2017 HOUSE POLITICAL SUBDIVISIONS

HB 1385

2017 HOUSE STANDING COMMITTEE MINUTES

Political Subdivision Committee
Prairie Room, State Capitol

HB 1385
2/9/2017
Job # 28134

☐ Subcommittee
☐ Conference Committee

Carmen Hickle

Explanation or reason for introduction of bill/resolution:

Relating to municipal refunding bonds

Minutes: 1

Vice Chairman Hatlestad: Opened the HB 1385.

Scott Wegner, Arntson Steward Wegner PC: (Testimony # 1) (Time :32 to 3:09) Introduced the bill.

Rep. Johnson: The language in the bill existed previous to 2144, but it is not federal language? It is state generated language?

Mr. Wegner: That is correct. This reinstates what was Section 19.1 and now it is called 19.2. This was part of the MIDA Bond Act, so this was an act of the ND Legislature that would allow these types of bonds to be refinanced. The MIDA Bond Act dates back to 1955 the refinancing section came in in 1977. So it is reenacting the section as it had been since 1977.

Rep K. Koppelman: The current statute says under 19.1 that is has been repealed so there is no 19.1 right now, and I am wondering why they would insert a 19.2?

Mr. Wegner: I am not sure; Legislative Council would have to answer that. One comment on Section 20 is the last section of the MIDA Bond Act and that summarizes the legislative intent and I assume when this was added later they didn't want to go beyond Section 20.

Rep K. Koppelman: The language here is the same language and nothing has changed, is that correct?

Mr. Wegner: There are a couple of changes but it is simply Legislative Council updating some of the language and grammar. Otherwise it is as it came in in 1977.

Rep K. Koppelman: I don't know the bill you are talking about from memory but what did is seek to do, who was the sponsor and are they aware that this is being sought to be reinserted?

Mr. Wegner: It is Senate bill 2144, the repeal section is full of chapters and individual sections that all dealt with tax levies. I think this may be resulted from the interim study that the Governor chaired regarding consolidation of tax levies. The section that was 19 did have a tax levy. There are unique circumstances that would allow citizens of a city or county to vote and to agree to a tax levy to support a private business. It's only been used once in state history. But that's the only section in the entire act that would even contemplate a tax levy.

Rep K. Koppelman: That is absent from this bill?

Mr. Wegner: That is correct. That was Section 19 and that is gone.

Vice Chairman Hatlestad: So if I understand correctly all we are doing is providing the opportunity to refinance, restructure that had been taken away with the previous Senate bill?

Mr. Wegner: That is correct. This simply gives express authority again to refinance, restructure existing MIDA Bonds. This restructuring authority was originally granted in 1977 and had not changed until last session.

Rep. Johnson: Even the language in Section 3 because that is limiting? If you want to restructure a bond, I understand that if you hold more than $250,000 (inaudible). If you happen to have $250,000 of bond restructuring for more than 6 months you are going to (inaudible) that into one financial institution and political subs to take bids from banks and who ever gives them the best deal is the bank they go with. Do you see that as limiting?

Mr. Wegner: Section 3 deals with circumstances where you refinance or call the call the old bonds in advance of the date that you can refinance them. What you do then is set up an escrow and usually those are invested in US Treasury's so they are in a guaranteed instrument. US Treasury's actually issues a special series of securities that are just for state and local governments to invest in.

Rep. Johnson: So those instruments are not included in that $250,000?

Mr. Wegner: That is my understanding.

Terry Traynor, Associated of Counties: I served on the Governor's task force last session that resulted in Senate bill 2144. It was almost 80 pages long, 100 and some sections, we repealed close to 60 different mill levies from counties, cities, parks and others and consolidated levies and lowered levy limits. We ended up repealing a lot of Century Code. There was no intention to remove this, it was an oversite. Rep. Johnson's question about political subdivisions, they have an obligation when they are investing government funds they must get a pledge of 110% from the bank. They go beyond the insurance the FDIC and FSLIC provide because state law requires them to secure that level of insurance from banks when they invest government bonds.

Rep. Johnson: This only regards municipalities no other political subs are included?

Mr. Traynor: The municipalities are defined in this particular chapter it affects cities and counties.

Rep. Johnson: Subdivisions?

Mr. Traynor: That I am not sure.

