

2015 HOUSE POLITICAL SUBDIVISIONS

HB 1193

2015 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

HB 1193
1/29/2015
22809

☐ Subcommittee
☐ Conference Committee

Amanda Muscha

Explanation or reason for introduction of bill/resolution:

Relating to investments for political Subdivisions.

Minutes:

Marilyn Foss Testimony #1
Mike Maloney Testimony #2
Lee Strum Testimony #2
Terry Traynor Testimony #3
Jolene Kline Testimony #4

Chairman Klemin: Opened the hearing on HB 1193.

Marilyn Foss: Testimony #1

Representative Beadle: In regards to that line (the-this), how you would be able to invest in the need obligations to the state in regards to a particular communities who are too small to go out and seek ratings or approvals, would a community with a smaller rating would they still be able to get a rating there even if they had a sub power rating by opening it up to anyone in the state? So if we had is set up in levels and they were lower would you still be able to use them?

Marilyn Foss: There is no rating requirement. When you are investing in instruments that are not rated you do have to make some judgment with repay ability of the obligation.

Representative Beadle: I don't think we would have many that would be issuing bonds to the market that would have a lower rating than that, it is says a security that has a revenue obligation that is highest to rating by national recognized, but if we had a local government issuing a security revenue obligation and not in the highest two, that subsection five of that section would it trump the other ones?

Marilyn Foss: In my mind it would be a separate category which would able it to purchase an unrated security. It is a separate category which would enable you to purchase an unrated security from a North Dakota political subdivision.

Representative Beadle: If they were in conflict, if it was a North Dakota one that was a revenue obligation which is what we classify under subsection 2 but it is coming from a

political subdivision of the state it does not meet the requirement that this one would still carry weight? It would not be restricted by subsection two?

Marilyn Foss: That is my understanding. Yes.

Representative Kretschmar: Page two you say a security that is a general obligation is that they same as a bond that is guaranteed by the full faith and credit of a municipality?

Marilyn Foss: I am talking about moral obligations not general obligations of the state. It is similar to federal agencies, they may not be backed by the full faith and credit by the US but they are expected to. We were informed by the housing financing agency and the bond council that North Dakota housing finance agency issuant are not moral obligations of the state and must stand on their own. So when we remove that language so our North Dakota public funds could be invested in obligations of our own states housing finance agency and that of other states as well. That is why when we remove that expectation that we raised the rating requirement and I understand that our housing finance agency binds are in the top two so they would continue to be eligible investments.

Representative Kretschmar: You have a freeze in many of the sections about a nationally recognized rating agency. Is there a definition of those things?

Marilyn Foss: Yes there are nationally recognized rating agencies (Moodies, Standard in Pores, Fitch). In the investment business everybody knows who they are.

Lee Strum: Regional manager of the Government Banking Division at US Bank. Working with just government entities across the state of North Dakota and other states within the upper mid-west. I would like my associate to share some comments then I will answer questions.

Mike Maloney: See Testimony #2

Lee Strum: See Testimony #2

Representative Zubke: Could a community invest in a neighboring community?

Mike Maloney: They could invest in another subdivision or their own obligations.

Representative Becker: Who does this serve in equal proportion of the large and small banks?

Mike Maloney: I think it provides the political subdivisions more options. They can still invest in who they want to but it is mainly to help political subdivisions.

Opposition:

Terry Traynor: Testimony #3

Representative Anderson: Each county can set their own investment policy and say they will not invest in the securities that they are uncomfortable with. Right?

Terry Traynor: I believe so. The county treasurer is an elected county official with authority on their own. I think that is a good question. In the home rule counties they granted that authority within limitations of investment policies that have either been established wither by ordinance or by commission resolution and that works well. In a county that is not home rule, whether the commission has the authority to establish a policy that governs a separately elected official with that investment responsibility, the legal question I could not answer.

Representative Beadle: You mention some counties, larger ones let's say would have a little more sophistication when it comes to managing an investment portfolio. Would a county like that, have some asked for some of these more expanded options beyond the ones that you want to be removed?

Terry Traynor: The legislative committee of the auditors and treasurers includes the larger counties and smaller counties and they were in agreement with this message. Essential Cass because they are home rule and have their own investment policy. They have established theirs; they don't include some of these investment options in theirs. They do have the authority to do it though.

Representative Beadle: In one of your proposed amendments where you're looking at removing subsection e4, understanding the lack of comfort that there might be in investing in school districts outside of our state. Is your intention that that also includes from moving any obligation from a school district within state? Or is that covered elsewhere within our local government sections for like subsection 2? Is that your interpretations?

Terry Traynor: Yes that is. WE believe that local North Dakota school districts would be covered in that section where this state and its political subdivisions.

Representative Koppelman: To what degree does your company get involved in helping these smaller counties financially? (For some that might not be as financially sophisticated)

Terry Traynor: It is a delegate line; you try to not meddle in their affairs and provide them advice that is the job of their elected officials. We would try to get the resources but we try not to involve ourselves too much. It was mentioned that if this bill would pass, it would be incumbent upon the auditors and treasurer association to developed an investment policy model and get some further education out there because we know that once this door is open there will be investment advisors saying let's put your gross production over here or let's put your property tax there. I am fearful that some of our elected officials may not be educated in what all those decisions mean.

Representative Koppelman: Would that kind of a step be necessary in your view whether the bill passed as written or as you suggested? If it passes in this form would you still be in that situation to provide assistance?

