

2021 HOUSE POLITICAL SUBDIVISIONS

HB 1483

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

HB1483
1/28/2021
House Political Subdivisions

Relating to the power of the board of county commissioners

Chairman Dockter:(9:00). Opened the hearing.

Representatives	
Representative Jason Dockter	P
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Mary Johnson	A
Representative Lawrence R. Klemin	P
Representative Donald Longmuir	P
Representative Dave Nehring	P
Representative Marvin E. Nelson	A
Representative Luke Simons	P
Representative Nathan Toman	P

Discussion Topics:

- Issuing bonds

Rep. Christensen: Introduced the bill. (Testimony #4025).

John Ertelt: (9:05) In favor. (Testimony # 4014, 4015).

Arvid Winkler: (9:11). In favor. (Testimony # 4009).

Aaron Burst, Association of Counties: (9:27). In opposition. No written testimony.

Chairman Dockter: Requested Aaron Burst work with Rep. Christensen and Rep. Longmuir on the bill.

Chairman Dockter: (9:33) Closed the hearing.

Carmen Hickle, Committee Clerk

HB 1483

Chairman and members of the assembly, my name is Cole Christensen, Representative from district 24.

House bill 1483 is a bill to fix a problem that has to do with the counties ability to acquire a property by lease.

Full disclosure, as I am getting new to the process I miscommunicated with legislative council on my intent of this bill. I hoped to take out the word "Lease" and to leave the rest. I would be grateful if someone wants to entertain the idea to amend the bill to include everything else in sub-section 16 other than the word "lease".

The point of this is to prohibit the county from getting around the vote of the people to proceed with a building project. Mainly, acquiring a property by lease. I don't think it is fair to disregard the voice of the people who will be paying for multi million dollar projects, with millions in operating costs indefinitely.

There will be other testimony after me to hopefully explain the situation of why this has been a problem.

With that, I will stand for any questions.

Thank you mr. Chair

COUNTY FINANCING OPTIONS - CORRECTION CENTER

1. General Obligation Bonds

NDCC §21-03-06(1)(a)

Levy No. 1231

- requires 60% public vote
- unlimited excess mill levy
- 20 year maturity
- bond amount limited only by 5% of assessed valuation debt limit
- \$808,338,308 assessed valuation x 5% = \$40,416,915 debt limit (2018 figures)

*Generally speaking,
can't prepay until
around the 7-year
mark.*

2. Limited General Obligation Bonds

NDCC §21-03-07(6), §57-15-06.6

Levy No. 1208

- 10 mill capital projects levy (20 mills with vote)
- no vote, but subject to protest by owners of taxable property (5% of assessed valuation threshold to block the bond issue)
- bond amount limited to amount that 10 mills can support
- 20 year maturity

3. Limited Tax Bonds

NDCC Chapter 57-47

Levy No. 1201

- borrow against general fund mills for primary governmental functions
- term is limited to 5 years
- County used this method for \$500,000 Bridge Bonds (Nov. 1, 2018)

4. Sales Tax Bonds

NDCC Chapter 11-09.1

- need home rule charter / voter approval
- bond amount limited to level of sales tax collections
- no maturity limit

5. Lease Purchase

NDCC §11-11-14(20)

- acquire real & personal property by lease-purchase agreement
- ground lease and lease purchase agreement with Trustee (bank)
- bank sells certificates of participation in the lease purchase agreement
- annual rental payments budgeted by County Commission
- sources for payment – 10 mill capital projects levy & 60 mill general fund
- does not count against debt limit; bond amount limited by available mills
- 30 year maturity is an option (no set limit on maturity)

*THERE IS THE
SECURITY
FOR LOAN
REPAYMENT.
THE GENERAL
FUND*

BUILDING AUTHORITY FINANCING OF PUBLIC BUILDINGS FOR POLITICAL SUBDIVISION USE

If a political subdivision has decided to build a public building and the construction cost cannot be covered by existing funds, the question becomes whether to incur indebtedness through voter approval and issuance of bonds of the political subdivision or find an alternative means of financing the project. An alternative method of financing public building construction which has been used in North Dakota is establishment of a building authority.

