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ROLL NUMBER

DESCRIPTION

1303

2007 HOUSE FINANCE AND TAXATION

HB 1303

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1303 A

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 16, 2007

Recorder Job Number: 1193

Committee Clerk Signature

Micki Schmidt

Minutes:

Chairman Belter opened the hearing on HB 1303 and asked for testimony in support.

Rep. Gil Herbel: HB 1303 is a fairness issue. What it will do is require the assessors to take into consideration the usage of the land not just soil types and productivity. I think this is extremely important because in essence of the way the system is set up now, it would require you to change the way in which you are doing your farming if it is based on soil types. The valuations, they're really on land that have modifiers but one of the modifiers not be considered is the use of the land. The soil types of productivity can have a pasture land over here, a highway running across through it; over here you have cultivated land. The highway itself really doesn't change the soil types from one to the other, so consequently the pasture which has the same soil types as the cultivated land is being valued the same as the cultivated land. But at the same time on the other side of the road, that land is cash renting at probably \$35.00 an acre. On the other side of the road that land is probably being rented at \$10.00 and acre which is the going price for pastures. But yet they are both being taxed the same way presently. So I think this is a fairness issue. The usage should be a factor in determining how much that tax valuation should be. When the soil types went into effect, my taxes nearly doubled on my

ranch, southwest of Bismarck. I am presently paying based on the cash rent of \$10.00 an acre; I'm paying 30% of my income for property tax. I think this is an enormous inequity.

Sen. Aaron Krauter: Classifications of Ag land based upon soil types and the values of them, they can range from very low to very high in value. In reality, when county puts the soil classification, it puts some of that land that have very high classifications of soil from productivity and puts them in that high tax assessment, in the real world that ground is full of rocks, the inclines are like the Capitol Building, there's no way you could make it produce at the level of the productivity that it is out there. So the real world is it can't create that type of revenue based upon that taxable structure. When we look at it and try to work with the County to put some modifiers in there, it came upon them to tax the Counties just said no we're going to stick with the plan the way it is, based upon the soil types and we're going to try to work through it. That's when we saw an amount of individuals that owned land out there that are in a non-tillable environments that saw these huge increases in property taxes.

Wade Moser, ND Stockman's Association: We're here in support of the Bill. We believe in the productivity formula and we think it's workable. We do see across the table however a lot of inconsistencies for some counties that are using strictly the soils and some are using the status of the property that is setting there, they're base price, their base taxes. When soils came along, I think it's a fine opportunity to fine tune within those uses and within those classes. The better soils in pasture land are taxed at a higher level than poorer soils, same as the croplands. We think that the soils are a very valuable tool that just needs to be used in a modified way. The use needs to be taken into account. Since the basic productivity formula is based on productivity, you can see there's a wide variation. Keep in mind that this isn't unique. The State Land Dept. that sets the base minimum rates for all the State school land out there that's leased uses the soil types to determine their base rate. Those with higher, you can have

a section and they'll take each quarter separately and take the soils and set the base rate based on those. However, they do not change the classification of it and have a higher rate because the section next to it might be all farm land. So this is not unusual. Also keep in mind that in some cases you are restricted based on swamp buster or sod buster from even breaking it up if you wanted to. Any government programs that might come along that you may need to survive on your operations, so just because someone wants to value it as farmland, you may not have that opportunity to change the use and the status even if you wanted to.

Keith Payne, Rancher in Grant County: (See attachment #1) testified in support.

Arthur Ten Broek, from south of Raleigh in Grant County: testified in support. I have some maps and pictures of soil tests to show you why I feel that the soil tests really don't work. They changed it from 30% to 52% farmland and you couldn't farm that if you wanted to.

Representative Headland: On this map where there are some lines drawn out, I am assuming that this is determined to be productive property?

Arthur Ten Broek: This is a section of where I live and there's a little bit of farm land there.

Representative Headland: So this is not grassland today?

