

2009 HOUSE FINANCE AND TAXATION

HB 1375

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1375

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 01/26/09

Recorder Job Number: 7710

Committee Clerk Signature

Lori Engelson

Minutes:

Chairman Belter opened the hearing on HB 1375.

Rep. Nathe offered testimony in support of HB 1375. See Testimony 1, attached.

Chairman Belter refers to a bill heard earlier with similar circumstances. The bill was HB 1241, and he suggested Rep. Nathe review that bill.

Rep. Koppelman: Rep. Kim Koppelman, District 13, West Fargo. As Rep. Nathe mentioned, right now the law states that the increase of more than 10% has to be noticed to the taxpayer.

This bill lowers that to 5%. I was not aware of the bill you just made reference to either.

Without criticizing that bill, the concept moves us in the wrong direction. I think transparency is very important when we talk about taxpayers. Especially in this day and age, I know there's not one of us that hasn't had numerous concerns expressed to us by our constituents about high property taxes. When any consumer or any taxpayer raises more than 5%, and that could be hundreds of dollars.

Wayne Papke, Citizens for Responsible Government offered testimony in support of HB 1375. See Testimony 2, attached. The private sector is deluged with requirements for laws for the disclosure of any financial matter of any size. Why should the local government be different. Early disclosure of valuation changes and the appeal process should be required

prior to the abatement process deadline. Errors do occur. (Mr. Papke cites his own personal example.) Amendments to this bill may or should address the valuation changes of any size. Amendments should make this law require that the following documentation accompany every valuation change. The abatement instructions should accompany it. The abatement forms, a step-by-step description of the process to which they have to go through, both the city and the county to get abatements and the deadlines. Amendments should require notices be sent directly to the owners of the property. In summary, disclosure is a common sense good and ethical business practice. Local governments should not be exempt from these practices.

Chairman Belter: Further testimony in support of HB 1375. Any opposition to 1375.

Terry Traynor, North Dakota Association of Counties, offered testimony in opposition to HB 1375. See Testimony 3, attached. We were here earlier on the bill to add back in the dollar threshold as well. I put in a copy of SB 2032 from last session, the section that changed this. If you will recall, there was quite a bit of debate of moving the 15 down to the 10. The legislature finally agreed that 10% was the number, and they also took out the \$3,000 limit. It has increased greatly the number of notices that go out, and obviously moving to 5% would make that much worse. The concern that has been expressed to us is now we're really talking about a lot of ag parcels as well. As you know, the county does not set the value of ag property. It is set by the legislative formula that is run by NDSU. There many years when the counties ag value will go up by 10% or more, and all ag parcels would have to be noticed. I can understand when there is a certain amount of the dollars involved, but we have a lot of odd auditor's lots. We would have to modify our software to make the change. We go on record in opposition of changing this section again.

Rep. Headland: Would the Association of Counties object to an amendment that would get rid of the percentages and just require notices to be sent out for a certain dollar increase?

Terry Traynor: I'd have to run that through the people that actually do that to see how much of a change that would be to their process. It certainly sounds more reasonable than all these small parcel notices.

Rep. Winrich: What is the procedure if, under the current law, say a property increases in value by less than 10%. At what point does the owner become aware of that?

Terry Traynor: Not being a tax director, I'm not sure. I would think it would be when you get your tax statement in December.

Rep. Winrich: There's also a notice that comes out, the assessed valuation. At least in Grand Forks. Is that not consistent?

Terry Traynor: I'm not familiar. Of course the county could send out additional notices as well.

Chairman Belter: Further opposition to 1375? Any neutral testimony to 1375?

