

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2407

2005 SENATE POLITICAL SUBDIVISIONS

SB 2407

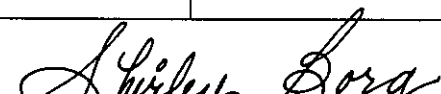
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2407

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date February 3, 2005

Tape Number	Side A	Side B	Meter #
1		X	1607 - End
2	X		0 - 1416
Committee Clerk Signature 			

Minutes:

Chairman Cook opened the hearing on SB 2407 relating to school district approval for exemption of school district property taxes by a city or county. All committee members (6) present.

Senator Layton Freborg, District 8, testified in support of SB 2407. Senator Freborg passed out testimony from Senator David O'Connell who was unable to be there. (Attachment 1 A) He also had another hand out. (Attachment 1B- 57-02-08) He asked the committee to read starting on line seven; school district approval required for property tax exemption from school district levies. At the present time in those areas where they can exempt taxes, counties and cities can exempt the school taxes and almost without exception school districts have by far the largest mill levy applied. In fact it is more than double in most places and yet they have no say in whether or not to exempt the taxes on the exempt property. In the handout he handed out on 57-02-08, the committee would be interested in 35 and 36. Thirty five deals with single-family residential

property and thirty six deals with condominiums and townhouse residential property. The tax department believes you can not exempt taxes under that section. Council believes schools can exempt their taxes under 57-02-08. He feels this bill needs to pass. It is a matter of fairness.

Chairman Cook: For the last eight years you have tried to educate me on equity issues regarding school funding. Would these tax exemptions affect the districts wealth behind a student.

Senator Freborg: They could very well do that. They are reducing the dollars per student.

Senator Fairfield: Do you have any idea what the amount of money is that school districts are losing because of tax exemptions that are granted in communities?

Senator Freborg: I do not. In some cases and certainly in larger districts possibly right here in Bismarck the exemptions could amount to a good many dollars.

Senator Fairfield: Common sense would tell you that if certain exemptions are granted, that money has to come from some where. So other property owners are generally the ones that have to pay the difference.

Senator Freborg: You are right. You set up your budget and levy so many mills to cover the dollars in that budget. If you exempt to much property it takes more mills from everyone else to raise the amount of dollars you need. Those people who are not exempt are picking it up.

Senator Triplett: Is it your expectation if this bill is passed that the school districts would participate in hearings and anyone that wanted an exemption would have to come to the school board on the same terms as they come to cities and counties. The bill would duplicate the amount of hearings but would give the school board its own separate authority, is that your understanding?.

Senator Freborg: If this bill should pass and they are considering exempt property, the school board must vote to exemption that property for school mill levies. The counties and cities now do that.

Senator Triplett: Do you think school boards would think about this issue any differently than cities or counties do or do you think it would end up being pretty much a repetition that they would hear the arguments differently and make different decisions or are we just duplicating government here?

Senator Freborg: I would hope they would give due consideration to every application for a tax exemption just like the counties and cities do.

Mary Wahl, North Dakota Council of Education Leaders, which is the school administrators around the state, testified in support of SB 2407. (See attachment #2)

Deb Nielson, North Dakota School Board Association, appeared in support of SB 2407. In our estimation no one cares more about the economic health of their community than those working in and for our public schools. You no that when you look at the schools that are struggling either to keep the community alive or the community is struggling to keep the school alive. They go together. When we look at some of the exemptions that are being placed up to ten years or longer, we are talking about an entire generation of school children. We think this is something we need to address and schools need to be involved in this decision. Most of the business that we talk about, when asked, want to be good community partners. Across the country we have examples of very creative in lieu of contributions that can be made to schools and form wonderful partnerships. Sometimes we think either we exempt all or part of our mills or we put them all on. There are creative things that you can do in lieu of taxes that could be discussed. I

think that these companies that come into your communities with their employees and send their children to your schools have an obligation and also a desire to be a community partner.

Senator Triplett: How many school boards have participated in the public hearings at cities or counties, which cities and counties are required to have before they grant these exemptions?

