

FISCAL NOTE
Requested by Legislative Council
03/20/2019

Amendment to: HB 1474

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

As amended Engrossed House Bill No. 1474 provides for a Legislative Management study. There is no fiscal impact.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Sheila M. Sandness

Agency: Legislative Council

Telephone: 701-328-2916

Date Prepared: 03/21/2019

19.1010.03000

FISCAL NOTE STATEMENT

House Bill or Resolution No. HB 1474

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, school districts, or townships. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Sheila Sandness
Senior Fiscal Analyst

19.1010.02000

FISCAL NOTE STATEMENT

House Bill or Resolution No. HB 1474

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Sheila Sandness
Senior Fiscal Analyst

2019 HOUSE POLITICAL SUBDIVISIONS

HB 1474

2019 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

1/31/2019

HB 1474

Job # 31964

Subcommittee

Conference Committee

Committee Clerk: Carmen Hickle

Explanation or reason for introduction of bill/resolution:

Relating to the authority of a county or city to levy an infrastructure tax in lieu of special assessments; relating to the authority of home rule cities and counties to levy infrastructure tax in lieu of special assessments and special assessment fund balances

Minutes:

1 - 10

Chairman J. Dockter: Opens the hearing on HB 1474.

Rep. B. Koppelman: (Handouts # 1,2) Read his testimony.

Rep. Adams: It says either/or they can charge special assessment or the infrastructure fee? How will the fee be subsidized by lot size? Would each homeowner get a percentage of the infrastructure?

Rep B. Koppelman: How is the fee assessed? The reason we pulled the green field assessment out of the rest of the group is because there are several different ways that is done across the state. Whereas the general assessments are done the same. You pay the same for water regardless of your lot size or value of your home, you would pay the same citywide services. When it comes to repairing the road in front your house or a feeder road the city would have a long range plan to say what they are going to do each year. Over time all the streets would be repaired and they would not have to special assess anyone for that. They would use the infrastructure fee instead.

Rep. Adams: I would still pay that fee?

Rep B. Koppelman: Yes, but you would pay a little fee every month and not a high fee.

Vice Chairman Pyle: How many mills would be the maximum that cities and counties be allowed?

Rep B. Koppelman: I don't think it would be measured in mills. The question would be more of how many dollars would it be per month? That will be set by each city depending on what their needs are.

Vice Chairman Pyle: Cities and counties actually levy in mills. In the Century Code we have set a maximum of how much they are allowed to levy. How high are we willing to let this go?

Rep B. Koppelman: When you are talking about property tax and levying money under property tax you are going to do that in mills based on valuation. But this is not a property tax. Special assessments are not done in mills; they are done in dollars. This is a fee although called a tax. This is not tied to mills or valuation. I have heard in speculation that in non-resident property they might tie it to square footage or size and usage of the commercial site.

Vice Chairman Pyle: In home rule cities they are able to have a local sales tax many of the cities dictate the purpose of those. How many cities in North Dakota actually use sales tax for road projects?

Rep B. Koppelman: In larger home rule cities, I would say many of them have a portion of their sales tax dedicated towards infrastructure projects. That funds a portion of that but supplement with general property fund dollars and use special assessments for a portion of that funding.

Rep K. Koppelman: The status quo with respect to that specials are used now. I believe some cities have moved in recent years toward a general assessment so the cost is spread across the entire city for the needs to repair or improve major thoroughfares, is that increasing?

Rep B. Koppelman: I don't know if it's on the rise or increasing. I am aware of circumstances where the per lot special assessment is used as opposed to some other metric like square footage or frontage foot. Some cities refer the per lot basis.

Rep K. Koppelman: The bill doesn't mandate anything it just gives the tool to cities that wish to use it?

Rep B. Koppelman: You can argue that it does mandates you can't use this as an additional tax tool to layer on top of special assessments. It's an either/or.

Rep K. Koppelman: What about existing specials? Did the cities have to decide if they want to use plan A or plan B? Or might they be able to use this for certain things as long as they don't double up?

Rep B. Koppelman: I believe there is language in the bill that says once a municipality switches to this, by a vote of the people or the governing body, then those funds would be used to pay all outstanding special assessments that are not green field. Meaning not developers specials.

Rep. Ertelt: Could you comment on the definition of arterial roads? Could special assessments still be used for non-arterial roads?

Rep B. Koppelman: They wanted to differentiate between construction and the repair of the arterial roads as opposed to the maintenance of the existing infrastructure. As to not include the green field specials type projects. The definition under general assessment is designed to describe all infrastructure and roads that are not green field special assessments.

Rep. Guggisberg: These fees were going to basically like a water fee but for residential properties would they be one fee for everybody? It wouldn't be a percentage of your water bill?

Rep B. Koppelman: I can't imagine it being a percentage of your water bill. Because water bill usage wouldn't be a good metric.

Rep. Guggisberg: We pay our water bill based a basic charge and usage. Would you be open to an amendment to use gas taxes? If the idea of this bill is to get people who use the services, then gas taxes could help fund it?

Rep B. Koppelman: What my intent is everybody pay equally for the roads throughout the city with the exception of the initial construction of the road. I don't think that would meet the germaneness of the bill requirement to consider attaching it to this bill. Our gas tax does aide in local road construction.

Rep. Guggisberg: When you say its distributed for everyone to use evenly, it's not based on how much you use or how big your truck. That is why the gas tax to me would make more sense.

Rep B. Koppelman: That could go as a proposal on its own merits but the presumption is that everybody has the same need or desire to have the services the city provides. This is not intended to be a measure of use but it was intended as need or want for the people.

Rep. Hatlestad: We use sales tax to pay down some of our infrastructure bills. So what would be the difference to charge an extra penny for gas tax and then use that money to pay down that bill?

Rep B. Koppelman: Any way you can drive money you can use to pay for the resources in any proposal brought before the legislature.

Vice Chairman Pyle: On page 9 section 5, this tax would be on the residential and commercial utility bills. In my community half the residents have rural water and half have municipal water. How would those be assessed within the city limits you are not on municipal water?

Rep B. Koppelman: That might be something that was not contemplated. Most municipalities as they grow tend to buy the water rights from the rural provider. The intent of the bill was that the city would still send them the bill.

Vice Chairman Pyle: What about those that the land is not developed yet, it's in the original part of town but no one has built on, how would you assess those people the roads or whatever else you need to build?

Rep B. Koppelman: It would be charging a utility fee/infrastructure fee. I would assume those would not pay for those services because no one lives on that land or drive the road, or use the water or the sewer. But the long term benefit will be paid back incrementally in an ongoing basis.

Vice Chairman Pyle: We have an implement dealership in downtown just to park their equipment but does not use the services just the main road through town. How would you capture those properties that benefit?

Rep B. Koppelman: I was picturing a farm field in the middle of town. In the general if I was designing how the city would do it, I believe the example for residential would not be the same for commercial and industrial. You might be

right there being problems with the language that says put it on the utility bill. Maybe that needs to be amended.

Dustin Gawrylow: ND Watchdog Network. (Handout #3). Read his testimony.

Rep K. Koppelman: You are testifying for the bill, but then saying simplify it, but then saying don't allow them to overlap. If you are going to write something that doesn't allow overlap, it's not simple. What is the task force you alluded to?

Mr. Gawrylow: The Bismarck Special Assessment task force was put together a couple of years ago of local residents and representatives of different organizations to come up with a solution to this issue. Bismarck has \$200 million of infrastructure needs and funding that as well as coming up with solutions for property tax and special assessments. That was the goal of this. We broke down what would work in Bismarck.

Rep K. Koppelman: Is that anywhere in a bill?

Mr. Gawrylow: At this point I am not even sure. It was my understanding that this bill was inspired by what we had been doing locally.

Rep K. Koppelman: This Bismarck Special Assessment task force is that from the city?

Mr. Gawrylow: Yes.

Rep K. Koppelman: When you say amendments needed for HB 1474, remove references to green field special assessments as the intent is to not have overlap. Can you explain what you mean by that?

Mr. Gawrylow: You don't want to have any special assessments at all if you are going to have this alternative method of financing.

Rep K. Koppelman: When I read the bill I understood the separation that was special assessments are a concern for citizens. If the type of special assessment the bill contemplates replacing or giving cities the option to replace. If you got rid of green field assessments in the bill you would have installation of services for development and growth or you would have it added to the price of the property. What are you advocating?

Mr. Gawrylow: Speaking only for what we discussed, our conclusion was you get rid of specials or you don't. In order to have consistency you would want to have every property with no specials on it, new or otherwise.

Rep K. Koppelman: If the desire is to allow local communities to decide how to implement this or what they want to do, and you have a city say we like the idea of implementing an infrastructure tax and not having to have special assessments but aren't ready for it. Then you have the next city that wants to do away with the special assessments all together. Is there anything in law right now that would prevent a city from saying we will do what this bill requires and we will get rid of special assessments for development and have the developer price that into the property?

Mr. Gawrylow: I know that question we were dealing with was in SB 2326 from last session. It said if a city does not currently have a revenue source that is in its home rule charter it cannot create a new revenue source.

Rep. Guggisberg: Do you think we should open this to different revenue sources besides the utility fee?

Mr. Gawrylow: The issue of the gas tax causes to many problems with competition from city to city. If you give Bismarck a gas tax and Mandan doesn't have it everyone goes to Mandan to save money. It has to be a statewide thing.

Rep. Guggisberg: How about a sales tax, a license fee on a motor vehicle?

Mr. Gawrylow: We already have a sales tax; it is easier to budget for \$25 a month than \$6000 special assessment.

Rep. Adams: When you say to put assessment on the bill, everyone in the city will be paying for all new and maintenance? The city grows out, there would be enough money eventually that the new person buying the house would not have to pay any assessments they would just get the \$25 per month tacked on?

Mr. Gawrylow: The growth would be covered by the developer. Once they have paid it off and it has become the liability of the city the maintenance fee would kick in.

Brian Ritter: President Bismarck Mandan Chamber EDC. (Handout #4). He read his testimony.

Rep. Toman: I assume this would be a phase out type plan? What's the time frame for property owners?

Mr. Ritter: We identified two options as to what to do with the specials? To rollover any legacy special assessments. Roll that into the cost of your utility fee. I believe that was addressed as not being possible in this legislation. The other option was there would be a timeframe by which you would be paying both. If that was the case most of the special assessments are for 10 years.

Keith Hunke: City Administrator Bismarck. (Handout #5). Read his testimony.

Rep K. Koppelman: On behalf of the city of Bismarck, you support the bill as written?

Mr. Hunke: Yes, we do.

Bill Wocken: ND League of Cities. (Handout #6,7). He read his testimony.

Rep K. Koppelman: Do you know what percentage of cities in North Dakota are home rule cities? And would there be a reason why the cities who are not the home rule cities shouldn't have this option?

Mr. Wocken: It was written for the home rule cities because home rule charters require approval of the voters. There are quite a few of cities in North Dakota as home rule cities.

Rep K. Koppelman: If there was a desire to allow cities that are not home rule cities to choose this mechanism of taxation would the league be in favor of that?

Mr. Wocken: The question is, would the citizens of the community have the opportunity to understand fully what they are doing?

Rep. Magrum: What is the general financial shape of most of the cities in North Dakota?

Mr. Wocken: Not many of the cities are going into default.

Vice Chairman Pyle: When I sent utility bills there was some that did not pay so at the end of the year I had to add it to their special assessments on to their property. How is this going to fix the problem for the non-payers?

Mr. Wocken: At the present time we have a charge for the water utility, the sewer utility, the waste utility and etc. I can see this just being another line added onto that bill. So it becomes the responsibility of the property owner to pay that bill.

Vice Chairman Pyle: So they would be special assessed onto that property?

Mr. Wocken: If the charge against the property and it is unpaid then the city has the opportunity to collect. It could be a levy against the property or create a lien.

Nancy Deichert: Executive Director of Bismarck Mandan Board of Realtors. (Handout #8). Read her testimony.

Rep. Ertelt: The state of Minnesota requires that before an exchange of a piece of property has taken place that all the specials are paid on. So it is unencumbered to the next buyer. That is another way and maybe a better way than this bill with the ongoing tax for that same purpose?

Ms. Deichert: I am not familiar with that and would have to look more into that.

David Crothers: Broadband Association of ND. (Handout # 9,10). Read his testimony.

Rep K. Koppelman: When I think of cities taxing I think city utilities; I think water bill that sort of thing. Your amendment would exempt communications. But you made a point that utilities can mean other things like cable TV companies or telephone, so your desire is to clarify that it would be political subdivisions utility bills, correct?

Mr. Crothers: I don't want to just say city utility bills; I don't want to mess around in someone else's bill. The interest is limited to communication companies, taxing one group and not taxing the other when we are both providing the same service to a customer.

