

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2037

Introduced by

Legislative Management

(Water Drainage Committee)

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

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.~~ "Direct benefits" and "directly" in regard to benefits mean a measurable or quantifiable
18 benefit to a piece or parcel of land that is attributable to the project.
- 19 ~~11.~~ "District" means a water resource district.
- 20 ~~7.12.~~ "Frivolous" means allegations and denials in any complaint filed with a district made
21 without reasonable cause and not in good faith.
- 22 ~~13.~~ "Indirect benefits" and "indirectly" in regard to benefits mean a public good or shared
23 benefit that is not directly attributable to an individual piece or parcel of land.
- 24 ~~8.14.~~ "Project" means any undertaking for water conservation; flood control; water supply;
25 water delivery; erosion control and watershed improvement; drainage of surface
26 waters; collection, processing, and treatment of sewage; or discharge of sewage
27 effluent; or any combination thereof, ~~including~~ of purposes in this subsection, and
28 includes incidental features of any such ~~the~~ undertaking.
- 29 ~~9.15.~~ "Water resource board" means the water resource district's board of managers.

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

1 **61-16.1-09.1. Watercourses, bridges, and low-water crossings.**

- 2 1. A water resource board may undertake the snagging, clearing, and maintaining of
3 natural watercourses and the debris removal of bridges and low-water crossings. The
4 board may finance the project in whole or in part with funds raised through the
5 collection of a special assessment levied against the land and premises benefited by
6 the project. The benefits of a project must be determined in the manner provided in
7 section ~~61-16.1-177~~ of this Act. Revenue from an assessment under this section may
8 not be used for construction of a drain or reconstruction or maintenance of an existing
9 assessment drain. Any question as to whether the board is maintaining a natural
10 watercourse or is constructing a drain or reconstructing or maintaining an existing
11 assessment drain must be resolved by the department of water resources. All
12 provisions of this chapter apply to assessments levied under this section except:
- 13 a. An assessment may not exceed fifty cents per acre [.40 hectare] annually on
14 agricultural lands and may not exceed fifty cents annually for each five hundred
15 dollars of taxable valuation of nonagricultural property; and
- 16 b. If the assessment is for a project costing less than one hundred thousand dollars,
17 no action is required for the establishment of the assessment district or the
18 assessments except the board must approve the project and assessment by a
19 vote of two-thirds of the members and the board of county commissioners of the
20 county in which the project is located must approve and levy the assessments to
21 be made by a vote of two-thirds of its members.
- 22 (1) If a board that undertakes a project finds the project will benefit lands
23 outside water resource district boundaries, the board shall provide notice to
24 the water resource board where the benefited lands are located together
25 with the report prepared under section 61-16.1-17.
- 26 (2) The board of each water resource district containing lands benefited by a
27 project must approve the project and assessment by a vote of two-thirds of
28 its members. The board of county commissioners in each county that
29 contains lands benefited by a project must approve and levy the
30 assessment to be made by a vote of two-thirds of its members.

1 (3) If a project and assessment is not approved by all affected water resource
2 boards and county commission boards, the board of each water resource
3 district and the board of county commissioners of each county shall meet to
4 ensure all common water management problems are resolved pursuant to
5 section 61-16.1-10. In addition, the water resource board that undertakes
6 the project may proceed with the project if the board finances the cost of the
7 project and does not assess land outside the boundaries of the district.

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

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

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

19 **61-16.1-12.1. Water resource boards - Agreements with state or federal agencies for**
20 **certain improvements.**

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

1 ~~properties which in the judgment of~~benefited property as determined by the board,
2 after consultation with a registered engineer designated by the board for that purpose,
3 ~~will be benefited by the construction of the proposed project,~~ and the board shall direct
4 the engineer to prepare a map showing the boundaries of the proposed assessment
5 district.

