

2019 SENATE POLITICAL SUBDIVISIONS COMMITTEE

SB 2188

2019 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Red River Room, State Capitol

SB2188
1/17/2019
Job Number 30959

- Subcommittee
 Conference Committee

Committee Clerk: Mary Jo Wocken

Explanation or reason for introduction of bill/resolution:

Relating to bid requirements for park districts

Minutes:

Written testimony#1 Sen. Kyle Davison
Written testimony#2 Mr. John Bollinger
Written testimony #3 Mr. Thom Brigl (Not in attendance)

Vice Chairman Anderson opened the hearing on SB2188. All senators are present, however, several left to give testimony on other bills.

Senator Kyle Davison, District 41(:16-4:21) introduced SB 2188, and urged the committee for a do pass on SB 2188. It eliminates the time frames these elected boards, the park districts as elected boards are forced to bid concessions. This bill would allow for longer term leases for businesses looking for more predictability. Written attachment #1.

Vice-Chair Anderson: Why are we in this business at all about restricting this stuff or dictating what they can do with this as far as concessions?

Senator Davison: Exactly, I don't think we should be in that business. I think the Park District can determine what that is, but currently in law, it requires every 8 years that they go out for bid. I don't believe in Fargo that they follow it. I don't think they bid the concessions out every 8 years. I don't think people are following the rule. They did perhaps in maybe a couple of the cities, and that's why these teams are coming forward here in Bismarck to talk about it, but I think in a majority of the larger cities they are just making the decision based on.

Vice-Chair Anderson: How many years ago was the 8- year thing put in? Do you remember?

Senator Kyle Davison: I don't remember. **Vice-Chair Anderson:** Do you remember if this whole section was created at that time? **Sen. Kyle Davison:** I do not. **Vice-Chair Anderson:** We might want to look back and see. An alternative here would be just to delete the whole section and repeal that. Because if it was created at that time, the whole section just for that one constituent who had this complaint might be a good time to get rid of it.

Sen. Dotzenrod: Just on the question of should we in state law have a statute that imposes this requirement that they do bids. Example cited (6:03-6:25) I think that there may be times when there is a relationship between some providers and people that are policy makers that influences who they hire. It might be good to have some requirements or me.

Senator Kyle Davison: That is for you guys to debate. I am bringing the bill forward and from my perspective these people that are on the Park Districts they get elected just like we do and even if it's just one person or the mayor they have their own separate entity and vote on these things. As I was asked to do this and was looking at the bill I thought to myself well, it will be interesting to see the ones that complain about leave it to local control or not local control. We use local control as a reason not to do things; or to do things. To me this is really a local control issue where somehow, somehow we came up with eight years. Through the process of legislation, we came up with 8 years, I am not sure it's benefiting our new businesses that are wanting to come to town to make long term investments in our communities, and hire our local people and bring entertainment to our cities.

Senator Dotzenrod: I can kind of imagine where part of an agreement might be that if there is a facility like the Dome in Fargo or some other fairgrounds, and they don't have a lot of money and they could work with this vendor who says, as part of the deal I will set up and build some of the facilities there for the concessions and I'll spend my own money to make sure that part of deal is if I do that I want to have a contract that has certain terms, certain times that they make some trades so I can where the management of a board or commission might say, if we want this done it would look better for us and it would serve our needs better but we don't have the money, we could make that deal. They could even do it on a competitive bidding basis. But I can why there might be times when they want to go over 8 years. If there is a large investment made, if there is capital construction by the vendor to help improve those facilities he might want an understanding or something in writing that he gets to have those concessions for 10 years. Eight years does seem off-hand like a fairly lengthy period of time, but I am trying to imagine maybe there are conditions under which they would want to go longer. Have you seen that and then prompted to do this because there have been some that wanted to actually?

Senator Kyle Davison: I am just trying to introduce the bill and move the bill along to the people that are more experts about how they got here, and how they made their investments. What are the challenges that they currently have?

