

2017 SENATE POLITICAL SUBDIVISIONS

SB 2253

2017 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Red River Room, State Capitol

SB 2253
2/2/2017
Job # 27814

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the execution and delivery of a written transfer of land, and to provide for retroactive application.

Minutes:

No written testimony

Chairman Burckhard opened the hearing for SB 2253. All senators are present.

Ladd Erickson, McLean County States Attorney. I am here to support the legislation but offer or ask the committee not to pass it as is. When the language in this bill was drafted it was sent by me to the Title Standards Committee of the State Bar Association and originally was not a problem. But after the bill got filed, I got some concerns back from them with the language somebody had thought through something that might be effected by this that is not intended. Specifically built with real estate patents on road ways. I drafted an alternative to the language here to try to address those concerns, sent it back to them with some e-mail exchanges over the last week or so. I am not sure we're resolved yet. Last night when I got home, I had a couple of emails from that group that had some alternatives to my alternative that they wanted to, but I didn't have an opportunity to run it by the auditors and stuff. This is called our race notice statute. It is a very standard statute. If you look at the existing language, what that means is when the transfer of ownership of land happens when I hand, if I am the seller, the deed to the buyer. That is when it officially transfers. If the deed never gets filed and the transfer still occurs. We have litigation and a long history in our state of that being the law. We don't want to upset that apple cart. There is a lot of reasons for that. However, the federal government has a habit of not following our laws, despite they have no supremacy over them. There are federal court cases that say they must follow state land recording laws, so what happens is they don't file deeds when they transfer land. Then a map is made that shows something that isn't reflected accurately on the ground. One of the core functions of county government which we assume take for granted is that when you walk into a Register of Deeds office, what you find there reflects what's on the ground. Because that's what maps are made off, plat books, hunting guides, mineral searches. We need the Federal government to cooperate with us, and they are supposed to be following our laws. A recent, thousand acres transfer around the Lake Sakakewea, affecting 5 counties, was used by the Corp of Engineers to say that we don't need to file any deeds in ND. So, the land changes on thousands of acres and the maps are going to say, based on what the deeds. The public

is getting the wrong impression that that is still available public land when it's now considered trust land which they need different licensing for to hunt. There is different criminal and civil jurisdiction applications. We went through 10 or 12 years of debate with them about the need to file a deed. Senator Hoeven has a press release on his website about the problems they are causing the state. It was put out in December; by doing this late administration land transfer to get it done before the new administration came in. But the purpose of this bill is to try and encourage the Federal Government to follow our state land laws. There are "payment in lieu of tax implications" based on what the deeds say. School districts and counties rely on those funding with the Corp of Engineers saying we are going to deduct pell funding's for the counties and school districts around the lake, on what we determine the acreage transfers are, but we're not going to tell you cause we're not going to file the deeds. Right! We want to know what they owe us under Federal law which currently we believe are deeds say is what you owe us. But if you take 32,000 acres away from the school districts and the counties where are those acres we don't know, so the purpose of this bill was to try to keep the current law the same, not affect real estate transfers in any respect, no unintended consequences, that's why I ran it by the school of real important real estate lawyers. But yet address this pressing problem that our land records in the county no longer reflect reality on the ground because of actions of the federal government which they are not supposed to be doing. There is some language in here I would like to work on, and try to find a solution. I hope that I can. I hope that I can bring it so everybody is on one page, don't know if I'll get there, but I would the committee to give some time to work on that. I would like that. I've included an amendment in testimony (Ladd Erickson amendment).

Chairman Burckhard: So, is this all because of the federal government?

Ladd Erickson: Because they don't want to transfer land on what we consider a valid legal description which is we transfer land in ND on two methods. One is called rectangular grid where it says section, township range. That's the land that is transferred and normally it's by quarter section or something like that. There's another way of doing it when it's an irregularly shaped track of land, called meets and bounds. You do an out wading. Those are the two methods that we use. The corps method is to transfer land on an arbitrary elevation line which we don't accept in ND. So therefore they can't file the deeds without surveying. They don't want to incur the millions of dollars it would take to survey approximately 800 linear miles of lake shore in this transfer. So to avoid doing what the law requires in ND they say we're going to rely on not ever filing a deed. We've tried to give them, that's the reason they can't get a legal description. We don't have a deed that says at elevation 1854, that's the high water mark, this land now changes and that's where the jurisdiction line is. It's invisible on the ground, that's the problem.

Chairman Burckhard: To me this sounds like a topic that is going to be discussed in Natural Resources very soon. The water line and where and the mineral rights that are under the Lake Sakakewea. Interesting.

Ladd Erickson: I don't believe there is any affect by what we do here to that issue. I understand it is similar, but this is strictly a mechanical recording issue so the public doesn't get a map saying you can go, here and hunt, but now your committing a crime, because you actually can't.

Chairman Burckhard: so what you're asking us is if you can work on your amendment.

Ladd Erickson: I would like to work on the language because, I am hoping to avoid any debate or conflict over it.

Chairman Burckhard: When you would hope to get back to this committee?

Ladd Erickson: I actually think that I can come.

Chairman Burckhard: We meet Thursdays and Friday, what can you accomplish by next Thursday?

Ladd Erickson: I hope to have answers for you by next Thursday.

Senator Dotzenrod: I want to make sure I understand what the law says without this amendment, without this change. Because just reading it, it says on Line 8 and 9, a grant takes effect so as to vest the interest intended to be transferred only upon its delivery by the grantor and is presumed to have delivered at its date. So, when they say at its date, that goes back to the word grant on line 8? Whatever date was included in that grant, is it a piece of paper? The grant is an agreement?

Ladd Erickson: 2 scenarios explained (9.29-10.28) The issue with the Federal government is we are just handing our deeds to another Federal Agency, okay but that other federal agency has its tribal trust land. That changes the nature of it, it removes the pill funding for the counties, it changes the criminal jurisdiction, the outdoor licensing requirements but they don't ever file the deed so nobody know where that land is on the ground. The additional language is to try to make the deed get filed to clear that up.

Senator Dotzenrod: Again, the 2 examples you used, in either case neither of those two cases was there a date. There was not a record of any date in either case right. The current law says at its date, is that a date that is somehow inferred, its' not recorded, its' not on an instrument of some kind?

