

2023 HOUSE FINANCE AND TAXATION

HB 1330

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1330
1/18/2023

A bill relating to the preferred methodology when determining special assessments.

Chairman Headland opened the hearing at 9:23AM.

Members present: Chairman Headland, Vice Chairman Hagert, Representative Anderson, Representative Bosch, Representative Dockter, Representative Fisher, Representative Hatlestad, Representative Motschenbacher, Representative Olson, Representative Toman, Representative Finley-DeVille, and Representative Ista. **Members absent:** Representative Grueneich, Representative Steiner.

Discussion Topics:

- Changes to special assessments
- Property costs

Representative Roers Jones introduced the bill in support and provided the committee with a proposed amendment (#14228).

Jim Bullis, President of Eagle Ridge Development in Fargo, testified in support (#13999).

Brenda Derrig, City Engineer with the City of Fargo, testified in opposition (#14068).

Keith Hunke, City Administrator with the City of Bismarck, testified in opposition (#13927).

Bill Wocken, North Dakota League of Cities, verbally testified in opposition.

Roben Anderson, Commissioner with the City of West Fargo, testified virtually in opposition (#13980).

Additional written testimony:

Jon Hanson, Precision Plumbing, testimony in favor #14061.

Chairman Headland closed the hearing at 9:42AM.

Mary Brucker, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1330
1/30/2023

A bill relating to the preferred methodology when determining special assessments.

Chairman Headland opened the meeting at 11:20AM.

Members present: Chairman Headland, Vice Chairman Hagert, Representative Anderson, Representative Bosch, Representative Dockter, Representative Fisher, Representative Grueneich, Representative Hatlestad, Representative Motschenbacher, Representative Toman, Representative Finley-DeVillie. **Members absent:** Representative Olson, Representative Steiner, and Representative Ista.

Discussion Topics:

- Proposed amendment 23.0630.01001 #18634

Chairman Headland distributed a proposed amendment, on behalf of Representative Roers Jones, 23.0630.01001 (#18634, 18247).

Charles Dende, Office of the State Tax Commissioner, answered questions from the committee.

Chairman Headland adjourned at 11:26AM.

Mary Brucker, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1330
1/30/2023

A bill relating to the preferred methodology when determining special assessments.
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Chairman Headland opened the meeting at 2:52PM.

Members present: Chairman Headland, Vice Chairman Hagert, Representative Anderson, Representative Bosch, Representative Dockter, Representative Fisher, Representative Grueneich, Representative Hatlestad, Representative Motschenbacher, Representative Olson, Representative Steiner, Representative Toman, Representative Finley-DeVillie, and Representative Ista. No members absent.

Discussion Topics:

- Review of proposed amendment 23.0630.01001
- Administration of special assessments

Melanie Aeschliman, State Supervisor of Assessments with North Dakota State Tax Commissioner's Office, answered questions from the committee.

Bill Wocken, North Dakota League of Cities, answered questions from the committee.

Chairman Headland adjourned at 2:54PM.

Mary Brucker, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1330
1/31/2023

A bill relating to the preferred methodology when determining special assessments.
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Chairman Headland opened the meeting at 3:17PM.

Members present: Chairman Headland, Vice Chairman Hagert, Representative Anderson, Representative Bosch, Representative Dockter, Representative Fisher, Representative Grueneich, Representative Hatlestad, Representative Motschenbacher, Representative Steiner, Representative Toman, Representative Finley-DeVillie, and Representative Ista.
Members absent: Representative Olson.

Discussion Topics:

- Proposed amendment 23.0630.01001

Christmas tree version of a proposed amendment from Representative Roers Jones 23.0630.01001 was reviewed by the committee (#18247).

Chairman Headland adjourned at 3:29PM.

Mary Brucker, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1330
2/1/2023

A bill relating to the preferred methodology when determining special assessments.
--

Chairman Headland opened the meeting at 3:01PM.

Members present: Chairman Headland, Vice Chairman Hagert, Representative Anderson, Representative Bosch, Representative Dockter, Representative Fisher, Representative Grueneich, Representative Hatlestad, Representative Motschenbacher, Representative Olson, Representative Steiner, Representative Toman, Representative Finley-DeVille, and Representative Ista. No members absent.

