

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2328

2001 SENATE FINANCE AND TAXATION

SB 2328

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2328

Senate Finance and Taxation Committee

Conference Committee

Hearing Date 1/31/01

Tape Number	Side A	Side B	Meter #
1		x	5.8-17.2
2		x	44.6-end
3	x		0-10.2
2/6/01 - 2		x	33.4-49.7
Committee Clerk Signature <i>Synelle G. Kraft</i>			

Minutes:

Senator Urlacher: Opened the hearing on SB 2328, relating to creation of special assessment districts by townships.

Senator Thomas Fischer: Prime sponsor of the bill, testified in support.

Representative Wes Belter: Co-sponsored the bill, testified in support. There are subdivisions that have difficulty in raising tax revenues to help them build dykes, so I attempted to have a bill in the House that would address that. This bill might be one that would allow subdivisions to raise a property tax and they could use those funds to possibly build a dyke. This would give them the opportunity to do that.

Bryan Hoime: ND Township Officers Assoc., testified in support. Written testimony attached.

Senator Kroeplin: The property owners would have to bring this forward or could the township bring this forward?

Bryan Hoime: The way we've got it in here, the property owners. Just the people living in the township.

Senator Wardner: Would this help the situation in 2298?

Bryan Hoime: There are some similarities between the two bills. Explains.

Brian Kramer: ND Farm Bureau, testified in opposition. I think the special meeting part is a very necessary portion of the bill. Our concern is with the protest vote. If the project is good enough to go forward, why don't we vote it in instead of having a protest vote to vote it out. If we could make some changes in that, we would support the bill. We do oppose the protest vote.

Senator Urlacher: Closed the hearing. Action delayed.

Discussion held later. Meter number 44.6-end, Tape 2, Side B & 0-10.2, Tape 3, Side A.

Motion was made for a DO NOT PASS, but it was withdrawn after further discussion.

Bryan Hoime: Appeared to clarify some things.

Senator Kroeplin to get amendment.

Discussion held 2/6/01. Meter number 33.4-49.7.

Amendment introduced.

Bryan Hoime: Appeared to explain amendment.

AMENDMENT ACTION:

Motion made by Senator Stenehjem, Seconded by Senator Wardner, to move amendment numbered 18333.0102. Voice Vote taken. All in favor, amendment adopted.

COMMITTEE ACTION: 2/6/01

Motion made by Senator Kroeplin for a DO PASS AS AMENDED, Seconded by Senator Wardner. Vote was 4 yeas, 2 nays, 0 absent and not voting. Bill carrier was Senator Kroeplin.

Date: 1/31/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2328

Senate Finance and Taxation Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Stenehjem Seconded By Nichols

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman					
Senator Wardner-Vice Chairman					
Senator Christmann					
Senator Stenehjem					
Senator Kroeplin					
Senator Nichols					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 1/31/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2328

Senate Finance and Taxation Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Withdrawal of Do Not Pass

Motion Made By Stenehjem Seconded By Nichols

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman					
Senator Wardner-Vice Chairman					
Senator Christmann					
Senator Stenehjem					
Senator Kroeplin					
Senator Nichols					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

PROPOSED AMENDMENTS TO SENATE BILL NO. 2328

Page 1, line 19, after "upon" insert "written" and after "the" insert "freeholder"

Page 2, line 10, replace "If the board of township supervisors receives protests" with "At the special township meeting for public disclosure of the findings of the engineer, the freeholder electors of the township in attendance are entitled to vote on the question of whether to proceed with the improvement project. Upon approval by sixty percent or more of the township freeholder electors voting on the question at the meeting, the improvement project may proceed. If fewer than sixty percent of township freeholder electors voting on the question approve the project, the election result is a bar against proceeding further with the improvement project described in the plans and specifications. An election result barring proceeding further with the improvement project does"

Page 2, remove lines 11 and 12

Page 2, line 13, remove "bar against proceeding further with the improvement project. The bar action will"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2328: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2328 was placed on the Sixth order on the calendar.

Page 1, line 19, after "upon" insert "written" and after "the" insert "freeholder"

Page 2, line 10, replace "If the board of township supervisors receives protests" with "At the special township meeting for public disclosure of the findings of the engineer, the freeholder electors of the township in attendance are entitled to vote on the question of whether to proceed with the improvement project. Upon approval by sixty percent or more of the township freeholder electors voting on the question at the meeting, the improvement project may proceed. If fewer than sixty percent of township freeholder electors voting on the question approve the project, the election result is a bar against proceeding further with the improvement project described in the plans and specifications. An election result barring proceeding further with the improvement project does"

Page 2, remove lines 11 and 12

Page 2, line 13, remove "bar against proceeding further with the improvement project. The bar action will"

Renumber accordingly

2001 HOUSE FINANCE AND TAXATION

SB 2328

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2328

House Finance and Taxation Committee

Conference Committee

Hearing Date March 21, 2001

Tape Number	Side A	Side B	Meter #
1	X		50
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

REP. AL CARLSON, CHAIRMAN Opened the hearing.

