

2013 HOUSE FINANCE AND TAXATION

HB 1220

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1220
January 22, 2013
Job #17506

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A Bill relating to direct payment of a property tax relief royalty to property owners; relating to the mill levy reduction grant program.

Minutes:

Attached amendments #1

Chairman Belter: Opened hearing on HB 1220.

Representative Louser: Introduced bill. See attached amendments #1. The state does not assess levy collector spend with regard to property taxes. The state does not assess the property value; it does not levy the mills. We don't collect the taxes collected by the property owner and we don't spend it in any general fund or otherwise. We are in a position to provide property tax relief so we found ourselves in a difficult position. This bill would require reference to a constitutional amendment to allow us to do what is being proposed. The constitutional amendment would change the constitution to allow the state legislature to directly give money to citizens. So rather than a buy down in taxes this bill would provide similar relief to the property owner in the form of a check as opposed to buying down the mills. It would be a similar amount of money to the property owner. The proposal would be 90 mills rather than 75 mills and wouldn't be subject to state income tax. The 90 mills was an attempt to compensate or offset the potential federal income tax implications. Some of the provisions include: the property owner would have to be a resident of the state, and it would have to be applied for every year. There's been questions on what would happen to their escrow accounts and probably mathematically the property taxes would increase due to the buy down being eliminated but they would have a check in at least the same amount and could use that to pay towards their property taxes making property taxes local as opposed to the buy down from the state. The change in effect would be a dollar for dollar exchange so if the tax went up they would have at least that same amount of money in the form of a check to pay their taxes whether it goes into their escrow account or directly to the tax bill at the end of the year. This would also allow us as a legislature every two years to budget according to the application for the royalty tax paid back the previous biennium. We would have a very good idea how many people participated and how much money was sent back every two years.

Vice Chairman Headland: One issue I see that could pose problems for the state in the future is that it obligates us to pay 90 mills therefore, the increase in taxable value that

occurs every year would cause the state to pick that up. I think that's some of the problems with the way we are currently doing it and I'm just wondering if you would be objective or if you have any ideas on how to fix that problem in this particular bill.

Representative Louser: This would be for the current law and we would be able to budget for the year forward. If we had to amend that up or down we would have that latitude to change that every two years. I'm not advocating to reduce it necessarily but I think that would be something addressed by the legislature every two years.

Representative Trottier: If a person does not have to pay any property tax would they still get a check?

Representative Louser: The intent of this was to replace the buy down for the property taxes that were currently being paid. You bring up a good point which is why I am happy to be before this committee because that would affect us. That is something that would have to be discussed.

Representative Froseth: It seems like every other attempt we've made to return money to only North Dakota property owners has met a challenge in the constitutionality of it. Have you checked on this if it would be constitutional?

Representative Louser: I have not had any indication that it would be unconstitutional. I've not asked directly if that would be outside the fact if we are able to do this in general with the constitutional amendment to allow for the gifting clause to be eliminated. I have that amendment with the provision to be a resident and there are multiple ways to prove that. I talked to the secretary of state's office and the driver's license would be one way they would be willing to issue a state identification that is not a driver's license identification to prove residence but I haven't heard of a constitutional challenge as to whether or not we could do this for residents only.

Chairman Belter: Any other testimony in support to 1220? Any opposition?

Bill Shalhoob, Greater North Dakota Chamber: While the intent of HB 1220 is desirable we have several problems with it that have been addressed and some we would like to talk about. First it talks about a 90 mill reduction and it replaces a mill levy buy down but it's still a mill levy buy down in the way it works. We have serious reservations about the sustainability of the mill levy buy down program. We don't necessarily have a better idea. We tried during the interim to bring together a number of groups to try and come up with a plan to replace the mill levy buy down without much success. We're hoping the governor's bill, I think it's 1319, will provide a starting point for those discussions and with the amount of brain power in this legislature we should be able to come up with something that does that. The second problem we have is that it doesn't treat all property equally. Each taxpayer residence is entitled to one deduction so if you're an owner of multiple tracks of agricultural commercial land your residences are treated at a higher level. We believe that all property should be treated equally in the property tax mix. The third problem we have is with the resident issue. The problem with that is we go out to our economic development efforts to every community and tell commercial people to move to our community to start your business. When you move here we want you to build a building, pay income and

