

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

11886

2007 HOUSE FINANCE AND TAXATION

HB 1186

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1186 A

## House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 16, 2007

Recorder Job Number: 1190

Committee Clerk Signature

*Mickie Schmitt*

### Minutes:

Chairman Belter opened the hearing on HB 1186 asking for testimony in support of HB 1186.

**Rep. Ole Aarsvold:** This Bill is intended to correct the problem that recently was brought to light regarding real estate taxes paid under protest. As the law reads currently a tax payer can protest a portion of his real estate taxes and may elect to withhold all of his taxes of distribution to the respect of taxing authorities. Even that portion is not in contest. If he would protest an assessment or tax on one piece of property, he would have the option of withholding all of his taxes from all of the restricted tax. He must pay the entirety of his tax obligation to the County Treasurer who must deposit that money into a tax paying under protest fund. Any funds in this account must not be distributed until the matters disclosed of either by an appropriate or taxing equalization or court of proper jurisdiction. In a recent case the protesting property owner chose to withhold the entire amount of his tax obligation from the Township, Rural Fire District, County and School District. This process had been going on for nearly four years. This matter finally went to the Supreme Court and the taxes were distributed to the taxing authority. This Bill will require the uncontested portion of taxes to be distributed to the taxing entities.

**Mike Bitz, Superintendent of Hillsboro Public School District: (See attachment #1)**

**Representative Froseth:** If a payment of taxes is paid under protest and frozen, is penalty or interest assessed to the entire amount of taxes in this proportion that is contested?

**Mike Bitz:** American Crystal Sugar Company paid their taxes before Feb. 15<sup>th</sup>, so they received a 5% discount. That money was then required to be held in a separate account by the County Auditor. Interest was accumulated on that money, but it had to be real short term because the County Auditor didn't know that the dispute was going to be settled tomorrow or a year from now, so it was short term investment. When the money was actually distributed, the accumulated interest was prorated to ACSC, the Hillsboro School district, and other entities that were involved.

**Representative Froseth:** Was the interest assessed on the entire amount or just a portion of it?

**Mike Bitz:** Whatever was held in escrow was the interest that it earned.

**Representative Wrangham:** On page 3, paragraph 3; it says basically that you can't submit evidence to a hearing.

**Mike Bitz:** What happened was the County had them assessed at 27 million, and ACSC first abatement request was about 17 million. When they held the abatement hearing, ACSC came in and said we found new evidence that we're only worth 13 million. So every time they met the amount kept going down. It was hard for the County to know what they were asking for.

**John Martinson, State School Board Association:** We're just here to show our support.

**Rebecca Bratten, Trail County Auditor from Hillsboro:** We are here in support of HB 1186. We had to increase taxes to make up the difference in the amount that we could not collect. When they presented the original abatement to us, they raise anywhere from 12 million. They stated that all of these figures were based on market value. The attorney for the applicant said that they feel now that the changeable value of this company is now worth 5.7 million dollars.

Much to our surprise, we had to go back and refigure everything, because we had figured based on what they had presented to us before.

**Representative Froelich:** What part did the Tax Equalization Board play in this?

**Rebecca Bratten:** We had come up with a complex way to value this specialized piece of property. This is a factory. They were basing it on market value.

**Vice Chairman Drovdal:** This is a rather large protest amount of money, how often do we have protest of even 1/3 of this size?

**Rebecca Bratten:** I've never seen it.

**Representative Wrangham:** What we're really trying to do is find out the truth and the facts. So if there is new evidence, shouldn't it be part of the procedures?

**Rebecca Bratten:** What I'm saying here is, when they submitted the original application, maybe they should have refilled the abatement, so that they can present us with the evidence that we need, rather than coming to the hearing and say this bill is only worth 5.7 million dollars.

