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2003 SENATE FINANCE AND TAXATION

SB 2165

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2165

Senate Finance and Taxation Committee

Conference Committee

Hearing Date January 14, 2003

Tape Number	Side A	Side B	Meter #
1	X		45

Committee Clerk Signature *Mary Kay Wickens*

Minutes:

Senator Urlacher opened the hearing on SB2165. All committee members are present.

Senator Judy Lee - Testified in support of SB2165. Introduced in response to a concern which has developed about the ability of cities to impose Tax Increment Finance Districts. Written testimony is attached. Urged a favorable review.

Senator Tollefson - How does it relate to renaissance programs?

Senator J. Lee - Renaissance program is working well, may want to replace one program with the other. They work well together but there is some overlap and possibility of redundancy.

Representative Kim Koppelman of District 13 - Agrees with Sen. J. Lee. Believes this bill would help TIF concept work as it was meant to.

Chuck Cheney - Superintendent of Schools in Fargo (meter #460). Supports SB2165. TIF district during growth period, tax dollars leave. Want to support economic development. We are heavily reliant on tax dollars. We like further definition of "blighted area". See meter #660 for

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Senate Finance and Taxation Committee
Bill/Resolution Number SB2165
Hearing Date January 14, 2003

example. The principle is that this is public money and gives an opportunity for the public to have input (meter #980).

Senator Urlacher - Are blighted areas owned by the city?

Mr. Cheyenne - Generally speaking the property is privately owned.

Deb Nelson representing NDSBA (meter #1150) - Supports SB 2165. Development and health of city is not more important to anyone than school districts. It is important that everyone (agencies) that has an interest has a say.

Nancy Sand representing NDEA - Supports SB2165 due to having an added voice in the process.

Chris Runge Executive Director of NDPEA - This is a start to providing more public input into economic development. Supports SB2165.

Senator Urlacher - Testimony in opposition to SB2165.

Jim Gilmour, Planning Director for the City of Fargo (meter #1500)- These changes will make the approval process very time consuming, difficult, and unpredictable. Written testimony is attached. Recommends a Do Not Pass.

Senator Urlacher - Do you have involvement/communication with school districts?

Mr. Gilmour - Representatives of the school districts are involved in review process.

Bill Wocken City Administrator for the City of Bismarck (meter #2075)- Opposing SB2165 because I believe it will frustrate, if not prevent, the use of tax increment renewal in our city.

Written testimony is attached. Recommends Do Not Pass.

Senator Nichols - Are there instances when both programs (TIF and Renaissance) could be used or would it be one or the other?

Mr. Wocken - It may happen that both programs could be used but it would be tricky.

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Senate Finance and Taxation Committee

Bill/Resolution Number SB2165

Hearing Date January 14, 2003

Senator Warden - Could you please repeat the last part of your testimony?

Mr. Wocken (meter #2720) - Code gives the city the authority for TIF.

Senator Syverson - Can you envision Bismarck creating joint review board? Do you have the same kind of conflict as Fargo?

Mr. Wocken - Don't see the need for a board, but it would be good to have representation from school districts. Do not have a problem consulting with districts, do not like creating a review board.

Jerry Hjelmstad, ND League of Cities (meter #3100) - Oppose SB2165, governing body should retain control of urban renewal. Recommends Do Not Pass.

Senator Syverson - Any studies of data collected the show the differences over 40 years of the revenue collected with these type of programs in place vs. revenue in 40 years with no plan in place.

Mr. Hjelmstad - I don't know, the project may not take place with out this type of help.

Senator Urlacher - Any other testimony in opposition to SB2165. Hearing closed.

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2165

Senate Finance and Taxation Committee

Conference Committee

Hearing Date January 21, 2003

Tape Number	Side A	Side B	Meter #
1	X		3,010

Committee Clerk Signature *Mary Kay Lichten*

Minutes:

Senator Urlacher opened the hearing on SB2165. All committee members present.

This bill relates to the ability of cities to impose Tax Increment Finance Districts and forming a joint review board.

Senator Wardner (mtr #3010) - I would like to check out the details with more research. Don't know if the bill is needed.

Senator Urlacher - This bill seems cumbersome.

Senator Seymour - I look forward to Senator Wardner's research.

