

2013 SENATE FINANCE AND TAXATION

SB 2091

2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB 2091
1/14/2013
Job Number 17123

Conference Committee

Committee Clerk Signature

Angela R. Miller

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subsection to section 57-01-02 of the North Dakota Century Code, relating to the authority to grant tax filing and payment extensions due to a disaster or emergency.

Minutes:

Testimony Attached

Chairman Cook opened the hearing on SB 2091.

Myles Vosberg, Tax Department - See attached testimony 1.

Senator Triplett - When you said the commissioner currently has authority to grant filing extensions and to wave penalty and interest does that authority extend to waving penalty and interest on federal taxes or are we only talking about state taxes here?

Myles Vosberg - We are talking about state taxes here, but usually there is 2 separate provisions in each tax law chapter one says that the commissioner can grant an extension but the law requires interest to apply to that extension period and then there is another provision that says under reasonable circumstances in the commissioner is satisfied that penalty and/or interest or any part of it should be waved they have the authority to do that as well.

Senator Triplett - My point is though that this doesn't wave anything relative to the federal taxes in terms of interest that might be due for a delay.

Myles Vosberg - That is correct. This applies to state law only.

Senator Triplett - Has the tax department thought through how this would be presented to tax payers in a way so that they understand that while they may be getting some benefit from the state for sort of letting their taxes slide, that they are still going to be held to the different standards of the federal level. Are you concerned that this might cause confusion on the part of someone who may think they are getting the same kind of deal from the federal government but in reality they aren't?

Myles Vosberg - Usually what happens in these circumstances is the tax commissioner will do a press release talking about the relief is granted. The majority of the time it is probably, the federal government has probably granted the same type of relief for the same situations, but that is something we can certainly keep in mind, that it only applies to state taxes and that they should probably be checking or aware of what the federal government is doing.

Chairman Cook - When you talk state taxes, are you talking about sales tax also?

Myles Vosberg - This is a section to chapter 57 so it's kind of broad across all the tax types. So, it could be any of the state taxes. Sales, individual income tax, etc.

Chairman Cook - Sales tax, the taxpayer is the consumer. The retailer that I assume is getting the extension is the person who collects the taxes and has the taxes, there's not a difference here? You don't think the tax collector should have to remit these taxes that they have collected on a timely basis? Would you see a 90 day extension there too?

Myles Vosberg - I would see a 90 days extension for the sales tax too. It's not a matter of whether they have the money or not, for example the recent flood. Records get destroyed, owners are busy protecting their property and so on, and it's just not feasible for them to file a return on time. Granted, we are suggesting here that interest be waved in those particular circumstances as well even though they have the money. Keep in mind the interest is usually 1% a month for the taxes which is pretty steep and so in affect it's somewhat of a penalty if they end up paying some interest in addition to the tax 30, 60, 90 days after the due date.

Chairman Cook - Right now today under those circumstances the vendor who has collected the sales tax could call you and you could grant an extension, correct?

Myles Vosberg - That is correct.

Chairman Cook - And you could also forgive interest, is that correct?

Myles Vosberg - That is also correct.

Chairman Cook - But they would have to call.

Myles Vosberg - They would have to notify us in advance. In order to get an extension they are required to contact us before the due date and we have to agree to that extension.

Chairman Cook - This bill would enable all the tax collectors in the area, the 90 day extension and they wouldn't have to call.

Myles Vosberg - That is correct.

Chairman Cook - Why would somebody pay their taxes on time then? Wouldn't I just sit on that money and pay it 90 days later?

Myles Vosberg - I suspect some people would. Our past experience with numerous disasters, is a lot of people do still file on the regular due date. I'm sure some that don't need the extension probably take advantage of that but it's difficult to know who should and who shouldn't be reporting in those circumstances. Generally we say if you can't file on time we are granting the extension, but, you're right, this does provide a blanket extension for the whole area.

Chairman Cook - Today state finances we can afford it maybe, 90 days without receiving the funds, but I could foresee a time in the future where that 90 day extension, if everyone took advantage of it, could put some sort of a challenge on paying bills, couldn't it?

Myles Vosberg - I would say that's possible however a disaster area usually isn't state wide or an entire area. There have been times like Grand Forks for example where a large portion of the city was flooded, or that same spring we had a lot of floods going on in different areas at the same time. I suppose it's possible, but I would say generally it's limited to a small enough area where it's not going to create a financial crunch for the state.

Chairman Cook - This would mandate a 90 day extension too.

Myles Vosberg - The language does say 'may' so the commissioner still has some discretion there as to when to grant the extension.

Chairman Cook - Could he say "I'm going to grant a 30 day extension"? Or if he grants one is he required to grant 90 days?

Myles Vosberg - Not to exceed 90 days.

Chairman Cook - He could do that today couldn't he?

Myles Vosberg - He could, it's just a little more administratively difficult, but absolutely we have the authority to do that at this point.

Senator Miller - How do you envision this looking, like the tax commissioner is going to issue a waiver or extension and it would be these counties probably, is that how it would go?

Myles Vosberg - Generally that is what happens. We are kind of keying off what the governor does or what the federal government does and generally their talking about counties.

Chairman Cook asked for any other testimony on SB 2091.

Chairman Cook closed the hearing on SB 2091.

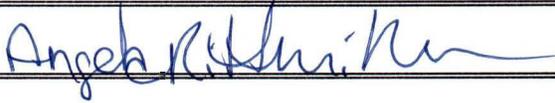
2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB 2091
1/24/2013
Job Number 17609

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subsection to section 57-01-02 of the North Dakota Century Code, relating to the authority to grant tax filing and payment extensions due to a disaster or emergency.

