2013 HOUSE FINANCE AND TAXATION

HB 1239

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1239
January 28, 2013
Job #17826

☐ Conference Committee

Committee Clerk Signature	Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to limitation of increases in property assessments for property tax purposes.

Minutes:

Attached testimony #1, 2, 3

Chairman Belter: Opened hearing on HB 1239.

Representative Ben Koppelman: Introduced bill. See attached testimony #1.

Representative Zaiser: I like everybody else would rather not have an increase in property taxes but everybody always wants more services. In some cases with some of these high impacted areas like Fargo and the western part of the state the demand for services increases because the costs are going up as the cities grow exponentially. In that case what do you do if you're a political subdivision?

Representative Ben Koppelman: That's the reason this bill is written the way it is because it doesn't simply cap. If you're a school district or a city and your budget was $100 last year then we are going to cap you at $103 next year and if you don't like it maybe you could go to a vote of the people and maybe you can't but that is the theme. Other caps have said that if the true and full valuation is limited to the taxable valuation at 3% then that is all you get. This bill doesn't do that. This bill allows for existing mechanisms to still raise your taxes beyond that. If the city of West Fargo says they need a 5% increase on everyone's taxes to pay the bills then they can raise their mill levy. If they are at their mill cap then they may need to go to voters to get an additional authority. We elect those local officials so that they might take conscious action to do their daily work. They shouldn't just say it's great that the valuations went up across the city 5% so now we can spend that money. I believe budgeting based on the need and then find out what is the least amount of money to establish that need and figure out how much tax do we need to do it. Unfortunately the practice is to leave the mills relatively stable and the tax bills are going up. The legislature has been generous in providing a buy down but that buy down will not last forever.

Chairman Belter: Are there any questions for Representative Koppelman? Any testimony in support of 1239?

Eric Aasmenstad, North Dakota Farm Bureau: We support this concept as it's time for some reform not just relief. This bill puts a limit on the increase of the taxable valuation. In looking at Measure 2 it was defeated on the premise of local control and that's what this bill does. While it may decrease the increase or limit the increase of taxable valuation it puts the local political subdivisions in the bright spotlight. This is local responsibility. The political subdivisions can still increase and go to a vote of the people if they need more. If they start coming up against specific tax levies they could consolidate their mills. The most important thing this bill allows is for improvements to property and for growth. This is just a mathematical formula and limits it when you work through the taxable valuation it has nothing really to do with the market function. It just says it can increase by no more than 3% year over year with the exception of improvements and new property to the district. We support this as a mechanism for property tax reform.

Vice Chairman Headland: This bill allows for all new property to become part of the tax rolls but in theory the legislature has been fairly generous in allowing that in the past. This isn't allowing more services it's just spreading out the costs of those services over more people. Why should we allow all of that new property wealth to be put on the rolls when in theory it should be able to reduce the other taxpayers' burden?

Eric Aasmenstad, North Dakota Farm Bureau: I can't really argue the point and don't disagree with it. When we look at Fargo and those areas as they grow there is more demand for service and when you point your finger at somebody there are three pointing back at you. As citizens we want more service but how are we going to pay for more service if we don't want our individual tax bill to keep escalating? The only way we can do that is to accept bringing new property in. We are not looking at this saying we have to stop property tax increase we have to slow it down. We understand services are needed and we understand the government needs to function but at the same time we have to bring some relief to the debt that is owed by taxpayers and that's what property tax is, it's a debt.

Chairman Belter: Any further testimony in support of 1239? Any opposition to 1239?

Kevin Ternes, City Assessor in Minot: See attached testimony #2.

Vice Chairman Headland: Does it really take the total value of all the new property that is added to the tax base every year to extend the service and the cost of that service to that new property?

