

2017 HOUSE FINANCE AND TAXATION

HCR 3028

2017 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HCR 3028
3/8/2017
28885

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Brucher

Explanation or reason for introduction of bill/resolution:

A concurrent resolution requesting the Legislative Management to consider studying the feasibility and desirability of joining the prosperity states compact, including a comprehensive review of other states that have adopted the compact and the benefits provided to those states by establishing prosperity districts under the compact.

Minutes:

Attachment #1

Chairman Headland: Opened hearing on HCR 3028.

Representative Klemin: Introduced the concurrent resolution. Distributed written testimony. See attachment #1. Ended testimony at 3:44.

Representative Ertelt: In the minimum area required, the one square mile, if that was in a rural area, can you walk us through each party that would give their blessing on creating that district?

Representative Klemin: It would have to be all the landowners in that district. It would have to be all the electors that reside in that district. It would need to be subject to review by the county commission and they could exclude areas by local law. In addition, that would be subject to review by the governor who could also decide it wasn't appropriate there. There are really about four different steps to get this approved. This is a very complicated bill. If someone wanted to do this, it would take a lot of work to get it organized. Just because it's hard doesn't mean that they shouldn't give them the opportunity to do that if they wanted. This doesn't cost the state anything.

Representative Ertelt: If it was in a rural area, does the township board have to approve any school district that has a tax base in that area or any other taxing entity that might be taxing?

Representative Klemin: Those entities would not have to approve; they wouldn't be able to approve. They could enter into an agreement to cover the taxes that they would normally be getting. The bill we had or if it's a study, this may be the bill not ended up to be, but there

would be a hold harmless agreement. It's between the taxing entities and the prosperity district board of what's in the agreements. I heard it say that the taxes would be frozen but that's not the case; whatever is in the agreement would dictate what happens on those taxes. That prosperity district would be submitting the exact same tax it would have submitted if all different landowners were submitting the tax separately. If the taxes went up, then that agreement could provide the taxes go up in the prosperity districts too; same thing if taxes go down. Those entities don't get to approve the district but they can negotiate for the agreement to cover those issues. The county commission would have to approve it. The concept is that the county commission would have to take some action to disapprove it. This is the same with what we do with statewide insurance; there's a prior approval requirement on your state law for changes to insurance policies by insurance companies and those are filed with the tax commissioner. This would be similar.

Chairman Headland: How many states have joined the state's compact?

Representative Klemin: Right now there is no compact. Bills like this have been introduced in Arizona, Arkansas, Mississippi, Missouri, and Oklahoma. Those legislatures in those states are now considering the same bill. I don't believe any of them have been approved yet because it's just come up this legislative session for this year.

Chairman Headland: I'm trying to figure out what we'll study.

Representative Klemin: I think we'll study what's involved in this bill that was introduced and if there is something in here that needs to be revised to more closely correspond to existing procedure in North Dakota. The compact part of it would have to be the same in order to have a compact. Half of the language in this bill is what goes on in the district. That could be tailored on a state by state basis to meet the needs of each state.

Chairman Headland: What committee would be best to study it?

Representative Klemin: I think an interim political subdivisions taxation committee or an interim finance and taxation committee or something like that. I have no idea what legislative management will do if this is selected for a study.

Representative Trottier: Could this be helpful or beneficial for those who want to start a casino?

Representative Klemin: This could be an ideal vehicle to use a prosperity district for the establishment of a casino and associated activities that we typically think of with a large casino, such as entertainment, hotel, camping, parking, etc. This is the model that was used in Walt Disney World in Florida. We're not going to have a Walt Disney World in North Dakota but this could be a good vehicle for doing something like that or it could be used for something entirely different. It's only limited by the imagination of the people that want to do this.

Representative Steiner: How would the state undo it if they didn't like what happened once they created it?

Representative Klemm: The state will not be able to do that but the people who organized it themselves would be able to do it. It's like we're establishing a different type of municipal corporation here. If there was a municipal corporation established in the outskirts of Bismarck, called Lincoln, and it doesn't work out for the people who live in Lincoln, it's not up to the state of North Dakota to get rid of it, it would be up to the people in Lincoln to do that. This would be no different. That is certainly something that could be looked at in the study.