REP. WES BELTER, DIST. 22, Introduced the bill as a co-sponsor of the bill. Stated that he had introduced a bill earlier in the session which would have given the creation of a political subdivision within a township in order to do some projects. He stated there are a lot of developments which have a problem with flooding in his district, and under current rules and laws, it is virtually impossible for them to set up a taxing district in order to build a dyke or cover such expenses from flooding. That bill was killed. This bill, I believe, is a vehicle which would allow those subdivisions to develop a taxing district which they could go ahead and have projects with a sixty percent vote. It is something that will give flexibility within a township.

BRYAN HOIME, NORTH DAKOTA TOWNSHIP OFFICER'S ASSOCIATION Testified in support of the bill. See written testimony together with amendments.

REP. WINRICH Have the sponsors of the bill agreed to these amendments?

BRYAN HOIME We have discussed some of the amendments with some of the Senators who are involved and with Rep. Belter as well. We only put these together this morning, and I haven't had a chance to talk to everybody.

REP. WINRICH As I read the initiation of the special assessment district, it has to be by sixty percent of the freeholders, is that correct?

BRYAN HOIME That is correct.

REP. WINRICH We heard a bill earlier this week, dealing with county special assessment districts, they wanted it changed so that the county commissioners could initiate this and do the study and actually take a proposal to the voters, from their experience, having the freeholders or the property owners in the district initiate it was not workable, because they had no basis for initiating a project. Why are you taking this lead?

BRYAN HOIME The reason why we are allowing our township freeholders to do that and not the board to do it, is because we feel that township government has been one of the basic levels of government, where all of the actions are proposed from the electors or freeholders within the township. This will be a change for us, because it will be basically, dealing with property owners. Whereas generally, the township board is simply there as a governing body. All of the resolutions adopted, are made by the electors within a township.

REP. WINRICH In your testimony, you said that, in some cases, where there were projects needed, the county has gone ahead and created a special assessment district, why not continue to work with the county?

BRYAN HOIME There is no problem that I am aware of. In Cass County, for instance, there are small subdivisions that have gone up to the county level to have those problems addressed,

simply because there isn't a vehicle available at the township level. They have that right to do it.

The whole purpose of being here is because, they say it is not the case all across North Dakota.

REP. CARLSON Asked if they have the same bonding authority that they have in counties and cities?

BRYAN HOIME We have all the rights to go to any bonding

REP. DROVDAL Regarding the term "freeholder", if he is a property owner, does he have to be a North Dakota resident to vote on this?

BRYAN HOIME We have had some objection from people that we are not giving all property owners the right to do that. I would imagine a freeholder could be living out of state.

REP. DROVDAL Could this bill lead to a project such as maintaining a natural water course and disbursement of bridges in that area?

BRYAN HOIME Possibly, but I don't see that it would because those are under the control of the water districts.

REP. DROVDAL We are looking at bill 2287 in the Natural Resources Committee, which is actually establishing such a board, and I am wondering if it isn't covered by this particular bill?

BRYAN HOIME It very well may be, I guess I didn't envision the use of this to be used for that project.

REP. WINRICH I am concerned about removing the term "electors" and non residents voting, etc., because we have dealt with that in other areas this session, and rejected that concept. Is there precedent for this, is there somewhere else in the current law, where voting rights are based on property ownership rather than residents?

BRYAN HOIME I would say yes to that, knowing that water resource districts have the right to establish special assessment districts for their procedures to deal with cleaning out waterways and all that kind of stuff. I guess I am not sure if the term "freeholder" goes beyond North Dakota's borders or not.

REP. CARLSON Asked Jennifer Clark of the Legislative Council if she could clear up some of the questions being asked.

JENNIFER CLARK, LEGISLATIVE COUNCIL Stated she was not sure, she was only in the room for another bill.....She said she would check with John Bjornson of the Legislative Council.

BRYAN HOIME Stated he had worked with John Walstad on the bill.

DAN KUNTZ, REPRESENTING THE BURLINGTON-NORTHERN SANTA FE RAILROAD, Testified in opposition of the bill. See written testimony. Also submitted amendments to the bill.

REP. CARLSON How do you perceive this involving the railroad?

