

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2438

2001 SENATE POLITICAL SUBDIVISIONS

SB 2438

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2438

Senate Political Subdivisions Committee

Conference Committee

Hearing Date February 8, 2001

| Tape Number | Side A | Side B | Meter # |
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| 2 | x | | 1.2-17.6 |
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| Committee Clerk Signature <i>Mary Jo Wocken</i> | | | |

Minutes:

The hearing was opened on SB 2438; qualification for election to a political subdivision office that the officeholder not be delinquent in property taxes in the county.

SENATOR EVERY: I stand before you today with some conflict, that would be the case of a freshman legislator that was standing in the hallway and was asked to sponsor a bill, and under the advisement of some colleagues I did so. The conflict isn't with sponsoring the bill, the conflict is with the bill itself. With bill, after I got to thinking about if there is some litigation for, I'm thinking especially for folks in the Devils Lake area that have land under water that maybe disputing the property taxes, there could be a conflict there. I want to protect those people there, so please take that into consideration when you hear this bill today. SENATOR FLAKOLL: Will you be forwarding any of the amendments to that affect? SENATOR EVERY: I don't think so. SENATOR TOMAC: I respect the comments made by Senator Every. This is really not a senate bill, the reason that it started in the Senate is because of the deadline for the House is passed and

so we dropped it on the Senate side. I feel I really emphasize with Senator Emery because I did pretty much the same thing. But I think the issue deserves discussion. My reason for co-sponsoring it because it does bring out a point that I think deserves discussion. I think in retrospect, after co-sponsoring the bill, one really believes that you know that if people run for political office maybe they should have their taxes paid. But, then again, we have laws that require everybody to pay their taxes and there are penalties. And if in fact the issue did come up in election, the information that comes to me after signing onto the bill. You know, its kind of an individual election thing. So I also received a memo from the Attorney Generals office. There are some concerns that Senator Every raised about delinquent taxes. It seems to me that the other question I would add to that other that if your taxes are in dispute, and obviously we're talking about property taxes, because sales tax is what you pay on the spot, and income tax records are confidential, so it is pretty much reads property taxes. This is public record, and it is common practice for those people in the development business to not pay property taxes until the lots are sold. Does that then disqualify anyone that is a developer and a common practice to do that, there are a number of issues here that in hindsight probably need to be addressed and its probably a good discussion. But, in all fairness, to the bill, all intentions are honorable, but when you look at the bill, there are some elements that need to be discussed. Mr. John Fox left some amendments with Senator Tomac for the committee to see. They are not in proper form, but they do outline the concerns the Attorney General had. I didn't have any intentions of looking at them because I didn't research, once I received the memo from that, after giving it some other thought.

REPRESENTATIVE BOEHM: We are introducing a bill that I think is a good bill, it needs a fair hearing and its a simple bill. You have to have your taxes paid, your property taxes paid before you run for political office. Like it was mentioned earlier, there might be exceptions to where

individuals might not pay their taxes for a particular reason. I think that needs to be born out in the testimony, or in your deliberation. These amendments were sent to me by the Attorney General and I don't believe there is anybody here from that department. They are rather simple. Just states, that we take other responsible election officials after county auditor and the vacancy, probation and another. On Line 22, it says where it has to be put in to the Century Code. Those are rather simple amendments. SENATOR COOK: I'm noticing that these three sponsors are neighbors of mine. I figure pretty soon were going to hear something that happened. BILL KOCH: See written testimony. Association of Counties asked why legislators and elected officials are not included. First of all they would have to have an amendment to the Constitution and secondly, that's probably because they can't be elected without paying their taxes. This may not impact some of the counties, but then it may to others. When your from a small county, and your talking thousands of dollars, of operating revenue that the county needs to work on roads or what have you. SENATOR COOK: Basically this affects just property taxes? You have right now the open records? You can go and see if a county commissioner for example has not paid his property taxes. BILL KOCH: Yes. SENATOR COOK: Have you done that in Grant County? BILL KOCH: Yes. SENATOR COOK: I don't want to hear any names, or anything, but, is there a serious problem, with people serving in Grant County that have or are delinquent on there taxes? BILL KOCH: And I also understand, I checked with some other counties, and some of the counties, it may not be a real big problem, in our county it is a fairly big problem. When your talking thousands of dollars, quite substantial money, and then your told you don't have money in the..to run a maintainer to blade a road in the county, that's pretty hard to swallow, for the taxpayers. When they get no benefits back, and part of there tax money is going to fund them. SENATOR COOK: Mr. Koch, has this been going on for quite a while, I mean after five years;

