subdivision to be assessed, must be
6 informed at the hearing of the probable total cost of the project and their individual share of the
7 cost and the portion of their property, if any, to be condemned for the project.

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

10 **61-16.1-19. Voting on proposed projects.**

11 At the hearing, the affected landowners, and any county, city, school district, park district,
12 township, or cityother political subdivision to be assessed, must also be informed when and
13 where votes concerning the proposed project may be filed. Affected landowners, and the
14 governing body of any county, city, school district, park district, township, or cityother political
15 subdivision to be assessed, have thirty days after the date of the hearing to file their votes with
16 the secretary of the water resource board concerning the project. Once the deadline for filing
17 votes has been reached, no more votes may be filed and no person may withdraw a vote. Any
18 withdrawal of a vote concerning the proposed project before that time must be in writing. When
19 the votes have been filed and the deadline for filing votes has passed, the board shall
20 immediately determine whether the project is approved. If the board finds that fifty percent or
21 more of the total votes filed are against the proposed project, then the vote constitutes a bar
22 ~~against proceeding further with the project~~ collecting special assessments under this chapter
23 61-16.1. If the board finds that the number of votes filed against the proposed project is less
24 than fifty percent of the votes filed, the board shall issue an order establishing the proposed
25 project and may proceed, after complying with the requirements of sections 61-16.1-21 and
26 61-16.1-22, to contract or provide for the construction or maintenance of the project in
27 substantially the manner and according to the forms and procedure provided in title 40 for the
28 construction of sewers within municipalities. In addition, the board may direct its engineer to
29 prepare profiles, plans, and specifications of the project. The board may enter into an
30 agreement with any federal or state agency under the terms of which the contract for the project
31 is to be let by the federal agency, the state agency, or a combination thereof. In projects in

1 which there is an agreement that a party other than the board will let the contract, the board
2 may dispense with all of the requirements of title 40. Upon making an order establishing or
3 denying establishment of a project, the board shall publish notice of the order in a newspaper of
4 general circulation in the area in which the affected landowners reside and in the official county
5 newspaper of each county in which the benefited lands are located. Any right of appeal begins
6 to run on the date of publication of the notice. As used in this section, "board" means water
7 resource board.

8 **SECTION 4. AMENDMENT.** Section 61-16.1-20 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **61-16.1-20. Voting right or powers of landowners.**

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

24 **SECTION 5. AMENDMENT.** Section 61-16.1-21 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **61-16.1-21. Assessment of cost of project.**

27 Whenever the water resource board proposes to make any special assessment under the
28 provisions of this chapter, the board, prior to the hearing required under section 61-16.1-18,
29 shall inspect any and all lots and parcels of land, which may be subject to assessment and shall
30 determine from the inspection the particular lots and parcels of lands which, in the opinion of the
31 board, will be especially benefited by the construction of the work for which the assessment is

1 made and shall assess the proportion of the total cost of acquiring right of way and constructing
2 and maintaining such improvement in accordance with benefits received but not exceeding
3 such benefits, against:

4 1. Any North Dakota county, city, school district, park district, township, or city other
5 political subdivision, in its corporate capacity, which may be benefited directly or
6 indirectly thereby.

7 2. Any lot, piece, or parcel of land in North Dakota which is directly benefited by such
8 improvement.

9 In determining benefits the board shall consider, among other factors, property values, degree
10 of improvement of properties, productivity, and the water management policy as expressed in
11 section 61-16.1-15. Property belonging to the United States shall be exempt from such
12 assessment, unless the United States has provided for the payment of any assessment which
13 may be levied against its property for benefits received. Benefited property belonging to
14 counties, cities, school districts, park districts, ~~and townships~~, and other political subdivisions
15 shall not be exempt from such assessment and political subdivisions whose property is so
16 assessed shall provide for the payment of such assessments, installments thereof, and interest
17 thereon, by the levy of taxes according to law. Any county, city, school district, park district,
18 township, or city other political subdivision assessed in its corporate capacity for benefits
19 received shall provide for the payment of such assessments, installments thereof, and interest
20 thereon from its general fund or by levy of a general property tax against all the taxable property
21 therein in accordance with law. No tax limitation provided by any statute of this state shall apply
22 to tax levies made by any such political subdivision for the purpose of paying any special
23 assessments made in accordance with the provisions of this chapter. There shall be attached to
24 the list of assessments a certificate signed by a majority of the members of the board certifying
25 that the same is a true and correct assessment of the benefit therein described to the best of
26 their judgment and stating the several items of expense included in the assessment.

