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Lloyd B. Omdahl

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# UNUSUAL MAJORITY REQUIREMENTS AND NORTH DAKOTA SCHOOL ELECTIONS

LLOYD B. OMDAHL\*

At least 10 states, among them North Dakota, have challenges pending in state and federal courts contesting the legitimacy of requiring 60% or other unusual majorities for elections in school bonding or school mill levies. The case against unusual majorities rests substantially on the premise that such a requirement gives the negative voters more voting power than the positive voters, thereby violating the equal protection guarantee of the Fourteenth Amendment.

When the Supreme Court gives its opinion, it will have significant impact on school fiscal policies in North Dakota since state laws have several requirements for unusual majorities.

In North Dakota, a 60% majority is required for increasing a general fund mill levy over 25%; a 60% majority is required to approve a bond issue; a two-thirds majority is required to transfer money from a special reserve fund or building fund to a general fund; a two-thirds majority is required to levy for the operation of a junior college; a 60% majority is required to establish a school building fund of not more than 10 mills.

Because of the renewed interest in requirements for unusual majorities, caused primarily by recent litigation, the University Bureau of Governmental Affairs initiated a comprehensive compilation of statistics in school bond and mill levy elections in North Dakota from July 1, 1961 through June 30, 1970. Statistics for the first four years of this period were adopted from an independent study by Ronald L. Broeker and loaned to the Bureau by the University College of Education. New data was gathered for the period of July 1, 1965 to June 30, 1970.

During this 9-year period, voters in the various school districts of North Dakota considered 295 bond issue proposals of which 182 (61.7%) passed and 113 (38.3%) failed. These figures of themselves are not particularly significant until closer scrutiny is given to those 113 which lost. Then we find that 88 (77%) of those that failed

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\* Director, University of N. Dak. Bureau of Governmental Affairs.

did have majorities in excess of 50% but not quite large enough to meet the unusual majority requirements. In other words, had there not been a requirement for unusual majorities, 270 (91%) of the bond issue proposals would have succeeded.

When the data on bond issue proposals was arrayed by calendar year, no significant patterns were detected in the win-loss ratios. They tended to be very erratic. It is interesting to note, however, that the number of bonding proposals submitted during the last three full years (1967, 1968, 1969) was down somewhat from that for each of the previous five full years.

#### BOND ISSUE PROPOSALS BY YEAR

|                    | Pass |       | Fail |       | Total |
|--------------------|------|-------|------|-------|-------|
| 1961 (From July 1) | 21   | 63.6% | 12   | 36.4% | 33    |
| 1962               | 28   | 70.0% | 12   | 30.0% | 40    |
| 1963               | 21   | 72.4% | 8    | 27.6% | 29    |
| 1964               | 19   | 47.5% | 21   | 52.5% | 40    |
| 1965               | 28   | 71.8% | 11   | 28.2% | 39    |
| 1966               | 26   | 65.0% | 14   | 35.0% | 40    |
| 1967               | 12   | 52.2% | 11   | 47.8% | 23    |
| 1968               | 9    | 40.1% | 13   | 59.9% | 22    |
| 1969               | 16   | 61.5% | 10   | 38.5% | 26    |
| 1970 (To July 1)   | 2    | 66.7% | 1    | 33.3% | 3     |
|                    | 182  | 61.7% | 113  | 38.3% | 295   |

To establish general guides for grouping schools into three classes, enrollment was used for the schools for which the bond proposals were being made. Schools were divided by enrollment groups of 1 to 199, 200 to 499, and 500 and over. When school enrollment was measured against the pass-fail ratio, statistics indicated that the success ratio was very high in small school districts—or 88.5%. As the table below indicates, 46 passed and 6 failed. Larger school districts had poorer success ratios and both of those categories were relatively similar.

