

2019 HOUSE POLITICAL SUBDIVISIONS

HB 1067

2019 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

HB 1067

1/4/2019

Job # 30441

Subcommittee

Conference Committee

Committee Clerk: Carmen Hickle

Explanation or reason for introduction of bill/resolution:

Municipal bid requirements and certificates of indebtedness

Minutes:

1

Chairman J. Dockter: Opened the meeting on HB 1067.

Scott Wegner, Arntson Stewart Wegner PC, (handout #1). Introduced the bill and explained the different types of bonds how they are sold.

Rep. Hatlestad: That is quite a change from \$100,000 to \$1million, is that still the negotiations guarantee that you will get the best price?

Mr. Wegner: It has been 50 years and this seems like a big increase but in that length of time that is a small amount. It is rare to find political subdivisions financing projects for under a million dollars because the cost of construction. I would stress this would not require them to negotiate, they could still go and seek competitive bids, this just gives them the option. I don't think it would result in unfavorable terms.

Rep K. Koppelman: What is the current procedure if no competitive bids come in?

Mr. Wegner: If no bids are received then the governing body can negotiate.

Rep K. Koppelman: What is the downside of that? If there is a \$750,000 bond issue and there is no competitive bids received, they can still go to their bank and negotiate.

Mr. Wegner: They are free to go ahead and negotiate. There is a time factor and it is expensive to through that process. Often times they might get one bid, the underwriting firms know the banks won't bid on it because it is so small. That one bid might be on the high side, then the governing body need to decide if they want to reject it.

Rep K. Koppelman: Why would a local bank not want to bid?

Mr. Wegner: It gets more involved with local banks, when the political subdivision goes out to the open market they are looking to fix a rate for 20 years. The local banks often won't do that, they need to reset the interest rate every 5 years and that is difficult to bid.

Rep. Ertelt: So going from \$100,000 to \$1million, would you be comfortable with a lower value?

Mr. Wegner: Certainly anything beyond \$100,000 would be helpful because it simply is not used today. MN has \$1.2 million.

Chairman J. Dockter: Closed the hearing.

(Time 12:24 – 23:03 pertains to HB 1059)

Discussion

Rep K. Koppelman: Made a motion to amend on line 19 from \$100,000 to \$750,000.

Rep. Toman: Second the motion.

Vote yes 14, no 0, absent 0.

Rep. Hatlestad: Made a do pass motion as amended.

Rep. Longmuir: Second the motion.

Vote: yes 14, no 0, absent 0.

Carrier: Rep. Longmuir.

DA 1/4/19

19.0636.01001
Title.02000

Adopted by the House Political Subdivisions
Committee

January 4, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1067

Page 1, line 19, overstrike "one" and insert immediately thereafter "seven"

Page 1, line 19, remove the overstrike over "~~hundred~~" and insert immediately thereafter "fifty"

Page 1, line 19, remove the overstrike over "~~thousand~~"

Page 1, line 19, remove "million"

Renumber accordingly

Date: 1-4-19
 Roll Call Vote #: 7

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1067**

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: 19.0636.01001

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 Rep. Koppelman Seconded By Rep. Toman

Representatives	Yes	No	Representatives	Yes	No
Chairman Dockter	/		Rep. Adams	/	
Vice Chairman Pyle	/		Rep. Guggisberg	/	
Rep. Ertelt	/				
Rep. Fegley	/				
Rep. Hatlestad	/				
Rep. Johnson	/				
Rep. Koppelman	/				
Rep. Longmuir	/				
Rep. Magrum	/				
Rep. Simons	/				
Rep. Toman	/				
Rep. Strinden	/				

Total (Yes) 14 No 0
 Absent 0
 Floor Assignment _____

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

Date: 1-4-19
 Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1067**

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. Hatlestad Seconded By Rep. Longmuir

Representatives	Yes	No	Representatives	Yes	No
Chairman Dockter	/		Rep. Adams	/	
Vice Chairman Pyle	/		Rep. Guggisberg	/	
Rep. Ertelt	/				
Rep. Fegley	/				
Rep. Hatlestad	/				
Rep. Johnson	/				
Rep. Koppelman	/				
Rep. Longmuir	/				
Rep. Magrum	/				
Rep. Simons	/				
Rep. Toman	/				
Rep. Strinden	/				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Longmuir

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

REPORT OF STANDING COMMITTEE

HB 1067: Political Subdivisions Committee (Rep. Dockter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1067 was placed on the Sixth order on the calendar.

Page 1, line 19, overstrike "one" and insert immediately thereafter "seven"

Page 1, line 19, remove the overstrike over "hundred" and insert immediately thereafter "fifty"

Page 1, line 19, remove the overstrike over "~~thousand~~"

Page 1, line 19, remove "million"

Renumber accordingly

2019 SENATE POLITICAL SUBDIVISIONS

HB 1067

2019 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Red River Room, State Capitol

HB 1067
2/28/2019
Job # 32977

- Subcommittee
 Conference Committee

Committee Clerk: Mary Jo Wocken

Explanation or reason for introduction of bill/resolution:

Relating to municipal bid requirements and certificates of indebtedness.

