

2009 HOUSE FINANCE AND TAXATION

HB 1474

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1474

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 10, 2009

Recorder Job Number: 9082

Committee Clerk Signature

Minutes:

Chairman Belter: We will open the hearing on HB 1474.

Representative Froseth: The one comment I heard while campaigning last fall more than any other comment was "try to do something about property taxes". I put that at the head of my agenda to try to do something about property taxes this legislative session, but I have run into a lot of brick walls. Probably about two weeks into the session out of frustration, I went up to see John Walstad and had him draft this piece of legislation, which calls for the legislative council to study the elimination of property taxes altogether. This bill calls for the 2009-2011 interim legislative council to study the feasibility and desirability of elimination of property taxes. The legislative council shall analyze state revenues from all sources and spending commitments of state funds and determine where changes to the state taxation spending structure would be appropriate to allow the state to eliminate property taxes and replace revenues for political subdivision from state sources and report their findings to the next legislative body. Mr. Chairman, I don't know where this bill will go. This is in the form of a bill so if this bill passes, it will direct the interim study. I did a little research on where the funding might come from. Presently this year and next year of the biennium, the counties and cities will take in about \$750 million a year, which is \$1.5 billion for the biennium in property taxes.

To replace that amount of money might seem monumental and very improbable. I tried to put some figures together as to what it would take. A 2% sales tax would bring in about \$277 million for the biennium. I was thinking maybe we could take that \$300 million in the Governor's budget he has earmarked for property tax relief and include that in this package. The \$100 million of income tax relief would come up to about \$677 million, still quite short of the required \$1.5 billion. We would probably need additional income taxes, corporate taxes or whatever type taxes the state levies. We could always tax utilities a little higher. However, it might be worthy of a study. It might bring out some interesting facts and figures as to how counties handle their taxation and equities in their property tax valuations and assessments. I believe there are a lot of inequities in the system today and it is probably good to take a look at all of those and sources of funding that can be funneled into the counties and cities in lieu of property taxes. There might be some reasoning behind eliminating property taxes on certain items, necessary items for people's everyday well being. I feel it would be good to take a look at the whole big picture. Where this bill will go, I have no idea. I see it attracted a lot more attention in the room than I thought it would. Maybe there are people who have ideas who will testify on this bill. I have to go testify on another bill and I would ask that the committee does not take committee action on this bill until I get back.

Representative Schmidt: You run with just one tax period. If you had to run this fall, we last session passed some property tax relief pretty much ballyhooed, but when people got their tax statements, it was not as much as they thought. Now this January, it was worse yet. What I am trying to say is if you were running this fall, you would really catch heck because the taxes really went up. I don't understand. We wrote tax relief bills. I didn't have to run, but people came up and said, "Don't tell us you are going to drop our property taxes; they are going up." We have to find an answer. You are lucky you don't have to run this time.

Representative Froseth: I don't know if that was a question or not, but you better get some answers in order because you are going to meet that question quite frequently.

Representative Winrich: I am curious about the sentence in here about allowing the state to eliminate property taxes and replace revenues for political subdivisions with revenues from state sources. In the previous bill, we heard testimony about how different cities were and that that was the reason for such variations in local sales taxes and that maybe one size doesn't fit all. Would it be within the scope of your study to have the state authorize political subdivisions to use some other source or some other type of taxation to raise the revenues at the local level or are you thinking strictly in terms of state sales and income taxes here?

Representative Froseth: I can't really say. That was the purpose of asking for a study. I don't know what other sources might be available for counties and cities. We just heard a sales tax bill and a lot of cities are using that 2% or 1% sales tax to supplement their city income. That is what the study would try to reveal—some other sources of income that could replace the property tax revenues.

Representative Pinkerton: Would you consider amendments to this that, rather than eliminate property taxes—I am thinking that there is this three-legged stool of income, property, and sales tax and obviously those legs are out of balance now and I would ask you to consider rather than the elimination of property tax to look at rebalancing those three legs between income tax, sales tax and property tax. I think that would address many of the issues that the state deals with.

Representative Froseth: That is probably the reason I asked the Chairman not to take any committee action on this bill when I am not here. I would like some committee discussion on this and see if this is a feasible manner of examining the whole tax structure. There might be some possibilities. You get 15 people around the table and a lot of ideas come up.

Wayne Papke, Citizens for Responsible Government: (Testimony 1 in support of 1474)

Representative Headland: You are a financial adviser. Is there any way you could advise me on how to get my tax burden down to 2.75% here in state?