DAN KUNTZ Stated they have right-of-ways throughout the state. These right-of-ways will be in some townships and may in some cases, border special improvement districts. Our concern is that the best tax, would be the one that somebody else pays. If we are bordering an area being considered for a special assessment district, we will then be incorporated into that special assessment district. In some cases, it may very well be appropriate, maybe there is some benefit, but in other instances, we would have to seriously question whether it is a benefit to the railroad's right-of-way.

He explained the amendments which he submitted to the committee.

TOM KELSCH, CANADIAN PACIFIC RAILROAD, Testified in opposition of the bill for the same reasons Dan Kuntz did.

REP. WINRICH to JOHN BJORNSON, LEGISLATIVE COUNCIL Asked where in current law, do we have voting procedures set up on the basis of property ownership rather than residence?

JOHN BJORNSON Stated there was another bill that did something similar to that. He stated he was not familiar with the bill. As far as qualified electors, generally, it is based on residency, not land ownership.

REP. WINRICH Apparently, dealing with special assessments, where there is a direct tie to land area, property etc., that a number of protests can be based on land ownership rather than residence.

JOHN BJORNSON I think you can make that argument because there is a special interest there.

REP. CARLSON What if the county wanted to create a special assessment district?

JOHN BJORNSON You might want to get John Walstad down here. More then likely, it would be the residents voting.

REP. CARLSON Stated we need to resolve that.

CONNIE SPRYNCZENATYK, Commented regarding the law on special assessments. She stated, you are mixing up maybe two things here. Bryan told you up front, that they were looking at a positive action on the part of these residents, they are putting in a provision for a vote, that is why there is a difference between how much land you own, because you are going to get hit for the improvement. In order to be fair to the property owner, because that is the person paying the

bill, if you own the majority of the property in the district, you can protest out of the district.

This is adding a vote that doesn't exist in cities and counties. That is why we don't care.

REP. CARLSON There is the ability for the protest?

CONNIE SPRYNCZENATYK Absolutely, and that is very clear. If you own land within the proposed district, and if the majority of the landowners in the district protest, if you get fifty one percent to protest, you don't have a district.

REP. CARLSON My point is, we are taking and making it a vote instead of a protest. But we still tie it back somehow to the land. That is why we need to clarify the point. Whether you vote for it or protest it, how do we deal with the landowner there, if he doesn't live within the state, if someone can answer that for me, I will be just fine with it.

CONNIE SPRYNCZENATYK If you don't put a vote into it, you don't have a problem.

REP. WINRICH I don't have trouble with the concept either, but what we seem to be doing is creating a whole new procedure for a special assessment district, just for the townships. I think it would make a lot more sense to model it on the existing procedure for cities and counties, etc.

REP. DROVDAL Most of the amendments before us list the vote at sixty percent, isn't it true that in our current statute of most water districts, that the vote is actually fifty percent?

JOHN BJORNSON I don't have any general knowledge on that, normally, fifty percent is used with bond elections and things like that.

REP. DROVDAL Are there other places in the code that say sixty percent on a special assessment district?

JOHN BJORNSON There are probably not similar provisions dealing with the code on the district.

BRYAN HOIME Added, that when he put in the sixty percent, he did actually find that in the special assessment district for the protest bar. Because it is a positive vote instead of negative, it takes sixty percent of the people.

REP. CARLSON Asked Bryan Hoime, Dan Kuntz, John Walstad come back with one set of amendments that everyone wants.

With no further testimony, the hearing was closed.

COMMITTEE ACTION (3-26-01, TAPE 1, SIDE A, METER #43)

REP. CARLSON Gave an overview of the bill.

BRYAN HOIME, NORTH DAKOTA ASSOCIATION OF TOWNSHIPS, Explained amendment #18333.0202.

REP. WINRICH Questioned whether this would conflict with a bill passed out earlier, and why the more consistent process relating to other political subdivisions isn't satisfactory for townships.

BRYAN HOIME He stated the counties modeled theirs after the cities, simply by referring to it in statute. There is some flexibility in there, they can go by acreage or lot size. Water districts have a totally different system, the townships is modeling that one more. It is modeling that more because we think it is more fair, because of the small number of people involved.

TOM KELSCH, REPRESENTING THE CANADIAN PACIFIC CORPORATION,

Appeared to answer questions.

REP. HERBEL Made a motion to adopt the amendment #18333.0202 as presented.

REP. DROVDAL Second the motion. **MOTION CARRIED.**

13 YES 1 NO 1 ABSENT

REP. RENNER Made a motion for a **DO PASS AS AMENDED**

REP. SCHMIDT Second the motion. **MOTION CARRIED**

13 YES 1 NO 1 ABSENT

REP. DROVDAL Was given the floor assignment.