Deb Nielson: I can't give you numbers but I know some do. Your don't get to vote necessarily but you can be at the table. They come to the meetings to get a sense of what the impact of this new business will have on our schools.

Chairman Cook: Do you know of a school district that actually has lost a single dollar in potential revenue because of a property tax exemption given by a city or county? If they are at their mill levy cap?

Deb Nielson: It would be more of a shift more then a loss. If at the cap it might have an impact.

Dean Bard, testified in support of SB 2407 for North Dakota of Small Organized School, which is a rural school component within North Dakota. We are a state wide organization. We have eight members that are school districts throughout the state and for the most part are rural oriented school districts. One of the things that we do every year is we pass legislative goals and these are passed at our annual meeting. We have one which he read; the value of all local tax abated real property should be included in the calculation for state foundation aid entitlement. That is a little off the mark but he wanted the committee to know that they have debated this question for years about the inability of school districts to determine whether or not a tax abatement should be permitted. Rural school districts are affected more deeply than larger more urban districts because the rural school district is outside of the places where most of that development is taking place but the rural school districts are affected a great degree about what

goes on. Letting school districts deal with their own levy and not having another political subdivision dealing with it for them is only fair.

Nancy Sand, North Dakota Education Association appeared in support of SB 2407. She looks at this bill in terms that school districts don't lose the money but it is a shift. If the business doesn't pay it than someone else does. This bill provides for the decision making regarding those kinds of issues.

Testimony opposed to SB 2407

Jerry Hjelmstad, North Dakota League of Cities testified in opposition of SB 2407 (See attachment # 3)

Chairman Cook: One of the confusing issues with property tax exemptions is to what degree do they actually reduce the amount of dollars a political subdivision takes in or is it a shift?

Jerry Hjelmstad: It would be a shift in which the governing board would have to take in to consideration and hopefully the goal of that shift would be long range benefits by decreasing taxes down the road and benefiting the tax payer.

Claus Lemke, Burleigh County Commissioner, testified in opposition of SB 2407. He is afraid if the school boards were to be in charge of economic development they would say no more often than not. Economic development is not their responsibility. He does not believe there is a city or county commission out there that would grant a tax exemption if there was not a benefit and a return in it.

Chairman Cook: Is there at any point with the property development exemptions that the citizens property taxes will go down.

Claus Lemke: I can't answer that directly but I do no they would have gone up with out economical development.

Marcy Dickerson, State Supervisor of Assessments and Director of the Property Tax Division by the Tax Commissioner, appeared to discuss SB 2407. (See attachment # 4) If this bill passes it would say that the school district would have discretion to refuse to grant these exemptions but the cities and counties would still be required to pass these exemptions unless all 57-02-08 was changed from being mandatory directly and to be discretionary.

Chairman Cook: Sub section 35 deals with the seventy five thousand dollar exemption for new homes. The effective date of the bill is after June 30, 2005. The city or county that has that exemption has already been approved. Is this in place or until we take action to remove it .

Marcy Dickerson: It is only a two year exemption and it is in place once it is granted.

Chairman Cook: Would this take care of 35 and 36?

Marcy Dickerson: My problem is not those four, it is the others that are all mandatory; your charitable exemptions, religious exemptions, government property exemptions and all of those will remain mandatory for cities and counties but school districts if it were possible would be able to deny the exemption and the state capitol could have to pay school tax.

Chairman Cook: We have to put an amendment on this bill. Do we just remove 57-02-08 or do we just include 57-02-08 sub section 35, 36, 37, & 38?

Marcy Dickerson: That could be done and that would remove my problem with this whole thing with mandatory verses optional.

Chairman Cook: Can you speak to this committee as to what degree is it a shift or does it decrease the dollars that a school district might get.

Page 7

Senate Political Subdivisions Committee

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Hearing Date February 3, 2005

Marcy Dickerson: Most of the time it is a shift but there are circumstances under which it could decrease the number of dollars. (Tape 2 Side A Meter 1158 - 1416)

No further testimony for or against the bill.

Chairman Cook closed the hearing on SB 2407.