Rep K. Koppelman: One option for accessing this fee or tax would be on utility bill like a water bill, sewer or garbage bill. Not to say we are going to tax

your telephone or cable bill, the industry would represent would fall into if they own property in a city and receive the services from the city.

Mr. Crothers: Yes, and perhaps the answer is to spell out exactly what utilities you want to access.

Chairman J. Dockter: Closed the hearing.

2019 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

HB 1474
2/14/2019
Job # 32814

- Subcommittee
 Conference Committee

Committee Clerk Signature	Carmen Hickle
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Explanation or reason for introduction of bill/resolution:

Relating to the authority of a county or city to levy an infrastructure tax in lieu of special assessments; relating to the authority of home rule cities and counties to levy infrastructure tax in lieu of special assessments and special assessment fund balances

Minutes:

1,2

Chairman J. Dockter: Opens for committee work. We will look at the amendments from Rep B. Koppelman 19.1010.02001 (Handout #1) and from David Crothers (Handout #2).

Vice Chairman Pyle: Made a motion to accept amendment .02001 from Ben Koppelman.

Rep. Simons: Second the motion.

Voice vote carried.

Vice Chairman Pyle: Moved the amendments from David Crothers. To include the words, except for communications company bills. These will be on page 2 line 9, page 5 line 23, page 6 line 26, page 9 line 17, following the word bills.

Rep. Fegley: Second the motion.

Chairman J. Dockter: Mr. Crothers was worried that they would be involved and they just want to be excluded.

Rep. Simons: Is that a legitimate request? I don't see them ever having a problem with communications.

Chairman J. Dockter: I would agree with you but Mr. Crothers thought that could be a possibility and that is why he wanted these amendments added.

Rep. Longmuir: My understanding is that he was afraid that utility companies and communication companies would be required to gather those fees then pay them to the city. A collect issue.

Voice vote carried.

Rep. Adams: Made a motion for a do not pass as amended.

Rep. Guggisberg: Second the motion.

Vice Chairman Pyle: I am going to resist; I have a hard time visualizing how this will work in smaller cities but if this is an option for some cities to do then I think we should empower them. Plus, they have to get 60% of the majority of the qualified electors.

Chairman J. Dockter: We had a taskforce in Bismarck and they felt this was a way to spread it out instead of having special assessments. They would have a vote and spread it out so there was a monthly payment for the infrastructure fund which help people who have their home paid not to be hit with a special assessment. They would be paying a utility tax that might be \$20 a month. However, the city would have to get approval and come up with the parameters of how they would be charging each resident.

Rep. Guggisberg: I like the thought of giving cities more tools. The sponsors are not interested in expanding the tax that may be used for this. I think the infrastructure costs don't have anything to do with utilities so there should be other methods of paying for it.

Rep. Hatlestad: Is this a tax on utilities or a tax with the bill coming due on the utility bill?

Chairman J. Dockter: It would be put on the utility bill but called a tax not a fee. But it would be up to each city how they were going to do that.

Rep. Hatlestad: It's not a tax on water? They just use the bill to convey the tax?

Chairman J. Dockter: That is correct. The bill would be determined by the city on the size their home, or their property if its commercial property. They just use that in order to assess the fee.

Rep. Magrum: Is that how they figure the tax? They take your city sewer, water and garbage?

Chairman J. Dockter: The city would come up with a formula probably on square footage of your home they would use the water bill as a billing mechanism to collect the fee and put it on that statement.

Rep. Toman: I am going to resist the do not pass motion.

Rep. Adams: What do you do with apartment buildings?

Chairman J. Dockter: That was brought up in the task force and that is something the city would determine. A lot of it would be by square footage. We are allowing the cities to bring it to their voters and the city commission would then have to determine the parameters of how it would work. We are giving them the option to bring it to vote of the citizens.

Vote do not pass as amended yes 3, no 10, absent 1.

House Political Subdivisions Committee

HB 1474

2/14/2019

Page 3

Rep. Johnson: Made a do pass as amended motion.

Rep. Toman: Second the motion.

Vote Yes 10, no 3, absent 1.

Vice Chairman Pyle: Will be the carrier.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1474

Page 1, line 4, after the third comma insert "40-12-02,"

Page 1, line 5, remove "home rule"

Page 9, after line 12, insert:

"SECTION 5. AMENDMENT. Section 40-12-02 of the North Dakota Century Code is amended and reenacted as follows:

40-12-02. Submission of proposed ordinance by petition - Filed with city auditor - Request in petition.

1. Any proposed ordinance may be submitted to the governing body of the municipality by a petition signed by qualified electors thereof equal in number to fifteen percent of the votes cast for all candidates for the executive officer at the preceding regular municipal election. The petition must be filed in the city auditor's office and must contain a request that the ordinance set out in the petition be submitted to a vote of the qualified electors of the city if it is not passed by the governing body of the municipality.
2. Notwithstanding subsection 1, a proposed ordinance for the purpose of levying an infrastructure tax under section 6 of this Act may be submitted to the governing body of the municipality by a petition signed by sixty percent of the qualified electors who voted in the preceding municipal election. The petition must be filed in the city auditor's office and submitted to a vote of the qualified electors of the city at the next municipal election.

Renumber accordingly

PROPOSED AMENDMENTS HOUSE BILL 1474

Page 2, line 9, add ", except communications company bills,"
following the word "bills"

Page 5, line 23, add ", except communications company bills,"
following the word "bills"

Page 6, line 26, add ", except communications company bills,"
following the word "bills"

Page 9, line 17, add ", except communications company bills,"
following the word "bills"

Renumber accordingly

David Crothers
Broadband Association of North Dakota
dcrothers@yahoo.com
Cell: 701-471-3838

February 14, 2019

DP 2/14/19

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1474

Page 1, line 4, after the third comma insert "40-12-02,"

Page 1, line 5, remove "home rule"

Page 2, line 9, after "bills" insert ", except communications company bills."

Page 5, line 23, after "bills" insert ", except communications company bills."

Page 6, line 26, after "bills" insert ", except communications company bills."

Page 9, after line 12, insert:

"SECTION 5. AMENDMENT. Section 40-12-02 of the North Dakota Century Code is amended and reenacted as follows:

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Page 9, line 17, after "bills" insert ", except communications company bills."

Renumber accordingly

Date: 2-14-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1474

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: 19.1010.02001

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. Pyle Seconded By Rep. Simons

Representatives	Yes	No	Representatives	Yes	No
Chairman J. Dockter:					
Vice Chairman Pyle:					
Rep. Ertelt:					
Rep. Fegley:					
Rep. Hatlestad:					
Rep. Johnson					
Rep K. Koppelman:					
Rep. Longmuir					
Rep. Magrum:					
Rep. Simons:					
Rep. Toman:					
Rep. Strinden:					
Rep. Adams:					
Rep. Guggisberg					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE CARRIED

Date: 2-14-19
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1474

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: "except communication company bills"
Pg 2 Line 9, Pg 5 Line 23, Pg 6 line 26, Pg 9 Line 17

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. Pyle Seconded By Rep. Fegley

Representatives	Yes	No	Representatives	Yes	No
Chairman J. Dockter:					
Vice Chairman Pyle:					
Rep. Ertelt:					
Rep. Fegley:					
Rep. Hatlestad:					
Rep. Johnson					
Rep K. Koppelman:					
Rep. Longmuir					
Rep. Magrum:					
Rep. Simons:					
Rep. Toman:					
Rep. Strinden:					
Rep. Adams:					
Rep. Guggisberg					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE CARRIED

Date: 2-14-19
Roll Call Vote #: 3

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1474**

House 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 Rep. Adams Seconded By Rep. Guggisberg

Representatives	Yes	No	Representatives	Yes	No
Chairman J. Dockter:		/			
Vice Chairman Pyle:		/			
Rep. Ertelt:		/			
Rep. Fegley:	/				
Rep. Hatlestad:		/			
Rep. Johnson		/			
Rep K. Koppelman:	/	/			
Rep. Longmuir		/			
Rep. Magrum:		/			
Rep. Simons:		/			
Rep. Toman:		/			
Rep. Strinden:		/			
Rep. Adams:	/	/			
Rep. Guggisberg	/	/			

Total (Yes) 3 No 10

Absent 1

Floor Assignment _____

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

Date: 2-14-19
 Roll Call Vote #: 4

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1474**

House 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 Rep. Johnson Seconded By Rep. Toman

Representatives	Yes	No	Representatives	Yes	No
Chairman J. Dockter:	/				
Vice Chairman Pyle:	/				
Rep. Ertelt:	/				
Rep. Fegley:		/			
Rep. Hatlestad:	/				
Rep. Johnson	/				
Rep K. Koppelman:	/				
Rep. Longmuir	/				
Rep. Magrum:	/				
Rep. Simons:	/				
Rep. Toman:	/				
Rep. Strinden:	/				
Rep. Adams:		/			
Rep. Guggisberg		/			

Total (Yes) 10 No 3

Absent 1

Floor Assignment Rep. Pyle

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

REPORT OF STANDING COMMITTEE

HB 1474: Political Subdivisions Committee (Rep. Dockter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1474 was placed on the Sixth order on the calendar.

Page 1, line 4, after the third comma insert "40-12-02,"

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"SECTION 5. AMENDMENT. Section 40-12-02 of the North Dakota Century Code is amended and reenacted as follows:

40-12-02. Submission of proposed ordinance by petition - Filed with city auditor - Request in petition.

1. Any proposed ordinance may be submitted to the governing body of the municipality by a petition signed by qualified electors thereof equal in number to fifteen percent of the votes cast for all candidates for the executive officer at the preceding regular municipal election. The petition must be filed in the city auditor's office and must contain a request that the ordinance set out in the petition be submitted to a vote of the qualified electors of the city if it is not passed by the governing body of the municipality.
2. Notwithstanding subsection 1, a proposed ordinance for the purpose of levying an infrastructure tax under section 6 of this Act may be submitted to the governing body of the municipality by a petition signed by sixty percent of the qualified electors who voted in the preceding municipal election. The petition must be filed in the city auditor's office and submitted to a vote of the qualified electors of the city at the next municipal election.

Page 9, line 17, after "bills" insert ", except communications company bills,"

Renumber accordingly

2019 SENATE FINANCE AND TAXATION

HB 1474

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1474
3/6/2019
Job #33272

- Subcommittee
 Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subsection to section 40-05-01 and a new section to chapter 40-22 of the North Dakota Century Code, relating to the authority of a county or city to levy an infrastructure tax in lieu of special assessments; and to amend and reenact sections 11-09.1-05, 11-11-55.1, 40-05.1-06, 40-12-02, and 40-23-21 of the North Dakota Century Code, relating to the authority of cities and counties to levy an infrastructure tax in lieu of special assessments and special assessment fund balances.

Minutes:

Attachments: 5

Chairman Cook: Called the hearing to order on HB 1474.

Representative Jason Dockter, District 7, Bismarck: Introduced the bill. This bill would allow cities to bring, to the people, to vote on to not have special assessments and have a utility tax that would be paid monthly by individuals. People who want to have a big special assessment bill would be paying on a monthly basis. This bill just allows the cities to put it on the ballot. The details would be determined by the city commissioner. This bill doesn't go into figuring out how to charge each house or apartment building. This just gives the city the chance to put it to the vote of the people. This came up when the city of Glen Ullin wanted to do a gas tax. We found out they could so we made it so they could not do it. Bismarck-Mandan chamber had a tax force that brought this up as a concept. So I brought this bill to you. Representative Koppelman put amendments on this. He can go over the details of the bill with you. I will stand for questions.

Chairman Cook: Does this bill re allow a city to levy a gas tax.

Representative Dockter: Our intention was just for special assessments.

Chairman Cook: Does this completely eliminate special assessments a city can levy?

Representative Dockter: If the citizens would pass the bill saying that there would be no more special assessments then there would be a utility tax. A lot of discussion is how they would have to figure out how they would handle that. I look at this bill as helping the people who own their houses and live in older neighborhoods. They pay a lower amount each month

instead of paying up to \$10,000 for a special assessment. It would be easier for them to budget a monthly amount than one coming all at one time. This would help young couples as well that buy homes and then get hit with another special assessment after they are already trying to make their mortgage.

Representative Koppelman, District 16, West Fargo: Testified in favor of the bill. See attachment #1. You will notice in the bill that it is tailored to replacing specials and it wouldn't allow a gas tax to be levied. **(8:16)** The reason why we differentiated between the two is that you have the western cities that require their developers to actually fund the infrastructure on the front end. On the Bismarck tax force, there was some desire to do away with financing developer specials on the front end of things. The concept they came up with would not lend itself to this being tried on the eastern end of the state. That part is very common for the cities to finance the developer specials which we call green field specials in here. In order to make this bill workable, we allow the municipality to decide whether or not they will have that agreement with the developer.

