

Sixty-second  
Legislative Assembly  
of North Dakota

## REENGROSSED HOUSE BILL NO. 1322

Introduced by

Representatives Wrangham, S. Meyer, Damschen

Senators Miller, Oehlke, Murphy

1 A BILL for an Act to amend and reenact sections ~~40-23-07 and 40-23.1-01~~40-26-01 and  
2 40-26-07 of the North Dakota Century Code, relating to limitation of imposition of special  
3 assessments against agricultural property; to provide for a legislative management study; and  
4 to provide an effective date.

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

6 **~~SECTION 1. AMENDMENT.~~** ~~Section 40-23-07 of the North Dakota Century Code is~~  
7 ~~amended and reenacted as follows:~~

8 ~~— 40-23-07. Determination of special assessments by commission — Political~~  
9 ~~subdivisions not exempt.~~

10 ~~— Whenever the commission makes any special assessment, the commission shall determine~~  
11 ~~the particular lots and parcels of land which, in the opinion of the commission, will be especially~~  
12 ~~benefited by the construction of the work for which the assessment is to be made. The~~  
13 ~~commission shall determine the amount in which each of the lots and parcels of land will be~~  
14 ~~especially benefited by the construction of the work for which such special assessment is to be~~  
15 ~~made, and shall assess against each of such lots and parcels of land such sum, not exceeding~~  
16 ~~the benefits, as is necessary to pay its just proportion of the total cost of such work, or of the~~  
17 ~~part thereof which is to be paid by special assessment, including all expenses incurred in~~  
18 ~~making such assessment and publishing necessary notices with reference thereto and the per~~  
19 ~~diem of the commission. However, as an alternative to the procedure provided in this section,~~  
20 ~~the special assessment commission may, in its discretion, determine and allocate the cost of~~  
21 ~~special assessments in accordance with the method provided for in chapter 40-23.1. Property~~  
22 ~~owned by a nonprofit entity and used exclusively as a cemetery is exempt from collection of~~  
23 ~~special assessments for benefits conferred under this title and the city in which such property is~~  
24 ~~located shall provide for the payment of special assessments, installments, and interest against~~

1 such property by the levy of taxes according to law or by payment from other funds available to  
2 the city which are derived from sources other than special assessments. ~~Agricultural property,  
3 as defined in section 57-02-01 but not including greenhouses or nurseries, may not be  
4 subjected to special assessments at a greater percentage of true and full valuation than the  
5 percentage that special assessments are of true and full valuation of commercial property in the  
6 special assessment district. Benefited property belonging to counties, cities, school districts,  
7 park districts, and townships is not exempt from such assessment, and such public corporations  
8 whose property is so assessed shall provide for the payment of such assessments, installments  
9 thereof and interest thereon, by the levy of taxes according to law. Nothing in this section may  
10 be deemed to amend other provisions of law with reference to the levy of assessments on  
11 property sold for delinquent taxes.~~

12 — **SECTION 2. AMENDMENT.** Section 40-23.1-01 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 — **40-23.1-01. Improvement district - All property to be assessed - Basis.**

15 — All property included within the limits of a local improvement district shall be considered to  
16 be the property specially benefited by the local improvement and shall be the property to be  
17 assessed to pay the cost and expense thereof or such part thereof as may be chargeable  
18 against the property specially benefited. ~~Agricultural property, as defined in section 57-02-01 but  
19 not including greenhouses or nurseries, may not be subjected to special assessments at a  
20 greater percentage of true and full valuation than the percentage that special assessments are  
21 of true and full valuation of commercial property in the special assessment district. The cost and  
22 expense shall be assessed upon all the property in accordance with the special benefits  
23 conferred thereon in proportion to area and distance back from the marginal line of the public  
24 way or area improved.~~

25 **SECTION 1. AMENDMENT.** Section 40-26-01 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **40-26-01. Courts to review levy and apportionment of special assessments - De novo  
28 review for agricultural property assessments.**

29 The courts shall review the levy and apportionment of the special assessments in all actions  
30 and proceedings involving the validity or apportionment of any special assessment for local or  
31 special improvements. If an action challenges the determination of benefits and special

1 assessments imposed for agricultural property, the decision of the special assessment  
2 commission regarding agricultural property is not entitled to deference by the court and the  
3 court shall consider the determination of benefits and special assessments imposed for  
4 agricultural property de novo. An appeal taken under this section must be in accordance with  
5 the procedure provided in section 28-34-01.

6 **SECTION 2. AMENDMENT.** Section 40-26-07 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **40-26-07. Actions to restrain collection of special assessments, avoid tax judgments -**  
9 **Duty of court.**

10 The court shall determine the true and just amount which any property attempted to be  
11 specially assessed for a special improvement should pay to make the same uniform with other  
12 special assessments for the same purpose, whenever any action or proceeding shall be  
13 commenced and maintained before the court to prevent or restrain the collection of any special  
14 assessment or part thereof made or levied by the officers of any municipality for any purpose  
15 authorized by law, if such assessment shall be held to be void by reason of noncompliance with  
16 any provision of the laws of this state. ~~The~~Unless the action challenges the determination of  
17 benefits and special assessments imposed for agricultural property, the amount of the  
18 assessment as the same appears on the assessment list shall be prima facie evidence of the  
19 true and just amount, and judgment must be rendered and given therefor against the party  
20 liable for such special assessment without regard to the proceedings had for the levy thereof.  
21 The judgment shall be a lien upon the property upon which a special assessment shall have  
22 been levied, of the same force and effect as the lien of a special assessment, and the lien of  
23 such special judgment shall be enforced by the court in such action. No action for said purposes  
24 shall be maintained unless it is commenced within six months after the special assessment is  
25 approved.

26 **SECTION 3. LEGISLATIVE MANAGEMENT STUDY - SPECIAL ASSESSMENTS AND**  
27 **AGRICULTURAL PROPERTY ASSESSMENTS.** During the 2011-12 interim, the legislative  
28 management shall consider studying use of special assessments for public improvements, use  
29 and administration of special assessments across the state, and alternative funding  
30 mechanisms available, with emphasis on imposition and relative rate of special assessments  
31 against agricultural property. The study must include examination of agricultural property tax

1 classification and assessment issues, with emphasis on these issues within and near city  
2 boundaries. The legislative management shall report its findings and recommendations,  
3 together with any legislation required to implement the recommendations, to the sixty-third  
4 legislative assembly.

5 **SECTION 4. EFFECTIVE DATE.** This Act is effective for special assessments levied after  
6 July 31, 2011.