Vice-Chair Anderson: Here we thought it was your idea. **Sen. Kyle Davison:** No it was not.

Mr. John Bollinger (10:06-14:06) Managing member of the Bismarck Larks baseball team. He is in support for SB2188. Written attachment #2.

Senator Dotzenrod: In one of your paragraphs about 1/3 of the way down, you refer to "you also provided the Bismarck Parks and Recreation with a long term tenant", signing a 10 year use agreement. So the term tenant there, you didn't use the word concessions. Evidently this tenant is in concessions is probably doing other things as well. You've also referred near the bottom, to the long term user's feel secure in their investments. So is this tenant that you're referring to in there, are they providing some capital investment in some of that facilities or

are they just providing employees and services or have they actually got some capital costs that they have to recover as part of the agreement?

Mr. John Bollinger: It's a great question. So we actually as the Bismarck Larks we have two businesses. Bare knuckle baseball which oversees the front of the house, and we have Bismarck baseball concessions. So we in essence are the user agreement and we also operate the concessions. So even though we are two separate entities, but we are the same business. We have a very unique model where we sell all-inclusive ticket packages. For \$16 dollars a family can buy a 7 game pack which includes all they can eat, food, soda, water, a jersey, hat. It is a really good deal. We've been able to go out and market it which causes great interest in the team. To your point on the investments, we as an organization have invested tens of thousands of dollars in conjunction with some matching grant funds, to put into the ball park, to put into concession equipment. We hire all of our staff, everything is our investment, so I think the parks would never want to lose that long term user because we are paying that rent. If we ever lost concessions due to a blind bid, we in effect could not operate our business. It would cease to exist.

Senator Dotzenrod: In that sentence there, about the long time agreement, you refer to signing a 10- year use agreement. When that use agreement was signed did you have to acquire and set that up by following some laws that required you to have to go to the public with competitive bids, publish notices in the paper, etc? Did you have to do all that stuff as is required as part of that?

Mr. John Bollinger: It's unique not on the user agreement. So there are a youth baseball teams for example that rent and have a use agreement with the parks district as well, just to get playing time. The concession agreement is entirely separate. But in our instance we wanted to come to Bismarck but we could not sign a use agreement until we had assurance we had the concessions again. Going back to just how our business model works, so while there are multiple users to that facility, it's the youth baseball teams, the Governors, there not interested in running the concessions they are youth baseball teams. We are a unique user in the fact that we a business really renting a space that is our home without a ball park we can't play baseball. While having the ballpark there and concessions really helps us have our business, we've also been able to bring a lot to this community to the park district and we're investing heavily into making this something long term for our local communities. Again, if we can have just the flexibility and negotiate with the parks and have a 20-year lease. It could be a two to four million-dollar additional renovation at that facility. We'd be the major financial contributors, by adding a video board, adding seats. For us to put that type of investment in something where every 8 years I don't know if I would have it. It's a very scary risk.

Senator Dotzenrod: That's really interesting the way you've got this set up. It is sort of a hand in glove relationship here between the two. I am still kind of curious, do our laws our state laws impose requirements on you that really don't work very well. Because of your competitive bidding and you've already sort of got this mutual agreement where there's capital investment being done by both of these entities, I assume you can do this without having to be forced to do competitive bids.

Mr. John Bollinger: I agree. There is part of bid currently. We pay a percentage of everything sold in concessions back to the Park District. It's not a question of would I not want to pay or get out of that. I totally understand there is a cost to what the parks provides; and there's staff and lighting and so we aren't trying to save money. I think there is a lot of interest as we increase what we're doing at the ball park. I just wish the park had the power and we've spoken with the executive director of the park district and they just tell us their hands are tied. But if they had the flexibility to put together a 20 year term, that had concessions and everything included under one agreement, we'd be able to get a win-win mutual agreement done for the long term and start investing.

Vice-Chair Anderson: Do you operate the concessions for other users of the park as well?