Ladd Erickson: The reason that is in there, like that, is the purpose of the statute is the date when the I handed you the deed for my farm, is the date. The motive for the law is you are taking a risk as the buyer by not filing that deed. A subsequent deed can trump you, its' called the race to the court house". You race to the courthouse and file your deed and now you have a superior interest in the deed, then subsequently comes in you are already ahead of them. You beat them in the race. So if you never file that deed, you are just liable. The taxes are going to the seller still, because that's our record. The seller has got motive to get off the tax rolls and that's why it all works. It doesn't work when two federal government agencies has no motive for taxes or anything like that. See that is our problem, they are abusing this statute. They are making it so the county can no longer say what's in our recording office which accurately reflects the ground and that's a problem for us.

Chairman Burckhard: Asked for opposing testimony, none came to the podium. No neutral testimony.

Chairman Burckhard closed the hearing on SB2253.

2017 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Red River Room, State Capitol

SB 2253
2/16/2017
Job # 28441

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the execution and delivery of a written transfer of land, to provide for retroactive application

Minutes:

Written testimony #1 & 2 Ladd Erickson

Chairman Burckhard opened up committee discussion on SB 2253. Chairman Burckhard, Senators Kannianen, Judy Lee, Diane Larson and Jim Dotzenrod were present. Senator Anderson was absent.

Chairman Burckhard: Unnumbered amendment from Ladd Erickson (written testimony #1, 2). **Chairman Burckhard** read the email to the committee, with the amendment that is not labeled.

Sen. Dotzenrod: I am a little puzzled by the retro-active provisions that could go back to, do they have something going on there that goes back 20-50 years. What is going on up in that county that hasn't been resolved or is confused for some time that they're going to try and straighten it out here.

Chairman Burckhard: It was in McLean county where he was from. When I see retro-active how far back? **Sen. Judy Lee:** It occurred to me now it was the same as in the original bill and I can't imagine any of us thought of it while they were here, because I didn't either. Let's contact Aaron Birst or Terry Traynor to give us some information.

Sen. Kannianen: I am just trying to understand where this fits in now. When they have 47:09-6.1 on their proposed amendment, now the bill just doesn't have a point anything, just 47.06 so just to clarify so when they section 1, on their proposed amendment where exactly are they wanting to put this section 1 to replace everything that the bill kind of has written for Section 1, or are they wanting to add a sub-section 1?

Chairman Burckhard: What he says in this paragraph that 3rd paragraph says 'well at first look' it might appear to Legislative Council that this replacement really should be put in title 57: or in another part of the tax code, however it is very important that it goes into Chapter 47-09 and right below 47-09-06.

Sen. Kannianen: So they want to keep their original bill but then add this subsection.

Sen. J. Lee: Doesn't it replace the language that is in there? **Sen. Kannianen:** That is what I am wondering? They have 6.1 on their amendment versus just.

Chairman Burckhard: they said right below 47:09:06. **Sen. Kannianen:** Do they want to keep the existing language in the bill plus add this subsection of law? **Sen. J. Lee:** And do they want the newer language in the bill plus this? **Sen. Diane Larson:** yes, because they don't say what line this would go on.

Aaron Birst: Association of Counties: We were originally again supportive of SB2253 in its original version after Mr. Erickson testified. There was some concern from the State Bar folks and I think this amendment that he submitted we are still in agreement with.

Sen. Kannianen: Just to confirm, its 47:09:06.1 is that intended to be a subsection that goes below the existing bill, not to replace anything in the existing bill or is that intended to replace something?

Mr. Aaron Birst: My understanding is that is not drafted as typical legislative council draft where you just leave it open and let them find the placement for it. I think he put it in at 6.1, which is I assume is what Legislative Council do but that's the intention.

Sen. J. Lee: But our question is, do you still want the amended language that was in the original bill or does this replace the original amendment, which begins on line 9?

Mr. Aaron Birst: My belief is this replaces it. I think the problem that was identified by the State Bar folks was when you put it in just the general delivery of written transfers that would be very broad and it would apply to things that are not trying to amend. So the concept here is just to have a separate stand-alone that is very specific to intergovernmental transfers. To refresh the committee's memory this is particular when the feds give land back to a political subdivision in particular the reservations.

Chairman Burckhard: So to confirm what I thought I heard, on the original bill, lines 9, 10 and 11, that are underscored would be gone?

Mr. Aaron Birst: That is correct.

Chairman Burckhard: What about the retroactive application. How far back does this go? What does that mean?

Mr. Aaron Birst: That is a great question. In theory it goes back to anytime the feds transfer land to the reservation area. I've never dealt with anything that would be in that caliber of retroactivity but the concept is that this would force the federal government to go back and file records in those cases. I am not holding my breath they will do that, but at least we could leverage to say all these new transfers, is supposed to be done retroactively but the new transfers for sure should fall into this category. I don't know the feds are going to state surveying on land, but it is intended to go back to original concept.

Sen. Dotzenrod: If I understand the explanation here then this essentially functions as a 'hog house' amendment. We are taking everything out of there, basically everything after available. After the title, it will replace all the text that we have from line 5 down.

Chairman Burckhard: From line 5 down **Sen. Dotzenrod:** On the original bill. Line 5 on the original bill so. Well section 1 has got an amendment, I guess whatever it takes to get to fit into there. It will function like a hog house amendment.

Chairman Burckhard: Do we want to see this as a Christmas tree bill or can we act on it then do it later?

Sen. Kannianen: So the way I understood it now is for you remove the underlined intended amendment, and keep the original section like it was and then just adding a subsection, right?

Chairman Burckhard: That is about how I would interpret it. Does that constitute a hog house? We are removing line 9 except the date of, removing lines 10 and 11. Substituting the amending for 47:09:06.1.

Sen. Judy Lee: I move the amendment

2nd Senator Kannianen

Roll call vote: 5 Yea, 0 no, 1 Absent

Chairman Burckhard: I need a motion to approve as amended

Senator Kannianen: I move that.

2nd Senator Dotzenrod

Roll call vote: 5 Yea, 0 No, 1 Absent

Carrier: Senator Kannianen

February 16, 2017

CR
2/16/17

PROPOSED AMENDMENTS TO SENATE BILL NO. 2253

Page 1, line 1, remove "amend and reenact section 47-09-06 of the North Dakota Century Code,"

Page 1, line 2, replace "relating to the execution and delivery of a written transfer of land" with "create and enact a new section to chapter 47-09 of the North Dakota Century Code, relating to transfers of land between any federal, state, or local governmental entities"

Page 1, replace lines 5 through 11 with:

"**SECTION 1.** A new section to chapter 47-09 of the North Dakota Century Code is created and enacted as follows:

Land transfers - Filing requirements.

