

Introduced by

Legislative Management

(Water Drainage Committee)

1 A BILL for an Act to create and enact a new section to chapter 61-16.1 of the North Dakota  
2 Century Code, relating to calculations of costs and benefits for assessment projects; to amend  
3 and reenact sections 61-16.1-02, 61-16.1-09.1, 61-16.1-12.1, 61-16.1-15, 61-16.1-17,  
4 61-16.1-18, 61-16.1-19, 61-16.1-20, 61-16.1-21, 61-16.1-22, and 61-16.1-23 of the North  
5 Dakota Century Code, relating to costs, benefits, and special assessments for water projects; to  
6 repeal section 61-16.1-01 of the North Dakota Century Code, relating to legislative intent; and to  
7 provide a penalty.

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

9 **SECTION 1. AMENDMENT.** Section 61-16.1-02 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **61-16.1-02. Definitions.**

12 In this chapter, unless the context or subject matter otherwise provides:

- 13 1. "Affected land" or "affected property" means land or property subject to special  
14 assessment or condemnation for a project.
- 15 2. "Affected landowners" means landowners whose land is subject to special  
16 assessment or condemnation for a project.
- 17 ~~2-3.~~ "Assessment drain" means any natural watercourse opened, or proposed to be  
18 opened, and improved for the purpose of drainage, and any artificial drain of any  
19 nature or description constructed for the purpose of drainage, including dikes and  
20 appurtenant works, which are financed in whole or in part by special assessment. This  
21 definition may include more than one watercourse or artificial channel constructed for  
22 the purpose of drainage when the watercourses or channels drain land within a  
23 practical drainage area.

- 1     ~~3.4.~~   "Assessment project" means any project financed in whole or in part by a special  
2           assessment.
- 3     ~~5.~~     "Benefited property" means property that accrues benefits from a project.
- 4     ~~6.~~     "Benefits" means the extent to which society and economies impacted by a project are  
5           made better off through lower costs, fewer damages, or enhancements.
- 6     ~~7.~~     "Commission" means the state water commission.
- 7     ~~4.8.~~   "Conservation" means planned management of water resources to prevent  
8           exploitation, destruction, neglect, or waste.
- 9     ~~5.9.~~   "Costs of the frivolous complaint" means all reasonable costs associated with the  
10          requisite proceedings regarding the removal of obstructions to a drain, removal of a  
11          noncomplying dike or dam, or closing a noncomplying drain, including all reasonable  
12          construction costs; all reasonable attorney's fees and legal expenses; all reasonable  
13          engineering fees, including investigation and determination costs; compliance  
14          inspections; and necessary technical memorandum and deficiency review; and all  
15          costs associated with any hearing conducted by a district, including preparation and  
16          issuance of any findings of fact and any final closure order.
- 17    ~~6.10.~~ "District" means a water resource district.
- 18    ~~7.11.~~ "Frivolous" means allegations and denials in any complaint filed with a district made  
19          without reasonable cause and not in good faith.
- 20    ~~8.12.~~ "Project" means any undertaking for water conservation; flood control; water supply;  
21          water delivery; erosion control and watershed improvement; drainage of surface  
22          waters; collection, processing, and treatment of sewage; or discharge of sewage  
23          effluent; or any combination thereof, including of purposes in this subsection, and  
24          includes incidental features of any such the undertaking.
- 25    ~~9.13.~~ "Water resource board" means the water resource district's board of managers.

26        **SECTION 2. AMENDMENT.** Section 61-16.1-09.1 of the North Dakota Century Code is  
27    amended and reenacted as follows:

28        **61-16.1-09.1. Watercourses, bridges, and low-water crossings.**

- 29        1. A water resource board may undertake the snagging, clearing, and maintaining of  
30          natural watercourses and the debris removal of bridges and low-water crossings. The  
31          board may finance the project in whole or in part with funds raised through the

1 collection of a special assessment levied against the land and premises benefited by  
2 the project. The benefits of a project must be determined in the manner provided in  
3 section ~~61-16.1-176~~ of this Act. Revenue from an assessment under this section may  
4 not be used for construction of a drain or reconstruction or maintenance of an existing  
5 assessment drain. Any question as to whether the board is maintaining a natural  
6 watercourse or is constructing a drain or reconstructing or maintaining an existing  
7 assessment drain must be resolved by the department of water resources. All  
8 provisions of this chapter apply to assessments levied under this section except:

