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ROLL NUMBER

DESCRIPTION

1318

2005 HOUSE FINANCE AND TAXATION

HB 1318

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1318**

House Finance and Taxation Committee

Conference Committee

Hearing Date **January 19, 2005**

Tape Number	Side A	Side B	Meter #
1	x		0.6

Committee Clerk Signature

Janice Stein

Minutes:

REP. WES BELTER, CHAIRMAN Called the committee hearing to order.

REP. KENTON ONSTAD, DIST. 4 Introduced the bill. See written testimony.

REP. BELTER Is most of the housing tribal housing?

REP. ONSTAD Yes, there are two entities there. There is Ft. Berthold and also a separate tribal housing authority. They both have that status that comes off the tax bill. New Town, for example, there are thirty four new units that have been purchased, they have not been assessed at this point, once those homes are put on there, they will be slowly approaching the forty percent of their taxable income.

REP. BELTER Is there any funding that comes through the federal government to compensate for that loss?

REP. ONSTAD On some of the trust land, there is some compensation that comes through, if the housing authorities themselves can agree, in some communities they help with specials.

REP. DROVDAL The way you testified, this is some kind of a fairness issue, that these tax exempt buildings are using sidewalks, lights, streets, etc., and not paying their fair share. It reminds me of the organizations who want to buy our land and put it into tax exempt situation, then in those situations, we say pay in lieu of taxes. Is there any provision in law that would allow for lieu of tax to be required?

REP. ONSTAD There is none. The statute says that housing authorities may agree to that. It has to come from funds from HUD or that apportionment. They sign in their agreements with those communities to do whatever they want to do. The point is, the state granted that tax exempt status, best intentions were done at that point, but I don't think they considered it would grow to this impact. It is a considerable amount of loss of revenue to those cities. If a house is condemned, they don't have the dollars to go in there and clean it up to make it saleable again.

REP. DROVDAL What actually granted the exemption, did we grant it, or did we grant the ability that somebody at the local level could give that exemption?

REP. ONSTAD My understanding is that the state granted the tax exemption status.

LOREN HOFFMAN, CITY AUDITOR, PARSHALL, ND Testified in support of the bill. We are here for help. We cannot provide the basic services for the people. We have no other place to turn to.

REP. BELTER What is the total percentage of tax exempt property?

LOREN HOFFMAN We have approximately one hundred and twenty units in Parshall, I used fifty thousand dollars per unit, that could be a debated figure, using that figure, it would be six million dollars. Our taxable evaluation for our residential property, at the present time, is 6.8 million dollars. Roughly forty seven percent, using those figures for tax exempt.

REP. BELTER That is just housing, what about other properties?

LOREN HOFFMAN I am not sure, five percent would be schools and churches.

We are dealing with thirty five thousand dollars of lost revenue on an eighty two thousand dollar budget.

REP. DROVDAL What would you guess the commercial property exemption would be in your town?

LOREN HOFFMAN We have nursing homes, alcohol treatment center and a preschool facility.

REP. DROVDAL Would the case in New Town be different?

LOREN HOFFMAN Deferred the question.

REP. FROELICH Asked whether there were any conversations with HUD.

LOREN HOFFMAN We have seventy three rental units, Ft. Berthold Authority rentals, which we receive one hundred twenty dollars per unit per year from HUD. Normal taxation on a house like that would be three hundred.

CLARE AUBOL, MAYOR, CITY OF NEW TOWN Testified in support of the bill.

The mandates come from the state and federal government, and sometimes make cities not able to fund services which are required of the mandate. In New Town, we had a big budget shortfall, so we followed the lead of Bismarck and some other towns, which said, one way to help is to charge on the utility bill for street lights. We did that for a number of years, until we were challenged from the Attorney General's office through a protest of a residence. He said the imposition of a street light fee was not legal to a resident of the tribe. We dropped that fee, now we are short about thirty thousand dollars.

Referred to Rep. Drovdal's question of how many businesses in New Town are exempt because they are owned by the three affiliated tribes?

CLARE AUBOL In the case of the lumber yard, which was bought by the tribal government, it continued as a lumber yard, some of these properties have been bought but not being used as the same service industry as it was, so you can't compare business for business.