A transfer of land between any federal, state, or local governmental entities does not change the acreage for real estate taxes or payments in lieu of real estate taxes until a deed with a proper legal description is filed with the county recorder."

Renumber accordingly

Date: 2.16.17
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2253

Senate Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: 17.0948.01001

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. Judy Lee 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) 5 No 0

Absent 1

Floor Assignment _____

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

REPORT OF STANDING COMMITTEE

SB 2253: Political Subdivisions Committee (Sen. Burckhard, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2253 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "amend and reenact section 47-09-06 of the North Dakota Century Code,"

Page 1, line 2, replace "relating to the execution and delivery of a written transfer of land" with "create and enact a new section to chapter 47-09 of the North Dakota Century Code, relating to transfers of land between any federal, state, or local governmental entities"

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Renumber accordingly

2017 HOUSE POLITICAL SUBDIVISIONS

SB 2253

2017 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

SB 2253
3/16/2017
Job # 29356

- Subcommittee
 Conference Committee

Carmen Hicks

Explanation or reason for introduction of bill/resolution:

Relating to transfers of land between any federal, state, or local governmental entities; and to provide for retroactive application

Minutes:

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Chairman Klemin: Opened the hearing on SB 2253.

Arron Burst, Association of Counties: It is a simple bill many people are frustrated with the federal government mostly the Corp of Engineers. Because the Corp of Engineers transfers lands along the river then transfers it to another government entity and they don't record any deed, they don't create any deed, they don't survey so the county struggles with where the boundaries are. The federal government says they don't need to do that because the statue currently allows us to transfer land. This bill says if you are going to transfer you still have to create a deed and have it recorded so we know where the property lines are. There is retroactive clause on it but in theory I don't know if its enforceable or not.

Rep. Johnson: What does the retroactive application do?

Mr. Burst: If the feds don't want to comply with this, in theory they haven't been complying because it wasn't in the state statute. Now we can come back and say it is in the state statute. If they don't want to do it and they don't want to survey the land, it causes a lot of problems in terms of property lines. They have transferred a lot of land already and we aren't against the transfers.

Chairman Klemin: This applies to land transfers between governmental entities or whom there is no real-estate taxes payable anyway.

Mr. Burst: That is correct, this isn't the tax issue. This is identifying where the land transfer, it should be surveyed so we know what it is.

Chairman Klemin: Why does it say no change for acreage for real estate taxes or payments in lieu of real estate taxes? It is a transfer from a non-taxable entity to a non-taxable entity.

Mr. Burst: My understanding this was just about defining the boundaries of what the land has been transferred to.

Rep. Hanson: Why is this important if there are no taxes impacted?

Mr. Burst: Ultimately you need to know the boundaries of the property to determine who controls that property.

Chairman Klemin: No other testimony. Closed the hearing.

Rep. Maragos: Made a do pass motion.

Rep. Beadle: Second the motion.

Vice Chairman Hatlestad: (Inaudible)

Chairman Klemin: I don't know if it should be that one of those entities would later transfer it to private individual who is subject to the tax. This would say the original acreage would stay in place.

Rep. Hanson: I don't feel we got a good answer on why there is a retroactive application and what kind of impact that could potentially have. What are the consequences of that?

Chairman Klemin: I am not sure why this says retroactive because it doesn't apply until the legal description is filed with the county recorder.

Rep. K. Koppelman: I assume this is because errors in the past and acreage has been altered and that has to be fixed.

Chairman Klemin: Fixing an error can be done at any time on anything we don't have to say it's retroactive to do that.

Rep. Johnson: Didn't they testify that the Corps is transferring property and they are not having surveys then they have to do title searches.

Chairman Klemin: We are talking about transfer between non-taxable entities doesn't change the acreage until a deed with a proper legal description is filed. Then it could change the acreage and it could happen that the grantee in that deed would be subject to taxes. At that point the county auditor would determine what's the acreage that is being taxed.

Rep. Longmuir: Part of the testimony was with the Fish and Wildlife exchanging land with the Corp of Engineers yet they didn't know what the Fish and Wildlife was receiving. The Corps will give the Fish and Wildlife certain land but there is nothing recorded.

Chairman Klemin: What this is saying nothing is going to change until someone files a proper deed.

Rep. Ertelt: I don't think this bill is addressing the issue because it sounded like they wanted to make sure that a deed was filed. But this isn't requiring them to do so.

Chairman Klemin: No, we can't require the federal government to do anything.

Rep. Johnson: The testimony was the Corp says because it's not in state statute, that is why they want it in state statute. I can't imagine transferring property without a survey and without a legal description.

Chairman Klemin: Like I say what this says nothing is going to change until the proper legal description is filed.

Rep. Beadle: I would be willing to take back my second if we want to amend it.

Rep. Maragos: I will withdraw my motion of do pass.

Rep. Hanson: I would like to see retroactive application section removed.

Rep. Pyle: I would like to see added back the real-estate taxes or payment in lieu of taxes. When assessments are put on a lot of times it is not on the public property. It would add, does not change the acreage for the real-estate taxes or payment in lieu of taxes of real-estate.

Chairman Klemin: Don't we have a separate law that requires special assessments to be taken care of?

Rep. Pyle: We have real-estate taxes. We have low income housing and the city auditor cannot assess special assessments on that. But they are paying their portion for that project. The owning entity still pay their portion of it.

Chairman Klemin: Under what circumstances would we have a transfer of land between governmental entities in that situation?

Rep. Pyle: Unless someone took over the housing authority for the county and they were exchanging property and purchasing other property.

Chairman Klemin: What I would like to do is ask Rep. Beadle and Rep. Pyle to confer on this and talk to Legislative Council and bring us back an amendment tomorrow.

2017 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

SB 2253
3/17/2017
Job # 29389

- Subcommittee
 Conference Committee

Carmen Hick

Explanation or reason for introduction of bill/resolution:

Relating to transfers of land between any federal, state, or local governmental entities; and to provide for retroactive application

Minutes:

—

Chairman Klemin: Opened the hearing for committee work.