Kevin Ternes, City Assessor in Minot: I'm just a property appraiser so I just tell everybody what is out there and how much everything is worth. We then turn those numbers over to the finance department and they calculate. All budgets should be based on the need and not on how much value is out there and get it. We've got a lot of new subdivisions in Minot and we are experiencing the most growth we've ever had in the 100 years of history. We break out that new value every year and provide that in our annual report to explain to everybody the new taxable valuation. Only 20% of Minot's budget comes from property tax so the city hired 30 new employees as it takes more employees to service the areas.

Representative Zaiser: Would this bill not accentuate the donut affect in which the older part of the community continues to degrade because people can't afford to fix it up because they don't see their property increasing and then the city has to spend additional money trying to crop up those areas of the community?

Kevin Ternes, City Assessor in Minot: I don't think this bill will have that affect. I believe the majority of people do what they are going to do to their home and property taxes are not a concern. We had about 700 homes built in Minot last year and I had less than five phone calls from people asking what their property values were going to be. Taxes are 1 ½% of the valuation of the property so generally it's not a big bill.

Representative Kelsh: Does the city of Minot do a reassessment on valuations every year and is that a desk top valuation?

Kevin Ternes, City Assessor in Minot: We are told by state law that we are to assess at market value every year. I'm not sure how we're even going to handle this as we'd need two sets of books, one set for market valuation and one set for what it is after a 3% cap. Montana tried this a few years ago and they are going back to market valuation.

Chairman Belter: Any other testimony in opposition?

Sandy Clark, North Dakota Taxpayers Association: We oppose HB 1239. We don't believe in freezing valuations. We think that it is a distortion and should keep that formula intact. This could confuse the taxpayer more than solve the issue. I'm going to disagree with some of my predecessors. When you have brand new construction I assume that new construction will come in at true market value and it won't get a 3% off of the taxable valuation right off the top. It will come in at a different rate than the other property. I think you could be in a position where new property will be overtaxed and existing construction can be under taxed. We would question if that kind of a policy promotes growth or if it slows down growth. We think people care about property taxes when they buy homes.

Chairman Belter: Further opposition to 1239? We have a question for Marcy Dickerson from the tax department.

Vice Chairman Headland: The bill sponsor stated that the true and full value assessment process will not be affected by this nor will this create a long term artificial evaluation. Is that true and if not can you explain to the committee what makes it not true.

Marcy Dickerson, State Supervisor of Assessments: It's partially true. If this would only affect taxable value it wouldn't cause problems with the sales ratio study that indicates where assessments are, if they are at the tolerance level between 90 and 100% of true and full value. If you have $100,000 house and it sells for $105,000 then you're down 5% low but you're within tolerance. If that $100,000 house sells for $90,000 then your assessment is too high and you're out of tolerance. We do not adjust political subdivisions values by individual houses. We could have a large amount of inequity over time caused by adjusting the taxable value and not letting it go over a 3% increase. Your sales ratio study could continue to indicate you are in tolerance if you keep your market values up there where they should be and not too high. On the other hand your taxable value would probably remain low at least in the increasing areas where your true and full value is going up by 7 or 8% a year but your taxable only goes up by 3 percent. You would be issuing a taxable value that does not comply with the law that says a taxable has got to be 9% of assessed value for residential. You're going to have your true and full value up there, you're assessed value will probably will remain at 50% of it but when you get down to your taxable value it's no longer going to be 9% of your assessed value it will be something less because at that true and full and assessed values increase and your limited to the 3% increase in your taxable value you're not going to have the 9% taxable value. On your commercial property you're not going to have your 10% taxable value of assessed value. You're going to have some people who are going to get a greater benefit from this bill than other people and that will create inequity.

Representative Froseth: Would the same inequities exist if we put a cap on the dollar amounts that were raised by political subdivisions rather than the mills?

Marcy Dickerson: Then you wouldn't be looking at valuation you're looking at budgets. The mill levies are determined by how much their budget is and how much taxable value they have to apply that budget to and figure out the mill levy because there are certain limitations on the levies.

