

2015 HOUSE FINANCE AND TAXATION

HB 1340

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1340
1/21/2015
22292

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Mary Brucher

Explanation or reason for introduction of bill/resolution:

A Bill relating to methods of protest of special assessment projects.

Minutes:

Attachment #1, 2

Chairman Headland: Opened hearing.

Vice Chairman Owens: Introduced bill. Distributed amendments 15.0384.01001. See attachment #1. HB 1340 is designed to make protest of special assessment projects more directed and allow the political subdivisions the flexibility to adjust or correct a project without the need to start over. Currently if a protest to a special assessment district is successful the entire project is thrown out and the whole process of planning, design and funding start all over again. The repeated work costs the political subdivision more time and effort resulting in greater project costs not to mention delays in the overall project. This is compounded when a large project is planned when within the overall project there may be a smaller special assessments project. Currently should this special assessments project be challenged and the challenge is successful not only is the special assessments project thrown out but the entire project is thrown out and must begin again even the parts of the project that had nothing to do with special assessments. While this is the intent of HB 1340 as written comments and concerns from political subdivisions have created recommendations for changes for clarity and ease of application of the intended purpose of the bill.

Chairman Headland: Can you explain your amendments?

Vice Chairman Owens: Refer to amendments attached. This amendment was reviewed by a few city attorneys. This is the exact language they feel they need to complete the intent of the bill.

Chairman Headland: Is there support for 1340? Is there any opposition to 1340?

Jack McDonald, North Dakota League of Cities: Distributed testimony in opposition from **Erik Johnson, City Attorney for Fargo.** See attachment #2. This testimony was prepared before the amendment. I think he would like to take a look at the bill with the

amendment as he might like these changes. He felt the bill as presented did not really make a big change in the law and the result of the majority protest is to bar the project regardless of the reason for the protest. I would like an opportunity to look at the amendments. With my quick look at these amendments it appears to me that it may ease the objections from Fargo on this bill.

Chairman Headland: Are there any questions? Is there any further opposition to HB 1340? Seeing none, we will close the hearing on HB 1340.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1340
2/2/2015
23028

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to methods of protest of special assessment projects.

Minutes:

Attachment #1

Vice Chairman Owens: I had amendments distributed before dated January 19, 2015. This bill allows a political subdivision when they've developed a project whether it's all special assessed projects or has special assessed elements in it, and if the special assessment portion is challenged by a majority of the property owners successfully, it allows them to find another funding source or alter it without having to start the project over from scratch. The amendments are provided based on input from local government. **MADE A MOTION TO ADOPT THE AMENDMENTS 15.0384.01001.** See attachment of the amendments #1.

Representative Strinden: SECONDED.

Chairman Headland: Could you explain your amendment?

Vice Chairman Owens: You can continue with it if the governing bodies funds the project from another other than special assessment means. They don't have to go back to day one and planning and doing the whole process over again.

Representative Toman: They have to specifically protest the funding in order for it to move forward?

Vice Chairman Owens: Right now they cannot just pick another funding source and move forward. With this bill in law they would be able to just pick another funding source and move forward but presently they are not allowed to do that.

Representative Toman: If the protest is only for the funding source? If my fellow citizens go in and protest the special assessment just because we don't want the special assessment does the whole thing get thrown out? Or can the city make that decision?

Vice Chairman Owens: They can do that anyway if the special assessment falls apart they can come back and raise taxes to pay for it and not use the special assessment. This does ask them to specify what they are challenging. If they are challenging the special assessment itself then this would allow the city to continue with the rest of the project if the special assessment is part of a broader project. I would hope they wouldn't go back and do it all again. This clarifies it and allows them to just handle the part under protest differently than the rest of the project.

Chairman Headland: Does this bar a political subdivision from going the route of special assessing if it affects the majority of the area in the city?

Vice Chairman Owens: It clarifies if the protest includes the majority of the landowners or the area that's part of the special assessment district then the special assessment is over with and they can't continue with that special assessment.

Representative Hatlestad: If we had a street lights special assessment and my group protests the street lights they could still go ahead with the sidewalks and the streets?

Vice Chairman Owens: Yes that is my understanding.

Representative Hatlestad: Even if the entire area was behind this protest with the street lights?

Vice Chairman Owens: Correct.