Rep. Beadle: Explained the meeting with Legislative Council. We understand the intention of the counties and the individuals pushing for this bill. We have the federal government transferring land between agencies without recording anything. Seems like the federal government currently record their property based off elevation levels. What the federal government does, does not get recorded in ND at all. We asked Council does this bill actually incentives or punish the federal government for not recording. It does not encourage them to record. Is the language in here for real-estate tax or payment in lieu of tax necessary? Council said this one is necessary. That last question was with retroactivity. In particular, we know that it wouldn't just apply to the federal government it would also apply to any state or local government entity as well. The way this bill is worded doesn't do anything but it is still important.

Chairman Klemin: So we don't have any amendments.

Rep. Beadle: I am waiting for Emily Thompson to send some clarification language.

Rep. Johnson: Federal to federal nothing we can do. Federal to state, state to local that is where it becomes crucial and this is putting the burden on the recipient.

Vice Chairman Hatlestad: Would we remove section 2 because of the requirements it takes?

Rep. Beadle: We would want to remove section 2 except for the feds. The retroactive is designed just for the feds and the thousands of acres they have already done. It still actually won't be followed through though.

Chairman Klemin: The point is that it is not going to change until there is a proper description that is included with a deed that is filed.

Rep. Beadle: For the sake of moving this along, I would move to amend the bill so it reads, a transfer of land between any federal, state or local government entity must have a deed with a proper legal description filed with the county recorder.

Chairman Klemin: So we would delete the language you said was crucial?

Rep. Beadle: The reason I did that was that way it will get the bill to conference committee.

Chairman Klemin: On line 8 we would delete, does not, line 9 we would delete all of that except, a deed, at the end?

Rep. Beadle: Correct and we would insert, must.

Chairman Klemin: On line 8 after, entities, we would insert, must have?

Rep. Beadle: Correct. Let's delete section 2 as well and that is part of my motion.

Rep. Maragos: Second the motion.

Rep. Ertelt: The only reason this motion is being made is because we are not getting enough time to amend it properly now. I am going to resist the motion based on that.

Rep. Beadle: I would be happy to continue to work on this.

Chairman Klemin: I don't think this is a critical bill myself.

Amendment voice vote carried.

Rep. Beadle: Moved a do pass as amended.

Rep. Longmuir: Second the motion.

Carries 12 yes, 2 no, 1 absent.

Rep. Beadle: Will carry the bill.

March 17, 2017

3/17/17 TRP

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2253

Page 1, line 3, remove "; and to provide for retroactive application"

Page 1, line 8, remove "does not"

Page 1, line 9, replace "change the acreage for real estate taxes or payments in lieu of real estate taxes until" with "must have"

Page 1, line 10, remove "is"

Page 1, remove line 11

Renumber accordingly

Date: 3-17-17
Roll Call Vote: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2253

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: 17.0948.02001

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. Beadle Seconded By Rep. Maragos

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) _____ No _____

Absent _____

Floor Assignment _____

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

Voice vote carried

Date: 3-17-17
 Roll Call Vote: 2

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2253**

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. Beadle Seconded By Rep. Longmuir

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) 12 No 2

Absent 1

Floor Assignment Rep. Beadle

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

REPORT OF STANDING COMMITTEE

SB 2253, as engrossed: Political Subdivisions Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2253 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "; and to provide for retroactive application"

Page 1, line 8, remove "does not"

Page 1, line 9, replace "change the acreage for real estate taxes or payments in lieu of real estate taxes until" with "must have"

Page 1, line 10, remove "is"

Page 1, remove line 11

Re-number accordingly

2017 CONFERENCE COMMITTEE

SB 2253

2017 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Red River Room, State Capitol

SB 2253
4/4/2017
Job # 29933

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to transfers of land between any federal, state, or local governmental entities; and to provide for retroactive application.

Minutes:

Chairman Burckhard brought the conference committee together for discussion on SB2253. Committee members from the Senate was Sen. Burckhard, Chairman, Sen. Kannianen, and Sen. Dotzenrod. The House was represented by Rep. Beadle, Rep. Pyle, and Rep. Toman.

Rep. Beadle: As we go through the discussion on the House side, it really was primarily in consultation with Mr. Birst with the Association of Counties. In our conversation in the House hearing, we recognized that the real issue that was trying to be resolved was with the Army Corp of Engineers transferring land to the Department of the Interior along Lake Sakakawea, with them not properly recording everything so that those payments would be made over to the school districts as it need be, going from the Army Corp which would cover some of the costs to the Department of the Interior which would not cover some of those payments and low taxes. So they wanted to make sure that we had the proper legal description filed with our county recorders. Because the high water mark levels and the topography maps that they were recording weren't sufficient. None of our recorders utilized that technology. So as a broker I work with some of the county recorders on some of this stuff and handing some of the recordings and so we knew and we wanted the legal description, we didn't really care so much about the changing acreage for payment in lieu of taxes and the language that was in there, all we really wanted to make sure that we had was that when they have a transfer land we have something filed and on record. So, we put in the amendment to change it so instead of the language where it said "it does not change the acreage for real estate taxes or payments in lieu until" we just said they "must have a deed, with proper legal description filed". So in that way we have the language in there that is firmly written so that it forces them to do the filing. Otherwise they could just choose to not do the filing and just deal with their taxes as they were before. So this says that anytime they do the transfer now they have to have that deed in place. We removed the retroactive application language, because we thought that they would just; purely impossible for us actually to get them to follow through with. We just think in practicality getting the feds to say this is going to be retroactive and the counties kind of agreed with that, they would like them to go back and do all these historical

transfers, but, they said that was more of a hassle. They said we want them to do it, but they don't expect them too. So we just took the retroactivity off of it so we don't have to worry about that. That also clarifies it for the state and local entities who are dealing with the cities and parks and the transfers between those entities for example that they don't have to go back and refile everything automatically, when we really know the federal is the main one. So that was the House discussion, that was where we were at in this bill. So that's where we simplified it down and we thought we cleaned it up a little bit.

Sen. Kannianen: One aspect of the language that came out of the Senate was as Sen. Dotzenrod mentioned, was Ladd Erickson the State's Attorney, and he's probably in your committee too. I guess the reason for we had Aaron Birst in from the Association of Counties. The idea was to have something that had a little bit of teeth in it, because it is one thing to have another, how many pieces, how many articles in the Century Code have a mandate, but there is no teeth. If they don't do it there is nothing bad that is going to happen to them so really what good is the law. So I guess that was the idea they had behind, knowing about the real estate taxes they are paying in so far as to get something to persuade them to do so. Whether that makes a difference or not that was the language that was given to us, suggested to us from the State's Attorney.

