

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1260

2007 HOUSE EDUCATION

HB 1260

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1260**

House Education Committee

Check here for Conference Committee

Hearing Date: **5 February 07**

Recorder Job Number: **2789 and 2794**

Committee Clerk Signature

Jan Prindle

Minutes:

Tom Decker, DPI, introduced the bill. (Testimony Attached.)

Representative Mueller: Could you explain a bit more in depth how this change works?

Decker: Throughout the period of time we are talking here 1993 to now, the voluntary dissolution was law. The practice that the state board has adopted is systematically when a district dissolves, there needs to be a proportionate distribution of students and taxable assets. It's built around that prospect. We have little problem in making that work.

Representative Mueller: That clarifies it. Have you had circumstances where you had 10 students on one farm and then you would have to go far beyond that farm to get the additional valuation of the land? Do you run into a problem with the others that make up the 10%?

Decker: Yes, that is sometimes problematic but when you explain the concept it turns out to be not such a large problem in the end. When taxable assets move to a different district, it is important that those assets be distributed proportionately. The people that count most are parents of school aged children. You identify those and where they are going to go and then you attach parcels of land proportionately out of that district to various other contiguous districts. In some cases people end up attached where they prefer not to but they don't have kids in school so it is not their fundamental issue. It is our fundamental issue and we need to make those distributions balance out.

Representative Mueller: You spoke to another issue that seems to me to be germane here.

You said school aged kids are going to be part of this calculation. What if a family has four kids that are not yet in school? How do we deal with that under current law and does this help any of that?

Decker: In the past we have said that ages 6 – 17 should be counted. In more and more cases we believe the law should be changed to 0 – 17. This is a permanent change.

Representative Mueller: This bill does nothing with that.

Decker: No. That's right.

Representative Herbel: Do you ever run into dissolution where there were no students at all? Then what would happen?

Decker: In more and more cases we find large chunks of districts where there are no students. That land is divided into parcels that include students and goes in directions those students want to go.

There was no further testimony. Chairman Kelsch closed the hearing of HB 1260.

At a later time on the same day, discussion was opened on the bill.

Representative Herbel: I move Do Pass

Representative Sukat: I second.

A roll call vote was taken: Yes: 11, No: 0, Absent: 2 (Haas and Solberg)

Representative Meier will carry the bill.

6

Date: 5 Feb 07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1260

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken As Pass

Motion Made By Herbel Seconded By Sukat

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓		Rep Hanson	✓	
V Chairman Meier	✓		Rep Hunsakor	✓	
Rep Haas	0		Rep Mueller	✓	
Rep Herbel	✓		Rep Myxter	✓	
Rep Johnson	✓		Rep Solberg	0	
Rep Karls	✓				
Rep Sukut	✓				
Rep Wall	✓				

Total Yes 11 No 0

Absent Haas + Solberg

Floor Assignment Meier

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

REPORT OF STANDING COMMITTEE (410)
February 5, 2007 12:41 p.m.

Module No: HR-24-2128
Carrier: L. Meier
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1260: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS
(11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1260 was placed on the
Eleventh order on the calendar.

2007 SENATE EDUCATION

HB 1260

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1260

Senate Education Committee

Check here for Conference Committee

Hearing Date: March 13, 2007

Recorder Job Number: 4954

Committee Clerk Signature

Minutes:

Chairman Freborg opened the hearing on HB 1260, a bill relating to the attachment of property in a school district dissolution. All members were present.

Representative Kelsch introduced the bill. She sees this as a technical corrections bill. It deals with the school district dissolution law. The voluntary dissolution law went into effect in 1993. This bill adds what is currently being done in practice to the law. This has been enforced by the state board but is not in law. During the interim she heard the state board wanted more direction. She reviewed the bill. Tom Decker is here for technical questions and real life scenarios.

Tom Decker, Department of Public Instruction, testified in favor of the bill. (Written testimony attached)

Chairman Freborg asked if students can go wherever they want after a dissolution.

Mr. Decker said yes, in a reorganization or a dissolution.

Chairman Freborg confirmed they can go anywhere.

Mr. Decker said the student makes the choice. The dissolution plan follows those choices.

Senator Gary Lee said the language seems confusing.