Senator Patten: In this case, either at the county level or the municipal level, all the residents would be paying the tax as opposed to some cases where the special assessment districts do. Is that correct?

Representative Koppelman: I believe on the surface that is correct. I might highlight that some jurisdictions do not do them often and they use them in a city wide assessment. In the medium to larger cities, the districts are narrower than that but they still do assessments city wide. I think the tax force wanted to let people pay a little over time. I do not think this changes the amount that people pay over time. It just lets them take it in little chunks as opposed to having a large cost and having to pay that over 15-20 years.

Senator Patten: Would this completely eliminate any special assessments that could be levied in the future or would there be any example where you would use a smaller district for specials and then have an overlying utility tax that would cover the entire area?

Representative Koppelman: With the way we made this, we did not want the ability for increased taxation. If a municipality was going to go this way, they can stop special assessing on the general public. They can make an agreement with a developer and finance theirs. A lot of these other specials are not known by people that they are coming. It comes as a surprise.

Senator Meyer: We are not sure how the cities would do it such as if it would be in the special assessment district or the entire city. Let us say you do it on the city. In my district you might have people that move into the less desirable homes who now pick up the tab for these newer developments. What would you say to those people?

Representative Koppelman: The way it is currently done, they can cherry pick a part of town and do it. The bill is not that way. If they implemented this fee, every person in the city would pay \$30 per month. They would use this instead of charging you specials in your neighborhood when it is your time to get your street done, they would go to the big pool and fund your improvements with that. It cannot be used for that in the bill to pay for those new construction specials like when you first develop land.

Chairman Cook: is it safe to say the utility tax would be the same for every meter?

Representative Koopelman: I think it is safe to say for a like type property, that is true. I do believe there was talk that maybe you would have a methodology for charging a fee to a commercial property with one set of logic and residential homeowners with another. If you are in two different neighborhoods and you both have a house, the fee would be equal.

Chairman Cook: This bill is silent to that issue so you are leaving that decision up to the cities?

Representative Koppelman: Yes. That is just the same as we leave a lot up to them in how they do valuations in situations on property tax. In this case, they have the same latitude to decide what is appropriate for the certain type of property.

Chairman Cook: I would say we are very strict on how we allow our cities and counties to levy special taxes and fees. We define the rules in century code and they follow them. This leaves it wide open. Are you going to tax them all with this infrastructure fee? The city would say they are going to tax by square footage.

Representative Koppelman: I would have to leave that at how the specifics are discussed in the city. I was looking at giving the city the ability to move away from the specials. People who testify after me will have worked with the tax force. You can ask them how they are planning to handle the different types of property. In my mind they would make a decision for each classification. Then they would figure out the amount for that fee so they could cover their needs and not do it through special assessments.

Chairman Cook: I do not know if there is anyone out there that would want to get rid of special assessments more than me. One way we could do it is just outlaw. We enable cities to levy them today which we could stop. Then they have the property tax which is how they would have to pay for it instead of special assessments. Then we know how the property tax would be levied. My biggest concern on this bill is that we do not have any idea what the actual tax is going to be. Do the voters get to determine that?

Representative Koppelman: We do not know what the amount of this fee would be on a monthly basis any more than we know how many mills they will choose to charge. We give them a structure but we give them a latitude to work with within it. One solid ground rule is that you cannot be doing specials and also be doing infrastructure tax. With the Greenfields, we are. I think my town of West Fargo is okay with this. I do not know if they have fully worked through the implementation. If you had to do away with these specials to do an infrastructure fee on a monthly bill, I do not think it would ever work in the east. The specials they have when they originally build are pretty well disclosed when the close on the property. The enclose how much is currently on the lot and how much has been estimated to come on the lot. The bank calculates that into your payment that you can afford. This would end the second piece of that. People would know what they are getting into on the front end of the builder specials. I do not think it is practical to not do specials at all as a first step towards this transition.

Chairman Cook: Your town is similar to my town. We are located right next to a fuller city full of all the retail. We are at a disadvantage as far as the sales tax we collect because of our location. Isn't there some concern that if we went to this, Fargo would have a lot more money to buy down the need for a large infrastructure fee?

Representative Koppelman: I think that is the same situation we are in today. We have almost exactly the same sales tax as you guys. West Fargo has an entire penny of sales tax that is dedicated to buying down these projects. Fargo does it a little differently and they take theirs and subsidize the specials then they determine who pays what of it. West Fargo is already at a disadvantage with what they can use for sales tax. Without another tool like this, that will continue.

Senator Patten: There are two ways to do this; 60% vote of the residents or a majority vote of the county commission.

Representative Koppelman: That is correct. That tax force had originally said the city commission can determine how they will transition and put it to the vote of the people. We have elections and then you put the people in power that you want. The thought here was to give the city leaders the ability to move away from specials since they are deciding to whether to go with them or not. If your leadership really likes specials but the people did not, you could have a way to do it themselves.

Senator Meyer: Do you have any cities or counties that we can use any examples for this?

Representative Koppelman: No because this is illegal.

Senator Meyer: I mean across the whole country.

Representative Koppelman: No, I do not have any examples.

Brian Ritter, President, Bismarck-Mandan Chamber EDC: Testified in favor of the bill. See attachment #2. This is a concept that originated in a tax force. The city of Bismarck's joint tax force was formed after the work was completed of two other tax forces. One was to direct infrastructure development, and the other was to address special assessments within the city of Bismarck. The findings were brought together into one group. There was a 4-point plan in which the city of Bismarck would change the way in which we fund our infrastructure and address special assessments. Brian went over the steps that are numbered in his testimony. Numbers 1 and 2 changed the way by which we fund our major infrastructure needs going forward. Steps 3 and 4 speak to special assessments. Under step 3, if a developer wants to develop a Greenfield parcel into a residential subdivisions, the developer pays for the below ground infrastructure, water, and sewer, then places a deposit on the above ground infrastructure and the rest of the above ground costs. By doing this, the ideas get folded into the cost of the lot and you no longer have the need to special assess for those new costs. Step 4 has to do with special assessments on maintenance projects. The concept of the utility tax was a means to replace the special assessments by placing a per month charge on your utility or water bill. That revenue would be collected from everyone and put into the general fund. The city of Bismarck then uses those revenues to complete projects that would otherwise be specially assessed.

At this point, I want to make it clear that we support this bill because it gives us the ability to ask our voters to approve something. There are certainly details to be worked out. I will defer to City Administrator Keith Hunke to talk about the calculations we did within the tax force for how residential properties would be assessed to tax and for how commercial properties would be assessed to tax. In theory, that is what we have developed so far. I will stand for any questions.

Chairman Cook: I was involved in many of these conversations. I enjoy the concept of trying to eliminate special assessments but in your step 4, it asks the voters. I do not believe that is a requirement in the bill. What happened there?

Brian Ritter: It was our intention to ask our voters. Whether this committee changes the recommendation or the bill, I believe our intent would still be to seek voter approval.

Chairman Cook: Would the voters know how much their infrastructure fee is going to be?

Brian Ritter: We know as public stewards that if we were going to ask voters and seek that 60% approval, we need to have those details worked out. I think as a practical matter, I do not see us going to the voters without knowing what that fee would be.

Chairman Cook: Do you not think that it would be wise of us to have language in the bill that defines how that bill would be determined so every city is the same?

Brian Ritter: We would be open to that conversation.

Chairman Cook: My understanding is that it was going to be all special assessments and even greenfield development that was going to be eliminated. Do you have any position on that?

Brian Ritter: I cannot speak for the appetite in the east for making a wholesale change like this. In Bismarck-Mandan, that has been the approach we have taken without membership.

Dustin Gawrylow, ND Watchdog Network: Testified in support of the bill. We are in support of this concept as a framework to give local entities the ability to reform their own tax situation. This can be looked at as a pilot project. This sort of think simply leaves the door open for cities to ask their voters how they should proceed on financing their infrastructure. Trying to dictate a lot of the specifics will make it even less viable because a lot of these ideas will require a massive population. Small towns will not be able to fully replace their special assessments with a monthly fee. It all depends on governing bodies as far as how much they are spending on infrastructure. I think that having protections for tax payers and voters is important as long as it does not get in the way of allowing local entities to do the intended purpose which is to eventually eliminate special assessments all together. I noticed there was still some language about a petition with 60%. It was my understanding that was going to be changed. I would say that would be something to look at. I do not say we are going to do anything specific to cause it to not be passed. This is the thing that we should be passing in order to let local entities reform their own situation so they do not have to come to the legislation and demand you should do something. With that, I will stand for questions.

Chairman Cook: If we pass this as is and if they levy a utility fee and you see that as being too high, I would see you as being the first person demanding we have control over them. Am I right?

Dustin Gawrylow: Yes. Our range of the cost was in the \$18-\$25 per month range for dwelling units. That commercial would then be treated differently even though they concept as to how was up in the air. In an ideal world, all that would be in the amendment. The local members would know what they are voting on. If that amendment was not how it should be, I would be the first one opposing it.

Keith Hunke, City Administrator, Bismarck: Testified in favor of the bill. See attachment #3.

Chairman Cook: How would you see Bismarck defining a utility fee?

Keith Hunke: During the discussions with the special assessments tax force, we looked at methodology and based it on the upcoming year special assessment project which was about a \$17M project. We looked at all our residential and commercial dwelling units and determined we would have a fee for those units of about \$22 per month. Depending on your total amount of the special assessment project, that monthly cost of the project could run from \$18 - \$25. We also looked at commercial properties. We assess commercial properties based on their square footage. We applied that same methodology to that \$17 M project and came up with an amount of \$65 per 10,000 square foot of square property for a monthly fee.

Chairman Cook: You are talking 10,000 feet of commercial floor space.

Keith Hunke: It would be the total parcel area. That was high level estimates so we had some basis for discussion. At the time it seemed to agree with the tax force members and it had positive feedback from the city commission.

Bill Wocken, ND League of Cities: The League of cities has heard a lot of concerns regarding special assessments. The shock they get when they receive these assessments, has created quite the uproar. We found that in situations where you can put an installment plan or a monthly payment plan in place of it, that makes people more comfortable. We would like to see this be explored. We believe that putting a utility tax on is a reasonable vehicle for accomplishing this belief. We do also believe the citizens should have an opportunity to see what will happen and vote on whether or not the utility tax is enacted and what that means to them as far as special assessments. Specials are very hard and part of the culture of how improvements are made in the community. We believe this bill allows us to take another step and make it less painful for the citizens. I will answer any questions.

Zac Smith, ND REC: Testified neutrally on the bill. Distributed proposed amendments. See attachment #4. These are simple. We are clarifying language. It is intended to talk about the city or municipal city utility bills whether it is water or sewage. This is just to clarify those bills that are talking about putting these on, does not include an electric cooperative bill. There is already clarification about the communications companies. We just ask for this amended to clarify that we are not talking about your electric or communication company bills but actually the bills that you have from the actual city.

Chairman Cook: Any more testimony in favor of the bill? Any opposed?

Mike Rud: Testified in opposition of the bill. We have some major concerns of the numbers such as the \$65 per 10,000 square foot. A lot our properties have a big size. We would not want a huge part of this burden placed on the business community. We are also concerned there are very few parameters and definitions in the language at this point in time. I think you have some work to do on policies if you are going to take this bill anywhere.

Chairman Cook: Any idea the square footage of the Kirkwood Mall.

Mike Rud: I am not sure of the size of our mall here. All the malls in ND would fall into this. I would assume they just pass that on to their tenants.

Chairman Cook: Do tenants at a mall have their own their own water heater?

Mike Rud: I am not sure. I did talk to Jennifer Willson who runs the mall here in Bismarck. If I understood correctly, I think everything goes through them.

Chairman Cook: Any further testimony on this bill? Hearing none, we will close the hearing on HB 1474.

Additional testimony was submitted to the clerk after the hearing from Bill Wocken. See attachment #5.

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1474
3/12/2019
Job #33588

- Subcommittee
 Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subsection to section 40-05-01 and a new section to chapter 40-22 of the North Dakota Century Code, relating to the authority of a county or city to levy an infrastructure tax in lieu of special assessments; and to amend and reenact sections 11-09.1-05, 11-11-55.1, 40-05.1-06, 40-12-02, and 40-23-21 of the North Dakota Century Code, relating to the authority of cities and counties to levy an infrastructure tax in lieu of special assessments and special assessment fund balances.

Minutes:

Attachments: 0

Chairman Cook: Called the committee to order on HB 1474.

Chairman Cook: This eliminates municipality to eliminate special assessments with a infrastructure fee on their water bill.

Senator Patten: Has this ever come up before?

Chairman Cook: Never. This was a result of a tax force in Bismarck at the Chamber of Commerce. They work closely with the city and the tax force.

Senator Meyer: I look at my district and we do not have many special assessments in my established neighborhoods. Essentially, I would just be raising the taxes on their water bills. Right now I am opposed.

