

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2346

2001 SENATE FINANCE AND TAXATION

SB 2346

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2346

Senate Finance and Taxation Committee

Conference Committee

Hearing Date 1/31/01

Tape Number	Side A	Side B	Meter #
1	x		44.1-end
		x	0-5.7
2/6/01 - 2		x	2.3-5.7
Committee Clerk Signature <i>Lynelle M. Trapp</i>			

Minutes:

Senator Urlacher: Opened the hearing on SB 2346, relating to exclusion of tax-exempt property from consideration in protests against special improvement project.

Senator Duaine Espegard: Co-sponsored the bill, testified in support. Written testimony attached.

Rod St. Aubyn: Representing himself, Former Senator from this district when this issue came about. Explained the history of the problem in the district.

Senator Nichols: Did the home owners know ahead of time what their burden would be?

Senator Duaine Espegard: They were notified 30 days in advance to protest.

Senator Nichols: There was no attempt on the part of those putting this together to set these costs up more fairly to the home owners?

Senator Duaine Espegard: Not initially.

Bruce Kopp: Representing himself, testified in support. I am one of those home owners in that district that this bill was drafted for. This bill will give an opportunity for taxpayers to make sure their rights are not infringed upon.

Arnold Thomas: President of ND Health Care Assoc., testified in opposition. We represent hospitals in the state. When a special assessment is levied, hospitals even if they are tax exempt are bound by the special assessment provision. This bill would limit our ability to raise a protest in the event we thought a special assessment was inappropriate. We would be happy to work with the sponsors relative to our concerns to be exempted out. If not, we would urge a do not pass.

Senator Duaine Espgaard: It was not the intention of the sponsors to include hospitals and we would be glad to work with them to get them exempt.

Jerry Hjelmsted: ND League of Cities, testified neutrally with a recommended change. Suggested an amendment.

Senator Urlacher: Closed the hearing. Action delayed.

Discussion held 2/6/01. Meter number 2.3-5.7.

AMENDMENT ACTION:

Motion made by Senator Stenehjem, Seconded by Senator Nichols, to move amendment numbered 10519.0102. Voice Vote taken. All in favor, amendment adopted.

COMMITTEE ACTION: 2/6/01

Motion made by Senator Christmann for a DO PASS AS AMENDED, Seconded by Senator Kroeplin. Vote was 5 yeas, 1 nay, 0 absent and not voting. Bill carrier was Senator Kroeplin.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2346

Page 1, line 9, remove "taxable" and after the comma insert "not including property owned by a political subdivision."

Page 1, line 12, remove "the taxable property included within"

Page 1, line 13, after the comma insert "not including property owned by a political subdivision."

Renumber accordingly

Date: 2/16/01  
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2346

Senate Finance and Taxation Committee

Subcommittee on \_\_\_\_\_  
or

Conference Committee

Legislative Council Amendment Number 10519.0102

Action Taken Move Amendment (voice vote)

Motion Made By Stenehjem Seconded By Nichols

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman					
Senator Wardner-Vice Chairman					
Senator Christmann					
Senator Stenehjem					
Senator Kroeplin					
Senator Nichols					

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 2/10/01  
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2216

Senate Finance and Taxation Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass As Amended

Motion Made By Christmann Seconded By Kroeplin

Senators	Yes	No	Senators	Yes	No
Senator Urlacher-Chairman	✓				
Senator Wardner-Vice Chairman	✓				
Senator Christmann	✓				
Senator Stenejem		✓			
Senator Kroeplin	✓				
Senator Nichols	✓				

Total (Yes) 5 No 1

Absent 0

Floor Assignment Kroeplin

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

**REPORT OF STANDING COMMITTEE**

**SB 2346: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2346 was placed on the Sixth order on the calendar.

Page 1, line 9, remove "taxable" and after the comma insert "not including property owned by a political subdivision."

Page 1, line 12, remove "the taxable property included within"

Page 1, line 13, after the comma insert "not including property owned by a political subdivision."

Renumber accordingly

2001 HOUSE FINANCE AND TAXATION

SB 2346

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2346

House Finance and Taxation Committee

Conference Committee

Hearing Date March 19, 2001

Tape Number	Side A	Side B	Meter #
1		X	0
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

**REP. AL CARLSON, CHAIRMAN** Opened the hearing.

**ROD ST. AUBYN, TESTIFIED IN PLACE OF SEN. DUAINÉ ESPEGARD, DIST. 43,**

**GRAND FORKS,** Introduced the bill as the prime sponsor. See written testimony. Mr. St.

Aubyn gave history from his personal experience.