Mr. John Bollinger: Yes, we do. It doesn't make any sense to your point to have numerous concessions vendors. We have one who bids for all concessions and at all the games, but again when it touches on revenue for us that was basically, just a piece of the pie. It really isn't an advantageous business.

Vice-Chair Anderson: Do you end up operating the concessions for some activities where you don't make money, because that's your agreement with the park that you would run it for everybody.

Mr. John Bollinger: Yes, there are games that we break even at best. But again, we are providing the staff and it's an obligation we have to do. I don't want to discredit, but their games where we do make a bit of money at those games as well. So that's not why we are there.

Vice-Chair Anderson: I want to follow up a little bit on Sen. Dotzenrod question. What he was getting at, is the contract for the use of the facility required to be bid like this is. I think what he was getting at here, maybe we should just eliminate the whole section if this is the only replace you require bids, that's what he was getting at.

Mr. John Bollinger: I am not 100% sure. I actually was not a part of the initial negotiations for the use agreement. I came in at a little bit later and have taken over the team now, but, I am fairly confident that I can check on that there was no bid for the use agreement. Anyone could come in to the parks and says, hey we would like 10 dates and we'll pay you x in rental and there is just not a bidding process for that. The concessions though which is separate has that.

Senator J. Lee: I am sorry that I may have missed previous testifier since I was presenting elsewhere, but what does the Park District think about this and why aren't here to tell us and I would be interested in knowing a little bit about the history of how this came about and with the Chairman's permission Alex, could see why we have 8 years on this in case of any legislative history for this?

Vice-Chair Anderson: Sen. Davison did a pretty good job of that. There was a constituent of some legislator who wanted to have the contract for some concessions at some facility and the 8 years was the time when he would like to see it re-bid and so the Legislature accommodated that legislator and put the 8-year limit in there.

Senator J. Lee: A screwy example of this is the Pepsi soccer complex in Fargo, that had to accept the lowest bid, and Coke is being served at the Pepsi soccer complex. I am not suggesting that Pepsi ought to be able to charge whatever they want forever, but I the whole community was just appalled that they had to take that lowest bid. Coke came in lower than the Pepsi bid.

Senator Dotzenrod: I want to make sure that I understand. I think part of what's going on here is that the way that these markets are being built today is just different than what we've seen in the past. The Minnesota Twins probably make as much money selling Twins logo items, as they do operating a baseball team. There is a lot of stuff that goes with that. It does appear like with the Larks here, if you get the team then you're going to get the concessions operation as part of what goes with the team. It looks like a way where these function together. So for the team to actually have its' business model be successful, they need to have this association with the concessions because they do work together in there's capital being invested in this operation by both of them. It doesn't really fit the way the way that we think about bidding for concessions, the way the traditional view would be at a county fair or some other thing. It just looks like there's a new way in the way the business works today and the power of having this team logo and team branded items and I kind of sense that the law we have doesn't really quite fit with the way we see these things being built today particularly with sports teams. That's part of why this law doesn't work for you like it should.

Mr. John Bollinger: To your point, I think there are some instances where it could make sense. We are not like every user group. There are user groups like these youth teams that they may not have interest in the concessions and there might be like the Park District needs concessionaires here locally at all the fields. It is hard to find concessionaires. It's fund raising groups, but those concessionaires are not out there selling tickets. It is not part of their business. It is just concession. In unique case, striking the 8 years and giving the power to them or a caveat to long term users is just...We are also their selling tickets, bringing people in without us in their ballpark. That's 125,000 that aren't even there. So these larger sport teams, Minot, Dickinson, Fargo. We just don't have assurance that we'll be there after 8 years. One quick thing, the owner of the Bismarck Bobcats, does have a written testimonial that he wanted to hand out. (Attachment #3 handout from Tom Brigl) He was not able to attend the hearing today, but wanted his testimony on record.

Vice Chair Anderson: Asked for opposition testimony on SB2188, also neutral testimony. No one came forward. Hearing was closed on SB2188.