Rep. Beadle: Do you guys have any testimony on the Senate side with regards to how much tax implication they are thinking that would amount to? We weren't able to get any sort of data at all and is what we are missing. In our conversations in committee, it was thrown out that they think it was a couple of million dollars that some of these school districts have been short- failed total over the course of time. Then before the floor discussion on it, I tried to get more concrete numbers and the text message I got back, was maybe a couple of hundred thousand. So we really haven't been able to get anything narrowed down. So did you guys have any discussion, was Ladd able to provide any of that?

Chairman Burckhard: I don't think so. I don't recall him providing any.

Sen. Dotzenrod: It is interesting to look at the history of this bill and how it started out. The 1000 version and how it ended up with a 3000 version. The first one we were amending one that original version, 47:09:06. Then in the last version the one that we have now, it just creates a new section, it is not amending anything. But in the meantime, I am kind of curious and I don't remember us on the Senate side doing amendments. So this 1001 these are Senate amendments? We crossed off and started and basically created the idea that we would have a new section and there it went over to the House and in that version I suppose that is the re-engrossed version 2000? Was that how it arrived at the House?

Chairman Burckhard: We actually did have an amendment that we passed as amended. I don't recall what the amendment was.

Sen. Dotzenrod: If you look at the 1001 version that is what the Senate did to it.

Rep. Beadle: The record showed that it was passed out of the Senate, the amendment was adopted on Feb. 20th.

Sen. Kannianen: The original bill is looking to amend 47:09-06, but then that was what Ladd brought to us was the State's Attorney and title professional etc, they thought by just creating a new section 7, instead of amending 6, there was reasons why they thought that it would be less likely for federal agencies to find a loophole because Section 6 applied to only a specific area, whereas if you created a new section to deal with this, it was a more all- encompassing. That's when we amended did, basically a hog-house amendment that we put through. As far as the retro-active I guess if that's, in our committee they wanted it, but on the other side if it's something that isn't feasible, or they decide well it's not realistic anyway, I guess it probably doesn't matter then.

Chairman Burckhard: It's not a show stopper, so it's not a big deal?

Sen. Dotzenrod: My tendency is to go along with the House's idea that this idea of us trying to insert this retroactive thing is probably going to be a lost cause. I wish we had Ladd Erickson here because we talked about this idea, when he was here. I don't remember why we decided that that was something worth keeping. His arguments were enough for us to go along with it, but I don't recall exactly why that was persuasive. To be realistic I think if we just did what the House is saying here, it is simple, straight forward and we're not getting to spend a lot of time trying to argue about whether we can go back. I think we almost have to give up on that.

Rep. Beadle: Part of the conversation too. If we want to adjourn and have Ladd or have someone from the counties come and talk to us and give us some of the background. Like we said, he didn't appear before the House committee on this. He really just left it up to the counties to do it. We could have that conversation. We just didn't think with Aaron Birst, with the counties, we asked him about it if he had any experience with any of the retroactivity clause ever actually being utilized or enforceable, and he couldn't think of a single time in which we would be able to make the federal government go back and re-do something that they have done previously. In his experience with counties and the number of section, he's been around here, he couldn't think of a single instance in which they had done that. But if we wanted to try and get Ladd down here we could certainly do that. In our conversation in regards to the pilot and everything, and I know Rep. Pyle has more experience with that from her city experience than I do, is we recognize the fact that they are going to make the transfers anyway. When they do that they are going to have the tax base adjusted accordingly. So that's where we felt that as long as they are recording that, so we know what that adjustment is going to be, then the additional language that was in there, we didn't think was needed. But I do understand where it could be teeth, as saying "oh by the way you don't get this" but it has the same effect as when they file the deed anyway.

Sen. Dotzenrod: It may be worth it to take a pause and call Mr. Erickson. The thing that I feel I am lacking here is that I don't understand exactly the real world application of this and as it would be in McLean County. So, I would be trying to exceed to the House amendments and go with it, but I would be curious to know what his sense would be up there if we did that. Is there any downside from his point of view? I don't think there would be, but I don't know if it's worth slowing us down for that or not?

Rep. Beadle: We've got days left.

Chairman Burckhard: The key for us would be to have Mr. Erickson come back.

Sen. Dotzenrod: I think a phone call would only take a few minutes. He might be able to give us all we need or satisfy my curiosity about why that was an issue when he was here, and why he changed his mind.

Chairman Burckhard: called the McLean County courthouse to try to get in touch with Mr. Ladd Erickson. He was not available at this time. Chairman Burckhard continued with reviewing his notes, related to the bill, and mentioned Mr. Nick Hacker, from ND Guaranteed and Title Company, replacing the current bill language with the amendments should resolve the concern, but still provide a law that will hopefully encourage the federal government to respect the importance of filing deeds with the county recorder. So maps, flat books, hunting guides and official land records are accurate.

Rep. Beadle: The way that I interpret that discussion is just they want to make sure they have an actual legal description on there because if they don't have the proper legal then it's not accurate. But the federal government doesn't always do what we tell them to do.

Chairman Burckhard: Closed the conference committee on SB 2253.

2017 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Red River Room, State Capitol

SB 2253
4/6/2017
Job # 29963

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to transfers of land between any federal, state or local governmental entities; and to provide for retroactive application.

Minutes:

Attachment #1 Leslie Korgel
Attachment #2 Aaron Birst

Chairman Burckhard opened the conference committee for SB 2253. Senators Burckhard, Kannianen, Dotzenrod, Representatives Beadle, Pyle and Toman were present.

Chairman Burckhard: When we last left we had some potential questions for the Ladd Erickson, who is not with us today. He has sent his county auditor Leslie Korgel, and we also have Aaron Birst with us today. Committee do you have any questions for either one of these two gentleman to help clarify things for us.

Rep. Beadle asked Mr. Korbel if he has seen the versions of it as it has gone through and where it is at right now, for this bill after the House committee dealt with it. From your perspective and in terms of practicality do you think this is going to end up solving kind of the issues where we are looking for? We took out the 'payment in lieu of taxes' language, we took out some of the other stuff in there, and just left it simple. If you transfer the property, record it. Do you think that is going to be satisfactory?

