

2001 HOUSE POLITICAL SUBDIVISIONS

HB 1206

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1206

House Political Subdivisions Committee

Conference Committee

Hearing Date 1-25-01

Tape Number	Side A	Side B	Meter #
1	xx		3340--end
1		xx	13--270
2	xx		816--900
Committee Clerk Signature <i>Ron Owen</i>			

Minutes : Chair Froseth opened the hearing on HB1206 with all committee members present.

Rep. Klemin, Dist 47, Bismarek : testified in support of HB1206. The reason for this bill comes out of a recent case by the ND Supreme Court on tax abatement. In that case in August 2000, I was legal council for one who was asking for abatement. In that case, the Supreme Court asked me why the county commission made certain decisions. I wasn't able to answer those questions because I didn't know. They also asked the state's attorney who represent the county commission why the commission made certain decisions, and he did not know. There wasn't any written decision by the county commission. The Supreme Court said that an explanation would have been very helpful. The court urged boards of county commissions to provide, in the future, a full explanation of their rationale when determining valuation of property in tax abatement proceedings. I thought that makes sense. When a person applies for something and is denied, they generally want to know why. Only fair due process of law. After looking at this bill, I found a bit of ambiguity, so I brought with me a proposed amendment to clarify. If you

have a partial decision, is it a partial rejection or a partial approval. If the decision is approval in part, then the law doesn't require them to tell us why they approved only part.

Chair Froseth : (4495) Aren't the county commission meetings recorded like we do here?

Rep. Klemin : Yes, they are recorded. It's open to the public record.

Rep. Ekstrom : (4650) When a decision is reached, what is the procedure for getting this either by reference or attached back in to the public record of this valuation. Is there a reference point? There must be some mechanism to get this back into public record.

Rep. Klemin : The county auditor attends the hearings of county commissioners. They determine the valuations should be this or that. The Board of Equalization is also there.

Rep. Ekstrom : Your problem as to why was this decision made. You would like your records to say the abatement occurred at such a date, time, etc., and here is where you can find the decision if you need it.

Rep. Klemin : Basically, what would happen at the end of the hearing, is would be a motion to approve the abatement in the amount of whatever, or a motion to reject the abatement, and they would vote on the motion. That would be the decision.

Vice-Chair Severson : (4880) What if the person was granted a partial approval, and was given an explanation, but still wants to get judicial review. Since you say he can go to court, aren't we opening up many more court cases?

Rep. Klemin : That's speculation. I feel an explanation would clear things up and make more people happy by getting the explanation.

Rep. Delmore : (5565) How often does this problem come up, and would this be hard for the county commissioners?

Page 3  
House Political Subdivisions Committee  
Bill/Resolution Number HB1206  
Hearing Date 1-25-01

Rep. Klemin : In the commission meetings I have been at, we've had an abatement hearing each time. How hard would this be to do? The state's attorney is right there and can assist the county commission right there. Should be a simple process.

Ben Hushka, Fargo City Assessor (5750) We are neutral. I would like to know why I was rejected, as a citizen. We have a few questions. Would the wording cover all situations and how detailed would the explanation have to be?

Chair Froseth : Did you see a copy of the amendment?

Ben : No I did not. Maybe it would answer my questions and concerns.

**End Tape 1, side A. Begin Tape 1, side B.**

Chair Froseth : Any more testimony for or against HB1206? None; hearing is closed.

**Tape 2, side A (816-900)** Chair Froseth : Let's take up HB1206. Rep.Klemin offered an amendment which would hoghouse the bill.

Rep. Kretschmar : I think the amendment was a good one. Let's get it drafted from L.C.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1206 b

House Political Subdivisions Committee

Conference Committee

Hearing Date 1-26-01

Tape Number	Side A	Side B	Meter #
1		xx	600-1908
Committee Clerk Signature <i>Pam DeWitt</i>			

Minutes: Chair Froseth : Let's take up HB1206. I have an addition to Rep. Klemm's amendment.

Rep. Delmore : I move to accept amendments.

Rep. Kretschmar : I second.

**VOICE VOTE: 12 YES and 1 NO. Amendment carried.**

Rep. Kretschmar : I believe the amendment will take care of the problem.