Arthur Ten Broek: This is hay land, but this is all pasture land.

Representative Headland: You're ability to farm this because it's small acreages?

Arthur Ten Broek: No, what I'm trying to show is the pasture land here; you can't tell that it is until you look at this. (Showed his pictures and explained them, didn't leave any of them.) The taxes on my pasture land have almost double. My land went up \$1600 in Grant County.

Representative Headland: So what you're saying is that they've changed the way they tax on the pasture portion.

Arthur Ten Broek: Yes, there is a hill that's 30-40 feet high and it's not level, you couldn't farm it if you wanted to.

Jamie Haag, from south of Carson: testified in support. In 2004, our taxes went up 20% across the board on 14,000 acres. And strictly due to grassland or pasture lands where they took out the use of the land and put in the classifications of the soil. The modifiers that were put in presently aren't working and if we go back to the classification of how the land is, we feel that would justify it better. We farm 4,000 acres of land and our cropland taxes went down but we would rather have the taxes on our cropland stay higher because there's more revenue to be made on that land than on our pasture land.

Rod Backman, from central Burleigh County: testified in support. My lowest valued corner which is pasture land has the highest tax on it. It's never been cultivated and can't be because of the rocks and hills. But because of the soil type, it has the highest tax. I don't think its fair the way it's structured right now.

Sandy Clark, ND Farm Bureau: (See attachment #2) testified in support if there is an amendment. This particular Bill does not have any impact on the productivity formula itself. What the productivity formula does is equalize property across the State. Then when you get into a particular County, then soil type and soil classification is used to equalize agricultural property across the County. So the issue is that the productivity formula is not in question here today.

Representative Froseth: I think your suggestion might water down the point and discretion of whoever makes the assessment. Would you object if it was actual land use of the property must be considered, instead of maybe considered?

Sandy Clark: There may be some cases where somebody who has some pasture land and runs a hobby farm, and they put the pasture right up to next to the place that says there's no high end pasture land or high end cropland, but they've chosen to put it in pasture for that

purpose. You might also have some cases where you have some outside investors that have purchased CRP or land and it's not marginal land and they put it into CRP.

Representative Froelich: I'm not sure I agree with your amendment, but, to consider the shall the may or the must. In your amendment it says maybe considered. Shouldn't it say shall be considered in conjunction?

Sandy Clark: We've submitted for your consideration the word "may" and if they want to change it to shall, it's not our choice.

Casey Wells, Farmer/Rancher from Grant County: When the new soil types came out, we were assured that there would be modifiers to take place and take care of the rocks, steep creeks. They were supposed to take care of everything that was out there, but it didn't. There are about 14 modifiers out there. Each person in each corner of the land has got a different scenario to it with these modifiers. Is farmer A getting the same modifier as farmer B? In grant County we have a problem with slopes. We have three rivers crossing us and there's a high plateau dividing the land and you have a boundary line there and we were assured that the modifiers would take care of it and that has led to a nightmare.

Kurt Hepper, from southern Grant County: testified in support. I have a lot of pasture land and with this new taxation my taxes bumped up 27%. I'm being taxed too high. A lot of my property is now being used as a pasture but is being taxed as farmland. I'm in support of this Bill because we as farmers and ranchers know the best use for the land. We use our land in a very economic sense. If there's flat farmland, yes we'll farm it or we'll rent it out to someone who wants to farm it. If we have plateaus in some cases that are impossible to get to them because of the steep slopes around them and on top of these plateaus have up to 100 acres in cases and it's impossible to get farm machinery up there. As far as the "may" or "must" in that sentence, I think it "must" be considered.

Chairman Belter: Is there any testimony in opposition to HB 1303?

David Munsch, from Morton County: testimony in neutral. I wanted to point out that the soil type was passed in 1983. I think a lot of these problems could be solved by taking a satellite picture of the land and look at it and then question the landowner. Morton County made the ASCS office maps privileged information, so we can't use them. It's been a quarter of a century since the Bill was passed and we're still fooling around trying to decide what cropland is and what isn't.