Use of a building authority to construct a public building is similar in many respects to financing through a bond issue of the political subdivision, but differs in several significant respects. To be viable, bonds issued by the building authority must be eligible for the federal income tax exemption for bondholders to make the bonds attractive to purchasers. To qualify for the federal income tax exemption status, a building authority must be established as a nonprofit corporation and under Internal Revenue Service Ruling 63-20:

1. The corporation must engage in activities that are essentially public in nature;
2. The corporation must be one that is not organized for profit;
3. The corporate income must not inure to any private person;
4. The state or a political subdivision must have a beneficial interest in the corporation while the indebtedness remains outstanding and, when the indebtedness is retired, the state or political subdivision must obtain full legal title to the property of the corporation for which the indebtedness was incurred; and
5. The corporation must have been approved by the state or a political subdivision, either of which must also have approved the specific obligations issued by the corporation.

A political subdivision lacks the power to form a nonprofit corporation building authority (see Attorney General Letter Opinion 2008-L-05). Individuals, including employees or elected officials of the political subdivision, may form a nonprofit corporation building authority. The building authority issues tax-exempt bonds for construction of a building to be leased to the political subdivision. The political subdivision makes lease payments from the building fund or other sources of the political subdivision. If lease rental payments are budgeted from available funds of the political subdivision, no indebtedness is incurred in the constitutional sense. However, because the revenue and appropriations of the political subdivision are an annual decision (school boards are limited to one-year leases by North Dakota Century Code Section 15.1-09-33(7)) and not an indebtedness backed by the property within the political subdivision, the bondholders run the risk of the political subdivision not appropriating funds to pay the lease rentals. The bondholders have no recourse against the political subdivision in the event of default.

One aspect of building authority financing of public buildings that has drawn criticism from some taxpayers is that use of a building authority avoids the requirement of voter approval, while bonding for construction of a public building generally requires 60 percent voter approval under Section 21-03-07. In addition, in the case of school buildings, construction of a new school building must be approved by the Superintendent of Public Instruction under Section 15.1-36-01, but that does not apply if a school building is to be constructed by a building authority.

USE OF BUILDING AUTHORITIES

The committee requested information on the extent of use of building authorities. There is no central source of information on building authority bonding of projects or leasing arrangements. The Secretary of State has the following 28 building authorities registered as corporations:

- City of Devils Lake Building Authority.
- Cass County Building Authority.
- Fargo School District Building Authority.
- Law Enforcement Center Building Authority.
- Minot School District Building Authority.
- Rugby Building Authority.
- West Fargo Park District Building Authority.
- Dickinson Recreation Building Authority.
- Grand Forks Public School District Building Authority.
- Glenburn Building Authority.
- South Heart Golf Course Building Authority.
- Morton County Building Authority.
- Devils Lake Public School District Building Authority.
- Enderlin Building Authority.
- Hankinson Public School District Building Authority.
- Nedrose School District Building Authority.
- Fort Yates Public School District Building Authority.
- Berthold School District Building Authority.
- Napoleon Public School District Building Authority.
- West Fargo Public School District Building Authority.
- Bismarck Park District Building Authority.
- South Prairie School District Building Authority.
- Grand Forks County Building Authority.
- Griggs County Central School District Building Authority.
- City of Fargo Building Authority.
- Central Cass Public School District Building Authority.
- Kindred Public School District Building Authority.
- Northern Cass Public School District Building Authority.

My name is Arvid Winkler. I reside at 12232 40th St SE, Valley City, ND 58072-9575 in Cuba Township of Barnes which is in District 24 under the current legislative districting plan.

I am educated at NDSU as a civil engineer. I am registered as a retired Professional Engineer in the State of Colorado.

I was the assessor for Cuba Township for 33 cycles beginning in 1977.

I extend my thanks for the organization of these four hearings on the same day regarding HB 1483, HB 1484, HB 1485, and HB 1303.

These bills have their origins with the recent design and construction of a new jail in Barnes County following a Griggs County Courthouse, and a Barnes County North School.

While in the employ of the Federal government, I spent some time working with their auditors during the construction of the Interstate Highway System.

I am in favor of these bills because they provide means to provide some clarifying legislation in NDCC, through the amendment process, which I feel is needed at this time.

Timeline of Events Barnes County Jail

Mar 2018 States Attorney Martinek to Commissioner Froelich

Vote not needed but then subject to protest petition within 60 days

Nov 2019 Contract for design etc

Jan 2020 Commissioner Froelich discusses ^{GT local Cenex} lack of need for vote but subject to protest

Feb 2020 Public meetings at Valley City Eagles

Revenue comments

Seems like construction superintendent already selected?