- 9 a. An assessment may not exceed fifty cents per acre [.40 hectare] annually on  
10 agricultural lands and may not exceed fifty cents annually for each five hundred  
11 dollars of taxable valuation of nonagricultural property; and  
12 b. If the assessment is for a project costing less than one hundred thousand dollars,  
13 no action is required for the establishment of the assessment district or the  
14 assessments except the board must approve the project and assessment by a  
15 vote of two-thirds of the members and the board of county commissioners of the  
16 county in which the project is located must approve and levy the assessments to  
17 be made by a vote of two-thirds of its members.

18 (1) If a board that undertakes a project finds the project will benefit lands  
19 outside water resource district boundaries, the board shall provide notice to  
20 the water resource board where the benefited lands are located together  
21 with the report prepared under section 61-16.1-17.

22 (2) The board of each water resource district containing lands benefited by a  
23 project must approve the project and assessment by a vote of two-thirds of  
24 its members. The board of county commissioners in each county that  
25 contains lands benefited by a project must approve and levy the  
26 assessment to be made by a vote of two-thirds of its members.

27 (3) If a project and assessment is not approved by all affected water resource  
28 boards and county commission boards, the board of each water resource  
29 district and the board of county commissioners of each county shall meet to  
30 ensure all common water management problems are resolved pursuant to  
31 section 61-16.1-10. In addition, the water resource board that undertakes

1                   the project may proceed with the project if the board finances the cost of the  
2                   project and does not assess land outside the boundaries of the district.

3           c. All revenue from an assessment under this section must be exhausted before a  
4           subsequent assessment covering any portion of lands subject to a prior  
5           assessment may be levied.

6           2. Before an assessment may be levied under this section, a public hearing must be held  
7           and attended by a quorum of the affected water resource boards and a quorum of the  
8           affected boards of county commissioners. The hearing must be preceded by notice as  
9           to date, time, location, and subject matter published in the official newspaper in the  
10          county or counties in which the proposed assessment is to be levied. The notice must  
11          be published at least ten days but not more than thirty days before the public hearing.

12          **SECTION 3. AMENDMENT.** Section 61-16.1-12.1 of the North Dakota Century Code is  
13          amended and reenacted as follows:

14          **61-16.1-12.1. Water resource boards - Agreements with state or federal agencies for**  
15          **certain improvements.**

16          1. A water resource board may enter into an agreement with any federal or state agency,  
17          or any combination thereof federal or state agencies, for the construction of a  
18          project, under the terms of which the contract for the work is to be let by the federal or  
19          state agency or any combination thereof federal or state agencies. If under the terms  
20          of the agreement at least fifty percent of the total cost of constructing the project is to  
21          be paid by the agency or agencies and if any portion of the cost of the project is to be  
22          paid by the levy of special assessments, the board may by resolution may create a  
23          project assessment district ~~for the purpose of levying to~~ levy special assessments to  
24          finance the amount that the district will be obligated to pay in accordance with the  
25          agreement, over and above any other funds ~~which are~~ on hand and properly available  
26          for that purpose. The assessment district must ~~be of a size and form as to~~ include all  
27          ~~properties which in the judgment of~~ benefited property as determined by the board,  
28          after consultation with a registered engineer designated by the board for that purpose,  
29          ~~will be benefited by the construction of the proposed project~~, and the board shall direct  
30          the engineer to prepare a map showing the boundaries of the proposed assessment  
31          district.