Chairman Burckhard returned from giving testimony on another bill.

Vice-Chair Anderson moved a do pass on SB2188
Sen. J. Lee 2nd

Chairman Burckhard asked for discussion on Do Pass motion.

Senator J. Lee: Why are micromanaging the kind of stuff like this. It is an absolutely gorgeous example of why a well-intended legislator based on the complaints of one person, ends up there ought to be a law and we suffer through all of this. I just wish people would really be thoughtful when their legislators about whether or not their bringing a burning issue all over the place. I don't mean this one, the one that was in place before.

Senator Kannianen: To clarify, the current section that we're looking at where the last sentence talks about the state fair, or for the Board of County Park Commissioners how they can grant concessions without letting bids. As far as the county versus city, in park districts say both city ones or county ones? Why is there a distinguishing feature there?

Chairman Burckhard: I think Park Districts are pretty much city oriented. I don't know if there are any county part districts.

Senator J. Lee: Oh Yes, I know that there is a collaborative agreement and perhaps our clerk can tell us about that. I know there is a collaborative agreement with the city and the county park districts to do some things along the Missouri River here and there are others that handle

historical museums, and things of that sort. Maybe we don't need this section at all. But it does say in each state, any county, any municipal, or whatever may grant by bid, but they don't have too. So it's pretty loose the way it is once we take that 8 years out I think.

Senator Kannianen: That's what I was wondering. So why does a county part commission have an exemption from letting bids but not a city, that is where I was going with that. What is the difference there? Like the very last sentence of the section.

Senator Anderson: I suspect if we looked at the history of why this was developed and what was in there and listen to the old testimony, why somebody was probably here to ask for an exemption at the time. That's why they were exempted. But I don't know that history and I think as we discussed earlier, maybe this whole section was created at this time for this particular legislator and constituent, maybe the whole section should be repealed but, I don't know if we want to get into that right now.

Chairman Burckhard: Just for the information, I know the state fair does have bids for concessions and I think there with the coke, pepsi, and we used to have one been distributor, now we have another, so they do bid on types of things.

Senator Dotzenrod: That last sentence in the bill, the fair association or the Board of County Commissioner. Stereotypically those organizations put on an event that lasts over a period of 3-7days, maybe even 10 days that goes one once during the year. What the city parks appears to me are sort of engaging in season long baseball, perhaps a water park or some facilities that really don't fit. It looks like that sentence was put in there so there they have a one-week event during the year that they may have different vendors that want to come in and provide the food at that event. It might be quite a bit different event that is happening in some of these city parks with their teams and these- year around or season long activities that require a lot of substantial capital costs on the part of the vendor. That might be the difference, I am not sure.

Senator J. Lee: I am just wondering if we just instead of just limiting it to the Fair Associations and County Park Districts, that we can reconsider the amendment or we further amend and I am just throwing this out for discussion to start with. We're not limiting there, but any of those entities may grant a concession without letting bids. Why would we think one group of political elected officials is going to be more responsible than another? But I appreciate Sen. Kannianen's question about that.

Chairman Burckhard: Well we've got a motion and a 2nd for a do pass, do we want to undo that and consider.

Senator J. Lee: If there is any sympathy in the committee for allowing all in the political subdivisions to have the same opportunities and limitations, that might be something we might want to consider.

Senator D. Larson: I guess I would also like to know that the idea has been brought up a couple of times about just getting rid of that entire section. I guess I would like to know what the ramifications would be of that if having this section authorizes them to be able to have the concessions bid and all of that or if we take that out will that kind of hinder things or is it better to leave it in or take it out. What might happen if we do that? It would be good to do just a little more research about this.

Senator Anderson: I guess maybe if we looked up in the law book we could see the annotations about when this was created and so forth and if it was all done at the same time, to just create this one exemption. Maybe the best options would be just to amend the thing and delete the whole section.

Chairman Burckhard: Are we asking Alex to research the history of it? Is this what your suggesting?