**Larry Syverson, Tax Assessor for Roseville, Traill County :( See attachment #2)**

**Chairman Belter:** Any other testimony in support of HB 1186? Any opposition on HB 1186? Any neutral testimony on HB 1186? Hearing none, we will close the hearing on HB1186.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1186 B

## House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 16, 2007

Recorder Job Number: 1226 02min 46sec

Committee Clerk Signature

*Micki Schmiel*

Minutes:

### Committee Work

**Chairman Belter:** Let's look at HB 1186. Are there any comments on HB 1186? We won't act on it.

**Representative Headland:** I don't recall how financial pay their tax. If you recall back in the last session, we had an instance where a bank over paid their property tax under protest, and then it was divided out to the political subdivision and they spent it, and in the meantime, the Bank won it's case, but he had no means to get his tax over payment back. If we pass this Bill, that would take away that opportunity for somebody else that pays their taxes under protest, to recoup their over paid taxes if they are awarded a winning decision in court. I don't know that I'm right on that, I just need clarification as to whether or not that's true.

**Representative Pinkerton:** My understanding was that it was the contested amount that was beheld.

**Chairman Belter:** Yes, I think you're correct.

**Representative Wrangham:** I think the Bill is probably alright except for pg. 3, section 3.

That's the part where Rep. Headland was referring to and I guess I don't like the idea of taking away someone's right. Maybe if we could consider if others agree of taking that paragraph out.

**Chairman Belter:** We're not going to act on it today so if that's a concern, it's something we can take a look at. We'll close the meeting on HB 1186.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1186 C

## House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 22, 2007

Recorder Job Number: 1591

Committee Clerk Signature

*Mickie Schmidt*

Minutes:

Chairman Belter opened the hearing on HB 1186 and asked what the committee's wishes were?

**Representative Pinkerton:** I move a Do Pass.

**Representative Schmidt:** Second it

**Chairman Belter:** Any discussion?

**Representative Brandenburg:** I'm going to resist the motion for a do pass. This deals with one particular district and it should be handled case by case to resolve this issue.

**Representative Headland:** I'm also going to resist the do pass motion.

**Vice Chairman Drovdal:** I'm going to resist a do pass also because I think it changes the balance of power on the negotiation factor. It allows the Counties to stall a little bit longer.

**Representative Pinkerton:** When you have a big property holder like they did, in our rural areas, that have lots of resources and they can tie up a small county. Can you imagine the kinds of problems that the School District and Board went through? All they're really asking for is that the non contested amount of money be held in escrow. If you're a business and it's a contested bill then they should be willing to pay the non contested part.

**Chairman Belter:** If you pass this Bill, it will take a lot of leverage away from the tax payer because there really is no incentive for the recipient of those tax dollars to come to the table. The other thing is it would set the stage for a political subdivision to be not as careful on how they're assessing property. If you leave the law as is, the when a political sub or the assessors are assessing something, they need to be much more careful about what assessment they are putting on it so that they try to avoid it being contested.

**Representative Pinkerton:** It just seems like we're leaving our Political subs, counties, and our schools hanging out in the wind, afraid to take on a coal plant or ethanol plant.

**Representative Wrangham:** I think the coal plants are probably paying in lieu of property tax, it probably wouldn't affect them. My problem with the Bill is on page 3; line 14, where it says that the applicant or applicant's Representative or attorney may not submit evidence during a hearing on an application for abatement. This is all about finding true valuation, and if there's new evidence, why shouldn't they be able to submit it?

**Representative Pinkerton:** Do you think that we should strike those lines?

**Representative Schmidt:** The thing that bothers me is that these things were froze for two years, and the school was really left in a bind. They had to go to the bank to borrow money; teachers had to agree to no pay increase and etc... Are we going to allow that to happen?

**Chairman Belter:** We are dealing with one plant and this applies to everyone; a small business owner and we've taken away the tax payers right on trying to get a settlement.

**Representative Owens:** On page 2, section 1; we saw something similar to this last term about the bank wanting the county to refund property tax; this sounds like the same thing.

