

2011 HOUSE POLITICAL SUBDIVISIONS

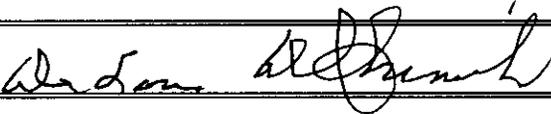
HB 1295

2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

HB 1295
January 27, 2011
Job #13589

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

Relating to voter approval of public building projects funded through a building authority or other indirect means.

Minutes:

Handout #1

Chairman Johnson: Opened the hearing on HB 1295.

Rep. Kasper: Went over what is a building authority. It is an entity that can be created by a municipality or nonprofit under revenue ruling 63-20. It is an IRS ruling that occurred in 1963. It says basically that a school district can create an entity called a building authority and is created by a vote of the board. It is designed to build a school. The building authority has a board of directors that is appointed by the school board. The building authority is the entity that will build the school. When you create a building authority you can avoid a vote of the people to determine whether or not the constitution that will be affected by the cost of the building whether they wish to build a building. It has been used numerous times in the State of ND and that is in my handout. My concern is that this issue is that in the city of Fargo the building authority that the school district created was created back in 89 or 90; my handout was distributed back then; talking about building a school called Discovery School and why it would be beneficial for the city of Fargo to use the building authority. It was at that point in time. We had to have a vote of the people to create the building authority. Once a building authority is created it never goes away unless the entity that created it takes it away and discontinues it. Therefore over the years in Fargo we have had \$200 million worth of school buildings built without a single vote of the people besides the original vote to create the building authority. Last session we had the identical bill and we approved it and it went over the Senate and was narrowly defeated so we are back to try again because I believe that the tax payers and voters of our state should have a say on whether or not a political subdivision is going to spend those dollars. Went through the bill. This bill does not prohibit the use of a building authority because there are some tax advantages to a building authority. If an entity wishes to use it they have to go to a vote of the people and get the approval to use the building authority to build the structure. We do have exemptions for the emergency services. You most likely are going to hear all kinds of horror stories about this bill. It does nothing at all to interfere with the municipalities that this bill pertains to. Ask for proof on these stories and get verification. People went to the school board and told them they wanted the school building

authority terminated and they did do a resolution to do so. As you know resolutions are just a piece of paper that lasts until the next resolution repeals it. It is a good start but it is not sufficient.

Rep. Zaiser: Based on the policy change they agreed not to utilize the building authority so that is why I did not put a bill in.

Rep. Klemin: If they can't do it directly without a vote they can't do it indirectly without a vote either?

Rep. Kasper: In most places in ND to build you have to have the vote of the people. West Fargo is going through a struggle right now. The voters in West Fargo turned down three or four times the building design the school board presented to them. The schools in Fargo are beautiful; I would love to have an office building like that.

Rep. Mock: Why 60%?

Rep. Kasper: Because that is what it requires right now without a building authority, 60% approval so we want to maintain consistency.

Rep. Mock: What does it take to dissolve a building authority?

Rep. Kasper: A resolution by the board I believe is sufficient. I don't know if a board can repeal one or not. You might want to find this out. In the City of Fargo the school board has said we will not by resolution do a building authority by the vote of the people. A resolution is not repeal.

Rep. Mock: Citizens in Fargo were upset with the use of the building authority to do a project that the voters had not approved. If the building authority weren't dissolved or they were going to take it to a vote of the people to dissolve the building authority?

Rep. Kasper: The people were going to start a partition and on the face of the partition it was going to repeal the building authority so that would be a way that the people could say we are going to repeal it.

Rep. Mock: Is that a simple majority?

Rep. Kasper: I don't know.

Chairman Johnson: How many building authorities are established in the state right now?

Rep. Kasper: My handout will give you the exact number. This is as of a couple of years ago. (Handout #1). Twenty eight as of two years ago.

Chairman Johnson: What your bill says is if you do have a building authority you can keep it in place but any building or construction done must have a public vote on it.

Rep. Kasper: That is correct. With the exceptions on line 20 and 21.

Rep. Kilichowski: If a city or school wanted to put up a \$10,000 storage shed for school buses, would they have to go to a vote of the people.

Rep. Kasper: No they would not. The ordinary and necessary expenses of those types of things no. I have checked with the Attorney General and with John Walstad it doesn't apply.