COMMITTEE ACTION **3-27-01**, TAPE #1, SIDE A, METER #860

REP. DROVDAL Made a motion to reconsider the action by which the bill was passed out of committee.

REP. CLARK Second the motion. **MOTION CARRIED**

SEN. WANZEK Appeared before the committee to explain new amendments which he wanted added to the bill. The amendments deal with tax assessments for a school district. He explained what happened in a small school district in Montpelier, which encompasses three counties. A new administrator, last year, filed a Certificate of Levy, for dollars that the school district needed, with the county of residence, the county then took that levy and distributed, the superintendent mistakenly, believed that it was up to him to separate out the Certificates of Levy, and he sent each county a separate Certificate of Levy and sent the one to the county of residence, only their share. The county of residence thought that was the total levy, and redistributed that, by the time they realized their mistake, the tax statements had been sent out and it was long passed the time

they were sent out, so the school district came up short this year. The school district came up ninety thousand short this year. I think it was an honest mistake. They asked me what they should do, so I went to the Attorney General, the Attorney General basically said, our opinion is no opinion. There is no precedent, no law, in dealing with this. I think the county commission has agreed to pay the interest on the loan, if the school would take out a loan to help with their short term needs. The problem is, they have to repay this. This amendment, I know is designed for a special case, but this amendment will allow that district to forego the mill levy cap, to be able to generate enough money and then send it out with next year's statements to generate enough money to pay back the loan and pay off the money they should have levied this year. The taxpayers got a break this year, but they won't be getting out of it, they will get it on their tax statements next year.

REP. KROEBER Is the auditor aware of this amendment and in support of this amendment?

SEN. WANZEK This was kind of his suggestion.

REP. KROEBER Stated he had received three or four letters from the auditor and from the treasurer regarding this situation.

WADE WILLIAMS , NORTH DAKOTA ASSOCIATION OF COUNTIES, Appeared before the committee to state that the amendments were prepared by the Stutsman County Auditor, with the help of the Attorney General. He also stated that the county has agreed to pay all of the interest on the indebtedness. He stated there will possibly be a backlash for doing this, but there was nothing else they could do.

REP. KROEBER Stated it was an honest mistake made by a new superintendent coming in.

REP. KROEBER Made a motion to adopt the amendments as presented.

Page 10
House Finance and Taxation Committee
Bill/Resolution Number SB 2328
Hearing Date March 21, 2001

REP. BRANDENBURG Second the motion. **MOTION CARRIED BY VOICE VOTE.**

REP. NICHOLAS Made a motion for a **DO PASS AS AMENDED**

REP. BRANDENBURG Second the motion. **MOTION CARRIED**

13 YES 1 NO 1 ABSENT

REP. DROVDAL Was given the floor assignment.

Date: 3-26-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2388

House FINANCE & TAXATION Committee

Subcommittee on _____
or
 Conference Committee

Interim

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Rep. Renner Seconded By Rep. Schmidt

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN	✓		NICHOLAS, EUGENE	✓	
DROVDAL, DAVID, V-CHAIR	✓		RENNER, DENNIS	✓	
BRANDENBURG, MICHAEL	A		RENNERFELDT, EARL	✓	
CLARK, BYRON		✓	SCHMIDT, ARLO	✓	
GROSZ, MICHAEL	✓		WIKENHEISER, RAY	✓	
HERBEL, GIL	✓		WINRICH, LONNY	✓	
KELSH, SCOT	✓				
KROEBER, JOE	✓				
LLOYD, EDWARD	✓				

Total (Yes) 13 No 1

Absent 1

Floor Assignment Rep. Drovdal

If the vote is on an amendment, briefly indicate intent:

Date: 3-27-01
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House FINANCE & TAXATION Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number 18333.0203

Action Taken Do Pass as amended

Motion Made By Rep. Nicholas Seconded By Rep. Brandenburg

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN	✓		NICHOLAS, EUGENE	✓	
DROVDAL, DAVID, V-CHAIR	✓		RENNER, DENNIS	✓	
BRANDENBURG, MICHAEL	✓		RENNERFELDT, EARL	✓	
CLARK, BYRON		✓	SCHMIDT, ARLO	✓	
GROSZ, MICHAEL	✓		WIKENHEISER, RAY	✓	
HERBEL, GIL	✓		WINRICH, LONNY	✓	
KELSH, SCOT	✓				
KROEBER, JOE	X				
LLOYD, EDWARD	X				

Total (Yes) 13 No 1

Absent 1

Floor Assignment Rep Dvovdal

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2328, as engrossed: Finance and Taxation Committee (Rep. Carlson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Engrossed SB 2328 was placed on the Sixth order on the calendar.