Vice-Chair Severson : I still think we are creating more problems then we will solve. I think we are tying the hands of county commissioners. I think more people will want jury satisfaction.

Rep. Kretschmar : I move a **DO PASS AS AMENDED.**

Rep. Maragos : I second.

**VOTE: 11 YES and 2 NO with 2 absent. BILL PASSFD. Rep.Kretschmar will carry.**

K. Lamin

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1206

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 2 of section 57-23-06 of the North Dakota Century Code, relating to the hearing on an application for the abatement or refund of taxes upon real property.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 2 of section 57-23-06 of the North Dakota Century Code is amended and reenacted as follows:

2. At the next regular meeting of the board of county commissioners following the filing of an application for abatement or, if forthcoming, at the next regular meeting of the board of county commissioners following transmittal of the recommendations of the governing body of the municipality, the applicant may appear, in person or by a representative or attorney, and may present such evidence as may bear on the application. The applicant shall furnish any additional information or evidence requested by the board of county commissioners. The recommendations of the governing body of the municipality in which such assessed property is located must be endorsed upon or attached to every application for an abatement or refund, and the board of county commissioners shall give consideration to such recommendations. The board of county commissioners, by a majority vote, either shall approve ~~or reject~~ the application, in whole or in part, or reject the application. ~~If rejected, a statement of the reasons for such rejection~~ A full explanation of the rationale for the decision, signed by the chairman of the board, must be attached to the application, and a copy thereof must be mailed by the county auditor to the applicant at the post-office address specified in the application."

January 26, 2001

VR  
1/26/01

HOUSE AMENDMENTS TO HB 1206 HOUSE POL. SUBS. 1-29-01

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 2 of section 57-23-06 of the North Dakota Century Code, relating to the hearing on an application for the abatement or refund of taxes upon real property.

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Renumber accordingly

Date: <sup>hearing</sup> 1-25-01  
 Roll Call Vote #: 1-1-26-01

**2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1206**

House POLITICAL SUBDIVISIONS Committee \_\_\_\_\_

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number 10342.0101 .0200

Action Taken DO PASS As Amended

Motion Made By Rep. Kretschmar Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman Glen Froseth	/		Rep. Wayne W. Tieman	/	
Vice-Chair Dale C. Severson	/				
Rep. Lois Delmore		/			
Rep. Rachael Disrud	/				
Rep. Bruce Eckre	/				
Rep. Mary Ekstrom	AB				
Rep. April Fairfield	AB				
Rep. Michael Grosz	/				
Rep. Jane Gunter		/			
Rep. Gil Herbel	/				
Rep. Nancy Johnson	/				
Rep. William E. Kretschmar	/				
Rep. Carol A. Niemeier	/				
Rep. Andrew G. Maragos	/				

Total (Yes) 11 No 2

Absent 2

Floor Assignment Rep. Kretschmar

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



**REPORT OF STANDING COMMITTEE**

**HB 1206: Political Subdivisions Committee (Rep. Froseth, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). HB 1206 was placed on the Sixth order on the calendar.

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Renumber accordingly

2001 SENATE POLITICAL SUBDIVISIONS

HB 1206

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1206

Senate Political Subdivisions Committee

Conference Committee

Hearing Date February 16, 2001

Tape Number	Side A	Side B	Meter #
1		X	17.1-31.5
March 15, 2001 2	X		11.9-15.8
March 16, 2001 1	X		27.3-36.6
Committee Clerk Signature <i>Mary Jo Martin</i>			

Minutes:

The hearing was opened on HB1206, relating to explanation determinations by the board of the county commissioners in abatement proceedings.

REP. KLEMIN:HB1206 amends the section of the law dealing with tax abatement or refund process. If the party believes that the amount of tax or the evaluation of their property is not accurate and they may have a right to file a petition with the county to request that the evaluation be redetermined and that the taxes in essence that have been paid be abated if they were to high. In other words refund it back to the party that paid the property taxes. The process is such that we have a two stage hearing process. First you go, before the city commission if its city property that's the usual case. You go to the city commission and you have a hearing with the city commission, the city commission or city council will not make a decision but will make a recommendation to the county commission. So then, you go to the county commission and at a subsequent hearing and have another hearing. Then at the county level, the county