Gary Empter, Director of Tax Equalization from Mercer County: testified in opposition. We've been using this soil survey since 1980. The first three years were very similar to what I hear today. We've worked it out. You can have as many modifiers as you possibly want...the more you have, the worse it going to get. When the soil survey was originally initiated, I don't think management was supposed to be brought into the factor. If you're going to bring it into the factor now, you're going to have to start looking at commercial property also. Maybe that individual isn't using that commercial property to its potential, or is using it way below or way high. As I see it, soil assessment is the most equitable way of taking a look at the soil for tax purposes. One problem I see with the Bill is what's going to happen if those individuals don't come into the county to tell them how they've changed the use of this property. The ones who are cropping now, they will see more increases in their taxes because there's going to be a shift from those crop acres that are going to be converted to grazing acres, and someone's got to pick up the difference and it will go to those people that are farming cropland. If not soil type, will it go back to market value which will be a lot higher? There are not very many different methods out there that we can use to value Ag. land. Right now it appears to be a one county problem.

Representative Froelich: You've got 20 to 50 acres of class 1 soil, good farmland. To get access to it, you're not going to get to it with machinery. It's not feasible. Yes it may be #1 cropland, but it's not going to produce 150 bushel or corn on it. How are you going to adjust that?

Gary Empter: We have the same thing. We don't have any class 1 soil but we have class 2 soil. We would adjust it either to the highest grazing land or something less than that.

Representative Froelich: Not all counties are following your procedures!! Grant County doesn't follow that. There are counties that still to this day do not use soil classification, correct? It is inaccurate to say that we are all uniform across the state.

Gary Empter: Yes.

Chairman Belter: Is there any neutral testimony?

Sara Hewson, Property Tax Specialist for the State Tax Commissioner: testified in neutral. We conducted a survey two years ago when similar language was presented. We were trying to find out what counties are using to value of Ag. land. We found out the 23 counties are using the detailed soil survey of evaluation. There are 12 that use the general soil survey which classifies several different soil types into a class and applies the value to that class. There are 8 who have planned to implement the detailed soil survey method by the year 2008. There are 10 counties that have no plans, 2 of them did not even respond to our survey. With change in this language that this Bill is asking for, there would be 35 counties that will have to start over. It's going to be costly for them and would take about 2-3 years to implement their language.

Representative Froelich: If these other counties are putting modifiers in, it isn't going to change it because they are already in place. The modifiers are not doing a lot.

Sara Hewson: We're trying to value property on an unbiased plane. We have one county who's using their value on their land, they had cropland and they just quite farming. They

decided that that land should be reclassified as noncropland and the value is \$35 dollars an acre. This is the confusion in the language.

Chairman Belter: Is there any other testimony? Hearing none, we will close the hearing on HB 1303.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1303 B

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 16, 2007

Recorder Job Number: 1229

Committee Clerk Signature

Mickie Schmidt

Minutes:

Chairman Belter opened the hearing on HB 1303.

Representative Froelich: We've seen part of this last time. I see down the road we're going to have some more problems with this the way it's set up.

Chairman Belter: My concern is that in my own case, I have a problem with Richland County on some land similar. It's wet land and its good land classification so it get's taxed heavy. I don't think the system is necessarily broke. I think this Bill needs some amendments. We could create a whole lot more problems by passing like it is.

Representative Vig: Most of this is all Grant County but on line 16; the property, with more and more people buying land for hunting, would this pertain to that as well?

Chairman Belter: Yes.

Representative Froseth: Sandy Clark's testimony from the Farm Bureau possibly would work if you replace that one paragraph that says, "actual land use of the property may be considered in conjunction." And if you change that, "must be considered" they would have to consider it but they wouldn't necessarily have to use that. That would give them some leave way, I don't know if that's the right way to go either, but...

