

Leaders ousted in eastern North Dakota county

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COOPERSTOWN, N.D. — Residents of Griggs County have kicked all five county commissioners out of office.

The five county leaders were ousted in a recall election Tuesday prompted by a dispute over a new courthouse.

Commissioners voted last spring to proceed with building a \$3.5 million courthouse and emergency operations center, despite voters rejecting the idea three times in separate elections in fewer than two years. Commissioners said the courthouse built in 1884 has serious health and structural issues — including mold — and that fixing the problems would be too costly.

The move prompted a petition drive that led to the recall vote.

The courthouse is the oldest active county courthouse in North Dakota and is listed on the National Register of Historic Places. Construction continues on its replacement.

Voters do not like being ignored

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Voters in Griggs County recalled all five sitting county commissioners last week, the result of a dispute over building a new county courthouse in Cooperstown. The citizens of that county three times voted down efforts to build a new courthouse. And then the county commissioners went ahead with it anyway.

What part of no did they not understand?

North Dakota residents are slow to rile. But the five part-time county commissioners in Griggs County managed to do just that, in spades.

City and county commissions as well as school and park boards across the state ought to take note. Once people see an effective remedy like the recall, they begin to look for more applications.

We've heard the Griggs County story before. The courthouse (or school or community center) needs repair, renovation or expansion and the elected body puts the fix on the ballot. But when voters turn down the project, the board or commission revives the project in one form or other and figures out a way to pay for it without voter approval. We can all think of instances of this happening around the area, including Bismarck-Mandan. Not to get cute, but to a degree that's the scenario around the present expansion of the Bismarck Civic Center's Exhibition Hall.

Mostly voters take elected officials' actions in stride, or they agree with the new means of getting the project done. We don't know what people are really thinking because there's no vote. A person can only guess the electorate's motivation.

The Griggs County commissioners guessed wrong. They might have had a clue, however, in that the county voters had rejected courthouse projects multiple times.

The situation in which elected public officials are not attuned to voters isn't unique to North Dakota. In September, Colorado voters recalled two Democratic state senators, Angela Giron and John Morse, because of the pair's successful efforts to pass more strict gun control for that state. Now petitions are being circulated in Colorado to recall a third Democratic state senator, Evie Hudak, for supporting more strict gun control. It gets easier after the first time.

Recall isn't an easy tool for the public to use. Generally speaking, disenfranchised citizens are not organized and that makes it difficult to mount political campaigns. It might be easier in Griggs County, where the population is only about 2,500, than it would be in Fargo or Bismarck. But there have been successful recall efforts in North Dakota cities — Dickinson comes to mind.

Push voters far enough, and they'll figure out a way to set things right.

Source: Secretary of State's Office online business records

FARGO – A Fargo lawmaker who successfully pushed for a bill last spring that limits the ability of school boards to use a building authority for major projects without voter approval, said last week's recall of the entire Griggs County Commission suggests the law needs broadening to include city and county governments.

"People said no, and the arrogance of those five county commissioners up there said, 'We know better, and so we're going to find a loophole called the building authority,' and that's what they did, and the people spoke," said Rep. Jim Kasper, R-Fargo.

But state Sen. Lonnie Laffen, R-Grand Forks, said building authorities allow public entities to create the facilities they need without raising taxes and without having to wait for voter approval that may never come, citing the Barnes County North School District's new school project as an example. He opposes putting more limits on the flexibility of political subdivisions.

"In my opinion, it's not the state's place to tell Griggs County voters what they should do and limit those options," he said. "Those county commissioners used an option that was available. The voters didn't like it, and they voted them out. They have that luxury. That's local government at its best."

Controversial tool

The controversy that can accompany building authority projects has rarely been more pronounced than in Tuesday's recall election.

Griggs County voters, upset that the commission had formed a building authority so it could proceed with a new \$3.5 million courthouse and emergency operations center that voters had rejected in three previous elections, ousted all five commissioners by wide margins.

North Dakota law generally requires 60 percent voter approval if bonds are going to be issued for the construction of a public building.

A governing body can get around that requirement by forming a building authority, an independent nonprofit corporation that can issue tax-exempt bonds without a public vote for the construction of a building that is then leased back to, and eventually owned by, the political subdivision.

School districts, cities, counties, park districts and other political subdivisions lack the power to form a building authority. But individuals – including elected officials – may form a nonprofit building authority that isn't subject to the same limitations on building and construction as a school district, North Dakota Attorney General Wayne Stenehjem stated in a 2008 opinion.

A 'perfect use'

That was the route taken by Barnes County North School Board members after three separate elections within 13 months in which district patrons rejected a plan to close the district's existing school buildings near Rogers and in Spiritwood and Wimbledon and centralize students at a new school near Leal.

A majority of voters approved the proposal in each election, with 56 percent in favor in the third vote in October 2011, but it fell short of the 60 percent majority required.

The new location for the school district's 300 students was the biggest reason for the opposition, school board President Lori Carlson said.

"I think we realized we were totally stuck," she said.

She said the nine-member board learned after the third vote that they could form a building authority to proceed with the \$14.5 million project, a decision made easier by the fact the proposal received majority approval.

"If ours would have come back with only 40 percent approval, I don't think we would have done it," she said.

The board announced the building authority in early 2012. The new school, originally scheduled to open in August, is now slated to open by January or sooner, Carlson said.

The money saved by consolidating the three schools is paying for the new school, she said.

"It didn't cost the voters anything," said Laffen, president and CEO of JLG Architects, which designed the new school. "In fact, 15 years from now, they're saving a million dollars a year. That's perfect use of a building authority. But if we take that luxury away from them, this district would have been stuck throwing away a million dollars' worth of wasted staffing and heating and utilities."

Bill sets threshold

Had Kasper's bill been in place when the board members formed the building authority, the project would have needed voter approval.

The law that resulted from House Bill 1286 requires a school board to gain approval from a majority of district voters before entering into an agreement to use school district funds to pay off bonds issued by a building authority if the cost of the building project is \$4 million or more.

Kasper's original bill didn't include the \$4 million threshold, which was added by the Senate. He proposed similar bills in previous sessions, and he said he still believes all building authority projects should require a public vote.

Just because a project isn't going to raise taxes doesn't mean school districts should be able to build whatever they want without voter approval, he said.

"What that fails to remember is if you didn't build the building, you could be reducing property taxes," he said.

Fargo self-imposes limit

Long before Gov. Jack Dalrymple signed Kasper's bill into law in May, the Fargo School Board had already imposed a limit on its ability to do projects through the Fargo School District Building Authority, created in 1998.

The board approved a policy in 2010 that requires a simple majority of voters to approve projects that use the Building Authority and are paid for with general fund money. Board member John Strand championed the policy, calling for more public input into school construction.

In recent years, Building Authority bonds have been used to finance the \$23 million renovation and expansion of South High School and construction of Kennedy Elementary School, and \$19.6 million in renovations and new classrooms at Ben Franklin Middle School, North High School and Clara Barton Elementary School, among other projects, according to Forum archives.

North Dakota currently has 32 building authorities, 21 of them set up for school districts, according to business records available through the Secretary of State's Office's website. Representatives for the North Dakota League of Cities, Association of Counties and School Boards Association said they don't compile information on how many projects are built with building authority bonding.

The Fargo City Commission formed a building authority in 2002 as a way to finance new City Hall offices and Civic Center remodeling. The \$5 million in bonds issued by the authority were paid off early last year, city Finance Director Kent Costin said.

It's the only time the city has used the financing method, he said.

Readers can reach Forum reporter Mike Nowatzki at (701) 241-5528

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