2011 SENATE AGRICULTURE

SB 2193

2011 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2193
January 20, 2011
13159

☐ Conference Committee

Committee Clerk Signature Greta Nelson

Explanation or reason for introduction of bill/resolution:

Relating to notice of proposed annexations

Minutes: Attachment #1, #2

Senator Flakoll: Meeting called to order on this 20 day of January, 2011 (10:15 am) SB 2193.

Senator Flakoll: Open hearing of SB 2193 Welcome Senator Nodland.

Senator Nodland: Wyoming Casing Service in Dickinson Senator form District 36
This is a bill I sponsored and it goes back to a situation happened in my district where a city annexed a portion of a subdivision in the county. They hadn't done an annexation in many years. It became very cumbersome and confrontational with both people being annexed and county involved because of lack of communication. The reason for my bill is to encourage better communication in annexation procedures. There are only 2 parts to the changes of the bill and they deal with sending a letter of certified mail to all land owners going to be annexed and to the existing governing body that is governing that subdivision or the landowners. Sending notification to the existing county.....communication need improvement throughout the state. My bill will take care of the problem....if certified letter is sent, solve the problem. Problems could have been solved if they were worked out a head of time if the communication would have happened appropriately. Want to work it out with the city and counties....make it so much easier. Certified letters are very inexpensive.

Senator Flakoll: When do they have to mail...is there a certain date they have to receive the letter? Thirty days to respond, but when is notice sent out?

Senator Nodland: City can do a resolution....send it out and have 30 days to respond and have to have it listed twice in local newspaper. Then you can act. This is a fast annexation that can happen under the law. That works fine with all gov entities.

Senator Flakoll: When do they have to send the notice out? Page lines 18-20 inclusive talks about the property owner can protest it so that falls within the time frame that they don't send it out 32 days before?

Senator Nodland: Go back to line 11, so they have 30 days to get it out.

Senator Flakoll: Does that include the certified mail piece?

Senator Nodland: Governing body shall mail by certified mail notice of each partial. I assume at the same time.

Senator Miller: Maybe should be language that this should be mailed after this resolution is passed?

Senator Nodland: That would be fine

Senator Flakoll: Friendly type of amendment. Make certain they get it.

William Gion: Human Resource Manager, Wyoming Casing Service, Dickinson, ND (Attachment #1)

Senator Klein: You don't believe you have received the letter that supposes to tell you what is happening. A certified letter that you would have to sign would have made you pay more attention and not assume it was just another piece of junk mail.

William Gion: We did receive the letter, however, in the subdivision that was being annexed there are 26 landowners, and came about with people not understand. Different letters received, so caused confusion among the people. Oct 4, we went before the city commission to get clarification. Some landowners did not get proper notification. We have a lot of absentee land owners .....That meeting Senator Nodland attended.....we suggested to back up and do this certified. No way the city to give us that burden of proof .....City claimed mailed to everyone. They asked where the burden of proof on this information/letter? To us a certified mail would have been proof of sending or receiving the piece of mail. There are flaws that this would address. Taxes go up with nothing to show in return for 10 years.....understandable we are self sufficient subdivision all have common well, private sewer and septic. We are not opposed to the growth of our community.....but there is a better way to communicate with people. This is really making the city have the burden of proof and would help all concerned. The county, I wasn't aware of until I went to the commission meeting and observed the terrible exchange.....lack of communication.

Senator Luick: Reference that the representative would get notification?

Senator Flakoll; Power of Attorney ...would this change anything in respect ...to get it to them

William Gion: Talking to the County Tax Auditor, the city uses that to send out. How does the city know who has Power of Attorney or where about of owners. Doesn't seem like it should be the city's responsibility.....but they need to document. Asked how the vote

went....they couldn't show the results of voting. Just gave percentages. Recommending a better job of communicating. We would like to see a task force created to revisit this.

Larry Syverson: Chairman of Board of Township Supervisors of Roseville Township of Traill President of ND Township Officers Association (Attachment #2)

Senator Flakoll: Would it affect in terms of proposed amendment taxing authority which would include schools....how does that play out if there at least one school district ...would that affect or cause any unforeseen problems from your standpoint?