Wayne Papke: Deductions. I am not a tax advisor though.

Representative Pinkerton: As a financial advisor, you probably talk to people all the time about rebalancing their portfolios so that depending on their stage of life, they have maybe 70% in equities and 30% fixed. As you look at your numbers, it seems like the state has done a poor job of rebalancing their revenue streams.

Wayne Papke: I would agree as it is a regressive tax in the property tax more so versus my income level where I feel I should pay a higher percent of my income in income taxes. I have no problem with that because that is a part of success, whereas my home ownership, (I budgeted for that years ago) and now, all of a sudden, it has gone out of whack for my budget and I had no control over that. I have control of my income tax, a little bit more. By the way, own a small business; that will do it for you.

Connie Sprynczynatyk, ND League of Cities: I can tell you that cities would be happy to participate in such a study. We typically take 20% of the property tax bill. Counties, cities and park districts together are typically about 40% and 60% with schools. I am sure that it would be a most interesting study to try to calculate where the sources ought to come from, if not from property tax. Interestingly enough in all the time I have worn a local elected official hat, which now goes back to 1978, by far and away the most contacts I have gotten about any issues at the local level are service issues—not property taxes. It has never been a request for less service; it has been a request for more service or different service. Since we use property taxes to pay for those services—if there were another way to do it, I personally would be a happy camper even though I know the phone calls wouldn't stop because I am still going

to get those calls about services. But that is okay. If you decide to pass this bill, we would be delighted to participate.

Chairman Belter: Any other testimony in support of HV 1474? Any opposition to 1474?

Neutral testimony on 1474? If not, we will close the hearing on HB 1474.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1474**

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 10, 2009

Recorder Job Number: 9118

Committee Clerk Signature

Minutes:

Representative Froseth: After testimony on HB 1474, this probably seemed like a good idea at the time I had this bill drafted because I was getting a little frustrated. To be honest, I don't know that we want to do a complete study on abolishing property taxes completely and

replacing them with a state revenue because I don't know if it is possible to put together that kind of revenue package to replace all the property taxes. But I still think we need a study.

This amendment I am passing out I had prepared for HB 1198, but I think it would fit better with 1474. Rather than have the legislature--if it passes, they must do the study. What I would like

to do is hoghouse 1474 with the amendments I had prepared for 1198. HB 1198 came out of committee as it was amended the first time with a "do not pass". If the committee would favor doing this, we can let 1198 go to the floor as it was passed out with the "do not pass"

recommendation given earlier. This amendment will put an assessment ceiling on all property taxes in the state at the 2008 level, except for parcels that have been sold or improvements that have been made for new properties. They will be subject to reassessments with new valuations placed on them. In the middle of the amendment, it will allow the board of county

commissioners, if they do not want to abide by this property assessment freeze, they can go to

the voters and have it rescinded and knocked out. Section 2 calls for a legislative study on the entire personal property tax issue and to study the equity and the whole property tax program. I think this would be a better approach than to take the loss and find a replacement for state revenues. (3:41) I think there are a lot of inequities in our property tax systems. Certain properties, all across the state, not just in some areas. We have seen that in some of the property tax bills we have worked with to date. We saw in Representative Weiler's bill today that there are inequities in the way that assessments are made on improvements, special assessments, whatever. The commission on the sale of a house is another issue. I think that whole thing needs to be studied. I think it needs an interim study. While Mr. Weiler's study is being made, this would put a freeze on the valuations of true and full value of all properties in the state at the 2008 level with the exception of improvements and construction. I move the amendments, but I suppose it has to be redone to pertain to HB 1474 rather than HB 1198.

Chairman Belter: Representative Froseth has moved his .0102 amendments when changed so it would fit into HB 1474 and Representative Wrangham seconded.

Representative Brandenburg: Mr. Chairman, what we would be doing is just getting rid of this first paragraph; 57.02 was the area quoted, I am assuming that assessments....

Representative Froseth: This is a complete hoghouse to 1474.

Representative Brandenburg: I understand that, but I just want to make sure that I am familiar with that so everything from section 1 down is what you are saying.

Representative Pinkerton: As I understand the bill, it will freeze assessments in 2009-2010 at the values established in 2008. While we are certainly looking for property tax reduction, I think that would be a difficult thing when we come out of that. I see some advantage; it would force some action in 2010. Undoubtedly in 2010, there would have to be something done, but I don't know what financial shape the state would be in in 2010. That would be my concern.