Terry Traynor: Probably so, there are variations in the types of bonds and it would be helpful.

Representative Koppelman: If your amendment would be adopted and the bill passed that way and a county wanted more flexibility than that bill would offer it could become a home rule county to gain that flexibility. Could it not?

Terry Traynor That is my understanding. It would take citizen approval.

Representative Zubke: In your testimony you talk about 1, 2, 3 in e, and then you go on to say that out think 5 line 12 which is the obligations again of this state and its political subdivisions meet that standard that are in 1, 2, and 3, I am questioning if they do? If you, understanding that treasurer are elected and many do not have a lot of education in finance, you have a couple counties that we have the buddy system going on counties that are desperate to raise some funds, an so another county invests in that county, aren't you in a sense if you had a sever down turn in oil, aren't you really putting two counties at risk by allowing that? Isn't that a pretty big window?

Terry Traynor: The discussion of the local elected officials felt comfortable assessing their own risks in their neighboring and fellow counties and school districts in the state of North Dakota and understanding what that risk would be.

Representative Kelsh: It was testified that counties could invest in their own obligations. Wouldn't it be better paying (is there an early payment penalty?) the end of their obligation off rather than investing in it and trying to get a little bit of interest? Wouldn't it be better saving a bigger interest in the end?

Terry Traynor: It really comes down to each individual case basis. It is a judgment call and as far as early payment penalties, I am not familiar with most of the bond accrues.

Chairman Klemin: On the school district, you were concerned about obligations of school districts in any state. Do you have concerns if it was limited to this state?

Terry Traynor: They felt a political subdivision of this state, a school district, the investment of the county official at the county level would understand the structure of that where the structure of school districts varies across the country and understanding what the risk was outside of North Dakota when it comes to school districts gets to be a little difficult.

Chairman Klemin: If we looked at this bill and you're asking us to remove subsection e4, but it sounds like you're saying you would be satisfied if we s=instead said on e4 any security that is in obligation of a school district in this state?

Terry Traynor: E5 would cover all political subdivisions of the state which would be counties, cities, school districts, park districts within North Dakota.

Chairman Klemin: Are you saying this is redundant?

Terry Traynor: My understanding is the 4 is basically saying school districts across the country where as 5 is...

Chairman Klemin: If we limit it to school districts in this state, would you have the same objection?

Terry Traynor: No we are supportive of that. It is already there.

Chairman Klemin: Home rule counties are unrestricted if they are authorized to handle their own fiscal affairs they can invest however they choose if they have their own investment policy that they are following?

Terry Traynor: It depends upon the home rule charter and what the citizens have granted the governing body to do. Generally what they do is establish by ordinance what their investment policy is.

Chairman Klemin: North Dakota counties have done that?

Terry Traynor: Yes.

Chairman Klemin: So without this language those counties can do these things.

Terry Traynor: They can but the language I have seen isn't as broad as this, I am not intimately familiar with all of the different investment instruments of this.

Neutral:

Jolene Kline: Testimony #4

Chairman Klemin: So we are referring in this bill to the provision about page 2, line 7, general obligation of the state housing finance agency that is rated in the highest two categories by a nationally recognized rating agency. That would 5 year it?

Jolene Kline: That is a section but that general would need to be stricken because our bonds are not a general obligation nor a moral obligation of the state. We are okay with the rated in the highest two categories, and we are rated by a nationally recognized rating agency.

Chairman Klemin: Could Marilyn Foss comment on the amendments brought up?

Marilyn Foss: I can't say that we are alterably opposed to that but we just thought they the broader range of investments would be the idea. I would say that our political subdivision governing authorities are elected and they are in charge of working with changing law, managing money, etc... I assume they would learn about the investments before going full steam ahead at this. They can take any step they want. This bill does not require any changes. We have many sizes of banks and even smaller banks feel this would help them manage large assets of deposits and simply help them. Some are looking at this as a vehicle of competition but it is not a big bank bill.

Chairman Klemin: Closed the hearing on HB 1193 and appointed a sub committee led by Vice Chairman Hatlestad, Representative Zubke, and Representative Oversen.

2015 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

HB 1193
2/6/2015
23407

- ☐ Subcommittee
☐ Conference Committee

Amanda Muscha

Explanation or reason for introduction of bill/resolution:

Relating to investments for political subdivisions

Minutes:

Testimony 1

Chairman Klemin: Opened hearing on HB 1193

Representative Zubke: Testimony 1 (Explains amendments)

Chairman Klemin: Page 2 line 7 remove the word general, I think we have the article a in front of the word general and to be grammatically correct shouldn't we remove a general and insert an?

Representative Zubke: Yes

Chairman Klemin: Page 2 line 10 replace a with a general, so any security that is a general obligation of a school district and is rated in the highest two categories by nationally recognized rating agency. As I recall the testimony was concerned that there may have been a possibility to invest in schools outside the state. Should we add in this state after the word school district?

Representative Zubke: Valid point, if they testified that I did not pick that up.

Chairman Klemin: Should we do that?

Representative Zubke: Yes

Representative Beadle: It wouldn't be necessary with subsection 4. A school district within the state would still be a political subdivision within the state and so that next section allows them to already invest in a general obligation of a political subdivision in the state which would include the school district.

Chairman Klemin: Four language is staying in the bill. We need to make it clear.