William Gion: Sending a letter should not cause any problems.

Terry Traynor: ND Association of Counties Would like to add a mandate for another political subdivision, but see if this is going to improve the communication to make sure everyone knows what is going on and document that everyone knows.....the county supports the bill.

Senator Flakoll: Opposition?

Senator Flakoll: Close the hearing on SB 2193

2011 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2193
Friday, January 28, 2011
13615

☐ Conference Committee

Committee Clerk Signature Greta Nelson

Explanation or reason for introduction of bill/resolution:

Relating to notice of proposed annexation.

Minutes:

(Note: Begins at 17:18 on tape for SB 2204)

Senator Flakoll SB 2193

Senator Flakoll; Any other amendment (Nodland Bill) testimony by Larry Syverson and Chairman of Roseville Township in Traill County and President of NDTOA .... Language taxing authority, we put in some time requirements....question as to when to send it out.

Senator Heckaman; I move the Heckaman Amendments to SB 2193

Senator Klein; Second

Senator Flakoll; Moved and second to adopt amendments to SB 2193 as presented with two major things. Insertion of language "at least two days before" and "taxing authority" added.

Senator Flakoll: Discussion?

Clerk: Roll for SB 2193 6 yes/ 0 no/ 1 absent (Senator Miller)

Senator Heckaman Move a Do Pass on SB 2193

Senator Murphy: Second

Senator Flakoll; Discussion?

Senator Flakoll: Clerk - Roll as Do Pass as amended to SB 2193

Clerk: Roll Call 6 yes/ 0 no/ 1 absent (Senator Miller)

Senator Flakoll: Motion carries Senator Heckaman carries. We won't leave it open for Senator Miller

Senator Flakoll: Completes our meeting .... adjourned.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2193
March 31, 2011
Job # 16222

☐ Conference Committee

Committee Clerk Signature Greta Nelson

Explanation or reason for introduction of bill/resolution:

Relating to notice of proposed annexation.

Minutes: You may make reference to "attached testimony."

Senator Flakoll: SB 2193 Senator Nodland's annexation bill we did not concur. Senator Miller; Senator Larsen; Senator Heckaman (Committee)

PROPOSED AMENDMENTS TO SENATE BILL NO. 2193

Page 1, line 10 after "notice" insert "at least two days before"

Page 1, line 16 after "notice" insert "at least two days before"

Page 2, line 15 after "notice" insert "at least two days before"

Page 1, line 18, after "authority" insert "or taxing authority"

Page 2, line 24 after "authority" insert "or taxing authority"

Renumber accordingly

Date: 1-28-11

Roll Call Vote #:

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 6-0-1

Senate Senate Agriculture Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 2193

Action Taken Amendment

Motion Made By Senator Heckaman Seconded By Senator Klein

Representatives	Yes	No	Representatives	Yes	No
SenatorTim Flakoll	✓		Senator Joan Heckaman	✓	
Senator Oley Larsen	✓				
Senator Jerry Klein	✓				
Senator Larry Luick	✓				
Senator Joe Miller					
Senator Bill Murphy	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment

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

Date: 1-28-11

Roll Call Vote #:

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 6-0-1

Senate Senate Agriculture Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 2193

Action Taken Do Pass

Motion Made By Senator Heckaman Seconded By Senator Murphy

Representatives	Yes	No	Representatives	Yes	No
SenatorTim Flakoll	✓		Senator Joan Heckaman	✓	
Senator Oley Larsen	✓				
Senator Jerry Klein	✓				
Senator Larry Luick	✓				
Senator Joe Miller					
Senator Bill Murphy	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Senator Heckaman

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

REPORT OF STANDING COMMITTEE

SB 2193: Agriculture Committee (Sen. Flakoll, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2193 was placed on the Sixth order on the calendar.