Feb 18 2020 Scott Wagner visits commission regarding financing

Mar 3 2020 Mike Manstrom visits commission regarding financing ^{undated five options list from somewhere}

Jun 30 2020 Bids opened

Jul 7 2020 Bid numbers analyzed in morning meeting

10 mills over 20 years not enough money

Call bondsman and adjourn about 11 am to reconvene at 3 pm

Jul 7 2020 Reconvene meeting at 3 pm

Suddenly the bond numbers work out

Move forward motion made by Chairman Carlblom

Construction contractors can mobilize

Jul 7 2020 Post meeting with review of large loose-leaf notebook

BC Auditor Beth Didier responds that financing is by lease revenue bonds

Bonds in Chapt 21 NDCC reveal need for initial resolution but where is it?

Revenue bonds in Chapt 40 also seem to need resolution

Jul 21 2020 Resolution passed on condition States Attorney approves

What becomes the resolution date regarding protest petition timeline?

Resolution quotes Chapt 11 NDCC

Requirements of Chapt 21 NDCC not met

Jul 29 2020 Steffes sale

Brock and Chad to visit lawyer regarding protest petition

Aug 4 2020 Updated resolution passed *2020-4*

Commissioner Schwehr does not know if update meets Chapt 21 requirements *21-03-09*
Scott by phone *begin preliminary proceedings (with construction in progress)*

Small difference in this resolution

Exact amount at later date?

Building authority corporation not part of this funding

Lease

Borrow over 30 year period

Ground release to site (which was done when?)

Lease purchase agreement

Annual rental equals princ + interest

Payment over 30 year period

Locked in at later date then amortization schedule

First 10 years can prepay

Approve update motion made by Chairman Carlblom

Protest petition is being circulated

Aug 4 2020 2:00 pm Bids opened in commission room with no commissioners present

No auditor of county staff present

No one seems to know where everyone is

Where were the commissioners and the auditor?

Sep 1 2020 BC Economic Development moves to transfer land to Barnes County

Sep 1 2020 Jim Stewart and Tonya Duffy make presentations with no NDCC citations
for jail already under construction

"The option you have chosen does not provide for a protest petition"

When was this option chosen? *question has been asked more than once*

Possibly between 11 am and 3 pm on Jul 7 2020

Who took the phone call from the bondsman? When and where?

incorporated herein by reference. The term "Contractor" as used in A201-2017, as amended, shall mean the Construction Manager.

§ 1.4 Project

Description

* The overall scope of this Project is Preconstruction and Construction Management services for a new 40-bed jail, Dispatch Center and possibly Sheriff's Office and Valley City Police Department. The new facility is expected to be located in the Greenline Deere Second Addition. The project includes demolition, precast concrete, concrete, masonry, structural steel, mechanical systems, electrical systems, detention equipment, interior fit-up, utilities and site work. The following construction budgets are included within this Agreement to be a referenced goal for the preconstruction phase and are not intended to represent the eventual GMP that will be part of this Agreement. Construction Manager understands the target project cost is desired by the Owner to be between \$10 - \$15 Million. It is understood that the project design began near August 2019 with construction commencing approximately May 2020. Completion is expected approximately August 2021.

ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project. See Exhibit A, which is incorporated into this Agreement by reference for clarifications regarding the Construction Manager's services.

§ 2.1 Preconstruction Phase

§ 2.1.1 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other. See Exhibit A, incorporated into this Agreement by reference, for clarifications regarding the Construction Manager's services.

§ 2.1.2 Consultation

The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 2.1.3 When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Owner's acceptance. The Construction Manager shall inform the Owner of the Architect's portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; and the occupancy requirements of the Owner.

§ 2.1.4 Phased Construction

The Construction Manager shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, or phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues. The Construction Manager shall not be responsible for the failure of the Architect to adhere to the Design Phase Milestone Schedule or Master Schedule or any acts or omissions of the Architect.

Scott Wegner ?