**REP. CARLSON** Agreed that there are many political subdivisions that also pay special assessments, for example, the park districts pay special assessments, the Fargo schools pay special assessments when their land has services brought to it.

**ROD ST. AUBYN** Clarified, that even though they pay, who ultimately pays, it is the taxpayer. Who is supporting the park districts and the school systems? Those funds are coming from the taxpayer.

**REP. CARLSON** My point is, it should be distributed fairly. We don't have the opportunity to stop the project. It should be spread properly.

**REP. WINRICH** It is my understanding that, UND makes payments in lieu of taxes to the city of Grand Forks, for many of the services they have. In essence, the property that the university holds, does participate in the assessments.

**ROD ST. AUBYN** That is true, but I also sat on appropriations many times, where we actually appropriated those dollars for the special assessment. We bonded for some of those in the past.

**REP. WINRICH** I don't dispute that, but I don't think we should take that voice away. It is not just the taxpayers in that special assessment district that are paying that UND special assessment, it is taxpayers all over the state. In dealing with these kinds of protest, etc., the representatives of UND have to be cognizant of that and represent those interests.

**ROD ST. AUBYN** The situation in this particular case, the university was asked, and they had the ability to sign the protest, they are in a very awkward situation, because they support the Alerus Center, because of football. They recognize that they will need some other benefits from that, so it puts them in a very awkward situation, even though they know the ultimate cost of this facility. It ended up working out fine, because what the city ended up doing after almost an uprising, it was a situation where they backed off and spread some of the costs back to the Alerus project, itself. They reduced the overall assessment cost. It would be very simple, if someone wanted to, you could take a special assessment, define the special assessment district to a particular subdivision or a city, if they want a particular project, and it is adjacent to property they own, they could, basically, force the issue. John Walstad and myself talked about that, you could maybe leave the law the way it was and also, for every property owner, no matter how much property they own, they would have one vote and the small homeowner would have one

vote. If it is a majority of either that formula, or this formula, either one, they would have the right to protest. That was not real workable. It is a very difficult situation.

**REP. CARLSON** Actually, I like the bill better in the original form better than the present form, where it talks about taxable property, the people would get to voice a protest on this.

**ROD ST. AUBYN** One of the problems also, in an area not too far away, was the hospital, which is tax exempt, but they still pay property taxes.

**JERRY IJELMSTAD, NORTH DAKOTA LEAGUE OF CITIES,** Testified in opposition of the bill. Gave an explanation of why the Senate made a change on the original bill. The reason the Senate made a change was it was taking away the right to protest from churches, hospitals, etc., who do not pay taxes but do pay special assessments. They were not allowed to protest even though they would have to pay the special assessments. So the Senate changed it to political subdivisions, when they did that, we think they overshot just a little bit, because they are now taking away the right of other groups, such as counties, townships, park districts, and school districts, to be able to protest the special assessments. We can understand if a city would set up a district that included a majority of city property, but obviously, the city setting up that district is not going to protest that special assessment. Explained the amendments which were submitted. The amendment would not include the property of the political subdivision who is levying that special assessment, but all other property would be included so other political subdivisions could still retain their right to protest that special assessment which they felt was not fair. Related to the situation in Grand Forks.

**REP. CARLSON** Asked him to explain how the amendments will make the situation better.

**JERRY HJELMSTAD** The amendment, where they now say that property in the district would not include property owned by a political subdivision, the amendment will provide that the property in the district owned by a political subdivision, it will not include a political subdivision levying the special assessment. So that in a city, where they set up a special assessment district, and for instance, if the city owned two thirds of the property within the district, that property would not be included in the protest ability.

**REP. CARLSON** Let's take the example in Grand Forks with the golf course, would that have solved that problem?

**JERRY HJELMSTAD** In Grand Forks, I believe, the golf course was university property, so that would not be included under this. That is a situation where, if they were not allowed to protest, what happened there, that the university also felt the assessment was too high and they raised objections with the city, and the problem was ultimately corrected.

**REP. CARLSON** My question is, is this any better then current law?

**JERRY HJELMSTAD** The change with current law and the amendment I presented, is that, this would prevent a situation where the city would be able to set up a district that contained over half city property and thereby prevent anybody from being able to protest.

