

1999 SENATE POLITICAL SUBDIVISIONS

SB 2231

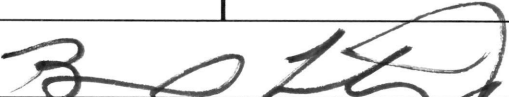
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2231

Senate Political Subdivisions Committee

Conference Committee

Hearing Date January 21, 1999

Tape Number	Side A	Side B	Meter #
1	x		2,832 to 4075
Committee Clerk Signature 			

Minutes:

SENATOR LEE: OPEN COMMITTEE MEETING ON SB2231

CLERK: READ TITLE OF SB2231

KEVIN GLATT: INTRODUCTION OF SB2231, SEE TESTIMONY

SENATOR LEE: Fiscal liability in counties with school districts unless there are not any

KEVIN GLATT: That is correct

SENATOR NELSON: what do you do to certify and abstract, what is it

KEVIN GLATT: See back side of testimony, place auditor certificate to each abstract and place it with mortgages, title insurance policy in place of abstract

SENATOR LEE: Passed bill yesterday that would charge .25 cents in the event that you have to do this.

SENATOR LYSON: Update on abstract and where the abstract went and certification of person that did the abstract.

KEVIN GLATT: I don't know that any county auditor or county attorney can certify an abstract is correct. Would put certification on that says that the taxes are paid

SENATOR NELSON: Title insurance and attorneys who look at abstracts and liens

SENATOR KELSH: Taxes owed and is that put on the abstract

KEVIN GLATT: never seen an abstract and this work is done by the closing agent selling the property cannot be done until the taxes are paid and which taxes are paid

SENATOR WATNE: one of three states that you can still use an abstract

Abstract goes from one seller to the other, and forgery to abstracts and title insurance covering the abstract.

SENATOR LYSON: Burger sold property 18 times

SENATOR NELSON: history and secondary market using an updated abstract

SENATOR KELSH: uses of secondary market for abstracts

SENATOR LEE: any further questions

MOTION: DO PASS BY SENATOR WATNE

MOTION: SECONDED BY SENATOR LYSON

MOTION: DO PASS BY 6 TO 0 VOTE

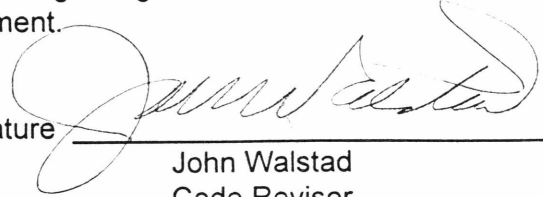
CARRY: SENATOR WATNE

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. 2231

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Signature



John Walstad
Code Revisor

Date: 1-21
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2231

Senate Political Subdivisions Committee Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass

Motion Made By Watne Seconded By Lyson

Senators	Yes	No	Senators	Yes	No
Senator Lee (Chairman)	/				
Senator Lyson (Vice-Chaiman)	/				
Senator Flakoll	/				
Senator Watne	/				
Senator Kelsh	/				
Senator Nelson	/				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Senator Watne

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 21, 1999 12:18 p.m.

Module No: SR-13-0970
Carrier: Watne
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2231: Political Subdivisions Committee (Sen. Lee, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2231 was placed on the
Eleventh order on the calendar.

1999 HOUSE POLITICAL SUBDIVISIONS

SB 2231

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2231

House Political Subdivisions Committee

Conference Committee

Hearing Date 2-25-99

Tape Number	Side A	Side B	Meter #
1	x		0.6-4.6
1 2	x		25.9-33.0
Committee Clerk Signature <i>Sam Dever</i>			

Minutes: BILL SUMMARY: Relating to certification of abstracts by county auditors and treasurers. Chairman Froseth opened the hearing on SB 2231 with all committee members present except Rep. Gunter.

Kevin Glatt, Burleigh County Auditor : testified in support of this bill. (See attached testimony)

In my eleven (11) years in this position, I have never certified one abstract of title.

Rep. Niemeier : 1.8 I understand that certification is to supply the amount of taxes that are due on that piece of land. Is that information given in the abstract; or in some other way if you don't provide certification?

Kevin : Normally we certify deeds, daily. When a deed comes in we have to place the same certification on the deed in order for it to be recorded. People call and/or the abstractors come in and check daily to check to see if taxes are delinquent. Daily we do certifications on deeds.

Rep. Koppelman : 2.5 Who does certify abstracts?