Vice Chairman Hatlestad: Closed HB 1385 with no further testimony.

2017 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Prairie Room, State Capitol

HB 1385
2/9/2017
HB 28153

☐ Subcommittee
☐ Conference Committee

Carmen Hickle

Explanation or reason for introduction of bill/resolution:

Relating to municipal refunding bonds

Minutes:

Chairman Klemin: Opened for committee work.

Rep. Johnson: Made a do pass motion on HB 1385.

Rep. Zubke: Second the motion.

Chairman Klemin: this was just an oversite to put something back in that shouldn't have been out.

Carried 11 yes, 1 no, 3 absent

Carrier Rep. Johnson

Date: 2-9-17
Roll Call Vote: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1385

House Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☑ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Johnson Seconded By Rep. Zubke

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin	/		Rep. Guggisberg	/	
Vice Chairman Hatlestad	/		Rep. Hanson	/	
Rep. Beadle	/				
Rep. Becker	/				
Rep. Ertelt	/				
Rep. Johnson	/				
Rep. Koppelman	—				
Rep. Longmuir	/				
Rep. Maragos	/				
Rep. Pyle	—				
Rep. Simons	—				
Rep. Toman		/			
Rep. Zubke	/				

Total (Yes) 11 No 1

Absent 3

Floor Assignment Rep. Johnson

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

REPORT OF STANDING COMMITTEE

HB 1385: Political Subdivisions Committee (Rep. Klemin, Chairman) recommends **DO PASS** (11 YEAS, 1 NAYS, 3 ABSENT AND NOT VOTING). HB 1385 was placed on the Eleventh order on the calendar.

2017 SENATE POLITICAL SUBDIVISIONS

HB 1385

2017 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Red River Room, State Capitol

HB 1385
3/10/2017
Job #29034

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to municipal refunding bonds

Minutes: Written testimony #1 Scott Wegner

Chairman Burckhard opened the hearing on HB 1385. All senators are present.

:27-3:09) **Scott Wegner, Arntson, Stewart, Wegner, PC** testified in support of HB1385. Written testimony #1.

Sen. Dotzenrod: I am trying to remember what we did last session. We had one big huge thick bill, that was referred to sometimes as the Governor's bill because it went through and reorganized our mill levies, and it really redesigned the way mill levies are categorized. Is that where this one, was a repealer; and is that what this deal was or am I mixed up with something else?

Mr. Scott Wegner: It was SB 2144, and it was a very long repeal section at the end of that bill. This section was one of those listed.

Sen. Anderson: How often is MIDA financing used in North Dakota, anymore and what do you see. Can you give us a dollar amount of how many that are issued each year and how many might be issued for refinancing?

Mr. Scott Wegner: It is tough to quantify, but the act dates back to 1955. It was first used in 1961. We've tried to look a little bit and there are well over 1000 MIDA bond issues that have occurred since 1061. Every single year several are issued. I know of several pending now across the state. It is widely used and Congress has gradually restricted the type of entities that can take advantage of it. It used to be pretty much any private business could use it. Today, its largely limited to 501C3 entities. You see a lot of hospitals and nursing homes and those types of entities that use it today. But the spread between tax exempt and conventional rates is such that it is still attractive to use.

Sen. Dotzenrod: I was just wondering if over the last biennium is there any specific examples of some consequences of our inadvertent repeal, and if we didn't pass this, if we just left it,

what would be an example of how this would have a negative consequence for us if we didn't put this back in?

Mr. Scott Wegner: Refinancing or permissive language to allow these refinancing's is common in all the bonding statutes. As I mentioned the MIDA Act dates back to 1955, but this refinancing section came in 1977. I think the reason, is that council that works with these things like us, we always like to see black and white permissive language to That's why it was added it's because everyone likes to see that its permissive and it's specifically authorized. Now if you were not to pass this bill and this section stayed out, then the question would be can the parties imply that authority? I think that is what had happened early on. If we don't see it here the fact that we can issue these bonds, does that imply that you can also refinance them? So I think that is what would happen, it's just that we would rather see it in the black and white.