Discussion Topics:

- Proposed amendment 23.0630.01001
- North Dakota League of Cities proposed amendment
- Committee vote

Stephanie Dassinger, North Dakota League of Cities, verbally testified in a neutral capacity.

Representative Steiner moved to adopt amendment 23.0630.01001.

Representative Hagert seconded the motion.

Roll call vote:

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Lisa Finley-DeVille	Y
Representative Jay Fisher	Y
Representative Jim Grueneich	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Mike Motschenbacher	Y
Representative Jeremy Olson	Y
Representative Vicky Steiner	Y
Representative Nathan Toman	Y

Motion carried 14-0-0

Stephanie Dassinger, North Dakota League of Cities, verbally continued with her neutral testimony and proposed an amendment (#18633).

Representative Dockter moved a Do Not Pass as Amended.

Representative Olson seconded the motion.

Roll call vote:

Representatives	Vote
Representative Craig Headland	N
Representative Jared Hagert	N
Representative Dick Anderson	N
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Lisa Finley-DeVille	N
Representative Jay Fisher	N
Representative Jim Grueneich	Y
Representative Patrick Hatlestad	N
Representative Zachary Ista	N
Representative Mike Motschenbacher	N
Representative Jeremy Olson	Y
Representative Vicky Steiner	N
Representative Nathan Toman	N

Motion failed 4-10-0

Representative Roers-Jones answered questions from the committee.

Representative Hagert moved a Do Pass as Amended.

Representative D. Anderson seconded the motion.

Roll call vote:

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	N
Representative Jason Dockter	N
Representative Lisa Finley-DeVille	Y
Representative Jay Fisher	Y
Representative Jim Grueneich	N
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Mike Motschenbacher	Y
Representative Jeremy Olson	Y
Representative Vicky Steiner	Y
Representative Nathan Toman	Y

Motion carried 11-3-0

Representative Toman is the bill carrier.

Chairman Headland adjourned at 3:26PM.

Mary Brucker, Committee Clerk

2/1-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1330

Page 1, line 19, replace the first "or" with an underscored comma

Page 1, line 19, after "footage" insert ", or a combination of both, including an equivalent unit based upon total area and front footage."

Page 2, line 1, after "3." insert "For cities required to have a written special assessment policy or cost allocation funding policy, the city, once a resolution declaring improvements necessary is issued for an improvement district, may not amend the adopted policy as it relates to that improvement district."

4."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1330: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1330 was placed on the Sixth order on the calendar.

Page 1, line 19, replace the first "or" with an underscored comma

Page 1, line 19, after "footage" insert ", or a combination of both, including an equivalent unit based upon total area and front footage."

Page 2, line 1, after "3." insert "For cities required to have a written special assessment policy or cost allocation funding policy, the city, once a resolution declaring improvements necessary is issued for an improvement district, may not amend the adopted policy as it relates to that improvement district."

4."

Renumber accordingly

TESTIMONY

HB 1330

House Finance and Taxation Committee
Representative Craig Headland, Chairman
Representative Jared Hagert, Vice-Chairman
January 18, 2023

Chairman Headland, Members of the House Finance and Taxation Committee:

My name is Keith Hunke and I am the City Administrator for the City of Bismarck.

I am providing written testimony in opposition to House Bill 1330.

The Bismarck City Commission approves its Special Assessment Policy on an annual basis. The most recent version of Bismarck's policy was approved on January 10, 2023. The City of Bismarck Special Assessment Policy recognizes that there are lots and parcels of land benefited by the construction of the work for which the special assessment is made. Zoning classification and use of a lot and parcel are taken into consideration. An example is lots and parcels owned by Parks and Recreation which have a zoning classification of "P" Public. The "P" Public lot and parcel are treated differently if it's a neighborhood park versus an income generating facility such as a hockey arena or recreation center. We also adjust total area of lots and parcels that are encumbered by non-buildable easements such as storm water conveyance and steep slopes. A strict interpretation of "total area" in this bill may prevent us from providing this adjustment to the area of lots and parcels.