Representative Beadle: I understand that. Why would we need to clarify that this one right above is a school district in the state since that is already covered in that subsection?

Chairman Klemin: It makes it read like 5 are something different than 4 and what you're saying is 4 and 5 are the same.

Representative Beadle: I am saying they are the same with the only acceptance being that we have the qualifier about the rating category but other than they would be the same because the school district would fall under a political subdivision in the state.

Chairman Klemin: That may be true but since we do have all of subdivision 4 in here I am not sure that this could be read that way, because that would say that we have school district as one type of political subdivision or entity and then subdivision 5 would cover the others.

Representative Beadle: In the testimony I asked that question and the reason why they said 3 was allowed because it allowed them for school districts outside of the state and so school districts in the state they said was covered in the one below, the only reason why the one above was so it would be outside the state as well. Which is why that since it was outside the state, they included the rating category on there so they said that, that section was in there for outside of this state, so we qualify that to be in this state it would be superfluous due to the fact that then the one below already cover the ones in this state. I don't know why we need to have both because in the testimony it was stated.

Chairman Klemin: I recall that the counties didn't like subdivision 4 because it would allow investment outside the state.

Representative Beadle: Correct but since that was written for school districts outside the state so I asked them the question about how our school districts in the state are covered and they said it is covered under 5. We don't need both if it is specified under the next one.

Chairman Klemin: The sub-committee has elected to leave that section in there and if we are going to leave it in there, the question is, should it be limited to school districts in the state.

Representative Anderson: The way I read this is if we are going to buy anything out of the state it has to be rated which means it would be a large school district and there are a lot of obligations of our state in political subdivisions. They are too small and they don't need to be rated because it is expensive.

Representative Hatlestad: Even though it opened to interpretation so to be on the safe side, if it unnecessary to add a few lines I think we should.

Representative Beadle: That is fine just remember during the testimony that the rating category was in there just so it would give comfort for when they were dealing with school districts outside the state but if we limit to in the state then it was deemed unnecessary because it was covered in the next one.

Representative Anderson: If we put in this state then they would have to be nationally recognized rating agencies.

Chairman Klemin: They limit the ability to invest in school districts within the state but so be it, they didn't want that choice at all.

Representative Zubke: I consulted my notes and emails and I think the addition of the word a general obligation they were ok with the fact that there would be investments in school districts out of the state and that also does bring in the issue of the highest two categories being recognized. So I think it was the intention from the auditors that it was ok that we have investments in school districts out of state as long as they are rated in the highest two categories and they are general obligations.

Chairman Klemin: That would not be negated in subdivision 5 then? So you don't want in this state?

Representative Zubke: Correct.

Representative Beadle: Moves to adopt the amendments

Representative Hatlestad: Seconds

A voice vote was taken: All in favor

Amendments were adopted

Representative Hatlestad: Moved a do pass as amended

Representative Beadle: Seconded

A Roll Call Vote Was Taken: Yes 12, No 1, Absent 1 (Koppelman)

Motion carries

Representative Zubke will carry the bill

February 6, 2015

2/6/15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1193

Page 2, line 4, remove "Any security that is a revenue obligation of any state or local government"

Page 2, remove lines 5 and 6

Page 2, line 7, replace "(3) A general" with "An"

Page 2, line 7, remove "a moral"

Page 2, line 8, remove "obligation of the state and is"

Page 2, line 8, replace "three" with "two"

Page 2, line 10, replace "(4)" with "(3)"

Page 2, line 10, replace "an" with "a general"

Page 2, line 12, replace "(5)" with "(4)"

Page 2, line 12, replace "the" with "this"

Page 2, line 12, after "and" insert "general obligations of"

Page 2, line 13, remove "two"

Page 2, line 14, replace "categories" with "category"

Page 2, remove lines 16 through 22

Renumber accordingly

Date: 2/6/2015
Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1193**

House Political Subdivisions Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Beadle Seconded By Hatlestad

Representative	Yes	No	Representative	Yes	No
Chairman Lawrence R. Klemin			Rep. Pamela Anderson		
Vice Chair Patrick R. Hatlestad			Rep. Jerry Kelsh		
Rep. Thomas Beadle			Rep. Kylie Oversen		
Rep. Rich S. Becker			Rep. Marie Strinden		
Rep. Matthew M. Klein					
Rep. Kim Koppelman					
Rep. William E. Kretschmar					
Rep. Andrew G. Maragos					
Rep. Nathan Toman					
Rep. Denton Zubke					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

voice vote passes

Date: 2/6/2015
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1193

House Political Subdivisions Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Hatlestad Seconded By Beadle

Representative	Yes	No	Representative	Yes	No
Chairman Lawrence R. Klemin	X		Rep. Pamela Anderson	X	
Vice Chair Patrick R. Hatlestad	X		Rep. Jerry Kelsh	X	
Rep. Thomas Beadle	X		Rep. Kylie Oversen	X	
Rep. Rich S. Becker	X		Rep. Marie Strinden	X	
Rep. Matthew M. Klein	X				
Rep. Kim Koppleman	/				
Rep. William E. Kretschmar	X				
Rep. Andrew G. Maragos	X				
Rep. Nathan Toman		X			
Rep. Denton Zubke	X				

Total (Yes) 12 No 1

Absent 1 (Koppleman)

Floor Assignment Zubke

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

REPORT OF STANDING COMMITTEE

HB 1193: Political Subdivisions Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). HB 1193 was placed on the Sixth order on the calendar.