Mr. Decker said when there is a dissolution, one of the first things a school district board does is to put together a plan and bring it to the county committee who usually follows the plan. However in Dodge, the county committee made some changes to the plan. A form is sent to all electors of the district that indicates where they want their land attached. Those who really count in the process are the parents of school age children. Once it is determined where the children want to go to school, the lines are drawn as to what property will be attached to which contiguous school district. The students can go anywhere. They may jump over the adjoining district. This bill says the students attending contiguous districts will determine how the lines are drawn. If 10% of the students are going to attend school in district A, 10% of the value will go to district A. It may not be the parcel of land where the child lives that is actually attached although they try hard to see that it is.

Senator Gary Lee said if there is a large dissolving district and there is a segment in the corner that wants to go one direction and the percentage of students and taxable value is more than 5% one way or the other, they would not be able to go where they want even if it is their direction of trade and travel.

Mr. Decker said in some cases that may be true. In most cases, nearly every case he has dealt with in North Dakota, the situation they are running into, is there are so few people with kids. Getting the kids in the district they want to attend is not too difficult. The adjustment is made with land of folks who do not have kids in school. Some of those landowners or absentee land owners may end up with a parcel of their land going to a district where they would rather have it not go to balance out the taxable valuation.

Senator Gary Lee said in a dissolution if he lived in the country and had no children in school, he has no say in where his property goes.

Mr. Decker said they have been very clear about that as they go out and discuss procedures for dissolution. There is a pecking order of who counts most in the process and it turns out to be, for some really good reasons, school age students and their parents. The effort needs to be to attach that land and the taxable assets to the district where the students will attend school.

Senator Gary Lee said it is more about taxable value than it is about students.

Mr. Decker said that is a tough call. He likes to think it's about students. We have given students an absolute choice. The follow up piece that goes with it is his very strong belief is it ought to be a matter of policy that taxable value follow students.

Chairman Freborg asked if its taxable value or mill levy?

Senator Gary Lee said we are talking about taxable value. Students are secondary, its taxable value we are concerned about.

Chairman Freborg said when you get to where the property owners have no children in school and you need some of that property and you have three choices where to go and the mill levy is much higher where you need more taxable value, then what do you do?

Mr. Decker said that is the problem and that has been one of the challenges from very early on in the dissolution process. When it was first passed in 1993 and they were trying to catch up with how it works, the first couple of districts that they worked with, all the taxpayers wanted their land attached to the school district with the lowest mill levy and they wanted their children to go to the best school which didn't happen to be the same districts. They had some pointed rounds with some folks early on and managed to get the point across that taxable assets need to follow students. In some cases, absentee landowners and landowners without kids in school would have land attached to school districts that might not have been their first choice to balance out land values and students.

Senator Taylor said the kids make their election and that is their school.

Mr. Decker said students make the choice first and they will go where they want to go, period.

In every case they can, they try to get their residence into the land area that is going to the district they are going to attend but it is not always possible.

Senator Taylor asked about the Willow City dissolution, some went to Bottineau and some to TGU, did some go to Rugby?

Mr. Decker said very little went to Rugby because, he is not sure quite what happened, very few students indicated they were going to Rugby. Low and behold, in the fall of the year, some number of students showed up in Rugby.

Senator Taylor said once the districts are drawn, and property is assigned, is there a way to get some property to follow those students?

Mr. Decker said they have had a long discussion precipitated by the superintendent at Rugby on that issue. They have spoken with a couple of assistance Attorney Generals. They have concluded the best approach to dealing with it is to be more vigilant about getting straight answers about where students will attend up front. The process of changing a dissolution map is very messy.

Senator Taylor asked if those students are open enrolled since they had not made that their district of election?

Mr. Decker said they still consider that to be enrollment election.

Senator Bakke asked who developed the policy and why?

Mr. Decker said when they started the process they looked at the precedent set by state board decisions up to that point. In the record there were indications they were looking at that so

Department of Public Instruction went out and provided that advice.

Senator Gary Lee asked how this bill, if passed, would limit opportunities for dissolving districts in terms of development of their plan and what is in the best interests of their students?

Mr. Decker said he doesn't see it limit them. This is what they have been doing. This will bring a higher level of assurance to the process of having taxable assets follow them. In his experience, there is always enough flexibility to allow that.

Senator Bakke said there is a resolution to look at reorganization policies, would this be revisited during that process?

Mr. Decker said he hopes they will follow up on the study of reorganization and nothing would be off the table. They have not talked about county committee structure that should be discussed. We have dissolutions going on every day, he expects the pace to pick up so we need to have things in place and if we need to change it next session, we will.

