

**Sixty-second Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1322  
(Representatives Wrangham, S. Meyer, Damschen)  
(Senators Miller, Oehlke, Murphy)

AN ACT to amend and reenact sections 40-26-01 and 40-26-07 of the North Dakota Century Code, relating to limitation of imposition of special assessments against agricultural property; to provide for a legislative management study; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 40-26-01 of the North Dakota Century Code is amended and reenacted as follows:

**40-26-01. Courts to review levy and apportionment of special assessments - De novo review for agricultural property assessments.**

The courts shall review the levy and apportionment of the special assessments in all actions and proceedings involving the validity or apportionment of any special assessment for local or special improvements. If an action challenges the determination of benefits and special assessments imposed for agricultural property, the decision of the special assessment commission regarding agricultural property is not entitled to deference by the court and the court shall consider the determination of benefits and special assessments imposed for agricultural property de novo. An appeal taken under this section must be in accordance with the procedure provided in section 28-34-01.

**SECTION 2. AMENDMENT.** Section 40-26-07 of the North Dakota Century Code is amended and reenacted as follows:

**40-26-07. Actions to restrain collection of special assessments, avoid tax judgments - Duty of court.**

The court shall determine the true and just amount which any property attempted to be specially assessed for a special improvement should pay to make the same uniform with other special assessments for the same purpose, whenever any action or proceeding shall be commenced and maintained before the court to prevent or restrain the collection of any special assessment or part thereof made or levied by the officers of any municipality for any purpose authorized by law, if such assessment shall be held to be void by reason of noncompliance with any provision of the laws of this state. The~~Unless the action challenges the determination of benefits and special assessments imposed for agricultural property, the~~ amount of the assessment as the same appears on the assessment list shall be prima facie evidence of the true and just amount, and judgment must be rendered and given therefor against the party liable for such special assessment without regard to the proceedings had for the levy thereof. The judgment shall be a lien upon the property upon which a special assessment shall have been levied, of the same force and effect as the lien of a special assessment, and the lien of such special judgment shall be enforced by the court in such action. No action for said purposes shall be maintained unless it is commenced within six months after the special assessment is approved.

**SECTION 3. LEGISLATIVE MANAGEMENT STUDY - SPECIAL ASSESSMENTS AND AGRICULTURAL PROPERTY ASSESSMENTS.** During the 2011-12 interim, the legislative management shall consider studying use of special assessments for public improvements, use and administration of special assessments across the state, and alternative funding mechanisms available, with emphasis on imposition and relative rate of special assessments against agricultural property. The study must include examination of agricultural property tax classification and assessment issues, with emphasis on these issues within and near city boundaries. The legislative management shall report its

findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

**SECTION 4. EFFECTIVE DATE.** This Act is effective for special assessments levied after July 31, 2011.

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1322.

House Vote:    Yeas 74            Nays 19            Absent 1

Senate Vote:    Yeas 33            Nays 14            Absent 0

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2011.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2011.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2011,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State