

2019 HOUSE POLITICAL SUBDIVISIONS

HB 1307

2019 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee

Prairie Room, State Capitol

1/31/2019

HB 1307

Job # 31969

☐ Subcommittee

☐ Conference Committee

Committee Clerk: Carmen Hickle

Explanation or reason for introduction of bill/resolution:

Relating to special assessments

Minutes:

1 - 9

Chairman J. Dockter: Opened the hearing on HB 1307.

Rep. Satrom: (Handout # 1,2) Introduced HB 1307 by reading his testimony. When he campaigns the number one concern is property tax. This bill addresses this and there was a woman who could no longer afford to live in her own home. I'm suggesting a paradigm shift. People pay off their house and want to live out the rest of their days on their property. They have now been surrounded by other properties and receive an assessment for large amounts. How can we allow that to happen? The way the municipalities operate is like we don't care. You can show up for the public meetings to voice your concern, but not really listened to. Should we be adding to the indebtedness of people without giving them an equal increase in property value? They are putting a mortgage on people's property, people are being unfairly assessed.

Rep K. Koppelman: Could you walk us through what the bill actually does, and what the term special benefit that is listed in the bill means?

Rep. Satrom: What they are saying is unless your property is being improved to add value to it you can't just assess it.

Rep K. Koppelman: How does this work in Minnesota? You have a piece of property and it's improved around it or the city grows out to it, are you saying the value of your home if you were to sell it would be higher? How do they say

the only reason your value increase was because of your neighbors and we are not going to consider that assessment formula?

Rep. Satrom: Functionally what I'm asking you to consider is impossible. I want you to think outside of the box to understand we have problems.

Rep. Ertelt: If it is modeled after Minnesota law it would not be impossible, I assume they are proceeding with special assessments?

Rep. Satrom: One of the experts that was going to answer this could not be here.

Rep. Ertelt: Is that what we will receive in email testimony then?

Rep. Satrom: I will get you that information as well as an email describing some of this egregious behavior.

Terry Traynor: Associations of Counties. Special assessments in county government is generally for the improvement of streets in rural subdivisions. It is at the request of the citizens of those subdivisions. I would argue that this creates a liability on all the taxpayers of the county.

Stephanie Dassinger: Deputy Director and Attorney for ND League of Cities. (Handouts #3,4,5,6). Read her testimony.

Rep K. Koppelman: We heard that other states do this, have you looked into other states models and how they deal with some of these challenging issues?

Ms. Dassinger: I have not done a comprehensive review of how special assessments are done across the country. There have been interim studies that have looked it.

Shane Goettle: Assistant States Attorney of Minot. (Handout #7). Testimony was for Lance Meyer. He referenced the handout stating chip seal doesn't increase the market value of the property.

Rep. Ertelt: In the same way that chip seal doesn't increase the value of the property and that is maintaining it to keep in the same condition. Would you say that applies to property and in particular buildings themselves when someone needs to replace siding or roof?

Mr. Goettle: I think that is true. If you replace the roof you are adding to the value of the home. But it depends on the situation.

Rep K. Koppelman: We hear these things and the problem we run into is just because someone could afford a home 30 years ago doesn't mean they can afford the taxes and special assessments on a \$300,000 home today. How do we deal with the dilemma without driving people out of their homes?

Mr. Goettle: I think that question is beyond the scope of this bill.

Rep K. Koppelman: The reason I bring it up is because the sponsor indicated that it is that kind of dilemma that gave rise to the bill.

Mr. Goettle: This bill narrowly tries to tackle that through mechanism that has problems.

Dana Schaar Jahner: North Dakota Recreation and Park Association.
(Handout #8). Read her testimony.

Ken Vein: Grand Forks City Council. We are in opposition to the bill. It would be difficult to prove property value increases based on a particular assessment.

Rep. Guggisberg: Found the language from Minnesota. (Handout #9)

Chairman J. Dockter: Closed the hearing.

Rep K. Koppelman: Made a do not pass motion.

Rep. Adams: Second the motion.

Vote yes 11, no 2, absent 1.

Rep. Guggisberg will carry the bill.

Date: 1-31-19
Roll Call Vote #: L

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1307

House Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Koppelman Seconded By Rep. Adams

Representatives	Yes	No	Representatives	Yes	No
Chairman J. Dockter:	/				
Vice Chairman Pyle:	/				
Rep. Ertelt:		/			
Rep. Fegley:	/	/			
Rep. Hatlestad:	/				
Rep. Johnson	/				
Rep K. Koppelman:	/				
Rep. Longmuir	/				
Rep. Magrum:	/				
Rep. Simons:		/			
Rep. Toman:	/				
Rep. Strinden:	/				
Rep. Adams:	/				
Rep. Guggisberg	/				

Total (Yes) 11 No 2

Absent 1

Floor Assignment Rep. Guggisberg

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1307: Political Subdivisions Committee (Rep. Dockter, Chairman) recommends **DO NOT PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1307 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

HB 1307

From: Satrom, Bernie L. blsatrom@nd.gov

Date: Jan 31, 2019 at 2:37:30 PM

To: Satrom Bernie blsatrom@yahoo.com

HB 307

#1
1/31/19

Thank you Chairman and members of the committee. For the record. My name is Bernie Satrom and I am honored to serve the citizens of District 12.

I bring this bill before you on behalf of a constituent and to start a conversation.

I have had the privilege of knocking on every door in my district and ask my constituents what they thought were the most pressing issues they wanted addressed. With very few exceptions the number one concern was property taxes. .

I remember a single elderly woman who said she could no longer afford to live in her house because of her high taxes. Even though we don't levy the local taxes or spend the money we get much of the blame. But there is something that can be done. One of the abuses which have occurred has been the abuse in the area of assessments. What this bill attempts to address is cases where a significant amount of assessment or essentially debt is attached to the property in cases where it does not increase the value of the property. For someone like the elderly people This is patterned after the laws in the state of MN. What I am suggesting is a paradigm shift that would take effort.

Many taxpayers feel powerless. They offer meetings for the public to voice concerns where the taxpayers are in the words of one of my constituents Yawns, sighs and rolling of eyes.

Should someone be able to add indebtedness to your property without giving you an equal increase of value?

#2
From: Mike Swartz mike@dardisrealty.com
Subject: proposed assessment changes
Date: Jan 31, 2019 at 1:52:58 PM
To: Bernie Satrom blsatrom@yahoo.com

HB 1307

Dear Representative Satrom:

The purpose of this letter is to voice support for your plan to change the way special assessments are applied.

Having started my career in Minnesota and serving on a city council there I was familiar with how special assessments were applied to real estate. However, in Minnesota they can only assess for the value increase from the improvement. This may or may not coincide with the cost.

When I moved to North Dakota and invested here I was surprised by how assessments here are applied based on what the assessing body wants to assess. Regardless of it adds value to the property or not.

A college friend of mine became an attorney that practices in the area of government entities taking property from people without just compensation. He says it has something to do with the constitution of the United States. Particularly the part about not taking private property for government use without just compensation. That is what happens when citizens are unfairly assessed.

So it is my hope that your proposed bill can lead to a better way to do assessments in North Dakota.

Thank you.

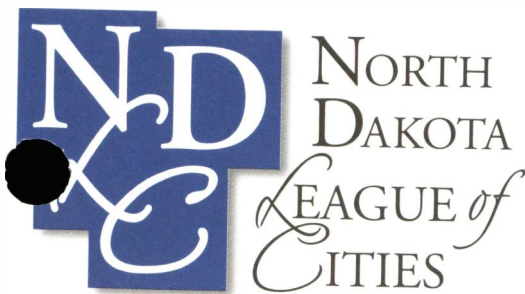
Michael J. Swartz

Jamestown, ND

Michael J. Swartz
Broker/Owner

Dardis Realty

701-252-5761/701-320-3241



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January 30, 2019

House Political Subdivisions Committee

HB 1307

Chairman Dockter and members of the committee, my name is Stephanie Dassinger and I am the deputy director and attorney for the North Dakota League of Cities. I appear before you today to express the League's opposition of HB 1307.

This bill has several sections but the largest change in the bill is to require that any special assessment for an improvement against a particular property cannot exceed what is termed a "special benefit." A "special benefit" is defined as the increase in the market value to the land being assessed for the improvement.

