

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1389

Introduced by

Representatives Dockter, Heinert, Meier

Senator Dever

1 A BILL for an Act to amend and reenact ~~section~~sections 11-11-55.1, 40-22-01.3, and 57-15-41  
2 of the North Dakota Century Code, relating to infrastructure fees levied by cities and counties,  
3 and the exemption of infrastructure fees from levy limitations.

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

5 **SECTION 1. AMENDMENT.** Section 11-11-55.1 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **11-11-55.1. Petition or resolution for improvements - Levy of special assessments -**  
8 **Levy of infrastructure fee.**

- 9 1. The board of county commissioners of any county, by resolution or upon receipt of a  
10 petition of sixty percent of the landowners in a defined area, outside of the limits of any  
11 incorporated city, may install the petitioned improvements as benefit the defined area,  
12 provide for the financing of the improvements, and levy special assessments for the  
13 payment of all or part of the improvements within the defined area.
- 14 2. The board of county commissioners, by resolution or upon petition of sixty percent of  
15 the qualified electors who voted in the last general election in a defined area, may levy  
16 and collect an infrastructure fee in lieu of general special assessments on all  
17 residential and commercial county utility bills for payment of infrastructure  
18 maintenance costs. ~~If a home rule county levies an infrastructure fee, the home rule~~  
19 ~~county also may levy and collect green field special assessments.~~

- 1       3. In providing for the improvements, the county shall have the authority granted to  
2           municipalities in chapters 40-22, 40-23, 40-23.1, 40-24, 40-25, 40-26, 40-27, and  
3           40-28, and the county shall comply with the provisions of those chapters in making the  
4           improvements. Whenever action is required of city officials in those chapters, the  
5           comparable county officials shall take the action.
- 6       4. A county proposing a project to be funded by an infrastructure fee under this section  
7           shall create an infrastructure zone within the county for each proposed project.
- 8       5. The county shall mail to each utility account holder within the proposed infrastructure  
9           zone a notice of the proposed zone. The notice must include:
  - 10           a. The total cost of the proposed project;
  - 11           b. A description of the proposed project;
  - 12           c. The date and time of a public hearing on the proposed project; and
  - 13           d. A form on which the utility account holder may protest the fee, stating the  
14           deadline for a protest, which may not be fewer than thirty days from the date of  
15           the notice.
- 16       6. A county proposing a project to be funded by an infrastructure fee under this section  
17           shall hold a public hearing on the project. The public hearing must take place no  
18           earlier than fourteen days after the date of the notice, and before the deadline for the  
19           submission of protest forms.
- 20       7. If a county receives protest forms from a majority of utility account holders in a  
21           proposed zone the city may not proceed with the project in the proposed zone.
- 22       8. The county may begin a project after the time to protest has passed.
- 23       9. The rate of the fee assessed to commercial property under this section may not be  
24           more than two times the rate assessed to residential property.
- 25       10. If a home rule county levies an infrastructure fee, the home rule county also may levy  
26           and collect green field special assessments.
- 27       11. As used in this section:
  - 28           a. "General special assessments" means special assessments levied for the  
29               purpose of maintaining existing roads and infrastructure and special  
30               assessments levied for the construction or repair of arterial roads and  
31               infrastructure that provide a benefit to the entire community.

- 1           b. "Green field special assessments" means special assessments levied for  
2           infrastructure costs associated with the development of agricultural or  
3           undeveloped property.

4           **SECTION 2. AMENDMENT.** Section 40-22-01.3 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **40-22-01.3. Power of municipality to defray expense of improvements - Infrastructure**  
7 **fee.**

- 8           1. Notwithstanding section 40-22-01, a municipality may levy and collect an infrastructure  
9           fee. The fee must replace a general special assessment on all property for payment of  
10           infrastructure maintenance costs through a utility bill issued by a municipality. The  
11           money collected under this subsection may not be used for any purpose other than  
12           infrastructure maintenance costs. ~~If a municipality levies an infrastructure fee, the-~~  
13           ~~municipality also may levy and collect green field special assessments.~~
- 14           2. A city proposing a project to be funded by an infrastructure fee under this section shall  
15           create an infrastructure zone within the city for each proposed project.
- 16           3. The city shall mail to each utility account holder within the proposed infrastructure  
17           zone a notice of the proposed zone. The notice must include:
- 18           a. The total cost of the proposed project;  
19           b. A description of the proposed project;  
20           c. The date and time of a public hearing on the proposed project; and  
21           d. A form on which the utility account holder may protest the fee, stating the  
22           deadline for a protest, which may not be fewer than thirty days from the date of  
23           the notice.
- 24           4. A city proposing a project to be funded by an infrastructure fee under this section shall  
25           hold a public hearing on the project. The public hearing must take place no earlier than  
26           fourteen days after the date of the notice, and before the deadline for the submission  
27           of protest forms.
- 28           5. If a city receives protest forms from a majority of utility account holders in a proposed  
29           zone the city may not proceed with the project in the proposed zone.
- 30           6. The city may begin a project after the time to protest has passed.

1 7. The rate of the fee assessed to commercial property under this section may not be  
2 more than two times the rate assessed to residential property.

3 8. If a municipality levies an infrastructure fee, the municipality also may levy and collect  
4 green field special assessments.

5 9. As used in this section:

6 a. "General special assessments" means special assessments levied for the  
7 purpose of maintaining existing roads and infrastructure and special  
8 assessments levied for the construction or repair of arterial roads and  
9 infrastructure that provide a benefit to the entire community.

10 b. "Green field special assessments" means special assessments levied for  
11 infrastructure costs associated with the development of agricultural or  
12 undeveloped property.

13 **SECTION 3. AMENDMENT.** Section 57-15-41 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **57-15-41. Political subdivision tax levies for payment of special assessments exempt**  
16 **from levy limitations.**

17 ~~No tax~~Tax levy limitations provided by any statute of this state may not apply to tax levies by  
18 any county, city, school district, park district, or township for the purpose of paying any special  
19 assessments and any infrastructure fee provided in sections 11-09.1-05, 11-11-55.1,  
20 40-05.1-06, and 40-22-01.3 or paying debt service on bonds issued to prepay special  
21 assessments made in accordance with the provisions of title 40, against property owned by  
22 such county, city, school district, park district, or township. Any surplus in the special  
23 assessment fund after all of the special assessments for which the fund was created have been  
24 paid shall be placed in the general fund of the political subdivision.