Chairman Cook: I am kind of the same way.

Senator Unruh: I agree. It is an entirely new concept. We do not know how it would work. There are no protections for the tax payers in the bill. I am not comfortable with it as it is written. There may be a way for me to get on board with the concept but it would take a lot of work.

Chairman Cook: This came out of a city tax force. I would suggest we turn it into a study so that during the interim, the tax interim committee can put some work into this.

Senator Dotzenrod: That is a good idea. On page 2, line 9, they referred to utility bills. I thought at the time of the hearing, they were talking about putting some kind of fee on the power bill. I understand that they are probably talking about the water bill. That was not clear to me. They can do water bills without much difficulty but trying to put a fee on a power bill would be difficult.

Chairman Cook: It is obviously a concern of the telephone folks. I have gotten emails and amendments from a lot of them.

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HB 1474
3/20/2019
Job #34003

- Subcommittee
 Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new subsection to section 40-05-01 and a new section to chapter 40-22 of the North Dakota Century Code, relating to the authority of a county or city to levy an infrastructure tax in lieu of special assessments; and to amend and reenact sections 11-09.1-05, 11-11-55.1, 40-05.1-06, 40-12-02, and 40-23-21 of the North Dakota Century Code, relating to the authority of cities and counties to levy an infrastructure tax in lieu of special assessments and special assessment fund balances.

Minutes:

Attachments: 1

Chairman Cook: Called the committee to order on HB 1474.

Chairman Cook: Distributed attachment #1. This would eliminate special assessments if a city so chose to do it. It would enable a city to have utility fees. I like the idea of not having special assessments as long as what replaces it is less burdensome on me. It is an idea that I think has merit but also needs more study state wide. This bill has another hog house amendment that turns this into a study. I had the chamber work through the language of the study agreement with me. They would like to see it put into effect this year but they are willing to partake in a study.

Senator Patten: Moved to adopt amendment 19.1010.03001.

Senator Dotzenrod: Seconded.

Chairman Cook: Any Discussion?

Senator Dotzenrod: I have to respect the work these people did. You can understand the demand and pressure to come up with an alternative. I have to applaud them for not complaining about it and just trying to put some work into it. I am not sure how the execution of this would work and if they would be able to come up with a way that would satisfy questions of fairness and equity among the people that are paying it. I am going to support the amendment and the bill with the idea that maybe there is some way this could be worked out. The test is whether the public is satisfied with it or not.

Chairman Cook: They had a tax force that worked on it during the interim. They had legislative involvement and they even asked me my opinion on it a few times. I feel like I should have given them more.

A Voice Vote Was Taken

Motion Carried

Senator Dotzenrod: Moved a Do Pass on HB 1474 as Amended.

Senator Kannianen: Seconded.

Chairman Cook: Any Discussion?

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent

Motion Carried

Senator Meyer will carry the bill.

March 19, 2019

SK
3/2
1001

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1474

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study relating to replacing special assessment revenue with revenue from an alternative local funding source."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - SPECIAL ASSESSMENT REVENUE REPLACEMENT. During the 2019-20 interim, the legislative management shall consider studying options for replacing revenue generated by special assessments with revenue from an alternative local funding source. The study must include a review of the purposes for which special assessments are imposed, the revenue generated from the imposition of special assessments, local revenue sources that could be used as an alternative to imposing special assessments, and the manner in which fees for an alternative local revenue source would be calculated and imposed as compared to the manner in which special assessments are calculated and imposed. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly."

Renumber accordingly

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1474**

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 _____

Motion Made By Dotzenrod Seconded By Kannianen

Senators	Yes	No	Senators	Yes	No
Chairman Cook	✓		Senator Dotzenrod	✓	
Vice Chairman Kannianen	✓				
Senator Meyer	✓				
Senator Patten	✓				
Senator Unruh	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Meyer

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

REPORT OF STANDING COMMITTEE

HB 1474, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1474 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study relating to replacing special assessment revenue with revenue from an alternative local funding source.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - SPECIAL ASSESSMENT REVENUE REPLACEMENT. During the 2019-20 interim, the legislative management shall consider studying options for replacing revenue generated by special assessments with revenue from an alternative local funding source. The study must include a review of the purposes for which special assessments are imposed, the revenue generated from the imposition of special assessments, local revenue sources that could be used as an alternative to imposing special assessments, and the manner in which fees for an alternative local revenue source would be calculated and imposed as compared to the manner in which special assessments are calculated and imposed. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly."

Renumber accordingly

2019 CONFERENCE COMMITTEE

HB 1474

2019 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

HB 1474
4/9/2019
Job # 34634

- Subcommittee
 Conference Committee

Committee Clerk Signature	Carmen Hickle
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Explanation or reason for introduction of bill/resolution:

Relating to the authority of a county or city to levy an infrastructure tax in lieu of special assessments; relating to the authority of home rule cities and counties to levy an infrastructure tax in lieu of special assessments and special assessment fund balances

Minutes:

Chairman J. Dockter: Opened the conference committee on HB 1474. The House sent the bill to the Senate and then it was switched into a study. Can you explain why the Senate switched to a study?

Sen. Meyer: The reason we turned it into a study was to see how it would be implemented in different areas. We felt it was a Bismarck issue where this came up. Being this is going to be state policy we figured we needed to have a state study to make sure it was done correctly.

Rep B. Koppelman: This is beyond a Bismarck issue, it defines new construction specials which are called green field specials in the original bill draft and other specials used for broad projects. It would be tough to implement this and do away with green field specials because that is the way development is done in the eastern part of the state. Whereas in the western part of the state many of those don't do specials on new construction at all. I thought this was good policy as this is empowering either political subdivisions commissioners elected by the people to make the decision or empowering the people themselves to make this decision for themselves to go away from a tax that equates to property tax. It allows people to pay a little bit all the time instead of paying a lot some of the time. We looked at this in the interim tax committee, the city of Bismarck studied this within their city as to how this would work and gave us some examples. West Fargo would study it before they implemented it. I believe out interim tax committee got a good understanding of how this would work. I don't know if we would gain anything by studying it in the interim because we are going to get the same that a city would do.

Chairman J. Dockter: I gave a talk to a senior group and explained it and they were in favor. The people that affects the special assessment are the senior groups that have their house paid off but get a \$8000 or \$10,000 assessment. If you have this like a utility fee it can be spread out. The younger families are paying an assessment and paying interest on the

assessment. All we are doing is to allow municipalities to put it to a vote to decide for themselves if they want to do this or not.

Sen. Unruh: I don't think the Senate disagrees with the issues that arise from imposition of special assessments. During the interim we did see that there are issues definitely with the elderly that it impacts them more than other people when those special assessments are imposed. That is why you see the need for a study, we do think there is some kind of issue and need another tool for locals to utilize. We have more questions than answers by the time we finished with the testimony. How is it implemented, what the level is, and how long it stays on the books, once the voters vote I think it stays in perpetuity. There was minutia and how the voters will see it to require some level of transparency on what that fee is, and what the fee is used for, how long that fee will stay in place. With all the questions we had is what lead to the recommendation of a study.

Chairman J. Dockter: The fee would be perpetuity because it would be continually putting it in the fund. You would have to have the revenue coming in so there would be no specials. We also talk about local control; local control changes the definition. Are there some amendments that we could put together to ease your minds? In the end the municipalities will put it to the vote of the people to decide. Is it a local control issue or does the state have the full charge? It comes back to the tax payers and the city determines if they pass it what the fee is going to be and the structure. I don't know if it's the states job to tell a city this and each city has a different need.

Sen. Dotzenrod: When we had this in our committee we viewed this as a lot of merit, there is good thinking and we credited the city of Bismarck and those who laid out a plan. We were concerned that if we pass it and it becomes state law how is it going to work across the state. We had a situation where a power plant was going to do construction, so they were going to assess a fee to power customers and build up a fund, then later start the construction. It went to court and the judge said it couldn't be done, he said you cannot assess a fee without people getting benefit from it. The court decided in that case that this would not be a legal way to bill. If we are going to be billing in perpetuity and charging for things that aren't there yet and trying to build up funds, is that principle going to interfere? Is there a legal hurdle we haven't dealt with? I think an interim study, if you are going to allow this to be statewide, it seems like we would like to have some time in an interim environment to start asking questions about how will it work, can you charge on more than one kind of utility at the same time, like water bills and power bills at the same time, there was questions about apartment owners? So the idea of a study made sense. There is potential but we need to make sure we do this before we put it into state law.

Rep B. Koppelman: I learned the cites have the ability to charge one way for residential, one way for apartments, and one way for commercial, they can all be done different. We as a state aren't saying it has to be one way for everyone, the power plant you mentioned is different as that is not attached to your property the same way as a street is and it is not a government entity. The city of Bismarck thought their city commission could put it on the ballot and the voters would vote it in. The City Commission can put the fee in place the only thing is they can't do any special assessments except for green fields. If the people don't like paying specials in large chunks we think we should be able to pay a fee all the time, the citizens could initiate it too. An example is in oldest part of West Fargo on a 50-foot lot they

are going to have \$15,000 to \$20,000 in special assessments coming up. Not only is it the elderly can't afford them on a fixed income but young families and the ones in rental property. If we put a big chunk of special assessments whoever is renting will get a spike in their rent to pay for it. We owe it some due diligents in this conference committee to try and find a way forward. I think this has been studied maybe not to the legal challenge side but studied by the implementation be a city.

Sen. Unruh: On page 5 it talks about a resolution or a petition at 60% of the qualified electors who voted in the last election in a defined area. I don't think there is a vote there is a petition.

Chairman J. Dockter: I think we changed that in the House from the original intent.

Sen. Unruh: If we are going to have another conference committee we can all take a closer look at the details of the bill.

Chairman J. Dockter: Our next meeting will be on Thursday; I will get it scheduled. Hopefully we can come back with some solutions and get the answer on the voting. Adjourned the meeting.

2019 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

HB 1474
4/11/2019
Job # 34684

- Subcommittee
 Conference Committee

Committee Clerk Signature	Carmen Hickle
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Explanation or reason for introduction of bill/resolution:

Relating to the authority of a county or city to levy an infrastructure tax in lieu of special assessments; relating to the authority of home rule cities and counties to levy an infrastructure tax in lieu of special assessments and special assessment fund balances

Minutes:

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Chairman J. Dockter: Opened HB 1474 for conference committee work. He asked if everyone had a chance to look at the bill since the last meeting.

Sen. Meyer: We talked about senior citizens fixed income and some of issues that might come from special assessments. If they are in need of assistance they can get it for special assessments, with this new infrastructure tax on the utility what would happen if they needed assistance? Would that be available?

Rep B. Koppelman: Is there some assistance through the state for special assessments currently?

Sen. Meyer: They are opportunities out there. Would there be any opportunities for assistance for infrastructure tax?

Rep B. Koppelman: I don't know if the bill contemplates that. If we look at the intent, we have a program that deals with property tax for mostly the elderly and disabled. I don't have any objection to apply that here.

Linda Ledbetter, State Supervisor of Assessments Office of State Tax Commissioner: There is a program available for special assessments for the Homestead Credit program. It is a lien that is placed against the property, it was addressed in a bill this session and it has been adjusted to allow the maximum credit to increase based upon the consumer price index and also the interest rate is fluctuating rather than 9%. So looking at this on a water bill we would question how to deal with it as a special assessment.

Rep B. Koppelman: I think we kept the threshold on the Homestead Credit fairly conservative of who can qualify. Can you remind us how low of income you have to be able to qualify?

Linda Ledbetter: The Homestead Credit program starts with \$42,000 as the first level and it goes down to \$22,000, which is for full credit. The similar parameters are used for special assessments portion and it is maxed at \$6000.

Rep B. Koppelman: Where I live our bond indebtedness is similar Williston and they use some of the oil impact money to offset some of those bonds. There is a lot more people who struggle to pay special assessment payment than those who are under a household income of \$42,000. We already have an issue with property tax going up 5times of what their income and inflation going up in some cases. But then we compound that with special assessments. How is a person who went to their bank and borrowed on the low end of what they could afford, puts money in escrow and then have to raise their escrow to cover taxes and specials how do we deal with that? We can argue it's a local control issue, but if the locals don't have a mechanism to deal with that, how do we blame them for that?

Chairman J. Dockter: How does it affect when you are working with a young family and going over a mortgage loan?

Sen. Meyer: You take a look at their income and the purchase price, their buying power, the property taxes, and special assessments is all included in the payment regardless of escrow. We look at the annual amount of specials and it is pretty basic information what they are qualified to purchase. I don't know if this is helping this.

Rep B. Koppelman: How do you anticipate property values over a 10-year period? How would you contemplate a \$6000 or \$8000 special assessment that might come on 10-years later?