COUNTY FINANCING OPTIONS - CORRECTION CENTER

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NDCC Chapter 57-47

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- term is limited to 5 years
- County used this method for \$500,000 Bridge Bonds (Nov. 1, 2018)

bonded in indebtedness

4. Sales Tax Bonds

NDCC Chapter 11-09.1

- need home rule charter / voter approval
- bond amount limited to level of sales tax collections
- no maturity limit

lease, purchase (29) correction center, wall

5. Lease Purchase

NDCC §11-11-14(20)

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- ground lease and lease purchase agreement with Trustee (bank)
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subsection must be published in the official newspaper of the park district, and any owner of taxable property within the park district may, within sixty days after publication, file with the clerk of the park district a protest against the adoption of the resolution. Protests must be in writing and must describe the property that is the subject of the protest. If the governing body finds the protests have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property within the park district, as last finally equalized, all further proceedings under the initial resolution are barred.

21-03-08. Maximum interest rate, maturity, and denominations.

No bonds issued under the provisions of this chapter may bear interest at a rate or rates and be sold privately at a price resulting in an average net interest cost higher than twelve percent per annum. There is no interest rate ceiling on those issues sold at public sale or to the state of North Dakota or any of its agencies or instrumentalities. No bonds issued under this chapter may run for a longer period than twenty years from their date. The bonds may not bear a date earlier than the date of the election authorizing their issuance, if such election is required, nor earlier than the date of the adoption of the resolution of the governing body determining to issue bonds for which no election is required.

21-03-09. Initial resolution - Form.

Proceedings for the issuance of bonds under the authority of this chapter must be instituted by the adoption of an initial resolution therefor. Such initial resolution must state:

1. The maximum amount of bonds proposed to be issued.
2. The purpose for which they are proposed to be issued.
3. The assessed valuation of all taxable property in the municipality as defined in section 21-03-01.
4. The total amount of bonded indebtedness of the municipality. *3 COUNTY*
5. The amount of outstanding bonds of the municipality issued for a similar purpose.
6. Any other statement of fact deemed advisable by the governing body or voters proposing the same.

21-03-10. Initial resolution - How adopted.

The initial resolution may be:

1. Adopted by a majority vote of the governing body at any regular meeting thereof or at any special meeting of which notice has been given as required by law, without any previous action thereon or request therefor by the qualified electors or property owners.
2. Proposed by filing a copy thereof in the office of the auditor or secretary of the municipality, together with a petition signed by qualified electors of the municipality aggregating in number one-fourth of the number of qualified electors of the municipality, as shown by the pollbook for the last preceding annual or general election held therein, or if such pollbook was not kept, then as shown by a census of the qualified electors of such municipality verified by the affidavit of one of such petitioners. Such petition must ask that an election on the question of issuing such bonds be called. Upon the filing of such proposed initial resolution and petition, the governing body shall call such election in the manner specified by section 21-03-11.

21-03-10.1. School districts - Use of bond funds.

1. The initial resolution or petition providing for the issuance of bonds, whether adopted by a majority vote of the school board of a school district or proposed by the qualified electors of the school district as provided for in section 21-03-10, may, within the discretion of those proposing such initial resolution or petition, provide for a specific school plan for which the proceeds of the bond issue must be exclusively used except as otherwise provided in section 21-03-42. Such plan must designate the general area to be served by expenditure of bond proceeds for school purposes. The area intended

8-4 ?
7-21

**RESOLUTION #2020-3 RELATING TO
LEASE-PURCHASE FINANCING OF COUNTY JAIL**

BE IT RESOLVED by the Board of County Commissioners of Barnes County, North Dakota (the "County"), as follows:

SECTION 1. AUTHORIZATION.

1.1. Authorization. The County is authorized by Section 11-11-14 of the North Dakota Century Code, to enter into a lease-purchase agreement for the purpose of financing the acquisition, construction, and equipping of a new County jail (the "Project"). It is hereby found, determined and declared to be necessary and desirable and in the best interest of the County to begin preliminary proceedings to finance the Project by entering into a lease-purchase agreement and to create certificates of participation (the "Certificates") therein.

(20)

colliers ?

1

1.2. Financing and Sale. The County hereby engages Dougherty & Company LLC as the underwriter with respect to the financing of the Project. The County hereby engages Arntson Stewart Wegner PC as bond counsel for the financing.

1.3. Financing Documents. The County authorizes Dougherty & Company LLC and Arntson Stewart Wegner PC to complete the proceedings necessary for the sale and issuance of the Certificates. The County Auditor is authorized and directed to review and approve on behalf of the County an official statement to be distributed to potential purchasers of the Certificates. Provided, the lease-purchase agreement and related documents, and the issuance of the Certificates, including terms of sale, are subject to approval by the Board of County Commissioners at a subsequent meeting.