**STEVE VOGELPOHL, ATTORNEY IN BISMARCK** Did not testify for or against the bill, just offered information. What caught my attention on the language of this bill is that, I thought the intent was to limit the ability of certain political subdivisions from filing a protest against specials. Related to Chapter 40-22, I think to limit that ability, you will need to amend 40-22-17, if within thirty days, after the first publication, the owners of any property, can file a protest. All I think this bill does in its present language, is reduce the amount of the total area of the

improvement district. I don't think it stops the city, the park district, the school district and the counties from filing a protest. All I think it does is that when you take the total area, they can subtract out what they own. I don't think that is what the intent is here. I am not sure what it is. I think you need to look at another section here, if you are going to proceed.

**ROD ST. AUBYN** Addressed his concern with the amendment. This amendment doesn't do anything for the situation in Grand Forks. Ultimately, the residents agreed with the resolution of it. The amendment doesn't do anything. I would question the comment about a special assessment district, they are designed to accommodate the people affected by it, how is just one section of the university of North Dakota affected by it, why wasn't the entire campus affected.

**CONNIE SPRYNCZENATYK, BISMARCK CITY COMMISSIONER** Voiced her concern. We have had a problem in one community, we have talked with city people all over the state, and we can't find anyone who has put together a special assessment district in the same way. There are all kinds of processes and procedures. I understand, there was a problem in Grand Forks, but in attempting to fix the problem in Grand Forks, I am concerned that it will cause an unintended ripple affect that perhaps, isn't necessary. The reason I say that in all regards to former Sen. St. Aubyn, it sounds to me like the process worked. What the city did, was not correct. It was not the way these assessment districts are set up across the state, so it was taken care of, because the citizens did what they should do. They protested. It says to me, that the system works.

**REP. CARLSON** Your organization brought forward an amendment.

**CONNIE SPRYNCZENATYK** Sen. St. Aubyn is correct, from the point that, it is logical that a political subdivision proposing a special assessment district is not going to protest its own district and protest this property out of it. Any protest can be heard. In calculating whether you

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House Finance and Taxation Committee

Bill/Resolution Number SB 2346

Hearing Date March 19, 2001

have fifty one percent of the landowners, wanting out of the district, that will change the mix.

What we have been trying to do, is ask the community, from a practical standpoint, what they can live with. Our legislative committee has agreed to live with the amendment, but I am not so sure anyone in the state liked the bill in its original form. We all understand the problem.

With no further testimony, the hearing was closed.

**COMMITTEE ACTION** 3-19-01, TAPE #2, SIDE A, METER #870

**REP. WINRICH** Made a motion for a **DO NOT PASS**.

**REP. CLARK** Second the motion. **MOTION CARRIED**

14 YES      0 NO      1 ABSENT

**REP. SCHMIDT** Was given the floor assignment.

Date: 3-19-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2346

House FINANCE & TAXATION Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass

Motion Made By Rep. Winrich Seconded By Rep. Clark

Representatives	Yes	No	Representatives	Yes	No
CARLSON, AL, CHAIRMAN	✓		NICHOLAS, EUGENE	✓	
DROVDAL, DAVID, V-CHAIR	✓		RENNER, DENNIS	✓	
BRANDENBURG, MICHAEL	✓		RENNERFELDT, EARL	✓	
CLARK, BYRON	✓		SCHMIDT, ARLO	✓	
GROSZ, MICHAEL	✓		WIKENHEISER, RAY	✓	
HERBEL, GIL	✓		WINRICH, LONNY	✓	
KELSH, SCOT	✓				
KROEBER, JOE	✓				
LLOYD, EDWARD	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep. Schmidt

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

**REPORT OF STANDING COMMITTEE (410)**  
**March 19, 2001 1:11 p.m.**

**Module No: HR-47-6020**  
**Carrier: Schmidt**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2346, as engrossed: Finance and Taxation Committee (Rep. Carlson, Chairman)**  
**recommends DO NOT PASS (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).**  
Engrossed SB 2346 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

SB 2346

## SENATE BILL 2346

### TESTIMONY BEFORE THE SENATE FINANCE AND TAX COMMITTEE JANUARY 31,2001

Chairman Urlacher and members of the committee my name is Duaine Espegard and I am the Senator from District 43 in Grand Forks and I am here today to testify in favor of Senate Bill 2346.

Senate Bill 2346 is a simple bill to amend a section in the Century Code that deals with protests against special improvement projects. The bill seeks to exclude tax-exempt property from consideration in protests against special improvement projects.

This is a citizen's bill a taxpayer bill and is one of fairness.

