

Testimony in Opposition to House Bill 1471
February 1, 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 Taxation Committee. For the record, my name is Bill Wocken. I am testifying in opposition to House Bill 1471 on behalf of the North Dakota League of Cities.

House Bill 1471 seeks to redefine the constitutional tax exemption for religious institutions. The present defining language was written by this committee several sessions ago. The League of Cities feels that the existing language is reasonable and understandable and that any changes that are made should make this exemption more definitive and understandable.

We have concern with the changes the bill proposes to lines 8-13 on page 1. This language defines the area of property that can be exempted as being used exclusively for religious purposes. The existing language exempts worship space along with adjacent landscaped areas, sidewalks and off-street parking, residences for ordained clergy and it adds up to five acres of land that may be on a different parcel from the worship space or residences. This exemption is defined in terms that can be readily understood and measured.

House Bill 1471 takes away all limitations and measurements and simply says if the property is owned by the religious organization and used for religious purposes it is all exempt. This change leaves much open to interpretation and discussion when the assessor needs to decide on the extent of the church's exemption. This language changes the "used exclusively" language in the constitution (Article X, Section 5) to simply "used". Does this mean used exclusively or occasionally or historically or once? The assessor and Board of Equalization will have to conclude this on an individual basis setting up discussion, uncertainty, disputes and potentially even litigation.

Section b. of House Bill 1471 (lines 16-21, page 1) removes the two acre limitation on the size of the residence for clergy and makes it without limit in size. It expands the application of the exemption from bishop, priest, rector or minister to include "other clergy". This term is undefined. Not all religions are as structured as the widely recognized major institutions, but they can still fit the definition of "religious", that is serving a religious belief or beliefs. Is Brother Bob or Sister Nancy who look out after the business side of a religious endeavor a member of the clergy? I do not know, nor is the assessor likely to know.

On lines 19-20, page 1 and line 23, page 1 through line 1, page 2 the terminology "not leased or otherwise used with a view to profit" is used to provide the exemption. This terminology is unclear. The language appears to set these up as two conditions; "leased" and "otherwise used with a view to profit". Since the conjunction "or" was used, not "and" it would seem that simply leasing the property would allow it to be exempt and not tied to the intended profit language. We also are concerned about the intended profit language. What about making a profit that was not expected? How is the assessor to know what the organization's "view" was? Is this setting up an audit situation? In fairness to all parties, this cannot be left up to the opinion of the assessor.

As the many possibilities for the application of this proposed change to the church exemption become apparent the questions created by the proposed changes make this exemption more unclear. How is a religious bookstore to be handled? A shop selling candles and other consumables to churches and the public? A ranch raising cattle that will be donated to a religious organization? A commercial building or theatre that allows a religious service on weekends?

The present statute includes definitions and measurements and from what I have heard, is understood by assessors. It does seem to meet the constitutional requirement that the exempt property must be "used exclusively for religious purposes". The North Dakota League of Cities therefore asks you to give House Bill 1471 a DO NOT PASS recommendation.