Page 1, line 1, after the comma insert "a new section to chapter 57-15, a new section to chapter 58-01,"

Page 1, line 3, after "to" insert "the definition of the term freeholder of a township, the relevy of property taxes omitted by mistake, and to the" and after "townships" insert "; to provide for retroactive application; and to provide an expiration date"

Page 1, line 8, replace "3" with "5"

Page 1, after line 8, insert:

"SECTION 2. A new section to chapter 57-15 of the North Dakota Century Code is created and enacted as follows:

Mistake in levy - Levy increase the following year - Levy reverts.

1. Notwithstanding sections 57-15-01.1 and 57-15-14, if a mistake occurred in the 2000 tax year which would result in ten percent or more of the amount a taxing district intended to be levied, as of the October tenth deadline under section 57-15-31.1, not being levied and the mistake is brought to the attention of the county auditor or county treasurer of any county with land in the taxing district by February 1, 2001, the taxing district may include half of the amount which was mistakenly not levied in the taxing district's budget and general fund levy for the 2001 tax year, and the other half that was mistakenly not levied in the taxing district's budget and general fund for the 2002 tax year.
2. If the resulting general fund levy for the 2001 or 2002 tax year is above one hundred eighty-five mills, the taxing district need not comply with chapter 57-16.
3. After the 2002 tax year, the taxing district's general fund levy must revert to the general fund levy for the 1999 tax year plus any increase authorized by law.
4. The 2001 and 2002 taxable years may not be used as a "base year" under section 57-15-01.1, and may not be considered a "prior school year" under section 57-15-14.

SECTION 3. A new section to chapter 58-01 of the North Dakota Century Code is created and enacted as follows:

Freeholder defined. As used in this title, unless the context or subject matter requires otherwise, "freeholder" means the legal title owner of the surface estate in real property."

Page 1, line 11, replace "3" with "5"

Page 1, line 19, replace "written notice" with "petition" and replace "freeholder electors" with "freeholders"

Page 2, line 7, after "supervisors" insert "shall provide thirty days' written notice by first-class mail to each freeholder within the improvement district at the address shown on the records of the county treasurer and"

Page 2, line 10, replace "**Protest bar to**" with "**Election for**"

Page 2, line 11, replace "freeholder electors" with "freeholders"

Page 2, line 13, replace "township freeholder electors voting on the question" with "votes cast" and after "meeting" insert "or votes filed with the township clerk within fifteen days after the meeting"

Page 2, line 14, after the period insert "A freeholder affected by the project is entitled to one vote for each dollar of the proposed special assessment against the freeholder's property within the proposed improvement district. If there is more than one owner of a parcel of property, the votes available for the parcel must be prorated among the owners in accordance with each owner's percentage interest in the property." and replace "township freeholder" with "the votes cast or filed"

Page 2, line 15, remove "electors voting"

Page 2, line 24, replace "**Invalid or insufficient protest**" with "**Election approval of project**", replace "**Tax**" with "**Assessment**", and replace "protests presented are found to be" with "election under this chapter results in approval of a project"

Page 2, line 25, remove "insufficient or invalid"

Page 2, after line 26, insert:

"Appeal notice - Special meeting - Assessment determination - Limitations. Any aggrieved freeholder may appeal the special assessment against the freeholder's real property by providing the township clerk a written notice of appeal, stating the grounds upon which the appeal is based, within twenty days after the special township meeting. The clerk shall notify the township board of supervisors of the appeal and schedule a special meeting to hear the appeals by publishing a notice of the special meeting at least ten days before the meeting in a legal newspaper published in the township or, if no such newspaper exists, in the county's official newspaper. Any aggrieved freeholder who submitted an appeal may be heard and may present reasons to change the freeholder's assessment at the special meeting. The board of township supervisors may hear the appeals and reasons and may increase or diminish any of the assessments as it may deem just, providing that the total amount of the assessments may not be changed and an assessment as adjusted may not exceed the benefits to the parcel of land on which it is assessed.

SECTION 6. RETROACTIVE APPLICATION OF ACT. Section 2 of this Act applies retroactively to cases arising after December 31, 1999.

SECTION 7. EXPIRATION DATE. Section 2 of this Act is effective through the 2005 tax year and after that date is ineffective."

