

2019 HOUSE FINANCE AND TAXATION

HB 1214

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1214
1/14/2019
30721

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to membership of the streamlined sales tax governing board.

Minutes:

No attachments

Chairman Headland: Opened hearing on HB 1214.

Representative Dockter: Introduced bill. Under current statute we have two people from the House and two people from the Senate who are on the board and are able to vote during streamline sales tax. In Wayfair versus South Dakota we got the legislation by court ruling that now streamlined sales tax is implemented. We are the only state where someone from our tax department is a voting member. I'm looking for the tax commissioner or the commissioner's designee and a member of the tax commissioner's staff designated by the tax commissioner be one member and then we would just have one person from the Senate and one person from the House. We would eliminate one member from the House and one from the Senate. We feel that over the years with their expertise they should be able to be on the board and vote.

Chairman Headland: Being an appointee to streamline sales tax and with the decision of Wayfair versus South Dakota, can you explain to the committee why we still need a streamline sales tax governing board?

Representative Dockter: Now that it's enforced all the work to get this implemented is where the real work begins because now we have to work out the kinks. We have been working for years to get software and finding out which companies are getting the software. Since October 1 North Dakota has been doing the streamline sales tax and collecting the tax on internet sales. We are going to have more and more issues because states are going to have issues that need to be addressed.

Representative Toman: How does that voting work for implementation? All the states are represented so do 2/3 of them have to agree or do all of them have to agree or does that legislation come before each legislature?

Representative Dockter: We vote on different items and resolutions. We have a meeting every spring and every fall. It's 75% majority rule. Twenty-four states are involved.

Representative B. Koppelman: You indicated you would be dropping your members from four to three. Being that we vote with members from other states do we really want to delude our number of votes on that panel? It almost sounds that ledger A is two people; the tax commissioner or the designee would be one and a member of the staff would be two, plus two legislators which would total four. Am I reading that wrong?

Representative Dockter: No, you are correct. We would allow the tax commissioner to have voting members on the board; we would just get rid of one House member and one Senate member.

Representative B. Koppelman: Would we need anything in subsection 2 anymore if we make that change? That section is allowing the tax commissioner to designate a member.

Representative Dockter: We can take a look at that and will speak with the tax department and Senator Cook.

Chairman Headland: Is there further testimony in support? Is there any opposition? Are there questions for the tax department? Seeing none we will close the hearing on HB 1214.

Chairman Headland: We are open for discussion. How does the chairman determine who to recommend to the majority leader on which one of the current legislative designees gets to stay?

Representative Dockter: There are several options. Representative Hatlestad and myself will figure that out.

Representative Hatlestad: We are losing the legislator representation. I had suggested that if the Senate gets one then the House should get one as well.

Chairman Headland: Are there any other states aside from North Dakota who have legislators as their voting members?

Representative Dockter: No, we are the only state that has legislators.

Chairman Headland: Hence the bill in front of us.

Representative B. Koppelman: I wonder if we want to seed our policy making authority. Do we want to thin out the legislative involvement since we're the policy making branch?

Chairman Headland: How does the current voting process work in other states where they both have legislative and tax department participation?

Representative Hatlestad: Each state by legislation designates their representative on the board and if you're on the board then you get to vote. In our case we have the four legislators so section two is important to us as we depend on Myles for advice. Having a tax

representative is critical. If the streamlined sales tax does something it will have to come back to us for approval anyway.

Representative Dockter: Myles is an expert in the area so it benefits the state and streamline. Myles has been the chairman for the streamline and has done an excellent job. We will still have representation with one Senate member and one House member.

Chairman Headland: Has there been a time where you've been advised by the tax department on something and as a legislator you've had disagreement or total disagreement when it comes to a vote?

Representative Hatlestad: I don't know that we've run into that situation. Senator Cook has been on the committee since its inception and has tremendous knowledge of what is going on. Myles is very perceptive and has given good advice with what is best for North Dakota.

Representative B. Koppelman: I'm not trying to suggest anyone from the tax department would steer us wrong but when we think about how we do legislation I don't recall a time when I had a policy bill about something taxed where the tax department wanted to give me their opinion on policy. They were very helpful in telling me how to do it but in the end they were always neutral in their position. How much being voted on is policy versus administrative duties on how to execute things?