Sen. Meyer: I can't predict the future and I can't predict when new projects are going to come in. We try as lenders to be consistent in that they will be able to repay us. But I can't say something might happen 10-years down the road.

Rep B. Koppelman: That's why we are trying to come up with a solution where people can have certainty. They can know what their monthly payment, at least in terms of fixing their roads is going forward, without having to roll the dice and say I am not going to be able to afford this when my city comes to fix my street.

Sen. Meyer: That is where I have an issue, say I don't have specials so my district is well developed and now I'm putting a monthly tax on there with the thoughts of maybe down the road in 10-years we will have a special assessment. But maybe we won't. So we are just paying in and that is my issue with this.

Chairman J. Dockter: I pay for parks and rec and all other taxes, we are already paying, it's all for public good. If you are paying in the infrastructure fund and they are doing neighborhoods or main roads it's all for people to get around. In Bismarck people are trying

to sell houses and there is \$20,000 to \$30,000 in specials. All this bill is asking to allow a city to put it to a vote of the people.

Rep B. Koppelman: There was a draft of the bill that did that early on before it was introduced. We are still open to discussion of going back to that. In my city there are some older neighborhoods, all neighborhoods will need their streets done sometime. It tends to be a concentration of lower income people. Most people that are in middle to lower incomes they are driven by payments. They budget based on payments. This would be similar to that; they are used to budgeting based on smaller amounts spread over a longer period versus larger amounts in a shorter period. I think of rental properties owners as long as this isn't yielding to cities charging twice as much as if they would be special assessed. Many cities have used the method of ½ mile either way but some don't pay and some pay it all. We all want a road to go wherever we want to go. There is two ways to do that, all special assessments are citywide and some small towns have done that. The other option is a fee, giving cities those two options to make it fair I think it makes a lot of sense. If it didn't make sense we wouldn't have a water bill, because they aren't always fixing the water main on our street. But we don't object to having a water bill to maintain the system.

Chairman J. Dockter: It's no different than our school system, a single person buys a house and pays property taxes all year and don't have any kids but they are paying for schools. But it's a public good and so we are already spreading out and this isn't a new concept that people are pitching in to pay because we do it all the time on our tax bill.

Sen. Dotzenrod: What I'm struggling with does this really change the way we pay for things that the same people paying the same bills? You are going to assess this fee across the whole city, right now its neighborhood specific. But with this fee you are going to have everyone in the city paying all the time. This is a fee that doesn't expire and if you get hooked up to the utility your fee starts and when you get disconnected your fee stops. It's different than property tax, property tax has to be voted on, they expiration date. We don't have any perpetual mill levies, I don't think.

Chairman J. Dockter: We have perpetual real estate tax but I have never seen real tax that will never go away.

Sen. Dotzenrod: When we reorganized our property tax system, one of the things that were a requirement was each of the particular mill levies would have an expiration date.

Rep B. Koppelman: When it comes to property tax there are some of both, cities would have a certain amount of mills that they can by a vote of the commissioner or council could assess. They would annually have to certify to decide how many mills they are going to charge each year. The intent of this bill was if this fee was in place, like a water bill they determine what the base fee is going to be. They may choose to keep it the same but I believe this would be the same thing. As inflation happens and times change they are going to have to balance it with what their needs are. They are going to have to have a discussion about this as often as they have a discussion about their water fees or mills. With the language we are looking at, we are allowing the local control of the local political subdivisions representative to implement this if we don't go to the petition process in the version we sent to the Senate. Assuming the city council does implement it then it would be a fee.

Sen. Unruh: I think these are good points and the Senate is open to the concept to doing this, that is why we had study language here. To make sure we identify the correct problem and the correct way to solve that problem. Rather than killing the bill we have study language so we can do this in a responsible way that makes sense.

Rep B. Koppelman: In the interim tax committee we had a presentation from the city of Bismarck and how they had done a study and how this might work. During the Legislative session we have had testimony from cities that think this is good to have this as an option. Where would we get information in this study to better educate us in this coming interim that would make studying this worthwhile versus making a decision based on its merits today?

Sen. Meyer: Have we seen anywhere this was implemented or worked yet?

Chairman J. Dockter: Last session Glen Ullin wanted to charge a gas tax but we passed a bill not allowing them to do that. That is why we are here today.

Sen. Meyer: Have you seen anywhere that this infrastructure tax like this has been implemented?

Rep B. Koppelman: I don't believe so because we made it illegal before they could try it.

Sen. Meyer: Anywhere?

Rep B. Koppelman: There are lots of places across the country that use fees to fund their government. There are lots of places that use special assessment very seldom, they have higher property tax, or gas tax or others to subsidize with. Some states have local funding through their state, which means it is a trickle down money to maintain property tax.

Keith Hunke: We found similar fees as to what we were proposing with the street utility tax and it would be equivalent to a wheel tax. They determine a set amount per vehicle a person has. We haven't identified where someone has a local utility for street maintenance.

Chairman J. Dockter: The state of Ohio has a city tax, a county tax, North Dakota is very simple we have taxable wage and state income tax. People who have moved from other states are not familiar with special assessments, they don't have them in other states. I will schedule another meeting. Meeting adjourned.

2019 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

HB 1474
4/15/2019
Job # 34745

- Subcommittee
 Conference Committee

Committee Clerk Signature	Carmen Hickle
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Explanation or reason for introduction of bill/resolution:

Relating to the authority of a county or city to levy an infrastructure tax in lieu of special assessments; relating to the authority of home rule cities and counties to levy an infrastructure tax in lieu of special assessments and special assessment fund balances

Minutes:

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Chairman J. Dockter: Opened HB 1474 for conference committee work.

Rep B. Koppelman: I had conversations with people on how we can reasonably study this. What value would come out of a study and how would it be different with information that's provided? If our goal is to study this and see if it is a good fit for the state as a whole, I think we would have to come up with some sort of pilot project. Then how that would look? I don't know the answers for that now. I think that is the only way to get a legitimate study out of this. I don't think an interim committee meeting is going to yield the results we are looking for to decide whether or not this is good policy across the state. Early on I thought if it was something the commissioners approve, or whether it was a vote of the people, I thought the study would be the first two or three cities to take advantage of this, would serve as a study to improve the way it's done or to decide whether it's good policy for other cities. So, I thought that would serve as a pilot project in itself, but if it's better policy to say we take one to three cities as a group of varying size for those that want to apply to do it.

Sen Meyer: Was there any consideration taken into account of prairie dog? Now that it's passed that it might not be needed anymore?

Chairman J. Dockter: I believe the city of Bismarck has \$250 million in needs, so the prairie dog will just help us reach some of the goals that we have. Bismarck recently passed a sales tax and there were six to eight projects listed that the sales tax will be used for. The specials are for road maintenance, the prairie dog is for widening roads and future traffic expansion. What this bill is if neighborhoods need new roads this is what it would be used for. Prairie dog would be used for actual projects to help with infrastructure needs as far as traffic.

Rep B. Koppelman: I think stipulations were put into prairie dog where it couldn't be used for bonded indebtedness, and I think most special assessments are for bonded indebtedness. My city is projected in the biennium to get between \$9 to \$12 million, so any projects you can do for cash or you could take the prairie dog money and put it with other cash resources it could be used for that. I don't think it can be used for bond indebtedness like what special assessments pay.

Rep. Guggisberg: The one problem I had with this bill in committee was it was specific to one type of fee you could charge, the utility fee. I suggested opening that up because the nice thing about specials is those benefitting from it pay it. Sales tax is a general tax that everybody pays and it goes to projects for different areas of the city. The administrator from Bismarck said the only thing similar was a wheel tax. If we were to allow things like a wheel tax or a licensing tax, but if we could open up revenue sources would it be like a garbage fee for a road fee? How do we know if people who pay more benefit more?

Sen. Unruh: Prairie dog couldn't be used the way as special assessments dollars are used but it could still be used for similar projects, to widen the road or other infrastructure type projects.

Chairman J. Dockter: I think going forward if we don't do anything, special assessments will keep getting assessed regardless if we have prairie dog money or not. The cities already have it spent for the projects that they are going towards. It's just to help them.

Sen. Dotzenrod: The thought of a pilot project if we thought this was something that needed further exploration. Doing an interim committee or whether we do something in this session it does seem like there should be something with a limited area with a pilot project. The leaders in Bismarck have put in a lot of effort and they would like to try it. They would have to have voter approval. If you did this would you limit it to a certain period of time? Can we say the State Legislature is going to authorize this for a single city or for limited number of cities? We did a pilot project when we had the social services but that was after an interim study, so I think when we use this there will be a pilot project. I don't know if this is the right time for us to do that or if we have to do the study and then have a pilot project. The leaders in Bismarck feel they have put enough work into this and they feel they answered the questions, I would lean towards letting them go ahead of try it. The communities position in the Senate was a study. I am open to that as a possibility if we can find some way that says we can do it.

Chairman J. Dockter: I worked on the social services and the main difference between that and this is we had to appropriate money and that is why we put a sunset of two years. With this one, this is allowing a city to give them a tool.

Sen. Dotzenrod: If this were to be done in a city in North Dakota would there be a way for the citizens to act to change it and to stop it? Let's says the voters approve it, then it goes on for a few years and the voters say we have tried this and we don't want to do this anymore, is that process in the bill?

Chairman J. Dockter: No, but that is something we could talk about doing a pilot program, plus after it's implemented the voters can bring a petition back and revoke it, and go back to where you were before. Whatever money is put they are going to use it for infrastructure regardless.

Rep. Guggisberg: I would prefer that to a sunset. What concerns me about a sunset is after four years the Legislature says we are not going to renew this. What is the city of Bismarck going to implement specials again? I like the idea of them being able to overturn it in the future but not necessarily that it goes away.

Chairman J. Dockter: We have enough discussion and if a couple from the committee on both sides want to discuss this before we meet again.

Sen Unruh: The committee got some information on Ohio's commercial activity tax. I haven't had a chance to read through it. If a city was to do a pilot project for a period of time, how would they get enough funds to do any significant projects? And if they are limited in time there wouldn't be a long term revenue source, especially if the voters had the ability to overturn it so they probably wouldn't be able to bond. I am trying to figure out logistically if a pilot project can be done in a four to six-year

timeframe. I think the ultimate benefit of a tool like this is for long term stability to provide funds for projects for special assessments. I think it is more prudent for us to take look at what Ohio has done in the interim. Take a look at the city's ability to bond with the voters being able to yes, but we have to set up a structure for the voters to say yes. As it works its way through we have to set up ability to say no and what is the city's ability to bond during that period? If we take a long at other states who have done something like this, and evaluate the tools the voters have, and the tools the locals need, and making sure everyone has what they need to move forward. That would get this concept off the ground sooner than a pilot project.

Chairman J. Dockter: I worked close with social services and they studied it for 20 years prior to us doing a pilot project. The only reason it came to a head was we did a reform on the mills. It seems like we keep studying and studying. We are not appropriating any money; it would be city approval by the citizens that is where I'm at.

Sen. Meyer: What happens if the people don't want to do a pilot, what if they say no we do not want to do it? Now where are we at?

Chairman J. Dockter: I'm in favor of doing a study but do a pilot and that will come out. If the citizens don't vote they will say it's not a problem. I am for doing a study and a pilot side by side.

Rep B. Koppelman: I think if we did do a pilot project, it would be more effective to have a vote of the city commission to do it. And to relieve the burden of specials at the same time as implementing the fee possible with a super majority of the governing body. How would you get out of it if you were going to create a mechanism? I think you would have to treat it like a city wide special assessment for whatever debt is left. Once they are at the point to say we don't like the fee and don't want to do it, it's going to function similar to a citywide special assessment. I'm trying to understand what the downside of this could be? The way the bill is written or if we amend it we would not allow a double dip.

Sen. Meyer: Did you say majority of the council or a vote of the people?

Rep B. Koppelman: Right now it's a simple majority of the council as the bill was sent over to the Senate or a petition of the voters. What the city of Bismarck proposed was a vote of the people. But if we are going to do a pilot project to put it out to a vote of the people and the people think they are going to get something when they vote yes. Then the Legislature or the sunset takes that away that's going to mess things up for trying to get any change going forward. That is why I don't think a vote of the people on a pilot would work. If you are looking at the long term plan, like the bill was trying to do it, I think a vote of the people is fine.

Sen Dotzenrod: What's the downside? The concern, before these fees go on its abstract but once they start paying a significant extra monthly fee, I think there will be pushback. A lot of households struggle every month to get the monthly bills paid and they are seeing something new in their neighborhood a year or two or three goes by and they are not seeing anything. I think that is the downside. You put this on and get this started, the voters thought it sounded like a good idea and now these bills after a period of time and if they are significant, and they think does this really work?