Kevin : I can't answer that question. I don't know what they mean by certification. The register of deeds does not see abstracts either. Normally the abstract is held by mortgage company.

Rep. Koppelman : Recently, I had to look up an abstract for a church, and that was housed at the register of deeds office in Cass County. Certification, to me, sounds like it has to do with proof of clear title. Normally an attorney does this with title search. Was that intent way back?

Kevin : Very well may be; who knows what original intent was way back then.

Rep. Eckre : The big question is, why did they do this. The history behind this. Doesn't answer that for us. Can LC find that out.

Hearing no more testimony for or against, the hearing was closed by Chairman Froseth.

In the afternoon, the bill was brought for discussion. (Tape 2, side A)

ACTION: Vice Chair Maragos made a motion of DO PASS and Rep. B. Thoreson seconded the motion. ROLL CALL VOTE: 14 YES and 0 NO with 1 ABSENT. PASSED.

Rep. Disrud will carry the bill.

Please type or use black pen to complete

Date 2-25-99

Roll call vote # 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2231

House POLITICAL SUBDIVISIONS Committee _____

Subcommittee on _____

Conference Committee

} Identify or check where appropriate

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Maragos Seconded By Rep. B. Thoreson

Representatives	Yes	No	Representatives	Yes	No
Chairman Froseth	/		Rep. Wikenheiser	/	
Vice Chair Maragos	/				
Rep. Delmore	/				
Rep. Disrud	/				
Rep. Eckre	/				
Rep. Ekstrom	/				
Rep. Glasheim	/				
Rep. Gunter					
Rep. Johnson, N.	/				
Rep. Koppelman	/				
Rep. Niemeier	/				
Rep. Rose	/				
Rep. Severson	/				
Rep. Thoreson, B.	/				

Total 14 0
(Yes) (No)

Absent 1

Floor Assignment Rep. Disrud

If the vote is on an amendment, briefly indicate intent:

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE (410)
February 26, 1999 10:51 a.m.

Module No: HR-34-3652
Carrier: Disrud
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2231: Political Subdivisions Committee (Rep. Froseth, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2231 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2231

Testimony to the
Senate Political Subdivisions
prepared January 21, 1999
by Kevin J. Glatt
Burleigh County Auditor

Concerning SB2231

Chairperson Lee and members of the committee, I appear before you to express my support of SB2231.

SB2231 repeals two sections of law relating to specific duties of county auditors and treasurers - the certification of abstracts of title.

I will be starting my 4th term as Burleigh County Auditor and in my 11+ years I have not certified 1 abstract of title. An informal poll of approximately 30 county auditors revealed the same. The Burleigh County Treasurer in a similar poll of county treasurers found no county treasurer who could remember certifying an abstract of title. I have discussed this with abstractors and attorneys - none can remember this ever being done.

Madam Chairman, members of the committee I urge your favorable support for SB2231.

Source: S.L. 1905, ch. 157, § 2; R.C. 1905, § 1593; C.L. 1913, § 2208; R.C. 1943, § 11-1308.

11-13-09. Auditor to furnish copy of proceedings of board of county commissioners to newspaper. Repealed by S.L. 1987, ch. 146, § 2.

Note. For current provision relating to supplying a report of board proceedings to the official newspaper, see § 11-11-37.

11-13-10. Auditor to certify abstracts — Fees. The county auditor shall attach the auditor's certificate to each abstract of title covering real estate within the auditor's county which is presented to the auditor for that purpose. The certificate shall show the amount of taxes due and unpaid against, and any tax title affecting, the land described in the abstract as the same appears from the records of the auditor's office. The auditor shall collect the sum of twenty-five cents for each abstract so certified.

Source: S.L. 1901, ch. 1, § 1; R.C. 1905, § 2240; S.L. 1911, ch. 111, § 1; C.L. 1913, § 3099; R.C. 1943, § 11-1310; S.L. 1975, ch. 106, § 80.

ing abstracts must be accounted for at the end of each month and any sum in excess of his salary for the month paid into the county treasury. State ex rel. Braatlien v. Drakeley, 26 N.D. 87, 143 N.W. 768 (1913).

Disposition of Fees.

Fees received by county auditor for certify-

11-14-05. County treasurer to certify abstracts — Fees. The county treasurer shall attach the treasurer's certificate to each abstract of title covering real estate within the county which is presented to the treasurer for that purpose. The certificate shall show the amount of taxes due and unpaid against the land described in the abstract, or any tax title affecting the land described in the abstract as the same appears from the records in the treasurer's office. The treasurer shall collect the sum of twenty-five cents for each abstract so certified.