- 1       2. The board by resolution shall ~~by resolution~~ declare the necessity of the project, set  
2       forth the general nature and purpose of the proposed project, estimate the total cost of  
3       the project; and the approximate amount or fraction of the cost ~~which~~ the district will be  
4       obligated to pay under the agreement, and the fact ~~that~~ this amount, or a lesser  
5       amount as the board may specify, is proposed to be paid by the levy of special  
6       assessments upon benefited property within the assessment district ~~determined to be~~  
7       ~~benefited by the project~~. The board shall ~~cause~~mail the resolution of necessity  
8       ~~together with,~~ a copy of the map showing the boundaries of the assessment district,  
9       and a notice stating the date and time by which the owners of any property liable to be  
10      specially assessed for the proposed project must ~~file their~~cast votes on the proposed  
11      project with the secretary of the board ~~to be mailed~~ to each affected landowner  
12      ~~affected by the proposed project~~ as determined by the tax rolls of the county in which  
13      the affected property is located. The board may send the material by certified mail or  
14      by regular mail attested by an affidavit of mailing signed by the attorney or secretary of  
15      the board. The notice must ~~also~~ set forth the time and place ~~where~~ the board shall  
16      meet to determine whether the project is approved. The notice must ~~also~~ be published  
17      once in a newspaper of general circulation in the district and once in the official county  
18      newspaper of each county in which the ~~benefited lands are~~affected property is located.  
19      Within five days after the first mailing of the resolution the board shall ~~cause~~serve a  
20      copy of the resolution ~~to be personally served~~ upon any county, city, or township, in its  
21      corporate capacity which may be benefited directly or indirectly from the construction  
22      of the proposed project and upon any county ~~which that~~ may become liable for any  
23      deficiency in the fund to be created for the project, by delivering a copy of the  
24      resolution to any member of the governing body ~~thereof~~of the county, city, or township.  
25      3. The meeting must be held not less than thirty days after the mailing of the resolution,  
26      at which time the board shall determine whether the project is approved. If the board  
27      finds ~~that~~ fifty percent or more of the total votes filed are against a proposed project,  
28      ~~then~~ the board may not proceed further with the proposed project. If the board finds  
29      ~~that~~ less than fifty percent of votes filed are against the proposed project, the board  
30      may proceed with the project. In any assessment district created under this section,

1 the board may dispense with ~~all other~~the requirements of this chapter, other than  
2 those stated in this section.

3 4. After the contract for the work has been let, the board may issue warrants on the fund  
4 of the project for the total amount of the cost ~~thereof~~of the project, and the board,  
5 without holding the hearing required by section 61-16.1-18, shall ~~proceed to~~ determine  
6 and levy any assessments against benefited property ~~benefited by the project~~ and  
7 prepare an assessment list ~~all~~ in accordance with the procedures required by section 6  
8 of this Act and sections ~~61-16.1-21~~61-16.1-22 through 61-16.1-24. The provisions of  
9 sections 61-16.1-25 through 61-16.1-36 are applicable to the assessments and the  
10 special warrants issued pursuant to this section.

11 **SECTION 4. AMENDMENT.** Section 61-16.1-15 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **~~61-16.1-15. Financing project through revenue bonds, general taxes, or special-~~**  
14 **~~assessments -- Apportionment of benefits~~Initiating an assessment project - Policy.**

15 A water resource board ~~shall have the authority~~, either upon request or by its own motion,  
16 ~~to~~may acquire needed interest in property and provide for the cost of construction, alteration,  
17 repair, operation, and maintenance of a project through issuance of improvement warrants or  
18 with funds raised by special assessments, general tax levy, issuance of revenue bonds, or by a  
19 combination of general ad valorem tax, special assessments, and revenue bonds. ~~Whenever a~~  
20 ~~water resource board decides to acquire property or interests in property to construct, operate,~~  
21 ~~alter, repair, or maintain a project with funds raised in whole or in part through special-~~  
22 ~~assessments, such assessments shall be apportioned to and spread upon lands or premises~~  
23 ~~benefited by the project in proportion to and in accordance with benefits accruing thereto. The~~  
24 ~~board shall assess the proportion of the cost of the project, or the part of the cost to be financed~~  
25 ~~with funds raised through levy and collection of special assessments which any lot, piece, or~~  
26 ~~parcel of land shall bear in proportion to the benefits accruing thereto and any county, city, or~~  
27 ~~township which is benefited thereby.~~ In determining assessments, the water resource board  
28 shall carry out to the maximum extent possible the water management policy of this chapter that  
29 upstream landowners must share with downstream landowners the responsibility to provide for  
30 the proper management of surface waters.