Chairman J. Dockter: The example I use is say we charge \$30 a month, and they come to your street and do they do \$10,000 assessments or \$360. It's going to take you approximately 30 years to break even. People have had their homes paid for years and \$30 per month is more palatable. Specials have an interest on top of it, so they are getting interest free by paying the monthly utility fee.

Sen. Dotzenrod: Would the home owners know? I am thinking this could be \$100 per month or more?

Rep B. Koppelman: The mayor of Bismarck said they were thinking \$20 to \$30.

Sen Meyer: I would like to see these figures. In my mind I think it would be much higher. I don't have any special assessments in my district right now, so what is it going to be? The commission puts this in place and you are paying a fee and they are going to say where are my updates? That is my issue with the city commission making that decision without the people.

Chairman J. Dockter: Think of a married couple that doesn't have children and in their property tax they keep paying for education. To some point it comes to a public good because some areas they will use infrastructure to pay for roads, they will eventually come to you.

Sen Dotzenrod: If this went to a vote of the people would they have that specific dollar amount? Would that be on the ballot measure they are going to vote on? Or would it be we are going to figure out the fees as we go?

Rep B. Koppelman: In the Bismarck example, my understanding is the commission vote in favor of putting this on the ballot, and say this the way we intend to do the fee structure, here is what each of these fees would be on per residential dwelling versus commercial building. They would have an initial amount. The people would not be voting on that amount but the concept of having that structure which would likely start with that amount but be adjusted over time.

Chairman J. Dockter: I will schedule another meeting. The only reason I keep going on this is because it is the number one thing beside property tax is special assessments that constituents ask me. Meeting adjourned.

2019 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Prairie Room, State Capitol

HB 1474
4/17/2019
Job # 34808

- Subcommittee
 Conference Committee

Committee Clerk Signature	Carmen Hickle
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Explanation or reason for introduction of bill/resolution:

Relating to the authority of a county or city to levy an infrastructure tax in lieu of special assessments; relating to the authority of home rule cities and counties to levy an infrastructure tax in lieu of special assessments and special assessment fund balances

Minutes:

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Chairman J. Dockter: Opened for conference committee on HB 1474.

Rep B. Koppelman: I forwarded an email that had information of what the city of Bismarck had proposed in their study of what the fee for this would be and the process. I also talked with West Fargo who had interest in it. I think if we were going to move forward a pilot project from what I am hearing, I don't think any city will be ready to do it within the initial timeframe other than the city of Bismarck. I would like to know the support for a pilot project for the city of Bismarck with a super majority of the commission as opposed to putting it before the voters. If you put it before the voters as a pilot it might send mixed messages as to what the future might be. We could require a super majority of the commission to approve along with an interim study so we can better understand how it would work for the rest of the cities in the state.

Sen. Meyer: I can't go along with the super majority of the commission. I think it has to be a vote of the people. I would be furious if that came on my bill and did not get a say in it.

Chairman J. Dockter: I get furious that they do certain things that the commission approves. They do that all the time.

Sen. Meyer: I don't know if it is that drastic of a change though.

Chairman J. Dockter: In West Fargo their water bill has increases that would be similar to what we are looking at here.

Rep B. Koppelman: We could create a process where the citizens could refer that decision. The only other option for us is we approve it for Bismarck with the vote of the people. But we do it open ended. There is not a six-year sunset because they are going to do it, and say there will be a fee, but your specials payments are going to go away. There are only going to be so many parts of the city that have improvements done in the first three or four years. So the point you brought up that don't have projects right now, if the idea is everyone is going to get instant benefit from it there is no city that is going to do all the improvements in the narrow window of the pilot. We could do it as an approval for

them if they get the vote it's the way they can move forward indefinitely. Then I would be ok with the vote of the people. Doing a vote of the people for something that is going to be three or four years then you have it expire and have to unwind the clock and put all the specials back on. I don't think that is a practical way and we would be setting them up for failure. I'm ok with the vote of the people as long as the city can move forward. If we don't like the outcome we don't have to approve it for any other cities in the future. But if we do it could be a road map to affordable payments on average.

Sen. Meyer: Why don't we take the study, then study what happened in Ohio and come back in two years and move forward?

Sen Dotzenrod: Does it seem that once a city has decided they are going to do this and begin implementing this, there is more gravity here to being casual to get out of it. I think it is a major change because the benefits won't be felt for a lot of the payers for a long time. I would feel better if we would have the study and run some test cases and look at the dollar amounts and see how this is going to work and also if there is a way once a city has started that they can get out of it. It's a big step to provide a state law to allow this to go forward. I think the same about a pilot project. We would all be better off if we had more information.

Chairman J. Dockter: If we do decide to do a study with interim meetings being in Bismarck, the city of Bismarck will be at the meetings. They could be the lead on this to give us information to make an informed decision.

Rep B. Koppelman: I don't think there is a lot of value in a study, what we have heard from Bismarck is very well studied. Could we look at Ohio and collect information? Possibly, but was the implementation in Ohio similar, was it done poorly? We don't know. I'm not in favor of just the study.

Chairman J. Dockter: If we do pass the study, I will be introducing this bill and hopefully Sen. Meyer will sign on to the bill if we draft a bill for the next session.

Rep B. Koppelman: Made a motion to accede to the Senate amendments.

Rep. Guggisberg: Second the motion.

Vote yes 6, no 0, absent 0

Chairman J. Dockter: Will carry the bill for the House.

Sen. Meyer: Will carry the bill for the Senate.

Date: 4/15/2019

Roll Call Vote #:

2019 HOUSE CONFERENCE COMMITTEE
ROLL CALL VOTES

BILL NO. HB 1474 engrossed

House Political Subdivisions Committee

- Action Taken
- HOUSE accede to Senate Amendments
 - HOUSE accede to Senate Amendments and further amend
 - SENATE recede from Senate amendments
 - SENATE recede from Senate amendments and amend as follows
 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: _____ Seconded by: _____

Representatives	4-9	4-11	4-15	Yes	No	Senators	4-9	4-11	4-15	Yes	No
Chairman J. Dockter	X	X	X			Sen. Meyer	X	X	X		
Rep B. Koppelman	X	X	X			Sen. Unruh	X	X	X		
Rep. Guggisberg	X	X	X			Sen. Dotzenrod	X	X	X		
Total Rep. Vote						Total Senate Vote					

Vote Count Yes: _____ No: _____ Absent: _____

House Carrier _____ Senate Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**2019 HOUSE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL NO. HB 1474 engrossed

House Political Subdivisions Committee

- Action Taken** **HOUSE accede to Senate Amendments**
 HOUSE accede to Senate Amendments and further amend
 SENATE recede from Senate amendments
 SENATE recede from Senate amendments and amend as follows
- Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep B. Koppelman: Seconded by: Rep. Guggisberg

Representatives				Senators			
	4-17		Yes No		4-17		Yes No
Chairman J. Dockter	X		X		Sen. Meyer	X	X
Rep B. Koppelman	X		X		Sen. Kannianen	X	X
Rep. Guggisberg	X		X		Sen. Dotzenrod	X	X
Total Rep. Vote			3		Total Senate Vote		3

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. Dockter Senate Carrier Sen Meyer

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

HB 1474, as engrossed: Your conference committee (Sens. Meyer, Kannianen, Dotzenrod and Reps. Dockter, B. Koppelman, Guggisberg) recommends that the **HOUSE ACCEDE** to the Senate amendments as printed on HJ page 1284 and place HB 1474 on the Seventh order.

Engrossed HB 1474 was placed on the Seventh order of business on the calendar.

2019 TESTIMONY

HB 1474

HB 1474

#1
1-31-19
HB1474

Mr. Chairman and Members of the Political Subs Committee,

My name is Rep. Ben Koppelman, and I represent District 16 in West Fargo. Thank you for the opportunity to introduce this bill to your committee. HB 1474 is a bill that would provide an alternative to special assessments for cities and counties to finance infrastructure that they can't afford with property taxes alone.

I suspect that many of you have heard from your constituents that property taxes are one of their biggest concerns. For those of you that represent more urban areas, I suspect that special assessments are just as big of a concern, however due to the fact that specials are charged along with property taxes, many of our constituents don't differentiate between the two. The past number of legislative sessions, property taxes have certainly been a hot button issue. Since property taxes and special assessments are both locally assessed, local reform is generally the preferred method to address such issues. This bill does that by enabling, but not requiring, a city or county to choose a different method for funding infrastructure.

HB 1474 creates a new authority to implement an infrastructure tax, also known as an infrastructure fee, in lieu of general special assessments, on residential and commercial utility bills to be used for the payment of infrastructure costs. The general idea is that if it is desirable to eliminate general special assessments, then this infrastructure fee could be used instead. Once a municipality or county makes the change, they would no longer levy special assessments except for new developments, which are known as green field specials.

In several sections of the bill you will find the definitions that define the difference between general special assessments, also known as local or regional specials, as well as green field special assessments, also known as developer specials. General special assessments are used for sewer and water infrastructure, arterial street construction and maintenance, and

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HB 1474
1-31-19

neighborhood street maintenance. Green field special assessments are used for installing infrastructure on undeveloped land such as when a developer transforms ag land into a residential housing development or when ag land is transformed into industrial or commercial property. Some jurisdictions in the state seldom use green field specials because they require developers directly pay for the development infrastructure

Section 1 and 2 of the bill deal with counties. The remainder of the bill deals with municipalities and home rule cities. The rules for using the infrastructure fee for counties and cities are generally the same; they may be implemented by a majority of the governing body or by a petition signed by sixty percent of the qualified electors who voted in the preceding municipal or general election. I am providing an amendment for your consideration that would correct an oversight in drafting.

Mr. Chairman and committee members, I would submit to you that if we pass this bill and provide an alternative to special assessments to cities and counties, that it could lead to a more affordable and equitable process for funding local infrastructure. I thank you for your time and I ask that you give this bill a strong Do-Pass recommendation.

2

1-31-19

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1474

Page 1, line 4, after the third comma insert "40-12-02,"

Page 1, line 5, remove "home rule"

Page 9, after line 12, insert:

"SECTION 5. AMENDMENT. Section 40-12-02 of the North Dakota Century Code is amended and reenacted as follows:

40-12-02. Submission of proposed ordinance by petition - Filed with city auditor - Request in petition.

1. Any proposed ordinance may be submitted to the governing body of the municipality by a petition signed by qualified electors thereof equal in number to fifteen percent of the votes cast for all candidates for the executive officer at the preceding regular municipal election. The petition must be filed in the city auditor's office and must contain a request that the ordinance set out in the petition be submitted to a vote of the qualified electors of the city if it is not passed by the governing body of the municipality.

2. Notwithstanding subsection 1, a proposed ordinance for the purpose of levying an infrastructure tax under section 6 of this Act may be submitted to the governing body of the municipality by a petition signed by sixty percent of the qualified electors who voted in the preceding municipal election. The petition must be filed in the city auditor's office and submitted to a vote of the qualified electors of the city at the next municipal election."

Renumber accordingly

The Task Force agreed to provide an update to the Board of City Commissioners and to recommend the following to the Board of City Commissioners:

- No special assessments for new construction or development
- Formation of a monthly street maintenance fee to eliminate special assessments for street maintenance projects on local and arterial streets.
- An additional sales tax, not to exceed $\frac{3}{4}$ percent, for the construction of expanded arterial roadways identified by the Infrastructure Task Force
- Revamp storm water program to no longer hold projects in abeyance
- Cap the Sales Tax 25-mill property tax buy-down at 2018 levels
- 5-year "check-in" to determine the effectiveness of the proposed changes - 10-year "sunset" to reconsider the impacts of the proposed changes

It was noted that a landowner petitioning for improvements on their property as part of the upkeep of the driveway or sidewalk could be considered differently than street maintenance. The general consensus of the Task Force members was to eliminate special assessments for these situations and work with local banks to develop an alternative lending source through private banks instead of the City of Bismarck or provide the option for property owners to pay for the work in-full. It was noted that banks have other programs to help with home improvement loans and there may be an opportunity to consider other options for homeowners in-lieu of the City of Bismarck functioning as a bank.

Homebuilders Association Support

Shannon Reichenberg shared the results of the Bismarck-Mandan Home Builders Association's (BMHBA) online survey. The survey generated 99 responses. The survey results are appended to these minutes as Exhibit 2. Mr. Reichenberg indicated the overall responses were supportive of eliminating special assessments and the BMHBA's executive committee was supportive of the concepts proposed by the Task Force. Mr. Reichenberg stated that the BMHBA would be actively engaged in education and support to eliminate special assessments for new construction, provided the City Commission is also supportive of eliminating special assessments for new construction and development. Eliminating special assessments for new construction may require changes to existing City policies (i.e. would need to install street lighting upon original build-out of subdivision and not wait until 50% is developed as per current City policy).