Chairman Belter: Ok, committee, we'll close the hearing on HB 1303.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1303 C

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 22, 2007

Recorder Job Number: 1595

Committee Clerk Signature

Mickie Schmielt

Minutes:

Chairman Belter opened the hearing on HB 1303. This is Rep. Herbal's Bill.

Representative Headland: In the testimony Farm Bureau offered a possible amendment. I talked with Rep. Herbal and he would be acceptive to that amendment. The amendment would say that actual land use of the property shall be considered in conjunction with the soil type.

Chairman Belter: Where would you put that in?

Representative Headland: Right after the prevailed

Chairman Belter: On what line?

Representative Headland: The word prevail would have to come out. I thought if possible we could run this amendment, I know Legislative Council is extremely busy.

Chairman Belter: You wouldn't want to pull prevail out, would you?

Representative Headland: In talking with Rep. Herbal and the Farm Bureau, they've agreed to accept shall.

Representative Weiler: I believe the reason for that is because it's fowled up with be considered. All they're saying is they have to consider it, in reality, do they have to do anything with it? No.

Chairman Belter: On line 16, you'd leave everything the same except after property, you would insert shall.

Representative Headland: After looking at this, I think I need to get it to Legislative Counsel

Chairman Belter: OK, we'll close the hearing on HB 1303.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1303 D

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 22, 2007

Recorder Job Number: 1597

Committee Clerk Signature

Michael Schmidt

Minutes:

Chairman Belter opened the hearing on HB 1303 and asked Rep. Headland to explain the amendments he brought forth.

Representative Headland: On line 16, after property overstrike "prevails" "over" (over is on the beginning of line 17) and replace it with "shall be considered along with."

Representative Grande: Will that just say that counties you must rely on your modifiers?

Chairman Belter: I would interpret it to mean shall use common sense.

Representative Headland: I would move this amendment.

Representative Froseth: Rather than along with the wording in here it says in conjunction with. Instead of using the word "along" use conjunction.

Chairman Belter: Let's have some discussion on whether we want to use "in conjunction with" or "along."

Representative Owens: why don't we take "prevail?"

Chairman Belter: I'm open for a motion for the amendment.

Representative Weiler: I'll move the amendments.

Representative Headland: Second it.

Chairman Belter: Any discussion? All those in favor of the proposed amendment signify by saying aye. The motion carries. What are your wishes?

Representative Headland: I move a Do Pass as Amended.

Representative Weiler: Second it.

Chairman Belter: Is there any discussion?

Representative Wrangham: This has always been a complicated issue and I think this may create more problems than we're solving, but on the other hand I think it's a discussion that needs to take place with all sides showing up, so I will support the Do Pass.

Representative Froseth: I think with the amendment it gives the landowner another method if he wanted to protest the assessment to prove his case.

Chairman Belter: Any other discussion? Will the clerk read the roll; 10-y, 3-n, 1-absent; Rep.

Schmidt will carry the Bill. We'll close the hearing on HB 1303.

70587.0101
Title.0200

Adopted by the Finance and Taxation
Committee

January 22, 2007

**House Amendments to HB 1303 (70587.0101) - Finance and Taxation Committee
01/23/2007**

Page 1, line 16, replace "prevails" with "must be considered in conjunction with"

Page 1, line 17, remove "over"

Renumber accordingly

Date: 1-22-07
Roll Call Vote #: 1303

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House _____ Finance & Tax _____ Committee

Check here for Conference Committee

Legislative Council Amendment
Number _____

Action Taken Do Pass As Amended

Motion Made By Rep. Headland Seconded By Rep. Weiler

Representatives	Yes	No	Representatives	Yes	No
Chairman Belter	✓		Rep. Froelich		✓
Vice Chairman Drovdal	✓		Rep. Kelsh		✓
Rep. Brandenburg	✓		Rep. Pinkerton	✓	
Rep. Froseth	✓		Rep. Schmidt	✓	
Rep. Grande		✓	Rep. Vig		✓
Rep. Headland	✓				
Rep. Owens	✓				
Rep. Weiler	✓				
Rep. Wrangham	✓				

Total (Yes) 10 No 3

Absent 1

Floor Assignment Rep. Schmidt

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

REPORT OF STANDING COMMITTEE

HB 1303: Finance and Taxation Committee (Rep. Belter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1303 was placed on the Sixth order on the calendar.

