

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1389

Introduced by

Representatives Dockter, Heinert, Meier

Senator Dever

1 A BILL for an Act to amend and reenact sections 11-11-55.1, 40-22-01.3, and 57-15-41 of the
2 North Dakota Century Code, relating to infrastructure fees levied by cities and counties, and the
3 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.~~
- 20 3. In providing for the improvements, the county shall have the authority granted to
21 municipalities in chapters 40-22, 40-23, 40-23.1, 40-24, 40-25, 40-26, 40-27, and
22 40-28, and the county shall comply with the provisions of those chapters in making the

1 improvements. Whenever action is required of city officials in those chapters, the
2 comparable county officials shall take the action.

3 4. A county proposing a project to be funded by an infrastructure fee under this section
4 shall create an infrastructure zone within the county for each proposed project.

5 5. The county shall mail to each utility account holder within the proposed infrastructure
6 zone a notice of the proposed zone. The notice must include:

7 a. The total cost of the proposed project;

8 b. A description of the proposed project;

9 c. The date and time of a public hearing on the proposed project; and

10 d. A form on which the utility account holder may protest the fee, stating the
11 deadline for a protest, which may not be fewer than thirty days from the date of
12 the notice.

13 6. A county proposing a project to be funded by an infrastructure fee under this section
14 shall hold a public hearing on the project. The public hearing must take place no
15 earlier than fourteen days after the date of the notice, and before the deadline for the
16 submission of protest forms.

17 7. If a county receives protest forms from a majority of utility account holders in a
18 proposed zone the city may not proceed with the project in the proposed zone.

19 8. The county may begin a project after the time to protest has passed.

20 9. The rate of the fee assessed to commercial property under this section may not be
21 more than two times the rate assessed to residential property.

22 10. If a home rule county levies an infrastructure fee, the home rule county also may levy
23 and collect green field special assessments.

24 11. As used in this section:

25 a. "General special assessments" means special assessments levied for the
26 purpose of maintaining existing roads and infrastructure and special
27 assessments levied for the construction or repair of arterial roads and
28 infrastructure that provide a benefit to the entire community.

29 b. "Green field special assessments" means special assessments levied for
30 infrastructure costs associated with the development of agricultural or
31 undeveloped property.

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

3 **40-22-01.3. Power of municipality to defray expense of improvements - Infrastructure**
4 **fee.**

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

1 9. As used in this section:

2 a. "General special assessments" means special assessments levied for the
3 purpose of maintaining existing roads and infrastructure and special
4 assessments levied for the construction or repair of arterial roads and
5 infrastructure that provide a benefit to the entire community.

6 b. "Green field special assessments" means special assessments levied for
7 infrastructure costs associated with the development of agricultural or
8 undeveloped property.

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

11 **57-15-41. Political subdivision tax levies for payment of special assessments exempt**
12 **from levy limitations.**

13 ~~No tax~~Tax levy limitations provided by any statute of this state may not apply to tax levies by
14 any county, city, school district, park district, or township for the purpose of paying any special
15 assessments and any infrastructure fee provided in sections 11-09.1-05, 11-11-55.1,
16 40-05.1-06, and 40-22-01.3 or paying debt service on bonds issued to prepay special
17 assessments made in accordance with the provisions of title 40, against property owned by
18 such county, city, school district, park district, or township. Any surplus in the special
19 assessment fund after all of the special assessments for which the fund was created have been
20 paid shall be placed in the general fund of the political subdivision.