The City of Bismarck determines special assessments on hundreds of lots and parcels each year. The task of getting written consent of hundreds of property owners to allow for the adjustments currently provided in the City of Bismarck Special Assessment Policy will be very problematic and likely create a patchwork of approval and disapproval making it near impossible to special assess for future public improvements that provide benefit to lots and parcels.

I urge you to give HB 1330 a DO NOT PASS recommendation.

Thank you for the opportunity to provide testimony in opposition of House Bill 1330. I am happy to stand for any questions the Committee may have.

Keith J. Hunke, City Administrator
City of Bismarck
701-355-1300
khunke@bismarcknd.gov



HB 1330
City of West Fargo Testimony

Provided by Roben G. Anderson – Commissioner

HB 1330 is a proposed bill relating to the preferred methodology when determining special assessments. The City of West Fargo would like to go on record as being **Opposed** to the bill as it pertains to Section 40-23-07.

This bill was created in direct response to our Special Assessment Policy that we adopted in 2022. When the policy was adopted by the commission, it was done after more than a year of work by the City Commission, Staff, our Attorney, and members of the Special Assessment Commission. The City of West Fargo found a way to calculate the assessments on special assessment projects to make them more equitable.

One project that spurred this discussion was a project in our core area, along Sheyenne Street. When reviewing the project, discussions were held about the methodology of the assessment. One piece of the project extended into a neighboring residential area and was for a sanitary sewer repair. Any property on one side of the project was to be assessed for this portion of the project on an equivalent unit (EU) basis, which is based on the square footage of the property. Each residential property was going to be assessed at one (1) EU, where a mixed-use building with about 60 apartments and 2 floors of commercial space, would be assessed at about 4.5 EU's (about an acre of property).

The issue with this assessment, is that the sanitary sewer is under higher use from the mixed-use building compared to a residential property that maybe has 2 bathrooms in it. So, this property with 60+ bathrooms going into the sanitary sewer, they would be assessed only at 4.5x the rate that a residential property would be assessed in total, despite having 30x the number of bathrooms. This was determined to not be fair due to residential properties paying a disproportionate share of the assessment, thus driving conversations about changing the policy.

Our policy was changed, and a factor of 0.6 EU is being used and is applied to the total number of dwelling units in apartment and mixed-use buildings. The factor was vetted by our attorney and supported through engineering studies.

In Summary, this bill, if passed and enacted, would increase the amount of special assessments on individual homeowners and make it so that apartment buildings would pay less on a share basis than the average homeowner.



The City of West Fargo has continued work on Special Assessments and are working to make them more equitable and to move away from them as much as possible. This bill, if passed and enacted, will move us, and the State of North Dakota in the wrong direction when it comes to the reform of Special Assessments.

The West Fargo City Commission is asking that you provide a **“Do Not Pass”** recommendation for this bill.

Thank you for your time and consideration.

Bernie Dardis – Commission President

Mark Simmons – Commissioner

Mandy George – Commissioner

Brad Olson – Commissioner

Roben Anderson – Commissioner

Thank you for allowing me the time to address your committee regarding HD 1330.

About myself and EagleRidge Development.

I am a real estate developer with more than 30 years of development experience in Wyoming, Arizona and North Dakota, but primarily in the Fargo and West Fargo area. Over the years myself, along with my team at EagleRidge Development have developed over 3,000 single family residential lots AND more than 3,000 apartment units in the Fargo and West Fargo community. We have developed more than 250,000 feet of office and commercial space as well. My quick math indicates that over the years I have been assessed more than \$150,000,000 for municipal improvements. In the 30 years prior to 2022 I never once objected to the allocation of special assessments by any City in North Dakota.

Sheyenne Road redevelopment project.

In 2019 West Fargo decided to rebuild Sheyenne Street, a significant arterial road. This project was published, advertised, and bid in 2019. At the time this project was introduced to the public, West Fargo's assessment policy was similar to that of its surrounding communities. Construction was completed in 2021. After the project was completed, there was a significant amount of public outcry as the preliminary specials were much higher than originally projected. After the pushback from its residents, West Fargo, in June of 2022 adopted a new special assessment policy that radically changed the formula to determine the benefit to its property owners. Instead of utilizing the method used by its neighbors (and West Fargo itself for over 20 years) West Fargo decided to look to the use of a property rather than the size or front footage of property itself to determine benefit. this new policy caused the assessments for multi family property to increase, in some cases by 1000%. With the increased burden to its multi family properties, the assessments to single family homes dropped by 50%. The bigger burden on apartments also caused commercial and industrial assessments to drop, but by a smaller percentage.