Senator Wardner(mtr #3470) - Since 1999, five year tax abatement on new building, the schools can put that in their levy.

Senator Nichols (mtr #3512) - Would that mean that all levies are spread over all tax payers?

Senator Wardner (mtr #3543) - It is possible.

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Senate Finance and Taxation Committee

Bill/Resolution Number SB2165

Hearing Date January 21, 2003

Bill Wocken, City Administrator, City of Bismarck (mtr #3626) - Testified in opposition to SB2165. In a tax increment district, we are not talking about a total abatement, we talking about freezing a tax level at a current level. Any new construction above that level is where the new increment is applied. So the school district doesn't lose money at a current level, it loses it's ability to increase its income as a result of the improvements.

Senator Wardner (mtr #3760) - Question for Mr. Wocken, example of Bismarck building and using tax abatement.

Mr. Wocken (mtr #3837) - Not familiar with that, I would prefer not to comment.

Senator Tollefson - We have a lot of tax abatement in Minot, I was hoping for an answer from our school district.

Senator Seymour - Schools would like to be in the loop.

Senator Nichols - Can we have someone from the tax department come down here and testify.

Senator Wardner - I will try to get Marcy Dickerson down here for Wednesday.

Senator Urlacher - Closed hearing on SB2165.

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2165

Senate Finance and Taxation Committee

Conference Committee

Hearing Date January 22, 2003

Tape Number	Side A	Side B	Meter #
1	X		57

Committee Clerk Signature *Mary Kay Dickerson*

Minutes:

Senator Urlacher opened the hearing on SB2165. All committee members are present.

This bill relates to the ability of cities to impose Tax Increment Finance Districts and forming a joint review board.

Senator Wardner - Has asked Marcy Dickerson from the Tax Department for an explanation of Tax Increment Finance Districts.

Marcy Dickerson, Supervisor of Assessments, State Tax Department (mtr #75) - Gave a detailed definition on how mill levy calculations and overall taxation work on blighted properties.

Political subs are required to levy in dollars. They are allowed the same level of dollars as the previous year with adjustments for new property or property that has been demolished. In the case of exempt property, that is included in the total valuation on which they are allowed to levy. Specified exempt properties (meter #240). Tax assessment on exempt property is spread around

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Senate Finance and Taxation Committee

Bill/Resolution Number SB2165

Hearing Date January 22, 2003

to all taxpayers while in the rebuild period. Other tax payers are paying a little more during this period. The money is there, but someone else is paying it.

Senator Wardner (mtr #289) - Exempt property, when it comes off of exempt status, other peoples tax drops. So then does this effect TIF.

Ms. Dickerson (mtr #350) - This doesn't have anything to do with TIF.

Senator Wardner (mtr #) - Please clarify.

Ms. Dickerson (mtr #473) - The value of the property is frozen as far as what amount is going to be counted for taxes. As the value goes up, tax amount on anything above the base value is put into the incremental fund to payoff improvement expenses. Political subs are getting the tax on the base value.

Senator Wardner (mtr #598) - In the end the funds are distributed to political subs.

Ms. Dickerson (mtr #610) - That is correct.

Senator Seymour (mtr #771) - I can see why the superintendent of schools supports this. I think he just wants input.

Senator Urlacher (mtr #785) - The entities are notified.

Senator Wardner - I am sensitive to schools and their ability to collect taxes. Up until '99, they were not at the table. In this case they can be at the table even though they do not have a vote. They are being treated well.

Connie Spruczynatyk, ND League of Cities (mtr #897) - A good explanation was given by Marcie. The theory is simple, TIF is an urban renewal tool. It seems in law that someone is losing money, but they are not. In the end everyone gets their dollars after the property is improved. By changing this law, it adds a barrier to urban renewal.

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Bill/Resolution Number SB2165
Hearing Date January 22, 2003

Senator Urlacher - Is consultation with schools standard?

Ms. Spryuczynatyk - Bismarck and Fargo will take the time to talk to other boards. There is a great misunderstanding out there regarding this urban renewal tool

Bill Wocken, City Administrator, City of Bismarck - Yes we do have consultations with other boards. We invite the boards to sit at the table when votes are taken. Schools have no voting ability but strong consultative voice. Without TIF, most of these projects would not happen.