1       **SECTION 5. AMENDMENT.** Section 61-16.1-17 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **61-16.1-17. Financing of special improvements - Procedure.**

4       When it is proposed to finance in whole or in part the construction of a project with funds  
5 raised through the collection of special assessments levied against lands and premises  
6 benefited by construction and maintenance of such project an assessment project is proposed,  
7 the water resource board shall examine the proposed project, and if in its opinion, If the water  
8 resource board decides further proceedings are warranted, ~~if the board~~ shall adopt a resolution  
9 and declare that ~~it~~ declaring constructing and maintaining the proposed project is necessary to  
10 construct and maintain the project. The resolution shall briefly state, identifying the nature and  
11 purpose of the proposed project, and shall ~~designate~~ designating a registered engineer to assist  
12 the board. For the purpose of making examinations or surveys, the board or ~~its employees~~ the  
13 board's agents, after written notice to each landowner, may enter upon any land on which the  
14 proposed project is located or any other lands necessary to gain access. The engineer shall  
15 prepare profiles, plans, and specifications of the proposed project and estimates of the  
16 proposed project's total cost thereof. The estimate of costs prepared by the engineer shall  
17 ~~include acquisition of~~ must include the cost to acquire right of way and shall be in sufficient detail  
18 ~~to allow~~ sufficiently detailed for the board to determine the probable share of the total costs that  
19 ~~will~~ to be assessed against each of the affected landowners in the proposed project assessment  
20 district under section 6 of this Act.

21       **SECTION 6.** A new section to chapter 61-16.1 of the North Dakota Century Code is created  
22 and enacted as follows:

23       **Determining costs and benefits for assessment projects - Limitations on**  
24 **assessments.**

- 25       1. For each proposed assessment project, the board or the board's agents shall inspect  
26 all lots, pieces, and parcels of land which may be subject to assessment for the  
27 proposed project to gather information necessary to calculate the benefits, in dollars,  
28 of the project to each lot, piece, or parcel. The calculation of benefits must occur  
29 before the hearing on the project under section 61-16.1-18.
- 30       2. For each proposed assessment project that will cost one million dollars or more, the  
31 water resource board shall prepare a cost-benefit analysis of the project before the

1 board may hold a hearing on the project under section 61-16.1-18. To prepare the  
2 cost-benefit analysis, the board shall use the economic analysis process developed  
3 under section 61-03-21.4 and calculate, in dollars, the total benefits anticipated from  
4 the project and the total costs anticipated for the project. If the calculated dollar  
5 amount of benefits does not exceed the calculated dollar amount of costs, the board  
6 may not levy special assessments for the project.

7 3. Although the costs of a project must be assessed against property in proportion to  
8 benefits received from the project, a water resource board may not assess any lot,  
9 piece, or parcel of land or any county, city, or township an amount exceeding the dollar  
10 amount of benefits anticipated to accrue to the lot, piece, parcel, county, city, or  
11 township from a project.

12 4. Property belonging to the United States is exempt from assessment for projects unless  
13 the United States has provided for the payment of any assessment that may be levied  
14 against the property for benefits received. Benefited property belonging to counties,  
15 cities, school districts, park districts, and townships is not exempt from assessment,  
16 and political subdivisions whose property is assessed shall provide for the payment of  
17 the assessments, installments, and interest by the levy of taxes according to law. Any  
18 county, township, or city assessed in its corporate capacity for benefits received shall  
19 provide for the payment of the assessments, installments, and interest from the  
20 political subdivision's general fund or by levy of a general property tax against all the  
21 taxable property in the political subdivision in accordance with law. A tax limitation  
22 provided by any statute of this state does not apply to tax levies made by a political  
23 subdivision for the purpose of paying any special assessments made in accordance  
24 with this chapter.

25 **SECTION 7. AMENDMENT.** Section 61-16.1-18 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **61-16.1-18. Hearing - Notice - Contents - Results of cost and benefit calculations.**

28 1. Upon the filing of the engineer's report provided for in section 61-16.1-17, and after  
29 satisfying the requirements of section 61-16.1-216 of this Act, the water resource  
30 board shall fix a date and place for a public hearing on the proposed project. The  
31 place of hearing must be in the vicinity of the proposed project and must be



1 convenient and accessible for the majority of the affected landowners subject to  
2 assessment for the project or whose property is subject to condemnation for the  
3 proposed project. ~~The board shall cause a complete list of the benefits and~~  
4 ~~assessments to be made, setting forth each county, township, or city assessed in its~~  
5 ~~corporate capacity as well as each lot, piece, or parcel of land assessed, the amount~~  
6 ~~each is benefited by the improvement and the amount assessed against each.~~