Page 1, line 16, replace "prevails" with "must be considered in conjunction with"

Page 1, line 17, remove "over"

Renumber accordingly

2007 SENATE FINANCE AND TAXATION

HB 1303

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1303

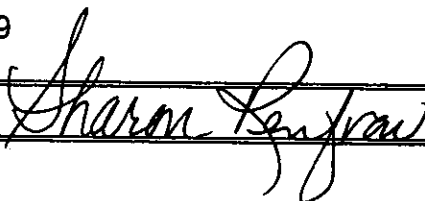
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 27, 2007

Recorder Job Number: # 3949

Committee Clerk Signature



Minutes:

Sen. Urlacher: called the committee to order and opened the hearing on HB 1303.

Rep. Herbel: Prime sponsor of the bill appeared in support with aerial and soil maps and stating this adds 1 modifier to how we determine ag land property tax and that is the usage. This is really about a fairness issue. It's a problem throughout ND when soil testing's start coming in.

Sen. Urlacher: are they able by aerial photo determine the actual residue on all land.

Answer: I believe so, yes.

Wade Moser: ND Stockmen's Assoc. appeared in support stating some counties haven't adopted this whole soil profile program yet and so it's not just a one county problem. This does not have any impact at all on commercial or residential property. If there's going to be any kind of a shift its going to be from property its going to be from cropland to pasture land, or pasture land to cropland. We do support the use of soils, we do think that it does have a lot of potential to really evaluate parcels of land or specific parts of counties that has more productivity capacity than others.

Sen. Cook: I don't agree with your shifting theory and don't understand how you see it that way. You got residential and commercial property in a county and if you change the

classification of a certain part of agricultural land that lowers the valuation its going to be a shift of all the other classifications in that county, would it not?

Answer: no its not. If you shift within agriculture property, if you lower the pasture values, the cropland goes up but it does not impact the residential or commercial property in that county.

Rep. Herbel: I did ask that question of John Walstad in Legislative Council and he said if it has some change it would be very insignificant because of the situation he described. It could do some but it would be very insignificant.

Sen. Triplett: if the pasture land was taxed at a lower rate than you would expect the tax assessors would be assessing cropland higher?

Rep. Herbel: that is correct. They have a percentage of plus or minus 5 that they have to stay within.

Sen. Horne: how is it taxed now, is it all tax the same now?

Rep. Herbel: taxed on soils and productivity

Art TenBroeck: on behalf of himself appeared in support stating that the soil district has contacted him and told him to stop farming some of the stuff he is farming because of a slope and washing. Presented pictures to the Committee. (See attached) I'm still continuing to farm it because they threatened to take away the little payment that I do get which is not much because I farm it. I said "you can keep your payment" I'm always short of feed, I buy feed every year on my place because I don't have enough tillable ground. It was 30% farm ground and after you went to this soil test, now its 52% farm ground. My taxes have gone up considerably.

Sen. Triplett: are you saying that they are just using the soil samples? Presumed productivity of the soil without taking into consideration the geology?

Answer: that's right. It does not show elevation. Some of those hills are 60 feet high and away from the bottom of the buttes is about 100 feet of nothing but clay, there's absolutely no vegetation and running away from those 10 foot washes 20 feet across in probably 4 or 5 different places on the north and the south. The south side of those buttes runs from the Cedar River, the north side runs through the Cannonball River. When they took these soil tests if they are doing from the air that's fine but when they went in there and drilled them holes and test holes there's absolutely no way that they can get in there with a pick-up to do it. So I know that there was a lot that was not done.

Sen. Horne: are you in favor or against?