Chairman Headland: Are there any other questions? Testimony in support for HCR 3028? Is there opposition?

Waylon Hedegaard, President AFL/CIO: We have concerns. This opens up a lot of questions. If you go back to HB 1248 and read through this, the fiscal note states this strips off all laws except the state constitution, basic common law, property ownership, and criminal law. It does that forever. I don't think the process of actually getting through this seems all that onerous because if somebody files this and if the county doesn't object to it then it automatically gets approved. I think this leads to some abuse. We're talking about a single square mile of land and there's a lot of landowners, mining companies, and businesses who own a single square mile of land. What's to stop a mining company from buying up four or five square miles of land in southwestern North Dakota, filing for this, getting it, and strip mining it for uranium for all it's worth then leaving it at the end for everyone else to clean up?

Representative Toman: Given your concerns don't you think it's worth studying to flush out some of those concerns whether the state would want to get into something like that? If that would be the case, then that would give you better ammunition than just saying we don't understand it.

Waylon Hedegaard: I don't generally stand against studies; I believe we should know more. I would like my opposition to this entire idea be known up front. This is a radical change. On those areas you are basically giving up a huge chunk of your power to regulate anything that happens in there once this starts. There's no emergency reserve shoot to pull if it doesn't work. How do we pull it back out? It's human nature to find loop holes and find ways of abusing the system. When you take off all the reins on this then how do you pull it back if it doesn't work?

Chairman Headland: Have you followed the progress in other states?

Waylon Hedegaard: It's difficult to follow the progress. It was voted down in either Arizona or New Mexico but it wasn't that far off. The rest of them are still pending as far as I know.

Chairman Headland: Any further questions? Is there further opposition? If not, we will close the hearing on SB 3028.

2017 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HCR 3028
3/8/2017
28919

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 Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A concurrent resolution requesting the Legislative Management to consider studying the feasibility and desirability of joining the prosperity states compact, including a comprehensive review of other states that have adopted the compact and the benefits provided to those states by establishing prosperity districts under the compact.

Minutes:

No attachments

Chairman Headland: Is there any discussion? I don't know the Legislative Council will even choose this for a study or if it will pass the House floor.

Representative Toman: We have this in Political Subs and some of the members said they could support a study and not the new concept. I think this is something that warrants studying. There is no guarantee it will be picked. **MADE A MOTION FOR A DO PASS**

Representative B. Koppelman: SECONDED

Chairman Headland: Discussion?

Representative Ertelt: The representative from AFL/CIO said the bill didn't address externalities but I didn't quite buy that argument because of the example Representative Klemin gave about Lincoln. If Lincoln has lagoon waste and that is somehow transferred via leakage to another political subdivision that other political subdivision does have the right to sue them.

Representative Olson: I think the main objection to this was whether this needed a study. I heard from a lot of people that they like the idea but they weren't so sure about the bill. I think this is the way to go.

Chairman Headland: I'm not sure what there is to study because if no other states have implemented it then what are we going to look at?

Representative Ertelt: That's just including the comprehensive review of the other states that have adopted so if they haven't that one wouldn't be included. It is the feasibility and desirability of joining such a compact so there's quite a bit of material to look at there.

Chairman Headland: Are there further comments?

**ROLL CALL VOTE: 6 YES 7 NO 1 ABSENT
MOTION FAILED**

Chairman Headland: Looking for direction.

Representative Steiner: MADE A MOTION FOR A DO NOT PASS

Representative Howe: SECONDED

Chairman Headland: Is there further discussion?

Representative Steiner: It really bothers me when they won't tell you what they're putting in that square of land that cannot be touched once they form it. There's something really bizarre about this proposal. I don't think there is any appetite for this and I think it's a waste of state resources.

Representative B. Koppelman: That was in the bill so I'm not sure what would necessarily come out of the study. Initially, the state can write the rules to what state regulations do and don't do. If you put this together and didn't get everything you wanted in the state rules, you joined this compact, and now these zones are set up, the state can always leave a compact. Once they leave that compact then that language wouldn't be there. The new opportunity would theoretically go away if they left the compact. I'm more excited about the study than I am about the bill.