Representative Haak: Mr. Ternes expressed that he would require an all-inclusive definition of what improvements are. Do we have that list or do we have to establish a definition?

Marcy Dickerson: We wouldn't have the list. The assessments of the locally assessed property are done in the cities or townships. The assessors are required to know what is in a piece of property and if there are new improvements to it. I would not recommend you put in statute what an improvement is because there will be situations that will not be addressed and you will not solve the issue.

Chairman Belter: Any other testimony? If not, we will close the hearing on HB 1239.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1239
February 5, 2013
Job 18341

☐ Conference Committee

Kristie Hetzler

Explanation or reason for introduction of bill/resolution:

A Bill relating to limitation of increases in property assessments for property tax purpose.

Minutes:

Representative Headland: Moves Do Not Pass.

Representative Owens: Second.

Yes: 14

No: 0

Absent: 0

Carried by: Representative Strinden

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. HB 1239

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, school districts, or townships. 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.

Becky Keller
Senior Fiscal Analyst

Date: 2-5-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1239

House Finance and Taxation 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. Headland Seconded By Rep. Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	✓		Rep. Scot Kelsh	✓	
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser	✓	
Rep. Matthew Klein	✓		Rep. Jessica Haak	✓	
Rep. David Drovdal	✓		Rep. Marie Strinden	✓	
Rep. Glen Froseth	✓				
Rep. Mark Owens	✓				
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Strinden

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

REPORT OF STANDING COMMITTEE

HB 1239: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1239 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

HB 1239

1.28.2013

Testimony on HB 1239

Mr. Chairman and members of the House Finance and Taxation Committee, I am Rep. Ben Koppelman from District 16 in West Fargo, ND, and am here to testify in favor of HB1239.

The Purpose of HB1239 is to provide limitations on the amount that taxes can increase in a given year as defined in terms of dollars. It would provide limit on the increase in taxable valuation of an individual parcel based on the previous years taxable valuation plus three percent. The true and full value assessment process would not be affected, nor would this create a long-term artificial valuation. Also, this proposal would not limit the increase of a political subdivision's budget, nor would it limit their ability to raise the mill levy or go to a vote of the people to increase taxes by more than three percent. It would only limit the amount of "stealth tax increases" which occur without action of the local elected official. Simply put, this bill would fully recognize the increases in true and full valuation, while at the same time curb the amount one parcel's taxes could automatically increase in a single year.

We know that property tax increases are especially hard to absorb for those people on a fixed income. Most of those people have limited financial incomes that increase at or below the rate of inflation. We commonly think of this group as those who are retired. However, I would submit to you that often times this also applies to those young families who are just affording their first home, maybe have young children, and also may be working multiple jobs. Even if they budget responsibly for all their expenses and plan on a modest increase in those expenses per year, they often will not be able to afford a tax increase in excess of three percent.

We, as legislators, have often heard that property taxes are too high, and that our constituents think that they are increasing too fast. We want to encourage home ownership. We want to encourage responsible budgeting. I think that it is time that we take a step toward property tax reform, not just relief.

Mr. Chairman and members of the committee, I urge a do-pass recommendation of HB1239. This concludes my testimony and would be happy to answer any questions.

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NORTH DAKOTA HOUSE FINANCE AND TAXATION COMMITTEE

1/28/2013

House Bill 1239

TO: House Finance and Taxation Committee, and Chairman Belter

FROM: Kevin Ternes, Minot City Assessor

Thank you for accepting my testimony regarding HB 1239. As an assessor for one of the larger cities in ND, I would like to offer our assistance in any way we can to help you provide property tax relief to the citizens of ND. Regarding HB 1239, I would have some concerns about implementing a limitation on a property taxable valuation increase however because of a lack of fairness and equity to all.

