

2009 HOUSE POLITICAL SUBDIVISIONS

HB 1257

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1257


House Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: January 29, 2009

Recorder Job Number: 8155

Committee Clerk Signature



Minutes:

Chairman Wrangham opened the hearing on HB 1257.

Rep. Headland: Explained the bill. It was put in because of a situation that arose in Stutsman County this past summer. This bill would just put in the code prohibiting the use of putting several different mill rates on several different properties, which we found out through the attorney general opinion, what's possible through home rule. Explained the situation in Stutsman County. This bill would not allow local leaders to place burdens on a minority of their constitutions in their taxing district.

Rep. Kilichowski: Asked for a brief history of what happened in Stutsman County.

Rep. Headland: A group from the county got together with the commissioners and tried to figure out a way to address the county road problem. In that discussion they came up with a plan. Some believe that it is the farmers wrecking the county roads; let's make them pay for it. They researched it through their states attorney and they found nothing in code that prohibited them from doing it. So they placed on the ballot for peoples vote a mill levy increase that would apply to agricultural property only. It was a huge increase of 40 mills. The population of Jamestown; probably 15,000 people which is 85% of the population of Stutsman County so by doing that they thought they could get it passed. Fortunately the people saw through what it

would allow. Keep in mind if this would have been allowed and passed it would affect revenue across the state. The referendum was defeated. Along with the 40 mill increase on ag property there was a one cent sales tax county wide. I don't think we want to get into a case where we are allowing local political leaders to place their tax burden on a minority of the tax payers. That is not the intent of home rule.

Rep. Koppelman: Was it an attempt at a user's tax?

Rep. Headland: I can't answer what they were trying to do. They did try to apply the total cost of maintaining and repairing county roads on the back of ag property.

Rep. Koppelman: When it talks about uniformity so they are taxes in the same way; would that change current law where ag property is currently taxed differently. It is taxed on productivity versus value? Farm homes are not taxed at all the way city property is; would it change that and make it all uniform?

Rep. Headland: I don't believe it would. That would certainly not be the intent here.

Rep. Jerry Kelsh: I agree the counties should not be able to pick on certain types of properties; you said the roads up there are in terrible shape. The counties are limited by the number of mills they can raise to fix these roads. How do you propose they raise the money to do it?

Rep. Headland: I propose they would do a mill levy all across the board instead of choosing one.

Rep. Belter: I think the real issue here is that all classes of property are taxed at the same level so when the county passes 40 mills it is 40 mills for ag, commercial and residential and when they took one class and put more mills on that than others. No only is that unethical, but I suspect it is probably unconstitutional.

Rep. Kilichowski: Does this strictly apply to home rule counties?

Rep. Belter: Yes it does.

Rep. Conrad: Why would you only apply it to home rule counties?

Rep. Belter: That is a good question? I am not sure how our current legislation would work.

Eric Aasmundstad: (see testimony #1). We agree with everything that has been said.

Rep. Conrad: Home rule charter can be amended by citizens of the particular county and it is written by the citizens of that county. They would be better suited to design this for them than the legislature.

Eric Aasmundstad: Yes that is true, but when you look at the dwindling of the rural population we can see a real threat in going forward in more areas than just Stutsman County. The population within the county can impose a tax just because of numbers.

Rep. Conrad: In Ward County we have the farm to market county roads established years ago and the county bought into it. Those roads are now mostly used by people who want to live in the county and work in town. Would that be something you would want to throw in there as well?

Eric Aasmundstad: I can't answer that. I am here to address the state home rule charter.

Rep. Zaiser: Are there any problems with non-home rule counties with unfair or inadequate taxes?

Eric Aasmundstad: I can't answer that either. We believe that the political subdivisions should be taxed by the state rather than just the subdivision.

Rep. Koppelman: Can non home rule counties do something similar?

Eric Aasmundstad: Not to my understanding. The home rule charter states the political subdivision should be liberally construed to supersede state law.

Rep. Belter: Why this particular legislation only applies to home rule counties? According to the Legislative Counsel non home rule counties are not allowed to do this.

