

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

FREE CONFERENCE COMMITTEE ON SENATE BILL 195

Call to Order: By **CHAIRMAN JOHN HARP**, on April 15, 1997, at 6:30 a.m., in Room 325.

ROLL CALL

Members Present:

Sen. John G. Harp (R)
Sen. Bruce D. Crippen (R)
Sen. Mike Halligan (D)
Rep. Chase Hibbard (R)
Rep. Dan W. Harrington (D)
Rep. Robert R. Story, Jr. (R)

Members Excused: None

Members Absent: None

Staff Present: Greg Petesch, Legislative Services Division
Jodi Jones, Committee Secretary

HEARING ON SB 195

CHAIRMAN JOHN HARP discussed amendment #4 (**EXHIBIT 1**).

Dave Woodgerd, MT Department of Revenue, discussed amendment #4. (**EXHIBIT 1**).

CHAIRMAN HARP asked how many individual pieces of property are there in Montana? **Dave Woodgerd** said he thought it was around 700,000.

SENATOR MIKE HALLIGAN asked what the difference is between the two sections in amendment #4. **Dave Woodgerd** said the first one is restricting the taxing unit and how much taxable value it can have. The second one is restricting the actual tax liability on an individual piece of property. **Dennis Burr, Taxpayers Assoc.** said striking section 4 would make it more simple.

CHAIRMAN HARP asked if there is a reason to have section 4, if cyclical reappraisal is stuck? **Greg Petesch** said this is one of the things most people have found confusing about I-105. There are two actual caps within it, one is on the unit itself and the other is on individual property with all of these exemptions. The statewide policy has tended to deal with taxing units and this sub-section has been largely ignored.

Vote:

REP. CHASE HIBBARD MOVED TO STRIKE SECTION 4 IN ITS ENTIRETY.

Discussion:

REP. DAN HARRINGTON asked if that took out the mills too.
CHAIRMAN HARP said no, that is covered in the other section and this just deals with individual properties.

CHAIRMAN HARP asked if this provision had ever been used. Greg Petesch said he didn't know for sure.

REP. BOB STORY asked if sub-section 4 deals with the individual property owner and is the mill cap included in this section to prevent a tax increase on an individual property owner. And does the other section deal with the dollar cap on local government. Greg Petesch said yes.

REP. HIBBARD asked if this section has ever been used? Greg Petesch said it is somewhat inconsistent with the taxing unit section. It is very difficult for a taxing jurisdiction to go back and make sure each individual piece of property is not being affected by a taxing policy, with the exception of construction, expansion, and remodeling, which cause the individual property to go up. Cyclical reappraisal certainly causes individual pieces of property to go up.

REP HIBBARD asked if there would be any problems if this was stricken. Greg Petesch said this has always been a problem. There can't be a cap on each individual parcel and have general laws that operate uniformly. There is an internal contradiction between a taxing unit cap and an individual property cap.

SENATOR BRUCE CRIPPEN used the example of a developer buying a piece of property that borderlines the city limits, but is classified as Agriculture. He brings the property into the city limits and puts in a housing development. Two things have happened; he is now in the taxing unit of the city and the character of the property has changed. If this is taken out would this type of change still be covered under section 2. Greg Petesch said yes, section 2, covers the valuation of the entire taxing unit, it doesn't address individual pieces of property. But when the property came into the city limits then it would be subjected to city taxes. We already deal with increases in value because of improvements. The effect on the parcel would be the same whether this was here or not.

Vote:

MOTION TO STRIKE SECTION 4 CARRIED UNANIMOUSLY.

{Tape: 1; Side: A; Approx. Time Count: 6:46 a.m.; Comments: .}

Discussion:

Gordon Morris, MT Assoc. of Counties, discussed some examples of a five percent increase impact on counties. (EXHIBIT 2). He also passed out and discussed an editorial (EXHIBIT 3). He discussed amendment #4, option 1 (EXHIBIT 4).

