

2021 SENATE FINANCE AND TAXATION

SB 2326

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2326
2/3/2021
AM

A BILL for an Act to create and enact a new section to chapter 57-02 of the North Dakota Century Code, relating to a property tax reduction for over-assessed property; and to provide an effective date.

Chair Bell calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [09:31]

Discussion Topics:

- Property Assessment
- Selling price
- Arms-length transactions
- Property types applicable
- Abatement process

Senator Clemens [09:31] introduces the bill in favor #5180.

Linda Svihovec, [9:41] Research Analyst, ND Association of Counties in opposition #4935.

Katie Paulson, [9:44] Director of Tax, McKenzie County orally provides real estate tax information.

Paul Houdek, [10:01] City Assessor, City of Grand Forks Assessor's Office in opposition #4875.

David Lakefield, [10:05] Finance Director, City of Minot in opposition #5098

Additional written testimony:

Nick Lee, City Assessor, City of West Fargo in opposition #5048.

Chair Bell adjourns the hearing. [10:07]

Senator J. Roers [10:08] moves DO NOT PASS
Senator Piepkorn second

Senators	Vote
Senator Jessica Bell	Y
Senator Jordan Kannianen	Y
Senator Scott Meyer	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Jim Roers	Y
Senator Mark Weber	Y

Motion passes 7-0-0
Senator Piepkorn carries

Chair Bell adjourns the meeting. [10:09]

Joel Crane, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2326: Finance and Taxation Committee (Sen. Bell, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2326 was placed on the Eleventh order on the calendar.

#5180

February 3, 2021

Senate Finance and Tax Committee

Senate Bill 2326

I am David Clemens, Senator from District 16 in West Fargo and Fargo. I am here today to introduce Senate Bill 2326.

The purpose of this bill is to bring equity between what a property has been assessed for and what the property was actually sold for. If the assessed value exceeds the selling price, the owner/seller would be entitled to a reduction in future property tax liability.

It is the seller's responsibility to provide the accessor with documentation as to the selling price and the accessor shall provide seller with a certificate showing amount of reduction the seller may claim against future property tax liability.

This bill was brought to me from constituents who are concerned about their selling price not being equal or above the assessed value.

I would ask for your support of SB2326 and open for any questions.

#4935

Testimony Prepared for the
Senate Finance & Taxation Committee

February 3, 2021

By: Linda Svihovec, NDACo



RE: Senate Bill 2326

Good morning Madam Chair Bell and committee members. For the record, my name is Linda Svihovec with the North Dakota Association of Counties. Thank you for the opportunity to speak in opposition to Senate Bill 2326 on behalf of our 53 counties and their officials.

It seems peculiar that this bill adjusts taxable value just one way. If it is appropriate to lower a property value due to a single sale, wouldn't it be appropriate to raise that property's value if the sale price exceeds what is placed on it for tax purposes? If the seller is issued a certificate for reduction in future taxes on a property that sold for less than the true and full value, shouldn't the seller also be issued a certificate for increase in future taxes owed if the property sells for more than the true and full value?

It appears that, as written, SB2326 wouldn't meet the standard of Article X, Section 5 of our state's Constitution that states: "*Taxes shall be uniform upon the same class of property including franchises within the territorial limits of the authority levying the tax.*" This would, somewhat arbitrarily lower an individual property, but never raise them for the same reason.

There are processes in place already for property owners to appeal their valuation, at the local, county and state level, using whatever sales information they feel is relevant. Numerous property owners do this every year, and if the information provided is convincing, they are granted the relief they seek.

As written, counties cannot support Senate bill 2326, and urge a Do Not Pass recommendation.

TESTIMONY ON SENATE BILL 2326

Senate Finance & Taxation Committee

February 2, 2021

Paul Houdek, City Assessor, City of Grand Forks, ND

Mr. Chairman and members of the committee, my name is Paul Houdek, and I am the City Assessor for the City of Grand Forks. I want to thank you for the opportunity to provide testimony in opposition to this legislation.

I am contacting you today in opposition of Senate Bill 2326. This type of bill, at first glance, may sound like a good idea, but there are many unintended consequences that come from passing such a bill. In any mass appraisal model, equity is just as important as reaching market value. This bill will undoubtedly create inequities in every jurisdiction in the state. The real estate market is not a perfect model where everything sells for “market value”. True and Full value is the Assessor’s opinion of market value. The true and full value assigned by the Assessor is an opinion of value by a trained professional using the best and most current market data available. One sale of one property does not mean that is the market value of that property. That one sale is just one sample of data in the overall market. The logic behind this bill completely ignores the overall market data, as well as the cost approach, and the income approach. The real estate market is imperfect and there are many reasons that motivate different buyers and sellers to agree on a purchase price. In some cases the buyer is more motivated and the price they are willing to pay goes up. In other cases the seller is more motivated and the price they are willing to accept goes down accordingly. The “market value” is a measure of the sum-total of all the market data available at any given time, not just the result of one transaction.