Chairman Freborg closed the hearing on HB 1260.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1260

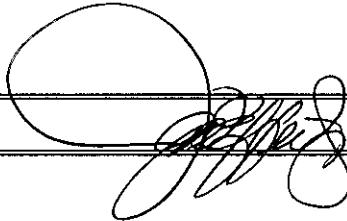
Senate Education Committee

Check here for Conference Committee

Hearing Date: March 19, 2007

Recorder Job Number: 5284

Committee Clerk Signature



Minutes:

Chairman Freborg opened the discussion on HB 1260. All members were present.

Tom Decker, Department of Public Instruction, appeared to answer questions and to explain a proposed amendment .0202 (attached). The amendment does two things. Section one upgrades the definition in law of what it means to provide educational services in a district. Current law states a district has to provide educational services within the district to continue to operate. The department has had one bad experience where there were two county committee hearings where the county committee decided the school district had provided educational services when, as far as the department could determine, they had a Christmas program in the town hall. They need a definition that cannot be stretched that far. The law states if a school district does not provide educational services, it must dissolve within a year. Section 2 provides for state board of public school education review in circumstances where they think there is a problem with providing educational services or where the definition of educational services is applied in inappropriate ways. There are currently two districts that are having major problems and probably will be dissolving. In both cases the districts have resisted going out of business strenuously for a variety of reasons, one of which is tax shelter. They are resisting dissolving to protect their patrons.

Chairman Freborg asked for a good example for a reason not to dissolve a school district.

Mr. Decker said Earl school district in McKenzie County went through two county hearings and did not dissolve because they determined the district had been providing educational services within the district. They are extremely well to do. They have about \$1 million in the bank and they spend about \$100,000 per year. Their mill levy is 20 or 40 mills. They need to keep a school operating in the district in order to maintain that kind of situation. If they dissolve, they would likely become part of McKenzie County Public Schools which has a mill levy of about 185 mills. That is why there has been that kind of resistance. The other district is in the Bismarck area and the tax situation is similar but not quite so drastic.

Senator Bakke said she gets the overwhelming feeling there is a big push to get rid of all these little districts. Is it the general feeling of the department that they don't want small schools?

Mr. Decker said the short answer is no. They have moved away from pushing or resisting consolidation. They think it is not worth spending a lot of time on it, given the history of that discussion. They are concerned about assuring they are operating according to the law and that truly dysfunctional little districts don't continue to operate. There are a couple of those and this will not help that situation, they would need some other kind of intervention. They are working with 2 or 3 small rural districts with big problems operationally. There is nothing in the law that allows the department to intervene in a meaningful way.

Senator Taylor asked how the county committee is set up. In the Earl example, they are not the entire county. There is a county committee that can say dissolve or don't dissolve without the state board stepping in. Who makes up the county committee?

Mr. Decker said by law county committees are appointed by the county commission, their numbers are equal in number to the number of county commissioners. They sit as a hearing body for reorganization, dissolution and annexation hearings. In most cases, annexation,

reorganization and dissolution, if approved by the county committee, are subject to review by the state board. When they decide educational services are being provided, that is the end of the discussion. He sat through the hearing in January regarding the Earl school district, he heard the discussion and he knows the history and there is no way educational services are being provided by any definition the department would recognize but the county committee sat right there and made the decision.

Senator Taylor said if section 1 of the amendment were passed, it would take care of the case we just discussed. He is hesitant about putting the state board in charge of initiating a dissolution over the top of a county committee. Some members of the county committee must be in other school districts and would like to see the Earl land added the their school district.

Mr. Decker said that is not the dynamic. No one on the county committee lives in the Earl district. The decision has more to do with the politically correct decision for the neighborhood so they can continue to live and work there. If we had the language in section 1, very few circumstances would occur where section 2 would be necessary.

Chairman Freborg asked the terms of the county committee.

Mr. Decker said he is not certain.

Senator Gary Lee said it is two years.

Chairman Freborg asked if they can serve any number of terms.

Mr. Decker said yes, in Barnes County they have one member that has served 28 years.

Chairman Freborg asked if we should offer an amendment that limits terms.

Mr. Decker said that is an interesting idea. The tendency is for long tenure.

Chairman Freborg asked the reason for it.

Mr. Decker said it is often hard to find people to serve.