Representative Schneider: Did I understand you to say the Grand Forks people approve this now with the amendments? Was there an attempt to address the Fargo City Attorney's concerns?

Vice Chairman Owens: It wasn't Grand Forks; it was the city association and the Fargo guy. They told me that if it came from Howard Swanson they were fine with the amendments.

Representative Strinden: Any amendments from Howard Swanson I'll vote on because I trust him too.

Vice Chairman Owens: Without this clarification in the top part of this bill without this clarification it left too many questions in the bottom part and that is why the city association was against it.

VOICE VOTE TO ADOPT AMENDMENT 15.0384.01001.

MOTION CARRIES.

Representative Klein: MADE A MOTION FOR A DO PASS AS AMENDED.

Representative Kading: SECONDED.

ROLL CALL VOTE: 12 YES 2 NO 0 ABSENT
MOTION CARRIES FOR DO PASS AS AMENDED.
Representative Strinden will carry this bill.

Representative Trottier: Vice Chairman Owens, you dislike special assessments right?

Vice Chairman Owens: Yes!

Representative Trottier: There's something special about special assessments; people get involved in special assessments, voting, and airing their opinions. Could that not spread to other tax increases? Why do people get involved in special assessments but fire districts don't seem to?

Hearing closed.

SK
2-2-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1340

Page 1, line 10, overstrike "further"

Page 1, line 10, after "with" insert "any special assessment for the improvement project.
However, the protests do not bar proceeding with"

Page 1, line 11, after "specifications" insert "if the governing body funds the project with other
than special assessments"

Page 1, line 13, overstrike "the portion of such improvement project, the cost of which is" and
insert immediately thereafter "special assessments"

Page 1, line 15, overstrike "remainder of the"

Page 1, line 17, after the period insert "If the protests represent a majority of the area of the
entire district, such protests bar any special assessment for the improvement project."

Renumber accordingly

Date: 2-2-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1340

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: 15.0384.01001 (Rep. Owens)

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 Rep. Owens Seconded By Rep. Strinden

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND			REP HAAK		
VICE CHAIRMAN OWENS			REP STRINDEN		
REP DOCKTER			REP MITSKOG		
REP TOMAN			REP SCHNEIDER		
REP FROSETH					
REP STEINER					
REP HATLESTAD					
REP KLEIN					
REP KADING					
REP TROTTIER					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote = Motion carries.

Date: 2-2-15
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1340

House Finance and Taxation 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 Rep. Klein Seconded By Rep. Kading

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND	✓		REP HAAK	✓	
VICE CHAIRMAN OWENS	✓		REP STRINDEN	✓	
REP DOCKTER	✓		REP MITSKOG	✓	
REP TOMAN	✓		REP SCHNEIDER		✓
REP FROSETH		✓			
REP STEINER	✓				
REP HATLESTAD	✓				
REP KLEIN	✓				
REP KADING	✓				
REP TROTTIER	✓				

Total (Yes) 12 No 2

Absent 0

Floor Assignment Rep. Strinden

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

REPORT OF STANDING COMMITTEE

HB 1340: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1340 was placed on the Sixth order on the calendar.

Page 1, line 10, overstrike "further"

Page 1, line 10, after "with" insert "any special assessment for the improvement project. However, the protests do not bar proceeding with"

Page 1, line 11, after "specifications" insert "if the governing body funds the project with other than special assessments"

Page 1, line 13, overstrike "the portion of such improvement project, the cost of which is" and insert immediately thereafter "special assessments"

Page 1, line 15, overstrike "remainder of the"

Page 1, line 17, after the period insert "If the protests represent a majority of the area of the entire district, such protests bar any special assessment for the improvement project."

Renumber accordingly

2015 SENATE FINANCE AND TAXATION

HB 1340

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Lewis and Clark Room, State Capitol

HB1340
3/11/2015
Job #24676

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

Relating to methods of protest of special assessment projects; and to provide an effective date.

Minutes:

Attachment #1

Chairman Cook opened the hearing on HB1340.

Rep. Owens presented the bill. In the process of doing this bill, what happened was, we included in the original bill, lines 21-14 and lines 1-2 on the page 2, and felt that did it. There was confusion from reading that and we can back and adjusted 8-19 to eliminate the confusion so that the bill would do exactly what we had planned and in the process I failed to delete lines 21-14 and lines 1-2 on page 2 so I would ask, if you move the bill forward, that you amend the bill to delete those lines. All the new lines after line 20.