27 **SECTION 6. 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 to be published - Notice of hearing - Alteration of**
2 **assessments - Confirmation of assessment list - Filing.**

3 After entering an order establishing the project, the water resource board shall cause the-
4 assessment list notice of the filing of the assessment list with the county auditor of each county
5 or counties in which the project is or will be located to be published once each week for two
6 successive weeks in the newspaper or newspapers of general circulation in the district and in
7 the official county newspaper of each county in which the benefited lands are located together
8 with a notice of the time when, and place where, the board will meet to hear objections to any
9 assessment by any interested party, or an agent or attorney for that party. The board also shall
10 mail a copy notice of the filing of the assessment list with the county auditor of each county or
11 counties, along with notice to each landowner of their percentage assessment and their
12 approximate assessment in terms of money; the board will mail the notice to each affected
13 landowner at the landowner's address as shown by the tax rolls of the county or counties in
14 which the affected property is located. The date set for the hearing may not be less than twenty
15 days after the mailing of the notice. At the hearing, the board may make such alterations in the
16 assessments, and may add or excluded properties, as in its opinion may be just and necessary
17 to correct any error in the assessment but must make the aggregate of all assessments equal to
18 the total amount required to pay the entire cost of the work for which the assessments are
19 made, or the part of the cost to be paid by special assessment. An assessment may not exceed
20 the benefit as determined by the board to the parcel of land or political subdivision assessed.
21 The board shall then confirm the assessment list and the secretary shall attach to the list a
22 certificate that the same is correct as confirmed by the board and shall file the list in the office of
23 the secretary.

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

26 **61-16.1-24. When assessments may be made.**

27 After the requirements of this chapter have been satisfied and a contract and bond for any
28 work for which a special assessment is to be levied have been approved by the water resource
29 board, the board may direct special assessments to be levied for the payment of appropriate
30 costs, and the secretary shall certify to the board the items of total cost to be paid by special
31 assessments so far as they have been ascertained. The certificate shall include the estimated

1 construction cost under the terms of any contract, a reasonable allowance for cost of extra work
2 which may be authorized under the plans and specifications, acquisition of right of way,
3 engineering, fiscal agents' and attorney's fees for any services in connection with the
4 authorization and financing of the improvement, cost of publication of required notices, and
5 printing of improvement warrants, cost necessarily paid for damages caused by such
6 improvement, interest during the construction period, and all expenses incurred in making the
7 improvement and levy of assessments.

8 In no event shall ~~any contract or contracts be awarded~~the board assess the land benefited
9 by the proposed project an amount which exceedexceeds, by twenty percent or more, the
10 estimated cost of the project as presented to andassessments contained in the final
11 assessment list approved by the ~~affected landowners~~board in accordance with section
12 61-16.1-22.

13 **SECTION 8. AMENDMENT.** Section 61-16.1-28 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **61-16.1-28. Certification of assessments to county auditor.**

16 When a water resource board, by resolution, has caused special assessments to be levied
17 to cover the cost of constructing a project, the board shall determine the rate of interest unpaid
18 special assessments shall bear, which rate shall not exceed one and one-half percent above
19 the warrant rate. Interest on unpaid special assessments shall commence on the date the
20 assessments are finally confirmed by the board. Special assessments may be certified and
21 made payable in equal annual installments, the last of which shall be due and payable not more
22 than ~~thirty~~fifty years after the date of the warrants to be paid. The secretary of the district shall
23 certify to the county auditor of the county in which the district is situated, or if the district
24 embraces more than one county, to the county auditor of each county in which district lands
25 subject to such special assessments are situated, the total amount assessed against such
26 lands in that county and the proportion or percentage of such amount assessed against each
27 piece, parcel, lot, or tract of land. The secretary of the district shall also file with the county
28 auditor of each county in which district lands lie a statement showing the cost of the project, the
29 part thereof, if any, which will be paid out of the general taxes, and the part to be financed by
30 special assessments. Funds needed to pay the cost of maintaining a project may be raised in
31 the same manner as funds were raised to meet construction costs. If the project was financed in

Sixty-third
Legislative Assembly

- 1 whole or in part through the use of special assessments, the water resource board shall prorate
- 2 the costs of maintaining projects in the same proportion as were the original costs of
- 3 construction or, in the event a reassessment of benefits has been adopted, the costs shall be
- 4 prorated in accordance with the reassessment of benefits as authorized by section 61-16.1-54.