

2009 HOUSE FINANCE AND TAXATION

HB 1546

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1546

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 02/09/09

Recorder Job Number: 8962

Committee Clerk Signature

Lou Engelson

Minutes:

Rep. Robin Weisz: My name is Robin Weisz, District 14, central North Dakota, and I have a bill in front of you today that I'm guessing might have a little discussion. What HB 1546 does is eliminate the mandatory valuations that we set for the counties plus or minus the 5%. The reason I'm doing that is the fact that this body here is often blamed by our citizens for increasing their property taxes. It has come apparent to me that an increase and disconnect between what really causes your property tax bill and the public's understanding and perception of it. The reality is we don't raise property taxes. We don't generate any income from property taxes and we don't tax city, county, townships. What this bill would do is put the responsibility back on the political subdivision where it belongs. Rep Weisz cites an example of the city of Bowman sending an email on this subject. People need to be aware what property tax goes for and who is actually raising it, because again, it is those political subdivisions that determine by their budgets and by their spending. People have lost that connection between that. With that I introduce the bill because I think it's at least worthy of discussion and debate. I know there are bills that would oppose it. The state is still going to set the valuation like we always do. We always have the formulas that set the valuations that they follow. We would use those for determining the foundation aid formulas. So it wouldn't

affect that. It is my understanding that was the reason we started to mandate it because of the foundation aid formulas that caused the disagreement.

Chairman Belter: Are there any questions? Further testimony in support of 1546. Any opposition to 1546? Any neutral testimony to 1546?

Marcy Dickerson, State Supervisor of Assessments and Director of the Property Tax Division, Office of the State Tax Commissioner, offered testimony in opposition to HB 1546. See Testimony 1, attached.

Rep. Froseth: I have been working on some property tax issues, and I had a bill drafted to allow the counties to assess true and full value anywhere from a range of 60 to 105%. The county commissioners want no part of it because they like the idea they can blame the state lawmakers. Don't you think it would sometimes be better for the counties to determine their property levels and their taxation needs and the variations of the types of property within that county to come up with some kind of equalization of taxes prorated on the various types of property and then present it to the state. Why should the state be in the business of dictating to the counties when it's their taxes. Don't you think there should be some adjustments made there?

Marcy Dickerson: The counties do have the opportunity to determine their budgets which is the basis for taxes. They can determine how much money they need for various purposes for the things that they need in their county. The same thing goes for cities and townships. The problem is that not every county is going to come up with the same idea of equity. A North Dakota citizen is entitled to be treated as well in your county and in a county in another part of the state. There are differences. There are different mill levies. There are different requirements. Lots of things are different at the local and county level. The only thing that the state board of equalization is trying to do in equalizing values is to try to give a basic playing

field. If you own a house that's worth \$100,000 here, and you own a house that's worth \$100,000 here, they should both be assessed at \$100,000. It's not fair to do otherwise. A house in Bismarck or Fargo is going to be worth a whole lot more than that same house will be in a small town somewhere. Equalization is to make sure that those things are recognized. If your house isn't worth \$100,000, you shouldn't be taxed on a \$100,000 house. Generally it is pretty well done. I think that one reason that most of the counties and major cities do as good a job as they do is because they know there is a body that has authority over them. There are some counties that just go do their own thing. Sometimes the state board of equalization has to make an adjustment. It is for fairness. Valuation is not really the cause of taxes. It's a matter of fairness. If you value property so that the taxes are spread out fairly over those different properties, then the people who own different valued properties are taxed equitably.

Not too high on a low property and not too low on a high property. That's the whole idea is to even it out. It is not to set anybody's tax rates. It's to even it out so people are treated equitably.

Rep. Brandenburg: Rep. Brandenburg gave an example regarding Bottineau County.

Marcy Dickerson: It's true the counties like to pass the buck to the state.

Rep. Schmidt: You have this tolerance for the state. If you say from 97 to 103, can they go to 12?

Marcy Dickerson: The tolerance of the state board of equalization has put into place, which was the decision of the state board, not statutory, was that there should be a little latitude given because to hit 100% of market value is very difficult. Even on the agricultural value. There are factors that there probably should be some wiggle room. So they said between 95 and 105%. Their policy generally has been if a county's assessments are below 95 or above 105, they will move them to 97 or 103. They'll move them in closer. Not move them 100% but

put them within the tolerance. It's kind of an incentive to come up within the 95 to 100% (initially testified the range is 95 to 105%) to start with, because if you do that, you can stay there. If you're outside of that, they're going to move you from 97 to 103. It is to the advantage of the assessing body to get within the tolerance the first time around. Once this did come before the attorney general, and then a county asked if the state board had authority to do that 95 to 100% on agricultural assessment, and the attorney general ruled that was proper for the state board to do. They never asked on the commercial, but on the agricultural. That was the attorney general's opinion.