We believe the new method utilized by West Fargo is unfair and most likely contrary to statute for a number of reasons. These include:

Assessing the use of a property was not the intent of the law. This new apportionment method conflicts with longstanding North Dakota law that establishes that an improvement's benefit to an affected property must be analyzed considering the property itself, not the current use of the property. *Chernick v. City of Grand Forks*, 210 N.W.2d 73, 81 (N.D. 1973)(rejecting contention that "the lot involved is not benefited by the improvement, owing to its present particular use"; the "benefit is presumed to inure not to the present use, but to the property itself.") Historically, special assessment apportionments have been tied to the size of the property (e.g., square footage or lineal frontage). This method of apportioning costs fairly

distributes the cost of the improvement to the property itself, rather than its current use. The Special Assessment Commission's deviation from this method was improper.

Changing the assessment method after the project is complete is patently unfair. When West Fargo initially presented the project and the anticipated costs to the public, it was presented and calculated using its longstanding assessment method. Taxpayers had at least a general sense of what the cost would be when they determined whether they wanted to protest the project, or let it proceed. Making a change to the assessment method after the fact is at the very least misleading. How could a taxpayer ever have certainty that the method of assessment would not be drastically different if the City experiences cost overruns or just simply wants to penalize a particular zoning class? Taxpayers deserve to know what they are in for when deciding if a municipal improvement project is a good idea.

The new assessment policy will lead to wildly varying and unfair assessments. Attached is a map showing the assessments to a number of properties along Sheyenne Street as determined by West Fargo's new formula. There is no logical relationship between the front footage, area and the assessments. As a result, the taxpayers on the West side of Sheyenne pay a much larger portion of the road cost than the currently unzoned, or single family zoned property on the East side of the road. What happens when the property on the East side is ultimately developed, perhaps as multi family property? They may have the same "use" but they would not get assessed in the same manner. Instead, they get a much lower assessment for these improvements. This gives property zoned for multifamily use later in time an unfair advantage over properties currently zoned (used) for multifamily housing.

Additionally, West Fargo is assessing vacant multi family land as if they will one day hold the maximum number of units allowed by their zoning. This is entirely speculative and will undoubtedly turn out not to be the case. Over time, (and at any time), these properties may be rezoned for an entirely different used before they are one day developed. Meanwhile, vacant single family lots only get assessed as if they will have one house, regardless of what is ultimately built upon the lot.

West Fargo does not consider the cost of providing municipal services to single family properties. West Fargo will defend its policy claiming that it only wants the apartment owners to pair their "fair share". Unfortunately in making this claim, West Fargo fails to consider actual cost of municipal improvements associated with single family construction. On a per unit basis, single family homes cost a city much more to service than apartments. I asked my development director, Jonathan Youness to compare the municipal improvement costs for two of my recent West Fargo projects. The amount and cost of municipal improvements is described in the chart below. The difference in cost is astounding. You will see that apartments are much more efficient for a city to serve than an equivalent number of single family homes.

