

**SECOND ENGROSSMENT
with Senate Amendments
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 40-26-01 and 40-26-07 of the North Dakota
2 Century Code, relating to limitation of imposition of special assessments against agricultural
3 property; to provide for a legislative management study; and to provide an effective date.

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

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

7 **40-26-01. Courts to review levy and apportionment of special assessments - De novo**
8 **review for agricultural property assessments.**

9 The courts shall review the levy and apportionment of the special assessments in all actions
10 and proceedings involving the validity or apportionment of any special assessment for local or
11 special improvements. If an action challenges the determination of benefits and special
12 assessments imposed for agricultural property, the decision of the special assessment
13 commission regarding agricultural property is not entitled to deference by the court and the
14 court shall consider the determination of benefits and special assessments imposed for
15 agricultural property de novo. An appeal taken under this section must be in accordance with
16 the procedure provided in section 28-34-01.

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

19 **40-26-07. Actions to restrain collection of special assessments, avoid tax judgments -**
20 **Duty of court.**

21 The court shall determine the true and just amount which any property attempted to be
22 specially assessed for a special improvement should pay to make the same uniform with other
23 special assessments for the same purpose, whenever any action or proceeding shall be
24 commenced and maintained before the court to prevent or restrain the collection of any special

1 assessment or part thereof made or levied by the officers of any municipality for any purpose
2 authorized by law, if such assessment shall be held to be void by reason of noncompliance with
3 any provision of the laws of this state. ~~The~~Unless the action challenges the determination of
4 benefits and special assessments imposed for agricultural property, the amount of the
5 assessment as the same appears on the assessment list shall be prima facie evidence of the
6 true and just amount, and judgment must be rendered and given therefor against the party
7 liable for such special assessment without regard to the proceedings had for the levy thereof.
8 The judgment shall be a lien upon the property upon which a special assessment shall have
9 been levied, of the same force and effect as the lien of a special assessment, and the lien of
10 such special judgment shall be enforced by the court in such action. No action for said purposes
11 shall be maintained unless it is commenced within six months after the special assessment is
12 approved.

13 **SECTION 3. LEGISLATIVE MANAGEMENT STUDY - SPECIAL ASSESSMENTS AND**
14 **AGRICULTURAL PROPERTY ASSESSMENTS.** During the 2011-12 interim, the legislative
15 management shall consider studying use of special assessments for public improvements, use
16 and administration of special assessments across the state, and alternative funding
17 mechanisms available, with emphasis on imposition and relative rate of special assessments
18 against agricultural property. The study must include examination of agricultural property tax
19 classification and assessment issues, with emphasis on these issues within and near city
20 boundaries. The legislative management shall report its findings and recommendations,
21 together with any legislation required to implement the recommendations, to the sixty-third
22 legislative assembly.

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