Renumber accordingly

2001 SENATE FINANCE AND TAXATION

CONFERENCE COMMITTEE

SB 2328

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2328

Senate Finance and Taxation Committee

Conference Committee

Hearing Date 4/6/01

Tape Number	Side A	Side B	Meter #
1	x		0-19.8
Committee Clerk Signature <i>Lynelle M. King</i>			

Minutes:

Senator Wardner: Opened the meeting.

All members present: Senators Warder, Christmann, Nichols, Representatives Herbel, Renner, Kroeber.

Senator Wardner: I think more than anything, we didn't quite understand all of the amendments, I don't think we have a real problem with them. Would you explain them to us?

Representative Kroeber: Explained House amendments. What had happened was Montpelier School District had an error made by the new Superintendent. This small school district ended up \$77,000 short on revenue. We looked at a number of different ways they could fix this and one of them was to recalculate the tax again and send out new forms. The county did not want to do that, it wouldn't have worked too well. So what we came up with is to amend this bill, which is going to allow the district to recover the lost mills. Stutsman County has authorized that they can make the loan and they will actually pay the interest on loan for them. What we have to do is

remove the cap for two years while this will be paid off. There's a sunset on it, and it's just written for the specific problem at Montpelier.

Wade Williams: Stutsman County Commissioner, appeared to offer additional information. The county has agreed to pay the interest.

Senator Christmann: Didn't the auditor look through these and notice that there's a pretty significant change?

Wade Williams: In the county, we have 12 school districts, 10 of them lowered their level this year. The lowering of the levy did not create a red flag for anyone. What the school district did was, they divided their levy and sent the levy to each of the 3 counties it's in. Traditionally that is not what has been done. The school district always sends the full levy to the resident county and that county then sends out the information to the other county auditor and they plug that into their tax levy. When the Barnes and LaMoure County auditors received this levy information from the school district, they did not pay attention to it either, because the way they've been operation it was the Stutsman County auditor that needed to set the levy for the school district. This particular situation did not seem like it was out of line with other school districts.

Senator Christmann: Over how long of time would it take to make this up?

Representative Kroeber: Two years.

Senator Christmann: Then why does the expiration date go through 2005?

Wade Williams: That's a good question. These amendments were prepared by the Attorney General's Office.

Representative Renner: Was the idea to spread it out for more than two years or just keep it to two?

Wade Williams: Two years, that's what I remember.

Senator Christmann: The intention here is to due that, I just don't understand the expiration date being that far out.

Senator Wardner: Is there anything else in this amendment that that may pertain to other than the Montpelier School District?

Bryan Hoime: ND Township Officers Assoc., no, it does refer to Section 2 of the Act which is the Montpelier School District. Went through the differences between House and Senate amendments.

Representative Herbel: Getting back to the question that Senator Christmann asked about the year 2005, would there be a problem with amending that back?

Bryan Hoime: I don't see the need for it to go to 2005.

Representative Herbel: My concern is that if we change that it isn't going to affect their ability to be able to raise this money.

Wade Williams: I don't see a problem with changing 2005 to 2003. I would recommend to the committee to ask the Attorney General's Office and see if that's going to affect what they want to do. I think an expiration date of 2003 should suffice.

Committee recessed for 10 minutes to talk to AG's office.

Representative Kroeber: We talked to LeAnn in AG Office and the reason it has to go out to 2005 is because of the Section where they talk about the base year. Explained 2001 and 2002 may not be used as base years.

CONFERENCE COMMITTEE ACTION: 4/6/01

Motion made by Senator Nichols, Seconded by Representative Kroeber, for the SENATE TO ACCEDE TO THE HOUSE AMENDMENTS. Roll call vote taken. Vote was 6 yeas, 0 nays, 0 absent and not voting.

Insert LC: .

REPORT OF CONFERENCE COMMITTEE

SB 2328, as engrossed: Your conference committee (Sens. Wardner, Christmann, Nichols and Reps. Herbel, Renner, Kroeber) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 1074-1076 and place SB 2328 on the Seventh order.

Engrossed SB 2328 was placed on the Seventh order of business on the calendar.

2001 TESTIMONY

SB 2328

TESTIMONY FOR SENATE BILL NO 2328
SENATE FINANCE AND TAXATION COMMITTEE

PREPARED BY
Bryan Hoime
North Dakota Township Officers Association

Good morning Mr. Chairman, members of the committee. I'm here in support of SB 2328 which allows townships to establish special assessment districts. Section 1 of the bill allows for the special assessment levy to be over and above statutory general levy limitations for townships. Section 2 of the bill grants the power to establish special assessment districts to the electors of the township. Section 3 lays out the procedure of establishing special assessment districts. A proposed special assessment district is created when 60 percent of the electors notify the supervisors of the intent of establishing a special assessment to defray the costs of some infrastructure project. Once the intent is established, the board of township supervisors shall determine the size and form of the special assessment district.