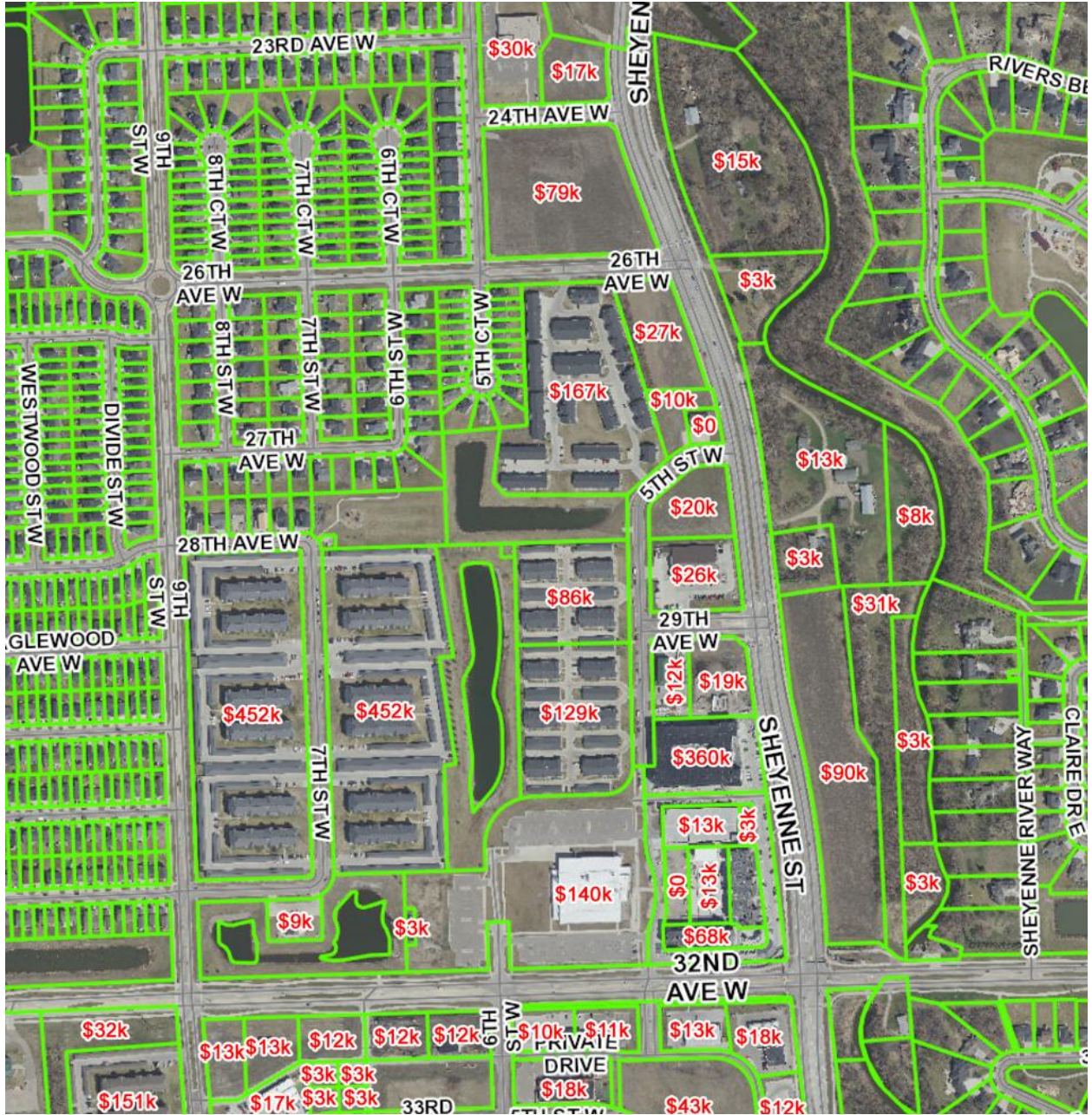
For 200 apartment units at the Northern Lights, the city needs 668 feet of sewer and water main. For 270 units of single family housing, the city needs more than 46,000 feet of sewer and water pipe. The cost of service to a single family home is nearly 50 TIMES the cost of serving an Urban Mixed Use apartment, These are rough numbers, but they are accurate. Under its current policy, West Fargo is essentially requiring its apartment owners (and by extension renters – many of whom are on a fixed income) to subsidize single family homes. This is not only unfair, but bad public policy.