SB 2326 Problems Discovered

Discussion was held regarding Senate Bill 2326, the law that limits a city's ability to collect taxes to property tax and sales tax only. Mr. Hunke shared with the group that he had met with Senator Laffen from Grand Forks and was told that the Bill was in response to concerns with communities struggling to remain competitive with fuel prices and the potential to create a "gas war" in communities where a similar tax does not exist. Mr. Hunke stated that Senator Laffen encouraged cities to develop language to support the tools needed to fund and sustain street maintenance and infrastructure. Mr. Ritter added that in his conversations with Senator Cook from Mandan, he too echoed Senator Laffen's comments and also encouraged communities to develop a coalition of communities and approach the Greater North Dakota Chamber to help build support and consensus. Mr. Hunke noted that City staff will work with the City Attorney to help develop supportive language necessary to enable changes with State law. Mr. Hunke also stated that City staff will work with the North Dakota League of Cities to ensure a collective voice is carried forward. The general consensus of those present was to support the creation of a statewide coalition, to engage the North Dakota League of Cities for support and to identify State leaders willing to carry the draft bill language forward during the 2019 session.

Amendments Needed to HB 1474

Remove references to "greenfield special assessments" as the intent is to not have overlap.

#4



BISMARCK MANDAN CHAMBER | EDC

House of Representatives Political Subdivisions Committee - HB 1474

Representative Jason Dockter, Chair

January 31, 2019

Chairman Dockter, Members of the Committee:

My name is Brian Ritter and I am President of the Bismarck Mandan Chamber EDC. I am here today on behalf of our organization's more than 1,200 members in support of HB 1474.

From 2016 – 2018, I along with several members of the Chamber EDC were active participants in the City of Bismarck's Infrastructure Task Force, Special Assessment Task Force and Joint Task Force. These groups were formed by the City in an attempt to identify alternative means of funding the City's roadway infrastructure and review the City's process for levying special assessments.

What resulted was a four-point plan that met both objectives.

1. Ask Bismarck voters to cap the existing voter-approved 25-mill property tax buydown. In 1986, and again in 1992, voters authorized the use of sales tax revenue generated by the City's 1% sales tax to 'buy down' 25 mills of property tax. However, since then, the value of 25 mills has grown faster than sales tax revenue as a whole. Consequently, approximately 60% of all sales tax revenue generated in Bismarck now goes to buying down those 25 mills with projections showing that number growing over the next five years. This was approved by Bismarck voters in November 2018.

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2. Ask Bismarck voters to levy an additional half-cent sales tax dedicated solely to arterial roadway construction, to be sunset after 10 years and limited to a previously developed list of roadway projects. The half-cent sales tax could also sunset prior to 10 years if the list of roadway projects is completed. The existing 1% sales is primarily used to fund the aforementioned 25-mill property tax buydown, subsidize special assessments and operate snow gates. This was also approved by Bismarck voters in November 2018.

3. Change the development model of residential & commercial subdivisions from what it is currently where the developer pays for the underground utilities, places a deposit on the above ground utilities and then special assesses the remaining costs to the lot, to one in which the developer pays all front-end costs and builds the cost into the lot. Doing so would effectively eliminate specials on new construction. While this would increase costs on lots initially, the intent would be to lower development costs overall by eliminating the need for a special assessment district and allowing developers to hire subcontractors directly while allowing homeowners to amortize those specials over the life of their mortgage and write them off as part of their mortgage interest deduction.

4. Ask Bismarck voters to approve what has been termed a 'street utility tax.' This tax would appear would appear as a charge on all residential & commercial utility bills from which the revenue would be placed into a general street maintenance budget and then used by the City on projects throughout Bismarck. The tax could then replace special assessments for maintenance projects.

Regarding this last recommendation, asking voters to approve a street utility tax, we are currently prevented from doing so by State Law. During the last legislative session, SB 2326 was passed and prohibits political subdivisions from seeking voter approval of any funding mechanism not present in their Home Rule Charter prior to August 1, 2017.

As such, the Bismarck Mandan Chamber EDC has made this issue the number one priority on our 2019 Legislative Agenda. More specifically, we are supportive of HB 1474 as it would only

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allow political subdivisions the authority to ask voters whether or not to approve a street utility tax.

In closing, we understand that infrastructure funding, special assessments and the associated issues are incredibly complicated. The aforementioned four recommendations are simply one community's ideas as to how we might address those issues. However, we also believe that these ideas, these concepts, could have application to communities all across North Dakota. As such, I would ask the Committee for a DO PASS recommendation for HB 1474.

Thank you for the opportunity to testify today and if there are any questions from the Committee, I would be happy to attempt to address them.

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1-31-19

House of Representatives Political Subdivisions Committee

Representative Jason Dockter, Chair

Representative Brandy Pyle, Vice-Chair

January 31, 2019

Chairman Dockter, Members of the House Political Subdivisions Committee:

My name is Keith Hunke and I am the City Administrator for the City of Bismarck.

I am providing written testimony on behalf of the City of Bismarck in support of House Bill 1474.

The Bismarck City Commission voted unanimously to support HB 1474.

Over the course of the last couple of years, the City of Bismarck has been evaluating various funding options that could replace special assessments which are currently used to pay for street maintenance projects. Those options included a local fuel tax, a wheel tax or registration fees, and a street utility tax. The consensus and recommendation of the combined Bismarck Infrastructure Task Force and Special Assessment Task Force was to pursue the street utility tax. Subsequently, it came to light that the North Dakota Century Code does not provide the City the authority to levy and collect a tax for payment of street maintenance projects.

The changes to North Dakota Century Code defined in HB 1474 would provide the City of Bismarck the authority to levy and collect a tax for payment of street maintenance projects. As Bismarck is a Home Rule City, a voter approved amendment to our existing Home Rule Charter would be required to implement the authority provided by HB 1474.

On behalf of the City of Bismarck, I urge you to give HB 1474 a DO PASS recommendation.

Thank you for the opportunity to provide testimony in support of House Bill 1474.

Keith J. Hunke, City Administrator
City of Bismarck
701-355-1300
khunke@bismarcknd.gov

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HB1474
1-31-19

Testimony in Support of House Bill 1474
January 31, 2019
House Political Subdivisions Committee
Bill Wocken on behalf of the North Dakota League of Cities

Good Afternoon Mr. Chairman and members of the House Political Subdivisions Committee. For the record, my name is Bill Wocken, appearing on behalf of the North Dakota League of Cities in support of House Bill 1474.

House Bill 1474 seeks to allow home rule cities to levy an infrastructure tax in lieu of special assessment levies. The infrastructure tax would be placed on the municipality's utility bills and used to pay costs for construction, repair and maintenance of roads and infrastructure. The bill also allows home rule counties to levy this fee and to use it to pay green field special assessments on developing properties.

This bill creates a new way to fund the costs of building and maintaining infrastructure. It is essentially allowing for a monthly payment to capitalize a fund to be used to pay these costs which are presently being specially assessed in a lump sum to individual parcels. These are not new costs, they are just paid in a different way. This eliminates the "sticker shock" people presently experience when the bill for the chip seal on their street arrives.

Every parcel in a city eventually receives a special assessment for work on public improvements serving their lot. In the case of streets, a chipseal will last from 7 to 18 years, dependent largely on traffic. When the old chipseal has deteriorated to the point that the engineers determine it needs replacement, a special assessment district is created to install the new chipseal. Bids are taken and special assessments levied on all the benefitting properties. Bonds are sold to pay the contractor doing the improvement with the special assessment payments, over the years, paying off the bonds. If House Bill 1474 is passed, the costs of the chipseal would be paid from the infrastructure account funded by the monthly charges instead of from special assessment payments.

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1-31-91

Now you may be asking yourself why should I vote to do this. There are several good reasons. First and foremost, the people who will be paying the bill will get to vote on this change. The changes advocated by this bill can only be placed in effect with an amendment of the local government's home rule charter. The voters will have to approve this change before it can take place. Secondly, people hate receiving big bills but they will often pay without major concern if there is a payment plan available. The expense can be more easily budgeted in a monthly utility charge versus having to make a large payment at year end. Third, this idea was not concocted by government; it came from citizens on a study committee. This was their suggestion and it has met with good reviews.

Mr. Chairman and committee members, special assessments are becoming a problem all over the state but up until now there has been no good alternative to finance infrastructure improvements. We think this may be a viable option for at least some communities to try. Please give House Bill 1474 a Do Pass recommendation so consenting voters can use this alternative.

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1-31-19

**Political Subdivisions Committee
Testimony on HB 1474
City of Fargo**

Prepared by Kent Costin, Director of Finance

January 31, 2019

Chairman Dockter and members of the Political Subdivisions Committee, my name is Kent Costin, Director of Finance of the City of Fargo.

Over the past several months the City of Fargo has been conducting a study of alternative funding methods to the offset the continued use of special assessments. This work continues presently with the goal of figuring out a way to pay for expensive infrastructure without having to use special assessments as the primary funding source. Citizens and other expressed their concerns about a year ago when Fargo modified its assessment policy. This has become a high priority item in our Community.

Cities across have been using special assessments for years and it has become the primary way of funding infrastructure. Communities, especially rapidly growing communities, have to pay for initial extension of water, wastewater, and paving into new developed areas and now that infrastructure in some areas has served its useful life a replacement plan needs to be developed. Reconstruction of infrastructure is very expensive but is also very necessary to serve our community with essential services. Fargo has operated an ongoing reconstruction program for years, but we suspect that other Communities may be struggling with finding a source of sustainable revenue to begin or accelerate their reconstruction efforts. Much of the

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municipal infrastructure across the State may be well beyond its useful functional and economic life.

During one of our Special Assessment Committee meetings representatives from Bismarck explained their approach to expanding resources by using a street utility fund to pay for certain portions that would otherwise be paid by special assessments.

We support the idea of creating a broader payment source for items such as maintenance assessments, portions of arterial roadways, street lights, traffic signals and other infrastructure that provides benefit to the entire Community.

HB 1474 is visionary in that it begins to challenge the status quo and provide a way to reduce direct assessments to property owners. We think this is good legislation that should be given a chance mature in North Dakota communities. Voters will be able to weigh in on this since there is a voter requirement. Individual communities will decide if they want to maintain the status quo and continue with special assessments as a primary funding source or to use broader revenue collection to pay for infrastructure maintenance projects. While not all Cities will adopt the same funding policies, additional revenue streams will help reduce the financial impact of special assessment levies as currently deployed. Let's give the citizens a chance to think differently about infrastructure funding.

We urge a **DO PASS** vote on this bill. Thank you for the opportunity to provide our testimony.



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1-31-19
HB1474

Chairman Dockter, Members of the Political Subdivisions Committee –

My name is Nancy Deichert, I'm the Executive Director for the Bismarck Mandan Board of REALTORS®.

You might be surprised to see our association supporting a bill relating to creating an option for municipalities to tax home owners. As you may know, the REALTOR® Association typically opposes additional taxes on property owners. However, we feel that this type of "utility tax" is a better option for home owners than special assessments. Our members – REALTORS® working in the field with home buyers – have seen the purchase of a home skirted or halted when outstanding special assessments have been added to the calculated monthly payment of a home. Mortgage lenders also find that the consideration of special assessments on a property affect buyers' eligibility for home loans. Creating this option for a City to levy a utility tax, with the approval of the voters, allows home owners a more palatable monthly amount for which to budget. A utility tax would be a known, ongoing cost, rather than a special assessment which is less predictable and typically at a more substantial monthly cost to the property owner.

We are asking for your support of HB 1474 to give municipalities and their respective voters options for funding infrastructure improvements. Thank you.

Note: I also attended meetings of Bismarck's Infrastructure Task Force, the Special Assessment Task Force, and the joint task force.

**Nancy Deichert, Executive Director
Bismarck Mandan Board of Realtors®
701.255.0712 nancy@bmbor.org**



broadband association of north dakota

#9
HB 1474
1-31-19

P.O. Box 1144 • Mandan, ND 58554
Phone 701-663-1099 • Fax 701-663-0707
www.broadbandnd.com

HOUSE BILL 1474

**HOUSE POLITICAL SUBDIVISIONS COMMITTEE
JANUARY 31, 2019**

**DAVID CROTHERS
BROADBAND ASSOCIATION OF NORTH DAKOTA**

My name is David Crothers from the Broadband Association of North Dakota. The Association represents all of the cooperative and independent broadband companies in the State. Those companies represent 96 percent of North Dakota's geographic territory.

The Association does not take a position on the bill but asks the committee to consider an amendment removing communications companies from being assessed with other utilities. Doing so will ensure that North Dakota broadband providers will be able to fairly compete with other providers using different technologies to deliver the same product to customers.