**Chairman Belter:** Any other discussion? Will the clerk read the roll? 5-y, 9-n, 0-absent; the motion fails.

**Representative Brandenburg:** I move a Do Not Pass.

**Representative Headland: Second it.**

**Chairman Belter:** Any discussion? Will the clerk read the roll for a Do Not Pass; 9-y, 5-n, 0-absent; Rep. Owens will carry HB 1186. Closed the hearing on HB 1186.

Date: 1-22-07  
Roll Call Vote #: 1186

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House Finance & Tax Committee

Check here for Conference Committee

Legislative Council Amendment  
Number \_\_\_\_\_

Action Taken

DO PASS

Motion Made  
By

Rep. Brandenburg <sup>Pinkerton</sup>

Seconded By

Rep. Headland <sup>Schmidt</sup>

Representatives	Yes	No	Representatives	Yes	No
Chairman Belter		✓	Rep. Froelich	✓	
Vice Chairman Drovdal		✓	Rep. Kelsh	✓	
Rep. Brandenburg		✓	Rep. Pinkerton	✓	
Rep. Froseth		✓	Rep. Schmidt	✓	
Rep. Grande		✓	Rep. Vig	✓	
Rep. Headland		✓			
Rep. Owens		✓			
Rep. Weiler		✓			
Rep. Wrangham		✓			

**FAIL**

Total (Yes) 5 No 9

Absent 0

Floor Assignment Rep. Owens

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

Date: 1-22-07  
Roll Call Vote #: 1186

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House \_\_\_\_\_ Finance & Tax \_\_\_\_\_ Committee

Check here for Conference Committee

Legislative Council Amendment  
Number \_\_\_\_\_

Action Taken Do Not Pass

Motion Made By Rep. Brandenburg Seconded By Rep. Headland

Representatives	Yes	No	Representatives	Yes	No
Chairman Belter	✓		Rep. Froelich		✓
Vice Chairman Drovdal	✓		Rep. Keish		✓
Rep. Brandenburg	✓		Rep. Pinkerton		✓
Rep. Froseth	✓		Rep. Schmidt		✓
Rep. Grande	✓		Rep. Vig		✓
Rep. Headland	✓				
Rep. Owens	✓				
Rep. Weiler	✓				
Rep. Wrangham	✓				

Total (Yes) 9 No 5

Absent 0

Floor Assignment Rep. Owens

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

**REPORT OF STANDING COMMITTEE**

**HB 1186: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1186 was placed on the Eleventh order on the calendar.**

2007 SENATE FINANCE AND TAXATION

HB 1186

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1186

Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 27, 2007

Recorder Job Number: # 3950 & # 3952

Committee Clerk Signature

*Sharon Bengtson*

Minutes:

**Sen. Urlacher** called the committee to order and opened the hearing on HB 1186.

**Rep. Aarsvold**: appeared as prime sponsor in support with written testimony. (See attached)

**Sen. Anderson**: so what your saying is of that million 500 thousand half of it may have been uncontested? So that should have been distributed and that's what this bill will do?

**Answer**: that's essentially the case.

**Bev Nielson**: ND School Board Assoc. appeared in support stating we believe that situations like this should they occur every year protesting some small part of their thing that the school districts just would never get their money. I think by uncontested says it all, uncontested fund should be released to the political subdivisions which they belong.

**Mike Bitz**: Superintendent of Hillsboro Public School District appeared in support with written testimony. (See attached)

**Larry Syverson**: ND Township Officers Assoc. appeared in support with written testimony. (See attached)

**Arnie Osland**, Trail Co. Commissioner appeared in support stating one of the issues in the whole protest process is to make things as uncomfortable as possible for political subdivisions and by doing that, one of the strategies is to drag this out as long as possible. We spent one

year in delay for confidentiality issue of some numbers and a district court judge in Devils Lake heard that case and every possible opportunity they had to drag they took. We of course wanted to give them every benefit of the doubt to do what they could do and to appease them so when this thing was said and done it was said and done.