Next the township supervisors will hire an engineer to present the feasibility of the proposed district and an estimate to the projects cost. The engineer reports to the board of supervisors their findings and the board has a public meeting to disclose those findings.

If protests from 60 percent of the owners of property within the proposed district are received the township shall bar the proposed district. However, the bar shall not preclude the payment for the costs and the costs may be spread over the proposed district if general levy funds are not available.

If protests are found insufficient the improvement will be made and assessments to the property in the special assessment district will be levied. Mr. Chairman, this special assessment bill before you today was developed through grassroots resolution process at our state annual meeting last fall. Townships feel inadequate when confronted with subdivision development, commercial business in recreation or tourism trades.. even allowing for flood protection for its citizens. Some subdivisions have gone to counties to establish these special assessment districts because township law doesn't provide the vehicle for it to take place. The largest problem is cost, when districts are proposed currently the tax is paid by the entire township for a project few benefit from. We hope you recommend a Do Pass on this bill.

TESTIMONY FOR SENATE BILL NO 2328
HOUSE FINANCE AND TAXATION COMMITTEE

PREPARED BY
Bryan Hoime
North Dakota Township Officers Association

Good morning Mr. Chairman, members of the committee. I'm here in support of Engrossed SB 2328 which allows townships to establish special assessment districts. Section 1 of the bill allows for the special assessment levy to be over and above statutory general levy limitations for townships. Section 2 of the bill grants the power to establish special assessment districts to the electors of the township. Section 3 lays out the procedure of establishing special assessment districts. A proposed special assessment district is created when 60 percent of the electors notify the supervisors of the intent of establishing a special assessment to defray the costs of some infrastructure project. Once the intent is established, the board of township supervisors shall determine the size and form of the special assessment district.

Next the township supervisors will hire an engineer to present the feasibility of the proposed district and an estimate to the project's cost. The engineer reports to the board of supervisors their findings and the board has a public meeting to disclose those findings.

If 60 percent of the owners of property within the proposed district vote for the assessments, the township may establish the proposed district. However, the bar shall not preclude the payment for the costs and the costs may be spread over the proposed district if general levy funds are not available.

Mr. Chairman, I've prepared some amendments to clarify the intent of this legislation, my amendment changes the freeholder elector to freeholder, meaning any property owner would have the right to vote on the proposed district. I've also included a written notice to the freeholders in the proposed assessment district. Lastly the amendment would add an appeal notice and hearing for property owners who feel their portion of the assessment isn't correct and a method for a board of township supervisors to correct any faults discovered.

Mr. Chairman, this special assessment bill before you today was developed through grassroots resolution process at our state annual meeting last fall. Townships feel inadequate when confronted with subdivision development, commercial business in recreation or tourism trades, even allowing for flood protection for its citizens. Some subdivisions have gone to counties to establish these special assessment districts because township law doesn't provide the vehicle for it to take place. The largest problem is cost, when districts are proposed currently the tax is paid by the entire township for a project few benefit from. We hope you recommend a Do Pass on this bill.

Proposed Amendments to Engrossed Senate Bill No. 2328

Page 1, line 19, replace "written notice" with "petition", replace "freeholder" with "freeholders", and remove "electors"

Page 2, line 7, after "supervisors" insert "shall provide thirty days written notice to the freeholders within the improvement district and"

Page 2, line 11, replace "freeholder" with "freeholders", remove "electors", replace "township" with "improvement district"

Page 2, line 13, replace "township" with "improvement district" replace "freeholder" with "freeholders", remove "electors"

Page 2, line 14, replace "township" with " the improvement district" replace "freeholder" with "freeholders"

Page 2, line 15, remove "electors"

Page 2, after line 26 insert:

Appeal notice - Special meeting- Assessment determination - Limitations. Any aggrieved freeholder may appeal the special assessment against the freeholders real property by providing in writing to the township clerk a notice of appeal stating the grounds upon which the appeal is based within five days after the special township meeting. The clerk shall notify the township board of supervisors of the appeal and schedule a special meeting to hear the appeals by publishing a notice of the special meeting at least ten days before the meeting in a legal newspaper published in the township or, if no such newspaper exists, in the county's official newspaper. Any aggrieved freeholder who submitted an appeal may be heard and may present reasons to change the freeholders assessment at the special meeting. The board of township supervisors may hear the appeals and reasons and may increase or diminish any of the assessments as it may deem just providing that the total amount of the assessments shall not be changed and no assessments as adjusted shall exceed the benefits to the parcel of land on which it is assessed.