property taxes, hire employees and give them a great job with great pay and benefits. When you do really well then we say you can't share in the prosperity. You helped create the property but you can't share in it because you're an out of state corporation or resident. In terms of fairness issues when you're making that statement and try to bring other businesses from out of state we don't think that's a very good message to deliver. The royalty payment is an interesting concept in terms of another way to deliver that. I realize that we have a long way to go on these tax issues and as concepts are brought to the table I hope we can find something that is fair to everyone. The \$200 million price tag should be way bigger. We are against taxes at that level; we think they should be a lot higher. More consideration should be given to the taxpayers of North Dakota. We would hope that property taxes should be in excess of \$550 million. We think the state of North Dakota can afford it and the taxpayers deserve it.

Sandy Clark, North Dakota Taxpayers Association: We would like to applaud the sponsor on finding new ways to think outside the box to solve some of our issues relative to taxes in North Dakota. However we must oppose HB 1220. We think this bill puts the cart before the horse if we need a constitutional amendment in order to accomplish this bill and put it into effect. Traditionally we don't support the mill levy buy down programs as we think they are confusing to taxpayers. We think relief should be generated in dollars rather than mills. A mill will raise a different amount in every taxing district so that is another issue. As valuations go up then this program becomes more expensive to the state. We like that there is a provision in here that repeals the current buy down program but that is also another issue.

Vice Chairman Headland: You've stated that you don't care much for the mill levy reduction grants or this bill. Do you believe the state should be in the business of providing relief on property taxes and if you don't do you believe there's a number we should be reducing on income taxes?

Sandy Clark, North Dakota Taxpayers Association: We don't believe in the buy down programs. Should the state be into property tax relief? We believe the state should be into property tax reform and we think that's where the issue should start and stop. Property tax is a local tax and it should be assessed, collected, and spent locally but the state legislature has the authority to authorize political subdivisions to collect and levy local taxes. I think the legislature has a challenge to set the parameters and we think this is where the reform can come from. Unfortunately we've gotten into this property tax relief philosophy and it's hard to get back out of it so we have to deal with what is on the table.

Vice Chairman Headland: Do the Taxpayers Association recognize types of property tax reform down, are there particular ways to reform taxes that you support?

Sandy Clark, North Dakota Taxpayers Association: I am not aware of anything on paper. Unfortunately I just started here less than 10 days ago so I don't have access to that at this time. I can find this out.

Chairman Belter: Further testimony in opposition to 1220? Any neutral testimony?

Representative Drovdal: There's a statement that indicates the state does not control assessments but when I visit with my local assessors at home they say the regulations they have and uniform assessment and property values that we really are controlling assessments at the local level to make sure they are all even. What's your comment on that statement?

Marcy Dickerson, North Dakota Tax Department: The state has guidelines on how the assessments are done. The International Association of Assessing Officers is an international organization has guidelines, instructions of how assessing should be done. We follow what they say and we also have to follow North Dakota law. In our assessing we don't assess personal property except centralizing assessed although some states still do. Definitely the state oversees assessments but the actual assessing is done on the local level. Some of it is very well done and some is not so well done. We keep trying to improve that with education and with requirements.

Representative Drovdal: If you find that one of the local assessors is off on their assessing can you take any action or penalize?

Marcy Dickerson, North Dakota Tax Department: SB 2294 that was passed last session allows us the authority to withdraw the certification of an assessing official if they don't meet certain requirements. We can give them a warning and take different levels of action. If it's a chronic problem we could as far as revoke their certification. We can't hire and fire them because they're hired by the local political subdivisions but if an assessor is no longer certified to work as an assessor then that political subdivision has to get someone else.