2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2407

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date February 10, 2005

Tape Number	Side A	Side B	Meter #
1	X		6090 - End
1		X	0 - 888
1		X	5621 - End
2	X		0 - 75
Committee Clerk Signature 			

Minutes:

Chairman Cook opened the discussion on SB 2407

Senator Triplett moved a Do Not Pass

Senator Dever seconded the motion.

Discussion

Roll call Vote: 2 Yes 4 No

Discussion by committee

Senator Gary Lee: I do not like the Do Not Pass motion either. I think this is something that needs to be discussed and is worthy of discussion. Like I said before in my district there is a lot of growth, a lot of tax exemptions and even in the small towns that ripple effect is moving less and those small towns are making decisions that are shifting to the agriculture areas and the only place that farmer may have an opportunity to have in put in terms of how this comes out is on

that school board. They are part of economic development as well. They are not opposed to it.

It just gives them an avenue of discussion. I think it is only fair. There is no dollars in terms of the shift going on that you gain or loss but I think these things need to be discussed more completely. There are millions of dollars of exemptions going on and I am not really sure they are really necessary and somebody needs to come to the table and say why are we doing this. I can not believe the development is not going to happen if because some one gets an exemption on a two hundred thousand dollar home. It is happening anyway. We are shifting that burden some where else. I think this should be moved forward for further discussion.

Senator Triplett: I agree with you that there needs to be more discussion but I think they need to be at the same table

Further discussion by the committee.

Chairman Cook asked Carlee McLeod, Intern to work on amendments and to call Marcy in tax department if needed.

Senator Cook opened the discussion on SB 2407

Discussion on the Amendments.

Senator Fairfield moved the amendments

Senator Triplett seconded the motion

Roll call vote: Yes 6 No 0 Absent 0

Senator Cook closed the discussion to wait for amendments on the bill.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2407

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date February 11, 2005

Tape Number	Side A	Side B	Meter #
1	X		2885 - 4247
Committee Clerk Signature <i>Shirley Borg</i>			

Minutes:

Chairman Cook opened the discussion and action on SB 2407. Five members present and one absent..

Chairman Cook asked the committee to read amendments.

Chairman Cook explained amendments.

Discussion on amendments.

Chairman Cook said committee we have before us SB 2407 as amended. The amendments are to make the correction and clarify 57-02-08 , subsection 35, 36, 37 and 38. He asked what the wishes were of the committee.

Senator Fairfield moved a Do Pass as amended.

Senator Gary Lee seconded the motion.

Discussion: Tape 1, Side A, Meter #3518 - 3908

Roll call vote: 3 Yes 2 No 1 Absent and not voting. Carrier: **Senator Gary Lee**

PROPOSED AMENDMENTS TO SENATE BILL NO. 2407

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-02 of the North Dakota Century Code, relating to voting by school district representatives on county and city decisions regarding property tax exemptions; to amend and reenact section 40-57.1-03 of the North Dakota Century Code, relating to voting by school district representatives on county and city decisions regarding property tax exemptions and payments in lieu of taxes for new and expanding businesses; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-57.1-03 of the North Dakota Century Code is amended and reenacted as follows:

40-57.1-03. Municipality's authority to grant tax exemption or payments in lieu of taxes - Notice to competitors - Limitations. After negotiation with a potential project operator, a municipality may grant a partial or complete exemption from ad valorem taxation on all buildings, structures, fixtures, and improvements used in or necessary to the operation of a project for a period not exceeding five years from the date of commencement of project operations. A municipality may also grant a partial or complete exemption from ad valorem taxation on buildings, structures, fixtures, and improvements used in or necessary to the operation of a project that produces or manufactures a product from agricultural commodities for all or part of the sixth year through the tenth year from the date of commencement of project operations.

In addition to, or in lieu of, a property tax exemption granted under this section, a municipality may establish an amount due as payments in lieu of ad valorem taxes on buildings, structures, fixtures, and improvements used in the operation of a project. The governing body of the municipality shall designate the amount of the payments for each year and the beginning year and the concluding year for payments in lieu of taxes, but the option to make payments in lieu of taxes under this section may not extend beyond the twentieth year from the date of commencement of project operations. To establish the amount of payments in lieu of taxes, the governing body of the municipality may use actual or estimated levels of assessment and taxation or may establish payment amounts based on other factors. The governing body of the municipality may designate different amounts of payments in lieu of taxes in different years to recognize future project expansion plans or other considerations.

