

2009 HOUSE FINANCE AND TAXATION

HB 1310

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1310

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 19, 2009

Recorder Job Number: 7178

Committee Clerk Signature



Minutes:

Chairman Belter opened the hearing of HB 1310.

Representative Mark Dosch, District 32, introduced the bill. (Attachment 1)

Chairman Belter: When was the last time this was changed?

Representative Dosch: 1983

Representative Schmidt: Is that fiscal note \$5 million? That seems awfully large.

Representative Dosch: Yes, I thought so as well, but I did visit with the tax department and according to them it is accurate. Businesses are required to submit this report on a monthly basis. By taking the number of businesses by 12 times per year is where they are coming up with that figure. It's a cost borne by businesses and has been in place for 25 some years. I'm just asking that it be adjusted.

Representative Weiler: The \$85 a month a business receives, how do they receive that? Is that through a reduction in what they owe? They don't actually get a check do they?

Representative Dosch: It is a reduction. We collect the tax and if we owe \$10,000 to the state that month, we are allowed either .01 or .03 and we get to reduce that amount from the tax we submit, up to a maximum of \$85--sometimes we do not hit that maximum.

Representative Drovdal: Under the current law, if you file monthly, you get up to \$85 state tax credit. What amount do you get off the city tax bill? This bill would change the state, but what about the city reimbursement?

Representative Dosch: Right now the local option tax, which in Bismarck is 1%, we are currently receiving .03% and there is no maximum on that amount. The part that we are not receiving anything on is the city lodging and restaurant tax—100% goes back on that.

Representative Headland: How much tax revenue does the state get in lodging? It appears to me that you should just eliminate the tax and that wouldn't cost the city more revenue.

Representative Dosch: We do collect a considerable amount. Perhaps the tax department has that figure.

Jeb Oehlke, ND Chamber of Commerce, stated that the business community supports
HB 1310

Jerry Hjelmstad, ND League of Cities: Our legislative committee did review this bill and felt it only fair that the retailers be compensated for the work they do in collecting these taxes.

Representative Pinkerton: We have a retail business and it seems we pay a lot of sale taxes. Part of our complication is the city sales tax. Of this \$5 million would they share in the cost of administrating this or is the cost going to be borne by the state?

Hjelmstad: As I understand it, city sales tax is the same as the state as far as what is taxed; so when that is distributed the money the merchant gets out of that is a certain portion of the sales tax collected. The cities, on the other hand, do pay administration cost to the state tax department for collecting the state sales tax.

Representative Pinkerton: Is that in statute?

Hjelmstad: All the cities with a tax have a negotiated contract with the state. It is required they be administered through the state tax department for the collection of that tax. I believe it is a negotiated rate.

Representative Pinkerton: Is that going to change if this increases?

Hjelmstad: I haven't heard anything about a change in that rate. The tax department will probably address that.

Representative Froseth: Could we get some clarification on this fiscal note? Is this \$5,302,000 an increase in general funds?

Chairman Belter: It would be an increase in loss. Presently there is a \$5 million that the business owners get paid over the biennium to collect.

Myles Vosberg, ND Tax Department: about \$6.1 million is the total for the general fund.

This is doubling the rate and the cap currently on the state sales tax compensation which is

reported to the largest file that is filed monthly. Currently the retailers are receiving that

amount. That would double so this is an additional loss. I'd like to explain that there are

several kinds of compensation that we are talking about and there are two of them that

included in this bill. First of all, the state sales tax provides 1.5% of the \$85 for the larger

filers. That's one type of compensation. The other compensation that is being changed by

this bill is for the city lodging tax and the city restaurant and lodging tax and the city motor

vehicle rental taxes which are three separate taxes that allowed by the state to be imposed by

the city. If cities chose to do an ordinance and impose those taxes they can impose 2% on

lodging and an additional 1% on lodging and prepared food and beverages. They can also

charge a 1% motor vehicle rental on rentals of less than 30 days if the customer is picked up at

the airport or the vehicle is provided at the airport. All three of those taxes which are in Title

40, provide the state general fund 3% compensation without any cap—that's written right in the

law. The law requires the state to administer those taxes and requires a 3% fee that goes in to the general fund. That 3% mandatory is not part of this bill. This bill would create an additional 3% fee that would go to the retailers. So they would deduct and keep that fee just like they do for the sales tax. In addition to that, we have the local sales and use taxes that each city can impose under home rule. Many of the cities have chosen to provide compensation to the retailers and they just deduct that. They are not consistent across the cities. Most of the cities have a cap of about \$250 per quarter. We do have a guideline that has this information and we can provide that to you. Local compensation that is provided for city sales taxes is also not part of this bill.

Chairman Belter: The state gets 3% for administering?

Vosberg: For the city lodging, for the city lodging and restaurant, and for the city motor vehicle. It's a flat 3% with no cap. I believe there was some discussion on the contracts. To administer the local sales taxes for both the cities and the counties, we do negotiate a contract for that administration. The current law says the state is required to administer those, but it does not identify the administrative fee so we have entered into contracts with the cities and counties for that. Our current contract provides for \$50 per permit per year or 3% of the revenue, whichever is less.

Chairman Belter: Could you prepare a memo that explains this all in writing for the committee members.

Vosberg: Certainly. We can identify the taxes and fees and how much we collect.

Representative Schmidt: How is excise tax like pull tabs and cigarette tax, do those people get paid to collect that.