3

SECTION 2. REIMBURSEMENT.

2.1. Recitals.

(a) The Internal Revenue Service has issued Section 1.150-2 of the Income Tax Regulations (the "Reimbursement Regulations") dealing with the issuance of bonds all or a portion of the proceeds of which are to be used to reimburse the County for expenditures made prior to the date of issuance of such bonds.

(b) The Reimbursement Regulations generally require that the County make a declaration of its official intent to reimburse itself for such prior expenditures out of the proceeds of a subsequently issued series of bonds within 60 days after payment of the expenditures, that the bonds be issued and the reimbursement allocation be made from the proceeds of such bonds within the reimbursement period (as defined in the Reimbursement Regulations), and that the expenditures reimbursed be capital expenditures or costs of issuance of the bonds.

IRS

(c) The County desires to comply with requirements of the Reimbursement Regulations with respect to the Project and the proceeds of the Certificates. IRS

2.2. Official Intent Declaration.

(a) The County proposes to undertake the Project and to make original expenditures with respect thereto prior to the issuance of the Certificates (reimbursement bonds within the meaning of the Reimbursement Regulations), and reasonably expects to issue the Certificates (reimbursement bonds) for the Project, in one or more series, in a maximum principal amount of \$16,560,000. X
15 \$35,000 on 9-29-20

(b) Other than (i) de minimis amounts permitted to be reimbursed pursuant to Section 1.150-2(f)(1) of the Reimbursement Regulations or (ii) expenditures constituting preliminary expenditures as defined in Section 1.150-2(f)(2) of the Reimbursement Regulations, the County will not seek reimbursement for any original expenditures with respect to the Project paid more than 60 days prior to the date of adoption of this resolution. All original expenditures for which reimbursement is sought will be capital expenditures or costs of issuance of the Certificates. IRS
X

2.3. Budgetary Matters. As of the date hereof, there are no County funds reserved, pledged, allocated on a long term basis or otherwise set aside (or reasonably expected to be reserved, pledged, allocated on a long term basis or otherwise set aside) to provide permanent financing for the original expenditures related to the Project, other than pursuant to the issuance of the Certificates (reimbursement bonds). Consequently, it is not expected that the issuance of the Certificates (reimbursement bonds) will result in the creation of any replacement proceeds. IRS
X

2.4. Reimbursement Allocations. The County shall be responsible for making the "reimbursement allocations" described in the Reimbursement Regulations, being generally the transfer of the appropriate amount of proceeds of the Certificates (reimbursement bonds) to reimburse the source of temporary financing used by the County to make payment of the original expenditures relating to the Project. Each reimbursement allocation shall be made within 30 days of the date of issuance of the Certificates (reimbursement bonds), shall be evidenced by an entry on the official books and records of the County maintained for the Certificates (reimbursement bonds) and shall specifically identify the original expenditures being reimbursed. IRS
X
(4)
(6)

(Remainder of page intentionally left blank.)

Subject: Jail Bond Resolution
From: "Arvid Winkler" <awinkler@bektel.com>
Date: 7/30/2020 9:42 PM
To: <bcarlblom@barnescounty.us>

Commissioner Carlblom,
I am troubled by the contents, or lack thereof, of the resolution considered at the Jul 21 meeting.

Who drafted the resolution?

The maximum amount of \$16,560,000 does not match the \$15,890,637 amount of the Jul 7 move forward motion.

"begin preliminary proceedings" means what?

The resolution cites Section 11-11-14, but does that really mean Chapter 11 of NDCC?

What about Chapter 21-03? Especially NDCC 21-03-09?

It would seem to me that the following areas would be pertinent:

- 21-03-02(4)
- 21-03-03
- 21-03-07(1)
- 21-03-07(6)
- 21-03-09
- 21-03-14
- 21-03-19
- 21-03-47
- 40-35-04

which chapter?

It appears that you are trying to proceed without an election.
Apparently some form of revenue bonds is the way to get around that.

Stacie tells me that assessed valuation numbers for the current assessment year will not be available until after the state equalization meeting. *last finally equalized*
That tells me that we will need to use the 2019 numbers in any current publication.