By November first of each year, the municipality that granted the option to make payments in lieu of taxes shall certify to the county auditor the amount of payments in lieu of taxes due under this section in the following year. After receiving the statement from the municipality, the county auditor shall certify the payments in lieu of taxes to the county treasurer for collection at the time when, and in the manner in which, ad valorem taxes must be certified. Upon receipt by the county treasurer of the amount of payments in lieu of taxes under this section, the county treasurer shall apportion and distribute that amount to taxing districts on the basis on which the general real estate tax levy is apportioned and distributed. The municipality may enter into a written agreement with the local school district and any other local taxing districts that wish to enter the agreement for an alternate method of apportionment and distribution. If such an agreement is entered into, the county treasurer shall apportion and distribute the money according to the written agreement. All provisions of law relating to enforcement, administration, collection, penalties, and delinquency proceedings for ad valorem taxes apply to payments in lieu of taxes under this section. However, the

discount for early payment of taxes under section 57-20-09 does not apply to payments in lieu of taxes under this section. The buildings, structures, fixtures, and improvements comprising a project for which payments in lieu of taxes are allowed under this section must be excluded from the valuation of property in the taxing district for purposes of determining the mill rate for the taxing district.

Negotiations with potential project operators for tax exemption or payments in lieu of taxes must be carried on by the city council or commission if the project is proposed to be located within the boundaries of a city, and by the board of county commissioners if the project is proposed to be located outside the corporate limits of any city. A partial exemption must be stated as a percentage of the total ad valorem taxes assessed against the property. Unless the governing body of the municipality determines that there is no existing business within the municipality for which the potential project would be a competitor, the potential project operator shall publish two notices to competitors, the form of which must be prescribed by the tax commissioner, of the application for tax exemption or payments in lieu of taxes in the official newspaper of the municipality at least one week apart. The publications must be completed not less than fifteen nor more than thirty days before the governing body of the municipality is to consider the application. The municipality shall determine whether the granting of the exemption or payments in lieu of taxes, or both, is in the best interest of the municipality, and if it so determines, shall give its approval.

During the negotiation and deliberation of a property tax exemption or the option to make payments in lieu of taxes under this chapter, a municipality shall include, as ~~nonvoting ex officio~~ voting members of its governing body, a representative appointed by the school board of each school district affected by the proposed action and shall include, as nonvoting ex officio members of its governing body, a representative appointed by the board of township supervisors of each township affected by the proposed action.

SECTION 2. A new section to chapter 57-02 of the North Dakota Century Code is created and enacted as follows:

City and county authority to grant property tax exemptions must include representation of affected school districts. During the negotiation and deliberation of a property tax exemption under subsection 35, 36, 37, or 38 of section 57-02-08, a city or county governing body shall include, as voting members of its governing body, a representative appointed by the school board of each school district affected by the proposed exemption. Any exemption granted under subsection 35, 36, 37, or 38 of section 57-02-08 before July 1, 2005, terminates December 31, 2005, unless it is extended by approval of the city or county governing body, including voting members appointed by the school board of each school district affected by the exemption.

SECTION 3. EFFECTIVE DATE. This Act is effective for property tax exemptions or payments in lieu of taxes approved or extended after June 30, 2005."

Renumber accordingly

Date: 2-10-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2407

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Senator Triplett Seconded By Senator Dever

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman		X			
Senator Nicholas P. Hacker, VC		X			
Senator Dick Dever	X				
Senator Gary A. Lee		X			
		X			
Senator April Fairfield					
Senator Constance Triplett	X				

Total Yes 2 No 4

Absent 0

Floor Assignment _____

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

Date: 2-10-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2407

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Move Amendments

Motion Made By Senator Fairfield Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield	X				
Senator Constance Triplett	X				

Total Yes 6 No 0

Absent 0

Floor Assignment _____

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

Amendments Passed

Date: 2-11-05
Roll Call Vote #: 3

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2407

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Senator Fairfield Seconded By Senator Gary Lee

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC		X			
Senator Dick Dever		X			
Senator Gary A. Lee	X				
Senator April Fairfield	X				
Senator Constance Triplett	Absent				

Total Yes 3 No 2

Absent 1

Floor Assignment Senator Gary Lee

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

REPORT OF STANDING COMMITTEE (410)
February 11, 2005 4:09 p.m.