Answer: I'm in favor because I think then you would use what the land is used for, the way it is now their not using the right way, it really went against my property.

Sen. Cook: we have a process where somebody like yourself that has a problem with the way the land is being assessed and protest that and ultimately it goes to a state tax equalization board, have you followed that process and showed them the pictures.

Answer: I've been to the county board and its like deaf ears, they've done nothing.

Sen. Cook: I would encourage you to take it to the next step.

Keith Payne: on behalf of himself appeared in support with written testimony. (See attached)

Sen. Cook: so you're saying your county is assessing this as crop land, tillable land?

Answer: yes

Sen. Cook: if that's the case Mr. Chairman, maybe what we ought to do this bill is put an amendment on there that gives the State Tax Equalization officer who is responsible for training the tax assessor how to do this property, maybe its time we get a state tax equalization officer the authority to fire such a fool.

Rod Backman: on behalf of himself as a land owner in Burleigh County. In reference to Sen. Cook's comments, part of the issue is the fact that they aren't really valuing it on cropland or non cropland, they are valuing it based on soil type. For me, the reason I haven't pursued it much beyond going to the county, I went to the county they basically said, "well we base it on soil types". For me it wasn't worth pursuing it further because my guess is what would happen is they would simply reverse it. They'd say well, this pasture land might be valued too high, so we'll drop it \$10,000 a quarter and then we'll add it on to your cropland that is right next to it. It really doesn't have an overall impact to me but I really do believe it is a fairness issue.

Sen. Urlacher: so you're really looking at soil type and usage as a combination for

Answer: I think that's the way the bill reads now.

Sen. Cook: is there not in the law supposed to be modifiers for rocks, etc.

Answer: I really can't answer that question. I understood it to be based on productivity and that would be a factor but it seems what's happening in a practical sense is that at the local level when it gets down to your piece of property that's not what's happening. It may be the case state wide or it may be the case county wide but it doesn't seem to be the case when it gets down to your specific piece of property. My reaction is we shouldn't need a law to do it, it should be common sense.

Sen. Cook: in my county they are breaking pasture land and farming it and its still being assessed as cropland.

Casey Wells: Grant County farmer appeared on his own behalf in support stating there is supposed to be modifiers used in all of these and one reason we wanted the land use to be put into law, its one thing that modifiers are supposed to cover all this and one question that we had raised is that when it gets broke down to each individual, then if the assessor is modifying it, are they modifying each land or piece equally? We feel the land use even everything out

because you're not going to be, it just going to put a little more fair play into it. Another thing that going to be coming up here that I foresee is the way the ag productivity formula is figured out with the rising crop ground prices, we are going to have pasture land out there that is pasture, good grass and therefore its being called tillable but now with the ag productivity formula with the crop prices coming up we're going to see another increase next year.

Sen. Cook: In Grant County, is it all being assessed by the county or do you have township assessors assessing that soil.

Answer: our township assessors have been told that our local township assessors are being phased out because they didn't have the capability for this new program, they didn't have access to the new soil type deal.

Curt Hepper: on behalf of himself appeared in support stating from 2004-2006 my taxes went up 26% some of my range land went from waste land to productive land and that's a little bit of the problem of that NRCS and I asked them and they addressed it as only 1% or less than 1% of the land within Grant County so we're not going to do anything about it. So there's the little problem with NRCS and I'll agree with Rep. Herbel that this \$300 to \$600 value on the land in Grant County that's accurate I believe. That's a very good indicator as to what the actual productivity of land is because they are getting no other value of it, other than production. I believe you all got a letter from our tax assessor in Grant County and it somewhat states that she believes that both of those should be taxed the same. That's a serious problem in Grant Co. if the assessor herself doesn't know that, that should be a must before she could even hold a job.

Harold Gaugler: on behalf of himself appeared in support stating I'm in support of this bill because pasture needs to be and has always been pastured because it doesn't lend itself to farming techniques.

