

Testimony in Opposition to House Bill 1200
January 19, 2021
House Finance and Taxation Committee
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning Mr. Chairman and members of the House Finance and Tax Committee. For the record, my name is Bill Wocken, appearing on behalf of the North Dakota League of Cities in opposition to House Bill 1200. The bill seeks to limit the property tax levy increase from one year to another by any taxing jurisdiction to no more than two percent in dollars unless an increase is approved at a special election.

This concept has been debated several times over at least the last ten years in legislative proposals. The North Dakota League of Cities does not favor this legislation for several reasons.

Imposing a cap of any amount on annual increases in the property tax levy is quite possibly counterproductive. If a taxing entity can produce a budget that requires less than a two percent increase it will be tempted to take the maximum increase so that it will be advantaged for the following year. There is no incentive to reduce the amount of the annual increase. The blame for this increase might be placed on the state.

A second problem is the variability of forces on the city budget. One only needs to recall past winters to know that snow removal costs can vary greatly as can other municipal expenses. One cannot budget for all extreme situations so state law allows taxing jurisdictions to set aside a contingency amount or emergency fund. If that fund is diminished it needs to be replenished up to the statutory maximum balance in case another unusual event (snow, flooding, cyber attack, catastrophic building failure, etc.) occurs in the following year. This bill affects that provision of law. In a time in which all levels of government are facing a great number of uncertainties and recovery from the effects of the COVID 19 virus, this legislation may be crippling. We know that there will be a "new normal" after COVID is controlled but none of us know what that will look like.

A further potential complication is the normal increase in unavoidable costs. Floods, breakdowns of major equipment, pipeline protest or other unanticipated events may occur and a taxing jurisdiction would have to respond. Less headline provoking, but of equal concern, are opening of a new fire station and the added staffing requirements of that new station or the increase in a county jail fee or a state ordered property reassessment. These events impact a budget in a single year. A two percent increase would not likely handle these types of issues. In a smaller city with a smaller tax base the impacts are more likely to be magnified by a budget limitation of this type.

In a community that is growing there will be costs associated with growth that will not coincide with tax base growth advantages resulting from that growth. For example, streets and utilities need to be installed in a subdivision to allow homes to be built. It is rare for the increased tax base to occur in the same year as the infrastructure investment is made yet, without the infrastructure, growth and tax base expansion would not be possible. If there is no growth the only other option is decline.

This bill allows for an expensive election if a local government needs to exceed the two percent increase cap. Preliminary budgets must be provided to the county auditor by August 10 each year. Prior to 2017, preliminary budgets needed to be complete by the end of September. We often hear from city auditors and city finance directors that the move to August has created a lot of issues with putting together an accurate budget. In order to use the election process allowed by this bill, a city would need to have a preliminary budget completed in March to comply with all the statutory timeframes, as it takes a minimum 64 days to call an election. Additionally, elections are not cheap and this would likely be an expense that was not budgeted in the previous budget.

Local elected officials are responsible for their city's annual budget and the mill levy resulting from it. This legislation would tie their hands unnecessarily. There are few local elected officials who enjoy raising property taxes. If any exist, they are usually relieved of their elected office in short order. Voters have sharp pencils and long memories.

House Bill 1200 is not needed to hold the line on property taxes. The North Dakota League of Cities respectfully asks for a DO NOT PASS recommendation on this bill.