Minutes:

Written attachment #1 Scott Wegner

Chairman Burckhard opened the hearing on HB1067. All senators are present.

Chairman Burckhard informed the committee that the sponsor Representative Klemin would not be able to introduce the bill.

Mr. Scott Wegner (:16-4:26) member of the law firm of Arnstson, Stewart Wegner PC in Bismarck. We serve as bond council for political subdivisions. **Written attachment #1.**

Senator Anderson: I like to learn things that I don't know about and this is one of the areas that I don't know much about, so. Tell us why the House decided to reduce it? We're the people scared off by one million?

Mr. Wegner: One of the questions in the House committee dealt with the rate of inflation since 1971 and what the \$100,000 might be equivalent today. It is try I suppose as an inflation index \$100,000 would be somewhere around \$600,000-\$700,000 today. I don't know if that is the reasoning. I would suggest that of course the construction inflation has been at least double consumer inflation. So, it's on the low side, but I think that is why.

Senator Anderson: Can you tell us a little bit about these different bonds and what the interest rate the city or the school district could expect when get those in ranges? A general obligation bond means you don't have sales tax or real estate taxes pledged to pay it, so how does the bond buyer get assured he is going to be revenue to pay it off?

Mr. Wegner: Yes, there are several types and it does relate to the repayment source. So as you mentioned general obligation. Right, that's generally paid from the excess mill levy on all taxable property. So there the bond holders are assured of payment because the political sub generally has to levy taxes without limit to make the payment. That's why it's considered the best credit and the lowest interest rate. So, today maybe in the 2 to 3% range. The revenue type bonds all them as an example a city all their pledging in that case might be that

the net revenues generated by a water or sewer utility or a garbage utility, that's all there telling the investors that they will give them and so you're right, there isn't as much security and the rates tend to be higher. Maybe a couple of percentage points higher.

Senator Anderson: 2 points or 2%?

Mr. Wegner: I am not sure in today's market maybe the revenue bonds might be in the 4's to upper 4 %'s so maybe 1 ½ % to 2% higher than a GEO bond.

Senator Judy Lee: I am just curious and I am asking a personal opinion here. I see the vote in the House was 85-4 so there apparently wasn't a lot of and it came out the committee do pass 14-0. Do you think that they would be receptive to at least a discussion about returning the \$750,000 to \$1Million or is a half a loaf better than none?

Mr. Wegner: I think they would certainly be open to it. Again, especially since it's been nearly 50 years and it hasn't been updated. I did mention to the House committee, in Minnesota, for example, there threshold is \$1.2 Million, if it's under that you can negotiate. So that is really more in the ball park of what might be considered a small project today.

Senator Anderson: So companies like yours then you get paid the same whether it's negotiated or whether it goes out for public bid?

Mr. Wegner: Yes, as bond council our job is to do the legal work to help issue the bonds so whatever type of bond it is. Generally, our fee would be based on the dollar amount of bonds but the method of sale, whether it is negotiated or competitive right the fee would be probably the same either way.

Senator Dotzenrod: On line 17 21-03-25 and that is in the bill there. Is that a section that includes the general obligation and revenue bonds, but does not include a construction project? It does not include a curb and gutter or sewer project, so those are not in there. So this section that we're talking about here is only on the revenue bonds and the general obligation but does not include like the type of things that people think of as an infrastructure improvement project which would be separate. Now those others that are separate do they have dollar limits that are in the code that are different than what we have here?

Mr. Wegner: Right, this \$100,000 requirement above which you have to do the competitive, it only applies to general obligation bonds and certificates of indebtedness. So you're right, if you had a revenue based credit, like you mentioned or on special assessments with streets, sidewalks etcetera, there it is entirely left up to the discretion of the political subdivision as to how they will sell.

Senator Dotzenrod: Then so, we don't impose in the Century Code a dollar limit like we have in this bill with \$750,000. There isn't a dollar level that is identified in our code for those projects?

Mr. Wegner: There is no dollar amount in regards as to how they sell their bonds, or is to the size of a project. So in other words, the amount we're talking about is what is needed to sell the bonds but the only amount referenced in the code deals with GEO's and these

certificates. Other types of bonds there are no rules one way or the other as to how they are sold.

Chairman Burckhard: asked opposition to the bill or neutral testimony on HB1067.

Chairman Burckhard: closed the hearing on HB1067.