Marcy Dickerson: I'm Marcy Dickerson, State Supervisor of Assessments. I understand the reasons that people support this kind of legislation, but I think it's kind of overkill. As Terry mentioned, there are some small parcels. He was talking about agricultural parcels. In your small towns and small cities, you also have some really low valued residential parcels and some vacant lots. Assuming there is a lot out there, it's \$1,000 true and full value. An increase on that of 5%, which this legislation would require, a notice to be sent on, the 5% increase would be a \$50 increase in true and full value which would amount to a taxable value of \$2.50. So you would round that up to \$3.00. Assuming they were at 500 mills which is just about as high as the mill rates ever go, at 500 mills, that would mean the whole tax increase would be \$1.50 which doesn't seem like a real big deal. In response to Rep. Winrich's question, the individuals, at any time, can find out what their value is. They can call the city assessor or the township assessor. They can tell you. If you don't like it, then you can go to

the equalization meetings if necessary. It doesn't take a great deal of effort to find out what your value is if the increase did not require a notice. You do have all the equalization meetings that you can attend and protest to. If you wait until after you receive your tax statement and find your value on that, then you still have the option of filing an application for abatement. So if you never receive a notice, you still do have remedies. I favor more like in HB 1241 where there a lower, \$3,000 in that case. \$3,000 true and full value would represent a \$60,000 property if it were a commercial property. A house would be a little different. If they increase it 5%, that would be \$150 increase in taxable value or at 500 mills, 75% tax increase. There still are the remedies. There is the equalization process. If you miss out on that, you still have the opportunity to file an application for abatement.

Rep. Headland: Would there be a problem with getting rid of the percentage and just having notices sent out on a specific dollar increase amount?

Marcy Dickerson: I wouldn't personally have a problem with that so long as that dollar amount was of a substantial enough amount that it would really represent something. Here if you had a \$50 increase, your tax, at the most, would be \$1.50 additional on a \$50 increase. You would want to have an idea in your mind how much tax is acceptable without a prior notice if that's what it is going to be.

Rep. Headland: I think the notice requirement would be based on the dollar amount of increase, not related to any of the other formulas. If your taxes are going to go up by \$50, then you should have to receive a notice.

Marcy Dickerson: I thought you meant \$50 true and full value. You're talking about \$50 taxes, that would probably equate to a couple thousand dollars increase. If you do that without the percentages, I don't have a problem with it. But the \$50 true and full value increase, costing you \$1.50 in taxes would be overkill. If you are going to have a \$2,000 or \$3,000 true

and full value increase, that doesn't seem unreasonable to me. But the really little stuff is overkill. There is one thing I would like to recommend for this bill. It goes for HB 1241, and I think one other bill. 1422 maybe has something in it about this. Any changes that are made to this section on 57-12-09, notice of increase assessment. Similar changes need to be made to 57-14-08. That statute refers to the special assessor. In the past, all requirements were the same for the special assessor as for all these other assessors. Last session, when you amended 57-12-09, none of us thought about that other section. In our housekeeping bill we do have an amendment to bring that section up to the current law in 57-12-09. But if this one has any changes done to it, similar changes should be made to 57-14-08.

Chairman Belter: Any other testimony of 1375? If not we'll close the hearing on 1375.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1375

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: January 26, 2009

Recorder Job Number: 7787

Committee Clerk Signature

Minutes:

Chairman Belter: What are your wishes on HB1375? We can act on this one.

Representative Grande: Since we passed 1241, we want a 'do not pass" on this one. That would be my motion.

Representative Drovdal: Second.

Chairman Belter: Is there any discussion? We have a "do not pass" from Representative Grande and a second from Representative Drovdal. Is there any discussion?

A roll call vote was taken, resulting in 12 ayes, 0, nays and 1 absent/not voting.

Representative Headland will carry the bill.

FISCAL NOTE STATEMENT

House Bill or Resolution No. 1375

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. 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.

John Walstad
Code Revisor

Date: January 26, 2009

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1375

House FINANCE AND TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☒ Do Not Pass ☐ Amended

Motion Made By Grande Seconded By Drovdal

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	/		Representative Froelich		
Vice Chairman David Drovdal	/		Representative Kelsh	/	
Representative Brandenburg	/		Representative Pinkerton	/	
Representative Froseth	/		Representative Schmidt	/	
Representative Grande	/		Representative Winrich	/	
Representative Headland	/				
Representative Weiler	/				
Representative Wrangham	/				

Total (Yes) 12 No 0

Absent 1 (Froelich)

Floor Assignment Headland

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

REPORT OF STANDING COMMITTEE

HB 1375: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1375 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HB 1375

Testimony 1

HB 1375

January 26, 2009

Mr. Chairman and members of the committee, my name is Mike Nathe, representative from Dist 30, Bismarck. I am here today in support HB 1375.