7 2. At least ten days before the hearing, the board shall file with the county auditor of each  
8 county ~~or counties~~ in which the project is or will be located the list showing the  
9 ~~percentage assessment against each parcel of land benefited by the proposed project~~  
10 ~~and the approximate assessment in terms of money apportioned thereto~~ results, in  
11 dollars, of the calculations required under section 6 of this Act and the engineer's  
12 calculation of costs for the project. A certificate signed by a majority of the members of  
13 the board attesting the calculations constitute a true and correct valuation of the  
14 anticipated benefits of the proposed project described to the best of the members'  
15 judgment and identifying the several costs for the project must be attached to the  
16 results. ~~Notice of the filing must be included in the notice of hearing. Notices~~

17 3. The water resource board shall provide notice of the hearing which must contain:  
18 a. Include a copy of the resolution of the board as well as to proceed with the  
19 project.  
20 b. Specify the time and place where the board will conduct of the hearing. The notice  
21 of hearing must specify  
22 c. Specify the general nature of the project as finally determined by the engineer  
23 and the board. The notice of hearing must also specify  
24 d. Specify when and where votes concerning the proposed project may be filed. The  
25 assessment list showing the percentage assessment against each parcel of land  
26 benefited by the proposed project and the approximate assessment in terms of  
27 money apportioned thereto, along with  
28 e. Include cost and benefit calculations a copy of the notice of the hearing, must  
29 be,  
30 f. Be mailed to each affected landowner at the landowner's address as shown by  
31 the tax rolls of the county or counties in which the affected property is located.

1           The board may send the ~~assessment list~~cost and benefit calculations and notice  
2           by regular mail attested by an affidavit of mailing signed by the attorney or  
3           secretary of the board. ~~The board shall cause the notice of hearing to be~~  
4           g. Be published once a week for two consecutive weeks in the newspaper or  
5           newspapers of general circulation in the area ~~in which the affected landowners~~  
6           ~~reside and in the official county newspaper of each county in which the~~  
7           ~~benefited~~affected lands are located.

8           4. The date set for the hearing must not be less than twenty days after the mailing of the  
9           notice. A record of the hearing must be made by the board, ~~including~~include a list of  
10          affected landowners present in person or by agent, and ~~the record must be preserved~~  
11          in the minutes of the meeting. ~~Affected landowners,~~Each affected landowner and the  
12          governing body of any county, township, or city to be assessed, ~~must be informed at~~  
13          the hearing of the ~~probable total cost of the project and their individual share of the~~  
14          ~~cost and the portion of their property, if any, to be condemned for the project~~cost and  
15          benefit calculations.

16          **SECTION 8. AMENDMENT.** Section 61-16.1-19 of the North Dakota Century Code is  
17          amended and reenacted as follows:

18          **61-16.1-19. Voting on proposed projects.**

19          At the hearing under section 61-16.1-18, the affected landowners, and any county,  
20          township, or city to be assessed, must ~~also~~ be informed when and where votes concerning the  
21          proposed project may be filed. Affected landowners, and the governing body of any county,  
22          township, or city to be assessed, have thirty days after the date of the hearing to file ~~their~~the  
23          votes for or against the project with the secretary of the water resource board ~~concerning the~~  
24          ~~project.~~ Once the deadline for filing votes has been reached, ~~no more~~ votes may not be filed  
25          and ~~no person may withdraw a vote or~~ withdrawn. Any withdrawal of a vote concerning the  
26          proposed project before that time must be in writing. When ~~the votes have been filed and the~~  
27          deadline for filing votes has passed, the board immediately shall ~~immediately~~ determine  
28          whether the project is approved. If the board finds ~~that~~ fifty percent or more of the total votes  
29          filed are against the proposed project, ~~then~~ the vote constitutes a bar against proceeding further  
30          with the project. If the board finds ~~that~~ the number of votes filed against the proposed project is  
31          less than fifty percent of the votes filed, the board shall issue an order establishing the proposed