Sen. Anderson: If we can't find it in the law book we could ask the Law Library to get us that information and maybe it's time to just pull a section of the law. Keep our constituents happy we eliminate some laws.

Chairman Burckhard: We've got the Century Code on our I-pads but it doesn't give it a history of the bill.

Sen. Anderson: The law book does have the footnotes and annotations about when it was passed and sometimes why.

Sen. Dotzenrod: I think that the requirement to have some competitive bids is probably good. I think if you don't have that in the law and you can build relationships that just never have a chance to be a competitive nature of wanting to have a concession stand at an event. There are a lot of vendors out there. The situation we heard about today with the Larks is really not a typical of what happens in a typical county fair. It is really two different things.

Chairman Burckhard: In the case of North Dakota State Fair, they have stuff all their long, I think it would make all kinds of sense to continue to have competitive bids because they host a lot of events out there. If you took away the competitive bids I think there would be very disappointed vendors.

Sen. Anderson: My guess is that requirement for competitive bids probably is in another section of law and this was added just for this particular reason.

Sen. J. Lee: I am referred to state law 48:09:01. I think it would be appropriate from what I know right now to leave it in, because it obviously permits the ability to do bids, but also that there may opportunities to do under certain circumstances when they don't have too. To not enable them to do it I think might be risky. I don't know how much more history we have to do in order to learn that. I would be comfortable with the idea of opening up those opportunities to grant a concession without letting bids to all the same folks that are discussed in the previous sentences about having bids. Because there aren't any question and they are able to do it. But there will be some certain circumstances where they don't have too. Also if we change it like that, then we're just going to be sending it to the House and they will be having a hearing and all the other parties will come and tell why it is a crappy idea.

Sen. Anderson: I think Sen. Dotzenrod might be right here. This original in state law was 1939. It's been amended several times 1943, 1965, 1981, 1995 and 2011 and it does include the requirements for bidding and a lot of other things, publications in the newspapers and other things. It might be that the 8 years was added with that one revision that Sen. Davison tested for that particular situation. Passing the bill may be the best way to approach it. There are actually 4 sections about the rules and regulations, so forth.

Sen. Dotzenrod: It does appear that the problem that the sponsor of the bill was trying to solve here, does get solved with what he's done here. I do think that there are things going on out there in the market place that we just didn't anticipate when the laws, the sort of vision we had about how this was going to work. When you see the way these new facilities are being built and these sport teams and the complexes. There are a lot of things going on out there with the power of marketing, and the ability to see merchandize that goes hand in glove with the building up of the reputation and enthusiasm that goes with the team. We fixed that problem I think, by taking that 8 years out. They are going to attract capital and have building and investment as part of that concession agreement. I think you have to go past 8 years.

Sen. Anderson: An additional thing to that is, for example, in the Civic Center here in Bismarck, the City of Bismarck keeps the concessions because they know that's the only way to make any money in this operation letting the concessions rental operating paying the operating costs and security.

Chairman Burckhard: Are we ready to vote on a do pass motion?

Roll call vote: 6-0-0

Carrier: Sen. Dotzenrod

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2188**

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. Judy Lee

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	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Dotzenrod

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

REPORT OF STANDING COMMITTEE

SB 2188: Political Subdivisions Committee (Sen. Burckhard, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2188 was placed on the Eleventh order on the calendar.

2019 HOUSE POLITICAL SUBDIVISIONS

SB 2188

2019 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

SB 2188
2/28/2019
Job #32996

- Subcommittee
 Conference Committee

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

Relating to bid requirements for park districts

Minutes:

1,2,3

Chairman J. Dockter: Opens the hearing on SB 2188.

Senator Davison: (Handout #1). Introduced the bill by reading his testimony.

Rep. Adams: They are taking out the exceeding eight years, could it be less than that? If a person wanted a concession for less than eight years, they could go into a contractor for smaller period of time?

Sen. Davison: How the bill reads it allows the park district to negotiation whatever term they deem necessary for the best interest of their community.