First of all, I believe it would appear that this proposal would conflict with the current statute listed below:

NDCC **57-02-11. Listing of property - Assessment thereof.**
Certified assessment officials must list and assess property as follows:
1. All real property subject to taxation must be listed and assessed every year with reference to its value, on February first of that year.

Currently, assessments are based on the estimated market value. This bill would limit an assessment increase to 3% more than the prior year. *"except to the extent improvements to the property have been made which were not included in the taxable valuation of the property".*

A 3% cap on property taxable valuation increases would conflict with the current state tax department study that is conducted to determine if assessment offices are in fact assessing at market value. If the study indicates the assessments are at for example 85%, an adjustment must be made to get to within 90% to 100% traditionally. It would not be possible to do that with this proposal.

Assessors would require a complete list or all inclusive definition of what improvements will be defined as for this purpose as certain property owners will have different definitions. Some will say that a total renovation of the interior of the house to include new flooring, new kitchens and bathrooms are in fact not an improvement but merely maintenance or upkeep. They will say, "Well a house has to have a kitchen, so that's not really an improvement that you weren't taxing me on before." These types of total renovations/improvements can change a house's valuation by 50% or more. Is a total renovation of 40 year old basement finish an improvement? We have been told by taxpayers that is just repairing what was there.

Certainly I think all would agree that new porches, decks, living area additions and garages for example are considered improvements. But improvements come in many shapes and sizes.

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Is a total renovation of exterior like new roof, windows and siding to be considered an improvement? If not, we would be giving an assessment increase for a new garage that adds maybe $10,000 in market value, but not for a total interior and exterior renovation of a house which could be a $50,000 to $100,000 increase in market value. We would ask that improvements be defined and clarified in this proposal.

In addition, a 3% cap on the taxable valuation would set up certain areas of the state, county and city to be assessed at different assessment levels and what ultimately happens, is some property owners get a bigger break than others.

If the real estate market is going up 3% in Grand Forks, and 4% in Fargo, but 9% in Minot or Williston for 2 consecutive years, the folks out west get a bigger break. And in over just 2 years, Minot would be assessed at 12% below market, while the eastern cities are still assessed at market. Because Minot would only go up 3% per year instead of the 9% it should have gone up. And Fargo and Grand Forks go up 3% also. Its not equitable that one part of the state is assessed below market and the other isn't.

To further explain how inequity will happen in Minot, I would present the following:

It's quite common for certain areas of any community to have a neighborhood that is more popular than the rest of the city. Often times those neighborhoods go up more in market value then the older parts of town. Yet in a city that has different areas appreciating at different rates, the more popular areas get a bigger discount with a cap then the older, slower appreciating areas. It wouldn't take very long for a neighborhood to be assessed at 25% less then market where another part of town is receiving a much lower discount. This is a very difficult concept to explain to a taxpayer that somebody in a newer part of town, a bigger house, a newer house for example is getting a bigger discount below market then they are getting in an older house, older neighborhood.

Valuation caps also cause inequity with new construction.

If 3% caps exist, and you build a house in 2013 for $275,000, you will be assessed for approximately that amount if it is supported by comparable sales of properties. And the most you will go up is 3% under this proposal for 2014 regardless of actual market appreciation to an estimated $283,200. If the market actually went up 7 or 8% for 2014, and your neighbor builds a similar house worth $297,000 the following year, two similar houses will be assessed at about a 5% difference. We get calls all the time from people who want to be assured that their neighbor is paying "their fair share" and they will go up and down the street to see if the assessments are similar on similar homes. We are going to be $14,000 off on these two neighbors alone in one year when the market may not reflect that much difference in a one year old house.

This scenario can be played out in commercial/income producing properties also. Several years ago in Minot, apartment buildings took a spike upwards in market value and were selling for **over** 20% of their assessed values. We made adjustments of 18% across the board. Yet the other commercial property and residential property went up less than 10%. If 3% caps would have been in effect, the owners of apartment buildings would have gotten over a 15% discount in one year alone.

