

Testimony in Opposition to House Bill 1192
January 21, 2021
House Political Subdivisions Committee
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning Mr. Chairman and members of the House Political Subdivisions Committee. For the record, my name is Bill Wocken, appearing on behalf of the North Dakota League of Cities in opposition to House Bill 1192.

The bill seeks to limit the assessed valuation of any parcel of property to the value that parcel had in the previous year. It also seeks to limit any property tax levy to the levy imposed in the previous year. Either or both restrictions could be superseded for one year only by a majority vote in a special election. These concepts have been considered by the Legislature in several previous sessions. The North Dakota League of Cities does not favor this legislation for several reasons.

Requiring the assessed valuation of any parcel, let alone every parcel of land, to remain the same as in the previous year, as required by Section 2 of this bill, destroys the concept of *ad valorem* taxation on which the property tax system is built. The *ad valorem* system taxes property based on its worth. Worth is determined by the real estate market and the many market forces that determine the value of a parcel. Higher priced properties will normally pay more in taxes than lower priced parcels. Taxes are assessed based on the value of the property, not only on its color, style location or ownership.

It is very likely that not all properties will maintain the same market values from year to year. New, developing areas may appreciate at a different rate than central core properties. The state Board of Equalization polices local valuations to ensure that all the factors that bring value to a parcel are considered when the value of each property is set each year. Requiring valuations to remain the same will restrict the valuation of individual parcels and result in values, and taxes, based on criteria other than worth. It would create an artificial market value upon which real estate taxes would be based.

Imposing a cap of any amount on annual increases in the property tax levy, as required in Section 3 of the bill, is quite possibly counterproductive. If a taxing entity can produce a budget that requires less than the capped value it will be tempted to take the maximum amount 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 zero 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.

The 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 1192 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.

On Tuesday of this week, the House Finance and Tax Committee heard HB 1135 (a taxable valuation freeze for elderly and handicapped persons) and the sponsor, recognizing the unanswered questions and possible unintended consequences, amended the bill into a study of the property tax system. I am also aware that this morning you will hear HB 1167 which proposes a study of the property tax system. The North Dakota League of Cities supports a robust study of the entire property tax system and looks forward to participating in this discussion.