Residential Utility Footage Analysis (water and Sewer)								
Desc.	Total Residential Units	Total Land Area (acres)	Sanitary Sewer Infrastructure Cost	Water Main Infrastructure Cost	Linear Foot of Pipe Req'd	Total LF per Residence	Infrastructure Cost per Unit	200 Unit Equivalent
Typical Single Family Development	270.00	70.00	\$ 1,444,528.00	\$ 1,276,775.00	46,029.00	170.48	\$ 10,078.90	\$ 2,015,780.00
Traditional Multi-Family	120.00	10.00	\$ 64,608.96	\$ 61,440.44	2,134.00	7.90	\$ 466.85	\$ 93,369.93
Urban Mixed Use	196.00	2.61	\$ 19,739.95	\$ 19,693.19	668.00	3.41	\$ 201.19	\$ 40,237.89
								\$ 2,149,387.82

Land Area Example		200 Unit Equiv.	West Fargo Equivalent Unit Example		200 Unit Equiv.
Typical Single Family Development	70.00	51.85	Typical Single Family Development	270.00	200.00
Traditional Multi-Family	10.00	16.67	Traditional Multi-Family	72.00	120.00
Urban Mixed Use	2.61	2.66	Urban Mixed Use	117.60	120.00
Total Land Area	82.61	71.18	Total Project Units	459.60	440.00
Total Project Cost	\$2,886,785.54	\$ 2,149,387.82	Total Project Cost	\$2,886,785.54	\$ 2,149,387.82
Typical Single Family Development	\$2,446,132.28	\$ 1,565,705.90	Typical Single Family Development	\$1,695,892.29	\$ 976,994.46
Traditional Multi-Family	\$ 349,447.47	\$ 503,262.61	Traditional Multi-Family	\$ 452,237.94	\$ 586,196.68
Urban Mixed Use	\$ 91,205.79	\$ 80,419.31	Urban Mixed Use	\$ 738,655.31	\$ 586,196.68

Taxpayers deserve the assurance that they will be treated fairly by every level of government. They deserve to be treated in the same manner as other taxpayers. If cities are allowed to assess property in new, novel and punitive ways, it will only lead to unfair results. The changes we have proposed and that are contained in HB 1330 are not designed to penalize cities or limit the use of special assessments as a funding mechanism. Rather they are designed to insure that cities continue to assess property owners in a consistent manner that accurately reflects the benefit to the property itself, not its current or anticipated future use. For the above reasons, I respectfully ask that you consider the proposed changes to the NDCC 40-23-07 contained in HB 1330. If you would like additional information, please just let me know. I can try and answer any questions you may have at this time. Thank you.

Special Assessments using the West Fargo Policy



I support HB1330. I am the owner of a plumbing company in West Fargo that employees over 60 employees. I believe this way of assessing specials isn't fair for all parties. This will end up raising rents on the people renting apartments and they usually live paycheck to paycheck.

Thanks

Jon Hanson

Testimony Presented on HB 1330 to the

House Finance and Taxation Committee

Representative Craig Headland, Chairman

Brenda Derrig, City Engineer for City of Fargo

January 17, 2023

Mr. Chairman and Members of the Committee,

The City of Fargo understands and recognizes that the process of special assessments is a long debated issue that is very complex. Fargo prides itself on longevity, consistency, and uniformity in regards to our infrastructure funding policy and our policy has been vetted and massaged a number of times over the past four decades, including a full-scale public review by a special assessment committee task force that included broad citizen representation that undertook an 18 month hearing process completed less than four years ago. Our Infrastructure Funding Policy has survived judiciary review up to the Supreme Court. HB 1330 as written threatens that.

The City of Fargo's Infrastructure Funding Policy refers to zoning in two aspects. First in the new build and reconstruction of arterial roadways. The City of Fargo has arterial assessment bands associated with the arterial roadways to guarantee that parcels are only assessed for one N/S and one E/W arterial road. These costs per front foot are capped by zoning category with City Funds covering the remaining cost. The second is in reconstruction of local and collector roadways. The costs per front foot are also based on zoning with City funding the remaining cost of the project. The funding split on these projects typically is 25% Special Assessment and 75% City Funded.

We seek your opposition to HB 1330 as written, which in its current form will threaten our city's special assessment policy that has been reviewed and updated many times since its origin in the 1970's and that has been endorsed in court for its longevity, consistency, and uniformity.