1 project and may proceed, after complying with the requirements of ~~sections 61-16.1-21~~section 6  
2 of this Act and section 61-16.1-22, to ~~may~~ contract or provide for the construction or  
3 maintenance of the project in substantially the manner and according to the forms and  
4 procedure provided in title 40 for the construction of sewers within municipalities. The board  
5 may enter ~~into~~ an agreement with any federal or state agency under the terms of which the  
6 contract for the project is to be let by the federal agency, the state agency, or a ~~combination~~  
7 ~~thereof~~both. ~~In projects in which~~If there is an agreement ~~that~~for a party other than the board  
8 ~~will~~to let the contract, the board may dispense with all of the requirements of title 40. Upon  
9 making an order establishing or denying establishment of a project, the board shall publish  
10 notice of the order in a newspaper of general circulation in the area in which the affected  
11 landowners reside and in the official county newspaper of each county in which the  
12 ~~benefited~~affected lands are located. Any right of appeal begins to run on the date of publication  
13 of the notice. ~~As used in this section, "board" means water resource board.~~

14 **SECTION 9. AMENDMENT.** Section 61-16.1-20 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **61-16.1-20. Voting right ~~or powers~~ of landowners.**

17 In order that there may be a fair relation between the amount of liability for assessments  
18 and the power of objecting to the establishment of a proposed project, the voting rights of  
19 affected landowners on the question of establishing the project are as provided in this section.  
20 ~~The landowner or landowners of tracts of land affected by the project~~Affected landowners have  
21 one vote for each dollar of assessment ~~that~~to which the land is subject ~~to~~ or one vote for each  
22 dollar of the assessed valuation of land condemned for the project, as determined in  
23 accordance with title 57. The governing body of any county, township, or city to be assessed  
24 ~~also~~ has one vote for each dollar of assessment against ~~sueh~~the county, township, or city. There  
25 may be only one vote for each dollar of assessment, regardless of the number of owners of  
26 ~~sueh~~the tract of land. ~~Where~~if more than one owner of ~~sueh~~the land exists, the votes must be  
27 prorated among ~~them~~the owners in accordance with each owner's property interest. A written  
28 power of attorney authorizes an agent to protest a project on behalf of ~~any~~the affected  
29 landowner ~~or landowner~~that executed the power of attorney.

30 **SECTION 10. AMENDMENT.** Section 61-16.1-21 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1       **61-16.1-21. Assessment of cost of project.**

2       ~~Whenever~~

3       1. ~~If~~ If the water resource board proposes to make any special assessment under the-  
4       ~~provisions of this chapter, the board, prior to~~before the hearing required under section  
5       61-16.1-18, shall inspect ~~any and~~ all lots and parcels of land, which may be subject to  
6       assessment and shall determine from the inspection the particular lots and parcels of  
7       ~~lands~~land which, in the opinion of the board, will be especially benefited by the  
8       construction of the work for which the assessment is made ~~and~~. The board shall  
9       ~~assess the proportion of~~ the total cost of acquiring right of way and constructing and  
10      ~~maintaining such improvement in accordance with~~the assessment project in proportion  
11      to the benefits received but not exceeding such benefits, against:

12      1. Any any county, township, or city, in its corporate capacity, which may be benefited  
13      directly or indirectly ~~thereby~~.

14      2. Any ~~and any~~ lot, piece, or parcel of land which is directly benefited by ~~such~~-  
15      ~~improvement~~. However, no political subdivision or landowner may be assessed an  
16      amount that exceeds the benefits the political subdivision or lands owned by the  
17      landowner will derive from the assessment project.

18      2. In determining benefits the board shall consider, among other factors, property values,  
19      degree of improvement of properties, and productivity, and the water management  
20      policy as expressed in section 61-16.1-15. Property belonging to the United States  
21      ~~shall be~~is exempt from ~~such~~the assessment, unless the United States has provided for  
22      the payment of any assessment ~~which may~~to be levied against its property for benefits  
23      received. Benefited property belonging to counties, cities, school districts, park  
24      districts, and townships ~~shall not be~~is not 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~~the assessments, installments  
29      ~~thereof~~, and interest ~~thereon~~ from ~~its~~the political subdivision's general fund or by levy  
30      of a general property tax against all the taxable property ~~therein~~in the political  
31      subdivision in accordance with law. ~~No tax limitation~~Tax limitations provided by any

1 statute of this state shall ~~do not~~ apply to tax levies made by any ~~such a~~ political  
2 subdivision for the purpose of paying any special assessments made in accordance  
3 with the provisions of ~~under~~ this chapter. There shall be attached to the  
4 3. Each list of assessments for an assessment project under this chapter must have an  
5 attached certificate signed by a majority of the members of the board certifying that ~~the~~  
6 ~~same~~ the list of assessments is a true and correct assessment of the benefit  
7 ~~therein~~ project's benefits described to the best of ~~their~~ the board members' judgment  
8 and ~~stating~~. The certificate also must identify the several items of expense included in  
9 the assessment.

