

Sixty-fifth  
Legislative Assembly  
of North Dakota

ENGROSSED 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 any 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 any and all lots and parcels of land, which may be subject to  
7 assessment and ~~shall determine~~develop from the inspection and, where available, the  
8 use of current light imaging detection and ranging technology, an assessment formula  
9 for the particular lots and parcels of lands which, ~~in the opinion of the board,~~ will be  
10 especially benefited by the construction of the work for which the assessment is made,  
11 and ~~shall~~ assess the proportion of the total cost of acquiring right of way and  
12 constructing and maintaining ~~such~~the improvement in accordance with benefits  
13 received but not exceeding ~~such~~the benefits, against:

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

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

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

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

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

9 **61-16.1-22. Assessment list to be published - Notice of hearing - Alteration of**  
10 **assessments - Confirmation of assessment list - Filing.**

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

29 **SECTION 4. AMENDMENT.** Section 61-21-20 of the North Dakota Century Code is  
30 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 may 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.