Senator Wardner - The pot of dollars, you use that to facilitate improvements?

Mr. Wocken (mtr #1548) - Exactly. Example given of local project.

Senator Wardner - In the mean time, political subdivisions are still getting the base value, even if the project value decreases.

Mr. Wocken - Exactly, no other property has that guarantee.

Senator Wardner - Motion Do Not Pass on SB2165. 2nd by Senator Nichols. Roll call vote 6 yea, 0 nay, 0 absent. Carrier is Senator Wardner.

Senator Urlacher - Closed the hearing on SB2165

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Date: 1 22 2003
Roll Call Vote #:

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2165

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Delet pass

Motion Made By Sen. Lusk Seconded By Sen. Nichols

Senators	Yes	No	Senators	Yes	No
Senator Urlacher - Chairman	✓		Senator Nichols	✓	
Senator Wardner - Vice Chairman	✓		Senator Seymour	✓	
Senator Syverson	✓				
Senator Tollefson	✓				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Senator Lusk

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

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REPORT OF STANDING COMMITTEE (410)
January 22, 2003 10:58 a.m.

Module No: SR-12-0898
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2165: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2165 was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-12-0898

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2003 TESTIMONY

SB 2165

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(For Sen. J. Lee)

Scratch Pad for Bill: SB 2165

SB 2165
Testimony for Finance and Tax Committee
January 14, 2003

SB 2165 is being introduced in response to a concern which has developed about the ability of cities to impose Tax Increment Finance Districts, or TIFs, without input or influence from any of the taxing entities which are affected by the TIF.

An additional definition of "blighted area" is added to clarify that the TIFs are intended for redevelopment of deteriorated areas, not new development of agricultural land.

The language concerning "just proportion" addresses circumstances in which there are assessments for improvements for which the assessed entity receives little or no benefit.

There also is provision for a joint review board to consider any agreement with a project developer. There would be one representative appointed by each city, county, school district, and any other entity which has the authority to tax. That means that water management districts would also have a place at the table. Details concerning procedure are a part of the bill as well. A majority of the members of the joint review board must approve the project before it can implemented. The city requesting the TIF will provide administrative support.

I believe that the entities which are affected by establishing a Tax Increment Finance District should have the opportunity for input, because they are the ones who sacrifice the tax income for the years of the TIF. That does not mean that the joint review board will automatically disapprove each application. The taxing entities all recognize the importance of redevelopment for the good of the community. But they should be allowed some influence on the process. That is what SB 2165 will do.

I support SB 2165 and urge your committee to give it favorable review.

<http://auth.intranetapps.nd.gov/lr/legislature/laws?request=LRLawsPrintScratchPad&memb...> 1/14/2003

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Testimony Presented on SB 2165 to the

Senate Finance and Tax Committee
Senator Herb Urlacher, Chair

by

Jim Gilmour, Planning Director
City of Fargo

January 14, 2003

Mr. Chairman and Members of the Committee:

I am Jim Gilmour, Planning Director for the City of Fargo. I am here today to speak for the City of Fargo against the proposed change in the Urban Renewal and Tax Increment Financing Law. These changes will make the approval process very time consuming, difficult, and unpredictable. It may even eliminate a redevelopment tool that cities are using effectively to redevelop downtowns, encourage development in areas with infrastructure problems, and create jobs.

The bill proposes an additional step in the approval of Urban Renewal and Tax Increment Financing plans. A joint review board, representing many local governments, would have to approve future plans and amendments. In Fargo, representatives would include a School District, the City, the County, the Park District, Soil Conservation, and the Water District. These groups would then have to agree on yet another member to review proposed plans. This creates many problems to implement future renewal plans.

The current law provides that one board, elected city officials, review a plan. In most cases, the Planning Commission also reviews the plan. The proposed law would provide that a second review of the plan be done by another committee. Proposed plans would then be subject to review by six political subdivisions, because each political subdivision

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would be notified and asked to send a representative. This would make the review process longer and more unpredictable.

This proposed process is similar to requiring that numerous local governments approve a capital improvement project to be done by a School District, or to approve the annual budget of a County. Since cities are the local governments responsible for planning functions, urban renewal and redevelopment activities, the elected officials of that city should have the responsibility and ability to implement effective renewal activities for their citizens.