TESTIMONY OF BURLINGTON NORTHERN
SANTA FE RAILWAY
ENGROSSED SENATE BILL NO. 2328

1. SB 2328 does not contain the substantive and procedural protections for landowners that apply to other governmental entities using special assessments.
 - 8 Chapters of Century Code govern special assessments by cities (N.D.C.C. Chaps. 40-22 to 40-28)
 - Same provisions apply to counties (N.D.C.C. 11-11-55.1)
 - 22 Sections of Century Code govern special assessments by Water Resource Districts (N.D.C.C. 61-16.1-14 to 16-16.1-31)
2. No restrictions on purpose of special assessments.
3. Protest to establishment of special assessments is limited to freehold electors.
 - Corporations, partnerships, cooperatives, governmental entities, etc. could not protest special assessments by townships
 - Presumably landowners that don't vote in the township could not protest
 - Protests based on number of electors rather than land area or assessment amount
 - No requirement for determination of individual assessments before the meeting
4. No criteria for determination of assessments.
5. No right to protest individual assessments.
6. No right of appeal to the courts to challenge assessments.

Dan Huntz
SB 2328

Suggested Amendments

Page 1, line 19 – clarify that 60 percent of landowners must request creation of the District

Page 2, line 7 – provide written notice to all the affected landowners

Page 2, line 11 – all affected landowners would be entitled to protest within 15 days after the meeting

Page 2, line 14 – each owner's protest vote based on amount of assessment against the landowner's property (see 61-16.1-20)

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2328

Page 1, line 19, after "district" delete "written notice of sixty percent of the freehold electors" and insert "petition of sixty percent of the landowners"

Page 2, line 7, after "supervisors" insert "shall provide thirty days written notice to the owners of the land within the improvement district at the address shown on the records of the county treasurer "

Page 2, line 11, after the third "the" delete "freeholder electors of the township in attendance" and insert "affected landowners"

Page 2, line 13, after the first "the" delete "township freeholder electors voting on the question," and insert "votes cast" and after "meeting" insert "or filed within fifteen days after the meeting with the board of township supervisors"

Page 2, line 14, delete "If fewer than sixty percent of township freeholders" and insert "The owner of land affected by the project has one vote for each dollar of assessment against the land. Where more than one owner of the land exists, the votes must be prorated among them in accordance with each owner's property interest."

Page 2, line 15, delete "electors voting" and insert "If fewer than sixty percent of the votes filed"

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2328

Improvement districts to be created. For the purpose of making an improvement project and defraying the cost of special assessment, a board of township supervisors may create an improvement district upon ~~written notice of sixty percent of the freehold electors~~ petition of sixty percent of the landowners in a proposed improvement district area. The improvement district must be designated by a name appropriate to the type of improvement and by a number distinguishing it from other improvement districts.

Approval of plans, specifications, and cost estimates – Special meeting. After an improvement district has been created, the board of township supervisors shall direct a competent engineer to prepare a report as to the general nature, purpose, and feasibility of the proposed improvement and an estimate of the probable cost of the work. The board of township supervisors shall provide thirty days written notice to the owners of the land within the improvement district at the address shown on the records of the county treasurer and shall publish a notice in a legal newspaper published in the township or, if there is no such newspaper, then in the county's official newspaper at least ten days prior to a special meeting for public disclosure of the findings of the engineer.

Protest bar to proceeding. At the special township meeting for public disclosure of the findings of the engineer, the ~~freeholder electors of the township in attendance~~ affected landowners are entitled to vote on the question of whether to proceed with the improvement project. Upon approval by sixty percent or more of the ~~township freeholder electors voting on the question~~ votes cast at the meeting or filed within fifteen days after the meeting with the board of township supervisors, the improvement project may proceed. ~~If fewer than sixty percent of township freeholder electors voting~~ The owner of land affected by the project has one vote for each dollar of assessment against the land. Where more than one owner of the land exists, the votes must be prorated among them in accordance with each owner's property interest. If fewer than sixty percent of the votes filed on the question approve the project, the election result is a bar against proceeding further with the improvement project described in the plans and specifications. An election result barring proceeding further with the improvement project does not preclude the payment of any costs incurred in developing the plans, specifications, cost estimates, or other costs incurred in developing the plans, specifications, cost estimates, or other costs which must be paid from the general fund of the township. If the costs incurred pose a financial burden on the general levy of a township of forty percent or more, the board of township supervisors may levy and collect assessments from the improvement district in yearly assessments not exceeding five years. If under forty percent, the township may use methods approved by law.