**Rep. Kaldor**: Appeared in support stating he is not a co sponsor but wanted to show his support. This can be used as a very unhealthy lever. It really doesn't matter who the taxpayer is there are circumstances where taxpayers protest and they have a right to do that but they also in so doing really ham string the political subdivisions when they are large taxpayers and this issue I think is resolved in this legislation to in a satisfactory way that will be fair to everyone.

**Terry Traynor**: Assoc. of Counties appeared in support stating it could become a problem in other counties.

**Sen. Oehlke**: if the situation was turned around do you have a problem with that? Are we creating a disparity on the other side, is there a half way point?

**Terry**: the county is very interested in resolving that issue, administrative hassle for them to maintain those escrow accounts for the individual taxpayers, they have a strong motivation to clear that up and get that money out there. It isn't their money, they can't use it, I don't see that as giving them strong motivation not bring it to a resolution.

**Rep. Aarsvold**: there is a definite time table in code when the subdivisions must deal with the matter

**Marcy Dickerson**: Tax Dept. appeared neutral stating she does support the concept of this bill, however I think it's going to be real easy to circumvent. All you do is appeal 95-99% of your assessment, so you're right back where you were. You tie up all the funds you can't change your appeal later on but you don't need to because you've appealed everything or

almost everything. If there was some way of getting some language in here to limit the amount that they could appeal. Don't know how you would do that either.

**Sen. Anderson:** What was the amount contested and why?

**Arnie Osland:** about 34 million started out with. Final number we worked with was 5.7 million. The technical approach they used was using appraisal of plants that were closed. That was their justification for their evaluation process.

**Sen. Anderson:** they could have protested up to 97% per Marcy, was there a figure they were protesting?

**Arnie:** they were protesting the difference between 34 million to 5.7 million.

**Sen. Horne:** after listening to Marcy's comments I'm trying to figure out what the solution is to prevent this sort of thing from happening again? How would we protect the counties from this dilemma?

**Mike Bitz:** during the first 3 years of the protest, half the money would have been distributed. During the 3<sup>rd</sup> it would have probably been 2/3<sup>rd</sup> of the money and the final year, 80% of the money would have been held but it would have been different but we would have at least had some money coming in to help us make cash flow and to ease the hardship. That was part of the frustration of the county is the numbers just kept changing, every time they would come to a hearing when they were ready deal with a number they would say that isn't the number anymore, now its.

**Sen. Urlacher:** is there a reason to restrict times you can protest and change those numbers?

**Answer:** I think once you file an abatement that number should be locked in for that current year. If the next year your property isn't as worth as much you can file a separate abatement

for that next year, but once you file it, it makes it real hard to hit a moving target.

**Sen. Horne:** how do you protect against that from the county being abused?

**Rep. Aarsvold:** I think the position of the protest would be greatly diminished if it was obvious that they were making an exaggerated protest of their taxes. And that would be a course for the courts and or the Board of Tax Equalization to determine.

**Sen. Urlacher:** You're saying the courts would recognize that?

**Answer:** I would certainly hope the court would do so.

**Sen. Horne:** would there be a way of inserting into the bill some kind of a fine structure or penalty if they came in with an overly exaggerated filing that was designed to cause trouble was totally unrealistic?

**Answer:** I don't think I want to go there. I think generally that if we \_\_\_ before us would address the short term concerns that we have and that the school districts have and to generate a fictitious number for protest purposes, I think that the \_\_\_ were pretty transparent.

**Sen. Tollefson:** we are always talking about major tax payers, is any discussion been held with them, do they understand the situation with distribution of those tax dollars is not possible when they are under \_\_\_?

**Mike Bitz:** several times during the 3 year ordeal, representatives from Crystal Sugar would call me and say we don't mean to be the bad guy we're not trying to hurt you we just want the county to negotiate with us, then I would ask them to release the money that they weren't protesting and they said well, we'll take it under advisement but why don't you talk to your county commissioners and see if they will negotiate with us. They were very aware

Closed the hearing.