(7:14-8:07) Bill Wocken, Lobbyist ND League of Cities. SB 2144 answer to Sen. Dotzenrod's question, was the Governor's bill to reform property tax. I was pleased to be able on the governor's committee that prepared that bill, and nowhere in the discussions do I recall discussing wanting to get rid MIDA bonds, so I think it might have been one of those unintended consequences. This bill is quite important. I think that section of the code has been used a number of times. I know the City of Bismarck has refunded a number of its improvement bonds based on the improvement in the market rate. We do believe that this section of the code should be restored and I would encourage you to give it a do pass recommendation.

Chairman Burckhard asked for opposition and neutral testimony for HB 1385.

Chairman Burckhard closed the hearing on HB 1385.

Sen. Anderson moved a do pass on HB 1385.
2nd Senator Kannianen
Roll call vote: 6-0-0
Carrier: Senator Anderson

Date: 3.10.2017
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1385

Senate Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☑ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Anderson Seconded By Sen. Kannianen

Senators	Yes	No	Senators	Yes	No
Chairman Randy Burckhard	✓		Senator Jim Dotzenrod	✓	
Vice-Chairman Howard Anderson	✓				
Senator Jordan Kannianen	✓				
Senator Diane Larson	✓				
Senator Judy Lee	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Anderson

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

REPORT OF STANDING COMMITTEE

HB 1385: Political Subdivisions Committee (Sen. Burckhard, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1385 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

HB 1385

HB 1385 2-9-17 #1

HB 1385
House Political Subdivisions Committee
February 9, 2017

Mr. Chairman and members of the Committee:

My name is Scott Wegner. I am a member of the law firm of Arntson Stewart Wegner PC with offices in Bismarck and Fargo. We serve as bond counsel on MIDA Bond issues.

The Municipal Industrial Development Act, NDCC Chapter 40-57, authorizes cities and counties to issue bonds on behalf of private business entities. The city or county acts as a conduit or sponsor, in that the proceeds of the bonds flow directly to the business. The private business entity is responsible for paying principal and interest on the bonds. The issuing city or county has no liability on the bonds. The Act has been successfully used as an economic development tool in North Dakota since 1955.

Former Section 40-57-19.1 (Refunding Bonds) of the MIDA Bond Act authorized MIDA Bonds to be refinanced or refunded. In the last legislative session, SB 2144 (S.L. 2015, ch. 439, Section 104), inadvertently repealed this refinancing section. SB 2144 consolidated and repealed several tax levies. The repeal in Chapter 40-57 was meant to target Section 40-57-19 which involved a tax levy, but 40-57-19.1 was also repealed. Section 40-57-19.1 did not involve a tax levy and had nothing to do with Section 40-57-19.

- House Bill 1385 restores the MIDA Bond refunding section.

We ask you to give House Bill 1385 a Do Pass recommendation.

Scott Wegner
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(701) 255.1008
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H.B. 1385
3.10.2017
Written testimony #1

HB 1385
Senate Political Subdivisions Committee
March 10, 2017

Mr. Chairman and members of the Committee:

My name is Scott Wegner. I am a member of the law firm of Arntson Stewart Wegner PC with offices in Bismarck and Fargo. We serve as bond counsel on MIDA Bond issues.

The Municipal Industrial Development Act, NDCC Chapter 40-57, authorizes cities and counties to issue bonds on behalf of certain private business entities. The city or county acts as a conduit or sponsor, in that the proceeds of the bonds flow directly to the business. The private business entity is responsible for paying principal and interest on the bonds. The issuing city or county has no liability on the bonds. Since the interest paid on government bonds is exempt from federal income tax to the lender, the interest rate is lower than conventional rates. The Act has been successfully used as an economic development tool in North Dakota since 1955.

Former Section 40-57-19.1 (Refunding Bonds) of the MIDA Bond Act authorized MIDA Bonds to be refinanced or refunded. In the last legislative session, SB 2144 (S.L. 2015, ch. 439, Section 104), inadvertently repealed this refinancing section. SB 2144 contained the recommendations of the Governor's Task Force on Property Tax Reform, and consolidated and repealed several tax levies. The repeal in Chapter 40-57 was meant to target Section 40-57-19 which involved a tax levy, but 40-57-19.1 was also repealed. Section 40-57-19.1 did not involve a tax levy and had nothing to do with Section 40-57-19.

- House Bill 1385 restores the MIDA Bond refunding section.

We ask you to give House Bill 1385 a Do Pass recommendation.

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