Under the bill, it appears that in addition to the engineer, the city attorney, and the bond counsel that are already involved in moving forward an improvement paid for through special assessments, now an assessor must be included in the process to make some type of analysis of market value increase on a property due to an improvement to water supply, sewer, streets, boulevards, and flood protection. Adding that additional step adds to the costs and time associated with these improvements.

Additionally, it appears an unintended consequence of this bill is that, if a city does not have the funds to pay for a necessary improvement through other revenues, it must wait until the infrastructure crumbles around a neighborhood to ensure that the improvement will increase the market value on the properties enough to pay for the cost of the improvement. This is bad public policy.

As such, the League urges the committee to vote DO NOT PASS on HB 1307.



City of Grand Forks
255 North Fourth Street • P.O. Box 5200 • Grand Forks, ND 58206-5200

Michael R. Brown
Mayor

(701) 746-2607
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TESTIMONY ON HOUSE BILL 1307

Political Subdivisions Committee

January 31, 2019

Paul Houdek, City Assessor

City of Grand Forks, ND

Mr. Chairman and members of the committee, my name is Paul Houdek, and I am the City Assessor for the City of Grand Forks. **I want to thank you for the opportunity to provide testimony and express my opposition to House Bill 1307.**

The special assessment amount is part of the consideration or the amount paid for a parcel. I believe that much of the confusion in terms of special assessments is the public perception that the special assessments are an additional tax. This is not the case. A special assessment is an assumption of debt that is tied to a parcel for some improvement that has been done on behalf the property owners in a special assessment district. It is more of a first mortgage on the property.

My concern with this bill is in regard to the definition of a "special benefit" and how it relates to the special assessment process. The bill states, *"As used in this title, "special benefit" means an increase in the market value of the parcel of land being assessed due to an improvement."*

At first, this seems like a reasonable requirement. After some thought, I believe, there are some unintended consequences that will cause problems for all projects and all jurisdictions if this bill passes. It would be difficult, at best, and impossible, in most cases to prove a property value increase based on a particular special assessment project. For example, new vacant lots would be easy to show an increase in value based on the existence of special assessments in large jurisdictions. We have enough market data of vacant lots, both improved and unimproved, to show how the project has affected the value. However, in many small jurisdictions this is not the case. Small jurisdictions will develop new lots and sell them for a loss just to incentivize people to build new homes. This legislation would make it difficult, if not impossible, for small jurisdictions to use the special assessment process at all for any reason. Another example would be a simple street resurfacing project in your neighborhood. I cannot see a way where anyone could prove that a special assessment in these cases has increased the market

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value of each property in the special assessment district because of the street resurfacing project. I do not believe the data for this would be available in even the largest cities, let alone the small towns across the state. Without the market data it would be impossible to prove any increase in value.

This bill does not address who is responsible for establishing whether or not each parcel would meet the requirements of the "special benefits". Since this is a question of value, I am assuming this would fall on the local assessor in most cases. Again, as an Assessor and a Certified General Real Property Appraiser, I do not believe that the market data would be there to support these conclusions in many cases and in many jurisdictions.

Thank you for your consideration.

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Testimony Presented on HB 1307 to the

Political Subdivisions Committee
Representative Jason Dockter, Chairman

Brenda Derrig, City Engineer
for City of Fargo

January 30, 2019

Mr. Chairman and Members of the Committee,

The City of Fargo is OPPOSED to House Bill 1307, which incorrectly conflates the "benefit" enjoyed by a property as a result of a public improvement with an increase in property value. Property valuation is a function of many factors, including the location of the property, the quality and extent of improvements that have been constructed upon the land, the age and level of upkeep of those improvements and any number of economic factors, known and unknown. Tons of legislative bills have been introduced over the ages which attempt to refine and control the methods for identifying the assessed value of properties for purposes of taxation and these efforts have been the subject of vigorous debate and disagreement, yet, HB 1307 limits the ability of cities to levy assessments because a certain property's value isn't increased in a particular year when an assessment is to be levied? The concepts are incongruous. Existing special assessment law is based on the concept that there can be benefit to the property regardless of its valuation, regardless of what is built on the property or how the property is owned.

There are countless examples where a property benefits from an improvement, but sees no increase in market value. A homeowner surely benefits from a newly surfaced roadway in front of their house, but may not see an increase in the market value of the home. Should a city wait for the roadway to deteriorate so drastically that the home values drop before fixing its roads, just so the "special benefit" definition can be met? A large retailer definitely benefits from a new arterial roadway, or an interstate interchange, as it gets their customers to their store easier. The benefit absolutely exists even though it may not increase the market value of the property. Take greenfield development, for example. There, lots are sold at market value with the assumption that infrastructure will be installed prior to construction of buildings and other improvements. The value of the lots does not increase upon the installation of the infrastructure. The concept of "special benefit" related to increase in valuation would be counter-productive in greenfield development.

Consider as well the unintended consequences of requiring all special assessments to generate a "special benefit" as is defined in HB 1307. Consider the property owner whose sanitary sewer service has failed and requests the City's assistance. Is there any reasonable

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argument that installation of functioning sanitary sewer service would not be a "benefit" to the property and its owner? Yet HB 1307 would only allow the City to recoup its costs from the benefited property owner if the City can prove an increase in market value? How would the city undertake such proof? Must the City obtain "before" and "after" appraisals of all properties affected? Who should suffer the cost of such appraisals? How should the costs be covered? Special assessment financing is an affordable means for many property owners to pay for their fair share of public infrastructure. If HB 1307 were enacted, with no increase to market value and therefore no opportunity to utilize special assessments, many property owners would struggle to finance necessary improvements.

The need to install and replace infrastructure will always be present; however, by limiting the amount that can be special assessed to the amount the market value is increased, this bill would unfairly shift the burden away from those that benefit. Again let's consider the homeowner who receives a newly surfaced roadway in front of his/her house. Under this bill, even though the property owner benefits from the improvement they cannot be special assessed if the improvements did not increase their market value. Since the need for improvements is necessary regardless, the improvements would need to be fully funded by the city. With the need for improvements always present, the city would need to raise revenues in other ways to pay for these improvements which would unfairly shift the burden away from those that benefit.

Asking cities to evaluate all special assessments against expected (predicted?) market value increases provides too much guess work. Also, because "benefit" and "valuation increase" are not related, property owners would be treated more unfairly, not less unfairly. Existing concepts of special assessment law support city policies promoting longevity, consistency, and uniformity. In other words, over the long haul, the application of benefit using consistent rules and concepts in a uniform manner will give cities and its property owners (and their tenants) the best chance to appropriately and fairly distribute public infrastructure costs throughout the city over time. Every property in the city will, at one time or another, be asked to share fairly in the cost of the city's roads, sewer, water, and other infrastructure costs.

The changes suggested in Section 3 of HB 1307, intermix the special assessment process with the condemnation process a city would use to acquire property for a public improvement and only confuses the two processes. The levying of special assessments is not a "taking" of property because the government levying the assessment is not taking possession of, or using, the property.

HB 1307, Section 4, adds the requirement for special assessments to be uniformly applied to the same class of properties and removes the authority delegated to city special

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assessment commissions and city governing bodies to assign benefit. In our experience, taking discretion away from city decision makers inhibits fairness, and promotes unfair and unjust results.

Changes contained in HB 1307, Sections 7 through 13, remove virtually all authority delegated to a city's special assessment commission and governing body to assign benefit as the concept is traditionally known and replaces it with the repeated and misguided requirement capping the benefit at the increased market value defined as "Special Benefit". This wholesale exchange of concepts lends not certainty but uncertainty to the outcome and will foster unfairness, not fairness, to the result.

CONCLUSION. The City of Fargo OPPOSES House Bill 1307 in particular the definition of "Special Benefit" and we urge a DO NOT PASS recommendation from your committee.

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House of Representatives Political Subdivisions Committee

Representative Jason Dockter, Chair

Representative Brandy Pyle, Vice-Chair

January 31, 2019

Chairman Dockter, Members of the House Political Subdivisions Committee:

My name is Keith Hunke and I am the City Administrator for the City of Bismarck.

I am providing written testimony on behalf of the City of Bismarck in opposition to House Bill 1307.