Committee Discussion:

Senator Judy Lee: I would be interested in having the committee consider amending it back to the original number. We could always end up with this in one conference committee if we're happy with that. I don't see this as being. If the cost of construction compared to a 50 years ago. It is not the same. You don't get much unfortunately for \$1Million dollars anymore. So I am just throwing out that for discussion. If you want it in an amendment, I can suggest that.

Chairman Burckhard: I would be in favor of that.

Senator Anderson: I think this is the 7 ½ times increase in this thing. In order to expedite the session and get done by the 29th I think we should just let it go.

Chairman Burckhard: The hearings are going to be done by March 29th. Make that clear!

Senator Anderson: I will move a do pass on HB1067 just like it is.

Senator Diane Larson: 2nd

Chairman Burckhard there is a move on a motion and a second to keep the bill at \$750,000 amount. Any discussion?

Senator Judy Lee: I plan to oppose the vote not because I oppose the bill, but because I would like to be able to have one conference committee with the House to discuss this potential of raising the limit. If they are very adamant about it, we'll say okay \$750,000 is okay but a million is reasonable. So I plan to vote against the motion.

Senator Dotzenrod: I guess I fall into that Senator Lee's sort of line of thinking here that the conversation. It seems odd that you'd have on one side of the Red River a limit of \$1.2 Million and then on the other side of the Red Rive \$750,000. It seems to me a little bit odd. I would think that \$1Million in todays' world it's big projects take up quite a bit of money.

Senator Diane Larson: I will oppose the bill for the same reason. I just didn't want to leave my senator hanging.

Chairman Burckhard: I think the thought was made that construction inflation has been different than the consumer price index inflation. Are we ready to call the roll?

Roll call vote: 1Yea, 4 No, 1 Absent

Chairman Burckhard: the motion fails.

Senator Judy Lee: I move that we amend HB1067 to restore the \$1Million threshold.

Senator Diane Larson: 2nd

Chairman Burckhard: Move and seconded back up to the million dollar amount that was originally proposed.

Roll call vote: 5Yea, 0 Nay, 1 Absent

Senator Judy Lee: I move do pass as amended

Senator Dotzenrod: 2nd

Roll Call vote: 6-0-0

Carrier: Senator Judy Lee

19.0636.02001
Title.03000

Adopted by the Senate Political Subdivisions
Committee
February 28, 2019

SK
2/28/19
1061

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1067

Page 1, line 19, remove the overstrike over "one"

Page 1, line 19, remove "seven"

Page 1, line 19, overstrike "hundred"

Page 1, line 19, remove "fifty"

Page 1, line 19, overstrike "thousand" and insert immediately thereafter "million"

Renumber accordingly

Date: 2.28.2019
 Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. H.B. 1067**

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. Diane Larson _____

Senators	Yes	No	Senators	Yes	No
Chair Randy Burkhard		X	Sen. Jim Dotzenrod		X
Vice chair Howard Anderson	X				
Sen. Diane Larson		X			
Sen. Judy Lee		X			
Sen. Jordan Kannianen					

Total (Yes) 1 No 4

Absent 1

Floor Assignment _____

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

Date: 7/28/2019
 Roll Call Vote #: 2

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. H.B. 1067**

Senate Political Subdivisions _____ Committee

Subcommittee

Amendment LC# or Description: Go back to \$1M dollar threshold

- 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. Diane Larson

Senators	Yes	No	Senators	Yes	No
Chair Randy Burkhard	X		Sen. Jim Dotzenrod	X	
Vice chair Howard Anderson	X				
Sen. Diane Larson	X				
Sen. Judy Lee	X				
Sen. Jordan Kannianen					

Total (Yes) 5 No 0

Absent 1

Floor Assignment _____

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

REPORT OF STANDING COMMITTEE

HB 1067, as engrossed: Political Subdivisions Committee (Sen. Burckhard, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1067 was placed on the Sixth order on the calendar.

Page 1, line 19, remove the overstrike over "one"

Page 1, line 19, remove "seven"

Page 1, line 19, overstrike "hundred"

Page 1, line 19, remove "fifty"

Page 1, line 19, overstrike "thousand" and insert immediately thereafter "million"

Renumber accordingly

2019 CONFERENCE COMMITTEE

HB 1067

2019 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

HB 1067
4/9/2019
Job # 34633

- Subcommittee
 Conference Committee

Committee Clerk Signature	Carmen Hickle
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Explanation or reason for introduction of bill/resolution:

Relating to municipal bid requirements and certificates of indebtedness

Minutes:

Chairman Longmuir: Opened the conference committee on HB 1067. The issue is the dollar amount. There was a committee member who did a rough calculation on what the inflation rate would have been since 1987 or the last time it was updated. That came up to \$750,000 and that is how the amendment was introduced. We were concerned about \$1million getting through the House so we came up with the \$750,000 amount.

Sen. Larson: We were looking forward so we didn't have to change the amount next session. It looked like \$1million would take us into the future. That is how we landed on that number.

