

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

SENATE BILL NO. 2270
(Senators Wanzek, G. Lee, Sorvaag)
(Representatives Sanford, Vigesaa, Zubke)

AN ACT to amend and reenact subsection 5 of section 6-09.4-03, section 61-24-27, subsection 3 of section 61-24.8-01, and sections 61-24.8-13, 61-24.8-14, 61-24.8-16, and 61-24.8-17 of the North Dakota Century Code, relating to financing options for the Garrison Diversion Conservancy District and notice of assessments; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 06-09.4-03 of the North Dakota Century Code is amended and reenacted as follows:

5. "Political subdivision" means:
- a. A local governmental unit created by statute or by the Constitution of North Dakota for local governmental or other public purposes.
 - b. The state department of health, or any other state agency or authority, or any member-owned association or publicly owned and nonprofit corporation:
 - (1) Operating any public water system that is subject to chapter 61-28.1.
 - (2) Operating any facility, system, or other related activity that is eligible for financial assistance under chapter 61-28.2.
 - c. The Bank of North Dakota for purposes of the revolving loan fund program established by chapter 61-28.2.
 - d. The state water commission for purposes of the revolving loan fund program established by chapter 61-28.1.
 - e. A qualified borrower within the meaning of 26 U.S.C. 54(j)(5) [Pub. L. 109-58; 119 Stat. 995].
 - f. The Garrison Diversion Conservancy District or any successor entity or improvement district created under chapter 61-24.8 to finance or refinance irrigation and water supply projects.
 - g. The Lake Agassiz water authority, for use in financing the construction, acquisition, extension, expansion, alteration, betterment, maintenance, or renovation of a project under section 61-39-16.

SECTION 2. AMENDMENT. Section 61-24-27 of the North Dakota Century Code is amended and reenacted as follows:

61-24-27. Notes and bonds exempt from taxation.

Notwithstanding any other provision of law, the state and all public officers, boards, and agencies, and political subdivisions and agencies of the state including the public finance authority, all national banking associations, state banks, trust companies, savings banks and institutions, savings and loan associations, credit unions, investment companies, insurance companies, and other entities carrying on an investment business, and executors, administrators, guardians, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any

bonds issued under this chapter, and the bonds are authorized security for public deposits. Notes and bonds, including refunding bonds, issued under this chapter and their interest and income are exempt from all taxation by the state or by any political subdivision except inheritance, estate, and transfer taxes.

SECTION 3. AMENDMENT. Subsection 3 of section 61-24.8-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Bond" means any revenue bond, refunding bond, improvement bond, or other evidence of indebtedness, including indebtedness owed to banks, or other public or private lending sources, of the district issued under this chapter.

SECTION 4. AMENDMENT. Section 61-24.8-13 of the North Dakota Century Code is amended and reenacted as follows:

61-24.8-13. Hearing - Notice - Contents.

1. Upon the filing of the engineer's report provided for in section 61-24.8-09, and after satisfying the requirements of section 61-24.8-10, the board shall fix a date and place for public hearing on the proposed project, except when the conditions under subsection 2 are met. The place of hearing must be in the vicinity of the proposed project and must be convenient and accessible for the majority of the landowners subject to assessment for the project or whose property is subject to condemnation for the proposed project. The board may appoint a hearing officer or a committee of the board to conduct the hearing. The board shall cause a complete list of the benefits and assessments to be made, setting forth each lot, piece, or parcel of land assessed, the amount each is benefited by the improvement, and the amount assessed against each. At least fourteen days before the hearing, the board shall file with the county auditor of each county in which the project is or will be located the list showing the percentage assessment and approximate assessment in dollars against each parcel of land benefited by the proposed project. Notices of the hearing must contain the time and place where the board will conduct the hearing. The notice of hearing must specify when and where votes concerning the proposed project may be filed and contain an assessment list showing the percentage assessment and approximate assessment in dollars against each parcel of land benefited by the proposed project. The board shall cause the notice of hearing to be published once a week for two consecutive weeks in newspapers of general circulation in the area in which the affected landowners reside and in the official county newspaper of each county in which the benefited lands are located. The date set for the hearing may not be fewer than fourteen days after the first publication of the notice. A record of the hearing must be made by the board, including a list of affected landowners present in person or by agent, and the record must be preserved in the minutes of the meeting. Affected landowners to be assessed must be informed at the hearing of the probable total cost of the project and their individual share of the cost and the portion of their property, if any, to be condemned for the project.
2. A public hearing is not required if the board:
 - a. Provides written notice to each affected landowner setting forth the probable total cost of the project, the landowner's share of the project cost, the portion of the landowner's property, if any, to be condemned for the project, and when and where votes concerning the proposed project may be filed. If the written notice is given to each affected landowner, the assessment list for the proposed project need not be filed with the county auditor of each county in which the project is located; and
 - b. Publishes notice of the project in newspapers of general circulation in the area in which the affected landowners reside and in the official county newspaper of each county in which the benefited lands are located at least twenty-one days before the deadline for filing votes on the project.