Module No: SR-28-2670
Carrier: G. Lee
Insert LC: 50270.0103 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2407: Political Subdivisions Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (3 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2407 was placed on the Sixth order on the calendar.

Page 1, line 9, after the third "or" insert "subsection 35, 36, 37, or 38 of"

Renumber accordingly

2005 TESTIMONY

SB 2407

2005 Senate Bill No. 2407
Testimony before the Political Subdivisions Committee
Presented by: Senator David O'Connell
North Dakota State Senate
District #6

Mr. Chairman, Members of the Committee:

Due to President Bush being in Fargo today, I am unable to be here in person. I am Senator David O'Connell, and I am pleased to testify in support of Senate Bill No. 2407. This bill will allow the school board the ability to approve a full or partial exemption of property taxes.

For example, if a power plant with a large property tax is granted an exemption, the percentage of money that a school district would get from those property taxes is then forfeited. That money can be instrumental to the success of that school district.

For every property tax exemption of that magnitude which is granted, that school district is losing a considerable amount of money, making it more difficult to keep schools operating especially in the rural areas. If a school district is to be without those funds, it should have some voice in the matter with input from the school board.

Thank you for your consideration.

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district for educational purposes; provided, that the entity is quali-
fied as an exempt organization under section 501(c) (3) of the United
States Internal Revenue Code of 1954, as amended.

30. Property, but not including property used for residential purposes,
owned by an organization described in subsection 9 and leased to a
public school district for educational purposes; provided, that the
property had previously been owned and occupied by the organiza-
tion for an exempt purpose described in subsection 9 for a period of
at least five years:
31. All group homes owned by nonprofit corporations, not organized with
a view to profit and recognized as tax exempt under section 501(c) (3)
of the United States Internal Revenue Code [26 U.S.C. 501(c) (3)],
including those for persons with developmental disabilities as de-
fined in section 25-01.2-01, and the real property upon which they
are located during the period in which the group homes are under
construction or in a remodeling phase and while they are used as
group homes. For the purposes of this subsection, the term "group
home" means a community-based residential home which provides
room and board, personal care, habilitation services, or supervision
in a family environment, and which, once established is licensed by
the appropriate North Dakota licensing authority.
32. Minerals in place in the earth which at the time of removal from the
earth are then subject to taxes imposed under chapter 57-51 or
57-61.
33. Property used for athletic or recreational activities when owned by a
political subdivision and leased to a nonprofit corporation organized
for the purpose of promoting public athletic or recreational activities.
34. Any building located on land owned by the state if the building is
used at least in part for academic or research purposes by students
and faculty of a state institution of higher education.
35. Up to seventy-five thousand dollars of the true and full value of all
new single-family residential property, exclusive of the land on
which it is situated, is exempt from taxation for the first two taxable
years after the taxable year in which construction is begun if all of
the following conditions are met:
 - a. The governing body of the city, for property within city limits, or
the governing body of the county, for property outside city limits,
has approved the exemption of the property by resolution. A
resolution adopted under this subsection may be rescinded or
amended at any time. The governing body of the city or county
may limit or impose conditions upon exemptions under this

subsection, including limitations on the time during which an exemption is allowed.

- b. Special assessments and taxes on the property upon which the residence is situated are not delinquent.
- c. The first owner after the builder resides on the property, or the builder still owns the property. For purposes of this subsection, "builder" includes a person who builds that person's own residence.

For purposes of this subsection, "single-family residential property" does not include condominium or townhouse property.

