

SPECIAL ASSESSMENT PROJECT PROTESTS IN SELECTED STATES

The Taxation Committee requested information comparing special assessment project protest provisions of other states. Research has not found any compilation of protest requirements for all states. The National Conference of State Legislatures has not compiled a comparison, and has done a search of national information sources and found no such comparison.

A review of selected states' laws indicates the difficulty of compiling a nationwide comparison. Many states have different protest provisions for different kinds of improvement districts. A simple comparison in a chart format would require extensive footnotes and exceptions.

What is provided in this memorandum is a very brief description of the requirements for a successful protest of a special improvement district assessment project. All states appear to have provisions for individual property owners to challenge the amount of an assessment against an individual property. This memorandum focuses on laws of selected states regarding combined protests of property owners to object to an entire proposed special improvement district assessment project. Underscoring is added to emphasize any requirements for a successful protest to a project.

NORTH DAKOTA

In North Dakota, owners of property within a proposed improvement district may file written protests against adoption of the resolution of necessity for a project. If the protest contains the names of the owners of a majority of the area of the property included within the improvement district, the protests are a bar against proceeding further within the improvement project.

MINNESOTA

In Minnesota, notice of a project is required to be published in the official newspaper and notice must be mailed to each affected property owner, including a reasonable estimate of the impact of the assessment for the property. The city council may approve the project within six months after the public hearing. City council approval is required to be by a majority vote if owners of at least 35 percent of the street frontage included in the district petition for approval. If the qualifying petition of owners for approval is not received, the city council must have at least a four-fifths vote to approve the project. Property owners may appeal to the district court within 30 days after adoption of the assessments. All objections to assessments are deemed waived if not presented on appeal to the district court. District court appeal is the exclusive remedy to appeal a special assessment levy.

MONTANA

In Montana, a protest of property owners halts action on a special improvement district for six months if protests are received from owners of 50 percent or more of total projected assessments of property, or owners of property that will be subject to 50 percent or more of assessments for proposed work. No further action is allowed on a street maintenance improvement district if protests are received from:

1. Fifty percent or more of the property owners;
2. Owners of 50 percent or more of the taxable valuation of property in the district; or
3. Owners of property subject to 50 percent or more of projected assessments.

SOUTH DAKOTA

In South Dakota, preparation of an assessment roll is required to show the owner, property description, and amount of assessment for each affected parcel of property. Mailed notice to each owner is required. The city governing body is required to meet to hear objections and either approve, equalize, amend, or reject the project.

NEBRASKA

In Nebraska, a special assessment project ordinance is introduced and read at successive meetings of the city council. Citizens are allowed to express opinions on the project before the council votes on whether to proceed. After the district is established, contracts are let and the work is done. Cost distribution among properties is then computed, and property owners may appear and contest their individual property assessments at a meeting of the city council.

MISSOURI

In Missouri, a special assessment project is halted if protests are received from 50 percent or more of the owners of property liable for the assessment.

COLORADO

In Colorado, if the city does not bear at least 50 percent of the costs of a special assessment project, the project is halted if protests are received from owners of a majority of all property benefited and constituting the basis of the assessment.

WISCONSIN

In Wisconsin, at a public hearing on the project the governing body may approve, disapprove, modify, or direct revision of the plan. An aggrieved property owner may appeal to the circuit court.

IOWA

In Iowa, after public hearing, the governing body may adopt, amend, or defer action on the issue. Adoption of the project requires approval by at least three-fourths of the governing body. A city is allowed the option of seeking confirmation of a special assessment project by court decree. The action is filed with the court, naming the property owners as defendants. Any property owner who files an answer is allowed a court hearing, and the court may correct irregularities or inequalities in valuation and assessment and may consider allegations of illegal procedure or fraud. The cost of the court action may be added to special assessments against property in the district.