Opposed testimony:

Howard Swanson City Atty. for Grand Forks. (Attachment #1)

In opposition of bill, but would support with amendment to the draft that was passed by the House by deleting all the new language beginning on lines 21-14 on page 1, and lines 1 & 2 of page 2. They are inconsistent. (meter 3:14-3:40). The city of Grand Forks opposes the bill in its current form but supports the recommended changes by Rep. Owens and would ask this committee to give a do pass with those amendments.

Blake Crosby, Executive Director, League of Cities -- We concur with Atty. Swanson. We would be opposed unless the changes are made. If the changes are made, we would certainly be in favor.

Bill Wocken, City of Bismarck -- We agree with Mr. Swanson's appraisal of the bill and If you make the changes, as requested, we would be favorable to it otherwise we would have to oppose it.

Senate Finance and Taxation Committee

HB1340

March 11, 2015

Page 2

Steve Vogelpohl, Bond Atty. from Bismarck -- I came because of lines 21-24 and lines 1 & 2 on page 2. My reason for coming was to find out what was behind that language. If it is stricken, then I don't have a reason to oppose this. (meter5:39-6:22)

No further testimony.

Chairman Cook closed the hearing on HB1340.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Lewis and Clark Room, State Capitol

HB1340
3/16/2015
Job #24907

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

Committee work

Minutes:

Chairman Cook opened the committee work on HB1340.

Sen. Laffen -- This is a bill about special assessments where you can protest out the project if the special assessment portion was protested out and the cities just want clarification that you are only protesting out the specials portion of the project. They could still do the project if they could find the money from other funding.

Sen. Cook -- They gave an example and I think this is an excellent fix for that example but I think there are other situations where this is going to create some unintended consequences.

Sen. Laffen -- Like what?

Sen. Cook -- A project that is not funded with just a small portion of it with special assessments.

Sen. Laffen -- So if the project was majorly funded with special assessments and the people who were being assessed protested it out, then the political subs have got to find the money elsewhere, if they still want to do the project?

Sen. Cook -- And I don't know if that is such a good idea.

Sen. Laffen -- I would think that would be up to the political subdivision whether they think their project is a good idea and that the people who are being special assessed shouldn't be deciding whether the project is right for the political sub or not. They should only be deciding if they want to pay for their portion of it, or not.

Sen. Cook -- I think before you decide to go ahead with a project, you need to decide how you are going to pay for it. Local political subdivision share to what degree are you going to

special assess citizens and to what degree are you going to use some other source of revenue, be it property tax, sales tax, or whatever. That is how you should move forward with the project and how you make those decisions should be rather uniform for all projects. What this is allowing somebody to do is if a small group of people, let's say you have a smaller project that affects a small area of town and a group of people organize and vote down the special assessment and then they use property tax to fund the whole project. I'm not in that special assessment district but I pay property taxes so now my property taxes are paying for that project with no special assessments. And then the next time the project they special assess is in my neighborhood and we don't have enough to vote it down so now I pay special assessments on my street maintenance program. I do live in a city that has had its share of special assessment projects.

Sen. Triplett -- I don't know if we're ready to move the bill today but there did seem to be good consensus that lines 21 through 24 and coming over into the first 2 lines of the second page should be removed because that was apparently just an error on Rep. Owens part not to get that out of there. There was no objection to that. If it's in order, I'll move to amend to delete...

Sen. Laffen -- I have an exact amendment and there is one other small change in there that Cole found. **(Attachment #1)** On page 1, line 12, after the word "with" insert "funds". The second two are exactly as Sen. Triplett stated: remove lines 21 through 24 on page 1, and 1 through 2 on page 2.

Sen. Cook -- Do you want to move the amendments?

Sen. Laffen -- I will move amendment #1.

Sen. Bekkedahl seconded.

Voice vote all in favor. Carried

Sen. Cook -- Let's let the bill sit here.

Committee work closed.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Lewis and Clark Room, State Capitol

HB1340
3/25/2015
Job #25395

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Committee work

Minutes:

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Chairman Cook opened the committee work on HB1340.

Sen. Triplett -- I was just looking at it again, the grammar of removing that, okay, I was reading it backwards. I'm fine. Everybody's happy, right, Sen. Laffen?