Another section of the proposed law on page two of the bill adds confusing language regarding which expenditures are to be made from Tax Increment Financing funds. Our City Attorney has reviewed this language, and we don't understand the intent or meaning of this proposed change. We are concerned it will somehow limit the use of the current law.

Fargo has used this tool effectively to encourage development. Several Tax Increment Financing Districts were implemented for downtown renewal projects. Others have encouraged development on vacant land with infrastructure needs. In the long run, there is greater expansion of the tax base not just for the City, but all the political subdivisions that rely on the property tax for revenue. Let me give you one example.

In 1998, Fargo approved a renewal plan for a vacant parcel of land that had limited access because of poor street access and an underground pipeline. The land sat vacant for years while other land was developed. The City paid \$1,428,856 to lower the pipeline, provide a street to improve access, and make other improvements in 1999 and 2000. Since those improvements were made, there has been \$14.7 million of construction and increased

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valuation within the district, providing and additional \$357,000 a year in property taxes.
Fargo projects that improvement costs will be paid for in 5 or 6 years, then giving an
expanded tax base by 2007 to all political subdivisions.

I encourage you to recommend a "do not pass" for SB 2165.

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Testimony on Senate Bill 2165
Senate Finance and Tax Committee
January 14, 2003

Good morning Mr. Chairman and committee members. My name is Bill Wocken. I am City Administrator for the City of Bismarck. I am appearing this morning in opposition to Senate Bill 2165 because I believe it will frustrate, if not prevent, the use of tax increment renewal in our city and, I believe, in most cities in our state.

Tax increment renewal utilizes a concept that freezes the real estate taxes paid to local taxing units when an approved redevelopment project occurs. The increase in real estate taxes caused by the improvement is set aside to pay a portion of the costs of the improvement. After the agreed improvement costs are repaid the full taxes on the improved parcel return to the taxing entities. This mechanism provides an incentive to an owner to improve the property.

This bill does a number of things that I believe frustrate the use of tax increment projects. Section 1 excludes open space or agricultural land from the definition of "blighted area", a prerequisite for the use of tax increment. Normally agricultural land would not meet the definition of blight but an old farmstead surrounded or nearly surrounded by urban development might meet the definition if the structures are in bad repair and it is not an operating unit. An outright prohibition such as that proposed in Section 1 may be unwise.

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Section 2 of the bill, Page 2 lines 9-16, poses a special problem. The formula presented in this section is very confusing to read and difficult to follow. The "just proportion" language used in two places on lines 10 and 11 and the multiple descriptions of "benefits" on line 13 confuse the issue. I do not know what the reimbursement language is intended to mean. From asking others who will deal with tax increment projects I know that this confusion is not mine alone.

Section 4 of the bill on Page 3 line 14 and following is another difficult area in this bill. This section imposes eight requirements on the Joint Review Board created on Page 3 lines 22-24 of the bill. I have attempted to lay out a chronological listing of the requirements imposed by Section 4 as follows:

- A. City notifies taxing entities of a tax increment project (5)
- B. City publishes notice of hearing by the Review Board (5)
- C. Review Board meets 14 to 30 days after public notice (4)
- D. Review Board selects a public member (2) (3)
- E. Review Board selects a chairperson (2) (3)
- F. Project can only proceed if approved within 30 days of Step A (8)

This chronology raises questions of how many meetings the Review Board must hold to select members and a chairperson and whether the public person can ever be the chairperson. The board cannot meet sooner than 14 days after the hearing notice is published (likely at least 19 days after the initial notification letter). They must complete their organizational and input tasks within 30 days of

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the initial letter. This only leaves 11 days for their work including multiple meetings. If this cannot be done the project is barred from proceeding.

Cities are responsible for the maintenance and expansion of the tax base in municipalities. The city, county, school district, park district and state medical center all benefit from taxes raised based on the valuation of that tax base. Cities also depend heavily on the real estate taxes raised in their jurisdictions so the judicious use of tax increment renewal should be high on any city's list of priorities. Tax increment renewal is a tool many cities use to enhance and redevelop the tax base. The loss of this tool would be very detrimental to local government. I would ask you to give Senate Bill 2165 a Do Not Pass recommendation.

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