Rep. Zaiser: There has to be a bond sale to utilize a building authority.

Rep. Kasper: that is correct.

Steve Strege, from Fargo: I am paying the bill in Fargo for these schools without a vote. In your packet there is a brochure in there from the vote that Rep. Kasper was talking about. It talks mostly about Discovery School so people thought that was what they were voting on and there is some wording in there about shall we adopt something to create some entity under chapter such and such under the ND Century Code and that got voted in like a Trojan horse. Why are these entities, school districts, cities and counties; why would they be scared to put their projects to vote? Sell the project and the voters will support it. I was at the Fargo school board meeting a few months ago and that night they voted to do a resolution to put everything to the vote of the people as he had said. That is only good until the next meeting until they change it. Went over the brochure and I did not think it did explain the whole thing. I would suggest you approve the bill.

Rep. Klemin: As I read this bill it doesn't say anything about a vote for municipalities. For the school district it just requires approval of the superintendent of public instruction. Why is there no vote for the school district? Is it your understanding is to require a vote for the school district just like this bill requires for a municipality.

Steve Strege: Yes

Rep. Kasper: If you go to the Century Code 21-03-06.1 and look at the definition of a municipality it is a school district, a county, a city, a park district and a township.

Rep. Klemin: so there would be two steps required for a school district; one to get a vote and the other is approval of the superintendent of public instruction.

Rep. Kasper: Yes, I would think they would go to the superintendent of public instruction first.

Opposition:

Ron Merrith, Director of the Minot Park District: We have a couple of methods which we finance projects. We do not use a building authority, but the language in here does not make it clear to me that the methods that we have available would still be available after this would be passed. We can use revenue bonds, which are specifically if you built some facility where we charge people to use it. We can issue a bond against the revenue generated by this facility to finance the project. We can also take out a land note to

purchase a piece of property. In Minot we built a baseball complex; users came to us and asked to do this. We challenged them to go raise money to get the project done. They went out in the local community and raised \$850,000; we provided the property and infrastructure and put sewer and water into the project and also built the road and parking lots into the project. It was a successful project at minimal cost to our taxpayers and I am concerned that this type of language in the bill; other entity and where this is specially put into the Century Code would preclude us from using a financing option to partner with other groups to get projects done. I think it would affect us.

Rep. Zaiser: Did you use any kind of public financing for those baseball diamonds?

Ron Merrith: yes we did and under this it is not clear to me when it says building authority we did not use. We did use the other entity which is the special assessment district which was a bond sale financed by the city.

Rep. Zaiser: When you sell bonds don't you have to get a vote of the people whether it is revenue bonds or general authorization bonds?

Ron Merrith: Specifically in park districts we are able to use revenue bonds.

Rep. Klemin: It says in this bill that park districts can't enter into an agreement to make payments to another entity. Did the park district make payments to the special assessment district?

Ron Merrith: Yes we are making a payment to another entity which is the city of Minot. We partition them for a special assessment district.

Rep. Klemin: The payment you are making as the park district is to whom?

Ron Merrith: To the city. It is assessed by them.

Neutral: None

Hearing closed.

Discussion:

Chairman Johnson: The question about whether it prohibits anybody from paying to another entity unless they have gone through a public vote.

Rep. Klemin: The way this reads then a park district cannot make payments to the city of Minot unless it has had a vote. I am not sure that is what Rep. Kasper intended but that could be the result.

Rep. Zaiser: I concur with Rep. Klemin. I dropped my bill because the Fargo school district agreed they would not utilize the building authority. I don't think they are going to go back because they want people to vote on them.

Rep. Beadle: When was it the Fargo Public Schools passed a resolution to repeal the building authority if you know? Based upon a form in the last week or so the Fargo School Board just voted to approve to extend Kennedy Elementary School in South Fargo and bring in more classrooms which I am assuming is a multi million dollars project. Did they just supersede the resolution or what did they do?

Rep. Zaiser: My understanding is the building authority has not been repealed and secondly there are other avenues to build a building utilizing the building fund. To use the building fund you do not have to get a vote of the people so that is why is stressed; the key issue is there has to be a bond sale.

Chairman Johnson: If they did not have to do a bond then they could just pay it out of their operating income?

Rep. Zaiser: I assume they have a building fund of sorts.