Sen. Laffen -- I think we already amended the piece out that we didn't want.

Sen. Triplett -- Moves a do pass, as amended.

Sen. Oehlke -- Seconded.

No further discussion. **Roll call vote on HB1340, as amended. 7-0-0. Carried**

Carrier: Sen. Laffen

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Lewis and Clark Room, State Capitol

HB1340
4/1/2015
Job #25691

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Alicia Grone

Explanation or reason for introduction of bill/resolution:

Committee work

Minutes:

Attachment #1

Chairman Cook opened the committee work on HB1340.

Sen. Cook -- We have passed 1340 out. 7-0 do pass Sen. Laffen is carrying it. Just looking for a home for some amendments. (Attachment #1)

Sen. Laffen -- Can you give us an idea of why?

Sen. Cook -- The biggest reason that I think is important is to have a place where a person can easily find out how much bonded debt that they have on their property, that is an obligation to pay. We have issues on ballot measures this session. It would just be nice to know where the rules are for passing bonds. The other thing is, what's general obligation and what's not general obligation. The different types of bonds that are out there. We've seen this with the airport authority bill that we had here that talked a lot about bonded debt. We see where if, for some reason, the income generated by an airport is not sufficient to supplement the payment of the debt, the 4 mills or whatever it is, that's dedicated to the bond that the local government, whether it be a city or a county, is obligated to pay that 4 mills through their fund for payment of bonds. Yet that is not called a general obligation bond and I do not understand why. When is a bond general obligation as it applies to constitutional debt limitations and when is it not? That is the other big issue in my mind.

Sen. Laffen -- There is another issue out there that I really haven't brought up much and that is that schools have a 5% debt limit on what they can bond for and it is constitutional so changing that would be a public vote across the state. The issue is, in my opinion, a school district should be able to build a new school to meet their needs within their debt limit, at least one new school if they have no debt and they have the need for that school. That can't happen right now in western North Dakota with the cost of construction and the size of the new schools that they need to build. I will give you an example, Watford City's debt limit was \$27 million and they were debt-free but their 5% constitutional debt limit was \$27 million. Their new school costs \$47 million. They had to find \$20 million somehow to

build that school. They were able to borrow some money from the Bank of North Dakota and do a bunch of things. In my mind, that should be a part of this of this study.

Sen. Cook -- The way it is worded, I think it would be. It's not intended to lock that part of the discussion out. If you are living in the city of Mandan, County of Morton, Mandan School District, all 3 of them have a constitutional debt limit on bonded debt.

Sen. Dotzenrodt -- Yesterday on the floor we had a little talk about building authorities which as Sen. Laffen pointed out, they really don't accumulate any or add any of the debt. There's no obligation that falls on the taxpayer but it does seem that within a subdivision, if you have a building authorities that they are a factor and they represent a way that predicts revenue; if that revenue doesn't materialize then the bond holders are left. It does not fall on the taxpayers. Maybe we could take the attitude that's really none of our business, if it's not going to impact the taxpayers, it wouldn't be something that we would care about. This says, specifically in here, incurred by political subdivisions.

Sen. Cook -- Building authorities are not political subdivisions.

Sen. Laffen -- If I could just finish on to that, I actually think if we were to study building authorities in more detail we would find there is some very good applications for those. Some of them have been used very, very well and the one case where we heard, Cooperstown, voted 3 times, went ahead and formed a building authority. All of those county commissioners got recalled. There is a process for doing the wrong things in this state too.

Sen. Cook -- If we want to go down this road, to put this study resolution on it, we would need to reconsider our action in which we passed 1340 and then bring her back in front of us. If not, we will just leave it as is.

Sen. Triplett -- Unless the expectation is to come up with recommendations for legislation it does seem to me that, in terms of a mostly data gathering request, so that legislators can understand what is out there. I'm just wondering if most of it couldn't be accomplished just by asking the N.D. Assoc. of Counties and the township officers association and the league of cities to provide information. Wouldn't that get you most of the way?

Sen. Cook -- No, I see the need for possible legislation. The legislative management shall report its findings and recommendations. I would hope that there is a recommendation, myself. I don't know what it would look like.

Sen. Bekkedahl -- In the discussion earlier with Sen. Laffen and yourself, the line where it says, the 3rd line, whether or not subject to debt limitations, you indicated that you think that that discussion could also include the adequacy or inadequacy of debt limitations that are currently out there. You don't see this precluding that, because I agree with Sen. Laffen that discussion should be part of this.