Page 2, line 4, remove "Any security that is a revenue obligation of any state or local government"

Page 2, remove lines 5 and 6

Page 2, line 7, replace "(3) A general" with "An"

Page 2, line 7, remove "a moral"

Page 2, line 8, remove "obligation of the state and is"

Page 2, line 8, replace "three" with "two"

Page 2, line 10, replace "(4)" with "(3)"

Page 2, line 10, replace "an" with "a general"

Page 2, line 12, replace "(5)" with "(4)"

Page 2, line 12, replace "the" with "this"

Page 2, line 12, after "and" insert "general obligations of"

Page 2, line 13, remove "two"

Page 2, line 14, replace "categories" with "category"

Page 2, remove lines 16 through 22

Renumber accordingly

2015 SENATE POLITICAL SUBDIVISIONS

HB 1193

2015 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Red River Room, State Capitol

HB 1193
3/13/2015
Job Number 24832

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to investments for political subdivisions

Minutes:

Written Testimony # 1 Marilyn Foss

Chairman Burckhard opened the committee for HB1193. Chairman Burckhard, Vice-Chairman Anderson, Senators Lee, Bekkedahl, Grabinger were present. Senator Dotzenrod was absent.

Marilyn Foss (:12-13:12) General Council for the North Dakota Bankers Association. Written Testimony # 1 and in support of HB 1193.

Senator Anderson What happens if I bought some Williston bonds last year and now the rating industry drops it below their second level because there things are going bad there. Am required to divest those and buy some different ones or what happens?

Marilyn Foss You have an investment that you have to decide how you're going to handle it whether you're going to retain it because the fact that the rating change does not mean it is not going to be paid. The way this bill is drafted, where the state and local securities are required to be GEO's that you have taking authority behind it so, there really is very low risk that it will not actually be repaid.

Senator Bekkedahl That is the question I was getting too as well. So as I see this if its revenue obligations debt that is not general obligation it doesn't qualify in this investment category?

Marilyn Foss The only instrument here that is permitted to be revenue based is the housing finance agency bond and that has to be when you purchase it in one of the top two investment categories.

Senator Bekkedahl On page 2, line 1, it says any security that is a general obligation of any state or local government with taxing powers and is rated in the highest 3 categories by nationally recognized rating agency, and the city of Williston is at the lowest grade right now, to qualify for that and we just had a bond call yesterday (Thursday) on our existing

bonds which I don't know if that means we are going to be rerated or not, so I don't know where we are. I think we are at the low end of the cities in the state because of our volatility.

Marilyn Foss If the question was could nobody buy into a Williston bond? That is a subcategory 4 which is a separate category for obligations of this state and general obligations at its political subdivisions which I noted you do not have a rating.

Senator Bekkedahl That is what I was getting too, is that in Section 4, Line 8 ties in with that.

Marilyn Foss yes.

Senator Bekkedahl Then my next question is philosophical so essentially the City of Fargo could buy GEO bond obligation from the City of Williston bond and Williston can do vice versa to the City of Fargo under this legislation?

Marilyn Foss Yes, actually under this legislation the City of Fargo Park District could buy an obligation of the city of Fargo.

Chairman Burckhard You made reference to excess cash in the Western part of the state so there going to help out and loan some of this money.

Senator Bekkedahl Excess cash not being related to political subdivisions. I think she is talking to the banking institutions. Chairman Burckhard yes, right.

Marilyn Foss Excess deposits.

Jack McDonald (17:02-17:30) appearing here today on behalf of the League of Cities. The League of Cities has looked over this legislation and participated in the House side and they do support the bill on behalf of the League of Cities. It will give the cities some greater investment opportunities. There is nothing mandatory, this is strictly a bill that cities can use this new advantage if they want to. The League of Cities does support the bill and urge that you give it a do pass.

Terry Traynor (17:45-19:33) Association of Counties. We appreciate that the State Bankers Association came to the Association of Counties early on and shared the bill with us, and allowed us to circulate it among our county officials and we did have some concerns with the original bill in the House and we urged a little bit more of a go slow and that is why we are very comfortable with what came out of the House, and what's before you today. It is something that a number of our county officials have asked for, some expansion to their ability to invest money. A typical comment was if Watford City is building a school and their bonding for that why shouldn't the City of Bismarck or Burleigh County be allowed to invest in that? We know the city officials, we know what their dealing with, we know what the revenue stream is and that to us seems like a lot more secure than even a maybe a federal government T-bill or something, because were comfortable with that and this provides that opportunity. It doesn't expand the world greatly, but it does make a step in the right direction. It was brought out a number of our larger communities have gone to

Home Rule now. They are generally those that have much more professional staff and they have developed their own investment policies within the authority that has been granted to them by their citizens. So this probably doesn't affect them, but still for probably 40-43 of our counties. This is the gospel, and we're comfortable with the gospel as it is before you today.

Senator Grabinger My concern is with commercial paper. I know you talk about being able to invest in bonds from other communities. I get that. But this commercial paper is in the testimony from Marilyn and it says, "commercial paper short term unsecured debt that is issued by a business corporation", aren't you a little leery about that?