Page 1, line 10, after "mailed" insert "at least two days before the presentation"

Page 1, line 16, replace "The" with "At the same time, the"

Page 1, line 18, after "authority" insert "or taxing authority"

Page 2, line 15, after "mail" insert "at least two days before the meeting"

Page 2, line 22, after the first "mail" insert "at least two days before the meeting"

Page 2, line 24, after "authority" insert "or taxing authority"

Renumber accordingly

2011 HOUSE POLITICAL SUBDIVISIONS

SB 2193

2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

SB 2193
March 10, 2011
Job # 15274

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to notice of proposed annexations.

Minutes:

Proposed amendment #1

Chairman Johnson: Opened the hearing on SB 2193.

Senator Nodland: This bill pertains to annexation of a city doing annexation and your chairperson and I will have some fun on this probably. We had an issue in Dickinson with an annexation and I feel quite a bit of miss communication between the people being annexed and the city and also the political subdivision that was governing the annexed subdivision which was the county at that time. Basically all we are really doing here is just asking a change which you can see on page 1 and again on page 2 to have the governing body that is doing the annexation to send out a notice by certified mail. The problem in this case was some of the people being annexed were owners of property that lived out of state and then renting the facilities. The subdivision was full of quite a few industrial type buildings that were oil related businesses that were renting these facilities. So the owners by not sending it certified they were not sure the owners were notified and some were and some weren't and there was a he said she said thing. Certified mail I feel would really take care of that because certified mail; three things can happen, you will receive a notice back that says the mail was delivered or undeliverable or refused so you know who receives their notice. Since we passed it on the Senate side I have been contacted by a city that has an amendment to offer and I have no problem with that amendment with a problem about notifying a taxing authority because in some of our larger cities the taxing authorities can amount to quite a few entities and become a problem in notifying them. In our case that county would notify all the taxing authorities. In our case it was a rural fire department and the airport authority because they had time to do this before the hearing was held. I would take some questions.

Rep. Klemin: I have quite a bit of experience with certified mail and it doesn't always as we would like it to work. I am concerned about the two days requirement because a lot of times with certified mail the post office will tell somebody they have certified mail that they have to come in and pick up and then if they don't come in within a certain period of time then they send them the second notice and tell them to come in and pick up and by the time that sort of thing happens two days is going to be gone. In my experience a lot of

people don't like to go and get certified mail because it might be bad news for them like you can sue somebody that way so they intentionally don't go pick it up. Their rules of civil procedure is if they refuse certified mail then that is the same as delivery but practically never happens that someone refuses it; they just don't get it. I am thinking what you are trying to do is make sure they get notice of this, but it might have exactly the opposite effect. Two days is not going to be enough for certified mail and secondly it might be better to send it both by ordinary mail and by certified mail. Have you thought about that at all?

Senator Nodland: I too have had quite a bit of experience with certified mail with my prior business before I worked here so that is the reason I came up with certified mail. I worked in a banking industry and I went through quite a few bankruptcies and that type of notice and that was the preferred method. The two days the committee put that on; I have no problem sending it both ways. I agree with you that that would cover all bases. Many times people refuse to pick it up so we got it back undelivered.

Rep. Klemin: That way they never actually got notice and you have no proof they got notice. The two days is really too short.

Rep. Koppelman: There might be some unintended consequences here the way the law is being amended. The primary purpose of current law the way it is written has to do with annexation of land that is in the extra territorial zoning area of one city by another city. What the bill seems to change there is that it talks about annexation by a city of property that another political subdivision has zoning or subdivision regulation authority or taxing authority over. I see several problems with that; one is that you are not talking necessarily about just cities; you are talking about any other political subdivisions that include other counties, townships and even school districts. I am curious what your objectives are. What are you trying to achieve and maybe you can give us a little more background in terms of either what happened or what it is you are trying to accomplish.

Senator Nodland: It is our situation. We don't have that large of cities in western ND so there is some extraterritorial zoning territory I think that is two miles in some of ours; most of them one mile. So there are cases now with the growth in western North Dakota where some of these smaller cities are trying to expand and need to annex to expand. Most of these expansions are the county authority. That is the intent and most of it was communication. Like Rep. Klemin said I don't care about the two days, but that probably should be taken out, as long as we can still can keep the intent of getting the notice to the people and getting a communication so the city does not have to go through so much problem and in this case a law suit and now redoing the annexation. That is bad for all of us and I am just trying to make it so it is easier for everybody and everybody feels they were noticed.