Sen. Cook -- No, I don't see it precluding this.

Sen. Bekkedahl -- I agree that it is constitutional but I want to make sure that, if the study does happen, that that will be part of that as well.

Sen. Laffen -- I think this would be worth studying. I would make the motion to reconsider the actions which we took on 1340.

Sen. Unruh -- Seconded.

Roll call vote on motion to reconsider action in which we passed 1340. 7-0-0. Carried.

Sen. Cook -- We have before us 1340 as amended previously.

Sen. Bekkedahl -- I move to adopt the amendment 15.0384.02003.

Sen. Laffen -- Seconded

Roll Call vote on motion to amend 02003. 7-0-0. Carried.

Sen. Laffen -- I would move a do pass on engrossed HB1340, as further amended.

Sen. Unruh -- Seconded.

Roll call vote on do pass, as amended, 1340. 7-0-0. Carried

Carrier: Sen. Laffen

PROPOSED AMENDMENT TO HOUSE BILL NO. 1340

AMENDMENT #1

Page 1, line 12 after "with" insert "funds"

Page 1, remove lines 21 through 24

Page 2, remove lines 1 through 2

April 1, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1340

Page 1, line 2, after the semicolon insert "to provide for a legislative management study;"

Page 2, after line 11, insert:

"SECTION 2. LEGISLATIVE MANAGEMENT STUDY. During the 2015-16 interim, the legislative management shall consider studying all statutory provisions on indebtedness that may be incurred by political subdivisions, whether or not subject to debt limitations. The study must also include collection of any available information on the kinds and amounts of current indebtedness of political subdivisions and determination of whether that information is available or accessible to the public. The legislative management shall report its findings and recommendations, together with any information necessary to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

WMS
JL

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1340

Page 1, line 2, after the semicolon insert "to provide for a legislative management study;"

Page 1, line 12, after "with" insert "funds"

Page 1, remove lines 21 through 24

Page 2, remove lines 1 and 2

Page 2, after line 11, insert:

"SECTION 2. LEGISLATIVE MANAGEMENT STUDY - STATUTORY PROVISIONS OF INDEBTEDNESS FOR POLITICAL SUBDIVISIONS. During the 2015-16 interim, the legislative management shall consider studying all statutory provisions on indebtedness that may be incurred by political subdivisions, whether or not subject to debt limitations. The study must also include collection of any available information on the kinds and amounts of current indebtedness of political subdivisions and determination of whether that information is available or accessible to the public. The legislative management shall report its findings and recommendations, together with any information necessary to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

Date: 3-16-15Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1340**

Senate Finance and Taxation Committee☐ SubcommitteeAmendment LC# or Description: Proposed Amendment # 1

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 Laffen Seconded By Sen Bekkedahl
aye unanimous

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook			Senator Jim Dotzenrod		
Vice Chairman Lonnie Laffen			Senator Connie Triplett		
Senator Brad Bekkedahl					
Senator Dave Oehlke					
Senator Jessica Unruh					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 4-1-15Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO HB1340**

Senate Finance and Taxation 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 ☐ _____
Action taken on 3/25/15 for a do pass as amended.

Motion Made By Sen. Laffen Seconded By Sen Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod	✓	
Vice Chairman Lonnie Laffen	✓		Senator Connie Triplett	✓	
Senator Brad Bekkedahl	✓				
Senator Dave Oehlke	✓				
Senator Jessica Unruh	✓				

Total (Yes) 7 No 0Absent 0

Floor Assignment _____

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

Date: 4-1-15Roll Call Vote #: 2

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO HB1340**

Senate Finance and Taxation Committee☐ SubcommitteeAmendment LC# or Description: 15.0384.02.003

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. Bekkedahl Seconded By Sen. Laffen

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod	✓	
Vice Chairman Lonnie Laffen	✓		Senator Connie Triplett	✓	
Senator Brad Bekkedahl	✓				
Senator Dave Oehlke	✓				
Senator Jessica Unruh	✓				

Total (Yes) 7 No 0Absent 0

Floor Assignment _____

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

Date: 4-1-15Roll Call Vote #: 3

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO HB 1340**

Senate Finance and Taxation Committee☐ SubcommitteeAmendment LC# or Description: 15.0384.02004 Title-04000

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. Laffen Seconded By Sen. Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod	✓	
Vice Chairman Lonnie Laffen	✓		Senator Connie Triplett	✓	
Senator Brad Bekkedahl	✓				
Senator Dave Oehlke	✓				
Senator Jessica Unruh	✓				

Total (Yes) 7 No 0Absent 0Floor Assignment Sen. Laffen

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

REPORT OF STANDING COMMITTEE

HB 1340, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1340
was placed on the Sixth order on the calendar.