Terry Traynor That was the big point of discussion. Some of the commercial instruments that were proposed that were more in the original bill. We felt that if it has the highest rating by two nationally recognized rating agencies; that was about as secure as we could get with commercial paper and we were willing to keep that in the bill. Again, there is no mandate that local government has to invest in any of these instruments, so how much it is going to be used, I think its' incumbent upon our association. The League of Cities has to watch how this is being used and probably assist more of our jurisdictions now in developing their own investment policies so they know what they're doing and why they are doing it. Obviously we are not getting no return, on the investments we have now and that isn't necessarily a good stewardship of the public resources either.

Chairman Burckhard asked for those in opposition or neutral to the bill.
Chairman Burckhard closed the hearing on HB 1193.

Senator Judy Lee moved Do Pass on HB 1193.

2nd Senator Anderson

Chairman Burckhard said that we'll leave the vote open for Senator Dotzenrod

Roll call vote

5-0-1

Carrier Senator Burckhard

Minutes:

Roll call vote:

5-0-1

Senator Dotzenrod later votes " yes" on the motion for a " Do Pass" HB 1193, changing the roll call vote to 6-0-0. It was recorded on March 16, 2015, Job Number 24924

Date: 2.13.15
Roll Call Vote: /

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1193

Senate Political Subdivisions Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Judy Lee Seconded By Senator Anderson

Senators	Yes	No	Senators	Yes	No
Chairman Burckhard	X				
Senator Anderson	X		Senator Dotzenrod	X	
Senator Bekkedahl	X		Senator Grabinger	X	
Senator Judy Lee	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Burckhard

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

REPORT OF STANDING COMMITTEE

HB 1193, as engrossed: Political Subdivisions Committee (Sen. Burckhard, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1193 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

HB 1193

TESTIMONY OF MARILYN FOSS
NORTH DAKOTA BANKERS ASSOCIATION
SUPPORTING HB 1193

Good morning, Chairman Klemin and members of the Political Subdivisions Committee. I am Marilyn Foss, General Counsel for the North Dakota Bankers Association. We are appearing here to support HB 1193, which was introduced at our request.

NDBA is sponsoring this bill because banking is changing. All of our banks are facing regulatory changes regarding the amount of capital they must have, the types of capital they must have and such things as how liquid that capital must be. These new rules will affect what products and services they may offer to customers, including political subdivisions, and the prices at which those products and services may be offered. We also have banks (primarily in the western part of the state) that are finding themselves with an excess of deposits. These banks are also looking at ways to continue to serve the needs of their political subdivision customers to manage public funds safely and with appropriate returns. One way to do that is to modernize the statutes that govern the investment of public funds by broadening permissible investments for those funds. That is what HB 1193 does and it does so in the same ways that our surrounding states, Minnesota, South Dakota and Montana have done.

Section 21-06-07 strictly restricts the types of investments that may be made with public funds to those with virtually no risk, such as US Treasury obligations and federally insured deposits, and North Dakota state obligations. These types of investments are so secure that they also are very low return, or, in the case of North Dakota state obligations, of limited availability (because North Dakota as a state doesn't issue many bonds). We are proposing to expand the possibilities for investments of public funds to include investment grade commercial paper, bankers' acceptances, obligations of other states and their political subdivisions, and money market mutual funds as well as all obligations of North Dakota political subdivisions. Of course, insured deposits also continue to be permitted investment vehicles.

We would like to offer a couple of amendments to the bill. The first is to remove language about "moral obligation" for housing agency bonds because we learned that North Dakota housing finance agency bonds are not "moral obligations of the state". With that language our own state HFS bonds would not be eligible investments for public funds and we need to correct that situation, However, since "moral obligation " status is a credit enhancement which we are removing, we also want to adjust the rating requirement for housing finance agency bonds to the top two ratings, rather than the top three ratings. Also, we want to make it clearer that North Dakota public funds may be invested in any issuance by a political subdivision of this state whether that issue is rated or not. (This is because many sound issuances by North Dakota political subs are just too small to bear the expense of rating and thus are not rated at all.) Changing the first "the" on to "this" on page 8, line 12, makes more of a distinction between North Dakota issuances which are not required to be rated and those of other states which do have a ratings requirement as set forth on page 2, lines 4-6.

This bill allows investments in only highly rated, investment grade options. These are the type of products that prudent investor rules allow for trustees; the proposed investments are prudent and safe, but not absolutely without risk because absolutely without risk is also absolutely without return. We think HB 1193 enables our bankers to offer better service to political subdivision customer and also enables political subdivisions to be better managers of public funds.

With that, I would like to introduce, Lee Strom a Vice-President, Regional Manager, and investment professional with U.S.Bank. Lee will provide more detail about the types of investments that are covered in this bill.

HB 1193 1/29/2015 1.3

PROPOSED AMENDMENTS TO HB 1193

Page 2, line 7, remove "a moral"

Page 2, line 8, remove "obligation of the state and is"

Page 2, line 8 replace "three" with "two"

Page 2, line 12, replace the first "the" with "this"

Renumber accordingly

North Dakota – Testimony – January 29, 2015 North Dakota Legislative Branch Political Subdivisions

Mr Chairman, members of the Committee

My name is Lee Strom, I am Vice President and Regional Manager for the U.S. Bank Government Banking Division.

MIKE STARTS HERE

Mr Chairman, members of the Committee

My name is Mike Maloney, I am Vice President and Investment Portfolio Manager Municipal Advisory Group for U.S. Bancorp.

The Bank provides banking services for governments across the State of North Dakota, including checking accounts, credit cards and credit card processing, prepaid cards, investments, underwriting and financing.