Rep. Klemin: Unless the park district entered into an agreement pursuant to revenue ruling 63-20 then I don't see if this bill would apply.

Ron Merrith: No we did not enter into an agreement based on that language.

Rep. Klemin: I don't think there is an issue there.

Rep. Zaiser: The Bismarck Park District constructed a swimming pool and because they used the building authority to do it people were not allowed to see the bids. That is the key element of the building authority; it keeps it private so you don't have to show your cards so to speak. That is one of the consequences of using it.

Chairman Johnson: This is only dealing with if you have a building authority established under that IRS code you must still do a vote. That is all it does. It does not impact other kinds of revenue bonds.

Rep. Kilichowski: It takes the home rule authority out too. The people voted to allow them home rule so why would they be thrown in here? I think if the people vote on something we should stand by the people. I think if people want to get rid of their authority they could very easily do so by partitioning any of their municipalities to call for a vote on it too.

Rep. Klemin: I think we should get someone from Legislative Council to make sure I am interrupting this correctly.

Chairman Johnson: would you chair a subcommittee to do that.

Rep. Klemin: I would be just asking a question of legislative council without needing a subcommittee.

Chairman Johnson: Currently any school district that wants to build has to get the DPI approval before they can even go for a bond issue.

Rep. Klemin: We had a gentleman from the Minot Park District who gave us a scenario under which a park district created a special assessment district for some improvements and then as part of that process annually the park district has to pay the city of Minot a payment from that special assessment district. The concern was that that special assessment district would fall within this bill where it says a municipality which includes the park district, may not enter into an agreement under which payments are required to building authority or other entity. It seemed like that agreement had to be entered into pursuant to IRS ruling 63-20, which we were provided a copy of and which as I read it applies to obligations issues by non project corporations formed under the general nonprofit corporation law of the state and have to meet all these requirements of that revenue ruling to apply. We wanted a clear understanding that this bill would not apply in this case.

John Walstad: I agree with your analysis. The revenue ruling would not include a city. In the city of Fargo the city has some nonprofit entity done something to acquire land for flood control purposes and the bill talks about property or structure and I think Rep. Kasper's primary concern was with buildings, not property. If property was taken out so land is not an issue, just buildings that I would think would solve the concern in Fargo and would still serve Rep. Kasper's needs.

Rep. Klemin: Under that situation you seem to be talking about rare land as opposed to land that has a structure on it.

John Walstad: You would still be acquiring or improving something if they build it so I think if property was struck out of there anything with a structure on it would still be covered or anything involving building a building would be covered.

Rep. Maragos:

John Walstad: The building would not just be property it would be a structure and it would be covered. But we might need seven or eight more lawyers to get involved in this.

Rep. Hatelstad: What section is construction of any property?

John Walstad: There is a series there and that whole phase goes with it.

Rep. Hatelstad: So if the school district wanted to acquire land in anticipation of building later do they have to have the approval of the people to do that.

John Walstad: With the word property in there yes. Until there is a structure involved my opinion is voter approval isn't necessary.

Rep. Zaiser: The issue in Fargo was really the sale of bonds without approval. Isn't the operative word here the sale of bonds?

John Walstad: Yes that is the issue. There is going to be a sale of bonds one way or another for somebody to finance the school building. If the school district bonds the project itself the school district has to go to the voters for approval and get a 60% vote. If a building authority does it under current law they avoid that voter approval.

Rep. Zaiser: What about the Minot Park District. I think they were basically circumventing the law. If I were in Minot I would have some questions about that.

John Walstad: In the Minot instance there is no building authority involved. Cities are allowed to special assess for improvements and through a joint powers agreement, which gives a lot of flexibility, the park district and city can work together. The city can do special assessments. The Park District from whatever revenue they have make payments to the city and pay off those bonds or special assessments against the property will pay off the bonds. I am not sure how it works.

Rep. Kretschmar: do we have something in our century code that allows cities or counties or whomever to set up these building authorities?

John Walstad: No there is nothing there. They are allowed to set up as a nonprofit corporation under the nonprofit corporation laws which are pretty broad as to what they encompass. There is nothing specific on what the building authority is.

Rep. Kilichowski: this would take and eliminate the home rule authority too wouldn't it for these projects?

John Walstad: Yes it would.

Hearing closed.

