

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1231

2001 HOUSE POLITICAL SUBDIVISIONS

HB 1231

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1231

House Political Subdivisions Committee

Conference Committee

Hearing Date 1-25-01

Tape Number	Side A	Side B	Meter #
		XX	270-3755
Committee Clerk Signature <i>Patricia O'Brien</i>			

Minutes: Chair Froseth opened the hearing on HB1231 with all committee members present, except Rep. Ekstrom.

Rep. Weisz, Dist 14 : testified in support of HB1231. (See Attached Testimony). This is a simple bill; however, the issues it brings up are not simple. Our country was founded on the premise of no taxation without representation.

Rep. Kretschmar : Why would you limit this to ND residence? What if a MN person buys a section of land in ND?

Rep. Weisz : Our state constitution prohibits an out of state resident from voting here.

Vice-Chair Severson : I'm a landowner and I retire. I rent my land out in the next county to two or three farmers. When a vote comes up on a school mill levy or whatever, not being a resident there, but a landowner; I may be able to influence the renter, saying I don't like this mill levy.

Do you see any problem?

Rep. Weisz : No. He cited a case in Colorado.

Rep. Herbel : Was there any consideration in the amount of property you own.

Rep. Weisz : Yes, there was.

Rep. Herbel : If I read this right, you have to have 50% ownership. If two people each have 50%, does this mean two votes?

Rep. Weisz : That's correct.

Rep. Herbel : You can see possible this could happen and people were absentee owners, they may rent that property so they can have more say.

Rep. Weisz : I suppose, but highly unlikely.

Rep. Eekre : Would it be possible for someone to buy up all the land and have the votes to stop a school project? It would be an organized effort.

Rep. Weisz : I suppose. I don't see this as a problem in ND.

Rep. N. Johnson : I'm concerned with the logistics of trying to do this. Who is in charge of keeping track if people have 50% ownership and where they live and if they are still in the state?

Rep. Weisz : They would have to send in an application, just like people who want an absentee now have to do. It's taking their word for it, but that's what we do now.

Vice-Chair Severson : You have mentioned several other states that do this. Have you researched this, and can you give us an idea how many states there are?

Rep. Weisz : No, I can't. Colorado has a community that does this, and California has an initiated measure to do this. I think Georgia may.

Vice-Chair Severson : Looking down the road in the future, some schools may have to change the way they operate. Some may consolidate, close; what have you. If this is passed, aren't we opening a Pandora's box that may influence these future changes.

Rep. Weisz : This bill doesn't address those kinds of issues. Those landowners wouldn't get to vote on those kinds of issues.

Nolan Verwest, ND Township Officers Assoc. : (1800) testified against HB1231. (See Attached)

Cory Fong, ND Sec. Of State Office : (2389) testified against the bill. (See Attached Testimony)

There are lots of constitutional questions that need to be addressed.

Vice-Chair Severson : If we were to put a number, say 60% or 75% instead of 50%, does this change anything as far as an arbitrary number.

Cory : Yes, I believe so. Unless you can arrive at some kind of well thought out number that is based on some criteria, I think it would be considered arbitrary. Even if you were to raise it, questions about multi-ownership still would exist. Equal protection issues.

Rep. Niemeier : How is *a property* defined? Is it volume or what?

Cory : That's a good question. I don't know how this bill means it. Not specified here.

Chair Froseth : I think the intent of this bill was to allow the property owner to vote only on tax issues and not effect the issues on page two of Cory's testimony.

Denise Miller, ND Landowners Assoc. : (3125) We are neutral, but we have lots of concerns.

Bev Neilson, ND School Boards Assoc. : (3290) testified against HB1231. We have opposed these types of bills every session they come up. We don't want out of state people coming in and voting on things that impact the residence of ND. Maybe we don't want people from Fargo voting on things in western ND where they bought hunting land. They won't care about schools, streets, etc. As long as they can get there to hunt, they don't care about anything else. We feel residence in the state have a vested interest in their communities. If you own property in one part of ND and live in another district, you are more vested in the area you reside. Having special

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voting rights because you own land went out years ago. You will have to redefine century code.

Lots of philosophical issues come up.

Chair Froese : Any more testimony on HB1231? Hearing none, HB1231 is closed.

Tape 2, Side A (700-815)

Chair Froese : I want to meet with the sponsor. We won't take action today.

Rep. Delmore : I don't know if it is amend able. I don't know where we could change it.

Rep. N. Johnson : I still have a concern that this is too complicated.

End of Discussion on HB1231.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1231 b

House Political Subdivisions Committee

Conference Committee

Hearing Date 2-2-01

Tape Number	Side A	Side B	Meter #
2	xx		1550--2221
Committee Clerk Signature <i>Pam Deane</i>			

Minutes: Chair Froseth : Let's take up HB1231. This is Rep. Weisz's bill. He thought an amendment was drafted, but we don't find it. Does someone have one.