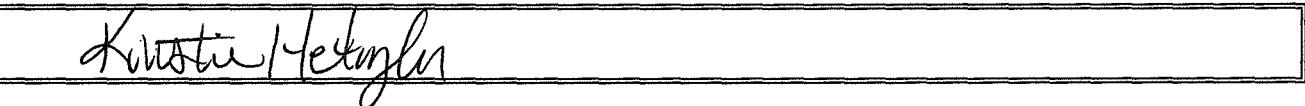
Chairman Belter: Any further testimony? If not I will close the hearing on HB 1220.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1220
January 30, 2013
Job 18028

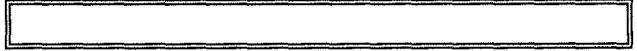
Conference Committee



Explanation or reason for introduction of bill/resolution:

A Bill relating to direct payment of a property tax relief royalty to property owners; relating to the mill levy reduction grant program.

Minutes:



Chairman Belter: Opens HB 1220.

Rep Headland: Moves a Do Not Pass.

Rep Haak: Second.

Yes: 14

No: 0

Absent: 0

Carried by: Rep Haak.

Date: 1-30-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1220

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerrefer to Appropriations Reconsider

Motion Made By Rep. Headland Seconded By Rep. Haak

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	✓		Rep. Scot Kelsh	✓	
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser	✓	
Rep. Matthew Klein	✓		Rep. Jessica Haak	✓	
Rep. David Drovdal	✓		Rep. Marie Strinden	✓	
Rep. Glen Froseth	✓				
Rep. Mark Owens	✓				
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Haak

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

REPORT OF STANDING COMMITTEE

HB 1220: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1220 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

HB 1220

January 21, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1220

Page 1, line 3, after the semicolon insert "to provide an appropriation;"

Page 1, line 20, after "Any" insert "qualified"

Page 2, line 2, after the underscored period insert "The application form must include the street address of the primary residence for each owner of the property or, in the case of ownership by a corporation or passthrough entity, the street address of the primary residence and percentage of ownership interest in the corporation or passthrough entity for each owner of an interest in the corporation or passthrough entity."

Page 2, after line 8, insert:

"57-64.1-04. Qualified taxpayer defined.

For purposes of eligibility for the property tax relief royalty under this chapter, only a resident North Dakota taxpayer is considered a qualified taxpayer. The following provisions must be applied to determine qualified taxpayer status:

1. The owner of a parcel of commercial property is a qualified taxpayer if the ownership is held by an individual or group of individuals, who collectively own a majority of the ownership interest in that parcel of commercial property, who reside in primary residences in this state. If a parcel of commercial property is owned in whole or in part by a corporation or passthrough entity, the reduction under this subsection applies to that property only if all individuals collectively owning a majority of the ownership interest in that corporation or passthrough entity reside in a primary residence in this state. An owner of commercial property is responsible for allocation of the property tax relief royalty for the property among the owners according to their ownership interests in the property or as otherwise agreed among them.
2. The owner of agricultural property is a qualified taxpayer if the ownership is held by an individual or group of individuals, who collectively own a majority of the ownership interest in that parcel of agricultural property, who reside in primary residences in this state. If agricultural property is owned in whole or in part by a corporation or passthrough entity, the reduction under this subsection applies to that property only if individuals collectively owning a majority of the ownership interest in the corporation or passthrough entity reside in a primary residence in this state. An owner of agricultural property is responsible for allocation of the property tax relief royalty for the property among the owners according to their ownership interests in the property or as otherwise agreed among them.
3. The owner of residential property is a qualified taxpayer if the ownership is held by an individual or group of individuals, who collectively own a majority of the ownership interest in that parcel of residential property, who reside in primary residences in this state. If residential property is owned in whole or in part by a corporation or passthrough entity, the reduction under this subsection applies to that property only if individuals collectively

owning a majority of the ownership interest in the corporation or
passthrough entity reside in a primary residence in this state. An owner of
residential property is responsible for allocation of the property tax relief
royalty for the property among the owners according to their ownership
interests in the property or as otherwise agreed among them."

Page 2, line 9, replace "**57-64.1-04**" with "**57-64.1-05**"

Page 2, line 11, replace "eligible" with "qualified"

Page 2, line 15, after "royalty" insert "for a parcel of property"

Page 2, line 15, remove "Persons owning taxable"

Page 2, remove lines 16 and 17

Renumber accordingly