The Bismarck City Commission voted unanimously to oppose HB 1307.

My understanding of HB 1307 would lead me to believe that in order for a special assessment to be valid it must increase the market value of the parcel of land being specially assessed. Our experience in Bismarck would show special assessed improvements to a new parcel will have a positive influence on the market value of the parcel but that increase in market value usually does not have a direct correlation to the cost of the improvement. Tying the cost of new improvements to market valuation would conflict with the premise that market value is based on sales or construction costs of residential properties and also the income approach used for valuation of commercial properties.

Our experience also shows that street maintenance projects that are special assessed to existing parcels generally do not impact market values. My understanding is that if HB 1307 were to pass we could not special assess existing parcels for street maintenance projects because there is no increase in market value.

The changes to North Dakota Century Code defined in HB 1307 will have a negative impact on the City of Bismarck's ability to special assess street maintenance projects. There may also be adverse impacts to the market valuation of parcels in the City of Bismarck which could result in an unintended increase in property taxes.

On behalf of the City of Bismarck, I urge you to give HB 1307 a DO NOT PASS recommendation.

Thank you for the opportunity to provide testimony in opposition to House Bill 1307.

Keith J. Hunke, City Administrator
City of Bismarck
701-355-1300
khunke@bismarcknd.gov

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1-31-19

**North Dakota House of Representatives
Political Subdivision Committee
Chairman Jason Dockter**

January 31, 2019

By: Lance Meyer, P.E.
Minot City Engineer
lance.meyer@minotnd.org

HB 1307

Thank you for allowing me to submit my testimony regarding House Bill No. 1307.

The City of Minot has reviewed House Bill 1307 and has several concerns regarding the added language of special benefit.

First off, in discussions with the property assessing community, they state that there is not a direct correlation, formula, or other means to tie a special assessment project benefit to a property value. Some projects may have no effect on property values whatsoever, but are required to properly maintain the infrastructure the property owner relies on.

As an example, a street maintenance project such as a chip seal is required to prevent the pavement surface from deteriorating too quickly. The assessment may be \$1,000 for the property owner's share of the required work, but property will likely not increase by \$1,000 in value just because the street received the needed maintenance. Property owners with paved streets expect the street to be maintained. There is a cost to perform this maintenance work to ensure the street does not need a more costly maintenance activity or replacement sooner than expected. The ability to fund infrastructure maintenance cannot be tied to value, as in most cases, the correlation cannot be made, but the work must still be done.

The same is true if a water or sewer line is replaced due to age and condition. The property currently has service by those utilities, continues to expect service, and the property would likely not see an increase in value since those services already existed. With the proposed House Bill 1307, would the street and utilities have to degrade to a point where the condition is so serious the property essentially becomes worthless to finally justify the cost to replace them? I would suspect the public would not be in favor of that logic, which is the primary concern with the special benefit language of the bill.

The only foreseeable instance where special benefit may equal the amount special assessed is when a new, undeveloped parcel would receive the needed infrastructure for development to actually occur. In those cases, the land does become more valuable with improvements versus a raw piece of undeveloped land. Will the cost of the assessment equal the increase in land value? It is almost impossible to calculate until the improvements are completed. And, if the new assessed value does not equal the cost of the improvements, then the proposed bill states that a taking has occurred. That is a

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tremendous amount of risk for a city to accept in order to install necessary infrastructure for development.

The last concern stated by the City of Minot is in regards to the requirement that the assessment is uniform for each class of property assessed. This language hamstrings the City, special assessment commission, and governing body by not allowing unique factors to be taken into consideration. Perhaps a parcel has a special consideration such as shape, buildable area, or other consideration where the assessment should not be uniform like other classes of property. In those instances, consideration to the uniqueness of the district should be taken into consideration by the assessment process. A definition of "class of property" does not exist within the proposed changes in House Bill 1307. So, this could mean zoning, size, type, or other characteristic that are not defined and could cause issues for interpretation of the proposed language.

For these reasons, the City of Minot is opposed to the language in House Bill No. 1307 and asks for a Do Not Pass.



Testimony of Dana Schaar Jahner
North Dakota Recreation and Park Association
House Political Subdivisions Committee
Opposition to HB 1307
Thursday, January 31, 2019

Chairman Dockter and Members of the Committee, my name is Dana Schaar Jahner, and I am executive director of the North Dakota Recreation and Park Association (NDRPA). NDRPA represents more than 700 members across the state, primarily park districts, and works to advance parks, recreation and conservation for an enhanced quality of life in North Dakota. I am here on behalf of NDRPA to oppose House Bill 1307.

North Dakota's park districts build and maintain parks and recreation facilities through a variety of fund sources, including property taxes, state aid distribution fund payments, user fees, sponsorships, donations, grants, and special assessments. Demand for safe, affordable, and accessible parks and recreation facilities continues to increase across our state, and this bill limits financing options for park district infrastructure projects.

Park districts across the state use special assessments for important infrastructure, such as water, sewer, roads, parking lots, and trails, as well as for paying their share of city improvements assessed against park district property.

Tying the amount of special assessment to the market valuation, or "special benefit" as defined in this bill, is not realistic as the special benefit is the actual cost of the improvements and is not tied to, nor meant to be tied to, market valuation. Special assessments are a financing mechanism to allow political subdivisions to recoup the cost of infrastructure improvements. Limiting the use of special assessments would simply put more pressure on property taxes.

Local park boards, who are accountable to local taxpayers, should continue to have the flexibility to levy special assessments should it be in the best interest of the district to ensure public recreation facilities are accessible, affordable and safe for the public.

NDRPA supports a do not pass recommendation on HB 1307. Thank you.

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INFORMATION BRIEF
Research Department
Minnesota House of Representatives
600 State Office Building
St. Paul, MN 55155

Karen Baker, Legislative Analyst, 651-296-8959
Deborah A. Dyson, Legislative Analyst, 651-296-8291

Updated: September 2008

Special Assessments

Special assessments are one of the ways a local government may collect money to pay for local improvements. This information brief provides an overview of the law authorizing and governing special assessments for local improvements, and certain services and unpaid charges. It also describes the procedures a local government must follow in imposing special assessments. Finally, it provides some historical data on the trends in the use of special assessments in Minnesota.

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Copies of this publication may be obtained by calling 651-296-6753. This document can be made available in alternative formats for people with disabilities by calling 651-296-6753 or the Minnesota State Relay Service at 711 or 1-800-627-3529 (TTY). Many House Research Department publications are also available on the Internet at: www.house.mn/hrd/hrd.htm.

Special Assessments Defined

A special assessment is a charge imposed on real property to help pay for a local improvement that benefits the property.

The state constitution allows the legislature to authorize local governments to use special assessments to help pay for local improvements based on the benefit the improvement gives the property.¹

The legislature has long authorized local governments to levy special assessments to pay for specified local improvements. Since 1953, that authority has been primarily found in Minnesota Statutes, chapter 429.² Chapter 429 authorizes cities, towns, urban towns, and counties to make specific improvements described on the next page.³ Chapter 429 does not apply to home rule cities if their charters establish other procedures. To the extent a home rule charter city does not specify other procedures, it may use chapter 429.⁴

¹ Minn. Const. art. X § 1, provides: “The legislature may authorize municipal corporations to levy and collect assessments for local improvements upon property benefited thereby without regard to cash valuation.”

² There are a number of other statutes that authorize local improvements paid for with special assessments or other revenues that are not discussed in this information brief. *See, e.g.*, Minn. Stat. ch. 365A (town subordinate service districts); ch. 375B (county subordinate service districts); ch. 428A (special service districts, housing improvement areas); § 435.44 (sidewalk improvement districts); § 444.075, subd. 1a (waterworks, sewers, and storm sewers); §§ 444.16 to 444.21 (storm sewer improvement districts); and § 459.14 (parking facilities).

