

Chairman Brand called the meeting to order at 9:05 a.m., all members were present with the exception of Menahan and Kanduch, who were excused.

Dick Hargesheimer submitted his summary, see attachment #1.

HB 453-Rep. Lien, sponsor--This bill would require an election in a county before the governing body of the county can issue industrial revenue bonds. In '65, the legislature passed the Industrial Bond Act. Subsequent legislatures have broadened it to include other enterprises. These bonds are tax free up to \$1 million, and beyond \$5 million they take a ruling by IRS as to whether it is exempt or not. They are useful to local government to encourage industry; however, there are some problems. I thought requiring elections would be a step in the right direction. Now, city councilors or county commissioners can approve their issuance - (he gave examples of some in Billings). There are questionable enterprises that can be backed with approval of county commissions. My bill would make it take a vote of the people. It is the same language that is in the authorizing vote to approve school bonds. 40% of the voters must turn out - maybe this is too high - and it's OK to amend that down - but, I believe people should be allowed to vote on these bonds. I led the fight two years ago to protect the tax exempt status of these bonds, and am trying to make sure that it stays that way. A vote of the people is a good way to preserve the integrity of bond issues.

NO PROPONENTS

OPPONENTS

STANLEY LANE, Manager, East Helena ASARCO, Inc.--(Mr. Lane submitted written testimony, see attachment #2.)

STEVEN WILLIAMS, Anaconda Co.--The purpose of the original legislation was so that a city or county could lend its name to these bonds because it made them more marketable -- major buyers would be more interested. The city or county is not liable. In present law, public participation is allowable. They must publish notice of intent to issue -- and if there is significant public protest, then elected reps must not approve issuance. In a December issuance of bonds, the Deer Lodge County Commission published notice as required, and not one person showed up at the public hearing in protest to the bond. We feel that these bonds help ACM, and we would not be able to finance these projects without them. In analyzing this bill, I feel you are not taking the right of franchise away from anyone. Elected public officials and public hearing notice are in the present law. Special elections cost lots of money.

BOB HELDING, Montana Wood Products Asso.--(Mr. Holding agreed with prior statements, and also submitted some written testimony - see witness statement)

TOM WINSOR, Montana Chamber of Commerce--(Winsor concurred in the previous opposition.)

STEVE TURKIEWICZ, Montana Association of Counties--We are opposed to alteration of the framework of industrial bond issuance that is already in the law - it would mean more special elections, and the taxpayers would have to pay for them when he is not liable for the bonds - so it is unfair.

DAN MIZNER, League of Cities and Towns--Elections would impose on property taxpayers the cost of the election. There conceivably would have to be several of these each year, and we see it as an unnecessary expense.

A. W. SCRIBNER, D. A. Davidson, Co.--(Mr. Scribner concurred in previous opposition, and complained vehemently about the hearing time being posted incorrectly.)

GENE HUFFORD, D. A. Davidson, Co.--DAD is a major underwriter of industrial bonds in Montana. There have been 8 different nursing homes financed under the present, and 3 hospitals. I know they would be against this bill (Nursing Home Association). The history of industrial bond financing goes back to 1936, in Mississippi. 46 states have issued them since. Montana passed it's law in 1965, and in 1970 there was a state Supreme Court decision - Fickles vs. Missoula County - which enabled Hoerner Waldorf to issue these bonds. The Supreme Court found that IDR bonds are not a debt of the municipality, and therefore no election is required. They found that they are not an extension of credit to industry. There is no financial liability on the part of taxpayers when a municipality issues these, so elections are not necessary. The law was amended in '73 to provide for public hearings, which must be advertised in 3 weekly ads - one each week for 3 weeks - and hearings are held one week after the last notification. I see no purpose to this bill -- taxpayers are not liable, citizen input is already in the law. The bill is an unnecessary expense, and elections would kill this type of financing in Montana because this bill would require a 40% turnout. School districts have trouble getting this kind of turnout now. We oppose, because it will serve no purpose.

Lien closed by saying that most of the testimony was in defense of these bonds, and his bill was only a method of authorization. He agreed that 40% turnout was too high. Some businesses are getting an unfair advantage, "and this is what I am opposed to." He has no objection to using these bonds as they are intended - but, there are cases where it is abused.

LIEN-A point worth noting, at the hearing in Billings, everybody was worried about unfair competition, but then realized that they had the same opportunities. County Attorneys have ample time to review the documents. This is not only during construction, but after the fact. All this bill does is add more work to the legal proceedings. MULAR-You said unfair competitive advantage - over whom? LIEN-Between two businesses in the same field. MULAR-But there's no way you can justify fairness in an election, it would take a campaign with the public. I think that by requiring a 40% turnout, we would have serious problems; and this way, if 40% didn't turnout, you would lose the bond. WILLIAMS-There are some people who don't know that these hearings start at 9:00 now, the papers still show 10:00. (Various accusations flew around about notification - the secretary wishes to interject that the Public Information Office was informed of the time change on Thursday, January 27 - 5 days prior)

Chairman Brand reopened the hearing on HB 453 to allow proponents who had just arrived to speak.