Representative Froseth: That shouldn't affect the state whatsoever. Freezing the assessment of property would maintain the level of assessments and taxes that counties and cities receive right now with the exception if that piece of property is sold, they can reassess it or if the property is improved, they can reassess the improvements on it or if it is a new piece of property, they can assess. They would have to experience growth by mill levies only. They wouldn't be able to raise the valuations. Now they don't raise the mill levies; they move the valuations and get a big increase in their revenues that way. This would not allow them to raise the assessments; but wherever they still have room in the present law, some mill levies are frozen and have caps on them so they can only assess so many mills, they would have to get their increases by increasing the mill levy rather than the valuation.

Representative Pinkerton: Those areas like your school district in Kenmare and like my school district in Minot are capped out at their mill levies so they would not be able to raise their mills nor would they be able to see enhanced value of their mills so they would have to avoid increases in everything else.

Representative Froseth: It wouldn't affect that because they can go to the voters. As long as they are capped out at 185 mills, they would have to go to the voters now to ask for an increase in the mill levies so it wouldn't affect that. They still could do that.

Representative Pinkerton: But my district pretty much lives off—they have been capped off for quite some time and they simply live off the changes that the state provides in the increased value per pupil, which have been very good. It is quite hard to predict what is going to happen in two years. There will still have to be some adjustment at the end of two years.

Representative Froseth: It would not affect the state funding back to the school district whatsoever. It would not affect any state funding. It would only affect the ability of counties and cities to levy additional taxes on increased assessments. They can still levy additional

increases by mills if they have room in their mill levy authorization to tack on more mills or go to the voters for approval of more mills. Also in this provision here, it will allow the county commissioners, if they don't want to abide by this, they can take it to the voters, put it on the ballot, and ask the voters if they need to abide by this freeze. If the voters say no, then the voters can tell them to go ahead and make the valuations. We just put it back in the hands of the voters.

Representative Winrich: I can't imagine that if this had been introduced as an original bill that we wouldn't have had our room flooded again with county auditors and local officials and so on wanting to testify against this freeze on property taxes. I realize we deal with hoghouse amendments all the time, but this is, I think, one of the most egregious situations where we are essentially denying citizens the right to say something about this particular proposal. I think it also has some problems just with the ideas involved here. The reason there is such variety in property taxes out there is because there is great variety in the local jurisdictions and the problems that they face. I don't see that passing an edict like this in the legislature that says one size fits all is going to solve that. I am not fond of the original bill, but I am not fond of the amendments either.

Representative Wrangham: As I read this bill, it would only deal with counties and property taxes. School districts, for instance, go across county borders.

Representative Froseth: Statewide.

Representative Wrangham: But only the board of county commissioners may place the question on the ballot.

Representative Froseth: In reply to Representative Winrich's concern about this bill not being heard, if it makes it through the House, it will be heard in the Senate. They will get their

chance in the Senate. We do this all the time. We hoghouse bills all the time and hoghouses don't get a hearing so that is not unusual.

Chairman Belter: Any other discussion? If not, all those in favor of the proposed amendments signify by saying aye. **The motion to approve the amendments failed.**

Representative Froseth: Mr. Chairman, I ask for a roll call. **A roll call vote on the amendments resulted in 6 ayes, 6 nays, 1 absent/not voting.**

Representative Weiler: Representative Froseth, you may be very glad in the end that you don't have to stand up on the floor and explain the hoghouse amendment. It may save you a lot of questions.

Chairman Belter: Committee, what are your wishes on HB 1474? I have a **"do pass"** from **Representative Froseth. Is there a second? Motion fails.**

Representative Froseth: May I ask a question? Do we want to leave here without trying to do anything about property taxes? That's my only question.

Chairman Belter: Well, Representative Froseth, we always have. I would entertain a motion on 1474. I have a **"do not pass"** on HB 1474 from **Representative Winrich and a second from Representative Schmidt. A roll call vote resulted in 9 ayes, 3 nays, and 1 absent/not voting (Brandenburg). Representative Froelich will carry the bill.**

PROPOSED AMENDMENTS TO HOUSE BILL NO. ~~1100~~ 1474

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-02 of the North Dakota Century Code, relating to a ceiling on property assessments for the 2009 and 2010 tax years; to provide for a legislative council study of property tax assessments; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-02 of the North Dakota Century Code is created and enacted as follows:

Assessment ceiling for 2009 and 2010. Notwithstanding any other provision of law, the assessment of any parcel of property in this state may not be increased in 2009 or 2010 to an amount exceeding the assessment of the parcel in 2008 except, for residential, commercial, or centrally assessed property:

1. If the parcel is sold, the parcel may be reassessed at a true and full value not exceeding the sales price; or
2. If improvements on the property have been made, the true and full value of the property may be increased an amount not exceeding the cost of the improvements.