SENATOR HALLIGAN asked why are they using the six years and what is going to be levied that in 5 years it will be taken off? **Gordon Morris** said the assumption would be that you would not take it off because general depreciation would take care of it. The reason they came up with six is it would coincide with general election cycles.

Alec Hansen, MT League of Cities and Towns, passed out a sheet concerning the effects of a five percent property tax increase (EXHIBIT 5). He said any tax increase of five percent or less for a duration of less than six years would be passed by a simple majority. Anything over five percent and longer than six years would require a higher voting standard. He said a five percent increase in the cities and towns will not have a devastating effect on the local taxpayers. This is not a long term obligation and it is not permanent.

Greg Petesch said they currently have the school bond election requirements applying to any vote. He said under the amendments proposed by local governments they are allowing everyone to get back to where they were in 1996.

CHAIRMAN HARP asked if there was a local government who's values for some reason had dropped, can they can automatically get back the 1996 tax dollars? **Greg Petesch** said yes, but with one exception, if there is a catastrophic loss and the valuation goes down by five percent or more they have to go to the vote provision. He discussed amendment #4, option 1 (EXHIBIT 4).

REP. STORY asked if the general election was the November election. **Greg Petesch** stated yes.

REP. STORY asked if the Presidential election would have a greater turnout, percentage wise than other general elections. **Greg Petesch** said in the last general election there was a 70 percent voter turnout statewide.

REP. STORY said he would assume that if it is not a general election that the percent turnout would be around 50-60 percent and if you take 40 percent of that it is not very many people. **Joe Lamson, Office of Public Instruction**, said since 1980 there hasn't been a big change in numbers between non-presidential and presidential years. The average has been around 70 percent.

CHAIRMAN HARP said they are not just discussing general elections, but using the term regular elections. **Greg Petesch** said this is different than that. Regular elections are those

that are regularly scheduled and would include a primary. Statewide general election is the November election.

CHAIRMAN HARP asked if they used the word regular that would give a taxing unity more opportunities to get their issue before the taxpayer. **Greg Petesch** said that was correct.

REP. HIBBARD said when they are talking about imposing restrictions like this, it would be helpful if they knew how many elections didn't get a 40 percent turnout. **Alec Hansen** said a city election rarely gets a 40 percent turnout. He said Missoula just recently had an election concerning open space and they did not get a 40 percent turnout, however there was no question about whether people supported it or not. He said last fall, Helena had their open space initiative tied in with the general election and had well over 40 percent, but the only problem they had was counting the votes because the precincts don't fall inside and out of the city as they should.

{Tape: 1; Side: A; Approx. Time Count: 7:09 a.m.; Comments: .}

CHAIRMAN HARP asked about a major bond issue in Missoula Co. to purchase or set in place a regional prison and was that held during the last general election? **SENATOR HALLIGAN** said that was correct.

CHAIRMAN HARP asked about the open space initiative that was on the ballot, what election cycle was that under in Missoula. **Alec Hansen** said it was a city election.

CHAIRMAN HARP asked if they were under the same provisions as school bond elections? **Alec Hansen** said they are the same as school elections. There was a strong majority for the proposal, but they didn't meet the percentage standard.

REP. STORY asked how do they determine the number of qualified electors? **Greg Petesch** said the motor voter laws have made it much easier to increase the qualified electors and they don't get the immediate purging effect of voter lists that they used to get. Voters are placed on an inactive list and in order to get off of that list all they have to do is vote. This will increase the number of qualified voters and they have made it easier for people to register to vote.

REP. STORY asked if there had been an increase in these numbers. **Greg Petesch** said he didn't know

CHAIRMAN HARP asked if the motor voter has been in effect for the last two years. **Greg Petesch** said it has been phased-in over the past four years.

REP. STORY said there is a concern here with the amendments, because in school elections those mills have to be voted on every

year by a simple majority. If the people don't support them every year they come off.