BILL GILLIN, Forsyth, Montana--In Rosebud County we have had considerable experience with this, both proper and improper. This is just one more amendment that will improve these bills - but, this could destroy them if improperly used. The shopping center in Colstrip is financed by bonds. This is improper use. Puget Sound Power & Light wants an interest classification, and they want us to sell \$350,000,000 in IDR bonds for Colstrip 3 and 4. If they are in the position where they have to go to the people for a vote, they won't be able to pull any funny business. I have a chart - see attachment #3 - which shows the costs of government and how it has climbed. O'Connor and Ellis explained it this way, that they must do it to protect their stockholders, but this way they have to protect their bonds. There's no point in companies

having an advantage, and not being good neighbors in the community. The elections can be combined with school elections and general elections--you just have to go out and ask the people to vote.

FURTHER OPPONENTS

GENE PHILLIPS, Pacific Power & Light, Kalispell--The reason we utilize this type of mechanism - we sold \$66,000,000 in IDR bonds to sponsor antipollution control devices. The pollution control equipment is more expensive than the plant. We feel the IDR plan is something that is good for the community. We don't see any need for a vote because the people have no liability, and the industry repays. There's no liability on the community level, so we have to go to the PSC, DNR, and the Dept. of Health for affirmation. We have to clear with the PSC in Montana plus 5 other states before we can get a bond, and we feel this is sufficient control.

LESTER H. LOBLE, II, Montana-Dakota Utilities, Helena--MDU opposes this. We have used IDR's to finance antipollution control equipment since 1965. In October, 1974, we also went to the stock market for mortgage bonds, where the interest rate is 11%; whereas industrial bonds run at 6% - 8%. This results in a difference of \$522,000 per year in interest. The 40% turnout is a problem. You have to do this when you need the money, it doesn't just happen when elections do.

JACK BURKE, Montana Power, Butte--Montana Power wishes to underscore the comments by the other utilities. It is impractical to have elections. I have handled this as a lawyer, and handled the \$20,000,000 in bonds for Colstrip 3 & 4. The bond markets are declared in New York, and are set on short swings. There is a significant savings on interest, and the IRS recognizes this. The public must pay the bill on whatever use they make of the property. As far as the shopping center in Colstrip - it was our purpose to provide the kind of facilities that the people are entitled to, so we used this means of financing because the community didn't have enough economy left to support it - so, we tried to save some money on the financing; and I feel the center is a source of pride for the community. When the law changed in 74-75, we went through public hearings to tell the public.

DANIEL POTTS, Hoerner Waldorf, Missoula--(Mr. Potts submitted written testimony, see attachment #4)

Lien closed again by saying - This bill addresses the method of issuance, not the value. The cost of the election could be amended into the bill - the 40% is too high. As far as the timing to go to market, that is a bit out of line. If they can choose their time to go to market, they still have to be authorized by the county commission. It seems that you think if this bill goes through, there would be no more revenue bonds. People would be warned that the bonds would not be authorized. The competition problem was what I addressed the bill towards, but didn't know about the pollution control equipment. I am whole-heartedly in favor of the use of IDR's to finance that sort of thing, but I feel the community should be allowed to voice their feeling.

TOWER-How do these affect the financial statement? BURKE-They are the full liability of the company. On pollution control bonds, the interest rate was 5.75% - had we gone into market bonds, the rate would have been 7.5% to 8%. Until the bond issue is retired, the company is liable. TOWER-Are bonds for smaller companies harder to sell? HUFFORD-The bond buyer is looking at the potential behind the bond. They are readily marketable in most cases. The county officials are charged with looking at the public

benefit of these things and already have to go to the county commissioners. BRAND- How many times have you been turned down? WILLIAMS-None, as far as Anaconda. BRAND-You said you never had any objections in the hearings? WILLIAMS-I didn't attend myself, but I called the county attorney, and he stated that there were some proponents, but no opponents.

HB 133-Rep. Johnston, sponsor--This was heard previously, but after it was introduced, the governor's office came in with amendments. Then I brought in some other amendments. I don't have any objections to the governor's amendments. I have had a hearing with the Rules Committee, and they approved them. This eliminates the power of the commission. Under my amendments, the director would have the power to appoint the members of the department - 26-107 does the same for other employees - and he can remove any employee for just cause. Right now, the director has no power over the department; and the commission only meets once a month, so the director is mostly a figurehead. These amendments attack a problem that exists. This might take a committee bill. If the committee decides that the governor's proposal is better, then go ahead.

