

Fifty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1051

Introduced by

Legislative Council

(Taxation Committee)

1 A BILL for an Act to create and enact chapter 40-22.2 of the North Dakota Century Code,
2 relating to authority of cities to levy special assessments for costs of police and fire protection
3 and certain infrastructure costs against certain charitable organization property exempt from
4 property taxes; and to provide an effective date.

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

6 **SECTION 1.** Chapter 40-22.2 of the North Dakota Century Code is created and
7 enacted as follows:

8 **40-22.2-01. Special assessments against certain tax-exempt charitable property.**

9 A municipality may levy special assessments under this chapter against property of charitable
10 organizations which is exempt from property taxes under subsection 8 or 31 of section 57-02-08
11 and which is within a special assessment district established as provided under this chapter.

12 **40-22.2-02. Special assessment district - Creation.** For imposition of special
13 assessments under this chapter, a municipality may create and alter a special assessment
14 district by ordinance. The governing body of the municipality may establish a special
15 assessment district by majority vote, or the governing body of the municipality shall establish a
16 special assessment district upon submission to the governing body of a petition for that purpose
17 signed by ten percent or more of the qualified electors of the municipality, as determined by the
18 total votes cast in the most recent municipal election. The governing body of the municipality
19 shall designate the district by an appropriate name and number distinguishing it from
20 improvement districts established for other purposes.

21 **40-22.2-03. Size and form of special assessment district.** A special assessment
22 district created under this chapter may include multiple, noncontiguous property areas and
23 parcels. A special assessment district under this chapter must only include all properties that in
24 the judgment of the governing body, after consultation with the city auditor or the city auditor's

1 designee planning the district, are benefited by police and fire protection and infrastructure
2 expenditures paid from the budget of the municipality and which are properties exempt from
3 property tax under subsection 8 or 31 of section 57-02-08. A district may be created without
4 uniformity among the types, items, or quantities of benefits to subject properties from police and
5 fire protection and infrastructure expenditures of the municipality. The validity of assessment of
6 benefits under this chapter is not impaired by any lack of uniformity of the provision, quality, or
7 purpose of municipal services or by the fact that any one or more of the properties included in
8 the special assessment district are subsequently determined not to be benefited by the
9 municipal services or any portion of the municipal services.

10 **40-22.2-04. Auditors report.** Upon creation of a special assessment district under this
11 chapter, the governing body of the municipality shall direct the city auditor to prepare a report of
12 the total assessed valuation of property in the special assessment district, the total assessed
13 valuation of taxable property within the municipality, and the total anticipated expenditures
14 under the budget of the municipality for police and fire protection and infrastructure costs for the
15 following budget year.

16 **40-22.2-05. Approval of specifications.** After reviewing the report under section
17 40-22.2-04, the governing body of the municipality may direct the city auditor to prepare
18 specifications of the amount and allocation of special assessments among properties included
19 in the special assessment district. The specifications must be approved by a motion of the
20 governing body of the municipality to become effective. The percentage of total anticipated
21 municipal expenditures for police and fire protection and infrastructure costs assessed against
22 property in the special assessment district may not exceed the percentage that assessed
23 valuation of property in the special assessment district is of the sum of assessed valuation of
24 property in the special assessment district plus assessed valuation of all taxable property in the
25 municipality. Reports, specifications, and estimates prepared and submitted under this chapter
26 are the property of the municipality and must be filed in the office of the city auditor and remain
27 on file subject to inspection by the public.

28 **40-22.2-06. Resolution declaring special assessment imposition necessary -**
29 **Contents - Publication.** After the report and specifications required by sections 40-22.2-04
30 and 40-22.2-05 have been filed and approved, the governing body of the municipality shall
31 declare by resolution that it is necessary to create the special assessment district and levy

1 special assessments as described in the approved specifications. The resolution must refer
2 intelligibly to the report and specifications and must include a map of the municipality showing
3 the proposed special assessment district. The resolution must be published once each week
4 for two consecutive weeks in the official newspaper of the municipality.

5 **40-22.2-07. Protest against resolution - Meeting to hear protest.** If, within thirty
6 days after the first publication of the resolution under this chapter, the owners of any property
7 within the special assessment district file written protest with the city auditor against adoption of
8 the resolution and describing the property that is subject of the protest, the governing body of
9 the municipality, at its next meeting after the expiration of the time for filing protests, shall hear
10 and determine the sufficiency of the protests.

11 **40-22.2-08. Protest consideration and effect - Levy and collection of special**
12 **assessments.** If the governing body finds the protest to be well-founded or if the protest
13 identifies errors in the report or specifications, the governing body by motion may amend or
14 abandon the report and specifications. If the governing body abandons the report and
15 specifications, it may direct preparation of a new report and specifications and recommence
16 proceedings under this chapter or may terminate proceedings under this chapter. If the
17 governing body does not abandon the report and specifications, the governing body by
18 ordinance shall adopt the report and specifications, including any amendments adopted. The
19 governing body shall direct the levy and collection of special assessments according to the
20 adopted ordinance. Special assessments levied under this chapter are subject to extension,
21 collection, payment, interest, and penalties in the manner provided in chapters 40-24 and
22 40-25.

23 **40-22.2-09. Abbreviations, letters, or figures may be used in proceedings for levy**
24 **and collection of special assessments.** In all proceedings for levy and collection of special
25 assessments under this chapter, abbreviations, letters, and figures may be used to denote full
26 or partial additions, lots, blocks, sections, townships, and ranges or years, days of the month,
27 and amounts of money.

28 **40-22.2-10. Record of special assessments - Record as evidence.** The city auditor
29 shall keep a complete record of all proceedings under this chapter. The record must include all
30 reports, specifications, petitions, protests, orders, and other documents filed with or prepared at
31 the direction of the governing body. The record, a certified transcript of the record, or the

1 original documents on file in the auditor's office may be admitted in evidence in any court
2 without further proof as evidence of the facts they contain.

3 **40-22.2-11. Defects and irregularities in improvement proceedings are not fatal -**

4 **Appeal - Referendum.** Defects or irregularities in proceedings under this chapter do not
5 invalidate the proceedings. No action may be commenced or maintained and no defense or
6 counterclaim in any action may be recognized in the courts of this state founded on any defects
7 or irregularities in proceedings under this chapter unless commenced within thirty days of the
8 adoption of the ordinance of the governing body under this chapter. An ordinance adopted
9 under this chapter is subject to referendum under chapter 40-12.

10 **SECTION 2. EFFECTIVE DATE.** This Act is effective for budget years beginning after
11 December 31, 1998.