Greg Petesch handed out amendments with temporary provisions and explained them (**EXHIBIT 6**).

CHAIRMAN HARP said it will be at least four years before a reappraisal takes place and how would the Department of Revenue manage their work force? **Mary Bryson, Department of Revenue**, said it takes three years to complete a reappraisal. Right now they are planning the next reappraisal as the last one was just completed. She said right now they only have one year to implement this legislation and they would start the next reappraisal cycle in January 1998.

CHAIRMAN HARP said this bill is striking 1997 so would the reappraisal have to start in 1998? **Mary Bryson** said maybe she didn't understand the amendment, because as she reads it the next reappraisal will go into effect January 1, 2001.

CHAIRMAN HARP said January 1, 2001 is when the reappraisal will start, not when it will go into effect.

SENATOR CRIPPEN asked how many reappraisers can the department get rid of? **Mary Bryson** said she needed more time to look at this.

SENATOR HALLIGAN asked if they are going to a time certain they need to look at the situation in Sweetgrass Grass Co. where a \$100,000 home is paying \$212 and in Circle the same \$100,000 home is paying \$400 and someone could challenge this in court.

CHAIRMAN HARP said in Circle the reason those taxes are higher has nothing to do with reappraisal and valuation. When net gross proceeds were taken away in those counties, they shifted all of the dollars on the residential property taxpayers. **Dave Woodgerd** said if a taxpayer does come to court and argue that they are being unfairly treated because of this system, then the court will more than likely strike down that tax. When we say this is temporary then we are okay. People didn't know what their fair market value was before, but they do now and if this disparity becomes big enough, the court will rule this type of system down.

SENATOR HALLIGAN asked if the timing was a problem in that this will not begin until 2001 and would be completed in 2002 or later. **Dave Woodgerd** said the way he understands this language is the new values will be implemented in 2001 and perhaps this needs to be clarified.

SENATOR CRIPPEN asked how many years was there between 1986 and the next reappraisal. **Dave Woodgerd** said there was 10 years.

SENATOR CRIPPEN asked if there was any challenges during that time. **Dave Woodgerd** stated no.

SENATOR CRIPPEN asked what the reasoning was for 10 years. **Dave Woodgerd** said it was a departmental decision.

SENATOR CRIPPEN said if they get beyond four years by action of the Legislature, could that be declared unconstitutional. **Dave Woodgerd** said in those ten years nobody could say what their market value was for sure. However, under this legislation, they will have actual appraisal numbers and the more years between reappraisals the greater the disparity will be in numbers.

SENATOR CRIPPEN asked if the determination was on the fair market values rather than the length of time? **Dave Woodgerd** said it is the difference in fair market values and the time is not as important.

SENATOR CRIPPEN asked if in the Albright Decision if the court dealt with the concept of fair market value. **Dave Woodgerd** said yes they did. They determined fair market value to be the standard.

SENATOR CRIPPEN said in the Albright Case they said there was other ways of determining this without using fair market value. He said although fair market value is important, it is not as important as how you apply the system statewide. He asked if North Dakota had a 10 year reappraisal and do they use fair market value. **Dave Woodgerd** said yes they do.

CHAIRMAN HARP said with class 3 and 4 and with the phase in, ratcheting and using 1996 values, the Montana Legislature is acting reasonable to all taxpayers. **Dave Woodgerd** said yes, he believed that was true. He said, they can tell the court system that the Legislature recognized there was a problem and felt something needed to be done to deal with this problem and to have a study committee that would come back in the next session and look at those provisions.

CHAIRMAN HARP asked if they are on good constitutional ground with a reasonable approach for all taxpayers in Montana. **Dave Woodgerd** said yes.

CHAIRMAN HARP said the information is so refined that the ability for individual taxpayers to know what their values are is so accurate that the longer they extend the time, the more potential they will have that it may end up in court. There is a reason for setting a time certain because there is a real interest in looking at other solutions to how we tax in Montana. He asked if the way the bill is drafted right now, that the Legislature can retain the right to revalue property as quick as the next session? **Dave Woodgerd** said he agreed.