6 2. The board by resolution shall ~~by resolution~~ declare the necessity of the project, set
7 forth the general nature and purpose of the proposed project, estimate the total cost of
8 the project; and the approximate amount or fraction of the cost ~~which~~ the district will be
9 obligated to pay under the agreement, and the fact ~~that~~ this amount, or a lesser
10 amount as the board may specify, is proposed to be paid by the levy of special
11 assessments upon benefited property within the assessment district ~~determined to be~~
12 ~~benefited by the project.~~ The board shall ~~cause~~email the resolution of necessity
13 ~~together with,~~ a copy of the map showing the boundaries of the assessment district,
14 and a notice stating the date and time by which the owners of any property liable to be
15 specially assessed for the proposed project must ~~file their~~cast votes on the proposed
16 project with the secretary of the board ~~to be mailed~~ to each affected landowner
17 ~~affected by the proposed project~~ as determined by the tax rolls of the county in which
18 the affected property is located. The board may send the material by certified mail or
19 by regular mail attested by an affidavit of mailing signed by the attorney or secretary of
20 the board. The notice must ~~also~~ set forth the time and place ~~where~~ the board shall
21 meet to determine whether the project is approved. The notice must ~~also~~ be published
22 once in a newspaper of general circulation in the district and once in the official county
23 newspaper of each county in which the ~~benefited lands are~~affected property is located.
24 Within five days after the first mailing of the resolution the board shall ~~cause~~serve a
25 copy of the resolution ~~to be personally served~~ upon any county, city, or township, in its
26 corporate capacity which may be benefited directly or indirectly from the construction
27 of the proposed project and upon any county ~~which~~that may become liable for any
28 deficiency in the fund to be created for the project, by delivering a copy of the
29 resolution to any member of the governing body ~~thereof~~of the county, city, or township.

30 3. The meeting must be held not less than thirty days after the mailing of the resolution,
31 at which time the board shall determine whether the project is approved. If the board

1 finds that fifty percent or more of the total votes filed are against a proposed project,
2 then the board may not proceed further with the proposed project. If the board finds
3 that less than fifty percent of votes filed are against the proposed project, the board
4 may proceed with the project. In any assessment district created under this section,
5 the board may dispense with ~~all other~~the requirements of this chapter, other than
6 those stated in this section.

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

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

17 **~~61-16.1-15. Financing project through revenue bonds, general taxes, or special-~~**
18 **~~assessments – Apportionment of benefits~~Initiating an assessment project - Policy.**

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

1 shall carry out to the maximum extent possible the water management policy of this chapter that
2 upstream landowners must share with downstream landowners the responsibility to provide for
3 the proper management of surface waters.

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

6 **61-16.1-17. Financing of special improvements - Procedure.**

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

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

28 **Public informational meeting and information presented - Procedure.**

29 1. Upon the filing of the engineer's preliminary report as provided for in section
30 61-16.1-17, the board or the board's agents shall create and by resolution approve a
31 preliminary analysis of the benefits and assessments to be made, setting forth each

- 1 county, township, or city assessed in its corporate capacity as well as each lot, piece,
2 or parcel of land assessed; the amount each would be benefited by the proposed
3 project; and the amount assessed against each in accordance with section 61-16.1-21
4 and section 7 of this Act.
- 5 2. After satisfying the requirements in subsection 1, the board by resolution shall set a
6 date and place for a public informational meeting on the proposed project. The place
7 of the hearing must be in the vicinity of the proposed project and must be convenient
8 and accessible for the majority of the landowners included in the project's benefited
9 area.
- 10 3. At least thirty days before the public informational meeting, the board shall mail notice
11 of the meeting to all parties in the benefited area, including:
- 12 a. Each landowner affected by the assessments;
13 b. The governing body of each county, township, city, or other political subdivision
14 affected by the assessments; and
15 c. An official from each railroad and road authority that may be crossed or impacted
16 by the proposed project.
- 17 4. Each landowner must be notified at the landowner's address as shown by the tax rolls
18 of the county or counties in which the affected property is located. The board shall
19 send the notice by regular mail attested by an affidavit of mailing signed by the
20 attorney or secretary of the board.
- 21 5. At the public informational meeting, the board or the board's agents shall present the
22 proposed project and preliminary design, the board's methodology for determining
23 benefits, and the approved preliminary cost-benefit analysis of the benefits and
24 assessments to be made. The board also shall allow the parties to offer comments
25 and recommendations. The board may alter the preliminary cost-benefit analysis as
26 the board deems just and necessary to include alterations to the proposed project, the
27 project's preliminary design, or assessments made under section 61-16.1-21.
- 28 6. The board's engineer shall file an updated engineer report which must include the
29 preliminary project plans and an updated estimate of the total estimated costs of the
30 project. The updated engineer's report also must identify any locations where the
31 project crosses a railroad, public road, or highway.

