

HOUSE BILL NO. 1393

Introduced by

Representatives Ertelt, Rich S. Becker, Hatlestad, K. Koppelman, Toman, Weisz

Senators O. Larsen, Luick, Unruh

1 A BILL for an Act to amend and reenact section 61-16.1-17, 61-16.1-21, 61-16.1-22, and
2 61-21-20 of the North Dakota Century Code, relating to assessments by water resource
3 districts.

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

5 **SECTION 1. AMENDMENT.** Section 61-16.1-17 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **61-16.1-17. Financing of special improvements - Procedure.**

8 When it is proposed to finance in whole or in part the construction of a project with funds
9 raised through the collection of special assessments levied against lands and premises
10 benefited by construction and maintenance of such project, the water resource board shall
11 examine the proposed project, and if in its opinion further proceedings are warranted, it shall
12 adopt a resolution and declare that it is necessary to construct and maintain the project. The
13 resolution shall briefly state the nature and purpose of the proposed project and shall designate
14 a registered engineer to assist the board. The board shall present the resolution to the board of
15 county commissioners in the affected county and may not proceed with the project unless
16 approved by the board of county commissioners. For the purpose of making examinations or
17 surveys, the board or its employees, after written notice to each landowner, may enter upon any
18 land on which the proposed project is located or any other lands necessary to gain access. The
19 engineer shall prepare profiles, plans, and specifications of the proposed project and estimates
20 of the total cost thereof. The estimate of costs prepared by the engineer shall include acquisition
21 of right of way and shall be in sufficient detail to allow the board to determine the probable share
22 of the total costs that will be assessed against each of the affected landowners in the proposed
23 project assessment district.

1 **SECTION 2. AMENDMENT.** Section 61-16.1-21 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **61-16.1-21. Assessment of cost of project.**

4 1. Whenever the water resource board proposes to make any special assessment under
5 the provisions of this chapter, the board, prior to the hearing required under section
6 61-16.1-18, shall ~~inspect~~contract with a neutral party to develop an assessment
7 formula.

8 2. The neutral party shall inspect any and all lots and parcels of land, which may be
9 subject to assessment and ~~shall~~ determine from the inspection of the particular lots
10 and parcels of lands which, ~~in the opinion of the board,~~ will be especially benefited by
11 the construction of the work for which the assessment is made and ~~shall~~ assess the
12 proportion of the total cost of acquiring right of way and constructing and maintaining
13 ~~such~~the improvement in accordance with benefits received but not exceeding ~~such~~the
14 benefits, against:

15 4. a. Any county, township, or city, in its corporate capacity, which may be benefited
16 directly or indirectly ~~thereby.~~

17 2. b. Any lot, piece, or parcel of land which is directly benefited by ~~such~~the
18 improvement.

19 3. In determining benefits the ~~board~~neutral party shall consider, among other factors,
20 property values, degree of improvement of properties, productivity, and the water
21 management policy as expressed in section 61-16.1-15. Property belonging to the
22 United States shall be exempt from ~~such~~the assessment, unless the United States has
23 provided for the payment of any assessment which may be levied against its property
24 for benefits received. Benefited property belonging to counties, cities, school districts,
25 park districts, and townships ~~shall~~may not be exempt from ~~such~~the assessment and
26 political subdivisions whose property is so assessed shall provide for the payment of
27 ~~such~~the assessments, installments ~~thereof,~~ and interest ~~thereon,~~ by the levy of taxes
28 according to law. Any county, township, or city assessed in its corporate capacity for
29 benefits received shall provide for the payment of such assessments, installments
30 ~~thereof,~~ and interest ~~thereon~~ from its general fund or by levy of a general property tax
31 against all the taxable property ~~therein~~ in accordance with law. No tax limitation

1 provided by any statute of this state ~~shall~~may apply to tax levies made by any such-
2 political subdivision for the purpose of paying any special assessments made in
3 accordance with the provisions of this chapter. There ~~shall~~must be attached to the list
4 of assessments a certificate signed by a majority of the members of the board
5 certifying that the same is a true and correct assessment of the benefit therein
6 described to the best of their judgment and stating the several items of expense
7 included in the assessment.

8 **SECTION 3. AMENDMENT.** Section 61-16.1-22 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **61-16.1-22. Assessment list to be published - Notice of hearing - Alteration of**
11 **assessments - Confirmation of assessment list - Filing.**

12 After entering an order establishing the project, the water resource board shall cause the
13 assessment list to be published once each week for two successive weeks in the newspaper or
14 newspapers of general circulation in the district and in the official county newspaper of each
15 county in which the benefited lands are located together with a notice of the time when, and
16 place where, the board will meet to hear objections to any assessment by any interested party,
17 or an agent or attorney for that party. The board also shall mail a copy of the notice to each
18 affected landowner at the landowner's address as shown by the tax rolls of the county or
19 counties in which the affected property is located. The date set for the hearing may not be less
20 than twenty days after the mailing of the notice. At the hearing, the board may make such
21 alterations in the assessments as in its opinion may be just and necessary to correct any error
22 in the assessment but must make the aggregate of all assessments equal to the total amount
23 required to pay the entire cost of the work for which the assessments are made, or the part of
24 the cost to be paid by special assessment. An assessment may not exceed the benefit as-
25 ~~determined by the board~~ to the parcel of land or political subdivision assessed. Land in the
26 watershed, which has natural drainage, may not be assessed unless the drainage has been
27 artificially improved and contributes additional volume to a drain. The board shall then confirm
28 the assessment list and the secretary shall attach to the list a certificate that the same is correct
29 as confirmed by the board and shall file the list in the office of the secretary.

30 **SECTION 4. AMENDMENT.** Section 61-21-20 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **61-21-20. Assessing cost of constructing and maintaining drain.**

2 After the making of the order establishing the drain, the board shall assess the percentage
3 of the cost of acquiring right of way and constructing and maintaining ~~such~~the drain in
4 accordance with benefits received, against:

- 5 1. Any county, township, or city which is benefited ~~thereby~~; and
- 6 2. Any lot, piece, parcel, or interest in land which is either directly or indirectly benefited
7 by ~~such~~the drain or by ~~such~~the drain in connection with other existing or proposed
8 drains. The board shall prepare a report for each parcel assessed to verify and ensure
9 no parcel is assessed costs that exceed any benefits received.

10 No land already included in and being assessed by an existing drainage district ~~shall~~may be
11 included and assessed in any newly formed drainage district unless it can be shown that
12 ~~such~~the land will be benefited by the construction of the new drain. The board in considering the
13 benefit and assessing the percentage of costs to each affected tract, parcel, or piece of land
14 may, among other things, take into consideration the present drainage facilities under any
15 existing drainage district, potential use of the proposed drain by ~~such~~the land, whether any ~~such~~
16 lands will be benefited or harmed by any change in the existing flow and course of drainage
17 water by reason of the construction of the drain, and ~~such~~ other matters as may be pertinent to
18 the question of benefits.