



# North Dakota Legislative Council

Prepared for the Water Drainage Committee  
 LC# 23.9234.01000  
 December 2021

## ASSESSMENT PROJECT TIMELINES UNDER NORTH DAKOTA CENTURY CODE CHAPTERS 61-16.1 AND 61-21

Action	Is the Action Required or Allowed Under Chapter 61-16.1 <sup>1</sup> (Assessment Projects)?	Is the Action Required or Allowed Under Chapter 61-21 (Assessment Drains)?
The Water Resource Board (WRB) adopts a resolution and declares construction and maintenance of the project necessary.	Yes, upon request or by a motion of the WRB	Yes, upon a petition signed by at least six property owners or a majority of the landowners within the proposed drainage district whose property would be drained
A bond is required from petitioners for the project.	No	Yes, upon a request by the WRB
A registered engineer is designated to assist the board, prepare plans, and estimate costs.	Yes	Yes
The WRB may enter land for examination or survey.	Yes, after written notice to the landowner	Yes
The WRB determines which parcels will benefit from the proposed project and prepares a certified, proposed benefit and assessment list.	Yes	Yes
A list of benefits and assessments for all affected lots is filed with the county auditor.	Yes, at least 10 days before the date of the public hearing on the proposed project	Yes, at least 10 days before the date of the public hearing on the proposed project
Notice of the time and location of a public hearing on the proposed project is published.	Yes, once a week for 2 consecutive weeks in the newspaper  The notice also must include: <ul style="list-style-type: none"> <li>• The proposed benefit and assessment list; and</li> <li>• The time and place when and where votes on the project may be cast.</li> </ul>	Yes, one time at least 10 days before the date of the public hearing on the project  The notice also must include: <ul style="list-style-type: none"> <li>• A copy of the petition;</li> <li>• Notice of the filing with the county auditor;</li> <li>• Identification of the beginning, terminus, and general course of the proposed drain; and</li> <li>• The time and place when and where votes on the project may be cast.</li> </ul>
Notice of a public hearing on the proposed project is mailed to each landowner whose land will be assessed or condemned.	Yes, at least 20 days before the date of the public hearing on the project  The mailed notice also must include: <ul style="list-style-type: none"> <li>• The proposed benefit and assessment list; and</li> <li>• The time and place when and where votes on the project may be cast.</li> </ul>	Yes, the mailed notice also must include: <ul style="list-style-type: none"> <li>• A copy of the petition;</li> <li>• Notice of the filing with the county auditor;</li> <li>• Identification of the beginning, terminus, and general course of the proposed drain;</li> <li>• The time and place when and where votes on the project may be cast; and</li> <li>• A ballot to vote on the project.</li> </ul>

<sup>1</sup> "Project" is defined for Chapter 61-16.1 as "any undertaking for water conservation, flood control, water supply, water delivery, erosion control and watershed improvement, drainage of surface waters, collection, processing, and treatment of sewage, or discharge of sewage effluent, or any combination thereof, including incidental features of any such undertaking."

Action	Is the Action Required or Allowed Under Chapter 61-16.1 <sup>1</sup> (Assessment Projects)?	Is the Action Required or Allowed Under Chapter 61-21 (Assessment Drains)?
A public hearing on the proposed project is held.	Yes	Yes
Voting on the proposed project occurs.	Yes, for 30 days after the hearing	Yes, voting may not end until at least 10 days after the date of the public hearing on the project.
Votes on the proposed project are counted.	Yes, immediately after the voting window closes	Yes, immediately after the voting window closes
The WRB issues an order establishing the project.	Yes, if more than 50 percent of the votes are in favor of the project	Yes, if more than 50 percent of the votes are in favor of the project and the proposed drain will not cost more than the amount of the benefits from the proposed drain.
The WRB publishes the order.	Yes	Yes, the publication must advise landowners whose land will be condemned or assessed of their right to appeal to the district court.
The assessment list and notice of time and place when and where the WRB will hear objections is published.	Yes, once each week for 3 successive weeks in the newspaper after entering the order establishing the project	Yes, at least 10 days before the hearing on the assessments
The assessment notice is mailed to landowners whose land will be assessed or condemned.	Yes, at least 30 days before the date of the hearing on the assessments	Yes
A public hearing on the assessments is held.	Yes	Yes
The WRB makes any necessary assessment alterations and confirms the final assessment list.	Yes, and files the final list with the WRB secretary	Yes
Appeals of the project design or assessments may be made to the Department of Water Resources.	<p>Yes, within 10 days after the hearing on assessments</p> <p>Landowners having at least 20 percent of the possible votes on the project may appeal:</p> <ul style="list-style-type: none"> <li>• The location or design of the project; or</li> <li>• Assessments for the project.</li> </ul> <p>The Department of Water Resources may:</p> <ul style="list-style-type: none"> <li>• Correct the assessments; or</li> <li>• Order the project to be relocated or redesigned.</li> </ul>	<p>Yes, within 10 days after the hearing on assessments</p> <p>Landowners having at least 50 percent of the possible votes on the project may appeal:</p> <ul style="list-style-type: none"> <li>• The location or design of the project; or</li> <li>• Assessments for the project.</li> </ul> <p>The Department of Water Resources may:</p> <ul style="list-style-type: none"> <li>• Correct the assessments; or</li> <li>• Order the project to be relocated or redesigned.</li> </ul>
Appeals of a decision regarding the existence of a benefit to a parcel may be made to the Department of Water Resources.	<p>Yes, within 10 days after the hearing on assessments</p> <p>Any landowner claiming the landowner will receive no benefit from the project may appeal that issue.</p> <p>The Department of Water Resources may determine whether the landowner will receive any benefit but not the amount of the benefit.</p>	<p>Yes</p> <p>Any landowner claiming the landowner will receive no benefit from the project may appeal that issue.</p> <p>The Department of Water Resources may determine whether the landowner will receive any benefit but not the amount of the benefit.</p>

<b>Action</b>	<b>Is the Action Required or Allowed Under Chapter 61-16.1<sup>1</sup> (Assessment Projects)?</b>	<b>Is the Action Required or Allowed Under Chapter 61-21 (Assessment Drains)?</b>
<p>Appeals of WRB decisions may be made to the district court.</p>	<p>Yes, within 30 days of a WRB decision, the decision may be appealed to a district court by any aggrieved person.</p> <p>The right to appeal a decision to approve or deny an assessment project begins to run on the date of publication of the notice of the order denying or approving the project.</p>	<p>Yes, within 30 days of a WRB decision, the decision may be appealed to a district court by any aggrieved person.</p> <p>For an assessment project, an appeal may be made as early as 30 days after the WRB issues the order establishing or denying the project.</p> <p>In some cases, the judge shall hear the appeal between 10 and 30 days after the appeal is filed in court, unless good cause is shown to delay the appeal.</p>