2011 HOUSE POLITICAL SUBDIVISIONS

HB 1401

2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

HB 1401
February 4, 2011
Job # 13983 & 14014

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to a limited opportunity for county imposition of a levy for farm-to-market and federal aid roads without voter approval; and to provide an effective date.

Minutes:

Chairman Johnson: Opened the hearing on HB 1401.

Rep. Headland: Current law states that a federal aid road, farm to market levy takes a vote of the people. I am not here to suggest in any way I don't fully support that, but I happen to live in a county that has put a vote up four times and every time it has failed. My point is not to circumvent what the people have stated. The point of this bill is with the knowledge that state may have a massive infrastructure bill for working on one dealing with Western counties and part of that requirement to participate in that you have to have at least a local levy of federal aid farm to market roads of 10 mills and I think it would be a travesty that any county did not meet that requirement and couldn't participate. I don't believe the citizens prior to this huge infrastructure bill wouldn't vote that way if they had time and the opportunity to do it. So what this bill is going to do is say OK county commissioners if you are not at the state average; this 12 65/100 is what I was told by Marcy Dickerson equal the state average of counties that levy the farm to market road levy. I think there were seven of them that didn't do that. It just seems appropriate that if we are going to allow them to do something like this one time let's let them at least get up to what would be the equal of the state average. That is what this bill does. It is still the decision of the local county commissioners who are elected to vote.

Rep. Shirley Meyer: So what you are saying is every county in the state has to be at 12 65/100 mills.

Rep. Headland: No that is not what I am saying. Any county that is below that average has a one time opportunity to get to that state average by a vote of their county commissioners.

Rep.Devlin: Why do you use 12 65/100's? Why not 5 or 10 mills? What is the significance of the 12? That is what I do not understand.

Rep. Headland: At the time I had this bill drafted I did not know if there was going to be a 10 mill requirement or a 12 mill requirement; or a county average requirement. I still don't know what that might be. We calculated that with Marcy Dickerson as a state average. All counties made it 10 mills; but if you included just the counties that levied farm to market federal aid levy that brought it up to 12 65/100 mills. It is a number, I don't care if it is enough to meet a requirement that may or may not be put in a massive infrastructure bill. I just don't want any county not to be able to participate in that because they don't have a local match.

Rep.Devlin: Is there a chance a county may have voted down a mill levy for a federal aid road somewhere and now we are allowing the county commission to put it in essentially over the vote of the people?

Rep. Headland: There is a 100% chance that has happened. It has happened at least three times in the county I reside in. My point is not to supersede what the voters have said there. It will still be up to the county commission to make that decision; however I would hate to have citizens come to me and say you know our county commission continually tells use you have tied their hands. We weren't able to participate in this. Every county around us roads are going to see improvement, but we can't participate because we have voted before not to allow it. I think if every individual county new they needed this and benefit from that the voters might feel differently.

Rep. Maragos: Is there currently a restriction on them doing this and what is it?

Rep. Headland: I think there may be a cap somewhere but it is well over 20 mills. Currently every farm to market road levy cannot be increased without a vote of the people.

Rep. Maragos: So you took the 12 65/100s as just a starting point?

Rep. Headland: We tried to come up with what we believed was a fair state average and we used that number.

Rep. Shirley Meyer: Under the Western bill we are looking at it indicates that unless they have levied those levies of 10 mills for the last four years you are ineligible for the grants so this wouldn't help in that case anyway?

Rep. Headland: Yes if that kind of requirement is tied to it of what will pass. I certainly don't support raising any ones taxes anymore than anyone else but we can't allow our infrastructure to completely crumble around us.

Rep. Klemin: going back to Section 1 here it refers to the tax not exceeding the limitation in subsection 17 and Section 57-15-06.7. What is that limitation?

Rep. Headland: I believe that is the section that says it has to be taken to a vote of the people.

Rep. Klemin: Subsection 1 says it has to be taken to a vote of the people, but the maximum amount of the tax seems to be set in another section and I was wondering what that is?

Rep. Headland: I can't answer that.

Rep. Klemin: Seems like I have seen this before. As I understand this bill Subsection 1 says you have to have a vote; Subsection 2 days no you don't if a majority of the county commissioners want to levy it anyway. Did I understand you to say you had three votes like this in Stutsman County already and they have all failed?

Rep. Headland: You are correct. Three and maybe even four have failed. Along with a couple of those votes there were sales taxes attached to them as well. This bill is only going to allow them to do it once. If they get to the state average they are going to be stuck there unless they go and ask the electorate for more.

Rep. Klemin: On page 2 it says if it is imposed it maybe continued in subsequent years. What do you mean it can only be imposed once?

Rep. Headland: It is correct that they will be able to stay at the 12.65 or whatever that number maybe, but at least the intent is that they only get to do this by board action once. If it doesn't say that it needs to be clarified.

Rep. Klemin: Who is this tax levied on?

Rep. Headland: It is levied on all property owners across the county.

Rep. Zaiser: Assuming Rep. Meyer's is correct that this needs to be levied at 10 mills or whatever number of mills for four years, this is going to need an amendment into that other bill to even make this eligible anyway. I assume then that you are going to be proposing an amendment to that bill or some sorts?

Rep. Headland: You are probably correct in your assumption.

Opposition:

Sandy Clark, ND Farm Bureau: We stand today in opposition to HB 1401. We can understand the road situations and the need for road improvements across the state. In this particular bill we have policy in farm bureau that says no tax increases. We also believe that people should have the opportunity to vote on these tax increases in their jurisdictions.

Neutral: None

Rep.Devlin: Can you tell us what the taxable limit is on a farm to market aid road system?

Marcy Dickerson, State Tax Department: Read subsection 17; a county levying a tax for farm to market and federal aid roads as provided in Section 57-15-06.3 may levy a tax not

exceeding the levy established by the ballot approved by the electors as provided in that section. So there is no numerical limit.

Hearing closed.

Job # 14014

Chairman Johnson: reopened the hearing on HB 1401.

Do Not Pass Motion Made by Rep. Kilichowski: Seconded by Rep. Kretschmar:

Discussion: None

Vote: 11 Yes 1 No 2 Absent Carrier: Rep.Devlin:

Hearing closed.

Date: 2-4-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1401

House **Political Subdivisions** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☑ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Kilichowski Seconded By Rep. Kretschmar

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Kilichowski	✓	
Vice Chairman Hatelstad	✓		Rep. Shirley Meyer	✓	
Rep. Beadle			Rep. Mock	✓	
Rep. Devlin	✓		Rep. Zaiser		
Rep. Heilman	✓				
Rep. Klemin	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos		✓			
Rep. Pietsch	✓				

Total (Yes) 11 No 1

Absent 2

Floor Assignment Rep. Devlin

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

REPORT OF STANDING COMMITTEE

HB 1401: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **DO NOT PASS** (11 YEAS, 1 NAYS, 2 ABSENT AND NOT VOTING). HB 1401 was placed on the Eleventh order on the calendar.