Representative Mitskog: I'm respectful of the concept of the bill and the need to possibly study this but I don't think this is the right time with our state's budget situation. I wonder what the public would say about this. We have some critical issues facing our state and I don't think this is the time to be going down this road with this concept.

Representative Ertelt: There was some concern on who was approving these agreements of districts. I believe the governor had to approve the districts so it wasn't as if the state has no say in the matter.

Representative Toman: That is how the bill is written. This is a study of the concept so those questions could come up of what can and can't be used, who has to check off on it, and what the timeframe is rather than no positive response from a county commission. In testimony, I asked what's wrong with studying it if you're against it because it might give you the answers you want against it or it might verify your concerns. I believe that is the purpose of this study resolution.

Representative Ertelt: I think this is the time to look at this because this is really trying to replicate the Disney World and their economic activity. It's not just a positive impact for that

square mile; you are generating wealth and it will be spent throughout the state. I'm really supportive of the idea to study it. I think it will help us look at new industries and new ways to generate wealth in the state.

Chairman Headland: Is there anything else?

ROLL CALL VOTE: 7 YES 6 NO 1 ABSENT

MOTION CARRIED FOR A DO NOT PASS

Representative Steiner will carry this bill.

Date: 3-8-17
 Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 3028**

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. Toman Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓	✓	Representative Hogan	A	
Vice Chairman Dockter	✓		Representative Mitskog		✓
Representative Ertelt	✓				
Representative Grueneich		✓			
Representative Hatlestad	✓				
Representative Howe		✓			
Representative Koppelman	✓				
Representative Olson	✓				
Representative Schobinger		✓			
Representative Steiner		✓			
Representative Toman	✓				
Representative Trottier		✓			

Total (Yes) 6 No 7

Absent 1

Floor Assignment _____

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

FAILED

Date: 3-8-17
Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 3028

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. Steiner Seconded By Rep. Howe

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Hogan	✓	
Vice Chairman Dockter	✓	✓	Representative Mitskog	✓	
Representative Ertelt	✓	✓			
Representative Grueneich	✓	✓			
Representative Hatlestad	✓	✓			
Representative Howe	✓				
Representative Koppelman		✓			
Representative Olson		✓			
Representative Schobinger	✓				
Representative Steiner	✓				
Representative Toman		✓			
Representative Trottier	✓				

Total (Yes) 7 No 6

Absent 1

Floor Assignment Rep. Steiner

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

REPORT OF STANDING COMMITTEE

HCR 3028: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO NOT PASS** (7 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). HCR 3028 was placed on the Eleventh order on the calendar.

2017 TESTIMONY

HCR 3028

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3-8-17

TESTIMONY OF REP. LAWRENCE R. KLEMIN
HOUSE FINANCE AND TAXATION COMMITTEE
HOUSE CONCURRENT RESOLUTION NO. 3028
MARCH 8, 2017

Mr. Chairman and Members of the Committee.

I am Lawrence R. Klemin, Representative from District 47 in Bismarck. I am here to testify in support of House Concurrent Resolution No. 3028, a resolution requesting Legislative Management to consider studying the feasibility and desirability of joining the prosperity states compact.

The prosperity states compact is designed to furnish consenting communities with a local jurisdiction that is streamlined to maximize prosperity through a stable public policy environment consisting of optimal regulatory and fiscal policy. I have handed out an Overview and a Fact Sheet, which briefly explain the basic elements of the prosperity states compact and prosperity states districts.

A prosperity district is a local government that is strictly limited to protecting individual rights and furnishing user supported, competitively-bid municipal services. It has no eminent domain authority, no civil forfeiture authority, no taxing authority, and no power to give anyone something for nothing.

The prosperity states initiative provides for state-of-the-art regulatory and fiscal best policies for a local community that wants them. When two states pass the same legislation, these reforms are shielded from special interest interference. When Congress consents, reforms within the prosperity district become federal law in that district. The establishment of the compact between states and the consent of Congress are independent of the establishment of a prosperity district within a county.

Prosperity districts are voluntary. 100% of the landowners and 100% of the electors in the district must consent to its formation. The minimum area required is one square mile. The County Commission reviews the formation of a prosperity district and by local law can exclude areas in a county from using this process, including the entire county. Municipalities are unaffected unless they opt into the legal framework by local law.