BOB LOHN, Governor's Staff Attorney--We both started out to make the director like that of other departments. We found as we got into it that there are 65 statutes to give power to the commission. In the purchase of land, the commission has the power, but the department does it; but it is unrealistic to say that the commission is running the department. Our changes would give the director the power. We had to change all 65 statutes; but the Rules Committee felt that Johnston's bill couldn't clear the title with these amendments. (secretary's note - the apparent contradiction between Johnston and Lohn in terms of the Rules Committee's approval is a mistake on Johnston's part, a committee bill was later drawn up)

LIEN-Doesn't this last amendment of Johnston's apply to most state employees? LOHN-Yes. BRAND-If you will, check page 2, towards the middle of the page of Johnston's amendments, "He is subject to the supervision and control of the commission." JOHNSTON-The wording should have been changed, and it bothers the governor's office. LOHN-I only have one copy of the bill as we propose it. This language should be there because the commission generally would still have the control. The drafter felt this should remain in. This larger bill would also take care of the internal status of the director. The two could be made compatible. JOHNSTON-I just want the problem solved. I don't care, whatever the committee wants. TOWER-The bill we killed the other day on land acquisitions--what way does this affect that? JOHNSTON-This does to a point, but this is mainly aimed at the internal problems. RYAN-Does your bill address that problem? LOHN-Not persay, but it would make the department more responsive.

HB 465-Rep. Harper, sponsor--Currently, there are 3 proposals the National Guard has for the Legislature. The Montana National Guard is over 400 members short. Guardsmen payed \$6,664,000 (the secretary has doubts about the validity of this figure, it is not to be used as fact) in state taxes last year, and there's only \$538,800 appropriated for the next biennium. The state realizes a net gain by just having the guard here. Other states offer different benefits. HB 465 provides a bonus for new people, and then something for every year they hang on. This bill will provide for the infusion of new blood. You have to realize the multiplier effect of this money. Besides this, we get what is in essence an insurance policy that makes Beneficial look like a "piker". Everybody here is aware of the emergency help the Guard has given. Things that have saved the state a lot of money. They are also involved in public education and work with handicapped children. I see the Guard evolving into something more in

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in years to come. But, I think the question you should ask yourselves today is - does the Guard belong? We are faced with the possible loss of units, and so we must bring our numbers back to standard.

HUGH McELWAIN, Retired Colonel, Montana National Guard--(McElwain appeared in lieu of John H. Womack, Adjutant General, who sent a letter of authorization, see attachment #5) McElwain submitted written testimony in addition to the letter from the General, see attachment #6.--The state received more in income taxes from the Guard than they paid out in payroll to them. I request your favorable support to help with the downward trend.

JOHN WALSH, Post Commander, Butte--(he distributed personal booklets to each committee member - see attachment #7)--This is not the answer to our recruiting problems, but it will assist us in maintaining our people. With us being so low, the state is losing the payroll and income tax of these people. Sometimes there's a need for Search and Rescue help, Civil Defense, etc. We go to the smaller counties and tell them how to get in touch with us when they need it. We do have other reserve components, but the National Guard is the only organization answerable to the Governor. We feel that favorable action on this bill would help our manpower, and it would bring additional income into the state.

NUMEROUS people appeared to support the bill, not all spoke, but all of them signed witness sheets - see attachments #16 through #30.

HARPER-I don't think there's any question that this would accomplish the intended purpose. This gives the person \$150 as an enlistment bonus, and would serve as a good incentive.

TURNER-What is your current reenlistment rate? McELWAIN-About 56% from last year. About 20% of our people enlisted under the contract of 6 years as a method of serving out their military obligation - next year, all of those people will be finished. BARDANOUE-Is there any criteria or research on long range goals as to how many people the state needs? The fact that we are below a certain level doesn't mean that we need more. Is it necessary that we have such a large Guard? Is it necessary to bribe them? Perhaps there's a problem in the overall program. McELWAIN-That goes back to the basic defense question. This is the only force readily available to the governor; and because of their control and training, they are our best force. Every state has a Guard, but some states would like to get more units. BARDANOUE-I believe there are other states having the problem of maintaining their numbers. Now that the draft is no longer a threat, you don't have your main incentive. WALSH-We have a Regional Unit Headquarters in Bozeman. We look at the population of the state and the size, and the communities that could support a Guard. If we stay at our present strength, we have a number of units on probation, and they could be closed. If other states give us smaller units in return for our larger units, it will put us in a bad situation. Out of the 50 states, there are two states lower than Montana. BARDANOUE-You said there were a couple of states who have a bonus, what has been the result? WALSH-The southern states give great bonuses, and they are the ones who have the least trouble with enlistment. Some of them give total exemption from state income tax on guard pay, and tuition grants. BRAND-How do you entice people now? What is their pay? WALSH-We have a full time recruiting officer who is completely federally funded. They approach high school seniors and guardsmen talk to friends. BRAND-Yes, but what benefits does the guard offer? WALSH-Association with other people in the community, service to the state, life insurance at low rates, we furnish their clothes and feed them - we have 365 full time employees, and 3400 others.

EXECUTIVE SESSION

BRAND-I would like to see a fiscal note on HB 465. BARDANOUVE-The Air National Guard is almost all federal money.

HB 133-BRAND-The Rules Committee said they wouldn't accept the governor's amendments on this bill.

Bardanouve moved to have a committee bill drawn up, O'Connell seconded the motion, and it carried with Ryan voting no.

HB 453-Brand said that he had promised Menahan and Kanduch that no action would be taken on this bill until they could be present.

MEETING ADJOURNED - 12:15 a.m.

Walsh brought in more information later in the day on the National Guard, see attachment #8.

Joe Brand, Chairman

Anita C. Sierke

Anita C. Sierke, Secretary