Source: S.L. 1887, ch. 1, § 1; R.C. 1895, § 1967; R.C. 1899, § 1967; R.C. 1905, § 2465; C.L. 1913, § 3345; R.C. 1943, § 11-1405; S.L. 1975, ch. 106, § 81.

Cross-References.

County treasurer may certify abstracts, see § 43-01-19.

Testimony to the
House Political Subdivisions
prepared February 25, 1999
by Kevin J. Glatt
Burleigh County Auditor

Concerning SB2231

Chairman Froseth and members of the committee, I appear before you to express my support of SB2231.

SB2231 repeals two sections of law relating to specific duties of county auditors and treasurers - the certification of abstracts of title.

I will be starting my 4th term as Burleigh County Auditor and in my 11+ years I have not certified 1 abstract of title. An informal poll of approximately 30 county auditors revealed the same. The Burleigh County Treasurer in a similar poll of county treasurers found no county treasurer who could remember certifying an abstract of title. I have discussed this with abstractors and attorneys - none can remember this ever being done.

Chairman Froseth, members of the committee I urge your favorable support for SB2231.

SB
2231

Mite
Research

- 5. For each name searched for judgments, real estate taxes, bankruptcy proceedings, federal tax liens, state tax liens, mechanics' liens and mechanics' lien notices, three dollars and fees charged to the abstractor by governmental agencies or governmental entities.
- 6. For all miscellaneous instruments, two dollars for the first one hundred words, and one dollar for each additional hundred words or fraction thereof.
- 7. Such fees as may be fixed by special statute.

Source: S.L. 1889, ch. 1, § 7; R.C. 1895, § 1781; R.C. 1899, § 1781; R.C. 1905, § 2238; C.L. 1913, § 3097; S.L. 1925, ch. 1, § 9; 1925 Supp., § 3099a9; R.C. 1943, § 43-0118; S.L. 1949, ch. 285, § 1; 1953, ch. 264, § 9; 1957 Supp., § 43-0118; S.L. 1969, ch. 360, § 1; 1975, ch. 393, § 1; 1981, ch. 437, § 1; 1985, ch. 475, § 2; 1993, ch. 416, § 2.

Collateral References.

Abstracts of Title ⇌ 3.
 1 Am. Jur. 2d, Abstracts of Title, § 3.
 1 C.J.S. Abstracts of Title, § 7.

43-01-19. County officers may certify abstracts. The provisions of this chapter do not prevent the register of deeds, county treasurer, or clerk of court from certifying to abstracts of title to lands from the records of their respective offices. Each such officer, however, is liable on his official bond for the faithful performance of all acts performed by him as such abstractor. If the officer certifying the abstract is the clerk of court, the clerk shall charge and collect a fee as prescribed in subsection 4 of section 11-17-04.

Source: S.L. 1889, ch. 1, § 6; R.C. 1895, § 1780; R.C. 1899, § 1780; R.C. 1905, § 2237; C.L. 1913, § 3096; R.C. 1943, § 43-0119; S.L. 1985, ch. 336, § 15.

County treasurer to certify abstracts, fees, penalty for noncompliance, see § 11-14-05.

Power of trust company to make, compile, and certify abstracts of title, see § 6-05-08, subsec. 7.

Cross-References.

County auditor to certify abstract, see § 11-13-10.

Register of deeds to continue abstracts, see § 11-18-01.

43-01-20. Penalty. Any person making, compiling, or certifying to an abstract of title to real property in this state without first having complied with the provisions of this chapter is guilty of a class B misdemeanor.

Source: S.L. 1889, ch. 1, § 5; R.C. 1895, § 1779; R.C. 1899, § 1779; R.C. 1905, § 2236; C.L. 1913, § 3095; S.L. 1925, ch. 1, § 12;

1925 Supp., § 3099a12; R.C. 1943, § 43-0120; S.L. 1975, ch. 106, § 467; 1987, ch. 73, § 27.

43-01-21. Abstract prima facie evidence of title — When recorded. If the records of deeds, mortgages, liens, judgments, and instruments of like nature in any county have been lost or destroyed, the abstract prepared by a regularly bonded abstractor of said county must be deemed prima facie evidence of title, and such regularly certified abstract of title may be recorded as other instruments are recorded.