



North Dakota Legislative Council

Prepared for the Water Drainage Committee

LC# 23.9338.01000

August 2022

EXPLANATION OF BILL DRAFT [23.0025.03000] RELATING TO CALCULATING COSTS AND BENEFITS FOR ASSESSMENT PROJECTS

BILL DRAFT OVERVIEW

Bill draft [23.0025.03000] creates a new section to North Dakota Century Code Chapter 61-16.1 to incorporate the use of a cost-benefit analysis for assessment projects costing \$1 million dollars or more, addresses conflicts and redundancies throughout Chapter 61-16.1, and makes form and style changes.

SECTION-BY-SECTION DESCRIPTION

- Section 1 of the bill draft amends the definitions section of Chapter 61-16.1, pertaining to the operation of water resource districts, to define "affected land," "assessment project," "benefited property," and "benefits."
- Section 2 of the bill draft amends Section 61-16.1-09.1, which allows for the financing of projects involving the snagging, clearing, and maintaining of natural watercourses through the use of special assessments. Currently, the benefits derived from an assessment project must be determined as provided under Section 61-16.1-17, which requires the board to determine the probable share of costs that will be assessed to each affected landowner. The bill draft replaces the reference to Section 61-16.1-17 with a reference to Section 6 of the bill draft, which creates a new section to Chapter 61-16.1 to provide a more detailed process for determining the costs and benefits of an assessment project.
- Section 3 of the bill draft amends Section 61-16.1-12.1, which allows a water resource board to enter an agreement with a federal or state agency to construct a project and finance that project with special assessments. Currently, the board is required to determine and levy assessments against benefited property and prepare the assessment list in accordance with Sections 61-16.1-21 through 61-16.1-24. This language has been amended to require the levy and assessment be determined and the assessment list be prepared in accordance with Section 6 of the bill draft and Sections 61-16.1-22 through 61-16.1-24. Sections 61-16.1-22 through 61-16.1-24 pertain to publication of cost and benefit calculations, the notice of the hearing on assessments, the manner in which assessments may be appealed, and the time when special assessments may be levied.
- Section 4 of the bill draft amends Section 61-16.1-15, which allows a water resource board to finance projects through the use of revenue bonds, general taxes, or special assessments. Language requiring special assessments be apportioned to lands benefitted by the project has been removed to eliminate redundancies with the requirements outlined in Section 6 of the bill draft.
- Section 5 of the bill draft amends Section 61-16.1-17, which pertains to declaring the necessity of a proposed project and designating a registered engineer to prepare project plans and specifications and determine the estimated cost of constructing a project. Currently, the engineer's report must be sufficiently detailed for the board to determine probable shares of the total costs to be assessed against the affected landowners in the proposed assessment district. This section has been amended to include a reference to Section 6 of the bill draft, pertaining to the new authority to conduct a cost-benefit analysis.
- Section 6 of the bill draft creates a new section to Chapter 61-16.1, which outlines the procedure for determining costs and benefits for assessment projects. The section requires assessment costs be apportioned in relation to the benefits accrued to each lot and requires a cost-benefit analysis and the use of the economic analysis process developed under Section 61-03-21.4 for a proposed project costing \$1 million or more. The section prohibits an individual assessment from exceeding the amount of benefits anticipated to accrue.
- Section 7 of the bill draft amends Section 61-16.1-18 to require the water resource board to file and mail the cost and benefit calculations generated pursuant to Section 6 of the bill draft and publish notice of the hearing on the project. A reference to the previous authority for a cost-benefit analysis under Section 61-16.1-21 has been replaced with a reference to Section 6 of the bill draft.

- Section 8 of the bill draft amends Section 61-16.1-19, relating to voting on proposed projects, to clarify a reference to the hearing process under Section 61-16.1-18 and replace a reference to the cost-benefit analysis under Section 61-16.1-21 with the new process outlined in Section 6 of the bill draft.
- Section 9 of the bill draft makes form and style changes to Section 61-16.1-20, relating to the voting rights of landowners. No substantive changes were made.
- Section 10 of the bill draft makes form and style changes to Section 61-16.1-21, relating to the assessment of projects costs, and clarifies no political subdivision or landowner may be assessed an amount that exceeds the benefits derived from the assessment project.
- Section 11 of the bill draft amends Section 61-16.1-22, relating to the publication and mailing of cost and benefit calculations and hearing notices. Currently, after entering an order establishing a project, the water resource board must publish an assessment list in the newspaper of general circulation. The reference to an assessment list has been replaced with a requirement to publish a notice including the results, in dollars, of the calculations required under Section 6 of the bill draft and the calculation of costs prepared by the engineer.
- Section 12 of the bill draft amends Section 61-16.1-23, relating to appeals to the Department of Water Resources, by clarifying any correction of assessments by the department is subject to the limitations provided in Section 6 of the bill draft.
- Section 13 of the bill draft repeals Section 61-16.1-01, which references the legislative intent and purpose of the chapter.