What happens when a property sells for more than the true and full value? If the sale price equals market value, then it would seem the right thing to do would be to raise value on any property that sells for more than the true and full value as well. Market value and sale price are not synonymous.

Banks do the financing for real estate transactions all the time. They almost always require an appraisal. If the sale price and “market value” were always the same there would be no point in the bank requiring an appraisal. They require an appraisal precisely because sale price and market value are not always the same.

The Grand Forks City Assessor and the City of Grand Forks Legislative Committee oppose this bill. I would also ask you to oppose this bill as well.

#5098

**Senate Finance and Taxation
Chairman Jessica Bell
February 2, 2021**

**By: David Lakefield
Finance Director, City of Minot
701-857-4784**

SB 2326

Chairman Bell and Members of the Senate Finance and Taxation Committee, my name is David Lakefield and I am the Finance Director for the City of Minot. I would like to thank you for your time to address this bill this morning.

The City of Minot is opposed to Senate Bill 2326. There are a number of unintended consequences that arise when you adjust the tax liability for some properties but not others. An adjustment based on a single transaction with no consideration of other factors that are equally important in determining market value is a rush to judgement.

First, someone is going to have to make the determination that a particular sale is actually an arm's length transaction. That determination may not be obvious in every transaction and will require resources.

There are also several factors that can affect sales price that are not readily apparent from looking at a closing document. Someone may need to sell the property quickly and willing to accept a lower price in exchange for a quick closing. Someone else may sell without an agent, so the seller is willing to accept a lower price due to the lack of broker fees.

Please keep in mind that the assessed values are set by February of the taxable year and market fluctuations can vary greatly by the end of the year.

If a property were to sell for more than the assessed value, would there be any retroactive adjustment to the assessed value? If not, this would create additional inequities in the system.

The Assessors in North Dakota have been tasked with fairly and equitably determining the value of taxable property in our state. They are directed to be within 90-100% of market value across the tax base. This does not mean that they will be exact on each and every property but they should be close with the bias being to the lower side of 100%.

There are a number of processes that are already in place to allow property owners the ability to challenge the assessed value of their property and there is currently an adjustment process that can be utilized to correct cases where the assessed value does not match the market value of the property.

Thank you for your time today. I would urge you to give SB 2326 a “do not pass” recommendation.



**Testimony on SB 2326
Presented to the Senate Finance and Taxation Committee
Prepared by Nick Lee, West Fargo City Assessor
Wednesday, Feb. 3, 2021**

1 Representative Bell and committee members: I am writing to express my
2 opposition to SB 2326, which relates to a property tax reduction for over-assessed
3 property; and to provide an effective date. This bill does not take into account that
4 markets can change significantly between when the assessed value is set (based on
5 prior year's sales) and when a property sells.

6 True and full values for calculating property taxes are determined based on sales
7 from the previous year. In an increasing market, the true and full values from the
8 previous year will likely be less than what properties are selling at in the current market.
9 In a declining market, the values will likely be more than what properties are selling at in
10 the current market. If this bill passes, in a declining market a majority of sales could then
11 receive a special reduction because they sold in that year. However, this is unfair to
12 other property owners who are also experiencing a declining value but do not receive
13 the benefit because they did not sell.

14 In the current system, equalization is our primary focus and we have the ability to
15 adjust for a declining market in an equitable manner. In a declining market, after all the
16 sales are gathered for the year we reduce the values across the board as appropriate.
17 Everyone receives equitable treatment in that year, and everyone receives a
18 correction based on the reduced sales for the next year. This process allows us to treat
19 all property owners equitably; regardless of if the property was sold in that year.

20 North Dakota has an abatement process that further allows residents to address
21 their home values. Properties that sell for less than the assessed value, or any property
22 that feels their assessment is overstated, have the ability to file an abatement and have
23 their value potentially corrected for up to two years in the past. Just as proposed in this
24 bill, they have to provide documentation that this is an arm's length sale. However,

25 instead of the assessor deciding what an arm's length sale is, the current abatement
26 process puts the decision in the hands of our elected representatives to make the
27 choices.

28 This bill also does not account for situations where the home seller moves out of
29 the local tax entity, or state.

30 For these reasons, I ask for a DO NOT PASS recommendation on SB 2326.