³ The purposes for which local governments are authorized to use special assessments depend on the applicable definition of “municipality.” There are three definitions in Minnesota Statutes, section 429.011:

(1) Subd. 2 (“‘Municipality’ means any city of the second, third, or fourth class however organized, or any statutory city or any town as defined in section 368.01”) (A town defined in section 368.01 is one with (a) platted portions where at least 1,200 reside, (b) platted area within 20 miles of the city hall of Minneapolis or St. Paul, or (c) a population of at least 1,000 that has determined to organize under chapter 368. It is commonly called “an urban town.”);

(2) Subd. 2a (“‘Municipality’ also includes a county in the case of construction, reconstruction, or improvement of a county state aid highway or county highway as defined in section 160.02 including curbs and gutters and storm sewers; a county exercising its powers and duties under section 444.075, subdivision 1; and a county for expenses not paid for under section 403.113, subdivision 3, paragraph (b), clause (3)”) and

(3) Subd. 2b (“‘Municipality’ also includes any town not having the powers granted herein pursuant to any other law in the case of construction, reconstruction or improvement of a town road including curbs and gutters and storm sewers and in the case of those improvements designated in section 429.021, subdivision 1, clauses (1), (2), (4), (5), (6), (7), (8), and (10)”).

⁴ Minn. Stat. § 429.021, subd. 3 (“When any portion of the cost of an improvement is defrayed by special assessments, the procedure prescribed in this chapter shall be followed unless the council determines to proceed under charter provisions.”); Minn. Stat. § 429.111 (A home rule charter city “may proceed either under this chapter or under its charter in making an improvement unless a home rule charter or amendment adopted after April 17, 1953, provides for making such improvement under this chapter or under the charter exclusively.”); *Singer v. City of Minneapolis*, 586 N.W.2d 804, 805 (Minn. App. 1998) (“Absent a specific charter or ordinance provision governing the assessment procedure, Minn. Stat. ch. 429 applies to special assessments made under [Minneapolis’s] home rule charter. *Gadey v. City of Minneapolis*, 517 N.W.2d 344, 348 (Minn. App. 1994), review denied (Minn. Aug. 24, 1994)”). See page 7 regarding laws that apply even when following charter procedures.

Local Improvements That May Be Paid for with Special Assessments

The list below provides a brief summary of the local improvements that local governments may pay for with special assessments.⁵ School districts cannot levy special assessments.

Cities, urban towns, other towns, counties

- Streets and roads. For cities and urban towns, these improvements include streets, sidewalks, pavement, gutters, curbs, vehicle parking strips, grading, graveling, oiling, beautification, and storm sewers or other street drainage and connections from sewer, water, or similar mains to curb lines.

For counties and other towns, street and road improvements include county state-aid highways and town roads, respectively, including curb, gutter, and storm sewer.

Cities, urban towns, other towns

- Storm and sanitary sewers and systems, including outlets, holding areas and ponds, treatment plants, pumps, lift stations, service connections, etc.
- Street lights, street lighting systems, and special lighting systems
- Water works systems, including mains, valves, hydrants, service connections, wells, pumps, reservoirs, tanks, treatment plants, etc.
- Parks, open space areas, playgrounds, and recreational facilities
- Tree planting on streets and tree trimming, care, and removal
- Abatement of nuisances, draining and filling swamps, marshes, and ponds on public or private property
- Retaining walls and area walls

Cities, urban towns

- Steam heating mains
- Dikes and other flood control works
- Pedestrian skyways and underground pedestrian concourses
- Public malls, plazas, or courtyards
- District heating systems
- Fire protection systems in existing buildings
- Highway sound barriers
- Municipal gas and electric distribution facilities
- Certain Internet access facilities
- Burial of electric, telecommunication, or cable wires in certain circumstances

Cities, urban towns, counties

- Enhanced 911 telephone service markers

⁵ Minn. Stat. § 429.021, subd. 1.

Determining the Amount of the Special Assessment

The assessment amount charged to the property cannot exceed the amount by which the property benefits from the improvement, as measured by the increase in the market value of the land due to the improvement. The assessment must be uniformly applied to the same class of property. A local improvement may benefit properties that are not abutting the improvement and those benefited properties also may be assessed.⁶

In order for a special assessment to be valid:

- the land must receive a special benefit from the improvement being constructed,
- the assessment must be uniform upon the same class of property, and
- the assessment may not exceed the special benefit. Special benefit is measured by the increase in the market value of the land owing to the improvement.

A special assessment that does not meet these requirements is an unconstitutional taking.⁷

The benefit is measured by the difference between what a willing buyer would pay a willing seller for the property before and after the improvement, based on the highest and best use of the land.⁸ Present use of the land is not the controlling factor.⁹

The assessment roll is prima facie evidence that the assessment does not exceed the special benefit. The contesting party has the burden of introducing competent evidence to overcome this presumption.¹⁰

⁶ Minn. Stat. § 429.051 (“cost of any improvement, or any part thereof, may be assessed upon property benefited by the improvement, based upon the benefits received, whether or not the property abuts on the improvement”).

⁷ *Southview Country Club v. City of Inver Grove Heights*, 263 N.W.2d 385, 387-388 (Minn. 1978) (citing *Carlson-Lang Realty Co. v. City of Windom*, 307 Minn. 368, 369, 240 N.W.2d 517, 519 (1976); *Quality Homes, Inc. v. Village of New Brighton*, 289 Minn. 274, 183 N.W.2d 555 (1971); *In re Improvement of Superior Street, Duluth*, 172 Minn. 554, 559, 216 N.W. 318, 320 (1927)).

⁸ *Eagle Creek Townhomes, LLP v. City of Shakopee*, 614 N.W.2d 246, 250 (Minn. App. 2000) review denied (Sept. 13, 2000) (citing *EHW Properties v. City of Eagan*, 503 N.W.2d 135, 139 (Minn. App. 1993) and *Buzick v. City of Blaine*, 491 N.W. 2d 923, 925 (Minn. App. 1992), *aff'd* 505 N.W. 2d 51 (Minn. 1993)).

⁹ *Anderson v. City of Bemidji*, 295 N.W.2d 555, 560 (Minn. 1980).

¹⁰ *Tri-State Land Co. v. City of Shoreview*, 290 N.W.2d 775, 777 (Minn. 1980) (citing *Carlson-Lang Realty Co. v. City of Windom*, 307 Minn. 368, 369-370, 240 N.W.2d 517, 519 (1976)).

Special Assessments on Other Government Property

A city or town may levy special assessments against property owned by the state or a political subdivision.¹¹ There are two approaches in the statutes governing assessments against property owned by another governmental entity. In general, property owned by the state or another local government can be assessed to the extent it is benefited by the improvement just as if it were privately owned. Unpaid assessments may be recovered in a civil action.¹² For the state and a few political subdivisions, however, the governmental entity being assessed determines the benefit. The state, the cities of Minneapolis, St. Paul, and Duluth and any political subdivision within the city (e.g., the school district), and the Metropolitan Council with regard to regional parks and open space property, sewer system property, and sports facilities property are subject to special assessments imposed by other cities and towns but determine the benefit of the improvement.¹³ Finally, the state is required to pay special assessments as long as money is appropriated that can be used for that purpose.

Procedure to Impose Special Assessments

Minnesota Statutes, chapter 429, specifies the procedures that must be followed in order to use special assessments.¹⁴ Local governments must be careful to follow all of the necessary steps to ensure that the assessments are properly imposed to avoid legal challenges from the landowners.

Although the statutes do not refer to phases, it may be easier to understand the complicated procedure as if it is divided into three phases, as summarized below. For specific types of projects, there are specific additions or exceptions to these procedures. The law also provides for supplemental assessments and appeals from assessments, which are not covered here.

Phase I: Initiation and Preliminary Assessment¹⁵

- **Initiate the process.** Either the local government or a petition signed by the affected property owners may initiate the proceedings.
- **Prepare a report.** The local government must have a report prepared on the necessity, cost-effectiveness, and feasibility of the proposed improvement. The city engineer or some other competent person prepares the report.

¹¹ Federal property is exempt. Op. Atty. Gen. 408-C (Sept. 21, 1953).

¹² Minn. Stat. § 435.19. This excludes imposing special assessments for highway rights-of-way.

¹³ Minn. Stat. §§ 435.19; 473.334 (Metropolitan Council, parks and open space); 473.545 (Metropolitan Council regional sewer system); 473.556, subd. 4 (Metropolitan Council sports facilities). Under Minnesota Statutes, section 473.448, the Metropolitan Council transit facilities are subject to special assessments the same as other political subdivisions.