- 36. Up to seventy-five thousand dollars of the true and full value of each unit of all new condominium and townhouse residential property, exclusive of the land on which it is situated, is exempt from taxation for the first two taxable years after the taxable year in which construction is begun if all of the following conditions are met:
 - a. The governing body of the city, for property within city limits, or the governing body of the county, for property outside city limits, has approved the exemption of the property by resolution. A resolution adopted under this subsection may be rescinded or amended at any time. The governing body of the city or county may limit or impose conditions upon exemptions under this subsection, including limitations on the time during which an exemption is allowed.
 - b. Special assessments and taxes on the property upon which the condominium or townhouse is situated are not delinquent.
 - c. The first owner, after the builder, who resides in the condominium or townhouse unit still owns the property.
- 37. The governing body of the city, for property within city limits, or of the county, for property outside city limits, may grant a property tax exemption for the portion of fixtures, buildings, and improvements, used primarily to provide early childhood services by a corporation, limited liability company, or organization licensed under chapter 50-11.1 or used primarily as an adult day care center. However, this exemption is not available for property used as a residence.
- 38. a. A pollution abatement improvement. As used in this subsection, "pollution abatement improvement" means property, exclusive of land and improvements to the land such as ditching, surfacing, and leveling, that is:
 - (1) Part of an agricultural or industrial facility which is used for or has for its ultimate purpose, the prevention, control, monitoring, reducing, or eliminating of pollution by treating, pretreating, stabilizing, isolating, collecting, holding, controlling, measuring, or disposing of waste contaminants; or
 - (2) Part of an agricultural or industrial facility and required to comply with local, state, or federal environmental quality laws, rules, regulations, or standards.
- b. The exemption under this subsection applies only to that portion of the valuation of property attributable to the pollution abatement improvement on which construction or installation was commenced after December 31, 1992, and does not apply to the valuation of any property that is not a necessary component of the pollution abatement improvement. The governing body of the city, for property within city limits, or the governing board of the county, for property outside city limits, shall determine whether the property proposed for exemption is a pollution abatement

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1895, § 117
1899, § 1180, .
ch. 160, §§ 1 to 4; 1
S.L. 1907, ch. 218,
1913, ch. 280, § 1; 1
S.L. 1915, ch. 255,
1919, ch. 223, § 1; 1
ch. 122, § 1; 1923, c
§ 1; 1925 Supp., §§
ch. 230, § 1; 1929, c
§ 1; 1931, ch. 296,
1941, ch. 270, § 5;
1943, § 57-0208; S
1957, ch. 356, § 1;
S.L. 1959, ch. 382,
1961, ch. 343, § 1;
ch. 345, § 1; 1961,
377, §§ 1, 2; 1965, cl
§ 2; 1967, ch. 418,
1971, ch. 533, § 2;
ch. 535, § 1; 1971, cl
§ 1; 1973, ch. 446,
1975, ch. 505, § 1;
ch. 507, §§ 1, 2; 197

Testimony on 2407

Mary Wahl

NDCEL

Once upon a time, political subdivisions were given authority to levy on property within their respective jurisdictions to carry out their responsibilities as elected officials.

That local taxing authority was limited only by the state which, for example, retained exemption authority over certain properties such as houses of public worship, property owned by the state and political subdivisions, property belonging to schools, colleges.

The political subdivisions used their respective authorities judiciously under the watchful eye of the state with its mill levy caps and mill levy percentage growth restrictions.

This was the way things worked until NDCC was amended to give cities and counties the authority to exempt property not only from their taxation but also to exempt property from school district taxation. This law turned taxing authority on its head.

In effect provisions of the code give cities and counties the authority to exempt the property of new and expanding businesses from school district taxing authority. This manipulation of taxing authority was done in the name of economic development. This is not the way taxing authority and accountability should be structured by law.

We ask, how can school districts be held accountable for the impact of the taxes they levy on school district patrons when the impact of those taxes upon the individual taxpayer in the district is determined in part by exemptions over which they have no control.

With this bill you can put government right again —giving that taxing exemption authority to school districts where it belongs.

And you can do that without loss to the economic development programs that the current law was manipulated to achieve. Perhaps this new way won't be quite as efficient in as much as one political subdivision won't be able to speak for another. Perhaps there will need to be additional processing of new and expanding business exemption requests. But those requests will be processed and decisions will be made.