Page 1, line 2, after the semicolon insert "to provide for a legislative management study;"

Page 1, line 12, after "with" insert "funds"

Page 1, remove lines 21 through 24

Page 2, remove lines 1 and 2

Page 2, after line 11, insert:

"SECTION 2. LEGISLATIVE MANAGEMENT STUDY - STATUTORY PROVISIONS OF INDEBTEDNESS FOR POLITICAL SUBDIVISIONS. During the 2015-16 interim, the legislative management shall consider studying all statutory provisions on indebtedness that may be incurred by political subdivisions, whether or not subject to debt limitations. The study must also include collection of any available information on the kinds and amounts of current indebtedness of political subdivisions and determination of whether that information is available or accessible to the public. The legislative management shall report its findings and recommendations, together with any information necessary to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

2015 TESTIMONY

HB 1340

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1340

Page 1, line 10, overstrike "further"

Page 1, line 10, after "with" insert "any special assessment for the improvement project.
However, the protests do not bar proceeding with"

Page 1, line 11, after "specifications" insert "if the governing body funds the project with other
than special assessments"

Page 1, line 13, overstrike "the portion of such improvement project, the cost of which is" and
insert immediately thereafter "special assessments"

Page 1, line 15, overstrike "remainder of the"

Page 1, line 17, after the period insert "If the protests represent a majority of the area of the
entire district, such protests bar any special assessment for the improvement project."

Renumber accordingly

HB 1340

TESTIMONY OF ERIK R. JOHNSON

CITY ATTORNEY – FARGO

House Bill 1340 appears to change special assessment law but it fails to accomplish anything other than to add confusion to the law. Frankly, and with respect, it is unclear what the intended effect of the bill was to be.

Existing special assessment protest authority. Currently property owners of the majority of the area of property within an improvement district can bar an improvement project by protest. Also, where property owners of the majority of a “separate property area” included within a larger district have protested, the protest can bar the improvement project as to that separate property area. HB 1340 does nothing to change existing law.

Existing law in a nutshell. Under existing Section 40-22-18:

1. If owners of majority of area within a district protest, the project is barred.
2. If owners of majority of separate property area within a district protest, that portion of project is barred.

Proposed law in a nutshell. Under HB 1340, the foregoing two scenarios remain fully intact, without change. HB 1340 only adds permission for a property owner to state a reason for the protest—a right to which they already have, of course. For example, the protest may be filed to protest the entire improvement project, the property included or excluded from the district or the cost and funding method for the project); however, the reason for protest is quite irrelevant. The result of a majority protest is to bar the project, regardless of the reason for the protest.

REQUESTED ACTION:

We respectfully suggest a “do not pass” recommendation on HB 1340 from the House Finance and Taxation Committee.

Sincerely,

Erik R. Johnson
Fargo City Attorney

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PROPOSED AMENDMENTS TO HOUSE BILL NO. 1340

Page 1, line 10, overstrike "further"

Page 1, line 10, after "with" insert "any special assessment for the improvement project.
However, the protests do not bar proceeding with"

Page 1, line 11, after "specifications" insert "if the governing body funds the project with other
than special assessments"

Page 1, line 13, overstrike "the portion of such improvement project, the cost of which is" and
insert immediately thereafter "special assessments"

Page 1, line 15, overstrike "remainder of the"

Page 1, line 17, after the period insert "If the protests represent a majority of the area of the
entire district, such protests bar any special assessment for the improvement project."

Renumber accordingly



OFFICE OF CITY ATTORNEY

CITY OF GRAND FORKS

P.O. BOX 12909
GRAND FORKS, NORTH DAKOTA 58208-2909

**BEFORE THE 64TH LEGISLATIVE ASSEMBLY
FOR THE STATE OF NORTH DAKOTA
HOUSE BILL 1340
SENATE FINANCE AND TAXATION COMMITTEE**

My name is Howard Swanson. I am the Grand Forks City Attorney and I have more than 30 years of experience in municipal law. In the course of my law practice I have acquired substantial experience with special assessments. I offer this written testimony in opposition to the current draft of House Bill 1340.