Proposed Amendment to HB 1330

Page 1, Line 19 – after “area” insert a comma and overstrike “or” and after “footage” add “or a combination of both”

Page 1, line 23 – overstrike “zoning classification or specific”

After Page 1, Line 24 – Add a new Section 3 “Once an improvement district is established by a political subdivision, the political subdivision may not change its special assessment funding policy or formula for determining the value of benefit for that improvement district.

Renumber accordingly.

23.0630.01001

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1330

Introduced by

Representatives Roers Jones, Bosch, Hagert, Headland, Mock, D. Ruby
Senators Bekkedahl, Larsen

1 A BILL for an Act to amend and reenact section 40-23-07 of the North Dakota Century Code,
2 relating to the preferred methodology when determining special assessments.

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

4 **SECTION 1. AMENDMENT.** Section 40-23-07 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **40-23-07. Determination of special assessments by commission - Political**
7 **subdivisions not exempt.**

- 8 1. Whenever the commission makes ~~anya~~ special assessment, the commission shall
- 9 determine the particular lots and parcels of land which, in the opinion of the
- 10 commission, will be especially benefited by the construction of the work for which the
- 11 assessment is to be made. The commission shall determine the amount in which each
- 12 of the lots and parcels of land will be especially benefited by the construction of the
- 13 work for which ~~such~~the special assessment is to be made, and shall assess against
- 14 each of ~~such~~the lots and parcels of land ~~such~~a sum, not exceeding the benefits, as is
- 15 necessary to pay its just proportion of the total cost of ~~such~~the work, or of the part
- 16 ~~thereof~~of the work which is to be paid by special assessment, including all expenses
- 17 incurred in making ~~such~~the assessment and publishing necessary notices with
- 18 reference ~~thereto~~to the assessment and the per diem of the commission. ~~However, as~~
- 19 2. Notwithstanding subsection 1, the total area ~~or~~ front footage, or a combination of both,
- 20 including an equivalent unit based upon total area and front footage, of a lot or parcel,
- 21 must be the preferred method of determining the total benefit to each lot or parcel.
- 22 Without first obtaining written consent from a property owner, the commission may not
- 23 consider:
- 24 a. The assessed value of a landowner's lot or parcel; or

- 1 b. The zoning classification or specific use of a lot or parcel, unless the lot or parcel
2 is used for agricultural purposes.
- 3 3. For cities required to have a written special assessment policy or cost allocation
4 funding policy, the city, once a resolution declaring improvements necessary is issued
5 for an improvement district, may not amend the adopted policy as it relates to that
6 improvement district.
- 7 4. As an alternative to the procedure preferred method provided in this-
8 section subsection 2, the special assessment commission may, in its discretion,
9 determine and allocate the cost of special assessments in accordance with the
10 method provided for in chapter 40-23.1. Property owned by a nonprofit entity and used
11 exclusively as a cemetery is exempt from collection of special assessments for
12 benefits conferred under this title and the city in which ~~such~~the property is located
13 shall provide for the payment of special assessments, installments, and interest
14 against ~~such~~the property by the levy of taxes according to law or by payment from
15 other funds available to the city which are derived from sources other than special
16 assessments. Benefited property belonging to counties, cities, school districts, park
17 districts, and townships is not exempt from ~~such~~the assessment, and ~~such~~the public
18 corporations whose property is so assessed shall provide for the payment of ~~such~~the
19 assessments, installments thereof and interest thereon, by the levy of taxes according
20 to law. Nothing in this section may be deemed to amend other provisions of law with
21 reference to the levy of assessments on property sold for delinquent taxes.

23.0630.01001

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1330

Introduced by

Representatives Roers Jones, Bosch, Hagert, Headland, Mock, D. Ruby

Senators Bekkedahl, Larsen

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5 amended and reenacted as follows:

6 **40-23-07. Determination of special assessments by commission - Political**
7 **subdivisions not exempt.**

8 1. Whenever the commission makes ~~anya~~ special assessment, the commission shall
9 determine the particular lots and parcels of land which, in the opinion of the
10 commission, will be especially benefited by the construction of the work for which the
11 assessment is to be made. The commission shall determine the amount in which each
12 of the lots and parcels of land will be especially benefited by the construction of the
13 work for which ~~such~~the special assessment is to be made, and shall assess against
14 each of ~~such~~the lots and parcels of land ~~such~~a sum, not exceeding the benefits, as is
15 necessary to pay its just proportion of the total cost of ~~such~~the work, or of the part
16 ~~thereof of the work~~ which is to be paid by special assessment, including all expenses
17 incurred in making ~~such~~the assessment and publishing necessary notices with
18 reference ~~thereto to the assessment~~ and the per diem of the commission. ~~However, as~~