Leslie Korbel: McLean County Auditor. Actually, I think it is preferable to the tax information in the original bill in that it covers all transfers instead of possibly limiting it to the tax issue which you know there is a lot of land that is transferred from one agency to another where there are no tax implications at all. It would cover those too. It is a problem for us when property is transferred from one agency to another without being recorded because we don't know who is the actual owner of that property is. So when it comes time for companies get easements or commissions for fire enforcement or any of that type of structure, we don't have the correct record on that property. (Testimony #1)

Rep. Beadle: One of the conversations we had in the House side is we removed the 'retroactive' application. Based on our committee discussion, House Political Subs, we felt that we could throw retroactive application on there with the likely hood of the feds actually

abiding by what we tell them to do in terms of retroactivity is slim to none. So we just decided to remove it and not deal with that. Can you give us any thoughts on that?

Mr. Leslie Korbel: I think you're correct in your assessment, but what this bill would do in its present format if it's passed. If you look under 57:02:39 it allows me as County Auditor to request a plat of an area with a proper legal description. If you do not do that, then I can go ahead and either survey and get that plat recorded and then assess that bill back to the entity. What this law on the books saying that yes you have to record if they have something that is strange. (ex cited 4:18-4:41) 57:02:39 saying it has to be in a legal description form that we can actually find where the property is. Will it solve every problem, no, but it will certainly give us standing to get these owner issues taken care of.

Sen. Dotzenrod: I am not sure how, I am not as competent and capable and knowledgeable in this business as some of the members of the committee. But I would like to understand how that retroactivity aides in the class that you just described to get to be able to have that authority to require the plat. How does the retroactivity trigger that, or make that easier to do or more possible?

Mr. Leslie Korbel: It gives you the ability if something transpired previously that and has not been recorded that you can go back and make that enforcement. It is one of the issues we have quite often in that deed is written and given to an individual and then not recorded for 2-4 years. There could be some conflict, some smart attorney someplace, at the time that they transferred the land this wasn't in effect. I think maybe Aaron can answer that a little bit more. That is a possibility.

Sen. Dotzenrod: The version of the bill that we have in front of now, the most recent version has removed that retroactivity. It is not there. When we sent it over, I think we had Ladd Erickson here and he kind of encouraged us and used some arguments with us that it would be a good idea to have that on there. From what you're telling me it sounds like the issues you would like to resolve are relatively recent. There are some of these that go back to the early 1900's and you would have all the folks that were on it gone, that seems to me to be of an unrealistic expectation to be able to sort out all that. Something that occurred relatively recently, maybe you could and it would be hard to fix a particular date. Are we better off just to leave that retroactivity off the bill entirely because it is going to be hard to make it work?

Mr. Leslie Korbel: I guess in my opinion, what you're saying is correct as in the case that is my example of the Corp transferring the land to the tribal or to another governmental unit, that is the caretaker, it's going to fall under this law anyway because they haven't recorded anything. Something from 1910 or from when they took the dam in my county in 1948-1950's your correct, it's pretty hard to go back and try to correct those. Although, I will tell you that the Corp was very good in the Garrison Diversion project. They recorded everything with a normal legal description that they bought and took. It is down to the square inch in some of that stuff.

Chairman Burckhard: So then you would leave it in, the retroactive?

Mr. Leslie Korbel: It could cover some situations that I am not thinking off. It does allow you to do that. I don't know how well you could enforce it, but it might cover some particularly and

since we are maybe 10 years ago, there was something could happen where you could go back and correct.

Rep. Beadle: You referenced that 57-02-39 in the Century Code (9:09) read sections). That was the language they were talking about in terms if there are irregularities they can go ahead and get that survey and everything done, they have that authority in code, which might cover some of the retroactivity.

Aaron Birst; Association of Counties: We support the House version. Now with regards to the retroactive clause, we would suggest that it doesn't hurt putting it in there. But something is better than nothing, so please we wouldn't want to lose this bill over fighting on that. As Rep. Beadle said, it probably becomes mute anyway, whether we could fight the federal government but at least if we had it retroactive, some of these land transfers that we're trying to get at, have been recently occurring. It's not the ones from the 1900's that we're trying to do. So we would suggest the retroactive clause stay in there but, something is better than nothing. We appreciate the support on both the Senate and House. This really comes down to a frustration with the Federal government, and there is not. Originally drafted this looked like it was trying to change the system for everything, but this was supposed to be narrowly tailored to those transfers that the federal government is doing. Just a couple of other thoughts. The county auditor has the ability and we've done this a couple of sessions now to and we've always fought them on metes and bounds transfer. The Legislature said metes and bounds is no longer the way to transfer property, you have to have it surveyed. The metes and bounds is by the tree 300 ft. from the dog kennel or whatever. The Legislature has always said let's not do that, so that's why the auditor has the authority to do the surveys. But here's the problem with that. If the person doesn't do it, then the county can do it, hire the surveyor, and then charge that back to the taxes of the property owner. That works in small cases, but if the county auditor will have to undertake a survey of all the federal government land along the lake, you would be talking about the county up-fronting millions of dollars to do that work with the promise that it might not every come back. So that's why we are trying to say on the front side, we can't afford to lose the chapter that we have, to force them to do it. We want to tell them before you transfer it, it has to be surveyed. That is the intent. We appreciate all of your support, hope that we can get that bill the way you need to do it so we can move forward. (Testimony #2)

Rep. Toman: That situation that you just described do you think that the retroactive application can solve some of that for billing back to the ones that have recently happened?

Mr. Aaron Birst: That's going to be our biggest challenge that we are going to pitch to the feds that this is the Legislature spoke and clearly said these transactions that happened recently also need to include the survey. Now again, if the feds say we don't care and were not doing it, then we'll probably just react by saying okay in the future please do it. That's how we'll probably solve it. Again, the retroactive clause we think is helpful, but not worth killing the bill over. It's already an improvement from what we have.

Rep. Beadle: From the linguistics standpoint I would just make sure, that when you go to the Feds, instead of saying in the future, please do it, use the language in the future do it, just leave out the please.

Chairman Burckhard: So, I had somebody say they support the House version, who just left the podium. We'll leave the retroactive in there, and realize this is frustration with the federal government. Any thoughts about where we should do?

Rep. Beadle: I will be the carrier on the House side. I don't think us putting the retroactivity back on there will hurt the chances of getting it back through the House when we already know retroactivity got through the Senate. We have had plenty of discussion in the House and as long as we know that we're doing this because the federal government is being less than kind, then typically the House is pretty agreeable in terms of trying to punish the federal government a little bit. So I don't think we would have any problems with if we did add the retroactivity clause getting that back through, and so with that being the case, we could deal with one of two things and will leave it to you guys to make the motion and we could either do it where House recedes from the House amendment, and would further amend, and we would just change the language without removing the retroactivity, or we could do the Senate acceding to the House amendments and then further amending to add retroactivity back in. However, we want to do that.