Rep. Adams: I agree with that. \$250,000 today is not a lot of money in construction. I have no problem going up to the original million.

Rep. Strinden: I would agree, these projects are larger in scope and this number could give more flexibility.

Sen. Anderson: When the political subdivisions go to do these things and they have to go through all the procedures that adds considerably to the cost. If they could advertise the bonds and sell them through a local bank that is easier than going through the bond consulate and spending the extra money.

Chairman Longmuir: The local banks would like to help and this is giving them an opportunity to do that.

Rep. Adams: Made a motion the House accede to the Senate.

Rep. Strinden: Second the motion.

Vote yes 6, no 0, absent 0.

House Political Subdivisions Committee

HB 1067

4/9/2019

Page 2

Rep. Longmuir will be the carrier for House.

Sen. Lee will be the carrier for the Senate.

**2019 HOUSE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL NO. HB 1067 engrossed

House Political Subdivisions Committee

- Action Taken**
- HOUSE accede to Senate Amendments
 - HOUSE accede to Senate Amendments and further amend
 - SENATE recede from Senate amendments
 - SENATE recede from Senate amendments and amend as follows

 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep. Adams Seconded by: Rep. Strinden

Representatives	4-9		Yes	No	Senators	4-9		Yes	No
Chairman Longmuir	X		/		Sen. Larson	X		/	
Rep. Strinden	X		/		Sen. Anderson	X		/	
Rep. Adams	X		/		Sen. J. Lee	X		/	
Total Rep. Vote					Total Senate Vote				

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. Longmuir Senate Carrier Sen. Lee

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

HB 1067, as engrossed: Your conference committee (Sens. D. Larson, Anderson, J. Lee and Reps. Longmuir, Strinden, Adams) recommends that the **HOUSE ACCEDE** to the Senate amendments as printed on HJ page 1070 and place HB 1067 on the Seventh order.

Engrossed HB 1067 was placed on the Seventh order of business on the calendar.

2019 TESTIMONY

HB 1067

HB 1067
House Political Subdivisions Committee
January 4, 2019

#1
1-4-19

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 to political subdivisions and state agencies.

The subject of HB 1067 is sale requirements for municipal bonds. Bonds are sold by either:

A. Negotiated or Private Sale

- work directly with a bond underwriter or lender and negotiate terms
- governing body agrees to an interest rate in consultation with advisors
- for revenue based credit it is often better to negotiate directly (story bond)
- allows for an ongoing relationship with a particular bond underwriter

B. Competitive or Public Sale

- sale notice is published in official newspaper calling for bids on a certain date
- sale of bonds is awarded based on the lowest interest cost
- for tax levy based credit, easier to tell bidders exactly what they are bidding on
- transparent, better interest rates (?), and more taxpayer protection

The NDCC gives political subdivisions the option of negotiated or competitive sale. However, two types of bonds, general obligation bonds (GO) and certificates of indebtedness (CI), must be sold by competitive sale if the dollar amount exceeds \$100,000. Exceptions exist for sale to state and federal agencies and for refinancing prior bonds.

The \$100,000 threshold has been in place since 1971. The purpose of the \$100,000 exception is to allow small bond issues to be negotiated, such as with the local bank. It is often more efficient and less expensive to negotiate small bond amounts. Today, it is rare for a political subdivision to finance a project in the amount of \$100,000 or less.

HB 1067 changes the \$100,000 to \$1,000,000 to more accurately reflect what constitutes a small GO or CI.

I ask you to give House Bill 1067 a Do Pass recommendation.

Scott Wegner
Arntson Stewart Wegner PC
(701) 255.1008
swegner@aswbondlaw.com

HB 1067
Senate Political Subdivisions Committee
February 28, 2019

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 to political subdivisions and state agencies.

Political subdivisions are authorized to issue bonds to finance projects. There are several types of bonds: general obligation, revenue, special assessment, certificates of indebtedness, etc.

The subject of HB 1067 is sale requirements for municipal bonds. Bonds are sold by either:

A. Negotiated or Private Sale

- work directly with a bond underwriter or lender and negotiate terms
- governing body agrees to an interest rate in consultation with advisors
- for revenue based credit it is often better to negotiate directly (story bond)
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The \$100,000 threshold has been in place since 1971. The purpose of the \$100,000 exception is to allow small bond issues to be negotiated, such as with the local bank. It is often more efficient and less expensive to negotiate small bond amounts. Today, it is rare for a political subdivision to finance a project in the amount of \$100,000 or less.

HB 1067 changes the \$100,000 to \$1,000,000 (\$750,000 in the Engrossed Bill), to more accurately reflect what constitutes a small GO or CI. I request a Do Pass recommendation.

Scott Wegner
Arntson Stewart Wegner PC
(701) 255.1008 / swegner@aswbondlaw.com