The present law provides that when a special project district is set up the owners of a majority of the area included in the improvement district my protest. The law states that if the majority of the owners of the property protest, those protests become a bar against proceeding further with the improvement project as described in the plans and specifications.

This amendment to the law says that only the taxable property owners may protest against the special improvements.

This comes forward because of a practice of some municipalities to encompass within the district non-tax paying property for the purpose of insuring against the citizens' rights to protest the project.

This practice has taken place in my district and others and in effect takes away the right of protest from the tax paying owners of the property in the district and move forward on projects that are not in the best interests of the property owners within the district.

In the summer of 2000 notice was given to the owners of property in my district that called for a special assessment project to build new streets in and around the area of a new sports/convention facility. The streets to be built were designed to carry the heavy traffic around the new facility and called for very heavy construction. These specifications caused the cost of this project to become extremely high. In fact the cost was more the double the cost of similar streets in other residential areas. While the owners of property in the area did not protest the new streets being built, they did protest the high cost of this improvement. These high costs were an erosion of the equity of the owners of the property. They as a group appealed to the City about these costs and where told of their right to appeal the project.

They, as a group, went door to door and collected signatures of 95% of the owners in protest of the project. Upon the presentation of the protest were informed that they did not have a 50% majority of the property in the district. They were informed that the tax exempt property which included a portion of UND, a city golf course, and various other non tax paying property totaled more then 50% of the district and thus the tax paying owners were denied the right of protest. Upon investigation by the owners group found that the city had gerrymandered in the area and included these non-tax paying property.

This bill seeks to allow only the tax paying property the right to protest on special improvement projects that effect their property.

I request a favorable "Do Pass" on this citizens bill

Thank you

Rod St Aubyn  
G.F.F.K's

## SENATE BILL 2346

### TESTIMONY BEFORE THE HOUSE FINANCE AND TAX COMMITTEE March 19, 2001

Chairman and members of the committee, my name is Duaine Espegard and I am the Senator from District 43 in Grand Forks. Due to a work conflict, I am unable to appear today to testify in favor of SB 2346. I have asked former Senator Rod St. Aubyn to present my testimony today.

Senate Bill 2346 is a simple bill to amend a section in the Century Code that deals with protests against special improvement projects. The bill seeks to exclude property owned by a political subdivision from consideration in protests against special improvement projects.

This is a citizen's bill, a taxpayer bill, and is one of fairness.

The present law provides that when a special project district is set up, the owners of a majority of the area included in the improvement district may protest. The law states that if the majority of the owners of the property protest, those protests become the bar against proceeding further with the improvement project as described in the plans and specifications.

This bill simply amends the current law to exclude the property owned by political subdivisions in the calculation for the majority of owners who may protest against a special improvement.

This comes forward because of a practice of some municipalities to encompass within the district, property owned by political subdivisions for the purpose of precluding citizens' rights to protest a special improvement project.

This practice has taken place in my district and others, and in effect takes away the right to protest from the tax paying owners of the other property within the district. The result can be moving forward on projects that are not in the best interests of the property owners within the district.

In the summer of 2000, notice was given to owners of property within my district that called for a special assessment project, which included building new streets in and around the area of a new sports/convention facility. The streets to be built were designed to carry the heavy traffic around the new facility and called for very heavy construction. These specifications caused the cost of this project to become extremely high. In fact, the cost was more than double the cost of similar streets in other residential areas. While the owners of the property in the area did not protest the new streets being built, however, they did protest the high cost of this improvement. They, as a group, appealed to the City about these costs and were told of their right to appeal the project.

As a group they went door to door and collected signatures of 95% of the owners in protest of the project. Upon the presentation of the signatures, they were informed that they did not have the required 50% majority of the property in the district. They were informed that the property belonging to UND ( a golf course) and various other political subdivision owners totaled more than 50% of the district, thus denying tax paying owners the right to protest. Upon investigation by the owners group, it was discovered that the city had gerrymandered the area and included the political subdivision property.

This bill seeks to allow only tax paying citizen property owners the right, to protest special improvement projects which affect their own properties and their taxes.

I request a Do Pass on this citizen's bill.

Thank you.

Senator Duaine Espegard  
District 43  
Grand Forks

Jerry Hjelmstad

To: House Finance and Tax Committee  
From: North Dakota League of Cities  
Date: March 19, 2001  
Re: Senate Bill No. 2346

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2346

Page 1, line 10, replace "a" with "the" and after "subdivision" insert "levying the special assessment"

Page 1, line 13, replace "a" with "the" and after "subdivision" insert "levying the special assessment"

Renumber accordingly