Rep. Koppelman: Your intent is to make sure that other political subdivisions are notified and that land owners are notified. Are you concerned about political subdivisions like school district or are you primary thinking of cities, counties and townships?

Senator Nodland: Cities, counties and townships.

Rep. Koppelman: The extra territorial zoning use to be two and four miles for quite a few years so we have actually rolled that back in the legislature.

Chairman Johnson: Your intent is to get to the renters; the people leasing the property or are you talking just the property owners?

Senator Nodland: Just the property owners. I think the property owners should have the responsibility to tell their renters. I don't think we should create that. That is a relationship in the contracts between the renter and owner.

Rep. Zaiser: When it comes to legal protests of an annexation or zoning it really has to do with the owners of the property, not the users of the property at the time which are the renters. I think we should have at least two days and maybe even more if you are an absentee owner and you live in Florida there is no way you are going to get the letter in time to lodge any kind of protest and get the response back.

Senator Nordland: I agree with you one hundred percent. I did not have that in the original bill that got added in committee.

Bill Wolken, City Administrator for the city of Bismarck: I am in support of the bill but asking for consideration of an amendment. (See proposed amendment). Went over the amendment. The city of Bismarck has no problem with the certified letter requirement. However we get the notice to the property owner most efficiently. But the taxing authority is a bit more problematic to us. I did go down to the county auditor's office and got a copy of the mill levy chart. The mill levy chart is different for most every property in the county. There are different fire districts, ambulance districts, weed districts, water districts etc. So with each individual property we will end up sending a separate certified letter. It is not so much the letters as making sure we have the right entities. An annexation that would happen to cover an area that is in two fire districts would have two fire districts, two fire districts etc. There is a lot of confusion. The amendment I am offering for your consideration today would be simply to say that instead of each political subdivision with the regulatory authority or the taxing authority would simply say see cities, counties and townships. We think that would be a basis for notification that everyone would have an opportunity to excess. I know from my research that I found that the or taxing authority was offered by the township officers association on the Senate side. I have made an effort to contact the township officers but we haven't been able to connect up to this point so I just want to be up front with you and tell you where that one came from. I would be happy to try and answer any questions you might have.

Rep. Zaiser: Do you have any suggested timeframe that we might use in terms of a certified letter?

Bill Wolken: In the city of Bismarck we try to use a week. I think if we would use five days you probably would not hurt any ones chances. The testimony about people picking up certified letters is a difficulty as well.

Rep.Devlin: It says at least two days in both places so they could send it twenty days in advance if they wanted to. I don't think that time period has to be in there at all, if you

wanted to use certified mail. I would share some of the concerns of Rep. Klemin in using certified mail.

Rep. Koppelman: Do you know if there is any definition in law for directly affected by, those words and what that means?

Bill Wolken: I put in affected by but someone on the other side of the state could say I am affected by that because I have got my mother in law living in that county so I put directly affected is if they are in proximity to that action and they are affected to it in proximity. Perhaps there are better words that could be added.

Rep. Koppelman: I understand what you are saying going from political subdivision to city county or township. That makes sense but I am wondering if there might be some way you could narrow it to that definition and then go back to the taxing or subdivision authority or something else that is descriptive and a little more pinned down.

Bill Wolken: Perhaps contagious might be a substitute for directly affected by.

Terry Traynor, Association of Counties: We support the increased communication between the cities and the counties and we support Mr. Wolken's amendment as well.

Opposition: None

Hearing closed.

2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

SB 2193
March 18, 2011
Job # 15646

☐ Conference Committee

Committee Clerk Signature

Minutes:

(Proposed amendment #1)

Chairman Johnson: Discussed SB 2193. (See proposed amendment #1).

Rep. Shirley Meyer: The amendment you probably noticed isn't correct? Page 1, line 7 is wrong; it should be line 10.

Chairman Johnson: We changed two days to seven days. The is the bill on the annexation of property and the notification to the landowners and then to the other entities that would be impacted by the annexation. Went over the amendment.