REP. DROVDAL It would have continued on the tax roll, had it not been bought by the tribe, what percentage of that would it be, which was taken off the tax rolls?

CLARE AUBOL Stated he could get that information.

REP. DROVDAL Does the city council have any input at all in allowing these to go from tax property to nontax property.

CLARE AUBOL We have never been consulted on it, whether the county commissioners have been consulted, I can't tell you.

REP. FROELICH Point of clarification, the sixth circuit district court ruled that no more property could be put into trust status, are you telling me that, in the last three to five years, that the lumber yard was bought and put into trust status?

CLARE AUBOL There is a difference between a trust status and a tax exempt status.

REP. FROELICH We are talking about two different entities here, tribal trust properties, or individual trust properties versus tax exempt properties. In my district, if the tribe buys a property or a ranch, because of the current ruling, that land is still held in trust until the court rules on this whole case. We are talking about tribal and trust property being exempt, that is not quite right.

REP. DROVDAL What I was getting at, when it comes to keeping lights in the streets, all of the taxes go in to pay it, whether it is business or housing. I was wondering if this problem is spilling over. If the tribe does buy a downtown business, or commercial lot, does that somehow, get on the tax exempt or does it remain taxed?

CLARE AUBOL As far as I know, there is no taxes coming in on those properties, that were at one time taxed.

REP. WEILER Stated we have a similar problem in Bismarck, we have a lot of property exempt, so we are all paying exorbitantly more because of it, because of the problem you have in your two towns, what would happen if we were to remove the exemption?

CLARE AUBOL If you removed the exemption, it would be a blow to those who are enjoying an exemption right now.

REP. SCHMIDT Will the federal government give some help, the state of North Dakota probably put that exemption on because of HUD?

CLARE AUBOL I can't answer that question. Referred to Rep. Belter's question, stating we have gotten some relief from the federal government, for certain units of HUD housing, not all units. It came down to about one hundred fifty dollar per unit per year. For New Town, that is about five thousand dollars per year.

JERRY HJELMSTAD, NORTH DAKOTA LEAGUE OF CITIES Testified in support of the bill. He stated this is a problem which has been discussed in the league of cities meetings, especially these cities that have a high percentage of tribal housing authority property. He stated there is a bill introduced, SB 2285, which takes a little different approach to the tribal housing authority questions, it basically, makes a distinction between the housing authority and state law.

Tribal authority is established through Indian laws, recognized by the federal government, and you have the other housing authorities that are created under state law, and are put into effect by the resolution passed by either the county commission or the city governing board that establishes the housing authority in that community. In the testimony I heard this morning, it seems it is a problem the cities are having relating to the tribal housing authorities, because they have no control over the most of those authorities.

REP. CONRAD In these reservation communities, there are also is thirty to forty percent unemployment, you would have low income housing whether they are tribal or not tribal, wouldn't you?

JERRY HJELMSTAD That may be the case. I believe what they are looking for here, is reimbursement, they are focusing more on the tribal housing authority, as far as the revenue shortfall the city would get.

REP. HEADLAND Is housing authority property forever?

JERRY HJELMSTAD As I understand it, the one housing authority created by resolutions of the county or city government, is exempt because of state law, and the other housing authority, you are dealing with issues of sovereignty and allows it to be recognized by the federal government. At this point, they are exempt.

REP. DROVDAL Is it possible, in the case of New Town, if they are bringing in another forty five units into their city, which I would say, why would you bring them in and add to the burden, is it possible for them, to require, in lieu of, do they have that option, or would it help to put that option in?

JERRY HJELMSTAD I don't know of any ability to require that. There is another bill, SB 2285, my understanding is that it somewhat originates the same scenerio, there is property in the city of Williston now, that is owned by tribal housing authorities, and as far as I know, there is no way that cities can restrict the growth of those authorities.

LOREN HOFFMAN Returned to the podium, answered the question from Rep. Schmidt regarding, whether the property would be exempt through HUD. Our understanding is that they are exempt under North Dakota state law.