Rep K. Koppelman: The bid period cannot exceed 8 years now, so a district could enter into a shorter period now?

Sen. Davison: If you are trying to write a lease for 10 to 15 years, you have to bid the concessions for eight years. When we wrote that law it made sense but as we have grown we see teams come in and their businesses needs concessions and predictability. That is why we are trying to have it go back to the local park district and have them negotiate it locally.

Rep K. Koppelman: Most of the park districts in North Dakota are fairly small and when we do a one size fits all it creates a standard for everyone. If there are no bid requirements when tax dollars are involved doesn't that allow for cronyism or somebody gets a lease and others don't have the opportunity to bid for those tax funded operations?

Sen. Davison: I would hope we write laws to encourage economic development, encourage relationships, trust and partnerships at the local level. Do we want to legislate to prevent one out of one hundred that is going to be cronyism or do we legislate to help 99 out of 100 to have a productive relationship? I think most park districts bid their concessions like their administrative code or local laws states.

Rep K. Koppelman: When we make law we are called on to make a one size fits all, there is a difference when there are tax dollars involved versus a private business.

Sen. Davison: That is the responsibility of those elected officials in the park district to make that happen.

Rep. Fegley: It says reasonable rental per month. Are the words per month problematic? As sometimes groups come in for a few days or a week. Do we need the per month in there also?

Sen. Davison: That was already in the bill.

Chairman J. Dockter: If you go on a 5-year contract which is 60 months that would be \$200 per month. I think that is the intent of the law but we can check it out.

John Bollinger: (Handouts 2,3). Manager of Bismarck Larks. Read his testimony.

Rep. Johnson: Can you tell us about the operations of the concessions? Do you purchase the product? Who do you hire?

Mr. Bollinger: Teams do it different ways. We do everything in house, we purchase all of our own equipment, we have our own smoker, we grill and cook everything on site. We employ 110 seasonal employees. We include food as part of a package deal. We have all inclusive ticket packages, so families can have an affordable option to enjoy the games.

Rep. Johnson: Typically park districts get bids from the major beverage suppliers. Are you limited in your sales, do you have to sell what the park district tells you to sell?

Mr. Bollinger: We had to bid out the concessions, we pay a rental fee and a percentage of sales. Our soda distributor dictates the price, there is a rebate that goes back to the parks, plus the parks gets the sponsorship so that is a stipulation we have to follow.

Rep. Johnson: Do you have a beer license?

Mr. Bollinger: Yes

Rep. Johnson: So everything except for soda is you? Your employees, your product, you operate it?

Mr. Bollinger: Yes, we go out and negotiation that and a percentage of sales goes back to the park district. Not on alcoholic beverages.

Chairman J. Dockter: Closed the hearing.

Rep. Adams: Made a do pass motion.

Rep. Johnson: Second the motion.

Rep. Ertelt: I don't know if it's prudent to allow any length. There are very few bad actors but the possibility is you could be looking at 99 year leases. I will oppose the do pass if we leave it as is. I would be open to increasing the amount of time but leaving it wide open is a dangerous proposition.

Rep. Johnson: I think we have to get away from our parochial attitudes. We have a softball complex and had a national tournament, they want to run concessions when they are there which is 10 days in August. They want to come back and have a long term lease. We have to think bigger when it comes to economic development.

Rep. Hatlestad: It is a good idea that we spur development, it would be easier if we knew the terms of the lease. If we could get some idea of what the lease might be, a gradual increase in fees or percentages or protections for the park district. Without seeing the contract, it is hard to say, although I like the idea they are willing to take the risk to put a facility in a community.

Rep. Adams: I think the park boards have smart enough people to look at the contract and negotiate the contract. I'm sure they have in there if the people aren't doing their jobs to end the contract.

Chairman J. Dockter: As we heard in testimony it's a win for both sides, they figure out the percentage, they negotiate that is not for us to decide.

Rep. Longmuir: I agree with Rep. Adams we can't micromanage and look at every contract. This impact in my area will be very minimal.

