

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2372

Introduced by

Senators Lemm, Luick

1 A BILL for an Act to create and enact a new subsection to section 61-16.1-11 and section
2 61-16.1-15.1 of the North Dakota Century Code, relating to joint water resource boards and the
3 construction of a water project in more than one county; and to amend and reenact
4 ~~sections~~section 61-16.1-12.1 ~~and 61-16.1-15~~ of the North Dakota Century Code, relating to joint
5 water resource boards.

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

7 **SECTION 1.** A new subsection to section 61-16.1-11 of the North Dakota Century Code is
8 created and enacted as follows:

9 All districts within the Red River, James River, Mouse River, Missouri River, and Devils
10 Lake drainage basins shall, by agreement, form and remain a member of a joint water
11 resource board relative to the district's respective drainage basin. All agreements and
12 subsequent amendments must be filed with the department of water resources.
13 Notwithstanding other provisions of law, the board of county commissioners of the
14 member districts in the Red River, James River, Mouse River, Missouri River, and
15 Devils Lake drainage basins shall approve a levy of tax not to exceed two mills upon
16 the taxable valuation of the real property within each joint board's respective drainage
17 basin.

18 **SECTION 2. AMENDMENT.** Section 61-16.1-12.1 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **61-16.1-12.1. Water resource boards - Agreements with state or federal agencies for**
21 **certain improvements.**

22 A water resource board may enter into an agreement with any federal or state agency, or
23 any combination thereof, for the construction of a project, under the terms of which the contract
24 for the work is to be let by the federal or state agency or any combination thereof. If under the

1 terms of the agreement at least fifty percent of the total cost of constructing the project is to be
2 paid by the agency or agencies and if any portion of the cost of the project is to be paid by the
3 levy of special assessments, the board may by resolution create a project assessment district
4 for the purpose of levying special assessments to finance the amount ~~that~~ the district will be
5 obligated to pay in accordance with the agreement, over and above any other funds ~~which~~that
6 are on hand and properly available for that purpose. The assessment district must be of a size
7 and form as to include all properties ~~which~~that in the judgment of the board, after consultation
8 with a registered engineer designated by the board for that purpose, will be benefited by the
9 construction of the proposed project, and the board shall direct the engineer to prepare a map
10 showing the boundaries of the proposed assessment district. The board shall by resolution
11 declare the necessity of the project, set forth the general nature and purpose of the proposed
12 project, estimate the total cost of the project, and the approximate amount or fraction of the cost
13 ~~which~~that the district will be obligated to pay under the agreement, and the fact that this
14 amount, or a lesser amount as the board may specify, is proposed to be paid by the levy of
15 special assessments upon property within the assessment district determined to be benefited
16 by the project. The board shall cause the resolution of necessity together with a copy of the map
17 showing the boundaries of the assessment district and a notice stating the date and time by
18 which the owners of any property liable to be specially assessed for the proposed project must
19 file their votes on the proposed project with the secretary of the board to be mailed to each
20 landowner affected by the proposed project as determined by the tax rolls of the county in which
21 the affected property is located. The board may send the material by certified mail or by regular
22 mail attested by an affidavit of mailing signed by the attorney or secretary of the board. The
23 notice also must ~~also~~ set forth the time and place where the board shall meet to determine
24 whether the project is approved. The notice must also be published once in a newspaper of
25 general circulation in the district and once in the official county newspaper of each county in
26 which the benefited lands are located. Within five days after the first mailing of the resolution the
27 board shall cause a copy of the resolution to be personally served upon any county, city, ~~or~~
28 township, school district, park district, or other political subdivision, in its corporate capacity
29 which may be benefited directly or indirectly from the construction of the proposed project and
30 upon any county which may become liable for any deficiency in the fund to be created for the
31 project, by delivering a copy of the resolution to any member of the governing body thereof. The

1 meeting must be held not less than thirty days after the mailing of the resolution, at which time
2 the board shall determine whether the project is approved. If the board finds that fifty percent or
3 more of the total votes filed are against a proposed project, then the board may not proceed
4 further with the proposed project. If the board finds that less than fifty percent of votes filed are
5 against the proposed project, the board may proceed with the project. In any assessment
6 district created under this section the board may dispense with all other requirements of this
7 chapter, other than those stated in this section. After the contract for the work has been let, the
8 board may issue warrants on the fund of the project for the total amount of the cost thereof, and
9 the board, without holding the hearing required by section 61-16.1-18, shall proceed to
10 determine and levy any assessments against property benefited by the project and prepare an
11 assessment list all in accordance with the procedures required by sections 61-16.1-21 through
12 61-16.1-24. ~~The provisions of sections~~Sections 61-16.1-25 through 61-16.1-36 are
13 ~~applicable~~apply to the assessments and the special warrants issued pursuant to this section.

14 ~~—~~**SECTION 3. AMENDMENT.** ~~Section 61-16.1-15 of the North Dakota Century Code is~~
15 ~~amended and reenacted as follows:~~

16 ~~—~~**61-16.1-15. Financing project through revenue bonds, general taxes, or special**
17 ~~assessments -- Apportionment of benefits.~~

18 ~~— A water resource board shall have the authority~~may, ~~either upon request or by its own~~
19 ~~motion, to acquire needed interest in property and provide for the cost of construction,~~
20 ~~alteration, repair, operation, and maintenance of a project through issuance of improvement~~
21 ~~warrants or with funds raised by special assessments, general tax levy, issuance of revenue~~
22 ~~bonds, or by a combination of general ad valorem tax, special assessments, and revenue~~
23 ~~bonds. Whenever a water resource board decides to acquire property or interests in property to~~
24 ~~construct, operate, alter, repair, or maintain a project with funds raised in whole or in part~~
25 ~~through special assessments, such~~the assessments shall~~must~~ be apportioned to and spread
26 upon lands or premises benefited by the project in proportion to and in accordance with benefits
27 accruing thereto. ~~The board shall assess the proportion of the cost of the project, or the part of~~
28 ~~the cost to be financed with funds raised through levy and collection of special assessments~~
29 ~~which any lot, piece, or parcel of land shall bear~~bears in proportion to the benefits accruing
30 thereto and any county, city, or township, school district, park district, or other political
31 ~~subdivision which is benefited thereby~~by the project. In determining assessments, the water

~~resource board shall carry out to the maximum extent possible the water management policy of this chapter that upstream landowners must share with downstream landowners the responsibility to provide for the proper management of surface waters.~~

SECTION 3. Section 61-16.1-15.1 of the North Dakota Century Code is created and enacted as follows:

Projects or benefits in more than one county.

1. The districts from two or more counties may agree to jointly construct or assign benefits and assessments for a project. Two or more districts shall create a joint board under section 61-16.1-11 before constructing a project and before assessing the lands or premises for a project that benefits or is located in more than one county. If the districts do not agree to undertake a joint project, a district may undertake the project by providing notice to the joint board where the project is located, in either the Red River, James River, Mouse River, Missouri River, or Devils Lake drainage basin, together with the engineer's report required under section 61-16.1-17.
2. If the joint board finds the project is necessary, and the benefits of the project will exceed the costs, the joint board shall proceed with the procedures in sections 61-16.1-15 through 61-16.1-36 regarding:
 - a. The creation, construction, alteration, repair, operation, and maintenance of a project and an assessment district;
 - b. The determination and levy of assessments against property benefited by the project; and
 - c. The special warrants issued pursuant to this chapter.
3. If the assessment vote is successful, the joint board shall construct, own, operate, and maintain the project. The joint board shall administer the corresponding assessment district for the project in accordance with this chapter.