We are here today to share information regarding HOUSE BILL 1193 for an Act to amend and reenact section 21-06-07 of the North Dakota Century Code, relating to investments for political subdivisions.

In visiting with government entities across the state, over the years they have shared information on the limitations on the types of investment vehicles available to political subdivisions in North Dakota.

Currently the North Dakota political subdivisions may invest in:

- a. Bonds, treasury bills and notes, or other securities that are a direct obligation of, or an obligation insured or guaranteed by, the treasury of the United States, or its agencies, instrumentalities, or organizations created by an act of Congress.
- b. Securities sold under agreements to repurchase written by a financial institution in which the underlying securities for the agreement to repurchase are of a type listed above.
- c. Certificates of deposit fully insured by the federal deposit insurance corporation or by the state.
- d. Obligations of the state.
- e. Certificates of deposit, savings deposits, or other deposits fully insured or guaranteed by the federal deposit insurance corporation and placed for the benefit of the public depositor by a public depository through an appropriate deposit placement service as determined by the commissioner of financial institutions.

By prudently expanding what the permitted investments are for political subdivisions, it may allow them to better manage their respective cash on hand. "Better manage" could include rates of return but more importantly an opportunity for diversification. Diversification can reduce risk of the overall portfolio to any specific event.

LEE STARTS HERE

Mr Chairman, members of the Committee

Over the past couple years, new Federal regulations and rules have been implemented impacting financial institutions which in turn has impacted political subdivisions. These changes have included most significantly the Dodd Frank Wall Street Reform and Consumer Protection Act, Money Market Reform and Basel III rules.

Many of these rules and regulations were designed to create a more resilient banking sector. As the rules are being implemented, they are also having an impact on the clients of the financial institutions, as mentioned including political subdivisions.

As an example of how the rules may be affecting clients; Basel III has been established to strengthen capital requirements and introduced liquidity requirements for banks. The Federal Reserve, Office of the Comptroller of Currency and FDIC have the responsibility for the review and implementation of Basel III in the United States. The Liquidity Coverage Ratio (LCR) in the Basel III rules is a major change in banking. The LCR is a short-term liquidity measure intended to ensure that banking organizations maintain a sufficient pool of liquid assets to cover net cash outflows over a 30-day stress period. These High Quality Liquid Assets (HQLAs) must be able to be converted immediately into cash with little or no loss of value during a period of liquidity stress. For purposes of LCR, examples of these assets (HQLAs) include cash, treasuries and a limited amount of agency securities.

This rule is affecting many public depositors in two ways:

- 1) Because banks are being encouraged to hold treasuries and agencies that they are able to sell in a liquidity crisis, banks are less willing to provide that same collateral to government entities. Some government entities are having a hard time finding the availability of collateral to cover their deposits. This collateral issue also has been noted to impact government entities to find CDs as they are somewhat scarce in the market.
- 2) To meet the requirements of the Basel III LCR ratio, banks are buying more treasuries and agencies than they have historically purchased, therefore competing with government entities for those securities in the market and driving yields down.

Because of these changes, many banks are placing a higher emphasis on stable balances and longer term bank relationships.

In addition, clients can expect change in some service costs. As mentioned above, deeper relationships with banks, including a mix of products and services may be required to justify deposits.

Another example of a regulation that may affect public depositors in ND is money market fund reform. Although these rules are not yet fully implemented (scheduled to occur through most of 2016), they are expected to put more pressure on the treasury and agencies markets by increasing demand for these securities, potentially making them less accessible and lowering returns.

Overall, the market is gradually adapting to provide new and different banking products and services.

Neighboring states allow similar investment opportunities as this proposed legislation. These include: Minnesota, Montana, South Dakota, and further out, Wisconsin, Wyoming, and Nebraska. In some cases statutes even go further. An example is in Minnesota – Negotiable CDs

Changing the Century Code at a time when Federal rules and regulations have changed, will allow political subdivisions the ability to prudently invest in additional products and diversify their portfolios.

Summary

As Mike mentioned, in talking with political subdivisions across the state, over the past few years, we have heard from them that they would like to see additional investment options. What we heard from many is, they are asking for a change to allow them to diversify their investment portfolios and at some point perhaps increase a return.

Changes in Federal rules and regulations are having an impact on banks and in turn political subdivisions.

Passing HOUSE BILL 1193 for an Act to amend and reenact section 21-06-07 of the North Dakota Century Code, relating to investments for political subdivisions, does not mean the political subdivisions will be required to change what they are currently doing.

What it does provide is the opportunity to select from at least three options:

- 1.) Do nothing: They can choose to continue with a policy similar to today's century code
- 2.) Hire a professional manager to invest according to the new rules
- 3.) Make investments themselves, within the guidelines of the new code and any additional limitations agreed upon for their specific political subdivision

Thank you for your time and the opportunity to be here today. Are there any questions?

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Testimony to the

House Political Subdivisions Committee

January 29, 2015

Prepared by Terry Traynor, Assistant Director

North Dakota Association of Counties

RE: House Bill No. 1193 – Investment Limitations

Mr. Chairman and committee members, the county officials I represent are uncomfortable with what they see as a substantial broadening of the investment instruments available to local government.

We thank the North Dakota Bankers' Association for sharing this legislative concept early-on in their process, as it has given the elected and appointed officials that are responsible for investing government funds the opportunity to review and discuss the proposal.