Sen. Dotzenrod: I will move that the Senate accede to the House amendments and further amend to add the retroactivity on Section 2, SB 2253.

2nd Sen. Kannianen

Discussion:

Sen. Kannianen: It makes sense if that's the language that we had was what was proposed to us in committee by Mr. Erickson, but obviously if the House version is an improvement on that, from those representatives that makes sense to go with that.

Roll call vote: Sen. Burckhard Y, Sen. Kannianen Y, Sen. Dotzenrod Y, Rep. Beadle Y, Rep. Pyle Y, Toman Y.

Chairman Burckhard: Motion passes.

Carrier: Sen. Kannianen, Senate

Carrier: Rep. Beadle, House

Chairman Burckhard closed the conference committee.

April 6, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2253

That the House recede from its amendments as printed on page 924 of the Senate Journal and page 1049 of the House Journal and that Engrossed Senate Bill No. 2253 be amended as follows:

Page 1, line 8, remove "does not"

Page 1, line 9, replace "change the acreage for real estate taxes or payments in lieu of real estate taxes until" with "must have"

Page 1, line 10, remove "is"

Renumber accordingly

Date: April 6, 2017

Roll Call Vote 1:

Vote : 1

2017 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2252as (re) engrossed

Senate "Enter committee name" Committee

- Action Taken**
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows
 - Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Sen. Dotzenrod Seconded by: Sen. Kannianen

Senators	4/4	4/6		Yes	No	Representatives	4/4	4/6		Yes	No
Sen. Burckhard, Chairman	✓	✓		✓		Rep. Beadle	✓	✓		✓	
Sen. Kannianen	✓	✓		✓		Rep. Pyle	✓	✓		✓	
Sen. Dotzenrod	✓	✓		✓		Rep. Toman	✓	✓		✓	
Total Senate Vote				3	0	Total Rep. Vote				3	0

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Sen. Kannianen House Carrier Rep. Beadle

LC Number 17.0948 . .02002 of amendment

LC Number .04000 . of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Insert LC: 17.0948.02002
Senate Carrier: Kannianen
House Carrier: Beadle

REPORT OF CONFERENCE COMMITTEE

SB 2253, as engrossed: Your conference committee (Sens. Burckhard, Kannianen, Dotzenrod and Reps. Beadle, Pyle, Toman) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ page 924, adopt amendments as follows, and place SB 2253 on the Seventh order:

That the House recede from its amendments as printed on page 924 of the Senate Journal and page 1049 of the House Journal and that Engrossed Senate Bill No. 2253 be amended as follows:

Page 1, line 8, remove "does not"

Page 1, line 9, replace "change the acreage for real estate taxes or payments in lieu of real estate taxes until" with "must have"

Page 1, line 10, remove "is"

Renumber accordingly

Engrossed SB 2253 was placed on the Seventh order of business on the calendar.

2017 TESTIMONY

SB 2253

SB 2253
2.16.17
Written Testimony #1
Ladd Erickson
Amendment

47-09-06.1

SECTION 1. A transfer of land between any federal, state, or local governmental entities does not change the acreage for real estate taxes or payments in lieu of real estate taxes until a deed with a proper legal description is filed with the county recorder.

SECTION 2. RETROACTIVE APPLICATION. This Act is retroactive in application.

SB 2253
2-16-17
#2

Anderson, Jr., Howard C.

From: States Attorney Ladd R Erickson <lrickson@nd.gov>
Sent: Wednesday, February 8, 2017 2:46 PM
To: Burckhard, Randall A.; Anderson, Jr., Howard C.
Cc: aaron.birst@ndaco.org; terry.traynor@ndaco.org; Korgel, Leslie D.
Subject: SB2253
Attachments: SB2253.2.docx

Senator Burckhard: I am the McLean County State's Attorney who testified before your Political Subs committee last Thursday regarding SB 2253. I had asked that the bill be kept open as some title standards lawyers had belatedly come forward with concerns about the bill language.

Based on further discussions with the concerned parties, and Nick Hacker from ND Guarantee & Title who was at the hearing, replacing the current bill language with the attached should resolve the concerns, but still provide a law that will hopefully encourage the federal government to respect the importance of filing deeds with county recorders so maps, plat books, hunting guides, and official land records are accurate.

While at first look, it might appear to legislative council that this replacement language should be put in Title 57 or another tax part of the code. However, it is very important that it goes into chapter 47-09, and right below 47-09-06 would be best. There are some federal appellate cases that require federal agencies to follow state land recording laws, and we wouldn't have that precedent to rely on in the future if this new law were placed elsewhere in the century code.

Also, the words we used to develop this replacement language matter. For example, we used "A transfer of land" instead of "A grant" based on some legal reasons in how the federal agencies might try to avoid this new statute applying to their transfers. Therefore, if LC has some concerns over the draft replacement language attached it would be great if they could contact me before making changes to the wording.

If you need anything else from me, feel free to contact me, Aaron Birst, or Terry Traynor. Thank you for all of your help on this bill. Ladd

SB 2253
4.6.2017
#1

Senate Bill 2253

Senate Political Subdivisions Conference Committee

Chair Sen. Randal Burckhard

There are several issues concerning transfers of land from one governmental entity to another governmental entity without recording a document of transfer.

The first and foremost issue is that this type of transfer makes the records in the Recorder's office incorrect. The records are there for the public. The purpose is to notify the public of the ownership of property. There are many reasons why the public might need that information. Some of the reasons include: contact information for easements, weed control, fire and other safety hazards, access to other property, hunting, grazing, etc. In the case of the Corps of Engineers transferring land to a trust agency for the tribe, the question comes up what land was transferred? Where are the boundaries? Who is legally responsible for that property?

The second issue is when land is transferred as in the example above, the property goes from an agency that pays payment in lieu of taxes to a trust that does not make payment in lieu of taxes. Again the questions are, where is the property and how much property was transferred? Another question is, since nothing was recorded, how do you reconcile the taxation issues?