Chairman Wrangham: do you think when the Legislature allowed home rule they gave up the authority to control what was done with them; that scope of home rule?

Rep. Belter: yes I believe when we did home rule we probably gave away more legislative authority than we should have. It has been a problem for twenty years.

Opposition: None

Neutral: None

Rep. Nancy Johnson: Is there any other area in taxation of the counties where they were worried about home rule?

Marcy Dickerson, Tax Department: We do have specific laws that are for the cities and counties. That city levies for that and if the county levies for the same thing, that city has to be excluded from the county levy so they aren't doubling up. Otherwise there cannot be opportunity for non home rule counties to levy more on one class of property than another.

Chairman Wrangham: Special assessments were mentioned. When these extra mills were imposed under home rule by the county it took a vote of the entire county. If it were special assessments and there were a vote held on it who would be allowed to vote on that. Would it just be the people in the special assessment districts?

Marcy Dickerson: It would be just the people in the special assessment district or benefiting properties.

Rep. Jerry Kelsh: On page one of the bills, it says all taxable property must be taxed by the county at the same rate as provided by law? That would in no way allow farms at 10%; homes at 9% and homes at 10% to be changed?

Marcy Dickerson: I do not believe that would change that because this is language is talking about taxing at a rates and the legislature has established certain levies of assessment for different classes of property.

Rep. Kilichowski: Could a non home rule county now have a special assessment outside the city limits and would those people outside the limits be able to avoid this special levy now?

Marcy Dickerson: I believe in a special assessment, they probably can do that, but the vote would be limited to the people who would be affected within the special assessment district.

Home rule is limited to the taxation aspects of it. They have other provisions that don't affect what I work in. Most home rule charters have language in them that levies a total amount up to the maximum levy allowed by state law. I haven't had too many comments about county tax levy in rural counties, but I receive a number of phone calls about somebody wanting to know how come their city is levying such a huge amount of dollars against their property? Are you a non home rule city? I explain to them the way that works. The fact that the mill levy is limited to the maximum amount by state law; sky's the limit. There is no maximum levy for cities allowed by state law. In fact there are a number of unlimited levies for special purposes. So you have all those limited levies; how do you add on the maximum on the unlimited levies and say what the maximum is? So there really is no state wide maximum levy that applies to home rule cities. The same thing applies to home rule counties; but it still exists unless there is an unlimited levy; that is a loop hole because there is no maximum limit.

Rep. Jerry Kelsh: Isn't it right that the state law that they can refer those decisions made by local governments on the home rule?

Marcy Dickerson: Yes that is true, but they do have to go through that pursuit.

Hearing closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1257

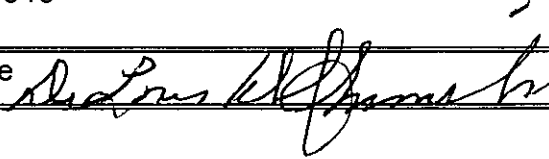
House Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: February 6, 2009

Recorder Job Number: 8915

Committee Clerk Signature



Minutes:

Chairman Wrangham reopened the hearing on HB 1257.

Rep. Headland: This is a straight forward bill. We need to fix a potential problem and there was no opposition.

Rep. Jerry Kelsh: Have you heard of any problems?

Rep. Headland: The Association of Counties and League of Cities were both here and neither objected to it. They voted it down because there was a sales tax on it.

Do Pass Motion Made By **Rep. Zaiser:** **Seconded By Rep. Headland:**

Further discussion:

Vote: 11 Yes 1 No 1 Absent **Carrier:** Rep. Headland

Hearing closed.

Date: 2/6
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1257

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Pass ☐ Amended

Motion Made By Rep. Zaiser Seconded By Rep. Headland

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman	✓		Rep. Kari Conrad	✓	
Rep. Craig Headland, Vice Chairman	✓		Rep. Jerry Kelsh	✓	
Rep. Patrick Hatlestad	✓		Rep. Robert Kilichowski	✓	
Rep. Nancy Johnson	✓		Rep. Corey Mock		✓
Rep. Lawrence Klemin	✓		Rep. Steve Zaiser	✓	
Rep. Kim Koppelman	0				
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 11 No 1

Absent 1

Bill Carrier: Rep. Headland

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

REPORT OF STANDING COMMITTEE

HB 1257: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends **DO PASS** (11 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1257 was placed on the Eleventh order on the calendar.