REP HIBBARD said if they put on a date certain for another reappraisal it takes the pressure off for finding a more permanent solution. He is beginning to lean against having the temporary language that was discussed before.

{Tape: 1; Side: B; Approx. Time Count: 7:40 p.m.; Comments: .}

SENATOR HALLIGAN said if they don't look at something, the taxpayer is going to come in with accurate data and challenge this. Then if they throw out this system, the trust is lost and they have the full 1996 reappraisal going into effect. Time certain may delete the pressure, but it needs to be started sooner.

CHAIRMAN HARP asked what the management of personnel would be in the Department of Revenue? **Mary Bryson** said if the reappraisal cycle started in January 1, 2001, then they would come back to the 1999 legislature with a reduction in personnel.

SENATOR CRIPPEN asked what does the department have all of this staff for and could they reduce the staff by 40 FTE's? **Mary Bryson** said they anticipate that there might be 40 FTE's that would be needed for reappraisal. She didn't know if the department would be willing to give up 40 FTE's for the 1999 biennium. She said to implement this legislation they would need a full staff for 1998.

REP. HARRINGTON asked if the department starts dismantling its staff and along the way this situation comes into conflict with the Constitution and there are changes, how will the department handle this. **Mary Bryson** said if the Legislature came back in two years and put back into place what they currently have, then the department would not be able to respond as quickly.

REP. HARRINGTON said in past years the Legislature has been on the Department to move these reappraisals forward and sometimes they were not done. He asked if the Department thought they were moving in the other direction. **Mary Bryson** said yes, currently they are on a three years cycle and now they are extending it to ten years.

REP. HARRINGTON said there are a lot of ideas about temporary vs. permanent and how they are going to dismantling the system and this causes some problems. If they are really ready to move to a different system and how they were going to do it, then the department would know what direction to move in. He said as it stands right now he has some serious problems with it.

CHAIRMAN HARP said if they don't put something in motion nothing ever occurs in government. What they are doing here is putting something in motion to try and stop this massive increase due to reappraisal and have a study committee come up with some alternatives. He asked how much the last reappraisal cost? **Mary Bryson** said the annual budget of the property reappraisal division is \$11 Million. And they use approximately \$8 Million for reappraisal.

CHAIRMAN HARP said if they take these 40 FTE's is it going to be less than \$1 Million. **Mary Bryson** said it would be between \$1-\$2 Million.

CHAIRMAN HARP said over 67 percent of the department's current dollars would stay in place to continue reappraising properties in Montana for new construction and properties that are valued annually. **Mary Bryson** said that was correct.

CHAIRMAN HARP asked if they considered this as a dismantling of their department. **Mary Bryson** said no, but the Department would have to look at the whole system and what kind of resources are available.

CHAIRMAN HARP asked if it was more of a management decision? **Mary Bryson** said yes except for in some counties they only have one or two people and it is difficult to take 40 percent of person and dismantle them from the Department.

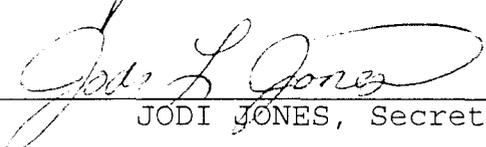
SENATOR HALLIGAN said there is the ability for an entity to get back revenue that was lost as a result of losses from coal, oil and gas gross proceeds. What happens to a community that loses a couple of casinos that are gambling for that non-levy revenue. **Greg Petesch** said in the provision there has been a non-levy tie for these sources for I-105 exemptions. There has never been a tie for other non-levy revenues, for example building code fees, liquor licenses, etc.

ADJOURNMENT

Adjournment: 7:55 a.m.



SEN. JOHN HARP, Chairman



JODI JONES, Secretary

JH/jj