¹⁴ Chapter 429 does not prescribe the procedures to be followed by a municipality in making improvements financed without the use of special assessments. Minn. Stat. § 429.021, subd. 3.

¹⁵ Minn. Stat. § 429.031.

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- **Give notice of public hearing.** The local government must publish a notice for the public hearing twice in the newspaper, at least one week apart. In addition, the local government must mail a notice to all property owners in the proposed assessment area at least ten days prior to the hearing.
- **Hold public hearing.** The hearing must be at least three days after the second notice in the newspaper. A reasonable estimate of the total amount to be assessed and a description of the methodology used in calculating the individual assessments must be available at the hearing. Interested persons must be allowed to speak at the hearing. (This public hearing is not required if 100 percent of the landowners requested the proposed assessment.)
- **Adopt a resolution ordering the improvement.** If the local government initiated the proposed assessment, a four-fifths vote is needed to pass the resolution. If the property owners initiated the petition, the local government only needs a majority vote to adopt the resolution. In both cases, the resolution must be adopted within six months of the hearing held during phase I.

Phase II: Detailed Analysis¹⁶

- **Solicit bids.** After a local government decides to do a project, it must determine the actual cost of the project in order to prepare the assessment roll. The statute specifies the bidding process.
- **Prepare proposed assessment roll.** The local government must calculate the proper amount to be specially assessed for the improvement against every assessable parcel of land. The assessment roll must be available for the public to inspect.
- **Give notice of public hearing.** The local government must *publish* a notice in the newspaper at least once, not less than two weeks prior to the scheduled meeting. The notice must state the day, time, place, general nature of the improvement, area proposed to be assessed, total amount of the proposed assessment, and describe the process for objecting to the improvement.

In addition, the local government must *mail* a notice to each affected property owner at least two weeks prior to the public hearing on the proposed assessment. The notice must state the amount to be specially assessed against the property owner's property, the prepayment options, the interest rate if the payment is not prepaid, and that the local government may adopt the proposed assessment at that hearing. The notice must also state that no appeal may be made as to the amount of the assessment adopted at the hearing unless the property owner has objected in writing prior to the hearing or in person at the hearing.

- **Hold public hearing.** The local government may make amendments to the proposed assessment at the hearing. The hearing may be continued at another time.

¹⁶ Minn. Stat. §§ 429.041, 429.061.

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Phase III: Approval of Final Assessment Roll, Certification

- **Approve and certify the assessment roll.** The local government must approve the final assessment roll and then the assessment roll must be certified to the county auditor. A property owner has 30 days after adoption of the assessment to appeal it to the district court.¹⁷ If any of the assessments contained in the final roll are different than the proposed assessments, the local government must mail a notice to the property owner stating the new amount.¹⁸ The local government may have to go back to phase II.
- **Issue debt to finance the improvement.** The local government issues obligations to finance the improvement. The local government may issue local improvement bonds or assessment revenue notes to pay for the local improvement. Local improvement bonds are general obligation bonds, backed by the full faith and credit of the local government. If less than 20 percent of a project is to be paid for with special assessments, the local government must hold a referendum on the issuance of the bonds.¹⁹
- **Collect the assessments.** The local government may certify to the county auditor the entire assessment roll (for the entire project), or the local government may certify annually the amount of assessment on each parcel for that year. A taxpayer may prepay the entire assessment amount and avoid interest charges, in which case the prepaid amounts are taken off the assessment rolls.²⁰
- **Let contracts for work on the improvement.** The local government must let the contracts within one year, unless the resolution specifies another time frame.²¹

Home rule charter cities. If a city is following procedures set in its charter, a few of the statutory provisions still apply. Specifically, a city proceeding under its charter provisions, must:

- give property owners notice of the procedures they must follow under the charter in order to appeal the assessments to district court,
- give property owners notice of any deferment procedure established by the municipality,²² and
- let the contract for the work, or order the work done by day labor or otherwise as may be authorized by the charter, no later than one year after the adoption of the resolution ordering such improvement, unless a different time limit is specifically stated in the resolution ordering the improvement.

¹⁷ Minn. Stat. § 429.081.

¹⁸ Minn. Stat. § 429.061, subd. 2.

¹⁹ Minn. Stat. § 429.091.

²⁰ Minn. Stat. § 429.061, subd. 3.

²¹ Minn. Stat. § 429.041, subd. 1.

²² Minn. Stat. § 429.021, subd. 3 (referring to Minn. Stat. §§ 435.193–435.195 described on page 8).

Special Assessment Deferments

There are three types of special assessment deferrals.

- **Senior citizens, disabled persons, members of the National Guard or military reserves.** A local government may defer the special assessments on the homesteads of a senior citizen (a person at least 65 years of age), a person that is totally and permanently disabled, or a member of the National Guard or military reserves ordered into active service.²³ This is often referred to as a “hardship deferral.” The assessment is still imposed, but it is not due and payable until a later point in time—for senior citizens and disabled persons, this is usually when the homeowner dies, the property is sold, or the property loses its homestead status.²⁴ The National Guard or military reserve hardship deferral is for the term of the person’s military orders, typically one year or more. The local government may adopt a resolution or ordinance that sets the criteria for the hardship deferral. The criteria may include the income and assets of the property owner, and the interest rate and terms of the deferral.
- **Green Acres.** The owner of property enrolled in the Minnesota Agricultural Property Tax Program,²⁵ the Green Acres program, may apply to the county to defer the special assessments levied against the property. The assessment payments are deferred until the property is developed or when the property no longer qualifies for Green Acres. Property enrolled in Green Acres must be used for agricultural purposes and as such, does not directly benefit from many of these assessments until the property is developed and converted to some other use, such as residential, commercial, or industrial.²⁶

When a property no longer qualifies for Green Acres and special assessment bonds are outstanding, the taxpayer must pay off the assessments and interest in equal installments spread over the remaining term of the outstanding bonds. If no bonds were issued, or if the bonds have already been paid off, then the entire amount of the assessment is due and payable within 90 days of losing the property’s status in the program.

Watershed district assessments are not deferred under Green Acres for property initially qualifying under the program for taxes payable in 2009, and for all property in the program for watershed district assessments for new projects after May 31, 2008. Property enrolled in the program for taxes payable in 2008 shall continue to have the special assessments deferred that were initially imposed prior to May 31, 2008.²⁷

²³ Minn. Stat. § 435.193; *see also* Minn. Stat. § 290B.05, subd. 3.

²⁴ Minn. Stat. § 435.195.

²⁵ Minn. Stat. § 273.111, subd. 11.

²⁶ Local governments cannot impose most types of special assessments against property enrolled in the Metropolitan Agricultural Preserves under Minnesota Statutes, chapter 473H. Minnesota Statutes, section 473H.11, specifies which assessments are prohibited.

²⁷ Minn. Stat. § 273.111, subd. 14, effective for assessments payable in 2009 and thereafter.

- **Unimproved land.** By resolution, a local government may defer payment of a special assessment imposed on unimproved property until a specified date or until it is improved.²⁸

Street or road improvements outside municipal boundaries. A city may construct street or road improvements outside its jurisdiction with the affected township's consent, or if the property is located in unorganized territory, the county's consent. When property is brought within the city, the city may then reimburse itself by levying an assessment on any property abutting, but not previously assessed for, the improvement. The city may levy the assessment if there was notice and a hearing of the improvements under section 429.031 at the time the improvement was ordered and the owner had an opportunity to appeal the assessment.²⁹

Unlike deferred special assessments under the Green Acres program, no one is required to file evidence of the deferment with the county recorder of the county in which the property is located. This means that someone buying the property after the special assessment has been made, but before the property is brought within the city, will not necessarily have notice that there is a deferred special assessment that the city may require the property owner to pay all or a portion of when the property is brought within the city limits. The law is also silent as to when interest on the deferred assessment amount begins to accrue.

Other Ways to Pay for a Local Improvement or Service

In some cases, even if a local government wanted to derive the full cost of the assessment solely from the benefited property, it would not be able to, since the total cost of these improvements often exceeds the amount by which the improvements increase the market value of the affected properties. Thus, in addition to special assessments, local improvements and services may be paid for with a general property tax levied on all property in the taxing jurisdiction and from other miscellaneous funds and sources. As with special assessments, the revenue collected may be used to pay for the improvement directly or to repay the bonds issued to pay the costs of the improvements.