It is true that some counties have sought greater flexibility in investment opportunities, and are particularly interested in the ability to invest local government funds in relatively safe municipal bonds – particular those issued by their fellow North Dakota political subdivisions. Their conclusion however, was that they will not support the bill as written.

They feel it goes well beyond the investment authority of political subdivisions in our neighboring states and introduces options of considerably greater risk.

If the following changes would be made to the bill, they have indicated that they will support it.

- **Remove Subsection e.(4):** "Any security which is an obligation of a school district and rated in the highest two categories by a nationally recognized rating agency."
- **Amend Subsection f:** "Commercial paper issued by United States corporations that is rated in the ~~two~~ highest quality ~~categories~~ category by

at least two nationally recognized rating agencies and matures in 270 days or less.”

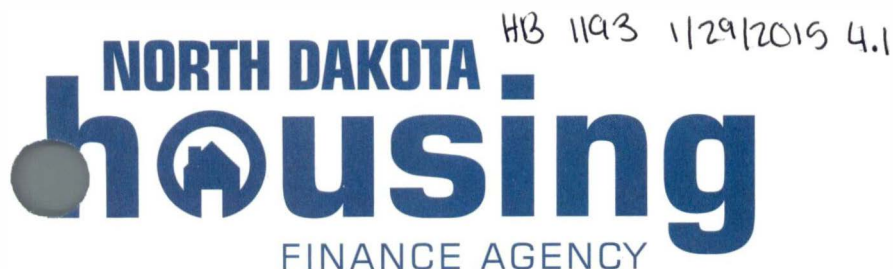
- **Remove Subsection g:** “Bankers acceptances of United States banks that are rated in the two highest categories by at least two nationally recognized rating agencies.”
- **Remove Subsection h:** “Shares of an investment company which is registered under the Federal Investment Company Act of 1940 and which holds itself out as a money market fund meeting the conditions of rule 2a-7 of the Securities and Exchange Commission and is rated in one of the two highest rating categories for money market funds by at least one nationally recognized rating agency.”

They believe that the general and revenue obligations of states and local governments around the country identified in paragraphs 1-3 of subsection e are reasonably safe and appropriate for local funds. They also agree that obligations of North Dakota and its political subdivisions in e. (5) meet that standard.

They are less comfortable with commercial paper, (subsection f) but if it is limited to that rated in the highest category, they can accept that expansion.

The banker’s acceptances and shares of investment companies (subsections g and f) are beyond what they can support. Similarly, they are unsure that obligations of school districts outside of North Dakota [e.(4)] should be included.

Thank you for the opportunity to provide these suggestions. Without the changes, our Association urges a Do No Pass recommendation.



Jolene Kline Executive Director

INDUSTRIAL COMMISSION

Jack Dalrymple Governor

Wayne Stenehjem Attorney General

Doug Goehring Agriculture Commissioner

HB 1193

Wednesday, January 28, 2015

**North Dakota Housing Finance Agency
Division of the State Industrial Commission
Testimony by Jolene Kline, Executive Director
House Political Subdivisions Committee**

Chairman Klemin and members of the Political Subdivisions Committee:

My name is Jolene Kline, executive director of the North Dakota Housing Finance Agency (NDHFA). I am testifying in a neutral position on House Bill 1193 to provide background on the bonds issued by the Agency.

Under section 54-17-07.4 of the North Dakota Century Code, the North Dakota Housing Finance Agency is authorized to issue revenue bonds to finance the purchase of mortgages made by local lenders to low- and moderate-income homebuyers. Revenue bonds are payable from and secured only by the earnings of the portfolio of mortgage loans and are not general or moral obligations of the state.

NDHFA issues tax-exempt Mortgage Revenue Bonds (MRB) under the state's Private Activity Bond volume cap. North Dakota receives the small-state minimum authority of \$301,515,000, which normally is not entirely used.

Mortgage loans originated by local participating lenders and meeting the qualifications of our homeownership programs are purchased from the lender using the MRB proceeds. The Agency issued its first MRB in 1982. History to date through 2014, 38,953 loans worth more than \$2.87 billion have been made under the Agency's homeownership programs – most of which were funded by MRBs.

Our revenue bonds are marketed and sold by a finance team to investors. Since the interest on the bonds is exempt from federal income taxation, the investors accept lower interest rates than they would otherwise require on taxable securities. Investors are normally institutions, mutual funds and individuals in the higher tax brackets because of the value the tax exemption brings and the size of the bonds.

Changes to Page 2 of HB 1193

(1) Any security that is a general obligation of any state or local government with taxing powers and is rated in the highest three categories by a nationally recognized rating agency.

~~(2) Any security that is a revenue obligation of any state or local government and is rated in the highest two categories by a nationally recognized rating agency.~~

~~(3)~~ (2) A ~~general~~ obligation of the state housing finance agency that is ~~a moral obligation of the state and is~~ rated in the highest ~~three~~ two categories by a nationally recognized rating agency.

~~(4)~~ (3) Any security that is ~~an~~ a general obligation of a school district and is rated in the highest two categories by a nationally recognized rating agency.

~~(5)~~ (4) Obligations of ~~the~~ this state and general obligations of its political subdivisions.

f. Commercial paper issued by a United States corporation rated in the ~~two~~ highest quality ~~categories~~ category by at least two nationally recognized rating agencies and matures in two hundred seventy days or less.