10 **SECTION 11. AMENDMENT.** Section 61-16.1-22 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **61-16.1-22. Assessment list Cost and benefit calculations to be published - Notice of**  
13 **hearing on assessments - Alteration of assessments - Confirmation of assessment list -**  
14 **Filing.**

15 After entering an order establishing ~~the an~~ assessment project, the water resource board  
16 shall ~~cause the assessment list to be published~~ publish a notice including the results, in dollars,  
17 of the calculations required under section 6 of this Act and the calculations of costs prepared by  
18 the engineer once each week for three successive weeks in the newspaper ~~or newspapers~~ of  
19 general circulation in the district ~~and in the official county newspaper of each county~~ area in  
20 which the ~~benefited~~ affected lands are located ~~together with a notice of~~. The published notice  
21 also must specify the time when, and place where, the board will meet to hear objections to any  
22 assessment by any interested party, or an agent or attorney for that party. The board also shall  
23 mail a copy of the published notice ~~of the hearing~~ in an envelope clearly marked  
24 "ASSESSMENT NOTICE" to each affected landowner at the landowner's address as shown by  
25 the tax rolls of the county ~~or counties~~ in which the affected property is located. The date set for  
26 the hearing may not be less than thirty days after the mailing of the notice. At the hearing, the  
27 board may ~~make such alterations in~~ alter the assessments as ~~in its opinion may be~~ the board  
28 deems just and necessary to correct any error in the assessment ~~but must make the aggregate~~  
29 ~~of all assessments equal to the total amount required to pay the entire cost of the work for~~  
30 ~~which the assessments are made, or the part of the cost to be paid by special assessment. An~~  
31 assessment may not exceed the benefit as determined by the board to the parcel of land or

1 political subdivision assessed. The board shall then confirm ~~the an~~ assessment list ~~and that the~~  
2 hearing. The secretary shall attach to the list a certificate ~~that the same~~ stating the list is correct  
3 as confirmed by the board and shall file the list in the office of the secretary.

4 **SECTION 12. AMENDMENT.** Section 61-16.1-23 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **61-16.1-23. Appeal to department of water resources.**

7 After the hearing provided for in section 61-16.1-22, affected landowners and any political  
8 subdivision subject to assessment, having not less than twenty percent of the possible votes as  
9 determined by section 61-16.1-20, ~~whewhich~~ believe the assessment was not made fairly or  
10 equitably or the project is not located or designed properly, may appeal to the department of  
11 water resources by petition, within ten days after the hearing on assessments, to ~~make a~~ review  
12 of the assessments and ~~to~~ examine the location and design of the proposed project. Upon  
13 receipt of the petition the department shall examine the lands assessed and the location and  
14 design of the proposed project, and if it appears the assessments were not made equitably, the  
15 department may correct the assessments, subject to section 6 of this Act, and the department's  
16 correction and adjustment of the assessment is final. If the department believes the project was  
17 located or designed improperly, the department may order a relocation and redesign that must  
18 be followed in the construction of the proposed project. Upon filing a bond for two hundred fifty  
19 dollars with the board for the payment of the costs of the department in the matter, any  
20 landowner or political subdivision claiming the landowner or political subdivision will receive no  
21 benefit from the construction of a new project may appeal that issue to the department within  
22 ten days after the hearing on assessments. Upon an appeal by an individual landowner or  
23 political subdivision, the department may determine whether there is any benefit to the  
24 landowner or political subdivision, but not the specific amount of benefit. The determination of  
25 the department regarding whether there is a benefit is final.

26 **SECTION 13. REPEAL.** Section 61-16.1-01 of the North Dakota Century Code is repealed.