1 **SECTION 7.** A new section to chapter 61-16.1 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Determining costs and benefits for assessment projects - Limitations on**
4 **assessments.**

- 5 1. For each proposed assessment project, the board or the board's agents shall inspect
6 all lots, pieces, and parcels of land which may be subject to assessment for the
7 proposed project to gather information necessary to calculate the benefits, in dollars,
8 of the project to each lot, piece, or parcel. The calculation of benefits must occur
9 before the hearing on the project under section 61-16.1-18.
- 10 2. For each proposed assessment project that will cost one million dollars or more, the
11 water resource board shall prepare a cost-benefit analysis of the project before the
12 board may hold a hearing on the project under section 61-16.1-18. To prepare the
13 cost-benefit analysis, the board shall use the following criteria for determining the
14 direct benefits of a project:
- 15 a. If the project will provide an increase in market value;
16 b. If the project will provide an increase or improvement in agricultural production;
17 c. If the project will provide demonstrable residential, commercial, or industrial
18 development;
19 d. If the project will provide or furnish an outlet for tile or surface drainage;
20 e. If the project will provide flood damage reduction benefits; and
21 f. Present use of the property including existing public or private easements.
- 22 3. To prepare the cost-benefit analysis, the board shall use the following criteria for
23 determining indirect benefits of a project:
- 24 a. Protection value of public or utility services including emergency, water, sewer,
25 electric, telephone, internet, or other services or utilities;
26 b. Value provided to public safety;
27 c. Flood damage reduction benefits of public infrastructure;
28 d. Reduced costs of public services;
29 e. If the project will provide other consumptive or nonconsumptive value including
30 recreational opportunities; and

- 1 f. Value to upstream landowners as beneficiaries of improvements to watershed
2 management of surface waters.
- 3 4. In determining benefits, the board may use the economic analysis process developed
4 under section 61-03-21.4. Upon analyzing the criteria for direct and indirect benefits,
5 the board shall calculate, in dollars, the total benefits anticipated from the project and
6 the total costs anticipated for the project. If the calculated dollar amount of benefits
7 does not exceed the calculated dollar amount of costs, the board may not levy special
8 assessments for the project.
- 9 5. Although the costs of a project must be assessed against property in proportion to
10 benefits received from the project, a water resource board may not assess any lot,
11 piece, or parcel of land or any county, city, or township an amount exceeding the dollar
12 amount of benefits anticipated to accrue to the lot, piece, parcel, county, city, or
13 township from a project.
- 14 6. Property belonging to the United States is exempt from assessment for projects unless
15 the United States has provided for the payment of any assessment that may be levied
16 against the property for benefits received. Benefited property belonging to counties,
17 cities, school districts, park districts, and townships is not exempt from assessment,
18 and political subdivisions whose property is assessed shall provide for the payment of
19 the assessments, installments, and interest by the levy of taxes according to law. Any
20 county, township, or city assessed in its corporate capacity for benefits received shall
21 provide for the payment of the assessments, installments, and interest from the
22 political subdivision's general fund or by levy of a general property tax against all the
23 taxable property in the political subdivision in accordance with law. A tax limitation
24 provided by any statute of this state does not apply to tax levies made by a political
25 subdivision for the purpose of paying any special assessments made in accordance
26 with this chapter.