This bill would simply make the county notify the property owner of any increases in assessed value of their property of more than 5%, currently the figure is 10%. The amendment I handed out, would also require them to inform the property owner on the statement of any available remedies that they may use if they disagree with the increase in the assessed value. I believe this bill will better inform the property owner and add more transparency to the process. The property owners have the right to know immediately when the county has increased their assessment, because it translates into higher property taxes. What this also does is give the owner a chance to properly plan financially. Imagine a homeowner living on a tight budget, this notification would give them more time to plan financially for the increase in their property taxes, the same goes for businesses.

Mr. Chairman and members of the committee any time we have the opportunity to better inform the people of ND, we should, HB 1375 does just that and I ask for your support for HB 1375.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1375

Page 1, line 1, replace "section" with "sections" and after "57-12-09" insert "and 57-20-07.1"

Page 1, line 2, after "increases" insert "and contents of property tax statements"

Page 1, after line 22, insert:

"SECTION 2. AMENDMENT. Section 57-20-07.1 of the North Dakota Century Code is amended and reenacted as follows:

57-20-07.1. County treasurer to mail real estate tax statement - Contents of tax statements. On or before December twenty-sixth of each year, the county treasurer shall mail a real estate tax statement to the owner of each parcel of real property at the owner's last-known address. The statement must be provided in a manner that allows the taxpayer to retain a printed record of the obligation for payment of taxes and special assessments as provided in the statement. If a parcel of real property is owned by more than one individual, the county treasurer shall send only one statement to one of the owners of that property. Additional copies of the tax statement will be sent to the other owners upon their request and the furnishing of their names and addresses to the county treasurer. The tax statement must include a dollar valuation of the true and full value as defined by law of the property and the total mill levy applicable. The tax statement must include, or be accompanied by a separate sheet, with three columns showing, for the taxable year to which the tax statement applies and the two immediately preceding taxable years, the property tax levy in dollars against the parcel by the county and school district and any city or township that levied taxes against the parcel. The tax statement must include a description, in language approved by the tax commissioner, of a taxpayer's rights to challenge the assessment or property taxes for the property. Failure of an owner to receive a statement will not relieve that owner of liability, nor extend the discount privilege past the February fifteenth deadline."

Renumber accordingly

Testimony 2
HB 1375
January 26, 2009

Mr. Chairman and members of the Finance and Taxation;

My name is Wayne Papke, and I'm a financial advisor by profession. Today, I'm speaking on behalf of Citizens for Responsible Government, a volunteer group based in Bismarck that seeks to provide taxpayers with information about public policy.

I am here in support of HB 1375.

I have been a student of local government taxation and valuation issues for the past 15 years. Annually, I visit the county auditor's office to obtain a copy of my entire developments most recent final taxable valuations.

I've lived at my current residence for 13 years now and in that time, I have only received one written notice of my valuation increasing more than 10%. Ironically, on that increase, I asked the questions on how to challenge that valuation determination and learned of the abatement process. By the way, I won my abatement and received a much lower valuation as they found out they had me classified as an A structure vs. a B which I turned out to be. Thus, I had been overpaying on taxes due to an assessor/building inspectors error that may have gone uncovered had I not learned of the abatement process as a result of written notification. My home market value was reduced from \$240,000 all the way down to \$203,000, a sizeable error on their part. Many more property owners just accept their annual tax bill increases assuming no recourse, yet may be overpaying. Had it not been for the written notice, I may not have ever known of the abatement process.

In years when written notice is not given, the only way to learn of this years pending valuation is by calling the local assessors office.

You will miss the deadline for the abatement process if you wait for current valuations to be posted to the county's central data base as they only post that following the abatement appeal deadline and valuations are final. From my new construction completion in 1995 to now, my taxable valuation has increased an average of 4.5% a year exceeding the 2.7% average inflation in the same time period. Other than education and healthcare costs, this would be one of fastest growing costs in my household budget over the last 13 years. We need proper notice on pending valuation increases of any size as this is one of the larger dollar household budget items and it has a major affect on homeowners' livelihood.