**Sen. Tollefson:** made a **Motion for DO PASS**, seconded by Sen. Anderson.

Roll call vote: 6-0-0 Sen. Anderson to carry the bill. Sen. Triplett voted when she returned to committee. 7-0-0

Date: 2-27-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1186

Senate Finance & Tax Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Sen. Tollefson Seconded By Sen. Anderson

Senators	Yes	No	Senators	Yes	No
Sen. Uriacher	✓		Sen. Anderson	✓	
Sen. Tollefson	✓		Sen. Horne	✓	
Sen. Cook	✓		Sen. Triplett		
Sen. Oehlke	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Anderson

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

**REPORT OF STANDING COMMITTEE (410)**  
February 27, 2007 3:09 p.m.

**Module No: SR-37-4050**  
**Carrier: Anderson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1186: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1186 was placed on the Fourteenth order on the calendar.**

2007 TESTIMONY

HB 1186

1-16-07

~~#1~~

HB 1186

#1

**Testimony in Favor of  
HB 1186  
ND House of Representatives  
Finance and Taxation Committee  
January 16, 2007  
By: Mike Bitz  
(701) 636-4360**

Mr. Chairmen and members of the House Finance & Taxation Committee I appreciate the opportunity to come before you this morning in support of HB 1186. My name is Mike Bitz and I am the superintendent of the Hillsboro Public School District.

The Hillsboro School District was recently the unintended victim of a tax dispute between American Crystal Sugar Company (ACSC) and Traill County. For three years, from 2003 to 2005, ACSC paid almost \$1.5 million (\$1,491,202.51) in taxes to Traill County. Because ACSC paid these taxes under protest, Traill County was prohibited, by law, from distributing these taxes to the political subdivisions who levied the taxes. These funds were, in essence, frozen until the dispute was resolved. The Hillsboro School District's share of the tax dollars frozen compounded each year. By the summer of 2006, when the dispute was finally resolved, the Hillsboro School District was waiting on over \$890,000 (\$890,483.57).

As you can imagine, not having access to these dollars created a real hardship for the Hillsboro School District. We were often unable to make cash flow and we were forced, on several occasions, to work with our local banks to set up revolving loans in order to make payroll and pay our bills. Almost every month the business manager and I would pick and choose which bills we needed to pay immediately and which bills we could hold until we received the state payment on the 1<sup>st</sup> day of the next month. It got to the point where we were only purchasing items that we considered necessary for the operation of the school. In the spring of 2005, when the 2-year negotiated agreement between the school board and teachers was due to expire, the

teachers offered to table negotiations with the school board until the dispute was settled. All other employees also agreed to freeze their wages & salaries. Because of all these measures, we were able to survive and get through the ordeal, but I believe it was unnecessary.

Last July, after the tax dispute between ACSC and Traill Co. was finally resolved, the Hillsboro School District received a check for just over \$850,000 (\$822,287 in tax dollars and other \$28,062.14 in accumulated interest). It seems ludicrous to me that the county was forced to withhold almost \$900,000 in tax dollars from the school in order to guarantee ACSC a refund of less than \$70,000. A lot of hardship could have been avoided had the Hillsboro School District had access to even half of the ACSC tax protest dollars.

I do not have a problem with ACSC questioning the value that Traill County put on its property. They certainly were within their legal right to challenge the assessment assigned to the sugar factory. My issue with the situation is that 100% of the tax dollars paid by ACSC were held in protest and not distributed. In their abatement request, ACSC was not saying that their property had no value. They simply believed that the county had over-valued their property. If ACSC believed that their factory was only worth 50% of the value assigned to it by the county, than I believe 50% of the tax dollars paid by the company should have been distributed to the political subdivision levying the tax and the other 50% of the tax dollars that was being questioned should be held in protest until the dispute was resolved.

I urge you to support HB1186. This bill will prevent another school district or political subdivision from unnecessarily having to wait on needed tax dollars.