Original Intent of Bill.

The original intent to amend N.D.C.C. § 40-22-18 was to provide an opportunity for an improvement project to proceed even if the special assessment funding portion was protested out by the owners of property within the special assessment district. Current law would suggest that if the special assessments are protested, the entire project is barred.

There are numerous instances in which the funding of a major project will have various sources including special assessments. For example, recently in the City of Grand Forks a portion of Columbia Road was being reconstructed. The funding source had significant federal dollars, state dollars and local dollars. A very small percentage of the total project expenditure (3%) was to be specially assessed. Had there been sufficient protests to the modest amount of special assessments the entire project would have been barred. The city would have lost the benefit of having the project completed as well as the availability of major federal funding.

The intent in seeking amendment to N.D.C.C. § 40-22-18 was to maintain the property owner's rights to protest the special assessment portion of the project but allow the project to be constructed if alternative funding sources, other than special assessments, could be utilized. The proposed amendments contained in lines 1-20 of House Bill 1340 accomplish the goal and intent of the original amendments to N.D.C.C. § 40-22-18. However, the proposed amendments beginning on line 21-24 (page 1) and lines 1-2 (page 2) are inconsistent to the proposed amendments contained within lines 10-20 of House Bill 1340.

Additionally, the amendments contained in lines 21-24 (page 1) and 1-2 (page 2) establish protests not otherwise allowed under N.D.C.C. Chapter 40-22. N.D.C.C. § 40-22-18 is not a section which grants protest rights or identifies what protest rights exist. Rather, N.D.C.C. § 40-22-18 explains the consequences of any protests.

1.2
HB 1340
3.11.15

The amendments at lines 23 and 24 (page 1) of House Bill 1340 actually create conflicts in the calculation of protests. This amendment indicates that a majority of the owners of the area within the special assessment district may successfully protest. It also indicates that a majority of owners within the district, even though they may not own a majority of the property, may protest a project. Nowhere else in North Dakota Century Code Chapter 40-22 does a majority of owners have the right to control a protest when they do not own a majority of the property within the special assessment district which would be subject to the special assessments.

The amendments which appear on lines 1 and 2 (page 2) of House Bill 1340 indicate that protests are a bar against proceeding with the improvement project, in direct conflict with the provisions contained in lines 10 and 11 and 19 and 20 (page 1) of House Bill 1340 which allows the project to proceed but bars any special assessments for the improvement project based upon a successful protest.

Proposed Amendments.

The City of Grand Forks opposes the current draft of House Bill 1340. However, the City of Grand Forks would be supportive of House Bill 1340 if lines 21-24 (page 1) and lines 1-2 (page 2) were deleted.

Request For Do Not Pass Recommendations If Not Amended.

Without amendments as discussed above, the City of Grand Forks respectfully requests that this Committee forward the Bill to the Senate floor with a do not pass recommendation. If, however, the proposed amendments by the City of Grand Forks are incorporated into the Bill without other changes, the City of Grand Forks respectfully requests that the Committee forward the Bill to the Senate floor with a do pass recommendation.

OFFICE OF THE CITY ATTORNEY

Howard D. Swanson, City Attorney
City of Grand Forks, North Dakota
hswanson@swlawltd.com

PROPOSED AMENDMENT TO HOUSE BILL NO. 1340

#1
HB1340
3.16.15

AMENDMENT #1

Page 1, line 12 after "with" insert "funds"

Page 1, remove lines 21 through 24

Page 2, remove lines 1 through 2

April 1, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1340

Page 1, line 2, after the semicolon insert "to provide for a legislative management study;"

Page 2, after line 11, insert:

"SECTION 2. LEGISLATIVE MANAGEMENT STUDY. During the 2015-16 interim, the legislative management shall consider studying all statutory provisions on indebtedness that may be incurred by political subdivisions, whether or not subject to debt limitations. The study must also include collection of any available information on the kinds and amounts of current indebtedness of political subdivisions and determination of whether that information is available or accessible to the public. The legislative management shall report its findings and recommendations, together with any information necessary to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly