

MINUTES

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

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on January 22, 1997, at 8:00 a.m., in Room 413.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Mike Foster, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Wm. E. "Bill" Glaser (R)
Sen. Mike Sprague (R)
Sen. Barry "Spook" Stang (D)
Sen. Fred R. Van Valkenburg (D)

Members Excused: None

Members Absent: None

Staff Present: Jeff Martin, Legislative Services Division
Renée Podell, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 134
Executive Action: SB 7 (DP);
SB 100 (DPAA);
SB 122 (TABLED)

HEARING ON SB 134

Sponsor: SEN. LINDA NELSON, SD 49, MEDICINE LAKE

Proponents:

Bill Schell, Director, Sheridan Memorial Hospital
John Flink, Montana Hospital Association

Opponents: None

Informational: None

Opening Statement by Sponsor:

SEN. LINDA NELSON, SD 49, MEDICINE LAKE: This is a bill that exempt hospital districts from holding their 3 mill levy every year. This is an exemption to I-105.

{Tape: 1; Side: A; Approx. Time Count: 1.1 Comments: None.}

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Count: 3.1; Summary follows.}

Bill Schell, Director, Sheridan Memorial Hospital: It costs dollars to have this vote every year. Supports the bill.

John Flink, Montana Hospital Association: Will be a way for the hospitals to save some money in operations. The association supports the bill.

Opponents' Testimony: None

{Tape: 1; Side: A; Approx. Time Count: 4.4; Comments: None.}

Questions From Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Count: 4.6; Comments: None.}

SEN. MACK COLE: Are there other counties or hospital districts in the same boat as Sheridan is.

Mr. Flink responds: He hasn't heard of any, but there may be some within the hospital districts in the state.

Mr. Gordon Morris, Director, Montana Association of Counties indicates there are fourteen hospital districts. Technical comment regarding the bill: Based on testimony heard, he's not sure there is a problem, or, if there is a problem, he's not sure it's been correctly identified. Any new taxing authority to be imposed subsequent to I-105 would be taken to the voters. In this case, his opinion is there is no need to go back to the voters annually. He believes the Attorney General would agree. He's not sure there's a need for the bill.

CHAIRMAN DEVLIN: Mr. Morris, you don't believe the bill is necessary at all then?

Mr. Morris responds: If the hospital district was not created under I-105 or was not in existence when I-105 went into effect, there is a clear mechanism whereby they can get the authority under current law.

SEN. DOROTHY ECK: Mr. Morris, it would be useful to us if you could provide the AG's opinion.

Mr. Morris responds: He will try to provide the AG's opinion.

SEN. MACK COLE: Mr. Morris, are we only talking about districts that were established after 1986, or would this affect any and all. You have to go back to the voters at least once to get their authorization.

Mr. Morris responds: You have two situations: If there was not taxing authority being utilized under existing law in 1986 under the terms of I-105, there would be authority to create that taxing authority based upon a vote of the people. If you have a taxing district that was in existence, and therefore under I-105, it used to be the case that you had to go back annually to get a vote of the people, but you can go back and specify a number of years. Rosebud county has done this.

SEN. FRED VAN VALKENBURG: Has the hospital district been relying on some legal advice that there is a necessity to vote annually? And, do you have any response to Mr. Morris' comments?

SEN. NELSON responds: Yes, it was the County Attorney who asked her to carry the bill. She did take this to Greg Petesch who said that you can, under law, specify a certain number of years but that you cannot ask for indefinite authorization.

Closing by Sponsor:

{Tape: 1; Side: B; Approx. Time Count: 14.3; Comments: None.}

SEN. NELSON closes stressing they are not trying to circumvent the will of the people; they will take it to a vote of the people. This is mostly a local issue; would like to get authority from the people.

CHAIRMAN DEVLIN indicates the Committee will not take any action on this bill until they receive further information.

EXECUTIVE ACTION: SB 7

{Tape: 1; Side: B; Approx. Time Count: 15.4; Comments: None.}

MOTION: SEN. MIKE FOSTER MOVED SB 7 DO PASS.

COMMENT: Jeff Martin, Legislative Services Division: Mr. Martin brought up the issue of other bills like this stating none has been drafted yet.

VOTE: MOTION THAT SB 7 DO PASS CARRIED UNANIMOUSLY.

{Tape: 1; Side: A; Approx. Time Count: 16.8; Comments: None.}

EXECUTIVE ACTION ON SB 100

{Tape: 1; Side: A; Approx. Time Count: 17.3; Comments: None.}

TECHNICAL AMENDMENT, page 2, subsection 6: Name change only.
EXHIBIT 1

MOTION: SEN. MIKE FOSTER MOVED SB 100 DO PASS.

MOTION/VOTE: SEN. FOSTER MOVED THE AMENDMENTS. MOTION CARRIED UNANIMOUSLY.

VOTE: MOTION THAT SB 100 DO PASS AS AMENDED CARRIED UNANIMOUSLY.

{Tape: 1; Side: A; Approx. Time Count: 19.9; Comments: None.}

EXECUTIVE ACTION ON SB 122

{Tape: 1; Side: A; Approx. Time Count: 20.3; Comments: None.}

EXPLANATION OF AMENDMENTS (12201.ajm): **Jeff Martin**: We are trying to address the concern of an employee who just does the paperwork for paying the taxes and limiting it to closely held businesses which under Amendment 9 is defined as a proprietorship, partnership with a limited number of partners or a corporation with a limited number of shareholders. The personal liability would apply to the person who has the authority within the closely held business to collect and pay the tax.

Gail Ambercrombie, Director, Montana Petroleum Association indicates that association is opposed to the amendments.

SEN. WILLIAM GLASER: There is a major difference between the word "authority" and the word "responsibility."

SEN. BOB DEPRATU: Is not comfortable with the language.

SEN. GLASER: Suggests the Committee move the amendments and then amend the language; is that the proper procedure?

Jeff Martin responds: The word was taken from current Department of Revenue rules relating to similar situations in the withholding of income taxes.

MOTION: SEN. GLASER MOVED THE AMENDMENTS

MOTION: SEN. GLASER MOVED TO AMEND THE AMENDMENTS TO CHANGE THE LANGUAGE FROM "AUTHORITY" TO "RESPONSIBILITY."

COMMENTS:

SEN. VAN VALKENBURG: Does the Department support these amendments?

Mr. Hoffman, Department of Revenue responds in the affirmative.

VOTE: MOTION TO ADOPT THE AMENDMENTS AS AMENDED CARRIED UNANIMOUSLY.

COMMENTS/QUESTIONS:

SEN. MIKE FOSTER: What is the problem we are fixing?

Mr. Hoffman explains when oil is sold the purchaser is the one who will withhold the taxes. This is a tool to collect taxes when the usual procedures haven't worked.

SEN. MIKE SPRAGUE: Are some of these payments held because of a dispute of the levy?

Mr. Hoffman responds: Generally not. The taxes have been held but not yet received by the Department.

MOTION/VOTE: SEN. FRED VAN VALKENBURG MOVED SB 122 DO PASS AS AMENDED. MOTION FAILED 3-6 with SEN. ECK, SEN. STANG and SEN VAN VALKENBURG voting yes.

MOTION/VOTE: SEN. MIKE FOSTER MOVED SB 122 BE TABLED. MOTION CARRIED 5-4 with SEN ECK, SEN. GLASER, SEN. STANG and SEN. VAN VALKENBURG voting no.

{Tape: 1; Side: A; Approx. Time Count: 35.6; Comments: None.}

ADJOURNMENT

Adjournment: 8:40 a.m.



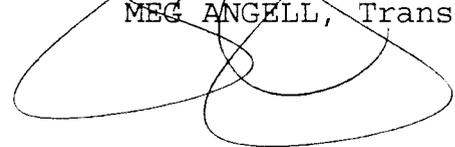
SEN. GERRY DEVLIN, Chairman



RENEE PODELL, Secretary



MEG ANGELL, Transcriber



GD/ma