The board of county commissioners of a county may place a question before the qualified electors of the county at a regular or special election to suspend the operation of this section within that county. If a majority of the qualified electors of the county voting on the question approve the suspension of this section, this section does not apply to property assessment in that county.

SECTION 2. LEGISLATIVE COUNCIL STUDY. The legislative council shall study property tax assessment issues, with emphasis on restricting rapid valuation increases that have occurred for certain properties in the state and achieving a higher degree of taxpayer satisfaction that property assessments are fair and uniformly applied. The legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-second legislative assembly.

SECTION 3. EFFECTIVE DATE - EXPIRATION DATE. Section 1 of this Act is effective for the first two taxable years beginning after December 31, 2008, and is thereafter ineffective."

Renumber accordingly

Failed

Date: 5/10/09

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1474

House FINANCE AND TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number Amendment 90423.010

Action Taken Do Pass Do Not Pass Amended

Motion Made By Froseth Seconded By Wrangham

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Representative Froelich		
Vice Chairman David Drovdal			Representative Kelsh		
Representative Brandenburg			Representative Pinkerton		
Representative Froseth			Representative Schmidt		
Representative Grande			Representative Winrich		
Representative Headland					
Representative Weiler					
Representative Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2/10/09

Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1474

House FINANCE AND TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number Amendment

Action Taken Do Pass Do Not Pass Amended

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	/		Representative Froelich		/
Vice Chairman David Drovdal	/		Representative Kelsh		/
Representative Brandenburg			Representative Pinkerton		/
Representative Froseth	/		Representative Schmidt		/
Representative Grande	/		Representative Winrich		/
Representative Headland	/				
Representative Weiler	/				
Representative Wrangham		/			

Total (Yes) 6 No 6

Absent 1 (Brandenburg)

Floor Assignment _____

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

Date: 2/10/09

Roll Call Vote #: 3

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1474

House FINANCE AND TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Froseth Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Representative Froelich		
Vice Chairman David Drovdal			Representative Kelsh		
Representative Brandenburg			Representative Pinkerton		
Representative Froseth			Representative Schmidt		
Representative Grande			Representative Winrich		
Representative Headland					
Representative Weiler					
Representative Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: Motion Failed
No Second

Date: 2/10/09

Roll Call Vote #: 4

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1474

House FINANCE AND TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Winrich Seconded By Schmitt

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	/		Representative Froelich	/	
Vice Chairman David Drovdal	/		Representative Kelsh	/	
Representative Brandenburg			Representative Pinkerton	/	
Representative Froseth		/	Representative Schmidt	/	
Representative Grande	/		Representative Winrich	/	
Representative Headland	/				
Representative Weiler		/			
Representative Wrangham		/			

Total (Yes) 9 No 3

Absent 1 (Brandenburg)

Floor Assignment Winrich Froelich

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

REPORT OF STANDING COMMITTEE

HB 1474: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (9 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1474 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HB 1474

Testimony
February 10, 2009
HB 1474

Chairman and members of the Finance and Taxation committee.

My name is Wayne Papke; I am a financial advisor by profession. Today, I'll be speaking on behalf of Citizens for responsible government, a volunteer group based here in Bismarck that seeks to provide taxpayers with information on public policy.

I am here in support of HB 1474.

As a 15 year veteran proponent of tax reform in North Dakota, I ask you to support HB 1474. I have had a successful first 30 years of my post college working years. I have earned well above the median income for North Dakota. Yet, following some deductions from my income taxes each year, I pay a disproportionate amount of property taxes as a percent of my income vs. sales and income taxes. I pay about 6.5% of my income in property taxes today, about 2.75% of my income in state income tax and about 1.5% of my income in sales tax.

I often joke about the fact that home ownership is very overrated in North Dakota as there is lessening incentive to get young people to stay and invest in a home in this state as it is becoming unaffordable to young couples making life choices for their peak earning years. It's also impacting our elderly and fixed income people tremendously as property taxes are growing at nearly two times the rate of inflation over the past couple of decades.

I'm not sure the answer is the elimination of property taxes, but certainly reform is needed as it's become a deterrent to growth and a large factor in the lack of retention of our young people.

I ask for your support and approval of HB 1474.