Vice Chairman Pyle: The park boards generally share the same attorneys are the cities so usually contracts are reviewed by attorneys.

Rep. Ertelt: I'm not opposed to increasing the term but having it indefinite is unwise. You say you want to give local control to the park districts but what you are doing is taking control from any future elected park district member. If it is during that contract period for which it was previously negotiated. I don't see where this is actually hindering from bringing organizations to the communities. I am willing to increase the amount of time but I think we are going too far.

Chairman J. Dockter: There are several examples we have in government, like the Fargo dome and NDSU football has a long term lease. Last session OMB was going to go into a 50-year contract with heating and air so they would know their costs. People we put in these decision have to do that, for us to micromanage that is not our job.

Rep. Simons: If we allow this to happen I believe if a person does get greedy and try and cut costs eventually people will stop attending. Which will put pressure on the free market and they would get a different operator. I believe the free market will work. Telling a county or any entity they are bound by state law is an issue for me.

Vote yes 13, no 1, absent 0.

Rep. Johnson: Will be the carrier.

Date: 2-28-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2188

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. Adams Seconded By Rep. Johnson

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

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Johnson

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

REPORT OF STANDING COMMITTEE

SB 2188: Political Subdivisions Committee (Rep. Dockter, Chairman) recommends **DO PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2188 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

SB 2188

SB 2188
1.17.2019
att #1

Testimony SB 2188

Mr. Chairman,

Senator Kyle Davison, District 41 south Fargo, I appreciate the opportunity this morning to introduce SB 2188. The passing of this bill would allow for more flexibility for our park districts to negotiate longer-term leases which typically include concessions.

Many sessions ago there was some frustration between a park district board and a constituent of a local legislator. The frustration was the constituent wanted to have an opportunity to run the concession stands at a park district facility. The park district board was happy with the current vendor. Well, the legislature gotten thrown into the middle of this dispute. The result was requiring park districts to go out for bids on concessions every eight years. So why eight years? It probably was the halfway point between 5 and 10 years which was settled in a conference committee.

Fast forward to 2019, and the landscape for park district concessions is changing a bit. The change is we are seeing baseball teams like the Bismarck Larks and Fargo-Moorhead RedHawks and hockey teams like the Bismarck Bobcats coming into our towns as new businesses and renting park district facilities. Many times, the leases they are wanting to negotiate can be up to 10 - 15 years. Within these leases a majority of them need to include the concessions stand revenue which is critical to their business model and their long-term success.

SB 2188 eliminates the time frames these elected boards are forced to bid concessions. I believe as elected officials park districts or municipalities know what's best for their communities. This also would allow for longer-term leases for businesses looking for more predictability.

I ask for a Do Pass on SB 2188 and would be happy to answer any questions.

LB 2188
1.17.2019
#2

Good morning Chairman Burckhard and members of the Political Subdivisions committee.

My name is John Bollinger and I'm the Managing Member of the Bismarck Larks baseball team. I'm here today to testify in support of SB-2188.

For those who aren't familiar with the Larks, we are an affiliate of the Northwoods League, a 25-year-old, 22-team summer collegiate baseball league, that's attracted some of the game's greatest players including 2 two-time Cy Young Award Winner Max Scherzer and MLB All Star Chris Sale. We are fortunate to play at the beautiful, newly renovated Bismarck Municipal Ballpark, which is owned and operated by Bismarck Parks and Recreation District.

While on the field we provide our community the chance to watch the nation's top college players who compete in 36 home games, our organization truly prides itself on using FUN to make a difference in the lives of our families, businesses, and communities we serve. This is accomplished with a commitment to putting fans first, investing in high quality family entertainment, and selling unique all-inclusive food and beverage ticket packages at affordable prices.