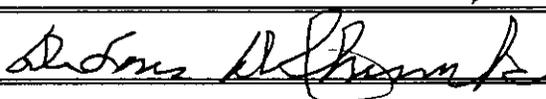
2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

HB 1295
January 28, 2011
Job #13624

Conference Committee

Committee Clerk Signature



Minutes:

Chairman Johnson: reopened the hearing on HB 1295. It required voter approval even if it was a building authority it still would require voter approval. If there are any amendments to act on or if we are ready to act on it.

Rep. Koppelman: I would like the opportunity to have an amendment since there is something in the bill I do not like. That is the issue of a requirement that deals with approval by the superintendent of public instruction. I am not sure if the section cited there requires this normally or whether we are creating a new scenario.

Chairman Johnson: It is standard. One of the questions raised yesterday was about the purchase of property on line 13. There was a discussion and questions about the acquisition, improvement, or construction of any property or structure. Maybe removing the words property or?

Rep. Zaiser: The key is if that purchase of property would require the sale of bonds. That is the key issue.

Chairman Johnson: You would be inclined to leave the sale of property in there then?

Rep. Zaiser: Yes I would.

Rep. Klemin: I think we should leave it in also. If we limit it to structures it might be too limited.

Rep. Zaiser: The last school in the city of Fargo basically was constructed in a slue and it snow balled into all kinds of different issues.

Rep. Beadle: About the slue issue in Fargo prompted this. It also leads to a lot of special issues that are now being felt in the area and they are having a lot of concerns about that. One of the arguments with keeping the term property in there is in addition to the school, which is on a substantial amount of acreage, 50 acres on the south side of Fargo, so there are some sizeable investments the school districts are making.

Rep. Koppelman: We have had bills like this before. It is not targeting schools.

Rep. Zaiser: I did talk about the problems with the Bismarck Park District where nobody could see the bids since it was done under the building authority. Maybe an amendment should be added.

Rep. Hatelstad: If I recall the Bismarck correctly wasn't it a private company built the building and the park district leased it so it had nothing to do with public money so to speak involved in the construction.

Rep. Zaiser: They leased it back to the park district and the revenue from the people paying to use the pool and whatever was the revenue that was to pay off the bonds. So essentially it is a private building.

Rep.Devlin: This is still a local control issue. The people have had many opportunities and make the changes they did and because that didn't get done; because the local voters didn't make those changes then we come to the legislature to overrule local control. I did not plan on voting for it but I wasn't going to get into a huge debate with anybody but I struggle with that part of it.

Do Pass Motion Made by Rep. Koppelman: Seconded by Rep. Hatelstad:

Vote: 6 Yes 7 No 1 Absent Failed

Do Not Pass Motion Made by Rep.Devlin: Seconded By Rep. Maragos:

Vote: 8 Yes 5 No 1 Absent Carrier: Rep.Devlin:

Hearing closed.

Date: 1-28-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1295

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep Koppelman Seconded By Rep Hatelstad

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson		✓	Rep. Kilichowski		✓
Vice Chairman Hatelstad	✓		Rep. Shirley Meyer	✓	
Rep. Beadle		✓	Rep. Mock		✓
Rep. Devlin		✓	Rep. Zaiser	✓	✓
Rep. Heilman	✓				
Rep. Klemin	✓				
Rep. Koppelman	✓				
Rep. Kretschmar					
Rep. Maragos		✓			
Rep. Pietsch		✓			

Total (Yes) 6 No 7

Absent 1

Floor Assignment _____

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

Failed

Date: 1-28-11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1295

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep. Devlin Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Kilichowski	✓	
Vice Chairman Hatelstad	✓		Rep. Shirley Meyer		✓
Rep. Beadle	✓		Rep. Mock	✓	
Rep. Devlin	✓		Rep. Zaiser		✓
Rep. Heilman		✓			
Rep. Klemin		✓			
Rep. Koppelman		✓			
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Pietsch	✓				

Total (Yes) 8 No 5

Absent 1

Floor Assignment Rep. Devlin

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

REPORT OF STANDING COMMITTEE

HB 1295: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **DO NOT PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1295 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

HB 1295

#1

Kasper, Jim M.