Please look at the percentage of the valuation that is ag land.
Is ag land really producing close to sixty percent of the jail inmates?

It appears to me that going beyond 20 years gets into uncharted territory which may be a good trigger for protest petitions. *30 years*

While in the employ of the federal government, I worked for a time with these federal auditors. The starting point was always the law and the specifications.
If it is in the NDCC, perhaps you should do it.

Have you received a Debt Service Schedule (Bond Finance Summary)?

On two different occasions Beth has gone to a loose leaf notebook to get information for me.

I have not e-mailed this group previously so I do not have the names in the e-mail address book.

If you choose, I would suggest forwarding this to Beth and the other commissioners.

I will get around to it eventually, but I currently do not want to risk having one incorrect address mess up the whole transmission.

I am a resident of District 2.

Thank you,

Arvid Winkler
12232 40th St SE
Valley City, ND 58072-9575
(701) 840-2251 cell

Your Ad Could Be Here

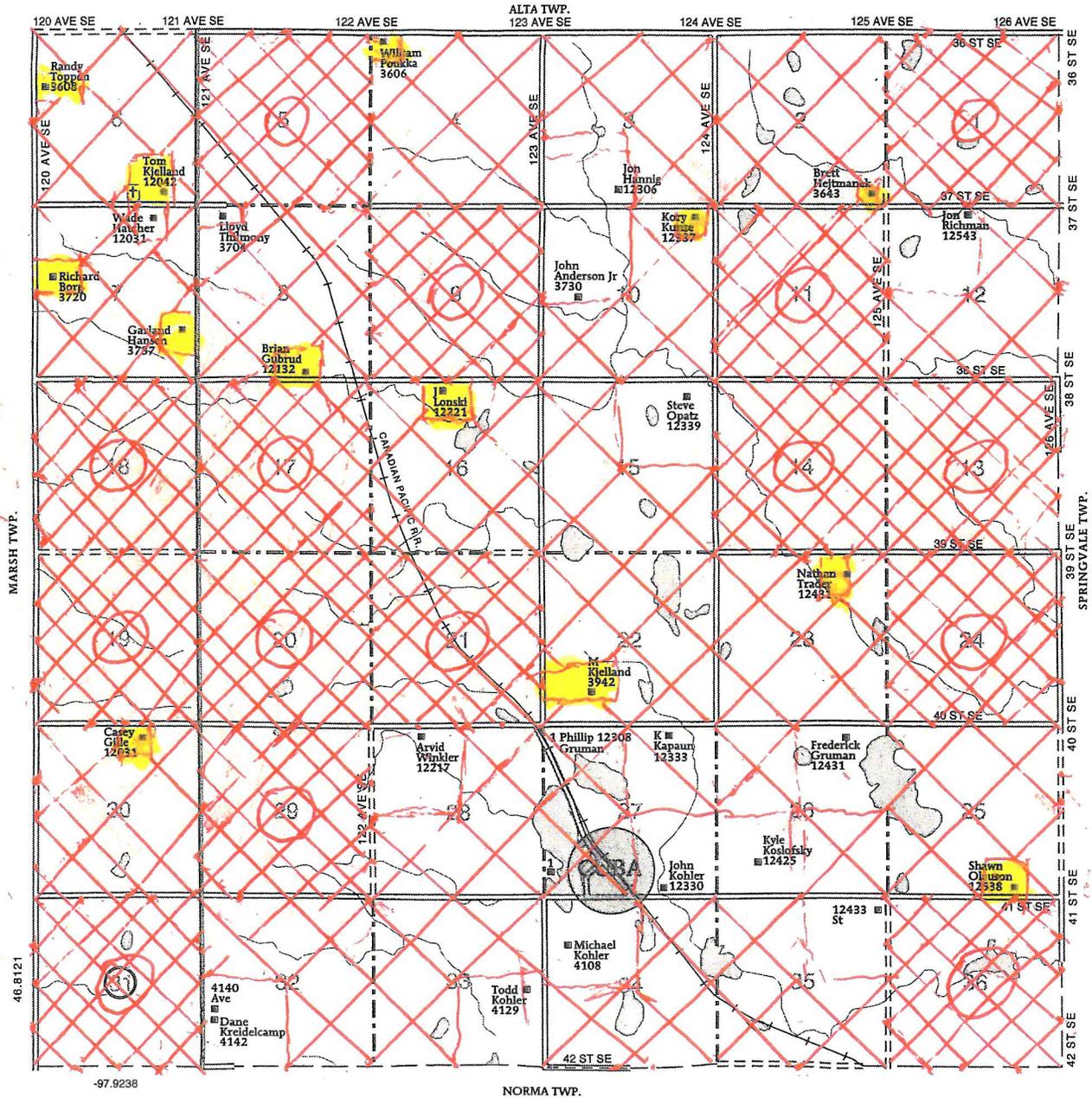
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T-139-N **CUBA DIRECTORY** **R-57-W**
(Residents - Owners or Renters)



