

Testimony HB1280

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Testimony in opposition for HB1280

Dear Committee Chair and Committee Members

I am Sam Wagner, on behalf of the Dakota Resource Council. We are statewide conservation and family farm organization with more 600 members statewide.

We are here today to oppose HB 1280.

On the surface level we understand the base argument of this bill: a landowner or board member not paying taxes or a special assessment should not receive benefits or be allowed to vote on water projects affecting them.

However, after talking with our members about this bill, some of which have been directly impacted by special assessments levied by their water board, we found that this bill appears to be targeting a handful of our members who were in a dispute with their water board over a special assessment from a drain improvement project. It is our understanding that in their scenario our members wanted to exhaust their legal remedies before paying the assessment, which they did all the way to the ND Supreme Court. And at the Supreme Court they won. The Supreme Court ruled that there should have been a vote regarding the drain improvement project that caused our members to be charged a special assessment, making the special assessment on their property null.

If this bill passes, our members are in the unenviable position of not being able to have a future drain project on their land and also it appears they would not be allowed to vote on some future projects because they did not pay their special assessments (because they won in court!). Taking away a person's ability to vote or to have future improvements on their land because they attempted to exhaust their legal remedies is not the way to address the issues between water boards and landowners. We value property rights and the right to vote at DRC and so this legislation is alarming to us.

We would prefer this bill does not pass, but we have provided an amendment that we think would make this bill more workable:

4. If a board holds an election to approve a project under subsection 3, an affected landowner receiving a benefit from a project may not vote on the question of obligating the district for the costs if the landowner has failed to pay

the required assessment provided that the landowner or entity is not in active or pending litigation with their water board regarding the project in question.

Unless amended as such we recommend DO NOT PASS on this Bill.