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Finally, if caps on assessment increases and the current statute are allowed to somehow exist together……we would find ourselves raising assessments in a market that someday may be level or going down. For instance, if the market grows 30% over 5 years, but caps allow only a 15% increase (3% per year), and the market starts drifting back down, the assessor will be required to continue raising assessments at 3% a year until the assessment catches up with a market value that is already coming back down. The public understands assessment increases in Minot because they realize the market has gone up. I hate to try and explain an assessment increase at 3% to catch up with the market that we may still be 10% below, when the market is starting to go back down from an even higher amount.

Caps on assessment increases pick winners and losers. Those properties that appreciate faster than others will get a larger discount that will only be compounded from year to year.

Thank you for your time and consideration.

Below Hypothetical example why caps on assessment increases are not fair or equitable to all

Year Built Home of 1950 in older part of city. Market appears to be increasing about 4% in the area from prior year. Assessment should go from $125,000 to $130,000 but 3% cap limits assessment to $128,800.

This house has a saving in assessment increase of about 1%.

Year built home of 2005 in newer part of city. Market appears to be increasing about 11% in the area from prior year. Assessment should go from $625,000 to $693,800 but 3% cap limits assessment to $643,800

This house has a savings in assessment of about 8% in just one year.

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Testimony To The
THE HOUSE FINANCE & TAXATION COMMITTEE
Prepared January 28, 2013 by
Terry Traynor, Assistant Director
North Dakota Association of Counties

REGARDING HOUSE BILL No. 1239

Thank you Chairman Belter and committee members for the opportunity to address House Bill 1239 on behalf of county government. County commissioners from across the State agree with the goal they understand the sponsors are seeking in this bill – that of a reduction in property tax growth that is equitable for all taxpayers. Unfortunately this bill would not be fair to taxpayers, would be difficult if not impossible to implement, and would likely conflict with statutory and constitutional requirements. Our Association therefore must oppose HB1239.

The first sentence of the proposed new section of law limits the increase in taxable valuation "on any parcel" to three percent. As this Committee understands, changes in true & full value, and therefore taxable value, vary greatly from parcel to parcel and year to year. Creating a "per parcel" limitation would have the effect of shifting the tax burden to properties, and classes of property, with slower growing values – usually those of lower value – or essentially shifting the tax burden to those with the least resources to pay. In times of poor commodity prices and high input costs, the shift would be toward agricultural land rather than away, as is now the case. Within classes the shift would be similar. Fast growing areas of a community with increasing values would be capped, shifting a larger share of the tax burden to the slower growing areas of the community; setting the county and state up for a violation of the State Constitution's requirement to provide equal taxation within property classes. This is certainly not an equitable implementation of tax reform.

Even if the intention of this bill was an overall average three percent limitation in taxes, county officials believe the concept would have disastrous consequences for our citizens. Road material and construction costs have increased 50% over the last seven years. Hay Study-driven salary increases for social services have been

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well above 3% for many counties. And, while PERS health premiums only increased 8% last biennium, they increased by 20+% each of the two previous biennia. Employer-fund PERS retirement costs were increased by 40% this past biennium and are expected to increase by a like amount again in the coming two years.

State mandated indigent defense of sex offenders is a cost that is 1000% higher than anticipated when enacted –this state-mandated (and U.S. Constitutionally-protected) county requirement is driven by factors outside the control of the county commission. The state-mandated county share of foster care grants (25% of the non-federal amount) is driven by the FMAP and state court decisions, not by what county commissioners choose to levy. Staffing costs for food stamp eligibility, in-home care of the elderly, and the dozens of other human service programs counties are required to deliver; increase and decrease with the economy and federal mandates. We are asked by county officials; "If these costs rise by more than 3%, what is a county's option under HB1239 – particularly a county with a stagnant (or shrinking) tax base?"

For these reasons, our Association urges a Do Not Pass recommendation on House Bill 1239.