

**HOUSE BILL NO. 1339**

Introduced by

Representatives Skroch, Ertelt, B. Koppelman, McWilliams, Toman, Vigesaa

Senators Burckhard, Luick, Osland

1 A BILL for an Act to amend and reenact sections 61-16.1-22, 61-16.1-23, and 61-16.1-26 of the  
2 North Dakota Century Code, relating to notice, appeals, and refunds of special assessments.

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

4 **SECTION 1. AMENDMENT.** Section 61-16.1-22 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **61-16.1-22. Assessment list to be published - Notice of hearing - Alteration of**  
7 **assessments - Confirmation of assessment list - Filing.**

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

1       **SECTION 2. AMENDMENT.** Section 61-16.1-23 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **61-16.1-23. Appeal to state engineer.**

4       After the hearing provided for in section 61-16.1-22, affected landowners and any political  
5 subdivision subject to assessment, ~~having not less than twenty-five~~ fifteen percent of the  
6 possible votes, as determined by section 61-16.1-20, who believe that the assessment had not  
7 been fairly or equitably made, or that the project is not properly located or designed, may  
8 appeal to the state engineer by petition, within ten days after the hearing on assessments, to  
9 make a review of the assessments and to examine the location and design of the proposed  
10 project. Upon receipt of such petition the state engineer shall examine the lands assessed and  
11 the location and design of the proposed project, and if it appears that the assessments have not  
12 been made equitably, the state engineer may proceed to correct the same, and the state  
13 engineer's correction and adjustment of said assessment is final. Should it appear that, in the  
14 judgment of the state engineer, the project has been improperly located or designed, the state  
15 engineer may order a relocation and redesign. Such relocation and redesign must be followed  
16 in the construction of the proposed project. Upon filing a bond for two hundred fifty dollars with  
17 the board for the payment of the costs of the state engineer in the matter, any landowner or  
18 political subdivision who or which claims that the landowner or political subdivision will receive  
19 no benefit at all from the construction of a new project may appeal to the state engineer within  
20 ten days after the hearing on assessments, the question of whether there is any benefit. The  
21 state engineer may not determine the specific amount of benefit upon an appeal by an  
22 individual landowner or political subdivision, but shall only determine if there is any benefit to  
23 the landowner or political subdivision, and the determination of the state engineer upon such  
24 question is final.

25       **SECTION 3. AMENDMENT.** Section 61-16.1-26 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27       **61-16.1-26. Reassessment of benefits.**

28       The water resource board may hold at any time or, upon petition of any affected landowner  
29 or political subdivision which has been assessed after a project has been in existence for at  
30 least one year, shall hold a hearing for the purpose of determining the benefits of such project to  
31 each tract of land affected. ~~At least ten days' notice~~ Notice of the hearing must be given by

1 publication once each week for three consecutive weeks, beginning at least thirty days before  
2 the hearing, in the newspaper or newspapers having general circulation in the district and in the  
3 official county newspaper of each county in which the benefited lands are located and by  
4 mailing notice thereof by ~~ordinary~~ of the hearing by certified mail of the hearing in an envelope  
5 clearly marked "ASSESSMENT NOTICE" to each owner of land ~~whose assessment is proposed~~  
6 ~~to be raised as determined by the records of the recorder or county treasurer~~ in the assessed  
7 district at the landowner's address as shown by the tax rolls of the counties in which the  
8 affected property is located. The provisions of this chapter governing the original determination  
9 of benefits and assessment of costs apply to any reassessment of benefits carried out under  
10 this section. The board may not be forced to make such reassessment more than once every  
11 ten years, nor may any assessment or balance thereof supporting a project fund be reduced or  
12 impaired by reassessment or otherwise so long as bonds payable out of such fund remain  
13 unpaid and moneys are not available in such fund to pay all such bonds in full, with interest.  
14 Costs of maintenance must be prorated in accordance with any plan for reassessment of  
15 benefits that has been adopted.