With this unique blend of baseball, food, and fun, in our first two seasons, the Larks have attracted over 300 company picnics, generated over \$100,000 in donations thru fundraisers like our 50/50 raffle and Miracle Minute program, and attracted over 125,000 fans through the gates at Bismarck Municipal. We've even expanded our presence in the community with numerous initiatives such as our Reading Program, which this year will impact over 8,000 students in Burleigh, Morton, and surrounding counties. In 2017, the Larks were able to sell out 27 of our 36 home games at and in 2018, even with the addition of 300 seats, we sold out 30 of our 36 games.

The Larks have also provided the Bismarck Parks and Recreation District with a long-term tenant signing a 10-year use agreement with the option to renew for (2) additional 5-year terms. This agreement secures a home for the team and annual rent and advertisement payments for Bismarck Parks and Recreation.

For all these reasons, we are here in support of SB-2188.

The law, as currently written, states that any state, county, or municipality having the control of any state, county or municipal building may grant concessions by leasing a concession agreement to the highest responsible bidder at a reasonable rental per month – however, it currently also states **for a period not exceeding eight years.**

When putting together our initial, long-term use agreement, the Parks informed us that due to this state law, they could not exceed 8 years on the separate concession agreement. Thus, hypothetically, even with all the things the Larks or other user groups bring to their facility and communities including a long-term use agreement, an opportunistic company could decide to outbid the team on solely the concessions after season 8 thus taking away a crucial part of the team's operation. Without the right to concessions in these facilities, our business and most other long-term user agreements like ours would not be sustainable.

By eliminating this time restraint, it simply gives the state, county, or municipality flexibility to include the concession agreement inside of win-win, long-term use agreements longer than 8 years.

This change would not only help win-win, long-term users feel secure in their investments, but it would also spur more private investment into these state, county, or municipality owned facilities.

For example, over the past two years, in conjunction with Bismarck Parks and Recreation Matching Grant Fund, the Larks have invested tens of thousands of dollars annually into projects such as a walk-in cooler/freezer, new seating, speaker systems, and other now permanent equipment at the facility.

Moving forward, if the Larks and Bismarck Parks and Recreation wanted to consider even larger investments from the team such as a video board, new seating areas, locker rooms, a kitchen, etc. the elimination of the 8-year clause would allow the Parks to give the team assurance they would have the concession rights for the duration of the use agreement.

For these reasons, we ask for your support in giving power back to the state, county, and municipalities to secure longer-term concession agreements with the right long-term user groups. Please vote "do pass" on SB-2188.

SB2188
1.19.2018
#3



January 15, 2019

To Whom it may concern:

My name is Thom Brigl and I have owned the Bismarck Bobcats NAHL Hockey team since 2001. I am sorry that I am out of town today but I wanted to express in absentia my support for SB-2188.

As a private party and sports franchise like others, an organization makes a significant investment and assumes large financial risks in order to provide quality entertainment in their regional communities. Franchises for the most part lease their space from governmental bodies and rely on a number of revenue streams to survive in their effort to provide the entertainment as noted. Much like any major league franchise, we rely on tickets, sponsors, merchandise and food and beverage sales.

One of the most critical streams come from the private party's ability to provide and maintain concession or other food and beverage services. The need to control the concessions and beverages is multi-faceted. The first of course is the revenue streams from the sales of the food and beverages themselves. The second is the importance of being able to manage the level and quality of services provide to your fans vs relying on a third party vendor who may not have the same level of interest that you do for your fan base. And the third, and maybe the most important of facet is to be able to manage the providers that you use to obtain their financial support as well as they are often in turn sponsors of the franchise. Accomplishing these three pieces is without a doubt a requirement to maintain a successful franchise.

In order to eliminate private party's uncertainty of hoping to win frequent successful bids under the current law, and in order to maintain these revenue streams to maintain the viability of entities within the venues defined, and over the term as defined, the Bismarck Bobcats are in support of SB-2188.

Sincerely

Thomas J Brigl
Owner, Bismarck Bobcats

Testimony SB 2188

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#2

2-28-19
SB 2188

Docket

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#3
2-28-19
SB2188



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