Minutes:

Committee Work

Chairman Cook opened discussion on SB 2091.

Chairman Cook - It's very easy to get an extension and I don't know why we would want to give an extension to an entire area when there is 10% of the taxpayers in that particular area that's going to receive the extension that really need it.

Senator Miller - I guess the reason I kind of support it is the idea that, you're in the middle of something going on and the last thing you really want to deal with is asking to file an extension. Just knowing the tax department says don't worry about it, you're good.

Chairman Cook - Believe it or not these tax departments are very easy to work with and you can get an extension retroactive.

Very brief overview discussion followed.

Chairman Cook closed the discussion on SB 2091.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB 2091
2/18/2013
Job Number 19117

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subsection to section 57-01-02 of the North Dakota Century Code, relating to the authority to grant tax filing and payment extensions due to a disaster or emergency.

Minutes:

Committee Work

Chairman Cook opened discussion on SB 2091.

Senator Burckhard - I would move a **Do Not Pass**.

Chairman Cook - This is a bill that would allow the Tax Commissioner in the case of an emergency or disaster somewhere to offer an extension for all tax payers in that area on paying taxes. This applies to all taxes, income taxes, sales tax.

Senator Burckhard - Don't they already have this authority?

Chairman Cook - They can give the authority to anybody who calls in and says because of this disaster I can't get my taxes in can you give me an extension.

Senator Triplett - I think the distinction with current law is that no penalty or interest would apply to the extension period whereas right now they can give the extension but penalty and interest still applies.

Chairman Cook - I think they can waive the penalty and interest too.

Seconded by Senator Oehlke.

Senator Dotzenrod - I'm trying to determine what is the down side of this bill? I do think when there are emergencies if this is in the code and it's available to the Tax Commissioner to use there may be some time when it would make sense to use it if it's there. I'm trying to really understand if we send it up with a do not pass and we are asking the Senate to kill it, how are we going to get hurt by having this?

Senator Oehlke - I think the problem here is a practical one. If there is an emergency and the Tax Commissioner comes out and just says hey everybody you have 90 days don't worry about it, that's exactly what happens, people have 90 days and they don't worry about it. Even though 90% of that group probably could have filed all their taxes on time, done everything, not a problem, now you've got 90% of them not doing it and when the end of that 90 days comes they say oh, now I need an extension. The way it is now, they can handle these on a case by case basis.

Senator Triplett - Mr. Chairman, you are correct. The testimony from Myles Vosberg indicates that the commissioner currently has the authority to grant the extensions and to waive penalty and interest, however, currently the situation is they have to assess it on the extensions and then subsequently waive it, so I think his point was just that this process would streamline the process that they already have in place. So it really doesn't change anything except making it a smoother process, but like Senator Oehlke said, it also makes it a process that they may have to do 10 times more than they otherwise would.

Senator Dotzenrod - If one of the reasons to not do this is, if we establish this, if we make this part of the law, it will create an incentive and sort of a pressure in the department that they feel they need to use it more. Is that part of the argument?

Chairman Cook - It certainly could. Once it's in the law it could be there for a long time until someone takes it out and someone will take it out when it gets abused. Rather than that, never let it get abused.

Roll Call Vote 5-2-0

Carried by **Senator Oehlke**.

Date: 2-18-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2091

Senate Finance & Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Burckhard Seconded By Senator Oehlke

Senators	Yes	No	Senator	Yes	No
Chairman Dwight Cook			Senator Jim Dotzenrod		
Vice Chairman Tom Campbell			Senator Connie Triplett		
Senator Joe Miller					
Senator Dave Oehlke					
Senator Randy Burckhard					

Total (Yes) 5 No 2

Absent 0

Floor Assignment Senator Oehlke

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

REPORT OF STANDING COMMITTEE

SB 2091: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO NOT PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2091 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

SB 2091

**TESTIMONY OF THE OFFICE OF STATE TAX COMMISSIONER
BEFORE THE
SENATE FINANCE AND TAXATION COMMITTEE**

SENATE BILL 2091

January 14, 2013

Chairman Cook, members of the Senate Finance and Taxation Committee, I am Myles Vosberg, Director of the Tax Administration Division the Office of State Tax Commissioner and I am here today on behalf of the Commissioner to testify in support of Senate Bill 2091.

BACKGROUND

This bill has been introduced by the Tax Commissioner to establish a uniform practice of providing taxpayers relief in the case of a disaster or emergency declared by the President of the United States or the governor of North Dakota. A substantial number of recent disaster events have created extreme hardship making it difficult if not impossible for taxpayers in the affected area to file tax returns by the normal due date. After dealing with recent catastrophic events, the Commissioner believes a standard approach to assisting taxpayers during disasters is needed.

EXPLANATION OF THE BILL

Under Senate Bill 2091, the Commissioner may grant an extension of up to 90 days to comply with any tax law if a disaster or emergency, which has been declared by the President of the United States or the governor, has adversely affected the taxpayer's ability to comply. No penalty or interest may apply to the extension period. If additional time is required to comply, the Commissioner may grant an additional extension period, but interest of 1 percent a month will apply to the additional extension period. Under current law, the Commissioner has authority to grant filing extensions and to waive penalty and interest; however, interest must currently be assessed on extensions and the Commissioner must subsequently approve waiver of the interest in order to provide relief. This procedure will streamline that process.

CONCLUSION

Passage of Senate Bill 2091 will establish a standard, consistent process to assist taxpayers during times of disaster or emergency and will ease the administrative burden of both the Tax Commissioner and the taxpayer affected by the disaster. The Tax Commissioner respectfully requests that you give favorable consideration to Senate Bill 2091. Thank you for your consideration.