I'd be happy to answer any questions that you may have.

116-07

~~1186~~ 1186

In support of HB1186:

Good Morning Chairman Belter and members of the Finance and Taxation Committee.

I am Larry Syverson a farmer from Mayville, I am the Tax Assessor for Roseville Township of Traill County. I am also a District Director of the North Dakota Township Officers Association. NDTOA represents the six thousand Township Officers that serve eleven hundred dues paying member townships.

This morning I wish to speak briefly about a problem experienced by one of our member townships.

Eldorado Township of Traill County is home to the American Crystal plant at Hillsboro. In 2003 Eldorado Township levied a tax rate of 11.46 mils on a total taxable valuation of \$2,181,963; this should have provided \$25,005 to the Township, however American Crystal paid their taxes under protest so \$15,527 was held in escrow. The next year played much the same with \$16,565 added to the escrow. In 2005 a large abatement, that American Crystal had been given, expired: with the added liability the amount due the township grew to \$32,469. again to be held in escrow. After this three year period, a total of \$64,561 was held in escrow, American Crystal refused to allow any of the funds to be made available to the township. By the time the protest made it's way through the courts, Eldorado Township was in debt and had only a few dollars in it's treasury.

This may seem to be an extreme case, but I remind you that a great deal of development across the state has been done with tax abatements to encourage economic development, as these abatements expire similar scenarios may pop up anywhere.

Therefore I ask you to support HB1186 and protect the subdivisions from financial ruin.



NORTH DAKOTA LEGISLATIVE ASSEMBLY

**To: Senate Finance & Tax Committee**  
**From: Rep. Ole Aarsvold**  
**Re: HB 1186**

**1186 comes to you as a consequence of a situation that arose in Traill County. The largest property taxpayer in the county, a large ag processing facility, protested the classification and resulting tax on a small parcel of their property as it came off an extended period of abated property tax. They filed that protest in 2003. As the current law provides, they were obligated to pay the entire amount of tax, both the contested and uncontested amounts to the County Treasurer. The Treasurer in turn deposited the full proceeds into a "tax paid under protest" account. No funds in that account may be distributed until the matter is disposed of by the appropriate Board of Tax Equalization or a court having jurisdiction. However, the protesting party may authorize the release of the uncontested portion of the tax to the affected subdivisions -- township, fire protection district, county and school district.**

**The protesting party, in this case, chose not to release any of those funds - their right under current law but, in effect, they held the township, fire protection district and school district hostage, while they quarreled with the county over the classification and assessment of property for tax purposes. Now, no one is suggesting that the contested portion of the tax should be distributed. The real question is, should uncontested taxes be withheld as well? Since those amounts were not protested, one would have to assume that the taxpayer was content with the assessment and resulting tax. Therefore, it is not unreasonable that those funds should be released and distributed to the eligible subdivisions.**

**This case dragged on through the local, county and state boards of tax equalization.**

**Ultimately, it went through district court and finally to the State Supreme Court. Both parties incurred significant legal costs. The Supreme Court essentially turned the case back to the county**

and the protesting party to resolve. Shortly thereafter, the plaintiff withdrew the major portion of the abatement request and the funds were released.

This process went on for three and one-half years requiring the school district to borrow money to meet its obligations. Teachers went without pay raises. Being at their levy limit, they were not able to raise revenue with additional levies.

All told, the taxes frozen in escrow totaled more than \$1,500,000. The school districts portion of that was well over \$800,000. Some of the taxing districts were forced to increase their levies to compensate for their loss of revenue. Other taxpayers were required to pay a higher tax so education, road repair, fire and police protection could continue.

New language in Section 3 limits the amount of relief to that claimed in the original petition. This feature would assure that both parties have a clear picture of the nature and extent of the abatement request.

Passing 1186 would require that the uncontested portion of property taxes be paid and distributed to the respective subdivisions.

There are others here today who can share the impact this situation has had on them and their subdivisions.

