

Introduced by

Representatives Owens, Belter, B. Koppelman, Nathe, Weisz

1 A BILL for an Act to amend and reenact sections 40-22-08 and 40-22-09 of the North Dakota
2 Century Code, relating to the size of an improvement district for improvements by special
3 assessments; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 40-22-08 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **40-22-08. Improvement districts to be created.**

8 For the purpose of making an improvement project of one of the types specified in section
9 40-22-01 and defraying the cost thereof by special assessments, a municipality may create
10 water districts, sewer districts, water and sewer districts, street improvement districts, boulevard
11 improvement districts, flood protection districts, and parking districts, and may extend any such
12 district when necessary. The governing body shall presume that an improvement project
13 benefits and will be assessed against all property within the municipality unless the governing
14 body makes a finding by clear and convincing evidence that the benefit of the project is
15 confined to a smaller area within the municipality and includes a recitation of that evidence in
16 the ordinance or resolution creating the special improvement district. The appropriate special
17 improvement district may be created by ordinance or resolution. The district shall be designated
18 by a name appropriate to the type of improvement for the making of which it is created, and by
19 a number distinguishing it from other improvement districts. Nothing herein, however, shall
20 prevent a municipality from making and financing any improvement and levying special
21 assessments therefor under any alternate procedure set forth in this title.

22 **SECTION 2. AMENDMENT.** Section 40-22-09 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **40-22-09. Size and form of improvement districts - Regulations governing.**

2 Anyif the governing body has made a finding that the improvement project benefits a
3 smaller area than all property within the municipality as required by section 40-22-08, an
4 improvement district created by a municipality may embrace two or more separate property
5 areas. Each improvement district shall be of such size and form as to include all properties
6 which in the judgment of the governing body, after consultation with the engineer planning the
7 improvement, will be benefited by the construction of the improvement project which is
8 proposed to be made in or for such district, or by any portion or portions of such project. A
9 single district may be created for an improvement of the type specified in any one of the
10 subsections of section 40-22-01, notwithstanding any lack of uniformity among the types, items,
11 or quantities of work and materials to be used at particular locations throughout the district. The
12 jurisdiction of a municipality to make, finance, and assess the cost of any improvement project
13 shall not be impaired by any lack of commonness, unity, or singleness of the location, purpose,
14 or character of the improvement, or by the fact that any one or more of the properties included
15 in the district is subsequently determined not to be benefited by the improvement, or by a
16 particular portion thereof, and is not assessed therefor. There may be omitted from a water or
17 sewer district, in the discretion of the governing body, properties within the corporate limits
18 which are benefited by the improvement therein but do not abut upon a water or sewer main,
19 without prejudice to the right and power of the municipality subsequently to assess such
20 properties to the extent and in the manner permitted by law. The governing body may by
21 resolution enlarge an improvement district in which an improvement is proposed or under
22 construction upon receipt of a petition therefor signed by the owners of three-fourths of the area
23 to be added to the district.

24 **SECTION 3. EFFECTIVE DATE.** This Act is effective for special assessment improvement
25 projects initiated after July 31, 2015.