REP. KARI CONRAD, DIST. 3, MINOT Testified in support of the bill. To solve the complexity of the problems between federal law and related tribal activity and state law and county situations. It is used in many other states that have tribal land, especially in the state of Arizona. The tribes pay counties for services, and they make the payment in lieu of taxes. I would like this used more extensively in North Dakota. I think it would be a way to solve the problem, especially in reservations because they have more unemployment. They will have more public housing then we would have in Minot, just because they have high unemployment.

MARCY DICKERSON, STATE TAX DEPARTMENT Testified in a neutral position. See attached written testimony.

REP. BELTER It was the legislative action who exempted the housing from the tax?

MARCY DICKERSON That is correct, as far as regular housing authorities, I am not sufficiently knowledgable on the tribal housing authorities. Every county and every city may create a housing authority, and if they do, that property is exempt, although a housing authority may enter its own agreement with the government to make payments in lieu of taxes, but they are not mandated.

REP. WEILER Does Bismarck reach the twenty percent?

MARCY DICKERSON I doubt that just housing authority property would reach twenty percent. I can find that out.

REP. FROELICH Instead of having a property tax, could you use a user fee?

MARCY DICKERSON I think that could be enacted, but at the present time, there are no laws to pursue that.

REP. DROVDAL Rep. Conrad stated that this appears to be a problem whether it is a sovereign nation or Indian reservation, but we also testimony that seems to be spilling into the city of Williston, do you see spilling into all of the cities?

MARCY DICKERSON There are lots of housing authorities, lots of them are making payments in lieu of taxes. We deal with that to a certain extent with the homestead credit, where a renter is living in a property which is not tax exempt, and several sessions ago, you chose to include properties that were paying payments in lieu of taxes in those of which a renter is eligible, if they live in a completely tax exempt place, the renter is not eligible for a renter's refund, which is supposed to be a refund of property tax..

REP. DROVDAL Do you see that the tribal housing authorities, are they spreading out into other communities, off of the reservation?

MARCY DICKERSON I don't have any information on that.

With no further testimony, the hearing was closed.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1318**

House Finance and Taxation Committee

Conference Committee

Hearing Date **January 26, 2005**

Tape Number	Side A	Side B	Meter #
2		X	6.5

Committee Clerk Signature

Minutes:

COMMITTEE ACTION

Committee members discussed the amendments Marcy Dickerson suggested they add to the bill.

Rep. Belter requested the intern prepare the amendments before the bill was acted on.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1318**

House Finance and Taxation Committee

Conference Committee

Hearing Date **February 1, 2005**

Tape Number	Side A	Side B	Meter #
1	x		34.3

Committee Clerk Signature

Minutes:

COMMITTEE ACTION

REP. BELTER Reviewed the bill and presented amendments to committee members.

REP. DROVDAL Made a motion to adopt the amendments as prepared by the tax department

REP. HEADLAND Second the motion. Motion carried.

REP. GRANDE Made a motion for a **do not pass as amended**.

REP. BRANDENBURG Second the motion. **Motion carried. Rep. Conrad and Rep.**

Froelich resisted the do not pass as amended. They felt we need to recognize the problems and try to do something about it.

The motion carried with **9 Yes 3 No 2 Absent**

REP. BRANDENBURG Was given the floor assignment.

Date: 2-1-05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1318

House FINANCE & TAXATION

Committee

Check here for Conference Committee

Legislative Council Amendment Number 50303.0101

Action Taken Do Not Pass AS Amended
Motion Made By Rep. Grande Seconded By Rep. Brandenburg

Representatives	Yes	No	Representatives	Yes	No
BELTER, WES, CHAIRMAN	✓				
DROVDAL, DAVID, V-CHAIR	✓				
BRANDENBURG, MICHAEL	✓				
CONRAD, KARI		✓			
FROELICH, ROD		✓			
GRANDE, BETTE	✓				
HEADLAND, CRAIG	✓				
IVERSON, RONALD	✓				
KELSH, SCOT	✓				
NICHOLAS, EUGENE	✓				
OWENS, MARK	✓				
SCHMIDT, ARLO		✓			
WEILER, DAVE	✓				
WRANGHAM, DWIGHT	✓				

Total (Yes) 9 No 3

Absent 2
Floor Assignment Rep. Brandenburg

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

REPORT OF STANDING COMMITTEE (410)
February 2, 2005 11:36 a.m.