Chairman Headland: Do you see subsection 2 as giving the tax commissioner the opportunity to appoint someone to go along when the designee was unable to go themselves?

Myles Vosberg, Office of State Tax Commissioner: I think the reason there are two different sections now is that there are two different streamline meetings; state and local advisory committee, which is mostly people like myself working on how the laws are working now and drafting possible changes for the agreement, then the governing board meeting is the second part of the meeting when they take action on those changes. The two sections aren't there now because the governing board was the first section and allowed someone from the tax department to attend and participate in the other part of the meetings. If this bill were to pass I don't think you need section 2 of the bill. Section 1 identifies the voting rights. There is only one vote per state even though there are four members on the board from each state.

Representative Mitskog: I'm looking at the makeup of the streamlined governing board and the delegates; North Dakota seems to have the anomaly of having four elected officials serving to represent the state on the board while other states have both; elected officials and designees.

Representative B. Koppelman: Is there any limit to having two legislators from the House, two from the Senate, and somebody from the tax department so then the majority of them would carry the vote for North Dakota?

Myles Vosberg: I don't think so but I will check that for sure. I don't think there's a restriction on the number that can represent a state.

Chairman Headland: Since we've participated has Senator Cook been the person who votes for us?

Myles Vosberg: That depends. Sometimes he has been the president of the group. I've heard each of them vote on amendments and changes.

Representative Dockter: We talk about it beforehand. We have one voice per vote.

Chairman Headland: Is there anything else for Myles? Let's break for now.

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1214
1/15/2019
30830

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to membership of the streamlined sales tax governing board.

Minutes:

Attachment 1-3

Chairman Headland: Representative Hatlestad, does this amendment differ from Representative Dockter's amendment?

Representative Hatlestad: No, this is the amendment that is being handed out by Representative Dockter.

Representative Dockter: Distributed proposed amendments by Representative Hatlestad dated January 14, 2019, a marked up copy of the bill, and a Christmas tree version, see attachments 1, 2 and 3.

Representative Hatlestad: This amendment sets up the membership of the streamline sales tax group that represents North Dakota. It reduces it to three members instead of four; one from the tax commissioner's office, one from the Senate and one from the House.

Chairman Headland: Is that common amongst other states to have different numbers?

Representative Hatlestad: I've never really counted. Each state gets one vote. We've had four in the past, excluding the tax commissioner's representative who was strictly an advisor. We always thought that person should have a vote along with the representatives from the legislature.

Representative Dockter: That's the reason language was struck on line 10 because some people had concerns so we will have two legislators and just one from the tax commissioner's office. Some people were worried that it would be two and two; two people from the tax department and two people from the legislature then they could battle for the vote but now we have it set up with this amendment that legislators will have their overriding vote.

Representative Toman: This looks like a cost savings. I don't know what the cost savings is to send three people instead of five but we have the advisor with the tax commissioner's office and the legislative representation.

Representative Hatlestad: In the past the tax department has sent two people to the meeting that happens the day before the other meetings which is a state and local advisory group. This way they have one of them being a voting member on the second day. They may just send one person who would do double duty on the day before. Myles has done an outstanding job for us.

Chairman Headland: Any other discussions on the amendment?

Representative Hatlestad: **MADE A MOTION TO ADOPT THE AMENDMENT, see attachment 1.**

Representative Mitskog: **SECONDED.**

VOICE VOTE: MOTION CARRIED TO ADOPT AMENDMENT.

Chairman Headland: We have amended HB 1214 before us.

Representative Hatlestad: **MADE A MOTION FOR A DO PASS AS AMENDED.**

Representative Ertelt: **SECONDED**

ROLL CALL VOTE: 13 YES 0 NO 1 ABSENT
MOTION CARRIED

Representative Hatlestad will carry this bill.

January 15, 2019

DA 1/15/19

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1214

Page 1, line 7, overstrike "1."

Page 1, line 10, replace "a." with "1."

Page 1, line 10, remove "and a member of the tax"

Page 1, line 11, remove "commissioner's staff designated by the tax commissioner"

Page 1, line 12, replace "b." with "2."