27 **SECTION 8. AMENDMENT.** Section 61-16.1-18 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **61-16.1-18. Hearing - Notice - Contents - Results of cost and benefit calculations.**

- 30 1. ~~Upon~~ Following the public informational meeting and upon the filing of the engineer's
31 report provided for in section 61-16.1-17, and after satisfying the requirements of

1 section ~~64-16.1-217~~ of this Act, the water resource board, by resolution shall ~~fix~~ set a
2 date and place for a public hearing on the proposed project. The place of hearing must
3 be in the vicinity of the proposed project and must be convenient and accessible for
4 the majority of the affected landowners ~~subject to assessment for the project or whose~~
5 ~~property is subject to condemnation for the proposed project.~~ The board shall cause a
6 complete list of the benefits and assessments to be made, ~~setting forth each county,~~
7 ~~township, or city assessed in its corporate capacity as well as each lot, piece, or parcel~~
8 ~~of land assessed, the amount each is benefited by the improvement and the amount~~
9 ~~assessed against each.~~

10 2. At least ten days before the hearing, the board shall file with the county auditor of each
11 county ~~or counties~~ in which the project is or will be located the list showing the
12 percentage assessment against each parcel of land benefited by the proposed project
13 and the approximate assessment in terms of money apportioned thereto results, in
14 dollars, of the assessments calculated under section 7 of this Act as well as the
15 engineer's report, preliminary plans, estimate of total project costs, and any locations
16 where the project crosses a railroad, public road, or highway. A certificate signed by a
17 majority of the members of the board attesting the assessments constitute a true and
18 correct valuation of the anticipated benefits and costs of the proposed project
19 described to the best of the members' judgment. Notice of the filing must be included
20 in the notice of hearing. Notices

21 3. At least thirty days before the hearing, the water resource board shall provide notice of
22 the hearing which must contain:
23 a. Include a copy of the resolution of the board ~~as well as to~~ proceed with the
24 project.
25 b. Specify the time and place ~~where the board will conduct~~ of the hearing. The notice
26 of hearing ~~must specify~~
27 c. Specify the general nature of the project as finally determined by the engineer
28 and the board. The notice of hearing ~~must also specify~~
29 d. Specify when and where votes concerning the proposed project may be filed. The
30 assessment list showing the percentage assessment against each parcel of land

- 1 benefited by the proposed project and the approximate assessment in terms of
2 money apportioned thereto, along with
- 3 e. Include a copy of the assessment list showing the amount of assessments
4 against each lot, piece, or parcel of land and against each county, township, city,
5 or other political subdivision that benefits from the project.
- 6 f. Include a method to access the cost benefit analysis a copy of the notice of the
7 hearing, must be.
- 8 g. Be mailed to each affected landowner at the landowner's address as shown by
9 the tax rolls of the county ~~or counties~~ in which the affected property is located.
10 The board may send ~~the assessment list and~~ notice by regular mail attested by
11 an affidavit of mailing signed by the attorney or secretary of the board. ~~The board~~
12 ~~shall cause the notice of hearing to be~~
- 13 h. Be published once a week for two consecutive weeks in the newspaper ~~or~~
14 ~~newspapers~~ of general circulation in the area ~~in which the affected landowners~~
15 ~~reside and in the official county newspaper of each county~~ in which the
16 ~~benefited~~affected lands are located.
- 17 4. The date set for the hearing must not be less than twenty days after the mailing of the
18 notice. A record of the hearing must be made by the board, ~~including~~include a list of
19 affected landowners present in person or by agent, and ~~the record must be preserved~~
20 in the minutes of the meeting. ~~Affected landowners, and the governing body of any~~
21 ~~county, township, or city to be assessed, must be informed at the hearing of the~~
22 ~~probable total cost of the project and their individual share of the cost and the portion~~
23 ~~of their property, if any, to be condemned for the project.~~
- 24 5. At the hearing, the board must inform those in attendance of:
- 25 a. The project assessments and district boundary including total costs of the project
26 and each party's share;
- 27 b. A cost-benefit analysis summary;
- 28 c. The project necessity and design; and
- 29 d. The voting process under section 61-16.1-19.