Module No: HR-22-1664
Carrier: Brandenburg
Insert LC: 50303.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1318, as amended, Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (9 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). HB 1318, as amended, was placed on the Sixth order on the calendar.

Page 1, line 11, after "commissioner" insert "for the most recent taxable year"

Page 1, line 17, after "authorities" insert "for the most recent taxable year" and replace "that" with "the current"

Renumber accordingly

2005 TESTIMONY

HB 1318

Testimony in Support of HB 1318

Good Morning Chairman Belter and members of the House Finance and Tax committee. I am Representative Kenton Onstad, District 4. Representing the communities of New Town and Parshall.

Members of the Committee HB 1318 addresses a concern of these communities and I hope you will concur. Housing Authorities and Tribal Housing Authorities, have been part of domestic policy for many years. It provides and continues to provide a needed service in communities that need affordable housing. It has been good policy , but I don't believe the intended hardship placed on certain communities was the intended consequence.

North Dakota provides a tax -exempt status for Housing authorities, including tribal housing.

In the case of Parshall and New Town, it now represents over 20% of their taxable valuation.

Parshall has an approximate taxable valuation of \$607,000. The tax exempt housing authority property is approximately \$275,000 if it were to be assessed. It is a loss of \$35,000 to Parshall. Now that might not seem like much, but when your entire city budget is approximately \$105,000, it is a tremendous loss to your community.

New Town's taxable valuation is approximately \$822,000. They have approximately \$205,000 of housing authority property of exempt property. That is equivalent to a \$22,000 loss to New Town. These losses are not just recent but have been increasing since 1989.

If we go back 15 years and it is a loss of over \$500,000 to these communities. The leaders of these communities struggle to provide services including policing, maintenance the normal services provided in every community. As of recently in New Town it is a decision whether to keep the street lights on. You can easily see their concern.

HB 1318 corrects this on going problem. It sets stipulations for communities to qualify. Using 20%, if Housing Authority represents 20% or more of your taxable valuation , that city would be eligible for payments in lieu of taxes under this

section. The city would need to certify with the Tax Commissioner, the most recent city mill rate would be used.

The bill appropriates \$200,000, not knowing if there is other communities affected, but I don't believe so. The total cost would be approximately \$57,000 plus for the Tax Commissioner to administrate. Not a Hardship to the state but a welcome relief to these communities affected.

Housing Authorities are part of domestic policy and that will continue. North Dakota provided the tax-exempt status. I don't believe it was their intent to put a burden on, but it has and will continue. HB 1318 allows the state to correct this. I hope you will agree to HB 1318. Thank you and I will answer any of your questions.

HOUSE FINANCE AND TAXATION COMMITTEE

January 19, 2005

Testimony of Marcy Dickerson, State Supervisor of Assessments

HOUSE BILL 1318

Mr. Chairman, Members of the Committee, for the record my name is Marcy Dickerson and I am employed as State Supervisor of Assessments and Director of the Property Tax Division by the State Tax commissioner. My testimony concerns House Bill 1318.

This bill provides an appropriation for payments to cities in which the taxable value of housing authority and tribal housing authority property, if it were subject to taxation, would be 20 percent or more of the taxable valuation of all property within the city. It appears to be workable. However, I would like to suggest some additional language.

On page 1, line 12, after the first "valuation" insert "for the most recent taxable year" and after the second "valuation" insert "for the most recent taxable year". On page 1, line 17, after "authorities" insert "for the most recent taxable year" and after "of" insert "the current" and overstrike "that". We can have these suggestions put into proper amendment form if you wish.

At this time we do not have sufficient information to know how many cities may qualify nor the total amount that would be necessary to make the required payments to all qualifying cities. We can only assume that the sum of \$200,000 included in this bill will be sufficient. Perhaps there should be some language added concerning what would be done if \$200,000 were not sufficient.

This concludes my prepared testimony. I will be glad to try to answer any questions.