

Testimony in Opposition to House Bill 1328  
January 18, 2023  
House Finance and Taxation Committee  
Bill Wocken on behalf of the North Dakota League of Cities

Good morning, Mr. Chairman and members of the House Finance and Taxation Committee. For the record, my name is Bill Wocken, appearing on behalf of the North Dakota League of Cities in opposition to House Bill 1328.

This bill requires that special assessments for an improvement assessed to property within a mobile home park not be made at a rate any greater than the rate for that special assessment levied against a single family property. This raises some very serious equity issues.

For a street construction project, this would mean that an entire mobile home park would be assessed the same rate as a single home even though the mobile home court may have 50 to 300 lots, each with its corresponding compliment of vehicles. This is hardly in keeping with the language of this section that discusses an equitable distribution of the costs of the project based on the benefits received. There should be some relationship between the cost allocation and the benefit based on the number of households or automobiles benefitting from the improvement.

The Legislature required cities of 10,000 population or more to adopt written policies to guide the assessment of the costs of these projects. (NDCC 40-22-01.2 attached). The policies established must provide for allocations for each kind of improvement and for the allocation methods for residential, commercial and agricultural properties. The policies could only be adopted after being presented and discussed at public hearings. This has been done and the policies approved in each city are functioning. A state pre-emption of these matters, as HB 1328 proposes, will be problematic to all parties.

The North Dakota League of Cities feels this bill promotes inequities in the special assessment cost allocation process and respectfully requests a Do No Pass recommendation for it. I would be happy to answer any questions you might have of me.

applicable to other special assessments are applicable hereto. Provided, however, that the provisions of sections 40-22-15, 40-22-17, and 40-22-18, relating to a resolution of necessity and protests against special assessments, sections 40-22-10, 40-22-11, and 40-22-29, relating to engineers' reports, plans, and estimates, and section 40-22-19, relating to contract proposals, do not apply to special assessment districts created under this section.

→ **40-22-01.2. Municipal policy providing special assessment determination methods for allocation of assessments among and within classes of property.**

Within five months of this section becoming applicable to a city, the governing body of each city with a population exceeding ten thousand shall adopt written policies, after a public hearing for consideration of the policies, which will be applied for cost allocation among properties benefited by a special assessment project. Policies established under this section must provide separately the policy that will be applied for cost allocation for each kind of special assessment and the cost allocation method for residential, commercial, and agricultural property and for any property subject to separate or special assessment factors or assessment rates.

**40-22-01.3. Power of municipality to defray expense of improvements - Infrastructure fee.**

1. Notwithstanding section 40-22-01, a municipality may levy and collect an infrastructure fee. The fee must replace a general special assessment on all property for payment of infrastructure maintenance costs through a utility bill issued by a municipality. The money collected under this subsection may not be used for any purpose other than infrastructure maintenance costs. If a municipality levies an infrastructure fee, the municipality also may levy and collect green field special assessments.
2. As used in this section:
  - a. "General special assessments" means special assessments levied for the purpose of maintaining existing roads and infrastructure and special assessments levied for the construction or repair of arterial roads and infrastructure that provide a benefit to the entire community.
  - b. "Green field special assessments" means special assessments levied for infrastructure costs associated with the development of agricultural or undeveloped property.

**40-22-02. Sewerage system - Establishment, maintenance, and alteration - Vote required.**

The governing body of any municipality may establish, maintain, and alter a general system of sewerage for the municipality in such manner and under such regulations as it shall deem expedient and proper. No action shall be taken for the establishment of a sewerage system except upon the affirmative vote of two-thirds of the members of the governing body. When a sewerage system is established, all measures necessary for the construction of sewers as a part of that system may be taken by a vote of the majority of the governing body.

**40-22-03. Acquiring property for sewers, water mains, and water supply beyond corporate limits.**

When it is necessary to conduct the sewage of a municipality beyond the municipal limits or to acquire a supply of water beyond such limits and to construct mains or aqueducts to conduct such water to the municipal limits, the governing body, by grant, purchase, or condemnation proceedings, may acquire private property over which to construct the sewer, or upon and over which to establish facilities for obtaining and storing such water supply and aqueducts or mains for conducting the same to the corporate limits. Public property may likewise be acquired for such purposes by grant or purchase from the government or public corporation owning the same. The cost of acquiring such property and of building such sewer or other facilities upon or over the property may be included in the cost of construction or acquisition of a municipal waterworks or sewerage system and in the special assessments levied therefor, or the entirety of such a project may be completed as an improvement to an existing waterworks or sewage