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

1 **61-16.1-19. Voting on proposed projects.**

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

28 **SECTION 10. AMENDMENT.** Section 61-16.1-20 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **61-16.1-20. Voting right ~~or powers~~ of landowners.**

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

15 **SECTION 11. AMENDMENT.** Section 61-16.1-21 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **61-16.1-21. Assessment of cost of project.**

18 ~~Whenever~~

- 19 1. ~~If~~ If the water resource board proposes to make any special assessment under the
20 ~~provisions of this chapter, the board, prior to~~before the hearing required under section
21 61-16.1-18, shall inspect ~~any and~~ all lots and parcels of land; which may be subject to
22 assessment and shall determine from the inspection the particular lots and parcels of
23 ~~lands~~land which, in the opinion of the board, will be especially benefited by the
24 construction of the work for which the assessment is made ~~and~~. The board shall
25 assess ~~the proportion of~~ the total cost of acquiring right of way and constructing and
26 maintaining ~~such improvement in accordance with~~the assessment project in proportion
27 to the benefits received ~~but not exceeding such benefits~~; against:
- 28 4. Any any county, township, or city, in its corporate capacity, which may be benefited
29 directly or indirectly ~~thereby~~.
- 30 2. ~~Any and any~~ lot, piece, or parcel of land which is directly benefited ~~by such~~
31 ~~improvement~~. However, no political subdivision or landowner may be assessed an

1 amount that exceeds the benefits the political subdivision or lands owned by the
2 landowner will derive from the assessment project.

3 2. In determining benefits the board shall consider, among other factors, property values,
4 degree of improvement of properties, and productivity, and the water management
5 policy as expressed in section 61-16.1-15. Property belonging to the United States
6 ~~shall be~~ exempt from ~~such~~the assessment, unless the United States has provided for
7 the payment of any assessment ~~which may~~to be levied against its property for benefits
8 received. Benefited property belonging to counties, cities, school districts, park
9 districts, and townships ~~shall not be~~not exempt from ~~such~~the assessment, and
10 political subdivisions whose property is so assessed shall provide for the payment of
11 ~~such~~the assessments, installments thereof, and interest thereon, by the levy of taxes
12 according to law. Any county, township, or city assessed in its corporate capacity for
13 benefits received shall provide for the payment of ~~such~~the assessments, installments
14 thereof, and interest thereon from ~~its~~the political subdivision's general fund or by levy
15 of a general property tax against all the taxable property ~~therein~~in the political
16 subdivision in accordance with law. ~~No tax limitation~~Tax limitations provided by any
17 statute of this state ~~shall~~do not apply to tax levies made by ~~any such~~a political
18 subdivision for the purpose of paying any special assessments ~~made in accordance~~
19 ~~with the provisions of~~under this chapter. ~~There shall be attached to the~~

20 3. Each list of assessments developed before the hearing on assessments under
21 section 61-16.1-22 for an assessment project under this chapter must have an
22 attached certificate signed by a majority of the members of the board certifying that the
23 ~~same~~the list of assessments is a true and correct assessment of the benefit-
24 ~~therein~~benefits and cost of the project described to the best of ~~their~~the board
25 members' judgment and stating. The certificate also must identify the several items of
26 expense included in the assessment.

27 **SECTION 12. 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 on assessments -**
2 **Alteration of assessments - Confirmation of assessment list - Filing.**

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

23 **SECTION 13. AMENDMENT.** Section 61-16.1-23 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **61-16.1-23. Appeal to department of water resources.**

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

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

14 **SECTION 14. REPEAL.** Section 61-16.1-01 of the North Dakota Century Code is repealed.

15 **SECTION 15. EXPIRATION DATE.** This Act is effective through July 31, 2027, and after
16 that date is ineffective.