SECTION 5. AMENDMENT. Section 61-24.8-14 of the North Dakota Century Code is amended and reenacted as follows:

61-24.8-14. Voting on proposed projects.

At the hearing or in the written notice, the affected landowners must be informed when and where votes concerning the proposed project may be filed. Affected landowners to be assessed have thirty days after the date of the hearing or thirty days after the date of mailing the notice to file their votes with the secretary of the district. Once the deadline for filing votes has been reached, no more votes may be filed and no person may withdraw a vote. Any withdrawal of a vote concerning the proposed project before that time must be in writing. When the votes have been filed and the deadline for filing votes has passed, the board shall immediately determine whether the project is approved. If the board finds that one hundred percent of the total votes filed are for the proposed project, then the vote constitutes an affirmation of the project and the board shall issue an order establishing the proposed project and may proceed, after complying with the requirements of sections 61-24.8-17 and 61-24.8-18, to contract or provide for the construction or maintenance of the project in substantially the manner and according to the forms and procedure provided in section 61-24.8-41. The board may enter any agreement with any federal or state agency under the terms of which the contract for the project is to be let by the federal agency, the state agency, or a combination thereof. In projects where there is an agreement that a party other than the board will let the contract, the board may dispense with all of the requirements of section 61-24.8-41. Upon making an order establishing or denying establishment of a project, the board shall publish notice of the order in a newspaper of general circulation in the area in which the affected landowners reside and in the official county newspaper of each county in which the benefited lands are located. No publication is required if the board provides written notice of the order establishing or denying establishment of a project to each affected landowner. Any right of appeal begins to run on the date of publication or mailing of the notice.

SECTION 6. AMENDMENT. Section 61-24.8-16 of the North Dakota Century Code is amended and reenacted as follows:

61-24.8-16. Assessment of cost of project.

When the board proposes to make any special assessment under this chapter, the board or its agent, before the hearing or the mailing of written notice required under section 61-24.8-13, shall inspect any and all lots and parcels of land that may be subject to assessment and shall determine from the inspection the particular lots and parcels of lands which, in the opinion of the board, will be directly benefited by the construction of the work for which the assessment is made and shall assess the proportion of the total cost of acquiring right of way and constructing and maintaining such improvement in accordance with direct benefits received but not exceeding such benefits against any lot, piece, or parcel of land that is directly benefited by the improvement. Property belonging to the United States is exempt from assessment unless the United States has provided for the payment of any assessment that may be levied against its property for benefits received. There must be attached to the list of assessments a certificate signed by the chairman and certified by the secretary that it is a true and correct assessment of the benefit described to the best of their judgment and stating the several items of expense included in the assessment.

SECTION 7. AMENDMENT. Section 61-24.8-17 of the North Dakota Century Code is amended and reenacted as follows:

61-24.8-17. Assessment list to be published - Notice of hearing - Alteration of assessments - Confirmation of assessment list - Filing.

After entering an order establishing the project, the board shall cause the assessment list to be published once each week for two successive weeks in the official county newspaper of each county in which the benefited lands are located and in local newspapers of general circulation in the area of the affected lands. The publication must include a notice of the time and place the board will meet to hear objections to any assessment by any interested party or an agent or attorney for that party. Publication

of the assessment list is not required if the board mails the assessment list and the time and place of the hearing to each affected landowner. The date set for the hearing must be not less than fourteen days after the mailing or first publication of the notice. At the hearing, the board may make such alterations in the assessments as in its opinion may be just and necessary to correct any error in the assessment but must make the aggregate of all assessments equal to the total amount required to pay the entire cost of the work for which the assessments are made or the part of the cost to be paid by special assessment. An assessment may not exceed the benefit as determined by the board to the parcel of land assessed. The hearing is not required if the board receives written consent from each affected landowner to the levy of assessments. The board then shall confirm the assessment list and the secretary shall attach to the list a certificate that it is correct as confirmed by the board. The list must be filed in the office of the district secretary.

SECTION 8. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2270 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 46 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 85 Nays 5 Absent 4

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2017.

Approved at _____ M. on _____, 2017.

Governor

Filed in this office this _____ day of _____, 2017,

at _____ o'clock _____ M.

Secretary of State