Page 1, line 13, replace "c." with "3."

Page 1, line 14, overstrike "2. The tax commissioner"

Page 1, line 14, remove "may"

Page 1, line 14, overstrike "designate a member of the tax commissioner's staff to"

Page 1, line 15, overstrike "accompany and advise the members appointed under this section"

Page 1, line 16, remove "regarding"

Page 1, line 16, overstrike "multistate discussions to review or revise the agreement or to
conduct"

Page 1, overstrike line 17

Renumber accordingly

Date: 1-15-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1214

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: Hatlestad amendments by Tax Commission
#19.0865.01001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Hatlestad Seconded By Rep. Mitskog

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland			Representative Eidson		
Vice Chairman Grueneich			Representative Mitskog		
Representative Blum					
Representative Dockter					
Representative Ertelt					
Representative Fisher					
Representative Hatlestad					
Representative Kading					
Representative Koppelman					
Representative Steiner					
Representative Toman					
Representative Trottier					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote = Motion carried.

Reduces membership of the streamlined sales tax group to three members.

Date: 1-15-19
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1214

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: 19.0865.01001 1-14-19

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Hatlestad Seconded By Rep. Ertelt

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Eidson	✓	
Vice Chairman Grueneich	✓		Representative Mitskog	✓	
Representative Blum	✓				
Representative Dockter	✓				
Representative Ertelt	✓				
Representative Fisher	✓				
Representative Hatlestad	✓				
Representative Kading	✓				
Representative Koppelman	✓				
Representative Steiner	✓				
Representative Toman	✓				
Representative Trottier	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Hatlestad

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

REPORT OF STANDING COMMITTEE

HB 1214: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1214 was placed on the Sixth order on the calendar.

Page 1, line 7, overstrike "1."

Page 1, line 10, replace "a." with "1."

Page 1, line 10, remove "and a member of the tax"

Page 1, line 11, remove "commissioner's staff designated by the tax commissioner"

Page 1, line 12, replace "b." with "2."

Page 1, line 13, replace "c." with "3."

Page 1, line 14, overstrike "2. The tax commissioner"

Page 1, line 14, remove "may"

Page 1, line 14, overstrike "designate a member of the tax commissioner's staff to"

Page 1, line 15, overstrike "accompany and advise the members appointed under this section"

Page 1, line 16, remove "regarding"

Page 1, line 16, overstrike "multistate discussions to review or revise the agreement or to conduct"

Page 1, overstrike line 17

Renumber accordingly

2019 SENATE FINANCE AND TAXATION

HB 1214

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Lewis and Clark Room, State Capitol

HB 1214
2/27/2019
Job #32905

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 57-39.4-31 of the North Dakota Century Code, relating to membership of the streamlined sales tax governing board.

Minutes:

Attachments: 0

Chairman Cook: Called the hearing to order on HB 1214.

Representative Dockter, District 7, Bismarck: Introduced the bill. This bill has to do with the membership of streamline sales tax. The bill outlines that the Tax Commissioner or the Commissioner's designee would make up the streamline sales tax governing board and one member appointed both in the House and the Senate. We currently have no one from the Tax Department on the governing board. We do have Miles Vosberg who comes occasionally. We are one of the only states that does not have someone from their budget authority for their state. We set it up this way because when we do vote, there is only one vote per state. We confer with the members and then one person votes for us. We have 2 people from the legislative body and then one from the Tax Department. I ask for a do pass and I will stand for question.

Chairman Cook: Every state is allowed 4 members to represent the state on the governing board. The state has to have in code where those 4 members come from. We are the only state that has all legislators. Most states have a mix of legislators and executive branch people. Some states have all executive branch people.

Chairman Cook: Any further testimony on this bill? Hearing none we will close the hearing on HB 1214.

Senator Dotzenrod: Moved a Do Pass on HB 1214.

Senator Unruh: Seconded.

Chairman Cook: Any Discussion?

Senator Kannianen: So we are moving from 4 members down to 3?

Chairman Cook: We are. We have talked about 3 people as well as 2 people and different combinations with that but could never come to an agreement so we went with one from the House and one from the Senate so it was fair and then one from the Tax Department.

Senator Patten: Is that a national level thing or do they just meet in the state?