1 5 9 11 13 14 17 18 19 20 21 24 29 31 36

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Room JW327B, State Capitol

HB1483
2/12/2021
House Political Subdivisions

Relating to the power of the board of county commissioners

Vice Chairman Pyle:(10:48). Opened for committee work.

Representatives	Attendance
Representative Jason Dockter	A
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Mary Johnson	P
Representative Lawrence R. Klemin	P
Representative Donald Longmuir	P
Representative Dave Nehring	P
Representative Marvin E. Nelson	P
Representative Luke Simons	P
Representative Nathan Toman	P

Discussion Topics:

- Amendment

Rep. Longmuir: Moved the proposed amendment. 21.0865.01001. Testimony #6537.

Rep. Nelson: Second the motion.

Voice vote carried.

Rep. Klemin: Moved to change the amendment to 3 million dollars.

Rep. Simons: Second the motion.

Voice vote carried.

Rep. Adams: Moved a do not pass as amended motion.

Rep. Johnson: Second the motion.

Representatives	Vote
Representative Jason Dockter	A
Representative Brandy Pyle	N
Representative Mary Adams	Y
Representative Claire Cory	N
Representative Sebastian Ertelt	N
Representative Clayton Fegley	N
Representative Patrick Hatlestad	N
Representative Mary Johnson	Y
Representative Lawrence R. Klemin	N
Representative Donald Longmuir	N
Representative Dave Nehring	N
Representative Marvin E. Nelson	N
Representative Luke Simons	N
Representative Nathan Toman	N

2-11-1 Failed.

Rep. Ertelt: Do pass as amended 21.0865.01002.

Rep. Simons: Second the motion.

Representatives	Vote
Representative Jason Dockter	A
Representative Brandy Pyle	Y
Representative Mary Adams	N
Representative Claire Cory	Y
Representative Sebastian Ertelt	Y
Representative Clayton Fegley	Y
Representative Patrick Hatlestad	Y
Representative Mary Johnson	N
Representative Lawrence R. Klemin	Y
Representative Donald Longmuir	Y
Representative Dave Nehring	Y
Representative Marvin E. Nelson	Y
Representative Luke Simons	Y
Representative Nathan Toman	Y

11-2-1 Passed

Vice Chairman Pyle: will carry the bill

Vice Chairman Pyle: (11:11). Closed the hearing.

Carmen Hickle, Committee Clerk

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1483

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 11-11 of the North Dakota Century Code, relating to lease purchase.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 11-11 of the North Dakota Century Code is created and enacted as follows:

Lease purchase - Building authority.

Unless a lease purchase or building authority agreement is approved by a vote of the majority of the qualified electors of a county during a general election, the governing body of a county may not enter a lease purchase or building authority agreement for the acquisition of any property or construction of any structure having a cost of more than four million dollars."

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1483

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SECTION 1. A new section to chapter 11-11 of the North Dakota Century Code is created and enacted as follows:

Lease purchase - Building authority.

Unless a lease purchase or building authority agreement is approved by a vote of the majority of the qualified electors of a county during a general election, the governing body of a county may not enter a lease purchase or building authority agreement for the acquisition of any property or construction of any structure having a cost of more than three million dollars."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1483: Political Subdivisions Committee (Rep. Dockter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1483 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 11-11 of the North Dakota Century Code, relating to lease purchase.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 11-11 of the North Dakota Century Code is created and enacted as follows:

Lease purchase - Building authority.

Unless a lease purchase or building authority agreement is approved by a vote of the majority of the qualified electors of a county during a general election, the governing body of a county may not enter a lease purchase or building authority agreement for the acquisition of any property or construction of any structure having a cost of more than three million dollars."

