

SENATE BILL NO. 2270
with Conference Committee Amendments
SENATE BILL NO. 2270

Introduced by

Senators Wanzek, G. Lee, Sorvaag

Representatives Sanford, Vigesaa, Zubke

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

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

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

8 5. "Political subdivision" means:

- 9 a. A local governmental unit created by statute or by the Constitution of North
10 Dakota for local governmental or other public purposes.
- 11 b. The state department of health, or any other state agency or authority, or any
12 member-owned association or publicly owned and nonprofit corporation:
13 (1) Operating any public water system that is subject to chapter 61-28.1.
14 (2) Operating any facility, system, or other related activity that is eligible for
15 financial assistance under chapter 61-28.2.
- 16 c. The Bank of North Dakota for purposes of the revolving loan fund program
17 established by chapter 61-28.2.
- 18 d. The state water commission for purposes of the revolving loan fund program
19 established by chapter 61-28.1.
- 20 e. A qualified borrower within the meaning of 26 U.S.C. 54(j)(5) [Pub. L. 109-58;
21 119 Stat. 995].
- 22 f. The Garrison Diversion Conservancy District or any successor entity or
23 improvement district created under chapter 61-24.8 to finance or refinance
24 irrigation and water supply projects.

- 1 g. The Lake Agassiz water authority, for use in financing the construction,
2 acquisition, extension, expansion, alteration, betterment, maintenance, or
3 renovation of a project under section 61-39-16.

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

6 **61-24-27. Notes and bonds exempt from taxation.**

7 Notwithstanding any other provision of law, the state and all public officers, boards, and
8 agencies, and political subdivisions and agencies of the state including the public finance
9 authority, all national banking associations, state banks, trust companies, savings banks and
10 institutions, savings and loan associations, credit unions, investment companies, insurance
11 companies, and other entities carrying on an investment business, and executors,
12 administrators, guardians, trustees, and other fiduciaries, may legally invest any sinking funds,
13 moneys, or other funds belonging to them or within their control in any bonds issued under this
14 chapter, and the bonds are authorized security for public deposits. Notes and bonds, including
15 refunding bonds, issued under this chapter and their interest and income are exempt from all
16 taxation by the state or by any political subdivision except inheritance, estate, and transfer
17 taxes.

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

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

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

25 **61-24.8-13. Hearing - Notice - Contents.**

- 26 1. Upon the filing of the engineer's report provided for in section 61-24.8-09, and after
27 satisfying the requirements of section 61-24.8-10, the board shall fix a date and place
28 for public hearing on the proposed project, except when the conditions under
29 subsection 2 are met. The place of hearing must be in the vicinity of the proposed
30 project and must be convenient and accessible for the majority of the landowners
31 subject to assessment for the project or whose property is subject to condemnation for

1 the proposed project. The board may appoint a hearing officer or a committee of the
2 board to conduct the hearing. The board shall cause a complete list of the benefits and
3 assessments to be made, setting forth each lot, piece, or parcel of land assessed, the
4 amount each is benefited by the improvement, and the amount assessed against
5 each. At least fourteen days before the hearing, the board shall file with the county
6 auditor of each county in which the project is or will be located the list showing the
7 percentage assessment and approximate assessment in dollars against each parcel of
8 land benefited by the proposed project. Notices of the hearing must contain the time
9 and place where the board will conduct the hearing. The notice of hearing must
10 specify when and where votes concerning the proposed project may be filed and
11 contain an assessment list showing the percentage assessment and approximate
12 assessment in dollars against each parcel of land benefited by the proposed project.
13 The board shall cause the notice of hearing to be published once a week for two
14 consecutive weeks in newspapers of general circulation in the area in which the
15 affected landowners reside and in the official county newspaper of each county in
16 which the benefited lands are located. The date set for the hearing may not be fewer
17 than fourteen days after the first publication of the notice. A record of the hearing must
18 be made by the board, including a list of affected landowners present in person or by
19 agent, and the record must be preserved in the minutes of the meeting. Affected
20 landowners to be assessed must be informed at the hearing of the probable total cost
21 of the project and their individual share of the cost and the portion of their property, if
22 any, to be condemned for the project.

23 2. A public hearing is not required if the board:

24 a. Provides written notice to each affected landowner setting forth the probable total
25 cost of the project, the landowner's share of the project cost, the portion of the
26 landowner's property, if any, to be condemned for the project, and when and
27 where votes concerning the proposed project may be filed. If the written notice is
28 given to each affected landowner, the assessment list for the proposed project
29 need not be filed with the county auditor of each county in which the project is
30 located; and

1 b. Publishes notice of the project in newspapers of general circulation in the area in
2 which the affected landowners reside and in the official county newspaper of
3 each county in which the benefited lands are located at least twenty-one days
4 before the deadline for filing votes on the project.

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

7 **61-24.8-14. Voting on proposed projects.**

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

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

3 **61-24.8-16. Assessment of cost of project.**

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

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

20 **61-24.8-17. Assessment list to be published - Notice of hearing - Alteration of**
21 **assessments - Confirmation of assessment list - Filing.**

22 After entering an order establishing the project, the board shall cause the assessment list to
23 be published once each week for two successive weeks in the official county newspaper of
24 each county in which the benefited lands are located and in local newspapers of general
25 circulation in the area of the affected lands. The publication must include a notice of the time
26 and place the board will meet to hear objections to any assessment by any interested party or
27 an agent or attorney for that party. Publication of the assessment list is not required if the board
28 mails the assessment list and the time and place of the hearing to each affected landowner. The
29 date set for the hearing must be not less than fourteen days after the mailing or first publication
30 of the notice. At the hearing, the board may make such alterations in the assessments as in its
31 opinion may be just and necessary to correct any error in the assessment but must make the

1 aggregate of all assessments equal to the total amount required to pay the entire cost of the
2 work for which the assessments are made or the part of the cost to be paid by special
3 assessment. An assessment may not exceed the benefit as determined by the board to the
4 parcel of land assessed. The hearing is not required if the board receives written consent from
5 each affected landowner to the levy of assessments. The board then shall confirm the
6 assessment list and the secretary shall attach to the list a certificate that it is correct as
7 confirmed by the board. The list must be filed in the office of the district secretary.

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