The problem arises when a taxing entity seeks to assess the tax on wireline or fiber optic-based technologies, but at the same time ignoring, or not taxing those companies who provide the same services. Specifically, satellite companies and wireless providers, such as AT&T and Verizon Wireless all offer data, video and other high-speed Internet services just like wireline companies serving your communities. However, the non-landline companies will not be assessed under this bill. The broadband Internet business is highly competitive, and the marketplace will be severely distorted if different competitors are taxed differently by the government. The Association believes the entities being assessed should be narrowly drawn and limited to monopoly providers.

Members of the Broadband Association of North Dakota urge you to adopt amendments exempting communications companies from being assessed under House Bill 1474.

#10
1-31-19

PROPOSED AMENDMENTS HOUSE BILL 1474

Page 2, line 9, add ", except communications company bills,"
following the word "bills"

Page 5, line 23, add ", except communications company bills,"
following the word "bills"

Page 6, line 26, add ", except communications company bills,"
following the word "bills"

Page 9, line 17, add ", except communications company bills,"
following the word "bills"

Renumber accordingly

David Crothers
Broadband Association of North Dakota
dcrothers@yahoo.com
Cell: 701-471-3838

#1
HB 1474
2-14-19

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1474

Page 1, line 4, after the third comma insert "40-12-02,"

Page 1, line 5, remove "home rule"

Page 9, after line 12, insert:

"SECTION 5. AMENDMENT. Section 40-12-02 of the North Dakota Century Code is amended and reenacted as follows:

40-12-02. Submission of proposed ordinance by petition - Filed with city auditor - Request in petition.

1. Any proposed ordinance may be submitted to the governing body of the municipality by a petition signed by qualified electors thereof equal in number to fifteen percent of the votes cast for all candidates for the executive officer at the preceding regular municipal election. The petition must be filed in the city auditor's office and must contain a request that the ordinance set out in the petition be submitted to a vote of the qualified electors of the city if it is not passed by the governing body of the municipality.
2. Notwithstanding subsection 1, a proposed ordinance for the purpose of levying an infrastructure tax under section 6 of this Act may be submitted to the governing body of the municipality by a petition signed by sixty percent of the qualified electors who voted in the preceding municipal election. The petition must be filed in the city auditor's office and submitted to a vote of the qualified electors of the city at the next municipal election.

Renumber accordingly

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HB1474

PROPOSED AMENDMENTS HOUSE BILL 1474

Page 2, line 9, add ", except communications company bills," following the word "bills"

Page 5, line 23, add ", except communications company bills," following the word "bills"

Page 6, line 26, add ", except communications company bills," following the word "bills"

Page 9, line 17, add ", except communications company bills," following the word "bills"

Renumber accordingly

David Crothers
Broadband Association of North Dakota
dcrothers@yahoo.com
Cell: 701-471-3838

3/6 HB 1474 #1 pg 1

HB 1474

Mr. Chairman and Members of the Finance and Tax Committee,

My name is Rep. Ben Koppelman, and I represent District 16 in West Fargo. Thank you for the opportunity to introduce this bill to your committee. HB 1474 is a bill that would provide an alternative to special assessments for cities and counties to finance infrastructure that they can't afford with property taxes alone.

I suspect that many of you have heard from your constituents that property taxes are one of their biggest concerns. For those of you that represent more urban areas, I suspect that special assessments are just as big of a concern, however due to the fact that specials are charged along with property taxes, many of our constituents don't differentiate between the two. The past number of legislative sessions, property taxes have certainly been a hot button issue. Since property taxes and special assessments are both locally assessed, local reform is generally the preferred method to address such issues. This bill does that by enabling, but not requiring, a city or county to choose a different method for funding infrastructure.

HB 1474 creates a new authority to implement an infrastructure tax, also known as an infrastructure fee, in lieu of general special assessments on residential and commercial utility bills to be used for the payment of infrastructure costs. The general idea is that if it is desirable to eliminate general special assessments, then this infrastructure fee could be used instead. Once a municipality or county makes the change, they would no longer levy special assessments except for new developments, if they choose, which are known as green field specials.

In several sections of the bill you will find the definitions that define the difference between general special assessments, also known as local or regional specials, as well as green field special assessments, also known as developer specials. General special assessments are used

3/6 HB 1474 #1 pg 2

for sewer and water infrastructure, arterial street construction and maintenance, and neighborhood street maintenance. Green field special assessments are used for installing infrastructure on undeveloped land such as when a developer transforms undeveloped land into a residential housing development or when undeveloped land is transformed into industrial or commercial property. Some jurisdictions in the state seldom use green field specials because they require developers directly pay for the development infrastructure

Section 1 and 2 of the bill deal with counties. The remainder of the bill deals with municipalities and cities. The rules for using the infrastructure fee for counties and cities are generally the same; they may be implemented by a majority of the governing body or by a petition signed by sixty percent of the qualified electors who voted in the preceding municipal or general election.

Mr. Chairman and committee members, I would submit to you that if we pass this bill and provide an alternative to special assessments to cities and counties, that it could lead to a more affordable and equitable process for funding local infrastructure. I thank you for your time and I ask that you give this bill a strong Do-Pass recommendation.



BISMARCK MANDAN CHAMBER | EDC

Senate Finance & Taxation Committee - HB 1474

Senator Dwight Cook, Chair

March 6, 2018

Chairman Cook, Members of the Committee:

My name is Brian Ritter and I am President of the Bismarck Mandan Chamber EDC. I am here today on behalf of our organization's more than 1,200 members in support of HB 1474.

From 2016 – 2018, I along with several members of the Chamber EDC were active participants in the City of Bismarck's Infrastructure Task Force, Special Assessment Task Force and Joint Task Force. These groups were formed by the City in an attempt to identify alternative means of funding the City's roadway infrastructure and review the City's process for levying special assessments.

What resulted was a four-point plan that met both objectives.

1. Ask Bismarck voters to cap the existing voter-approved 25-mill property tax buydown. In 1986, and again in 1992, voters authorized the use of sales tax revenue generated by the City's 1% sales tax to 'buy down' 25 mills of property tax. However, since then, the value of 25 mills has grown faster than sales tax revenue as a whole. Consequently, approximately 60% of all sales tax revenue generated in Bismarck now goes to buying down those 25 mills with projections showing that number growing over the next five years.

2. Ask Bismarck voters to levy an additional half-cent sales tax dedicated solely to arterial roadway construction, to be sunset after 10 years and limited to a previously developed list of roadway projects. The half-cent sales tax could also sunset prior to 10 years if the list of roadway projects is completed. The existing 1% sales is primarily used to fund the aforementioned 25-mill property tax buydown, subsidize special assessments and operate snow gates.
3. Change the development model of residential & commercial subdivisions from what it is currently where the developer pays for the underground utilities, places a deposit on the above ground utilities and then special assesses the remaining costs to the lot, to one in which the developer pays all front-end costs and builds the cost into the lot. Doing so would effectively eliminate specials on new construction. While this would increase costs on lots initially, the intent would be to lower development costs overall by eliminating the need for a special assessment district and allowing developers to hire subcontractors directly while allowing homeowners to amortize those specials over the life of their mortgage and write them off as part of their mortgage interest deduction.
4. Ask Bismarck voters to approve what has been termed a 'street utility tax.' This tax would appear would appear as a charge on all residential & commercial utility bills from which the revenue would be placed into a general street maintenance budget and then used by the City on projects throughout Bismarck. The tax could then replace special assessments for maintenance projects.

Regarding this last recommendation, asking voters to approve a street utility tax, we are prevented from doing so by State Law. During the last legislative session, SB 2326 was passed and prohibits political subdivisions from seeking voter approval of funding mechanisms not present in their Home Rule Charter prior to August 1, 2017.

As such, the Bismarck-Mandan Chamber EDC has made this issue the number one priority on our 2019 Legislative Agenda. More specifically, we are seeking legislation that would simply

3/6 HB 1474 # 2 pg. 3

allow political subdivisions the authority to ask voters whether or not to approve a street utility tax.

Infrastructure funding, special assessments and the associated issues are incredibly complicated. The aforementioned four recommendations are simply our community's ideas as to how we might address those issues.

Thank you for the opportunity to testify today. If there are any questions from the Committee, I would be happy to attempt to address them.

3/6 HB 1474 #3 pg.1

Senate Finance and Taxation Committee

Senator Dwight Cook, Chair

Senator Jordan Kannianen, Vice-Chair

March 6, 2019

Chairman Cook, Members of the Senate Finance and Taxation Committee:

My name is Keith Hunke and I am the City Administrator for the City of Bismarck.

I am providing written testimony on behalf of the City of Bismarck in support of House Bill 1474.

The Bismarck City Commission voted unanimously to support HB 1474.

Over the course of the last couple of years, the City of Bismarck has been evaluating various funding options that could replace special assessments which are currently used to pay for street maintenance projects. Those options included a local fuel tax, a wheel tax or registration fee, and a street utility tax. The consensus and recommendation of the combined Bismarck Infrastructure Task Force and Special Assessment Task Force was to pursue the street utility tax. Subsequently, it came to light that the North Dakota Century Code did not provide the City the authority to levy and collect a tax for payment of street maintenance projects.

The changes to North Dakota Century Code defined in HB 1474 would provide the City of Bismarck the authority to levy and collect a tax for payment of street maintenance projects. As Bismarck is a Home Rule City, a voter approved amendment to our existing Home Rule Charter would be required to implement the authority provided by HB 1474.

On behalf of the City of Bismarck, I urge you to give HB 1474 a DO PASS recommendation.

Thank you for the opportunity to provide testimony in support of House Bill 1474.

Keith J. Hunke, City Administrator
City of Bismarck
701-355-1300
khunke@bismarcknd.gov

3/6 HB 1474 # 4 ppg. 1

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL 1474

Page 2, line 9, after "communications company" insert ", electric cooperative, or investor owned utility"

Page 5, line 4, after "bills" insert ", except communications company, electric cooperative, or investor owned utility bills,"

Page 5, line 23, after "communications company" insert ", electric cooperative, or investor owned utility"

Page 6, line 26, after "communications company" insert ", electric cooperative, or investor owned utility"

Page 10, line 6, after "communications company" insert ", electric cooperative, or investor owned utility"

3/6 HB 1474 # 5 pg. 1

Testimony in Support of House Bill 1474
March 6, 2019
Senate Finance and Taxation Committee
Bill Wocken on behalf of the North Dakota League of Cities

Good Morning Mr. Chairman and members of the Senate Finance and Taxation Committee. For the record, my name is Bill Wocken, appearing on behalf of the North Dakota League of Cities in support of House Bill 1474.

House Bill 1474 seeks to allow home rule cities to levy an infrastructure tax in lieu of special assessment levies. The infrastructure tax would be placed on the municipality's monthly utility bills and used to pay costs for construction, repair and maintenance of roads and infrastructure. The bill also allows home rule counties to levy this fee and to use it to pay green field special assessments on developing properties.

This bill creates a new way to fund the costs of building and maintaining infrastructure. It is essentially allowing for a monthly payment to capitalize a fund to be used to pay these costs which are presently being specially assessed in a lump sum to individual parcels. These are not new costs, they are just paid in a different way. This eliminates the "sticker shock" people presently experience when the bill for the chip seal on their street arrives.

Every parcel in a city eventually receives a special assessment for work on public improvements serving their lot. In the case of streets, a chipseal will last from 7 to 18 years, dependent largely on traffic. When the old chipseal has deteriorated to the point that the engineers determine it needs replacement, a special assessment district is created to install the new chipseal. Bids are taken and special assessments levied on all the benefitting properties. Bonds are sold to pay the contractor doing the improvement with the special assessment payments, over the years, paying off the bonds. If House Bill 1474 is passed, the costs of the chipseal would be paid from the infrastructure account funded by the monthly charges instead of from special assessment payments.

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People hate receiving big bills but they will often pay without major concern if there is a payment plan available. The expense can be more easily budgeted in with the monthly utility charges versus having to make a large payment at year end. It is important to note that this idea was not concocted by government; it came from citizens on a study committee. This was their suggestion and it has met with good reviews.

Mr. Chairman and committee members, special assessments are becoming a problem all over the state but up until now there has been no good alternative to finance infrastructure improvements. We think this may be a viable option for at least some communities to try. Please give House Bill 1474 a Do Pass recommendation so that communities can advance this concept with their constituents.

March 19, 2019

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PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1474

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study relating to replacing special assessment revenue with revenue from an alternative local funding source.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - SPECIAL ASSESSMENT REVENUE REPLACEMENT. During the 2019-20 interim, the legislative management shall consider studying options for replacing revenue generated by special assessments with revenue from an alternative local funding source. The study must include a review of the purposes for which special assessments are imposed, the revenue generated from the imposition of special assessments, local revenue sources that could be used as an alternative to imposing special assessments, and the manner in which fees for an alternative local revenue source would be calculated and imposed as compared to the manner in which special assessments are calculated and imposed. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly."

Renumber accordingly