#### SUCCESS OF BOND PROPOSALS BY SCHOOL ENROLLMENT

| Enrollment   | Pass |       | Fail |       | Total |
|--------------|------|-------|------|-------|-------|
| 1—199        | 46   | 88.5% | 6    | 12.5% | 52    |
| 200—400      | 80   | 55.9% | 63   | 44.1% | 143   |
| 500 and over | 56   | 56.0% | 44   | 44.0% | 100   |
|              | 182  | 61.7% | 113  | 38.3% | 295   |

Another table was prepared relating size of enrollment to community support but this time a finer definition was made of the degree of support for the various bond proposals. In the following table, we note the extraordinary strength of community support for bond issues in small schools—with 76% or more voter approval in 65.4% of the elections.

VOTE ON BOND ISSUES BY SCHOOL ENROLLMENT

| Enrollment   | Per Cent in Favor of Issue |      |        |       |        |       |         |       |     |
|--------------|----------------------------|------|--------|-------|--------|-------|---------|-------|-----|
|              | 0—25%                      |      | 26—50% |       | 51—75% |       | 76—100% |       |     |
| 1—199        | 0                          | 0.0% | 3      | 5.8%  | 15     | 28.8% | 34      | 65.4% | 52  |
| 200—499      | 1                          | 0.7% | 16     | 11.2% | 91     | 63.6% | 35      | 24.5% | 143 |
| 500 and over | 0                          | 0.0% | 15     | 15.0% | 58     | 58.0% | 27      | 27.0% | 100 |
|              | 1                          | 0.3% | 34     | 11.5% | 164    | 55.6% | 96      | 32.6% | 295 |

As an auxiliary compilation, the research staff prepared a table averaging the size of proposed bond issues by school enrollment. The proposals for the larger schools were considerably larger, on the average, than the proposals for the smaller schools.

AVERAGE SIZE OF BOND PROPOSAL BY ENROLLMENT

| Enrollment   | Average Amount of Proposal in This Group | Number of Proposals | Total of Proposed Bond Issues |
|--------------|--|---------------------|-------------------------------|
| 1—199        | \$106,950                                | 52                  | \$ 5,561,412                  |
| 200—499      | \$229,353                                | 143                 | \$32,797,509                  |
| 500 and over | \$558,641                                | 100                 | \$55,864,051                  |

Since wide variations can exist in the impact of particular bond issues in the various districts, an attempt was made to place the bond proposal decisions on an equal basis by using the average per pupil amount of the bond issue proposed. This was done by dividing the amount of the bond issue proposed by the number of students enrolled in the district. These were grouped into three categories and the pass-fail statistics were arranged accordingly.

Those bond issues that carried a smaller obligation in terms of the student enrollment had considerably more success than those which carried high bonding obligations. The lowest category—\$1 to \$499 per pupil—had an almost 70% pass record while the highest category fell off to 50%.

**SUCCESS OF BOND ISSUES BY  
PER PUPIL AMOUNT OF BOND ISSUE**

| Per Pupil Amount of Bond Issue | Pass |       | Fail |       |     |
|--------------------------------|------|-------|------|-------|-----|
| \$1—499                        | 72   | 69.9% | 31   | 30.1% | 103 |
| \$500—999                      | 93   | 58.9% | 65   | 41.1% | 158 |
| \$1000—1500                    | 17   | 50.0% | 17   | 50.0% | 34  |
|                                | 182  | 61.7% | 113  | 38.3% | 295 |

The next three tables relate to those 88 bond proposals that received more than 50% voter approval but fell short of the unusual majority requirements and were therefore lost.

When the statistics on these 88 proposals were tabulated by year, there were no discernible trends or significant conclusions to be drawn.