Vosberg: I don't know about gaming taxes because they are handled by the Attorney

General's office. There are some administrative fees paid for cigarette and tobacco taxes,

non for the alcohol, and non for the motor vehicle tax which are collected and remitted to the department of Transportation.

Representative Schmidt: The motor vehicle excise amounts to a lot. Is there any fear they would want a raise.

Vosberg: I guess your guess is as good as mine. I have not heard anything about that. Another one is motor fuel—there are some administrative fees paid on that tax.

Chairman Belter closed the hearing of HB 1310.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1310**

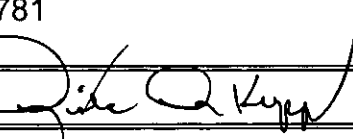
House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 26, 2009

Recorder Job Number: 7781

Committee Clerk Signature



Minutes:

Chairman Belter: Committee, what are your wishes on 1310? I have a motion for a "do not pass" from Representative Brandenburg and a second from Representative Froseth. Any discussion?

Representative Drovdal: I certainly appreciate the work that the business community does collecting our sales taxes, in many cases for free. I am going to support the motion. If we were going to increase compensation, I guess it should be for those that aren't getting anything at all right now, which are the monthly filers. They have to do the same book work, they have to keep track the same even though they may only send a check once every three months. Everything else is equal. I wish I could amend this to take out the same compensation as everybody else; but I do think down the road, we will be looking at increasing this compensation to a better amount than what they are currently getting.

Chairman Belter: Any other discussion? If not, will the clerk read the roll for a "**do not pass**" on HB 1310. **A roll call vote was taken, resulting in 13 ayes, 0 nays, 0 absent/not voting.**

Representative Kelsh will carry the bill.

FISCAL NOTE
Requested by Legislative Council
01/13/2009

Bill/Resolution No.: HB 1310

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$5,302,000)	(\$461,000)		
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
				(\$345,000)				

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1310 increases the compensation allowed monthly sales tax filers from \$85 to \$170 per month. The bill also extends the compensation to those entities filing city lodging, restaurant, and motor vehicle rental tax returns.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1310 provides compensation to filers of city lodging, restaurant and motor vehicle rental tax returns, at the rate of 3% of collections up to a maximum of \$170 per month. This is expected to reduce city revenues by an estimated \$345,000 during the 2009-11 biennium.

Sections 2 and 3 increase the existing compensation for monthly sales tax filers from 1.5% to 3% of collections, and increases the maximum from \$85 to \$170 per month. This is expected to reduce state general fund and state aid distribution funds by an estimated \$5.763 million during the 2009-11 biennium.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
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Phone Number: 328-3402

Date Prepared: 01/15/2009

Date: January 26, 2009

Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1310

House FINANCE AND TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Brandenburg Seconded By Froseth

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	/		Representative Froelich	/	
Vice Chairman David Drovdal	/		Representative Kelsh	/	
Representative Brandenburg	/		Representative Pinkerton	/	
Representative Froseth	/		Representative Schmidt	/	
Representative Grande	/		Representative Winrich	/	
Representative Headland	/				
Representative Weiler	/				
Representative Wrangham	/				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Kelsh

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

REPORT OF STANDING COMMITTEE

HB 1310: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1310 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HB 1310

Testimony 1

HB 1310

19 Jan. 09

HB 1310

January 19, 2009

Finance & Tax Committee

Wes Belter, Chairman

Chairman Belter, members of the Finance and Tax Committee, for the record my name is Representative Mark Dosch representing District 32.

I come before you to ask your support for HB 1310. This bill deals with the compensation allowance given to business for offsetting some of their expenses in collecting of state and local taxes.

To better understand this bill, allow me to provide you with some history.

In 1983 legislation was passed to allow business a "compensation allowance" to reimburse retailers for administrative expenses of collecting state sales and use taxes. A "fair amount" was determined to be \$85. **That was 25 years ago, and this amount has never been increased since.**

In addition business is also required to collect city lodging, restaurant tax. Business has never been compensated for providing this collection service to the cities.

What we are asking for is for business to be reasonable compensated for the services they provide to the city and state. Thus, this bill is to increase the compensation allowance to .03%, but caps this amount to \$170 per month. This is an inflation adjusted figure, to make the compensation allowance similar to the \$85 dollar level set 25 years ago.

Tax Collection responsibilities placed on business.

1. Collect all taxes due.
2. Fill out all forms and submit all taxes collected each month in a timely manner or face penalties
3. Accurately collect taxes, or business will be responsible to pay any amount owing and not collected.

Business are required by law to be the tax collector for the city and state. We have no choice, yet we assume all responsibility and liability for this service to the State. We (the business community) is glad to play our part and assist our government, but all we ask is for reasonable compensation to cover some of our costs in providing this very valuable "service" to our governmental entities.

In addition to being the tax collectors, business owners are also required to be information providers to various government entities. This includes such things as the following:

1. Provide earnings information on employees to: Department of Human services, Social Services, Job Service ND, ND housing.

2. Wage history information to Job Service ND, Human and Social services.
3. Employment status reports for the same governmental agencies

All these services we provide at **no cost to our governmental agencies**. I bring this up only to help you understand, the burden that is placed on business by our government goes far beyond just being tax collectors.

Again, we are happy to assist with this information and services, and tax collection, but all we are asking is for some just and reasonable compensation to help offset some of our costs in providing some of these services.

I'm hopeful that you will also hear from our cities and counties in support of this bill, as given the increases that they have been granted session after session, that they understand the reality of the increase in costs in providing government services.

Mr. Chairman, this concludes my testimony, I would be happy to answer any question you may have.

Thank You.