

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1051

Introduced by

Legislative Council

(Taxation Committee)

1 A BILL for an Act to create and enact chapter 40-22.2 of the North Dakota Century Code,
2 relating to authority of cities to levy special assessments for costs of police and fire protection
3 and certain infrastructure costs against certain charitable organization property exempt from
4 property taxes; and to provide an effective date.

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

6 **SECTION 1.** Chapter 40-22.2 of the North Dakota Century Code is created and
7 enacted as follows:

8 **40-22.2-01. Special assessments against certain tax-exempt charitable property.**

9 A municipality may levy special assessments under this chapter against property of charitable
10 organizations which is exempt from property taxes under subsection 8 or 31 of section
11 57-02-08 and which is within a special assessment district established as provided under this
12 chapter.

13 **40-22.2-02. Special assessment district - Creation.** For imposition of special
14 assessments under this chapter, a municipality may create and alter a special assessment
15 district by ordinance. The governing body of the municipality may establish a special
16 assessment district by majority vote, or upon presentation to the governing body of the
17 municipality of a petition to establish a special assessment district signed by ten percent or
18 more of the qualified electors of the municipality, as determined by the total votes cast in the
19 most recent municipal election, the governing body shall place on the ballot at the next regular
20 or special city election the question of establishing a special assessment district under this
21 chapter. Upon approval by a majority of qualified electors of the city voting on the question, a
22 special assessment district under this chapter is established. The governing body of the
23 municipality shall designate the district by an appropriate name and number distinguishing it
24 from improvement districts established for other purposes.

1 **40-22.2-03. Size and form of special assessment district.** A special assessment
2 district created under this chapter may include multiple, noncontiguous property areas and
3 parcels. A special assessment district under this chapter must only include all properties that in
4 the judgment of the governing body, after consultation with the city auditor or the city auditor's
5 designee planning the district, are benefited by police and fire protection and infrastructure
6 expenditures paid from the budget of the municipality and which are properties exempt from
7 property tax under subsection 8 or 31 of section 57-02-08. A district may be created without
8 uniformity among the types, items, or quantities of benefits to subject properties from police and
9 fire protection and infrastructure expenditures of the municipality. The validity of assessment of
10 benefits under this chapter is not impaired by any lack of uniformity of the provision, quality, or
11 purpose of municipal services or by the fact that any one or more of the properties included in
12 the special assessment district are subsequently determined not to be benefited by the
13 municipal services or any portion of the municipal services.

14 **40-22.2-04. Auditors report.** Upon creation of a special assessment district under this
15 chapter, the governing body of the municipality shall direct the city auditor to prepare a report of
16 the total assessed valuation of property in the special assessment district, the total assessed
17 valuation of taxable property within the municipality, and the total anticipated expenditures
18 under the budget of the municipality for police and fire protection and infrastructure costs for the
19 following budget year.

20 **40-22.2-05. Approval of specifications.** After reviewing the report under section
21 40-22.2-04, the governing body of the municipality may direct the city auditor to prepare
22 specifications of the amount and allocation of special assessments among properties included
23 in the special assessment district. The specifications must be approved by a motion of the
24 governing body of the municipality to become effective. The percentage of total anticipated
25 municipal expenditures for police and fire protection and infrastructure costs assessed against
26 property in the special assessment district may not exceed the percentage that assessed
27 valuation of property in the special assessment district is of the sum of assessed valuation of
28 property in the special assessment district plus assessed valuation of all taxable property in the
29 municipality. Reports, specifications, and estimates prepared and submitted under this chapter
30 are the property of the municipality and must be filed in the office of the city auditor and remain
31 on file subject to inspection by the public.

40-22.2-06. Resolution declaring special assessment imposition necessary -

Contents - Publication. After the report and specifications required by sections 40-22.2-04 and 40-22.2-05 have been filed and approved, the governing body of the municipality shall declare by resolution that it is necessary to create the special assessment district and levy special assessments as described in the approved specifications. The resolution must refer intelligibly to the report and specifications and must include a map of the municipality showing the proposed special assessment district. The resolution must be published once each week for two consecutive weeks in the official newspaper of the municipality.

40-22.2-07. Protest against resolution - Meeting to hear protest. If, within thirty

days after the first publication of the resolution under this chapter, the owners of any property within the special assessment district file written protest with the city auditor against adoption of the resolution and describing the property that is subject of the protest, the governing body of the municipality, at its next meeting after the expiration of the time for filing protests, shall hear and determine the sufficiency of the protests.

40-22.2-08. Protest consideration and effect - Levy and collection of special

assessments. If the governing body finds the protest to be well-founded or if the protest identifies errors in the report or specifications, the governing body by motion may amend or abandon the report and specifications. If the governing body abandons the report and specifications, it may direct preparation of a new report and specifications and recommence proceedings under this chapter or may terminate proceedings under this chapter. If the governing body does not abandon the report and specifications, the governing body by ordinance shall adopt the report and specifications, including any amendments adopted. The governing body shall direct the levy and collection of special assessments according to the adopted ordinance. Special assessments levied under this chapter are subject to extension, collection, payment, interest, and penalties in the manner provided in chapters 40-24 and 40-25.

40-22.2-09. Abbreviations, letters, or figures may be used in proceedings for levy

and collection of special assessments. In all proceedings for levy and collection of special assessments under this chapter, abbreviations, letters, and figures may be used to denote full or partial additions, lots, blocks, sections, townships, and ranges or years, days of the month, and amounts of money.

1 **40-22.2-10. Record of special assessments - Record as evidence.** The city auditor
2 shall keep a complete record of all proceedings under this chapter. The record must include all
3 reports, specifications, petitions, protests, orders, and other documents filed with or prepared at
4 the direction of the governing body. The record, a certified transcript of the record, or the
5 original documents on file in the auditor's office may be admitted in evidence in any court
6 without further proof as evidence of the facts they contain.

7 **40-22.2-11. Defects and irregularities in improvement proceedings are not fatal -**
8 **Appeal - Referendum.** Defects or irregularities in proceedings under this chapter do not
9 invalidate the proceedings. No action may be commenced or maintained and no defense or
10 counterclaim in any action may be recognized in the courts of this state founded on any defects
11 or irregularities in proceedings under this chapter unless commenced within thirty days of the
12 adoption of the ordinance of the governing body under this chapter. An ordinance adopted
13 under this chapter is subject to referendum under chapter 40-12.

14 **SECTION 2. EFFECTIVE DATE.** This Act is effective for budget years beginning after
15 December 31, 1998.