**BOND ISSUE BY YEAR**

| Year                | Number of Proposals | Received Over 50% Approval Yet Failed | Percent of all Elections in Year |
|---------------------|---------------------|---------------------------------------|----------------------------------|
| 1961 (From July 1)  | 33                  | 8                                     | 24.2%                            |
| 1962                | 40                  | 12                                    | 30.0%                            |
| 1963                | 29                  | 7                                     | 24.1%                            |
| 1964                | 40                  | 17                                    | 42.5%                            |
| 1965                | 39                  | 8                                     | 20.5%                            |
| 1966                | 40                  | 12                                    | 30.0%                            |
| 1967                | 23                  | 9                                     | 39.1%                            |
| 1968                | 22                  | 8                                     | 36.4%                            |
| 1969                | 26                  | 7                                     | 26.9%                            |
| 1970 (Until July 1) | 3                   | 0                                     | 0.0%                             |
|                     | 295                 | 88                                    | 29.8%                            |

As indicated by the following table, the smallest schools seemed to suffer least from the unusual majority requirements because they were able to muster massive majorities in support of their bonding proposals. However, the medium and large schools lost one-third of their bonding proposals because of the unusual majority requirement.

**BOND ISSUE BY ENROLLMENT**

| Enrollment   | Total Number | Over 50% Approval Yet Bond Issue Failed |       |
|--------------|--------------|---|-------|
| 1—199        | 52           | 6                                       | 11.5% |
| 200—499      | 143          | 49                                      | 34.3% |
| 500 and over | 100          | 33                                      | 33.3% |
|              | 295          | 88                                      | 29.8% |

When the state was roughly divided into four regions, the northeast and southeast regions did the poorest, geographically speaking, in securing passage of their proposals, thus suffering most from the unusual majority requirements. Both regions lost around one-third of their proposals by the unusual majority requirement while the northwest suffered the least.

**BOND ISSUE PROPOSALS RECEIVING 50% BUT FAILED BY REGION**

| Region    | Number of Proposals | Over 50% Approval But Failed | % of Elections |
|-----------|---------------------|------------------------------|----------------|
| Northeast | 127                 | 46                           | 36.2%          |
| Southeast | 68                  | 22                           | 32.4%          |
| Southwest | 39                  | 11                           | 28.2%          |
| Northwest | 61                  | 9                            | 14.8%          |
|           | 295                 | 88                           | 29.8%          |

During the 9-year period covered by the statistics compiled, the school districts in North Dakota held 711 elections relating to mill levies. Of these, 483 (67.9%) proposals were approved and 228 (or 32.1%) were rejected. A smaller percentage of the defeated mill levy proposals—around 41%—were killed by the unusual majority requirement than had been lost in bonding elections. Ninety-four proposals of the 228 defeated won by 50% or more but less than the unusual majority required in the various types of mill levy elections.

When the election statistics were arranged on a year-by-year basis, no significant patterns developed to indicate particular trends taking place in such elections.

**VOTE ON MILL LEVY PROPOSALS BY YEAR**

| Year               | Pass |      | Fail |      | Total |
|--------------------|------|------|------|------|-------|
|                    | No.  | %    | No.  | %    |       |
| 1961 (From July 1) | 10   | 55.6 | 8    | 44.4 | 18    |
| 1962               | 55   | 73.3 | 20   | 26.7 | 75    |
| 1963               | 31   | 59.6 | 21   | 40.4 | 52    |
| 1964               | 64   | 72.7 | 24   | 27.3 | 88    |
| 1965               | 57   | 81.4 | 13   | 18.6 | 70    |
| 1966               | 68   | 61.8 | 42   | 38.2 | 110   |
| 1967               | 63   | 84.0 | 17   | 22.7 | 75    |
| 1968               | 58   | 62.4 | 35   | 37.6 | 93    |
| 1969               | 53   | 63.1 | 31   | 36.9 | 84    |
| 1970               | 34   | 73.9 | 17   | 37.0 | 46    |
|                    | 483  | 67.9 | 228  | 32.1 | 711   |

When the mill levy elections were correlated with school enroll-

ment, the statistics indicated that the smaller schools had a much higher success ratio—over 85%—than did the larger schools—55.9%.