Special Assessments vs. Property Taxes

Special assessments are a form of taxation and may be paid using the same mechanism and at the same time as property taxes. However, there are a number of differences between them:

- the basis for determining the amount charged
- what real property is subject to the charge
- whether personal property may be charged
- whether there are any statutory limits
- deductibility for income tax purposes

²⁸ Minn. Stat. § 429.061, subd. 2.

²⁹ Minn. Stat. § 429.052.

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Market value v. benefit. Property taxes are based on the market value of the property—ad valorem taxes. Special assessments, on the other hand, are determined without regard to cash valuation. They are based on the benefit to the property. The formula used by a local government to determine how much of a project or service will be paid for by special assessments will typically use factors such as per foot of frontage amount after finding that the improvement provides substantially the same benefit on that basis to adjacent properties. Whatever factors are used, the formula used must approximate a market analysis for the specific local improvement.³⁰

For example, two houses located in the same taxing jurisdictions, one with an estimated market value of \$200,000 and one with an estimated market value of \$500,000, pay significantly different property taxes. But if each home had 150 feet of frontage on the same street, and the city was installing curb and gutter to that street, both homes would pay the same amount for the assessment for the improvements since the assessment charge is based on footage and not on the market value of the property.

Taxable property v. all real property. Property taxes can be levied only on taxable property, but special assessments are imposed on nearly all real property that is benefited. The state constitution does not exempt any property from special assessments for local improvements. Any exemption must be statutory and there are few exceptions.³¹

All property v. real property. Property taxes are levied on both real and personal property, although at this time, personal property subject to property tax is primarily public utility property. Special assessments may be imposed only on real property.³²

Property tax limits do not apply to special assessments. In general, special assessments are not subject to limits that apply to local property taxes. This may be one of the reasons why they are used. They are a means of raising revenue outside of any levy, tax, or per capita limits. Furthermore, any bonds that are issued that are repaid with special assessment revenues are outside of the government's net debt limits.³³ Also, as long as at least 20 percent of the project

³⁰ *Bisbee v. City of Fairmont*, 593 N.W.2d 714, 719 (Minn. App. 1999) (special assessment was invalid on its face because front-footage method calculation based on average costs of projects from prior years did not approximate a market analysis and was unrelated to particular costs).

³¹ *State v. Roselawn Cemetery Assn.*, 259 Minn. 479, 481, 108 N.W.2d 305 (1961) (tax-exempt property subject to special assessment unless statutorily exempted as is cemetery property under specified circumstances under Minn. Stat. § 306.14). See Minn. Stat. § 473H.11 (metropolitan agricultural preserves not subject to special assessment). Special assessments imposed on property that is tax-forfeited are cancelled, but are collected when the property is sold. Minn. Stat. §§ 282.01, subd. 5, 282.02.

³² *Country Joe, Inc. v. City of Eagan*, 548 N.W.2d 281, 285 fn 3 (Minn. App. 1996) (dicta) (road unit connection charge not a special assessment because it was not assessed on property), *aff'd* 560 N.W.2d 681 (Minn. 1997).

³³ Minn. Stat. §§ 475.51, subd. 4 (definition of net debt excludes debt repaid with special assessment revenues), 475.53 (net debt limit).

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will be paid for with special assessments, the local government may issue the bonds without holding a referendum.³⁴

Special assessments generally are not deductible. For individual income tax purposes, property owners who claim itemized deductions may deduct state and local property taxes in determining federal and state taxable income. However, property taxes that provide specific benefits that tend to increase the value of the property may not be deducted.³⁵

Federal individual income tax instructions³⁶ specify that property taxes may be deducted if the tax is based on the assessed value of the real property and the tax is assessed at a uniform rate on all property in the jurisdiction. The instructions further specify that to be deductible “the tax must be for the welfare of the general public and not be a payment for a special privilege granted or service rendered to you” [the taxpayer].³⁷ Property taxes may not be deducted if the taxes are charges for services or assessments for local benefits.

Services and Unpaid Charges

Cities and urban towns may impose charges by ordinance to pay for certain services that often are paid for with general revenues (e.g., property taxes). In addition, they may adopt an ordinance to collect unpaid charges imposed on an individual property using the special assessment collection process. The statute authorizes using special assessment collection process to pay for the following services:³⁸

- Snow, ice, or rubbish removal from sidewalks
- Repair of sidewalks, alleys
- Weed removal from streets and private property
- Elimination of public health hazards from private property
- Installation or repair of water service lines, street washing
- Tree trimming, removal, and treatment of insect-infested or diseased trees on private property
- Operation of street lighting systems
- Operation and maintenance of a fire protection or pedestrian skyway system
- Certain housing inspections and delinquent vacant building registration fees under a municipal program designed to identify and register vacant buildings

³⁴ Minn. Stat. § 429.091, subd. 3.

³⁵ IRC § 164. Note that when an assessment increases the value of a property, the basis of the property increases by the amount of the increase in the property’s value, and the assessment is not allowed as a deduction. However, if the assessment increases the value of improvements to the property, such as buildings, rather than increasing the value of the land itself, the property owner may be able to claim depreciation for the value of the improvement. This is the case for property owned by both individuals and businesses.

³⁶ Internal Revenue Service publication 530, “Tax Information for First-Time Homeowners, for use in preparing 2006 Returns.”

³⁷ *Ibid.*

³⁸ Minn. Stat. § 429.101.

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- Utilities for residential rental property under court administration
- Remedying a municipal building code violation

Other statutes and some city charters also authorize the collection of a charge using the special assessment process even though there is no increase in the property's market value (the benefit test) because it is a convenient way to collect the charge and if it remains unpaid, becomes a lien on the property.³⁹

Data: Sources of Special Assessment Data

There are two primary sources of statewide data on special assessments: Department of Revenue data and State Auditor data.

Department of Revenue (DOR) data. The DOR annually receives an Abstract of Tax Lists from the 87 county auditors. The abstract contains the total special assessment amount due and payable for that year for each taxing jurisdiction within the county. In general, the special assessment amounts listed in the abstract are the collective amounts for all special assessments that appear on that year's property tax statements for the taxable property on which these assessments are imposed. It includes the amount of service charges collected as special assessments by the local governments although those amounts cannot be separated from the special assessments for local improvements. The abstract does not, of course, include special assessments imposed on tax-exempt property, since it itemizes only taxable property.

State Auditor data. The State Auditor publishes annual reports that contain the revenues, expenditures, and debt of all Minnesota cities and counties. These reports are based on the financial audits of the governmental entities. The only special assessments reported separately in the financial audits are those that are deposited in their general governmental funds. Special assessments may also be deposited in local government enterprise funds (for services such as utilities, housing, and sewers), but they are not listed separately in the auditor's reports.

Differences Between the Two Source Documents

The statewide special assessment totals from the State Auditor data are significantly greater than those amounts reported in the Abstract of Tax Lists. The table on the following page compares the total city special assessment amounts from the two sources for each five-year time period from 1970 to 2006. Since cities are the primary users of special assessments, the table compares only that category of local government. Without doing a comprehensive survey (which is not possible at this time), it would be difficult to reconcile the two sources of data. However, a discussion of the possible reasons for these differences follows the table.

³⁹ For example, Minn. Stat. § 89.56, subd. 3 (Commissioner of Natural Resources may collect unpaid charges for tree pest control through special assessment process).

**Table 1: Comparison of City Special Assessments
from Department of Revenue and State Auditor
1970-2006**

(amounts in 000s)

Year	Special Assessments Dept. of Revenue ⁴⁰	Special Assessments State Auditor ⁴¹
1970	\$34,959	\$53,929
1975	56,388	88,553
1980	76,742	175,168
1985	117,520	164,336
1990	126,636	186,148
1995	118,868	197,534
2000	129,778	238,101
2005	161,028	291,499
2006	176,500	280,287

State Auditor data is probably higher than DOR's data in part because it includes prepayments and special assessments imposed on tax-exempt property. There may also be other unidentified reasons for differences in the data. However, it is impossible to quantify how much prepayments, special assessments on tax-exempt property, and any other unknown reasons account for differences in the data.

