

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2273

2007 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2273

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2273**

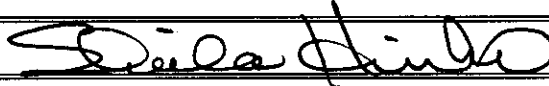
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **January 31, 2007**

Recorder Job Number: **2442**

Committee Clerk Signature



Relating to housing authority project bidding:

Robert Erbele – Senator for District 28 - In Favor

TESTIMONY # 1 Covered testimony

S Klein: You are an expert in this area, you've spent a little time on it. The issues on this bill are road blocks that we're trying to remove to move these projects to make it easier.

R Erbele: The last sessions bill was a roadblock, this is the bridge building. It allows for another option in the bonding, the banking people are in favor of this.

Carol Jovik – Job Development Director - Killdeere, ND – In Favor

We have one unit that is ready for occupancy and we would like one more block removed from this bill if possible. We have 2 banks that were going to share in the bonds and the night before the final signing, one backed out, thus the project was delayed and the one bank said they would take them all. We went on with our project. It would be nice to see a new building go up.

S Wanzek: Couldn't they get security?

Carol Jovik: Unknown, they didn't know the risk

Jody Burens – Extention Agent, County – In Favor

We need housing in rural communities. We have a lack in housing stock. I embarked on a research project with NDSU who assessed the impact on the state and I have copies of the economic impact on the state. This would be just one more tool for a little community to get housing and keep people in our communities.

S Wanzek: I didn't phrase my question right, the banks probably backed out because there wasn't the ability of the local county or city to offer their general obligation according to the housing authority, which would make the bond more risky.

J Burens: I suppose that's the case. I can speak about one bank close to my home community, they would not participate in the bonding.

S Wanzek: So this change would allow the local entity to provide their general obligation ability to the housing authority?

J Burens: Correct.

S Wanzek: ...and by doing that, if the bank had that kind of security, they might not have backed out.

J Burens: Correct. In that instance, those dollars were out-of-state bonds, the state lost the money.

S Heitkamp: Things the bill does allows cities to dive into this 1. Will cities do it? Will it be used? 2. Is this necessary? We're getting away from old rules, i.e. public bidding, etc. What have you seen in the construction area that would say we need this part of the bill?

J Burens: It would reduce building costs.

S Heitkamp: The problems going to lie in the fact that after you're done people are going to get up and going to get to the podium and say, "you know why we need architects to do this type of work, because then you have the type of building you need," So, from experience, do you feel as though you don't need that?

J Burens: Fair argument. When you look at actual costs, it adds to the bottom line of the cost. It's such a tight margin if it will cash flow in a little community...

S Heitkamp: We know the housing market is a fight, what you have a little old ladies living in a home, are you getting old people to move into this type of housing?

J Burens: Yes, we're seeing it and they are moving into town homes.

S Potter: Reason for public bidding is so you don't pay out more than you should using the same contractor. Why shouldn't I be concerned about that?

J Burens: I'm not saying that wouldn't happen. In the process we don't see projects have been an issue. Existing bill addresses that.

S Hacker: The bonds are not available to private companies?

J Burens: No

S Hacker: Is there a competitive feature that we lose?

J Burens: Yes

Milt Hoyt – Chairman of Mohall Housing Authority - In Favor

TESTIMONY # 2 Went over testimony

We have people who want housing. We try to keep people in the community to keep the wealth in the area. We don't have rental units and low income has filled up. We have people who can't take care of themselves and don't want to move from the area. The problem is having the lending institution to take the risk. Having this law does not provide security. The city government has option to determine the destiny of housing. In my experience would indicate that we will not be able to get this housing and keep the people in our community without the amendment. In the bidding process. In small town, the maximum we pay is \$300 in rent. If this can hold down the cost, it would be a benefit.

S Klein: What is the population of Mohall?

M Hoyt: 825

S Klein: You're trying to make this happen there?

M Hoyt: Yes, we have the people, we have the reservations, we've taken their deposit, we have a willing seller of the property to build it, the only thing that's holding us up now is the financing in reference to the bonds.

S Hacker: If there were closer to a level playing field, and a private developer came in and if they got financing and a bond, would they take on the risk?