2009 SENATE POLITICAL SUBDIVISIONS

HB 1257

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1257

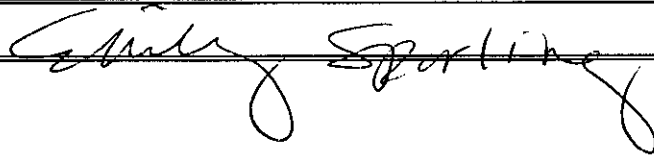
Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: 03/05/2009

Recorder Job Number: 10282

Committee Clerk Signature



Minutes:

Chairman Andrist Opened the hearing on HB 1257.

Representative Craig Headland District 29. Introduced HB 1257. The bill is a result of an incidence in his county. He gave the history of the incident. This bill would prevent a majority population group voting higher taxes on a minority population. Currently no political subdivision can impose different tax types based on different classes of property, this bill solidifies the language.

Senator Dotzenrod Just to be clear, this is related to home rule not any other tax laws?

Headland Yes

Senator Lee What are the unintended consequences of this bill?

Headland This bill simply keeps the code the way it is.

Senator Lee What is the difference in philosophy between this instance and special assessments? Gave examples of road repair.

Discussion about special assessments.

Headland Everyone drives on the roads; this bill addresses a problem that could become a major problem. This bill passed without opposition in the house.

Senator Dotzenrod Asked about the makeup of the county board.

Headland Described the makeup of the county board.

Senator Anderson Are you aware that this bill also includes cities?

Headland Yes, I am aware of that.

Senator Anderson If the tax were equally applied on everything would you have a problem?

Headland No one would object to that. I am not concerned just about ag property but I am concerned about any majority group voting taxes onto a minority.

Sandy Clark ND farm Bureau. Spoke in support of 1257. See attachment #1.

Senator Lee I would suggest that township tax is not the same as special assessment taxes.

Chairman Andrist The theory behind special assessments is that you are improving the value of the home site.

Discussion about special assessments

Marcy Dickerson Supervisor of assessments for State Attorney General's office. Made herself available for questions.

Discussion about mill levys and assessments.

Chairman Andrist Closed the hearing on HB 1257

Job #10299

Chairman Andrist Opened the discussion on HB 1257

Senator Olafson I move **Do Pass**

Senator Bakke Second

The Clerk called the role on the motion to **Do Pass. Yes: 6, No: 0, Absent: 0.**

Senator Lee will carry the bill.

Date: 3/5/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1257

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do pass ☐ Do not pass ☐ Amend

Motion Made By S. Olafson Seconded By J. Bakke

Senators	Yes	No	Senators	Yes	No
Chairman John M. Andrist	/		Senator Arden C. Anderson	/	
Vice Chairman Curtis Olafson	/		Senator JoNell A. Bakke	/	
Senator Judy Lee	/		Senator Jim Dotzenrod	/	

Total (Yes) 6 No 0

Absent _____

Floor Assignment Senator Lee

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

REPORT OF STANDING COMMITTEE (410)
March 5, 2009 4:09 p.m.

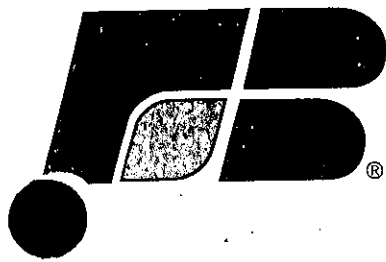
Module No: SR-43-4163
Carrier: J. Lee
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1257: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1257 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1257



North Dakota Farm Bureau

Bringing ag home

#1
1101 1st Ave. N., Fargo, ND 58102
P.O. Box 2064, Fargo, ND 58107-2064
Phone: 701-298-2200 • 1-800-367-9668 • Fax: 701-298-2210

4023 State St., Bismarck, ND 58503
P.O. Box 2793, Bismarck, ND 58502-2793
Phone: 701-224-0330 • 1-800-932-8869 • Fax: 701-224-9485

**Testimony of North Dakota Farm Bureau
House Political Subdivisions
House Bill 1257
January 29, 2009
Presented by Eric Aasmundstad, president**

Good morning Mr. Chairman committee members my name is Eric Aasmundstad. I am the president of North Dakota Farm Bureau. I am here today on behalf of the members of North Dakota Farm Bureau in support of House Bill 1257.