Chairman Belter: Any other opposition to 1546? Any neutral testimony on 1564? If not, we'll close the hearing on 1546.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1546

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 02/09/09

Recorder Job Number: 9024

Committee Clerk Signature

Lori Engelson

Minutes:

Chairman Belter opened the hearing on HB 1546.

Rep. Schmidt: I make a motion do not pass.

Rep. Winrich: Second

Chairman Belter: Any discussion? If not, will the clerk read the roll for a do not pass on HB 1546.

The roll was read by the clerk.

8 yes, 2 no, 3 absent. Rep. Winrich was assigned to carry the bill.

Date: 2

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1546

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 Schmidt Seconded By Winrich

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) 8 No 2

Absent 3 (Froelich) (Drovdal) (Headland)

Floor Assignment Winrich

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

REPORT OF STANDING COMMITTEE (410)
February 10, 2009 8:14 a.m.

Module No: HR-25-2215
Carrier: Winrich
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1546: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (8 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING). HB 1546 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HB 1546

TESTIMONY OF THE OFFICE OF STATE TAX COMMISSIONER
BEFORE THE
HOUSE FINANCE AND TAXATION COMMITTEE

HOUSE BILL 1546

FEBRUARY 9, 2009

Chairman Belter, members of the House Finance and Taxation Committee, I am Marcy Dickerson, State Supervisor of Assessments and Director of the Property Tax Division for the Office of State Tax Commissioner. I am here today to explain why the Tax Commissioner and State Board of Equalization do not support House Bill 1546.

House Bill 1546 would take away the authority of the state board of equalization to equalize property assessments. That would mean there would be no statewide overview of property assessments and no supervisory body to facilitate equitable treatment of property taxpayers.

The state board of equalization, originally established in 1897, is comprised of the governor, state treasurer, state auditor, agriculture commissioner, and state tax commissioner.

Under existing language in N.D.C.C. § 57-13-04, the state board of equalization has the responsibility to equalize the valuation and assessment of property throughout the state, equalize the assessment of property in this state between assessment districts of the same county, and equalize assessments between the different counties of the state.

Article X, § 4 of the North Dakota Constitution requires that "[a]ll taxable property except as hereinafter in this section provided, shall be assessed in the county, city, township, village or district in which it is situated, in the manner prescribed by law." N.D.C.C. § 57-02-27.1 provides that all property is to be valued at its true and full value as defined in subsection 15 of § 57-02-01, except for agricultural land for which the true and full value must be determined pursuant to § 57-02-27.2.

"57-02-01. Definitions. 15. 'True and full value' means the value determined by considering the earning or productive capacity, if any, the market value, if any, and all other matters that affect the actual value of the property to be assessed. This shall include, for purposes of arriving at the true and full value of property used for agricultural purposes, farm rentals, soil capability, soil productivity, and soils analysis."

Statewide oversight is required to ensure that those requirements are followed throughout the State. If township, city, and county boards of equalization perform their statutory assessment duties properly, the state board of equalization accepts the assessments certified by the county boards. Each year most counties' and major cities' property assessments are within the 95 to 105 percent tolerance allowed by the state board of equalization. If a jurisdiction is not within tolerance but is in the process of a reassessment or provides an explanation of why the assessments are high or low, the state board of equalization may give that jurisdiction another year or more to reach the required assessment level. Otherwise, the state board of equalization will adjust the assessments to be within tolerance, generally within 97 to 103 percent of market value or the agricultural value per acre certified by North Dakota State University (NDSU) pursuant to § 57-02-27.2.

Article X, § 5 of the North Dakota Constitution requires that taxes shall be uniform upon the same class of property including franchises within the territorial limits of the authority levying the tax. Property taxation cannot be uniform unless property assessment is uniform.

For example, consider a school district that includes property in two counties. If County A assesses residential and commercial property at market value and County B assesses residential and commercial property at 80 percent of market value, property owners in County A will pay more than their rightful share of taxes to that school district and property owners in County B will pay less than their rightful share. If County A's agricultural property assessments meet the countywide average agricultural value calculated by NDSU in compliance with N.D.C.C. § 57-02-27.2, and County B's agricultural property assessments result in an average value per acre that is higher, or lower, than the countywide average value per acre calculated by NDSU, farmers in both counties will pay a disproportionate share of taxes to that school district.

The North Dakota Legislature has given the responsibility and authority to equalize property assessments to the state board of equalization. If the Legislature takes that authority away without transferring it to another entity, there will be no equalization. The State will not be in compliance with the Constitutional requirements of Article X, §§ 4 and 5.

The tax commissioner and the state board of equalization ask that you vote Do Not Pass on House Bill 1546.

This concludes my prepared testimony.