Prosperity districts do not cost the state anything. They will diversify the state's economy by creating the best policy environment in the world for job creation and economic growth.

HB 1248, which related to the prosperity states compact, received a "do pass" recommendation from the House Political Subdivisions Committee, but failed to pass the House. Several House members told me that they voted against the bill because they did not adequately understand the concept or how the prosperity districts would operate. Consequently, I introduced this resolution to study the issues during the next interim between the sessions. I urge your support for HCR 3028.

#1p2

HR 3028
Rep. Klein



ProsperityStates
EMPOWERING COMMUNITIES TO IGNITE GROWTH

OVERVIEW

Government red tape holds people back, robs them of the chance to be their best and denies everyone the benefits of a strong, thriving economy. Now, we can roll back the decades of regulations and special interest carve outs that destroy growth — with Prosperity States.

The Prosperity State Initiative is, fundamentally, about progress. States passing enabling legislation can establish communities where government is rolled back to the basics. The result? Economic growth, jobs and prosperity – not just in the community itself, but throughout the state!

THE PROSPERITY STATE FACT SHEET



PROSPERITY STATES ARE VOLUNTARY.

Strong legal protections ensure a Prosperity State community will not negatively impact its neighbors.



PROSPERITY STATES ARE FLEXIBLE.

Each state decides how much to reduce regulatory burdens in these designated communities before the legislation is finalized.



PROSPERITY STATES ARE THE ULTIMATE FAIR SHOT.

Everyone in a Prosperity State community has an equally fair shot at creating their success. No one gets an advantage via a backroom deal or special carve out.



PROSPERITY STATES SHAPE THE FUTURE.

Fifty years ago, no one could predict many of today's hottest jobs and industries. Because Prosperity States can react more quickly to changes in the business environment, they're better positioned to help regional economies and the state as a whole evolve their economies.



PROSPERITY STATES CREATE REVENUE UPSIDE.

Even minor success in a Prosperity State community creates significant new jobs, new tax receipts, and an influx of workers to the state.



PROSPERITY STATES ARE NEW, BUT NOT UNTESTED.

They're the best of proven policies from around the world.

Find out more at www.ProspersityStates.org



NeWAYFoundation.org



CompactForAmerica.org



FederalismInAction.com

HR 3028
Rep. Klein



THE PROSPERITY STATES FACT SHEET

How It Works.

A state passing Prosperity States legislation immediately creates statutory authority for Prosperity Districts (PD). The area governed by the PD is a "Prosperity Zone." Fully 100% of property owners and residents must petition for a PD to be formed on their land. PDs can be expanded by similar petition.

Approval.

The petition to form or expand a PD is deemed approved if the Governor and officers of state legislature do not reject the petition within 20 days. Upon recording of approved petition, the PD is formed or expanded.

State Law Reset.

The formation or expansion of the PD replaces, within its boundaries, all state laws above the baseline of the state constitution, common law, criminal law and existing compacts.

Prosperity.

The PDs created within Prosperity States liberate residents, transforming states into strongholds of free markets, federalism and limited government once again.

Deep Reform.

Within its boundaries, each PD becomes the sole governing political subdivision of the state with:

- ★ No eminent domain or civil forfeiture power;
- ★ No taxing power;
- ★ Police powers restricted to criminal law, common law or least restrictive regulation;
- ★ No subsidization of private enterprise;
- ★ Municipal services limited to competitively contracted public-private partnerships;
- ★ Borrowing capacity limited to net assets and no possibility of state or federal bailout;
- ★ Regulatory authority limited to impede cronyism.

Reliable Reform.

Prosperity States legislation takes the form of an Interstate Compact. That means when a second state passes Prosperity States legislation and gives formal notice to the first state, the Prosperity States Compact becomes a binding sovereign contract guaranteeing its reforms.

Federal Law Upgrade.

With the consent of Congress, deep reforms existing in PDs are upgraded to the status of federal law.

Economic growth is ignited. Jobs flourish. Prosperity is restored.



NeWAYFoundation.org



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FederalismInAction.com