From: Walstad, John M.
Sent: Wednesday, February 04, 2009 1:47 PM
To: Kasper, Jim M.
Subject: HB 1398

Use of the term. "municipality" in HB 1398 includes all of the subdivisions listed in the definition for that chapter.... A copy is below:

21-03-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Governing body" means a board of county commissioners, city council, board of city commissioners, school board of any school district, and the similarly constituted and acting board of any other municipality enumerated in subsection 3.
2. "Initial resolution" means any resolution or ordinance adopted pursuant to section 21-03-09, by which a proceeding is instituted for the purpose of authorizing a municipality to borrow money and issue bonds.
3. "Municipality" means a county, city, township, public school district, park district, recreation service district, or rural fire protection district empowered to borrow money and issue written obligations to repay the same out of public funds or revenue.
4. "Population of a municipality" means its population according to the last officially published United States or state census, whichever was taken latest.
5. "Recorded" means copied at length in the record book required by section 21-03-17.
6. "Value of taxable property" or "the assessed valuation" of a municipality means the assessed value of all taxable property in such municipality as determined pursuant to chapter 57-02

John Walstad
Code Revisor
North Dakota Legislative Council
600 E. Boulevard Avenue
Bismarck, ND 58505

Internal Revenue Service
Revenue Ruling

TaxLinks.com SM

Rev. Rul. 63-20

1963-1 C.B. 24

IRS Headnote

Obligations issued by a nonprofit corporation formed under the general nonprofit corporation law of a state for the purpose of stimulating industrial development within a political subdivision of the state will be considered issued `on behalf of' the political subdivision, for the purposes of section 1.103-1 of the Income Tax Regulations, provided each of the following requirements is met: (1) the corporation must engage in activities which are essentially public in nature; (2) the corporation must be one which is not organized for profit (except to the extent of retiring indebtedness); (3) the corporate income must not inure to any private person; (4) the state or a political subdivision thereof must have a beneficial interest in the corporation while the indebtedness remains outstanding and it must obtain full legal title to the property of the corporation with respect to which the indebtedness was incurred upon retirement of such indebtedness; and (5) the corporation must have been approved by the state or a political subdivision thereof, either of which must also have approved the specific obligations issued by the corporation. Interest received from such obligations is excludable from gross income under the provisions of section 103(a)(1) of the Internal Revenue Code of 1954.

Revenue Ruling 54-296, C.B. 1954-2, 59; Revenue Ruling 57-187, C.B. 1957-1, 65; Revenue Ruling 59-41, C.B. 1959-1, 13; and Revenue Ruling 60-248, C.B. 1960-2, 35, distinguished.

Full Text

Rev. Rul. 63-20 /1/

Advice has been requested whether interest received on bonds issued by a nonprofit industrial development corporation organized under the general nonprofit corporation law of a state is excludable from gross income under section 103(a)(1) of the Internal Revenue Code of 1954.

The S corporation was incorporated as a membership corporation under the general nonprofit corporation law of a state. The corporation was organized for the general purpose of stimulating industrial development within P county. The articles of incorporation authorize the S corporation to purchase, lease and sell industrial sites and buildings and to build industrial facilities for lease or sale to new or expanding businesses within P county. The S corporation does not contemplate pecuniary gain to its members, who consist of representatives of the local chambers of commerce and other private business groups in P county, the county commissioners and officials of participating municipalities. The S corporation will have perpetual existence. The articles of incorporation further provide that upon retirement of any outstanding corporate indebtedness, or upon dissolution of the corporation, the beneficial interest of any property owned by the S corporation will be solely in P county.

unds for the operating expenses of the corporation are provided by P county, local chambers of commerce and manufacturing associations and the department of commerce of the state involved.

The S corporation purchased land in P county and erected and equipped a factory thereon which it leased to an industrial firm for a period of 2 x years under a lease agreement. The S corporation financed this project through the issuance of its interest bearing revenue bonds. The total rental to be paid by the industrial firm under the lease agreement is an amount sufficient to pay the principal of and interest on the bonds.

The indenture of trust, under which the bonds were issued, provides that the S corporation will deliver to the indenture trustee a deed of title to the land and factory, which the trustee will hold until the bonds are fully retired. In the event of a default by the S corporation in the payment of the principal and interest on the bonds, the trustee has the power to sell the property and use the proceeds to pay the bondholders.

The Internal Revenue Service holds that obligations of a nonprofit corporation organized pursuant to the general nonprofit corporation law of a state will be considered issued 'on behalf of' the state or a political subdivision thereof for the purposes of section 1.103-1 of the Income Tax Regulations, provided each of the following requirements is met: (1) the corporation must engage in activities which are essentially public in nature; (2) the corporation must be one which is not organized for profit (except to the extent of retiring indebtedness); (3) the corporate income must not inure to any private person; (4) the state or a political subdivision thereof must have a beneficial interest in the corporation while the indebtedness remains outstanding and it must obtain full legal title to the property of the corporation with respect to which the indebtedness was incurred upon the retirement of such indebtedness; and (5) the corporation must have been approved by the state or a political subdivision thereof, either of which must also have approved the specific obligations issued by the corporation.

In the instant case, P county does not have a beneficial interest in the S corporation during the period the revenue bonds will be outstanding; nor will the county necessarily acquire full legal title to the land and factory upon retirement of the bonds. The articles of incorporation provide only that, upon retirement of any corporate indebtedness, or upon dissolution of the corporation, P county will have a beneficial interest in the assets of the S corporation. Therefore, there will not necessarily be a vesting of full legal title to the land and factory in P county.

Furthermore, while the fact that P county and its participating municipalities are represented among the membership of the S corporation and contribute money to its operations indicates governmental authorization of the corporation and approval of its general objectives, such activities alone are not deemed to constitute approval of the specific bonds issued by the S corporation.

Under the circumstances in the instant case, it is held that the revenue bonds issued by the S corporation are not issued 'on behalf of' a political subdivision within the meaning of section 1.103-1 of the regulations. Therefore, the interest received on the bonds will be includible in the gross income of the bondholders under the provisions of section 61(a)(4) of the Code.

Revenue Ruling 54-296, C.B. 1954-2, 59, and Revenue Ruling 59-41, C.B. 1959-1, 13, are distinguishable from the instant case. In both of those rulings, the political subdivision involved had a beneficial interest in the nonprofit corporation prior to the retirement of the indebtedness.

In Revenue Ruling 54-296, a municipality leased to a nonprofit corporation a municipally-owned building in exchange for all its stock. The corporation proposed to issue bonds to finance improvements to the building and it was held that interest on the bonds would be excludable from gross income under section 103 of the Code. The beneficial interest of the municipality consisted in its ownership of all the stock of the corporation and its right under the lease at any time to acquire the improvements by discharging the corporation's indebtedness. Moreover, the municipality retained title to the building

which it leased to the corporation.

In Revenue Ruling 59-41, it was held that the bonds of a nonprofit corporation organized under general state law at the request of a municipality to operate the local water system would be issued on behalf of the municipality for purposes of section 103. The municipality which had the right pursuant to law to purchase the water system, waived such right and entered into a contract with the corporation ratifying and approving the purchase of the system by the corporation. The beneficial interest of the municipality consisted in its right under the contract at any time to purchase the water system for an amount equal to the indebtedness then outstanding with interest.

Also, in each of those rulings the political subdivision involved was to become absolute owner of the property in question upon retirement of the corporate indebtedness.

Revenue Ruling 57-187, C.B. 1957-1, 65, and Revenue Ruling 60-248, C.B. 1960-2, 35, are also distinguishable from the instant case. They hold that interest on bonds issued by a public corporation or corporate governmental agency organized pursuant to a special state statute providing for the creation of such corporations for the particular purpose specified therein and authorizing such corporations to issue bonds to enable them to carry out the specified purpose, is excludable from gross income under section 103 of the Code. In the instant case the corporation in question is not a public corporation or corporate governmental agency organized under such a special state statute; it is a private corporation organized under the general nonprofit law of the state.

The conclusion reached in the instant case is not inconsistent with Revenue Ruling 54-106, C.B. 1954-1, 28, which states that bonds issued by or on behalf of a municipality for the purpose of financing the acquisition or construction of municipally-owned industrial plants for lease to private industry constitute obligations of a political subdivision of a state within the meaning of section 22(b)(4) of the 1939 Code (section 103 of the 1954 Code). That Revenue Ruling did not consider the question what constitutes issuance of bonds on behalf of a political subdivision, which is the issue in the instant case.

/1/ Also released as Technical Information Release 442, dated Jan. 11, 1963.

Dan,

Following is a list generated by the Secretary of State Office of all the registered building authorities in ND. FYI.

Larry

----- Original Message -----

Here is the list of Building Authority registered at the Secretary of State's office. If you have any other questions please feel free to contact our office.

CITY OF DEVILS LAKE BUILDING AUTHORITY

CASS COUNTY BUILDING AUTHORITY

FARGO SCHOOL DISTRICT BUILDING AUTHORITY

LAW ENFORCEMENT CENTER BUILDING AUTHORITY

MINOT SCHOOL DISTRICT BUILDING AUTHORITY

RUGBY BUILDING AUTHORITY

WEST FARGO PARK DISTRICT BUILDING AUTHORITY

DICKINSON RECREATION BUILDING AUTHORITY

GRAND FORKS PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY

HELBURN BUILDING AUTHORITY

SOUTH HEART GOLF COURSE BUILDING AUTHORITY

RTON COUNTY BUILDING AUTHORITY

DEVILS LAKE PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY

ENDERLIN BUILDING AUTHORITY

HANKINSON PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY

NEDROSE SCHOOL DISTRICT BUILDING AUTHORITY

FT. YATES PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY

BERTHOLD SCHOOL DISTRICT BUILDING AUTHORITY

NAPOLEON PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY

WEST FARGO PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY

BISMARCK PARK DISTRICT BUILDING AUTHORITY

SOUTH PRAIRIE SCHOOL DISTRICT BUILDING AUTHORITY

GRAND FORKS COUNTY BUILDING AUTHORITY

GRIGGS COUNTY CENTRAL SCHOOL DISTRICT BUILDING AUTHORITY

CITY OF FARGO BUILDING AUTHORITY

CENTRAL CASS PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY

WINDRED PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY

NORTHERN CASS PUBLIC SCHOOL DISTRICT BUILDING AUTHORITY

Linda Gregoryk

Data Processing Information Center Specialist

ND Secretary of State

E-mail: lgregory@nd.gov<mailto:lgregory@nd.gov>

Phone: (701) 328-3086

Toll Free: (800) 352-0867 ext 83086

☎: 701-328-1690

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WHAT IS THE NEW SCHOOL PLAN?

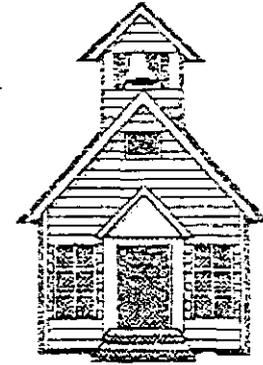
The new school, to be opened in the fall of 1994, will reduce enrollments at both Agassiz and South by moving one grade from each building to a new school for 8th and 9th graders. South High will then house grades 10, 11 and 12. Agassiz will serve grades 6 and 7. Land has been purchased in the area of 40th Avenue and 18th Street South for the new school.

WHY IS A NEW SCHOOL NEEDED?

Fargo is a growing city. By the year 2000, the city's population is expected to reach 20,000. This represents a thirteen percent increase in a ten-year period.

Fargo public school enrollment has already increased by 1,541 students during the past five years. This equates to an average annual gain of 308 students. Predictions indicate that enrollment will rise by an additional 1,500 students over the next five years.

Students in grades 6-12 in south Fargo will number more than 3,400 by 1994-95. Without a new school, Agassiz Junior High and South High would each need to house about 1,700 students. This is well above their capacities. Such overcrowding creates a poor environment for learning.



WHAT WILL THE NEW SCHOOL COST?

The new school will cost about \$12,200,000 including equipment. Based on a bond consultant's projection, the School Board will need to levy approximately 11.4 mills over a 20-year period to repay the bonds used to build the school.

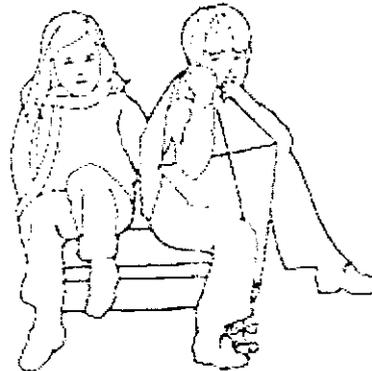
WILL A "YES" VOTE AUTHORIZE CONSTRUCTION OF THE NEW SCHOOL?

It is the first step. If a "Yes" vote is secured, the School Board will continue the process required to construct the new school. The School Board will need to publish its intent to dedicate 11.4 mills of the building construction authority toward construction of the new school. A protest period must elapse prior to the sale of bonds for the project.

WHAT QUESTION WILL BE ON THE BALLOT?

Your ballot will read, "Shall Fargo Public School District #1 issue up to 11.4 mills for school building funds pursuant to Section 57-15-16 of the North Dakota Century Code?"

Yes No

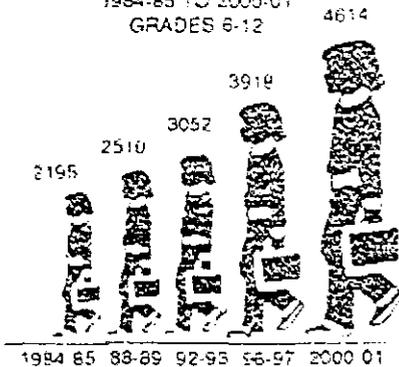


A fifteen-member Citizen Information Committee unanimously advised the School Board to secure voter approval for the 11.4 mill authority.

WHAT IS A BUILDING CONSTRUCTION LEVY?

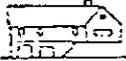
State law permits school districts to levy up to 20 mills, with voter approval, for a Building Construction Fund. The fund may be used only for construction, school building improvements or for the purchase of future school sites. A "Yes" vote will authorize the School Board to levy only up to 11.4 mills for these purposes.

SOUTH FARGO ENROLLMENT HISTORY AND PROJECTION 1984-85 TO 2000-01 GRADES 6-12



HOW WILL CONSTRUCTION OF THE NEW SCHOOL AFFECT PROPERTY TAXES?

The tax increase will depend on the value of your property and the assessed value of the district. The 11.4 mills needed to finance the new school would increase annual taxes as follows:

TYPE OF PROPERTY PROPERTY'S VALUE TAX INCREASE:	 Residential \$50,000 \$25.65	 Residential \$100,000 \$51.30	 Commercial \$150,000 \$76.95
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POLLING PLACES 7:00 a.m. - 7:00 p.m.

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|--------------------------------|-----------------------|
| 1. Lincoln | 2120 9th St. S. |
| 2. Metropolitan Baptist Church | 2612 25th St. S. |
| 3. Centennial School | 4201 25th St. S. |
| 4. Riverview Place | 5300 12th St. S. |
| 5. Lewis and Clark School | 1729 16th St. S. |
| 6. North Dakota Job Service | 1350 32nd St. S. |
| 7. Ciara Barton School | 1417 8th St. S. |
| 8. Bethany Homes | 201 S. University Dr. |
| 9. Fargo High Rise | 101 2nd St. S. |
| 10. Madison School | 1040 29th St. N. |
| 11. Fargo Public Library | 102 3rd St. N. |
| 12. Rosewood on Broadway | 1351 Broadway |
| 13. New Horizons Manor | 2525 Broadway |
| 14. Longfellow School | 20 29th Ave. NE |

Each qualified elector residing within those areas which have been attached by order of the Board of County Commissioners to the school district under the jurisdiction of the Board of Education of the City of Fargo may vote at any of the polling places designated above, which is conveniently accessible to that elector.

MESSAGE TO THE VOTERS

Fargo public schools are crowded. It is imperative that construction begin soon to provide adequate space for our growing student population. Quality education has been a major factor in the economic and general strength of our community. Our award-winning school district relies on an excellent faculty and a public committed to education. Our future depends directly on the investment we make today in our young people. No greater responsibility exists than equipping our youth to meet the challenges ahead. Adequate facilities are vital in meeting that responsibility. Education is the key to our children's future and to ours.

CITIZEN INFORMATION COMMITTEE

Laura Carney, Co-Chairman
Steve Swiontek, Co-Chairman

Dave Anderson	Russ Freeman	Gary Secor
Julie Barner	Bruce Furness	Debbie Tight
Mike Bullinger	James Garvey	Ene Vogel
Deb Dillon	Tom Hansen	Carl Wall
	Terry Lunde	



Fargo Public Schools
1104 2nd Avenue South
Fargo, ND 58103

VOTER INFORMATION

SCHOOL CONSTRUCTION AUTHORITY

DECEMBER 3, 1991