Renumber accordingly

21.0865.01001
Title.

Prepared by the Legislative Council staff for
Representative Longmuir
February 11, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1483

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 11-11 of the North Dakota Century Code, relating to lease purchase.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 11-11 of the North Dakota Century Code is created and enacted as follows:

Lease purchase - Building authority.

Unless a lease purchase or building authority agreement is approved by a vote of the majority of the qualified electors of a county during a general election, the governing body of a county may not enter a lease purchase or building authority agreement for the acquisition of any property or construction of any structure having a cost of more than four million dollars."

Renumber accordingly

2021 SENATE POLITICAL SUBDIVISIONS

HB 1483

2021 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Sakakawea, State Capitol

HB 1483
3/26/2021

A BILL for an Act to create and enact a new section to chapter 11-11 of the North Dakota Century Code, relating to lease purchase.
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Chairman Burckhard opened the hearing on HB 1483 at 10:30 a.m. Members present: Burckhard, Anderson, Lee, Larson, Kannianen, Oban, Heitkamp.

Discussion Topics:

- Bonding election
- County commissions
- General election
- School districts majority

[10:31] Representative Cole Christensen, District 24. Introduced HB 1483.

[10:38] John Ertelt, Oriska Resident. Provided oral testimony in favor.

[10:45] Aaron Birst, Legal Counsel, ND Association of Counties. Provided testimony #10823 in opposition.

Senator Heitkamp moves to **ADOPT AMENDMENT** change 3 million to 4 million and remove general election.

Senator Oban seconded.

Senators	Vote
Senator Randy A. Burckhard	Y
Senator Howard C. Anderson, Jr.	Y
Senator Jason G. Heitkamp	Y
Senator Jordan Kannianen	Y
Senator Diane Larson	Y
Senator Judy Lee	Y
Senator Erin Oban	Y

The motion passed 7-0-0

Senator Heitkamp moves **DO PASS, AS AMENDED.**

Senator Kannianen seconded.

Senators	Vote
Senator Randy A. Burckhard	Y
Senator Howard C. Anderson, Jr.	Y
Senator Jason G. Heitkamp	Y
Senator Jordan Kannianen	Y
Senator Diane Larson	Y
Senator Judy Lee	Y
Senator Erin Oban	Y

Senate Political Subdivisions Committee
HB 1483
3/26/2021
Page 2

The motion passed 7-0-0
Senator Heitkamp will carry HB 1349.

Additional written testimony: N/A

Chairman Burckhard closed the hearing on HB 1483 at 10:50 a.m.

Patricia Lahr, Committee Clerk

March 26, 2021

CS
3/26
1483

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1483

Page 1, line 8, remove "during a general election"

Page 1, line 10, replace "three" with "four"

Re-number accordingly

REPORT OF STANDING COMMITTEE

HB 1483, as engrossed: Political Subdivisions Committee (Sen. Burckhard, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1483
was placed on the Sixth order on the calendar.

Page 1, line 8, remove "during a general election"

Page 1, line 10, replace "three" with "four"

Renumber accordingly

Testimony to the Senate Political Subdivisions

March 26, 2021

Chairman Burckhard and Committee Members,

Thank you for the opportunity to provide testimony on HB 1483. My name is Aaron Birst and I am legal counsel with the association of counties. I have selected the opposition side but I believe this is an issue that can be resolved. I had previously testified against this bill in the House Political Subdivisions.

The original bill language was completely unworkable. As you can see under the original bill, Counties would not have been able to own a Courthouse, jail, motor grader, automobiles, land for road projects or any other public project. Thankfully, the House Political Subdivision committee recognized the deficiency of that bill and entertained a hoghouse bill.

After listening to the supporter's testimony and having seen some issues which have occurred over the years in all branches of Government, it was clear the concern was unlimited (non-voter approved) lease agreements for newly constructed buildings. The amended bill is an attempt to address that concern. If approved HB 1483, would limit Counties from entering lease purchase agreements for building that exceeded \$3 Million without first getting voter approval. The legislature has already established precedence for such a bill. Currently, NDCC 21-03-06.1(1) has the same restrictions for school buildings **with the exception being the dollar limit is \$4 million.**

This is the basis for our objection. NDACo believes in this case any restriction should be consistent with previous legislation and HB 1483 should be raised to a similar \$4 million dollar cap.

Thank you.