Rep. Grosz : Yes. On line 9, take out *and at least a 50%* and replace this with *a majority*. I move this amendment.

Chair Froseth : The reason for that amendment was to eliminate the chapter dealing with a man and wife to each have a vote. 51% would have to be in one of their names.

Rep. Maragos : Has there been a second?

Rep. Kretschmar : I second.

Rep. Maragos : I think I know what they are trying to do. But can a minority interest in the property still have the majority interest in it. Say there are 10 people and one has 30% and the rest have 10%; does the 30% have the majority in the real property?

Rep. Kretschmar : I think the amendment means they want someone who owns more than 50% of the land.

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Rep. Maragos : Maybe we should change it to 51% then.

Rep. Grosz : The intent was, I believe, was for that parcel of land to just get one voter.

Rep. Maragos : I still contend that one person should not be able to tell the majority who owns it how that vote should be cast. It should read *more than 50%*. I think 51% is the way it has to be.

Chair Froseth : Let's take a voice vote on the first amendment.

VOICE VOTE: NO's take it. Amendment Failed.

Rep. Maragos : I move an amendment to say *has owned more than a 50%*.

Rep. Delmore : Going back to what Sen. Stenehjem said last session. We are putting lipstick on a corpse. I see no reason for this bill.

Rep. Delmore : I second the amendment.

VOICE VOTE: YES has it. AMENDMENT CARRIES.

Rep. Ekstrom : I move a **DO NOT PASS AS AMENDED.**

Vice-Chair Severson : I second.

VOTE: 13 YES and 2 NO BILL PASSES. Rep. Herbel will carry the bill.

FISCAL NOTE STATEMENT

House Bill or Resolution No. 1231

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

John Walstad
Code Revisor

10385.0101
Title.0200

Adopted by the Political Subdivisions
Committee

February 2, 2002

VR
2/2/01

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1231

HOUSE AMENDMENTS to HB 1231 HOUSE POL. SUBS. 2-5-01
Page 1, line 9, replace the second "at least" with "more than"

Renumber accordingly

Date: 2-2-03
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1231

House POLITICAL SUBDIVISIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass As Amended

Motion Made By Rep. Ekstrom Seconded By Vice Chair Severson

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	/				
Rep. April Fairfield	/				
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) 13 No 2

Absent 0

Floor Assignment Rep. Herbel

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

REPORT OF STANDING COMMITTEE (410)
February 5, 2001 8:23 a.m.

Module No: HR-20-2320
Carrier: Severson
Insert LC: 10385.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1231: Political Subdivisions Committee (Rep. Froseth, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (13 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1231 was placed on the Sixth order on the calendar.

Page 1, line 9, replace the second "at least" with "more than"

Renumber accordingly

2001 TESTIMONY

HB 1231

AB 1231

Testimony before the House Finance and Tax Committee

By Representative Robin Welsz District 14

Pol. Sub

Mister Chairman and members of the ~~Finance and Tax~~ committee. The bill I have

before you is a very simple bill. It will only take a minute to explain but it does raise several issues that I will attempt to cover.

This bill will allow any property owner who is a resident of this State to vote on any property tax issue by absentee ballot if he or she is not a resident of the taxing district. The only requirement is that the person must have owned the property for at least 180 days, have at least a 50% ownership in the property and be a qualified elector in the state of North Dakota.

Possible?

1. Probably the first question is this legal. Yes! Various courts have ruled that while the legislature is under no obligation to allow non resident voting it is well within its purview to give nonresidents voting rights. In fact North Dakota already allows non resident voting in irrigation districts and water districts.

2. The second issue is will this bill allow multiple voting. No! Only non residents can vote if they own property and residents are already qualified to vote because of their residence status and not whether they own property or not. Residents who own property would not be able to vote twice under this law.

3. Will this cost political subdivisions a lot of money to implement. This bill does not require any additional notification for the election and by using absentee ballots eliminates the concern of cross voting for other positions that the nonresident is barred from voting on. In fact this bill may help reduce the problem of persons who have moved out who are still voting in their home precinct as for many the ability to vote on tax issues is one of the main reasons they still vote in their home precinct.

I don't know that.

2) Will this bill affect the outcome of the vote. Probably not. But we should not be deciding who should have the ability to vote based on the desired outcome but on whether they are being properly represented or not. It is important to note that these property owners have no representation at all concerning their property taxes as they currently are not able to vote for the tax issue or vote for any representation in that taxing district. Whether or not allowing nonresidents to vote changes the outcome is not relevant and should not be considered, only their ability to be represented.

Are some of these provisions in this bill arbitrary? Yes. Most of our election laws are arbitrary such as age requirements, length of residency etc. Again courts have ruled that Legislatures have broad leeway in determining voting requirements.

In closing, Remember our country was founded on the principle of no taxation without representation. Shouldn't we expect the same for the residents of our State.