Chairman Cook: The board had 4 meetings a year but now we are down to 2. There will be some conference calls. They are held somewhere in the U.S. Two of them have been in Bismarck. This is since 2001. It is organized by the states to solve the problem Quill versus ND and get correction authority which we finally got last summer.

Senator Patten: Who serves on the board?

Chairman Cook: Right now it is Representative Hadlestad, Dockter, Cook, and Bekkedahl.

Senator Dotzenrod: The problem the courts have had with trying to impose a sales tax system on the internet or through catalogs has been that their courts have had such a disorganized patch work with counties. Items are taxed different ways so they said the states have to get it straightened out. This is trying to make some uniformity across subdivisions and states so that if we ever reached a point of national or internet sales tax, it would be solvable. The states have been doing good work on this and been trying to get that uniformity and getting a national system to impose these taxes.

Chairman Cook: I would say the first 4 meetings we had it was called implementing states. That was before the governing board got organized. All we did was spend time trying to come up with uniform definitions. Imagine drawing a line separating candy from groceries and how difficult that was. There are 22 states that decide whether it taxes candy or not. If you tax candy, the definition is the same in these 22 streamline states. We had the definitions done and all of a sudden breathe right strips came out. Was that a band aid? Was it a prosthetic device? We also have CRIC that stands for Compliance Review Interpretations Committee. The manufacturers of the breathe right strips said it was not a band aid. It was a prosthetic device. He went to CRIC and we have to change the definition.

Chairman Cook: Any further discussion?

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Cook will carry the bill.

Date: 2-27-19
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1214

Senate Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Dotzenrod Seconded By Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Cook	✓		Senator Dotzenrod	✓	
Vice Chairman Kannianen	✓				
Senator Meyer	✓				
Senator Patten	✓				
Senator Unruh	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment COOK

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

REPORT OF STANDING COMMITTEE

HB 1214, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1214 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

HB 1214

#1
HB 1214
1-15-19

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1214

Page 1, line 7, overstrike "1."

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Page 1, line 16, overstrike "multistate discussions to review or revise the agreement or to
conduct"

Page 1, overstrike line 17

Renumber accordingly

Sixty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1214

#2
HB 1214
6-15-19

Introduced by

Representatives Dockter, Hatlestad, Headland

Senators Bekkedahl, Cook

1 A BILL for an Act to amend and reenact section 57-39.4-31 of the North Dakota Century Code,
2 relating to membership of the streamlined sales tax governing board.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 57-39.4-31 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **57-39.4-31. Membership of streamlined sales tax governing board.**

7 The streamlined sales tax governing board consists of:

8 1. The tax commissioner or the commissioner's designee;

9 2. One member appointed by the majority leader of the senate; and

10 3. One member appointed by the majority leader of the house of representatives.

11 ~~2. The tax commissioner shall may designate a member of the tax commissioner's staff to~~

12 ~~accompany and advise the members appointed under this section with regard~~

13 ~~to regarding multistate discussions to review or revise the agreement or to conduct~~

14 ~~such other business as comes before the board.~~

Introduced by

Representatives Dockter, Hatlestad, Headland

Senators Bekkedahl, Cook

1 A BILL for an Act to amend and reenact section 57-39.4-31 of the North Dakota Century Code,
2 relating to membership of the streamlined sales tax governing board.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 57-39.4-31 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **57-39.4-31. Membership of streamlined sales tax governing board.**

7 ~~1. Two members of the house of representatives and two members of the senate, to be~~
8 ~~appointed by the chairman of the legislative management, shall represent this state on~~
9 ~~the~~ The streamlined sales tax governing board consists of:

10 ~~a.1. The tax commissioner or the commissioner's designee and a member of the tax~~
11 ~~commissioner's staff designated by the tax commissioner;~~

12 ~~b.2. One member appointed by the majority leader of the senate; and~~

13 ~~c.3. One member appointed by the majority leader of the house of representatives.~~

14 ~~2. The tax commissioner shall may designate a member of the tax commissioner's staff to~~
15 ~~accompany and advise the members appointed under this section with regard~~
16 ~~to regarding multistate discussions to review or revise the agreement or to conduct~~
17 ~~such other business as comes before the board.~~