M Hoyt: We have some local contractors who invest in these types of things, they have not come forth to do it. We would prefer that a private contractor come in and build it. The end result is the same, we would have housing for the people to keep them from moving to the larger towns. They just aren't doing it. There is a certain amount of risk.

S Wanzek: So you feel comfortable in the bidding process knowing how the small town politics can be? A couple of carpenters in town, that there won't be a problem that one won't have favoritism and that can be avoided?

M Hoyt: We are trying to keep the costs down. We have a contractor who will bid on it.

S Hietkamp: You have a program ready to go, short of funding, the most important of these two provisions is that allows the county or city to get into the general obligation of these bonds?

M Hoyt: Yes

Rick Clayborg – ND Banks - *In Favor*

Be on record that the ND Banks support SB 2273. Specific revenue bonds would allow the banks in those communities to participate in these projects that are vital to the small towns.

S Heitkamp: The banks that are doing it, when you talk to them, are they making money or is that what it takes to be a part of the community?

R Clayborg: That is a discussion that our association is working with the economic developers so we understand the issues.

S Heitkamp: OK

S Wanzek: The benefit of a general obligation provides a unique security situation in collateral sense. Does this allow security rights?

R Clayborg: Comes down to revenue bonds. Very speculative. Allows resources to overcome the hurdle.

S Klein: In a small city, building can be \$100,000, yet when finished be worth \$50,000, that's making the difference on banking.

R Clayborg: It does, for this reason, the bankers are trying to fill the gap in financing. Banks are part of the community as well. Want healthy banks as well.

S Wanzek: The benefit of general obligation, is we will stand behind this and obligate ourselves.

R Clayborg: Yes, the general obligations of the community will help if the revenues of that project don't always fall through.

Don Foresberg – EVP Independent ND Banks *In Favor*

Had a request from Westhope for a 4 plex, 4 units, so the cash flow from the 4 plex basically is from those for units. If one of those is empty, that's 25% of the revenue that would have helped pay for that facility are gone. That leads to an appraisal gap, if you're a private developer and want to put up a building, after it's done it's worth a lot less than what it cost to build it. Private developers are not interested in putting that together because now the financial institutions cannot sell it on the secondary market. Ties up 20-30 years, that's difficult. Can't be upside down. No requirement to use general obligation requirement.

Jim Stuart – Attorney - Bond Council in ND & MN - *In Favor*

Represented bond issues in the state, had first hand experience with the problems. Banks look at writing bonds and then appraisal is less than the set up. You can't blame the banks as they are looking at the big gap.

S Heitkamp: You're doing an excellent job on water bonds.

Dana Bond presenting for Gene Veeder, Executive Director of McKenzie City Job

Development Authority - *In Favor*

TESTIMONY #3

Diane White with S&L Development – Fargo – *In Favor*

We have worked with housing authorities with out state ND. Issues: As a private developer explain why they are not meeting the private needs. 1. the financing for the project, the housing authority can bond with revenue bonds on the project, they are issued at a much lower rate than what's available to the private sector, keeping the rent levels down. 2. housing authorities are, by statute, tax exempt. In smaller communities where it's critical for the housing projects to be successful, they need to keep the rent levels as low as they can for what the market will bear. Cannot charge \$1000 a month rent. This is the reason for the program. The general authority has been addressed. The clause in the law regarding departure,

TESTIMONY # 4 Went over testimony

Services add costs to a project. Can add \$10-\$50 thousand into the project. Shortages have caused construction delays.

S Heitkamp: Is there a model so you can keep costs lower? With a competition bid?

D White: We give preference to local contractors. We use a benchmark.

OPPOSITION

Bonnie Steiger – EVP American Institute of Architects - *In Opposition*

Oppose any language that creates an exemption from the competitive bidding. Would like to see that language out.

S Hacker: Do you have any architects here today?

B Steiger: No

S Hacker: What is the average amount the architects' charge – usually 7% of materials, right?

B Steiger: Unaware of the "average."

S Hacker: Can you guess? If you take 7% of a 4 plex of \$90,000 a unit, what's the charge?

B Steiger: By law I'm forbidden to answer the question because of the antitrust issues.

