



# North Dakota Legislative Council

Prepared for the Water Topics Overview Committee  
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## **SARGENT COUNTY WATER RESOURCE DISTRICT V. BECK, ET AL. - IMPACT ON DRAINAGE MAINTENANCE PROJECTS**

This memorandum provides information on the statutory provision governing the maintenance of a drainage project and the North Dakota Supreme Court's recent interpretation of that provision in *Sargent County Water Resource District v. Beck, et al.*, 2023 ND 230.

### **NORTH DAKOTA'S STATUTORY PROVISION**

North Dakota Century Code Section 61-16.1-45 outlines the procedural requirements for a water resource district to provide maintenance of an assessment drain in whole or in part by special assessments. Section 61-16.1-45 also limits a maintenance levy to \$4 per acre on agricultural lands benefiting from the drain. If the maximum levy in any year does not raise sufficient funds to cover the cost of the drainage project, a water resource board can accumulate funds up to the maximum permissible levy over 6 years. If the cost of the project exceeds the total amount collected over a 6-year period, the board must then obtain approval from a majority of the landowners.

### **LEGAL BACKGROUND**

On December 15, 2023, the Supreme Court issued its opinion in *Sargent Cty. Water Resource District v. Beck, et al.*, holding that the Sargent County Water Resource District failed to obtain landowner approval for a maintenance project on Drain 11, in violation of Section 61-16.1-45. In respect to maintenance projects, the court held a water resource district may not accumulate a fund exceeding the 6-year maximum levy, or obligate the water district for costs beyond the maximum maintenance levy, without a landowner vote.

The court addressed the statutory language requiring a landowner vote if the "cost of, or obligation for" a project exceeds the total amount that may be levied by the district in any 6-year period. The court rejected the argument that the "cost of, or obligation for" the project only should apply to the maximum levy or assessment over a 6-year period and should not be interpreted to include the total obligation to the district if additional local district funds, not obtained from the assessment drain levy, are used. The court agreed the cost-share funds of the State Water Commission and Sargent County Commission are excluded. However, because the project required the water resource district to use local district funds, in addition to the maximum levy permitted for a 6-year period, the water resource district was required to obtain approval of the majority of landowners before obligating the district for the costs.

### **CONCLUSION**

The *Sargent Cty. Water Resource District v. Beck, et al.* ruling requires a water resource district to obtain landowner approval for all drainage maintenance projects if the district's local cost or obligation for the project exceeds the 6-year maximum levy, even when additional district funds are used.