~~g. Banker's acceptances of United States banks that are rated in the two highest categories by at least two nationally recognized rating agencies.~~

~~h. Shares of an investment company registered under the Investment Company Act of 1940 [15 U.S.C. Section 80a-1 et seq.], that holds itself out as a money market fund meeting the conditions of Rule 2a-7 of the securities and exchange commission and is rated in one of the two highest rating categories for money market funds by at least one nationally recognized rating agency.~~

2. Bonds, treasury bills and notes, or other securities so purchased must be taken into consideration in making levies for the ensuing year, and when funds are needed for

1.2

current expenses, the governing board and authorities of such municipalities may convert those obligations into cash.

Subcommittee's Proposed Amendments to HB 1193

Page 2, remove lines 4 through 6

Renumber accordingly.

Page 2, line 7, remove "general"

Page 2, line 7, remove "a moral"

Page 2, line 8, remove "obligation of the state and is"

Page 2, line 8, replace "three" with "two"

Page 2, line 10, replace "an" with "a general"

Page 2, line 12, replace "the" with "this"

Page 2, line 12, after "and" insert "general obligations of"

Page 2, line 13, remove "two"

Page 2, line 14, replace "categories" with "category"

Page 2, remove lines 16 through 22

*H.B. 1193
3.13.15
#1a*

TESTIMONY OF MARILYN FOSS
NORTH DAKOTA BANKERS ASSOCIATION
SUPPORTING ENGROSSED HB 1193

Good morning, Chairman Burckhard and members of the Political Subdivisions Committee. I am Marilyn Foss, General Counsel for the North Dakota Bankers Association. We are appearing here to support Engrossed HB 1193, which was introduced at our request.

Engrossed HB 1193 broadens the investment opportunities for public funds. NDBA is interested in this subject because banking is changing in ways that are expected to affect all customers, but public funds depositors more than some others. Specifically, banks are facing regulatory changes regarding the amount, types and quality of capital, measured by such factors as the nature of the banks' assets and liability and capital liquidity. When the rules for higher and more liquid capital are fully implemented, there will be an increased demand by financial institutions for traditional investments for public funds such as U.S. Treasury bonds, bills and notes and U.S. agencies. As a result, these types of investment products will be less available as investment vehicles for others or will be available only at returns that may not be attractive to investors who are not required to buy and hold them. Additionally banks generally agree that the new rules will affect the range of products and services they may offer to customers, including political subdivisions. Some North Dakota banks (primarily in the western part of the state) continue to find themselves with an excess of deposits. This situation has them looking for ways to continue to serve the needs of their political subdivision customers with products that are prudent for investment of public funds, but not deposits, per se.

One way to prepare our public depositors for the coming changes is to modernize the laws that control how public funds may be invested by broadening permissible investments for those funds. Engrossed HB 1193 is a first, modest step in that direction.

Current section 21-06-07 restricts the types of investments that may be made with public funds to products with virtually no risk and, concomitantly, the very low return that one receives on low risk US Treasury obligations and federally insured deposits, and, North Dakota state obligations which are of limited availability because North Dakota as a state doesn't issue many bonds. With Engrossed HB 1193, public funds could be invested in a somewhat broader range of state and local securities, in obligations of North Dakota political subdivisions and, in very highly rated commercial paper.

As amended by the House, public funds investments in obligations of other states and other states' local governments would be limited to investment grade, "general obligations" meaning the repayment obligation is backed by the taxing power of the issuing government and their investment rating is in one of the top three ratings categories by a nationally recognized rating agency. Investments of public funds in an issuance by a housing finance agency of any state would be allowed if the issuance is rated in the two rating categories by a nationally recognized rating agency; these types of securities are typically not backed by taxing authority. I understand issuances by the North Dakota Housing Finance Agency meet this test. Investments in an issuance by a school district of any state would also be allowed if the issuance is a general obligation and rated in the top two investment ratings categories, again, by a nationally recognized ratings agency. The final expansion in the category of state and local securities is to allow public funds to be invested in any obligation of a North Dakota political subdivision. No ratings "test" was applied to this category simply because many North Dakota political subdivisions issue obligations that are too small in amount to warrant the cost of rating.

The final category of expansion is commercial paper that is issued by a U.S. corporation and that has the highest, possible investment rating. Commercial paper is short-term, unsecured debt that is issued by a business corporation. The rating for that debt conforms to the rating of the issuing corporation. I will note that, at least when I last checked about a month ago, because of their high quality, short-term and low risk of default, the return on commercial paper of the required rating is

similar to that for Treasuries. Of course, U.S. government securities, secured repurchase agreements and federally insured deposit products continue to be permitted investment vehicles for public funds.

This bill allows investments in only highly rated, investment grade options. These are the type of products that meet all prudent investor rules allow for trustees and other fiduciaries, including those who manage investments of North Dakota's public funds.

The bill as originally introduced proposed to expand the investment authority to also include money market funds and bankers acceptances. However, in the House, even though it was noted that at least some North Dakota home rule entities invest public funds in products that are well outside the list currently included in section 21-06-07, concerns were expressed about whether the proposal went too far too fast. In response to those concerns, the House political subdivisions committee narrowed the expanded investment options to those I've described. Plainly stated, the desire was to allow expanded investment options, but to do so one step at a time, so no political subdivision would "get in over its head". While we proposed more, we believe Engrossed HB 1193 is a positive step forward and, for that reason, we ask you to enthusiastically support it with a unanimous vote as it received when it passed the House. Thank you.