And with taxing authority re-established within the parameters of the authority of each political subdivision, government will again be functioning the way it is intended to function.

We urge your support of SB 2407.

To: Senate Political Subdivisions Committee
From: Jerry Hjelmstad, North Dakota League of Cities
Date: February 3, 2005
Re: Senate Bill No. 2407
School District Approval for Property Tax Exemptions

Mr. Chairman and members of the Senate Political Subdivisions Committee, my name is Jerry Hjelmstad, and I am here on behalf of the North Dakota League of Cities to testify in opposition to Senate Bill No. 2407.

The legislature has provided the exemptions referred to in this bill as a tool for cities and counties to use to encourage and promote development. Chapter 40-57.1 of the North Dakota Century Code provides that cities and counties may, "after negotiation with a potential project operator", grant a partial or complete exemption from property taxes for up to five years. This bill would hamper that negotiation process since the city or county would not know the extent of the exemption that they have available when the process begins. If the school board does not approve an exemption, the city or county is left with the ability to negotiate with only about half of the possible exemption that they have under current law.

The process for an exemption for new business already provides for inclusion of a school board representative as a nonvoting member during the negotiation process. This allows for the concerns of the school district regarding a proposed project to be brought forward and considered.

There is often talk about the loss of revenue relating to these property tax exemptions, but the goal of the exemptions is to promote expansion and development. If the business is not constructed, there will be no property tax revenue to lose since it won't exist. There will also be no future gain from new property taxes from a business that is in place once the exemptions expire.

The legislature has properly seen fit to give authority relating to job development to city and county officials. Both groups have the authority to provide for a tax levy for a job development authority. Do we really want our school board members to take on the additional responsibility of economic development?

We ask that you recommend a "do not pass" on Senate Bill No. 2407.

SENATE POLITICAL SUBDIVISIONS COMMITTEE

February 3, 2005

Testimony of Marcy Dickerson, State Supervisor of Assessments

SENATE BILL 2407

Mr. Chairman, Members of the Committee, for the record my name is Marcy Dickerson and I am employed as State Supervisor of Assessments and Director of the Property Tax Division by the Tax Commissioner.

Senate Bill 2407 provides that a property tax exemption granted by a city or county governing body under chapter 40-57.1 or 57-02.2 or section 57-02-08 does not apply to property taxes levied by a school district unless the school board of that district has approved the exemption by a majority vote. This provision can probably be applied to the discretionary exemptions in ch. 40-57.1 and ch. 57-02.2. However, only four of the 42 subsections in section 57-02-08, subsections 35, 36, 37, and 38, are discretionary. Those are the exemptions for new single-family residential property, new condominium and townhouse residential property, early childhood services or adult daycare, and pollution abatement improvements. The other subsections of section 57-02-08 are mandatory exemptions, and the city or county governing body must grant them to qualifying properties. I am not sure that any political subdivision can deny those mandatory exemptions.

This concludes my prepared testimony. I will be glad to try to answer any questions.



POST OFFICE BOX 1306
WILLISTON, NORTH DAKOTA 58802-1306
PHONE (701) 577-8100
FAX (701) 577-8880
TDD (800) 366-6888
(State Relay)

CITY OF *Williston* NORTH DAKOTA

January 31, 2005

Senate Political Subdivisions Committee
State Capitol
Bismarck ND 58505

RE: SB2407

Dear Committee Members:

The City of Williston very much opposes SB 2407, which allows school districts to opt out of property tax exemptions. Property tax exemptions are a tool that can be used by political subdivisions to encourage economic development projects which in the long run will result in an increased tax base. School district representatives are already involved and have a voice in the process of reviewing the impact of such property tax exemptions. SB 2407 effectively gives school boards the power to bring negotiations to a standstill and send economic development projects to other states.

We urge a "DO NOT PASS" recommendation for this bill.

Sincerely,

E. Ward Koeser
President
Board of City Commissioners
City of Williston

EWK:sks

Carlee

Proposed Amendments to Senate Bill 2407

Page 1, line 9, overstrike "section" and insert immediately thereafter "subsections 35, 36, 37, and 38 of"

Renumber accordingly.