Chairman Freborg said if they were elected, he would have no problem with unlimited terms because it is up to the people. There is little recourse when appointed committee members are not doing their job.

Senator Gary Lee asked if a county committee hears about a dissolution or reorganization, does it then go to the state board and is that the end of the process.

Mr. Decker said in the case of a dissolution, he would have to review the procedures but he thinks he is right. This morning the state board reviewed the dissolution of Golden Valley. It was uncontested in the county so it is not a formal hearing, it is a review. If it is a contested dissolution, there is a hearing at the state board level.

Senator Gary Lee said if the state board agrees with the county committee, the dissolution occurs. If they do not agree, does the dissolution stop?

Mr. Decker said it gets sent back to the county for a redo. They have not had that occur in quite a while. Early in the voluntary dissolution process, there were a couple sent back and it was a good message from the state board. It had to do with distribution of students and property in one case and in the other case with a dictatorial school board about the plan for the dissolution without input from the citizens. Since the middle nineties, none have been sent back. Some have had some controversy.

Senator Gary Lee asked if the Earl example is an isolated incident or is Mr. Decker expecting similar situations down the road.

Mr. Decker said Earl is the first example they have had. The key issue is the change of definition in section 1. There are a couple of instances where dissolutions will come up in the next couple of years in districts that will resist dissolving as long as they possibly can and any way they can for tax reasons.

Senator Gary Lee said when we try to make some things so rigid, they don't always fit all situations. If there are no students in a particular household in the country and they want to go a particular direction because of their trade and travel, this may not allow them to do anything, it would be completely out of their control. They lose all say in the process. If there is a natural dividing line in a particular district, it might not be recognized. He is not convinced the process is not working now. There will be some isolated incidents. Sometimes we forget about the parents and students and always worry about the taxable value. That seems to be more important.

Mr. Decker said this puts into law what we have been doing. They are not absolutely sold on 5%, it could be 7% or 10% and it would still work. They have been enforcing this concept against sometimes considerable resistance to achieve the appropriate, equitable distribution of taxable valuation and property since the law was passed in 1993. Until we have a state formula that insures equalization, regardless of the distribution of taxable property, we need to continue that tack. There has been a lot of time spent on the equity issue and a couple of lawsuits about it over the years but we still depend heavily on local property tax to fund schools. As long as that is the case, these reasonably rigid rules about distribution of students and property are appropriate.

Senator Bakke said with the study resolution that has passed to look at reorganization and dissolution, does something need to be in place before the committee does its work. Is there some urgency about it?

Mr. Decker said yes, in terms of section 1, they need it. He is less concerned about section 2. The other issue that should be studied is the county committee. He believes they should be regional. School districts are getting so large that in many cases, the majority of the committee is from the affected school districts any time a decision is made. That makes it very difficult to

get any kind of objectivity. The county committees do not meet frequently and it is difficult to maintain a level of knowledge about procedures.

Chairman Freborg closed the discussion on HB 1260.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1260

Senate Education Committee

Check here for Conference Committee

Hearing Date: March 20, 2007

Recorder Job Number: 5309

Committee Clerk Signature

Minutes:

Chairman Freborg opened the discussion on HB 1260, a bill relating to the attachment of property in a school district dissolution. All members were present.

Senator Flakoll presented written amendments, changing "five" to "fifteen" (00:40) and motioned to adopt amendments. Senator Gary Lee seconded the motion. Chairman Freborg asked for discussion on amendments.

Senator Taylor asked about the thought process behind the number change.

Senator Flakoll explained that the number change simply gives more flexibility if the bill passes.

Senator Gary Lee also expressed that the number change makes the bill better.

Chairman Freborg asked for clarification about the variable of students in a district in which the property is attached (02:57).

Senator Flakoll stated that this would give more flexibility if you are in a small school district.

Senator Taylor asked if the "younger than eighteen" wording includes children younger than school age?

Chairman Freborg said yes, it would include everyone under the age of eighteen.

Senator Gary Lee expressed that the larger number lends itself to the parents without kids in terms of choice of where they would like to attend school, rather than basing the decision totally on property value for students (05:00).

Chairman Freborg said that the major problem is not about students, it is about money and mill levies. There are battles over where they put property in some dissolving districts because of the tremendous variation in the mill levies.

Chairman Freborg called for a vote on the Flakoll amendments to HB 1260. Motion passed.

Senator Flakoll made a motion to adopt the .0202 amendments, except Section 2 (07:55).