Rep. Klemin: We did that because days were not enough time for certified mail to anybody. Particularly if they don't pick it up the first time they send a second notice so they need at least a week so we put in seven days and there are three places like that in our bill.

Rep. Maragos: We had another set of amendments. We they melded into this set of amendments?

Chairman Johnson: Are you referring to the ones by Mr. Wolken from the City of Bismarck?

Rep. Maragos: they must be in here because they are not titled and there is no name on it. Is that what he provided?

Chairman Johnson: Yes it is melded into this set. Each political subdivision could include a park district, 911 etc. There was a multitude of other entities that would be included. The ones that are really impacted would be the city, county or townships. The rest would fall into place under that.

Rep. Koppelman moved to the amendment. Seconded by Rep. Maragos:

Voice vote carried.

Do Pass As Amended by Rep. Zaiser: Seconded by Rep. Klemin:

Vote: 12 Yes 0 No 2 Absent Carrier: Rep. Zaiser:

Prepared for: House Political Subdivisions Committee
Prepared by: Jessica Braun, Legislative Intern, House Political Subdivisions Committee

PROPOSED AMENDMENT TO SENATE BILL 2193

Page 1, line 10, replace "two" with "seven"

Page 1, line 19, remove "political subdivision that has zoning or subdivision regulation authority or"

Page 1, line 20, replace "taxing authority over" with "city, county, or township directly affected by"

Page 2, line 16, replace "two" with "seven"

Page 2, line 23, replace "two" with "seven"

Page 2, line 25, remove "political subdivision that has zoning or subdivision"

Page 2, line 26, replace "regulation or taxing authority over" with "city, county, or township directly affected by"

Renumber accordingly

11.0440.02001
Title.03000

Adopted by the Political Subdivisions Committee

March 18, 2011

YR
3/18/11

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2193

Page 1, line 10, replace "two" with "seven"

Page 1, line 19, remove "political subdivision that has zoning or subdivision regulation authority or"

Page 1, line 20, replace "taxing authority over" with "city, county, or township directly affected by"

Page 2, line 16, replace "two" with "seven"

Page 2, line 23, replace "two" with "seven"

Page 2, line 25, remove "political subdivision that has zoning or subdivision"

Page 2, line 26, replace "regulation authority or taxing authority over" with "city, county, or township directly affected by"

Renumber accordingly

Date: 3-18-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2193

House **Political Subdivisions** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☐ Do Not Pass ☑ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Koppelman Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Kilichowski		
Vice Chairman Hatelstad			Rep. Shirley Meyer		
Rep. Beadle			Rep. Mock		
Rep. Devlin			Rep. Zaiser		
Rep. Heilman					
Rep. Klemin					
Rep. Koppelman					
Rep. Kretschmar					
Rep. Maragos					
Rep. Pietsch					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote carried.

Date: 3/18/11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2193

House **Political Subdivisions** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☑ Do Pass ☐ Do Not Pass ☑ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Zaiser Seconded By Rep Klemin

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Kilichowski	✓	
Vice Chairman Hatelstad	✓		Rep. Shirley Meyer	✓	
Rep. Beadle	✓		Rep. Mock	✓	
Rep. Devlin	✓		Rep. Zaiser	✓	
Rep. Heilman	✓				
Rep. Klemin	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	—				
Rep. Maragos	✓				
Rep. Pietsch	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Zaiser

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

REPORT OF STANDING COMMITTEE

SB 2193, as engrossed: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2193 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "two" with "seven"

Page 1, line 19, remove "political subdivision that has zoning or subdivision regulation authority or"

Page 1, line 20, replace "taxing authority over" with "city, county, or township directly affected by"

Page 2, line 16, replace "two" with "seven"

Page 2, line 23, replace "two" with "seven"

Page 2, line 25, remove "political subdivision that has zoning or subdivision"

Page 2, line 26, replace "regulation authority or taxing authority over" with "city, county, or township directly affected by"

Renumber accordingly

2011 SENATE AGRICULTURE

CONFERENCE COMMITTEE

SB 2193

2011 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2193 (Engrossed)
April 5, 2011
Job # 16349
☒ Conference Committee

Committee Clerk Signature Greta Nelson

Explanation or reason for introduction of bill/resolution:

Relating to notice of proposed annexations.