S Wanzek: In this bill, this is limited to the people in communities of a certain number of people or could this be bring in Bismarck and Fargo's situations where larger projects could be exempted? Is this limited?

B Steiger: [Refers the question. Doesn't know the answer.]

S Heitkamp: Limited to 5,000 population.

Russ Hanson – Associated General Contractors - *In Opposition*

We are concerned about the public bidding process, contractors are low-bid type of people. Keep in mind, requirements, \$100,000 threshold, the bidding is exempt, also that when government dollars are involved. If privately financed project then it would not be subject to that section of the code. Makes the exception unnecessary.

S Potter: In your testimony, is it engineers or architects, and/or are necessary for the safety of the construction?

R Hanson: Answer is "yes" and "yes." Having a model that we could work off as suggested from S Heitkamp would be a good idea and bring costs down.

Bill Kaalick – Plumbing, Heating - In Opposition

I would like to see this amended out or do not pass.

S Potter: Would you like to see local preference? Because they're already there, there is no travel.

B Kaalick: There is some inclination to go there. The key leaders group did a review 1033, chapter 48, this session to create definition to code. Lowest possible responsible bidder.

S Klein: You have to take the lowest responsible bid, not just the lowest bid.

S Wanzek: \$100,000 threshold, what about raising the limit? It's a lot of money but it doesn't buy as much today.

B Kaalick: Lots of discussion on the topic in 2003.

Jerry Backus – ACEC in ND– In Opposition

Suggested amendment. Opposes public bidding process. Page 4, remove instruction from line 25 and overstrike from 23-25 and then essentially remove section 5 and part of the concern it relates to redefine public improvements and when you have to apply public bid law. In the current re-write, if you follow the bonding procedure, when using public funds, there is a difference when there is a high level of responsibility on behalf of the public when that occurs, and we don't feel that putting exemptions in there is a wise choice.

O? N?

CLOSE

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2273 B**

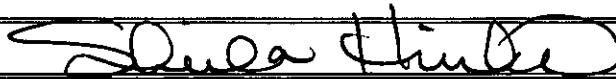
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **February 5, 2007**

Recorder Job Number: **2850**

Committee Clerk Signature



Deals with Housing Authorities:

S Klein: Most of the bill was accepted by most, question was for the contractors who didn't like the description of the bidding process. I've handed out an amendment that puts the bidding process back in.

S Potter: What were the changes in 6 & 7?

S Klein: The section, the concern was that we were going beyond the public bidding authority, that had concerns on soft dollars and no matter what, it should be run up the pole.

Move to DO PASS on the Amendments by S. Potter

Second by S Behm

Vote on SB 2273 6-0-1 Amendments PASSED

S Klein: I think in essence, it seems to be working in smaller communities where they're pursuing these type of authorities, I knew what they were going for, they were going to cut some of the costs out that does provide a large rug.

Talked to Russ Hanson with ADC and he had talked to S Erbele, and Bob said that you can take that out, that's fine, we'll work it. If there is some way that they can figure out what to do in the House, they will come after that.

S Hacker: I have a lot of heartburn with housing authorities, seems like we're willing to publicly finance a whole project, but not willing to pay down the interest to compete.

Move to DO PASS AS AMENDED by S Wanzek

Second by S Hacker

Vote on SB 2273 AS AMENDED

Vote 6-0-1 – DO PASS AS AMMENDED

Carrier: S Wanzek

REPORT OF STANDING COMMITTEE

SB 2273: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2273 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "to create and enact a new section to chapter 23-11 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to housing authority project bidding; and"

Page 4, line 21, remove "construction."

Page 4, line 23, remove the overstrike over "~~The construction of a housing project is a~~"

Page 4, remove the overstrike over lines 24 and 25

Page 6, remove lines 26 through 30

Page 7, remove lines 1 through 10

Renumber accordingly

2007 HOUSE POLITICAL SUBDIVISIONS

SB 2273

2007 HOUSE STANDING COMMITTEE MINUTES

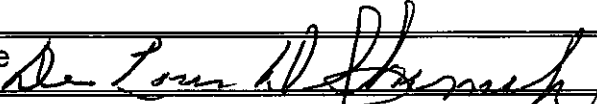
Bill No. SB 2273

House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: 4196, 4221

Committee Clerk Signature 

Minutes:

Chairman Herbel opened the hearing on SB 2273.