House Bill 1257 will prohibit the use of home rule authority to impose higher or lower property tax rates for certain classes of property. The ability to impose higher or lower property taxes on one class of property and not the other class of property in a taxing district is discriminatory. Furthermore, the a local governing entity could make a minority group of taxpayers carry the property tax burden, because they simply do not have the votes to defeat a ballot measure.

North Dakota Farm Bureau opposes allowing different property tax rates for different classes of property. This is a dangerous precedent to establish in state tax policy. We believe this authority must not be allowed and the issue corrected before counties and cities are successful in exercising this authority. Everyone in a city or county uses the services provided by property tax dollars at one time or another and everyone should pay the same rate. Placing the property tax burden on one classification of property must not be allowed.

The State Legislature authorized the ability to create home rule and established the parameters for home rule. Therefore, it is only the legislature that can correct this problem with in the home rule law.

Counties were granted broad taxing authority in the home rule law much beyond just property tax and sales tax. According to law counties have been granted the authority to levy farm machinery gross receipts tax, alcoholic beverages gross receipts tax, motor vehicle fuels and special fuels tax, and motor vehicle registration fees. Cities were granted this same authority and more by the law stating after the specific list- in addition to any other taxes imposed by law. The law further says cities cannot levy income tax and we believe counties should be held to the same standard as some counties have included the ability to levy income tax in their home rule charters.

North Dakota Farm Bureau believes House Bill 1257 is an excellent start to fixing the problems created by home rule before they are out of control. We would respectfully request you give House Bill 1257 a Do Pass recommendation.



**North Dakota
Farm Bureau**

Bringing ag home

1
1101 1st Ave. N., Fargo, ND 58102
P.O. Box 2064, Fargo, ND 58107-2064
Phone: 701-298-2200 • 1-800-367-9668 • Fax: 701-298-2210

4023 State St., Bismarck, ND 58503
P.O. Box 2793, Bismarck, ND 58502-2793
Phone: 701-224-0330 • 1-800-932-8869 • Fax: 701-224-9485

Senate Political Subdivision Committee

March 5, 2009

Testimony by North Dakota Farm Bureau

presented by Sandy Clark, public policy team

Good morning, Mr. Chairman and members of the Political Subdivision Committee. My name is Sandy Clark and I represent the members of North Dakota Farm Bureau.

We stand today in support of HB 1257. Our Farm Bureau members have adopted policy calling for some changes and limitations to state law that governs home rule. HB 1257 addresses one of the issues that our members have found troubling.

The ability to impose higher or lower property taxes over one class of property is discriminatory and should not be allowed by the State Legislature. A county or city could decide that commercial property should be taxed higher or they could select agricultural land to carry a heavier share of the tax load. Would it be right to tax all green houses at a higher level? Or all houses in a certain area of town?

At the same time, a local government entity could simply make a minority group of taxpayers carry the property tax burden, because they would not have the votes to defeat a local measure on the ballot.

Allowing different property tax rates for different classes of property is a dangerous precedent to establish in state tax policy and should be corrected before counties and cities begin to exercise that authority.

Everyone in the county or city uses the services provided and everyone should pay the same rate. One class of property should not be expected to shoulder the majority of the burden.

The State Legislature authorized the ability to create home rule and establishes the parameters. Therefore, only the Legislature can correct this problem within the home rule law.

Therefore, we would encourage you to give HB 1257 a "do pass" recommendation. Thank you for your consideration and I would be happy to try to answer any questions you may have.