- **Prepayments**

Property owners. Property owners may prepay special assessments under the statutes. If not prepaid, the special assessments are included on the property tax statement and collected along with property taxes. Some people suggest that the smaller assessment amounts (such as for certain street repair) are more frequently prepaid by the taxpayer than the larger ones.

Developers. A developer may prepay the special assessments imposed by the local government on the land being developed and then include each property's share of the prepaid special assessments in the price of the house.

Property sellers. A person selling real property may prepay outstanding special assessments on the property because the buyer's loan agreement requires it or because of other agreements made between the buyer and the seller.

⁴⁰ Minnesota Department of Revenue, Property Taxes Levied in Minnesota, the Abstract of Tax Lists.

⁴¹ Office of the State Auditor, Minnesota City Finances: 2005 Revenues, Expenditures, and Debt. Defines "special assessment" on page 181 as revenues that "refer to levies made against certain properties to defray all or part of the costs of a specific improvement, such as new sewer and water mains, deemed to benefit primarily those properties. The amount includes the penalties and interest paid on the assessments." The 2006 amount was obtained by phone from state auditor staff.

Service charges/unpaid charges. A property taxpayer may pay the local government for service charges before the local government certifies to the county auditor the amounts that are to be collected through the property tax collection process. As an example, the city of St. Paul bills property owners for right-of-way maintenance and storm sewer charges. Some property owners pay these amounts directly to the city. However, if they don't, the city includes them on their annual list to the county for collection along with the property taxes.⁴²

- **Tax-exempt property.**

Unlike ad valorem property tax, special assessments are imposed on most tax-exempt property, unless there is a statutory exception. The special assessment amounts on these tax-exempt entities are often collected by the local government through a separate billing since these entities are exempt from property taxes and, therefore, do not receive a property tax statement and would not be included in the DOR abstract amounts.

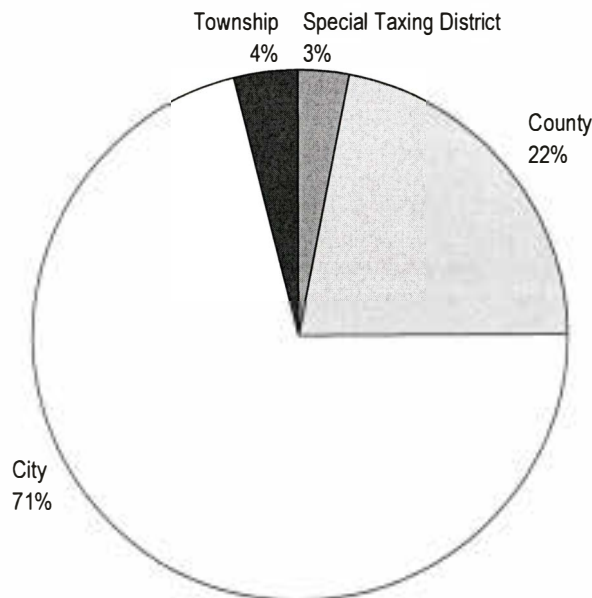
⁴² The "Right-of-Way Maintenance Assessment" in St. Paul covers sweeping, flushing, patching, and chip sealing streets and alleys; patching, blading, and placing crushed rock on unimproved right-of-way; street overlays; litter pickup; ordinance enforcement; emergency services; snow plowing, salting, and sanding; snow removal; tagging and towing; sidewalk maintenance and repair; boulevard tree maintenance and trimming. For 2007, the total budgeted spending for the Right-of-Way Maintenance Assessment is \$25.02 million, of which \$18.27 million is paid with special assessments and the remainder with city general funds. The assessments are on a per-foot basis within six classes, each with two rates. Property owners are billed and may pay up front or pay along with their property taxes. The storm sewer charges are treated in much the same way in St. Paul.

Department of Revenue Data

Figures 1 and 2 and the Appendix table contain special assessment data that was obtained from the annual Property Tax Bulletins prepared by the DOR. These Bulletins are a compilation of the information reported in the Abstract of Tax Lists (and other information annually certified to DOR by the counties). As noted earlier, there is no way to separate how many of the dollars are for public improvements and how many relate to the services and unpaid charges.

Figure 1 shows that 71 percent of the total payable in 2006 special assessments were levied by the cities. Counties levied 22 percent, a significant but distant second to the dollars levied by cities. Townships and special taxing districts levied only 4 percent and 3 percent respectively. School districts do not levy special assessments.

**Figure 1: Total Special Assessments by Taxing District
Taxes Payable 2006**

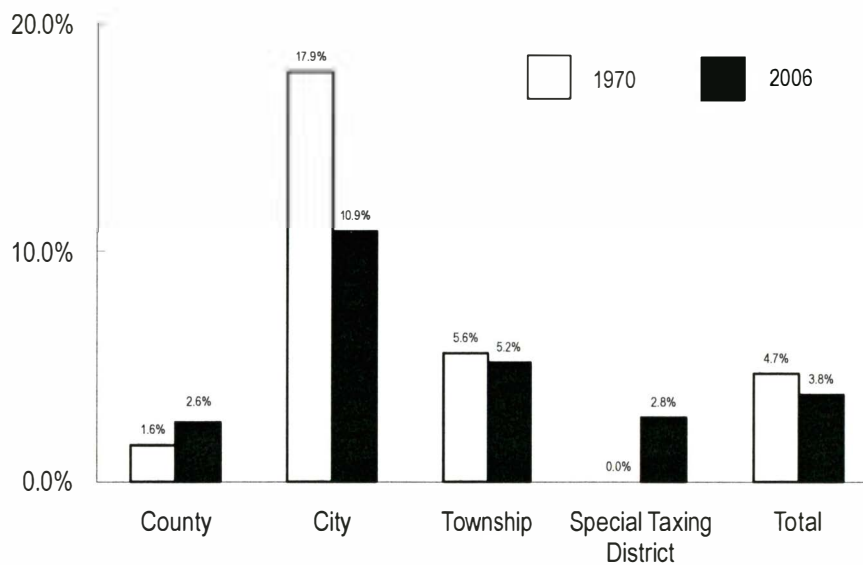


Source: Department of Revenue, The 2006 Abstract of Tax Lists

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Figure 2 provides a historical comparison of special assessments as a percentage of the total property tax levy for each of the types of taxing districts that levy special assessments (i.e., counties, cities, townships, and special taxing districts). The historical data dates back to 1970, just before the Minnesota Miracle of 1971 that made major property tax and intergovernmental financing changes to our system. Data from 1970 is compared to data from 2006.

Figure 2: Special Assessments as Percent of Taxing District Total Levy Taxes Payable 1970 and 2006⁴³



Source: Department of Revenue, Property Taxes Levied in Minnesota: Summary Tables for Taxes Payable 2005
The 2006 numbers are from the 2006 Abstract of Tax Lists

The county special assessments as a percent of total levy has increased from about 1.6 percent to about 2.6 percent. In terms of dollars, the amount has grown from \$3 million to \$55 million, which is more than 18 times larger. City special assessments as a percentage of levy, on the other hand, have gone in the opposite direction. They have decreased from 17.9 percent of levy in 1970 to 10.9 percent in 2006. The higher percentage in 1970 may be related to the rapid housing growth in the suburbs from baby boomers. One would expect a higher expenditure in infrastructure (i.e., streets, curbs, gutters, sewers) with that housing growth. In terms of dollars, the total amount of city special assessments is now five times larger than in 1970. However, these changes appear to be as much a function of the total city levy increasing at a more rapid rate than special assessments, than it is of the actual dollar change in total special assessments.

The table containing the supporting data for Figure 2 is in the Appendix. It contains all of the special assessment and property tax levy data from 1970 through 2006. In the earlier years, the data is for each five-year time period, whereas, beginning in 1995 it is for each year. The data

⁴³ The fiscal disparity distribution levy that the taxing districts receive has been incorporated into the levy amounts.

has not been adjusted for any inflationary changes but is the actual dollars reported on that year's Abstract of Tax Lists.