In the world of finance where I come from, financial increases of any size or type are done via required written notice to clients and customers. If not required, good business says that ethics, courtesy and good business common sense dictates written notice be given.

So this bill should be amended to say "any increase in valuation over the prior year must be given written notice" along with instructions and forms to challenge the increase via the abatement process. If government is knowingly increasing my valuation estimates, of any size, months before they are locked in following the protest periods, why aren't they sending written communications on this along with challenge instructions? I believe that the answer as to why local government does not send notifications is that they know they will get a lot of questioning and angry calls. In some cases these challenges are for just cause.

If assessments and the taxable valuation process is done at the fair & proper level, the assessors offices should welcome calls with the confidence in there work.

Since government doesn't operate for profit, the "good business and ethical" process can be bypassed to avoid increasing challenges to assessed valuations.

There is no doubt that challenges and the abatement process would increase multiple times. My response to that is, "good" as this means assessors are either not valuing property correctly as they should or the owner sees his value differently. If your credit card bill appears wrong, do you just accept it and pay it? Obviously not. So why aren't people challenging valuations? The answer is mainly that there is lack of knowledge of the process. People perceive they have no recourse or challenge methodology, which is the norm.

Supporting and passing this bill will serve many valuable benefits in that it would increase the education to our voters on the challenge process. This education, in any form, in any way is greatly needed on all levels of government.

Reducing the requirement from 10% to 5% is a starting point. As I mentioned, my first choice would be to take it to "any" increase must receive written notice.

This bill should also include the requirement that with these valuation notices, the following documents be mailed with the notice; abatement instructions, abatement forms, a step by step description of the process through the city and then the county levels, contact names and deadlines of the process events.

Another change to HB 1375 should consider that these notices be sent directly to the owners of the property, not the escrow agent as often by time the escrow agent forwards it to the owner, the deadlines for filing may have passed.

I encourage you to pass HB 1375 for the good of North Dakota property owners.

**Testimony To
THE HOUSE FINANCE & TAXATION COMMITTEE
Prepared Monday, January 26, 2009 by
Terry Traynor, Assistant Director
North Dakota Association of Counties**

REGARDING HOUSE BILL No. 1375

Chairman Belter and members of the House Finance & Taxation Committee, the Association opposes House Bill 1375.

Last session, the case was made that the property assessment increase threshold at which notices must be sent to taxpayers should be adjusted from 15% to 10%. In this same bill, the dollar-threshold was also deleted including numerous very low value parcels. Together these changes required thousands of additional notices to be sent at an increased cost to all property taxpayers. (Excerpt from Legislation Attached)

HB1375 would likely more than double the number of mailings and therefore the cost. The Association of Counties requests a "Do Not Pass" recommendation on House Bill 1375.

EXCERPT FROM ENROLLED SENATE BILL #2032 – 2007 SESSION

SECTION 2. AMENDMENT. Section 57-12-09 of the North Dakota Century Code is amended and reenacted as follows:

57-12-09. ~~Written notice~~ Notice of increased assessment to real estate owner. When any assessor has increased the true and full valuation of any lot or tract of land ~~together with~~ or any improvements thereon ~~by fifteen percent or more to more than ten percent more than the amount of the last assessment, written notice of the amount of increase over the last assessment and the amount of the last assessment must be delivered in writing by the assessor to the property owner or, mailed in writing to the property owner at the property owner's last-known address except that no notice need be delivered or mailed if the true and full valuation is increased by less than three thousand dollars, or provided to the property owner by electronic mail directed with verification of receipt to an electronic mail address at which the property owner has consented to receive notice. Delivery of notice to a property owner under this section must be completed not fewer than fifteen days before the meeting of the local equalization board.~~ The tax commissioner shall prescribe suitable forms for this notice and the notice must show the true and full value as defined by law of the property, including improvements, that the assessor used in making the assessment for the current year and for the year in which the last assessment was made and must also show the date prescribed by law for the meeting of the local equalization board of the assessment district in which the property is located and the meeting date of the county equalization board. The notice must be mailed or delivered ~~to the property owner at least ten days in advance of the meeting date of the local equalization board and must be mailed or delivered at the expense of the assessment district for which the assessor is employed.~~