

1/19/2021

HB 1300

Rep. Ben Koppelman- Testimony

Mr. Chairman and Members of the Committee, thank you for the opportunity to introduce HB 1300 to your committee.

This bill codifies the practice of stopping special assessments once adequate funds have been collected to repay the debt for that special assessment project. It would require annual review of all special assessment revenue to ensure that citizens are not assessed more than is necessary to accomplish the goals of each individual project. Although some may say that law does not clearly require this practice, it is clearly required based on a 1976 AG opinion that states "if sufficient money is collected on a special assessment project in less time than the assessment period, the city must stop levying assessment for the remaining years". This opinion was also reaffirmed by subsequent by an AG opinion in 1988 which stated, "a special assessment levy must be terminated if the obligation is satisfied by the municipality from other resources". Both AG opinions are referenced in a 1996 AG opinion that was responding to a slightly different issue. It seems possible that if a municipality was not to research AG opinions, that they might read the law in a different way and thus might over tax their citizens.

For example, when a special assessment district is created by a municipality for a specified project, a project account is created. If the project is not objected to, the project often proceeds using engineering estimates of cost which often include contingency funds. Bonds may be sold at this point in the amount of the engineers estimate. The bond proceeds are then deposited into the project account. Once the project is completed and all expenses have been paid, it is not uncommon for there to be contingency funds left over, and these funds are left in the project account. Annual property assessments begin thereafter which usually include a

"profit" on the interest rate charged by the municipality of 1-2% more than the interest rate of the bonds that were sold. These annual assessment proceeds are deposited in the project account. Finally, there are some that pay their special assessments off early in a lump sum to avoid paying interest, and those funds are also deposited in the project account. Annually the municipality pays the bond payments for the project from this project account. The combination of these activities often results in the municipality having sufficient funds to pay off the bonds a year or multiple years early, which is why it is important for the municipality to annually review the special assessment accounts which safeguards against taxpayers being over assessed. If this process is followed, it will result in having less than 2% of the project total remaining, and this money will be transferred to the general fund of the municipality in order to close out the project account. However, if this process is not followed, it could result in a much larger amount being left over in the project account, and thus upon the transfer of those funds to the general fund, would result in special assessment taxes on a few being used for general fund expenditures for the entire municipality. The second scenario would likely be unconstitutional and would require refunds. I have attached the 1976 AG Opinion for your review

Mr. Chairman and committee members, thank you again for your time and I would request a Do-Pass recommendation.