Senator Erbele: This bill is an extension of the bill we passed last session which allows communities of less than 5,000 people to form housing authorities and also allows housing to be built for modest income households. (handed out a timeline of what has happened with that program since its inception, Testimony #1). Went over the handout and how the bond program works. There are a number of people from the communities using this program that wanted to be here today, but due to weather they could not get here. (Handed out testimony #2 and #3 since they could not be here..)

Rep. Kim Koppelman: Is this to make it more attractive for this authority?

Senator Erbele: This gives them another tool in their chest to work with.

Don Forsberg: Executive Vice President of Independent Community Banks of ND. This bill would give us additional incentive to buy bonds. The general obligation bond does give them a little more assurance on a payback, plus it allows them additional creditability so perhaps some of these projects are more likely to take place. An example is, I received a phone call from the community of Westhope indicating this was something they would be looking at from a banker in Westhope. Asked if we would support this bill. One fourplex, if it is

going to be financed by revenue bonds is probably going to require somewhere around 90% occupancy in order for that to work. That is pretty tough on a revenue bond basis because if one apartment is empty in a fourplex you are down to 75%. If two are empty you are down to 50%. So if you want to meet the general obligation capability at that unit would make it much more attractive and stable for a small community. That is just one example so that is why we would ask for a do pass recommendation on this bill.

Rep. Lawrence Klemin: Could you tell us how the bond market works?

Don Forsberg: It is a negotiation between the local housing authority and the financial institution that happens to be in your community. General obligation bonds would also allow that market to open up a little more which would lead to the lower interest rate. Anything beyond that would be beyond my area of expertise.

Rep. Dwight Wrangham: What would the occupancy rate need to be if they were general obligation bonds?

Don Forsberg: In theory it could be zero because if you have a general obligation bond you are committing to the resources of the community to pay for that bond. So you could get by without anyone being in that building. This is an option that will be discussed here in open hearing before that authority is given.

Rep. Kim Koppelman: What will this do to the credit rating of the community with these housing authorities?

Don Forsberg: This is only my opinion; what it would do is it is an adverse action to the community, if for example, the decision is made to build this with general obligation bonds and there aren't any options. That also means the community who put together the public housing authority and the open public hearing in which they determine that giving this power was legitimate. So there is potentially a problem here, but it does go through a due process.

Rep. Kim Koppelman Last session when we passed this legislation there were some concerns. I think the issue of liability was one of them. If there is a liability since you have the city guaranteeing it. Mr. Stewart supports the bill, but says, many banks are reluctant to purchase bonds for multifamily housing in small communities. The housing authorities are often newly created, have no funds or taxing powers and have no experience operating apartment projects. Bonds are needed to finance the entire cost of the project even though the appraised value upon completion is generally less than the cost of construction. The credit support from the city or county will make the bonds attractive to the lenders and reduce the interest cost to the Housing Authorities. It does paint a bleak picture of the risk.

Don Forsberg: You raise some valid points but you also raise some issue on why it is very difficult to even build a new home in a smaller community. You have an appraisal there. If I were to build my house as it exists in Bismarck today in the city of Westhope it would be worth half of what it is here in Bismarck. How do I finance that house when I have to come up with a 50% down payment or 25% down payment. It is not feasible, if we are only going to look at the dark side, then we are not going to do anything.

Rep. Kim Koppelman: We have to ask whether it is a reasonable financial thing to do this. Does it compete with private interests that may want to come in and do the same thing?

Don Forsberg: Each community will decide whether they are going use this authority and whether or not it fits. Even in other cases, before this all comes together, the developers and so on are going to want to make sure they have some body available to buy these bonds.

Marilyn Foss: ND Bankers Association: Interested in having this as an option in their communities. We would simply like to note that these bonds might have an affect on communities and the city fathers and county officials would be considering them and approving this GO authority because after all they are the people that are paying for this so we think they

have operated responsibly and I have no reason to think they would operate less responsible in looking at this. We also support the bill.

Rep. Kim Koppelman: Do you know how many communities have done this and how they have done. Do you have any sense whether there is private interest in these projects?