Minutes:

Senator Miller: Meeting called to order on this 5th day of April, 2011 regarding SB 2193 Roll call taken by clerk:

Clerk: 6-0-0 Absent

Senator Miller; Representative from House would like to go over the amendments/bill for reasoning as to why?

Rep Kretschmar: The House made a couple changes in the bill....they increased the notice from 2 days to 7 days with the idea that 2 days are not long enough for mail to get around. We put it at 7 days.....on page 2 lines 24-25 .....we put the mailing to the counties, cities, and townships to be effected. Line 25....send the notice to each of those three political subdivisions in the area. Those are the ones who have the zoning authority of those areas. Fire or hospital districts .....lesser political subdivisions.

Rep Zaiser: As a Land Use Planner as a profession, we dealt with these public hearings often in MN and ND .....it was a standard process that had lag time on the front end of the hearing and certified mail was often used to those directly affected by the zoning change or annexation proposal. As Rep Kretschmar indicated, were the reasons for the changes ....didn't want to clutter it and keep it simple.

Senator Miller; I proposed the 2 days, but the intent was at least 2 days after the intent to have a meeting was determined.....it got flipped around. Maybe the House would entertain a greater period of time as 2 or 3 weeks prior to the meeting.

Rep Zaiser: Often times, there is not a good attendance. Those who don't want annexed as taxes would go up. If you have it too far out in front, people forget about the meeting. My opinion is to tighten that time. .... Our rational.

Senator Miller; With regards to the change from political sub division has zoning or sub division regulation authority or taxing authority over the area to the city, county, or township directly affect. What was the rational?

Rep W. Kretschmar; Basically wanted to get the principal political sub division has the authority to levy taxes and add the authority to make zoning in those areas. The Fire District has the authority to put on a mill levy, those have to be approved by the political sub-committee. Annexation, they would be getting their money....most of those extra political subdivisions.

Senator Heckaman; I have no objection for the 2 to 7 days, it is a good idea. Adding the cities, counties, and townships, clarifies it more and happy that Rep Kretschmar mentioned that all these would be entities that would approve any of the special assessment districts. These two moves would be good for bill. Question: Was there any discussion .....prime sponsor have any thoughts on these changes?

Rep W. Kretschmar: Senator Miller was on the committee

Senator Miller; I spoke with John Bjornson in the legislative council about the change and we thought the previous (original) language was more clear and more encompassing where the city, county, township directly affected by .....could be more subjective. Senator Nodland preferred the original language.....other districts would benefit by prior knowledge to this so they could weigh in case of conflict. Rural fires and cities expanding could be some challenges.

Rep T. Beadle; Our discussions on the House side, we thought it was too broad of a list necessary because as there is so much flexibility what one lot is going to be affected by the fire/water/etc groups involved. We felt it was unnecessary to notify the park districts and all else that would be involved.....we wanted to keep it to the ones who clearly had the authority of the annex issues and ones directly affected by. ..... opposed to lumping it into the entire political sub that don't necessarily care or need to weigh in on the issue.

Rep S. Zaiser; None of the taxing districts, as on the original bill, have the ability by themselves to levy taxes. The subdivision that are included fire/water districts would have to go to the particular subdivision.....most cases will be the county to acquire or apply have them pass so they can be taxed a levy (a mill) That is why we drew the line on those political sub divisions as they are the political subs who are able to tax.

Senator Miller; Chair would entertain a motion to accede to the House amendment.

Senator Heckaman; I move the Senate accedes to the House amendments on engrossed SB 2193

Senator Larsen; Second

Senator Miller: Moved and second... Discussion. Roll call vote.