Finally, supposedly the land was transferred in the above case by using an elevation line. There is no fenceline, pin marking, legal description etc. for the public to determine boundaries in other words who owns what. As county auditor it is my duty to determine if land is taxable. In order to do that I need to know what the parcel looks like to place a value on the property. In the case of agricultural land, how many soil types and how much of each type. That is pretty hard to do when the boundary is determined by elevation. Looking at the shoreline of Lake Sakakawea there is a tremendous difference in the elevation of a coulee or ravine compared to a hill top. That boundary can change by hundreds of feet. The land was purchased by legal description, no reason why it can't be transferred or sold the same way.

I would be happy to answer any questions from the committee.

Sincerely,



Leslie Korgel

McLean County Auditor

57-02-32. Auditor to furnish tax list.

The auditor of each county shall make and transmit to the township clerk of each civil township within such county, on the first day of March of each year, a copy of the tax list of such township for the preceding year showing the owner and description of each piece or parcel of land assessed and the valuation thereof.

57-02-33. Assessor services for unorganized territory.

Any area not within an organized township or city must be assessed by a certified assessor under the supervision and direction of the county director of tax equalization. The county director of tax equalization may serve as an assessor of property under this section. Every individual performing assessor services under this section is entitled to compensation and mileage and travel expenses determined by the board of county commissioners for the time actually and necessarily employed in assessment of property. The compensation and expenses must be paid from the treasury of the county in which the assessed property is located only upon submission of an itemized statement setting forth the actual time spent in the work of the assessor and mileage traveled, approved by the board of county commissioners.

57-02-34. When and how assessment made.

The assessor shall perform the duties required of the office during the twelve-month period prior to April first in the manner provided in this section. The assessor shall determine both the true and full value as defined by law and the assessed value of each tract or lot of real property listed for taxation, and shall enter those values in separate columns, and the true and full value and assessed value of all improvements and structures taxable thereon in separate columns, opposite such description of property, and in another column shall show the total assessed value of the property by adding the totals of the two previous assessed value columns.

57-02-35. Sickness or absence of owner.

Repealed by S.L. 1983, ch. 598, § 25.

57-02-36. List given to auditor for persons sick or absent.

Repealed by S.L. 1983, ch. 598, § 25.

57-02-37. Duty of assessor upon failure to obtain assessment - Copy of assessment list to nonresident.

Repealed by S.L. 1983, ch. 598, § 25.

57-02-38. Units of real property for assessment.

In all assessment books and tax lists and in all proceedings for the collection of taxes and proceedings founded thereon, unplatted land and undeveloped land platted before March 30, 1981, not situated within the limits of an incorporated city must be described in subdivisions not exceeding quarter sections. Real property in the platted portion of a city or real property platted on or after March 30, 1981, that is located outside any city and is not agricultural property under the conditions set out in subsection 1 of section 57-02-01, must be assessed separately as to each lot. When a building or structure covers two or more contiguous lots or parts of lots owned by the same person the assessment may not be entered separately as to each lot or part of lot, but the tract upon which the building is located must be described and assessed as one parcel. A block which has not been subdivided may be described, assessed, and taxed in a unit of one block. A failure to comply with the provisions of this section does not impair the validity of taxes.

57-02-39. Irregularities of land to be platted into lots if required.

If any tract or lot of land is divided into irregular shapes which can be described only by metes and bounds, or if any addition or subdivision which already has been platted into blocks and lots and subsequently sold into parts of blocks or lots which can be described only by metes and bounds, or if the courses, distances, and sizes of each lot or fractional lot are not given or marked upon the plat so that the precise location of each lot and fractional lot can be

ascertained accurately, surveyed, or laid out, the owner of such tract or tracts, upon the request of the county auditor, shall have such land platted or replatted, as the case may be, into lots or blocks according to deeds on record. If such plat cannot be made without an actual survey of the land, the same must be surveyed and platted and the plat thereof recorded. If the owners of any such tract refuse or neglect to cause such plat and survey, when necessary, to be made and recorded within thirty days after such request, the county surveyor, or some other competent surveyor, upon the request of the county auditor, shall make out such plat from the records of the recorder if practicable, but if it cannot be made from such records, then the surveyor shall make the necessary survey and plat thereof, and the county auditor shall have the same recorded, but no such plat may be recorded until approved by the city engineer of the city affected thereby, and if there is no city engineer, then by the county surveyor. A certificate of the approval of such plat must be made by the officer making the same endorsed on the plat or map. Such certificate also must be recorded and forms a part of the record. When such plat has been duly certified and recorded, any description of the property in accordance with the number and description set forth in such plat must be deemed a good and valid description of the lots or parcels of land so described. No such plat or description may bear the name or number which already has been applied to any plat or description previously made and recorded as a part of any such city. When the owner of such land fails to comply with the provisions of this section, the cost of surveying, platting, and recording must be paid by the county, upon allowance by the board of county commissioners, and the amount thereof must be added to the taxes upon such tracts or lots the ensuing year. Such taxes, when collected, must be credited to the county general fund. The surveyor making such survey or plat is entitled to receive for services in making the same the compensation allowed by law for doing other county surveying or platting, and such fees become a legal charge upon such tracts of land.

57-02-40. Taxes paramount lien on real estate - Statute of limitations not applicable to personal property taxes.

1. Taxes upon real property are a perpetual paramount lien thereon against all persons, except the United States and this state.
2. Taxes upon personal property shall not be affected by any general statute of limitations.
3. A tax lien includes the principal of the tax, and all costs, penalties, interest, charges, and expenses which by law accrue, attach, or are incurred.

57-02-41. Attachment of tax lien and prorating taxes as between vendor and purchaser.

All taxes, as between vendor and purchaser, become a lien on real estate on and after the first day of January following the year for which such taxes were levied. If taxable real property is acquired in any year after the assessment date by an owner in whose hands it will be exempt from taxation, the taxes on it for the portion of the year that it was not exempt, computed to the nearest month, constitute a personal charge against the person from whom it was acquired and all of the provisions of law for payment and collection of personal property taxes are applicable to such prorated taxes.

If exempt real property is acquired in any year after the assessment date by an owner in whose hands it is taxable, it must be assessed as omitted property and the taxes on it for that portion of the year that it is not exempt, computed to the nearest month, are subject to all of the provisions for payment and collection that are applicable to taxes for the same year on other real property.

57-02-42. Personal property in transit - Definition - Exemption.

Repealed by S.L. 1975, ch. 524, § 2.

57-02-43. Records.

Repealed by S.L. 1975, ch. 524, § 2.