Marilyn Foss: I think there is a sense that these communities can not grow without upgrading their housing. I am not sure there is a decline in interest in that.

Dona Bohn: (See attached testimony #4)

Connie Sprynczynatyk: You had some questions to what happens to the housing situation in communities and I can just tell that in a surprising number of communities in the state. What happens that Rep. Kim Koppelman asked; the problem is there isn't housing available or it needs some sort of renovation? You have the bill that would make housing readily available in smaller communities. It is amazing when we go around the state how many communities are talking about housing and that is good news.

Opposition: None

Hearing closed.

Chairman Herbel reopened the hearing on SB 2273. Job #4221 Gives them another method to be able to provide housing in smaller communities and is probably badly needed in the smaller communities. There was no amendments offered.

Do Pass Motion Made By Rep. Steve Zaiser Seconded By Rep. Nancy Johnson

Discussion:

Rep. Nancy Johnson discussed the fact that my husbands uncle moved from a farm and moved into one of these apartments in Milnor, ND and tickled on how nice it is and how he enjoys it there.

Chairman Herbel I agree with Rep. Nancy Johnson. I came from a small community and they have built two of these units in my community and they are four plexus and they have been able to keep them occupied in some form to satisfy the needs of the community.

Vote: 12 Yes 1 No 1 Absent Carrier: Rep. Pat Hatlestad

Hearing closed.

Date: 3-1-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 5B2273

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do PASS

Motion Made By Rep. Zainer Seconded By Rep. Johnson

Representatives	Yes	No	Representatives	Yes	No
Rep. Gil Herbel-Chairman	✓		Rep. Kari Conrad	✓	
Rep. Dwight Wrangham-V. Chair		✓	Rep. Chris Griffin	✓	
Rep. Donald Dietrich	✓		Rep. Lee Kaldor	✓	
Rep. Patrick Hatlestad	✓		Rep. Louis Pinkerton	✓	
Rep. Nancy Johnson	✓		Rep. Steve Zaiser	✓	
Rep. Lawrence Klemin	---				
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 12 No 1

Absent 1

Floor Assignment Rep. Hatlestad

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

REPORT OF STANDING COMMITTEE (410)
March 1, 2007 4:04 p.m.

Module No: HR-39-4254
Carrier: Hatlestad
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2273, as engrossed: Political Subdivisions Committee (Rep. Herbel, Chairman)
recommends **DO PASS** (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING).
Engrossed SB 2273 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2273

Chairman Klein and members of the IBL committee. For the record I am Robert Erbele, Senator from District 28 which includes Emmons, Logan, McIntosh, and half of Dickey and LaMoure counties. I am here today to introduce SB2273, and tell you how the price of a can Coke turned into over a \$8 million dollar direct benefit to our state in just 18 months.

I view my role as a legislator in one of two ways. One is to help my constituents build a road or a bridge to where they want to go, or else remove a road block that is keeping them from reaching their goal. It is not my job to give them their dream or goal, but to help them reach theirs'.

SB 2273 is an extension of the housing authority bill that we passed last session. Last session's bill allowed communities of less than 5000 people to form a housing authority and also allowed housing units to be built for moderate income households. The bill came about after several community leaders from the south central and south eastern part of the state contacted Rep. Gulleson and myself about the need for housing in their communities and the plan that they had for fullfilling that need and also the roadblock that was keeping them from reaching their objective. I traveled to Ellendale to meet with leaders from several of our area communities where they outlined their need and showed us their plan, and it was there that someone bought me this Coke. Rep. Gulleson and I agreed that there was nothing partisan about this issue and that it was an issue that was not only beneficial to our repective districts but would also be beneficial to communities throughout our state, so we proceeded with the legislation. I have attached to the back of this testimony the result of the legislation that was passed. It shows the time line of the Essential function bond program as it was developed and the construction that happened and the economic impact of those projects. You will see that there are over \$16 million dollars worth of projects, completed, underway or scheduled to start from Nov. 2005 to Spring of 2007. You will notice that of the completed projects over \$8 million were spent locally in ND, or 75% of total expenditures, all for the price of a can of Coke.

#1
2273