Senator Taylor seconded the motion. Chairman Freborg asked for clarification and discussion on the motion.

Senator Bakke said that she was not comfortable with Section 2 of the .0202 amendments, but felt that Section 1 made sense. Asked if any changes would need to be made if the sections were separated (09:30)?

Chairman Freborg and Senator Flakoll responded that the technicalities of omitting Section 2 of the amendments would be taken care of (10:00). Chairman Freborg called for a vote on the motion to adopt .0202 amendments with the exception of Section 2 to HB 1260. Motion passed.

Senator Flakoll moved a Do Not Pass as amended on HB 1260. Senator Gary Lee seconded the motion. Chairman Freborg asked for discussion on the motion.

Senator Taylor (11:30) felt that because of some schools in his district, he needed to vote for the bill to put into language what has been the practice in terms of attaching property to the students intentions.

Senator Bakke said that there is a study in place to study the whole process of how they reorganize school districts and dissolutionments. She is nervous about putting this into place

before the group has a chance to study it. We need to have some conversations about the correct way to do this.

Chairman Freborg said that studies do not always produce a lot. Called for a vote on the Do Not Pass as amended motion on HB 1260. Motion passed 4-1. Senator Flakoll is the carrier.

Chairman Freborg closed the discussion on HB 1260.

Proposed amendment to Engrossed HB 1260

Page 1, line 6, replace "five" with "fifteen"

Date: 3.20.07
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1260

Senate Education Committee

Check here for Conference Committee

Legislative Council Amendment Number Flakoll Amendment

Action Taken Adopt Amendment (Flakoll)

Motion Made By _____ Seconded By _____

Senators	Yes	No	Senators	Yes	No
Senator Freborg	✓		Senator Taylor	✓	
Senator Flakoll	✓		Senator Bakke	✓	
Senator Gary Lee	✓				

Total Yes 5 No 0

Absent 0

Floor Assignment _____

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

"five" to "fifteen" - Flakoll amendment

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1260

Page 1, line 1, after "to" insert "create and enact section 15.1-12-26.2 of the North Dakota Century Code, relating to the initiation of school district dissolution proceedings; to" and replace "section" with "sections 15.1-12-24 and"

Page 1, line 2, after "to" insert "the definition of a nonoperating school district and"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Section 15.1-12-24 of the North Dakota Century Code is amended and reenacted as follows:

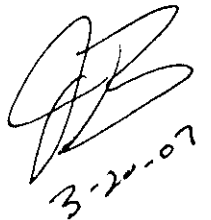
15.1-12-24. Nonoperating school district - Reorganization or dissolution.

A school district that ~~ceases to provide educational services within the district~~ no longer operates at least one school approved by the superintendent of public instruction under section 15.1-06-06 must become, within one year, through a process of reorganization or dissolution, part of a district operating an approved school. If a school district affected by this section has not become part of a district operating an approved school within the prescribed time limit, the school district must be dissolved. This section does not apply to military installation school districts.

SECTION 2. Section 15.1-12-26.2 of the North Dakota Century Code is created and enacted as follows:

15.1-12-26.2. Refusal to initiate proceedings - Hearing by state board. If the superintendent of public instruction determines that a county committee has failed to initiate proceedings to dissolve a school district as required by section 15.1-12-26, the superintendent shall notify the state board of public school education. The state board shall conduct a hearing to review the facts and the circumstances that formed the basis for the county committee's decision not to initiate dissolution proceedings. If the state board determines that there are sufficient grounds to justify the dissolution, the state board shall order the county committee to immediately begin dissolution proceedings as provided in this chapter."

Renumber accordingly



Handwritten signature and date: 3-20-07

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1260

Page 1, line 1, replace "section" with "sections 15.1-12-24 and"

Page 1, line 2, after "to" insert "the definition of a nonoperating school district and"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Section 15.1-12-24 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-24. Nonoperating school district - Reorganization or dissolution.

A school district that ~~ceases to provide educational services within the district~~ no longer operates at least one school approved by the superintendent of public instruction under section 15.1-06-06 must become, within one year, through a process of reorganization or dissolution, part of a district operating an approved school. If a school district affected by this section has not become part of a district operating an approved school within the prescribed time limit, the school district must be dissolved. This section does not apply to military installation school districts."

Page 3, line 6, replace "five" with "fifteen"

Renumber accordingly