19 2. ~~Notwithstanding subsection 1, the total area or front footage, or a combination of both,~~
20 ~~including an equivalent unit based upon total area and front footage, of a lot or parcel~~
21 ~~must be the preferred method of determining the total benefit to each lot or parcel.~~

22 Without first obtaining written consent from a property owner, the commission may not
23 consider:

24 a. the assessed value of a landowner's lot or parcel/ or.

1 ~~b. The zoning classification or specific use of a lot or parcel, unless the lot or parcel~~
2 ~~is used for agricultural purposes.~~

3 3. For cities required to have a written special assessment policy ^{under Section 40-22-01} ~~or cost allocation~~
4 ~~funding policy.~~ The city, once a resolution declaring improvements necessary is issued
5 for an improvement district, may not amend the adopted policy as it relates to that
6 improvement district.

7 4. As an alternative to the ^{PROCEDURE} ~~procedure~~ preferred method provided in ~~this~~ ^{this}
8 ~~section~~ ^{section} ~~subsection 2~~; the special assessment commission may, in its discretion,
9 determine and allocate the cost of special assessments in accordance with the
10 method provided for in chapter 40-23.1. Property owned by a nonprofit entity and used
11 exclusively as a cemetery is exempt from collection of special assessments for
12 benefits conferred under this title and the city in which ~~such~~ ^{the} property is located
13 shall provide for the payment of special assessments, installments, and interest
14 against ~~such~~ ^{the} property by the levy of taxes according to law or by payment from
15 other funds available to the city which are derived from sources other than special
16 assessments. Benefited property belonging to counties, cities, school districts, park
17 districts, and townships is not exempt from ~~such~~ ^{the} assessment, and ~~such~~ ^{the} public
18 corporations whose property is so assessed shall provide for the payment of ~~such~~ ^{the}
19 assessments, installments thereof and interest thereon, by the levy of taxes according
20 to law. Nothing in this section may be deemed to amend other provisions of law with
21 reference to the levy of assessments on property sold for delinquent taxes.

if the policies do not use the total area, front footage, or ^{per} per unit,
or a COMBINATION THEREOF, to ALLOCATE the benefit to each lot
or parcel, the policy must explain the reason for the different
methods.

HB 1330 Amendments

Version 23.0630.01001

Page 1, remove lines 19, 20 and 21

Page 1, line 23, remove “;”

Page 1, line 24, remove “a.”

Page 1, line 24, replace “The” with “the”

Page 1, line 24, replace “; or” with “.”

Page 2, remove lines 1 and 2

Page 2, line 3, after “policy” insert “under section 40-22-01;

Page 2, line 3, remove “or cost allocation funding policy”

Page 2, line 4, after “policy.” insert “if the policies do not use the total area, front footage, or per unit, or a combination thereof, to allocate the benefit to each lot or parcel, the policy must explain the reason for the different method.”

Page 2, line 4, replace “the” with “The”

Page 2, line 7, remove overstrike over “procedure”

Page 2, line 7, remove “preferred method”

Page 2, line 7, remove overstrike over “this”

Page 2, line 8, remove overstrike over “section”

Page 2, line 8, remove “subsection 2”

Renumber accordingly.

23.0630.01001
Title.

Prepared by the Legislative Council staff for
Representative Roers Jones
January 26, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1330

Page 1, line 19, replace the first "or" with an underscored comma

Page 1, line 19, after "footage" insert ", or a combination of both, including an equivalent unit based upon total area and front footage."

Page 2, line 1, after "3." insert "For cities required to have a written special assessment policy or cost allocation funding policy, the city, once a resolution declaring improvements necessary is issued for an improvement district, may not amend the adopted policy as it relates to that improvement district."

4."

Renumber accordingly