BILL KOCH: This is been also a problem in the past. SENATOR LEE: Why then, aren't people who might be opposing these officials for elected office not be bringing that up and if they have brought it up and the electors don't elect this person, why should we step in? BILL KOCH: A lot of the people have said they didn't check this out, before they voted. Now some of them say we've known this before the election but nobody exposed these people. SENATOR LEE: My point, is that the opposition candidate there might have the same opportunity as our opposition candidates to check those public records. BILL KOCH: Right, I understand that. Right, but, everybody kind of wants to be Mr. Nice Guy, you know, until after the fact. SENATOR WATNE: (Example Meter # 11.8-12.3) There are people like us that would be hurt by this bill, and on the local level, I can think of a couple of our county commissioners who maybe hurt along this type of thing. This is a bill, like you said, that may hurt some people in Devil Lake. This seems like a bill to solve your problem locally. BILL KOCH: No, its not in just in my county. These is other, counties. SENATOR WATNE: That's my next question? BILL KOCH: Your talking like your taxes, now are you talking county taxes, or city taxes? SENATOR WATNE: With my property tax? BILL KOCH: The property that your talking about was that in the county or in the city? SENATOR WATNE: It was in the city and we built a 24 unit...BILL KOCH: This wouldn't, this bill doesn't cover the city taxes. SENATOR WATNE: Are you talking only counties? BILL KOCH: Only, counties and nothing to do with the city. SENATOR LYSON: When I read your bill, it sounds like you don't want anybody to be running for election if there taxes are delinquent? BILL KOCH: Right. SENATOR LYSON: Right, but then you bring in your statement, that Bismarek has one for default. Do you know the difference between the two? BILL KOCH: Yes, from I understand from Bismarek, I only illustrate the laws...SENATOR LYSON: I am asking you if you know the difference between the delinquency

and the default? BILL KOCH: Well default, well in Bismarek it means if your running for mayor or council man they check, and if your taxes aren't paid you can't get your name on the ballot.

SENATOR LYSON: North Dakota state law allows people to be delinquent on their tax, because all they do is pay a penalty for that delinquency. In default, after 5 years, when they take the property from you, now are you looking for delinquency or are you looking for default here?

BILL KOCH: Delinquency. Well, to keep, what were saying is your taxes should be current. I think that is what were saying in the bill. SENATOR FLAKOLL: This in no way, really

addresses, any problems if they are already in office and there delinquent? Correct? BILL

KOCH: This will go into affect say, when the time is up into the next election. SENATOR

FLAKOLL: But, if there fined prior to the election but that they get elected to a four year term, is there a potential that they could be delinquent for the remainder of there ...BILL KOCH:

According to the bill, then you have to keep your taxes current. SENATOR COOK: Senator

Flakoll, Line 16, an office of any elected political subdivision, they can be removed from office if they become delinquent. SENATOR FLAKOLL: What typically wouldn't as far as a due

date,for these taxes relative to the elections that your looking at? BILL KOCH: Pardon me.

SENATOR FLAKOLL: What date are we looking at as far as the due date of these taxes relative to the elections that are in question. Are the taxes due in February and elections in April

Or are the taxes due after the election? What kind of relationship do we have? BILL KOCH:

Senator, I believe in the bill here, it says all city elective political subdivisions also comes vacant on April 1st, that's when your auditor would check to see, you would have the time until April

1st to pay the property taxes up, so you would have some grace time actually. SENATOR

COOK: Senator, I believe the dates are February 15, March 5, and April 1st are the 3 dates.

SENATOR FLAKOLL: I'm not exactly sure the extent in terms of individual vs. if a person

Page 6
Senate Political Subdivisions Committee
Bill/Resolution Number SB2438
Hearing Date February 8, 2001

owns a company, which was brought up earlier. How will that relationship be in terms if you have a farm operation and rather than say under your name, its under a company but your basically the owner of that company, how does that work into this bill?

February 9, 2001 (Tape 1, Side A. Meter # 11.3-12.8)

Senator Lee Moved a Do Not Pass

Senator Flakoll, 2nd

No discussion among the committee members.

Roll Call Vote 8 Yes, 0 No 0 Absent

Carrier: Senator Christenson

REPORT OF STANDING COMMITTEE (410)
February 12, 2001 8:12 a.m.

Module No: SR-25-2984
Carrier: Christenson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2438: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO NOT PASS** (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2438 was placed on the Eleventh order on the calendar.

2001 TESTIMONY

SB 2438



OFFICE OF ATTORNEY GENERAL
STATE OF NORTH DAKOTA

Wayne Stenehjem
ATTORNEY GENERAL

MEMORANDUM

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TO: Senator Steven Tomac
✓ Representative James Boehm

FROM: John J. Fox, Assistant Attorney General JJF

RE: Senate Bill 2438

DATE: February 7, 2001

Sandi Tabor asked that I contact the sponsors of Senate Bill 2438. It may be helpful to add several amendments to clarify portions of the bill. I have attached the proposed amendments for your consideration. While the amendments are not critical, I think they would be useful in adding some pertinent language and cross references to related statutes.

The first amendment would add "or other responsible election official" after "county auditor" on line 8 of the bill. There are instances where political subdivision elections are not run in conjunction with a county election, for example, some school district or other special political subdivision elections.

The next amendment would add a cross reference to the main vacancy statute, N.D.C.C. § 44-02-01, on line 18 after "located."

The final amendment would be on line 22 providing that the state's attorney may use procedures from the removal statutes contained in N.D.C.C. chs. 44-10 or 32-13. These are more complete procedures for instituting removal actions and would offer some guidance to the parties and the court on how to proceed.

If you have any questions or wish to discuss this matter further, please contact me. My direct number is 328-2215.

pg
Attachment

PROPOSED AMENDMENTS TO SENATE BILL NO. 2438

Page 1, line 8, after "auditor" insert "or other responsible election official"

Page 1, line 18, after "located" insert "and the office shall be deemed to be vacant under subsection 9 of section 44-02-01"

Page 1, line 22, after "office" insert "and may use the procedures of chapter 44-10 or 32-13 to the extent applicable"

Renumber accordingly

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