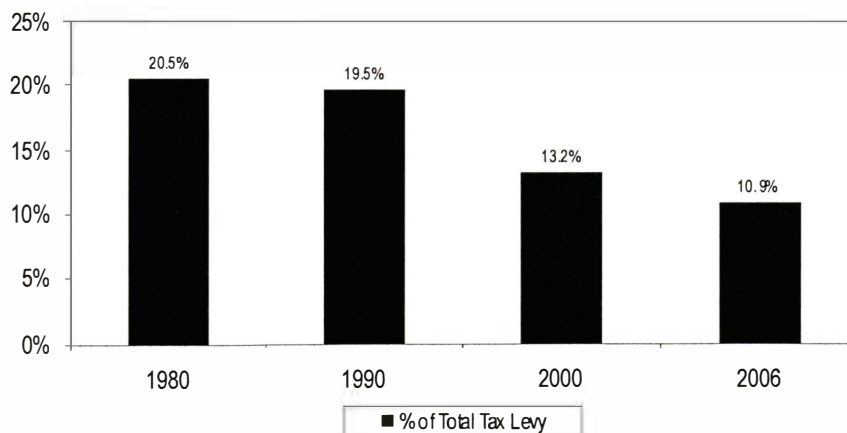
No attempt was made to look at the individual counties, cities, townships, and special districts to see what the range in percentages is across the state within the types of districts. It is presumed, as with most data, that although averages are useful in getting a sense of the big picture statewide, some of the taxing districts' percentages may be significantly different from the statewide averages of each respective type of district.

Comparison of Department of Revenue and State Auditor Data

As previously mentioned, the total special assessment amounts as reported by the counties to the Department of Revenue are different from the total special assessments as reported to the State Auditor by each of the local governments.

However, in spite of these differences, it is worthwhile to compare each of them to their respective total levy amounts (using DOR's data) and total revenue amounts (using the State Auditor's data). Figure 3 depicts the total *city* special assessments as a percent of the total city property tax levy, both from DOR sources. Whereas, Figure 4 presents the "bigger picture" by comparing the total city special assessment amount to the city's total revenue, both from the State Auditor's report.

Figure 3: City Special Assessments as a Percent of Total Property Tax Levy



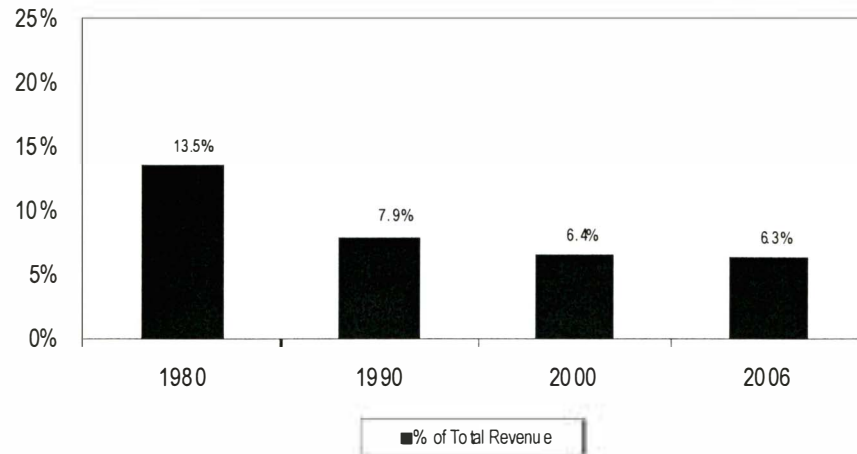
Source: Department of Revenue, Property Taxes Levied in Minnesota Summary Tables for Taxes Payable 2005
The 2006 numbers are from the 2006 Abstract of Tax Lists

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Figure 4: City Special Assessments as a Percent of Total Revenue



Source: Office of the State Auditor, *Minnesota City Finances*

Appendix: Special Assessments (1970-2006)

**Special Assessments on Real Property
by Type of Taxing District as a Percent of Total Levy**
Taxes Payable 1970-2006⁴⁴
(Amounts in \$1,000s)

Taxes Payable	County			City			Township		
	Total Levy	Special Assessments	Special Assessments as a % of Total	Total Levy	Special Assessments ⁴⁵	Special Assessments as a % of Total	Total Levy	Special Assessments	Special Assessments as a % of Total
1970	\$207,861	\$3,253	1.6%	\$195,278	\$34,959	17.9%	\$14,617	\$733	5.0%
1975	323,903	3,572	1.1	280,237	56,388	20.1	17,523	851	4.9
1980	492,335	6,446	1.3	374,696	76,742	20.5	34,866	1,113	3.2
1985	754,438	13,154	1.7	590,175	117,520	19.9	63,707	2,569	4.0
1990	914,036	17,603	1.9	650,828	126,636	19.5	70,495	4,536	6.4
1995	1,232,713	35,539	2.9	770,760	118,868	15.5	80,697	4,920	6.1
1996	1,291,561	38,520	3.0	810,054	124,407	15.4	85,249	5,055	5.9
1997	1,342,617	41,437	3.1	856,610	122,718	14.3	86,168	4,862	5.6
1998	1,399,168	43,980	3.1	892,666	122,872	13.8	92,866	5,498	5.9
1999	1,457,802	44,140	3.0	941,293	133,838	14.2	99,055	6,222	6.3
2000	1,511,286	47,354	3.1	981,816	129,778	13.2	103,337	6,604	6.4
2001	1,629,754	50,442 ⁴⁶	3.1	1,059,280	136,874	12.9	111,266	7,742	7.0
2002	1,704,824	50,986 ⁴⁴	2.9	1,215,372	143,167	11.8	144,474	8,341	5.8
2003	1,823,519	49,389 ⁴⁴	2.7	1,288,594	144,766	11.2	157,284	8,179	5.2
2004	1,919,455	51,143	2.7	1,387,237	153,385	11.1	164,975	8,302	5.0
2005	2,035,084	52,076	2.6	1,495,230	161,028	10.8	175,197	9,301	5.3
2006	2,163,459	55,417	2.6	1,616,162	176,500	10.9	185,170	9,185	5.0

continued on next page

⁴⁴ Special assessments are not included in the taxing district's levy when tax rates are determined.

⁴⁵ The statewide city total amounts include street maintenance and storm sewer service charges in the city of St. Paul. The amounts in the earlier years were about \$5 million to \$6 million (street maintenance only), and since 1987 have grown from \$8 million to \$16 million (street maintenance and storm sewer).

⁴⁶ Excludes the Ramsey County Waste Management service charges of about \$14 million per year. Beginning in 2003, this amount is no longer on the abstract of tax lists reported to the Department of Revenue, but rather is collected directly by waste haulers.

Special Assessments on Real Property
by Type of Taxing District as a Percent of Total Levy (continued)
Taxes Payable 1970-2006
(Amounts in \$1,000s)

Taxes Payable	Special Taxing Districts			Total		
	Total Levy	Special Assessments	Special Assessments as a % of Total	Total Levy ⁴⁷	Special Assessments	Special Assessments as a % of Total
1970	\$5,339	-	-	\$912,399	\$38,944	4.3%
1975	37,901	88	0.2%	1,307,398	60,897	4.7
1980	50,757	885	1.7	1,844,023	85,185	4.6
1985	80,661	3,428	4.2	3,011,667	136,671	4.5
1990	103,090	2,816	2.7	3,298,638	151,590	4.6
1995	128,498	1,722	1.3	4,479,180	161,048	3.6
1996	146,031	2,193	1.5	4,709,972	170,174	3.6
1997	146,716	2,005	1.4	4,903,141	171,021	3.5
1998	154,386	3,618	2.3	4,978,685	175,968	3.5
1999	171,422	2,550	1.5	5,116,473	186,750	3.6
2000	180,065	2,516	1.4	5,326,758	186,252	3.5
2001	200,599	2,657	1.3	5,727,714	197,714	3.5
2002	172,814	2,843	1.6	5,167,792	205,337	4.0
2003	196,523	3,560	1.8	5,587,463	205,904	3.7
2004	202,089	6,409	3.2	5,920,672	219,239	3.7
2005	220,808	6,216	2.8	6,251,719	228,621	3.7
2006	240,388	6,528	2.7	6,803,906	247,630	3.6

For more information about taxes and local government, visit our web site, www.house.mn/hrd/hrd.htm.

⁴⁷ Columns do not add across because school districts are included in total levy, but not itemized in the table.