### SUCCESS OF MILL LEVY PROPOSALS BY SCHOOL ENROLLMENT

| Enrollment   | Pass |      | Fail |      | Total |
|--------------|------|------|------|------|-------|
|              | No.  | %    | No.  | %    |       |
| 1—199        | 212  | 85.8 | 35   | 14.2 | 247   |
| 200—499      | 181  | 59.7 | 122  | 40.3 | 303   |
| 500 and over | 90   | 55.9 | 71   | 44.1 | 161   |
|              | 483  | 67.9 | 228  | 32.1 | 711   |

In view of the interest in those proposals losing because of the requirements for unusual majorities, the mill levy proposals defeated in that fashion were given special attention. As in the bond proposals, these were arranged by calendar year to determine whether or not trends were developing. As the table below indicates, there does not seem to be any pattern developing as a result of the unusual majority requirement.

### MILL LEVY PROPOSALS RECEIVING OVER 50% APPROVAL BUT FAILED BY YEAR

| Year | Number of Proposals | Total | % of All Mill Levy Elections |
|------|---------------------|-------|------------------------------|
| 1961 | 18                  | 0     | 0.0%                         |
| 1962 | 75                  | 10    | 13.3%                        |
| 1963 | 52                  | 12    | 23.1%                        |
| 1964 | 88                  | 12    | 13.6%                        |
| 1965 | 70                  | 1     | 1.4%                         |
| 1966 | 110                 | 14    | 12.7%                        |
| 1967 | 75                  | 8     | 10.7%                        |
| 1968 | 93                  | 15    | 16.1%                        |
| 1969 | 84                  | 16    | 19.0%                        |
| 1970 | 46                  | 6     | 13.0%                        |
|      | 711                 | 94    | 13.2%                        |

When the 94 mill levy proposals that lost with over 50% of the vote were correlated with enrollment, the statistics again revealed that the smaller schools are being less affected by the unusual majority requirement—having lost only 8.1% of the proposals in this fashion. The larger schools, on the other hand, were losing almost twice as many, over 15%, in this fashion.

MILL LEVY PROPOSALS RECEIVING OVER 50% APPROVAL  
BUT FAILED BY ENROLLMENT

| Enrollment   | Number of Proposals | Total | % of Elections |
|--------------|---------------------|-------|----------------|
| 1—199        | 247                 | 20    | 8.1%           |
| 200—499      | 303                 | 48    | 15.8%          |
| 500 and over | 161                 | 25    | 15.5%          |
|              | 711                 | 94    | 13.2%          |

When checked against geographical regions, figures indicated that the southeastern portion of North Dakota had lost the least under the unusual majority—3.8%—while the southwest was hit hardest with 24.3%.

MILL LEVY PROPOSALS RECEIVING 50%  
BUT FAILED BY REGION

| Region    | Number of Proposals | Over 50% But Lost | % of All Mill Levy Elections |
|-----------|---------------------|-------------------|------------------------------|
| Northeast | 303                 | 42                | 13.9%                        |
| Northwest | 129                 | 27                | 20.9%                        |
| Southeast | 209                 | 8                 | 3.8%                         |
| Southwest | 70                  | 17                | 24.3%                        |
|           | 711                 | 94                | 13.2%                        |

In summary, 182 bonding and mill levy proposals out of 1,006 total proposals were defeated because of the unusual majority requirements. Since this constitutes slightly over 18% of all proposals submitted, it must be concluded that the requirement for unusual majorities has had a significant impact on school fiscal policy in North Dakota. No doubt, the requirement discouraged a considerable number of additional proposals from being submitted out of fear of defeat.

It must also be concluded that the requirement for unusual majorities has been more adverse to the larger schools than smaller schools since the larger schools have been losing more proposals under the requirement. Thus, the requirement seems to be discouraging improvement and strengthening of larger schools in the state.



# NOTES

Cartoon by Scott Long reprinted from the  
Minneapolis Tribune, 1970.

## Seems Like Only Yesterday . . .