Clerk: 6-0-0 Absent

Senator Miller: Motion passes Senator Heckaman carrier

Senator Miller; Adjourned

2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: AGRICULTURE

Bill/Resolution No. 2193 as (re) engrossed

Date: 4/05/11

Roll Call Vote #: 1

Action Taken

- [x] SENATE accede to House amendments
- [ ] SENATE accede to House amendments and further amend
- [ ] HOUSE recede from House amendments
- [ ] HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s) --

- [ ] Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) _____ was placed on the Seventh order of business on the calendar

Motion Made by: Heckaman Seconded by: Senator Larsen

Senators	4/5			Yes	No	Representatives	4/5			Yes	No
J. MILLER	✓			✓		W. KRETSCHMAR	✓			✓	
O. LARSEN	✓			✓		T. BEADLE	✓			✓	
J. HECKAMAN	✓			✓		S. ZAISER	✓			✓	

Vote Count: Yes 6 No 0 Absent 0

Senate Carrier Heckaman House Carrier _____

LC Number _____ . _____ of amendment

LC Number _____ . _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

SB 2193, as engrossed: Your conference committee (Sens. Miller, Heckaman, Larsen and Reps. Beadle, Kretschmar, Zaiser) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ pages 877-878 and place SB 2193 on the Seventh order.

Engrossed SB 2193 was placed on the Seventh order of business on the calendar.

2011 TESTIMONY

SB 2193

#1

January 20, 2011

Respected Members of the 62nd ND Legislative Assembly Senate Subcommittee,

Good morning and thank you for giving me the opportunity to testify in *support of Senate Bill #2193.* This bill has been introduced by the honorable Senator Nodland to amend and reenact certain sections of the ND Century code, relating to notice of proposed annexations.

I am employed by Wyoming Casing Service, Inc. (WCS) at their location in Dickinson, ND. I am also a permanent resident of the Great State of ND.

This past fall, WCS was included in a proposed annexation with the City of Dickinson, and I was designated as the WCS company representative. I was given "first-hand" experience with the annexation process. With this in mind, it is apparent to WCS, that the existing annexation process should be improved establishing a better "burden of proof" for landowner notification.

Senator Nodland's recommended change to have mailing notifications be certified is right on the money. All notifications sent, whether to landowners or other affected political subdivisions, such as the county, need to be formally documented and made available as proof of proper notification. In our experience, we were told notices were mailed to landowners, but there was no hard proof. It is important all landowners are given a chance to respond to such an important change, and they can only do that if properly notified. Certified mail would clearly and appropriately document that important and essential effort was competently completed.

I support Senate Bill #2193 and urge you to recommend approval.

Respectfully submitted,

William D. Gion

William D. Gion
Human Resource Manager
Wyoming Casing Service, Inc.

#2

In support of SB2193:

Good morning Chairman Flakoll and members of the Senate Agriculture Committee.

I am Larry Syverson, a farmer from Mayville and Chairman of the Board of Township Supervisors of Roseville Township of Traill County. I am also the President of the North Dakota Township Officers Association. NDTOA represents nearly 6,000 township officers in 1,340 dues paying member townships.

Senate Bill 2193 specifies that when a city seeks to take authority over additional lands through annexation they must send notice to the property owners and affected political subdivisions with zoning or subdividing authority over those lands by certified mail. This requirement for a verifiable notice should not place any great burden on a growing city that intends to take on the added responsibilities of more area and residents. As far as this bill goes we support it.

We feel that this bill should go further to improve the notice requirement. This bill does not change the basic requirement that only a political subdivision with zoning or subdivision authority has to be notified of the resolution to annex. Thus it would not be necessary to notify an adjacent township that they were about to lose part of their tax base if the area to be annexed was within the "extra territorial" zoning authority of the city. In this situation the township would not have the zoning authority over the area and townships are not given subdivision authority. Townships only have the liabilities involved with the roads and residents and the responsibilities to administer the tax base in these areas.

Therefore I ask that an amendment be considered; on page one line 18 after authority add or taxing authority; and on page 2 line 24 after authority add or taxing authority. This change would allow that the subdivision that is financially responsible for this about to be annexed area should be notified that they are about to lose tax base and give them warning that they should budget accordingly. I would also mention that notice should be published in the official county newspaper as the affected area is in the county, not the city.

I ask that you consider such amendments and in any case give Senate Bill 2193 your favorable recommendation.

Thank you Chairman Flakoll, that concludes my prepared testimony this morning and I will try to answer any questions you or the Committee may have.