

TAXATION COMMITTEE
45TH LEGISLATURE

This hearing was called to order by Rep. Herb Huennekens, Chairman of the Taxation Committee, at 8:00 a.m., February 7, 1977, in room #434, Capitol Building, Helena. All members were present with the exception of Rep. Uhde who was excused. Bills to be heard were HB 583, 584, 591, 386, 630.

Rep. Jack Ramirez, District #64, Yellowstone County, sponsor of HB 584, said this bill is patterned after the federal government which has authority to enter into a compromise agreement with a taxpayer in connection with inheritance tax, and other taxes, and this bill gives some authority to the DOR to enter into such agreements as does the federal government.

HOUSE BILL 584 The taxpayer and the department should be able to enter into the kind of agreement on which both can rely in future years. Each section of HB 584 pertains to a different tax and each does the same thing. This act allows the director of the DOR to enter into closing agreements with any person relating to the person's liability for corporation license tax, income tax, or corporate income tax. After such an agreement is signed, no agent of the state may reopen the matter for any reason.

Gorham Swanberg, Montana Railroad Association, Great Falls, is a proponent of this bill. This type of legislation is in effect in several other states and is patterned after the federal law. Agreements like this come in quite handily. It gives the DOR authority, but would depend on each case individually.

In answer to committee questions, Rep. Ramirez advised this would not compromise the taxpayer's position with a strong DOR. It would eliminate expensive litigation, and is fully permissive. It would be better for the DOR and the taxpayer.

Rep. Jack Ramirez, sponsor of HB 583, explained this bill concerns when corporation license tax is deductible on the federal return, and when a person pays this tax. It is to clarify present law. Corporation license tax is a tax imposed for the privilege of doing business in the State of Montana and is based on income. The tax for 1975 would be the basis for tax paid in 1976. The question of what year the tax was being paid for, 1975 or 1976, was the problem. The revenue service says it should be for doing business in the year in which it is paid. Deduction should coincide with what year it is paid in. This has respect to only the federal return. He is not completely satisfied with the language on page 2, line 9, and suggests the amendment "and is for the privilege of doing business in the year in which the income was earned". This only affects accrual taxpayers.

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HB 583 provides that corporation license taxes are due on the 15th day of the 5th month following the close of a corporation's taxable year, but that the taxes become a lien on the last day of the taxable year in which the income was earned.

Rep. Art Lund, District #2, Daniels County, sponsor of HB 386, advised this bill increases motor fuels taxes to the next highest tenth of a cent. The tax imposed

HOUSE BILL on gas in the last Legislature was 7 3/4 cents. Before, it
386 had always used a tenth of a cent figure. The 7 3/4¢ wouldn't
 fit on gas pump meters. This bill would raise the tax to the
 nearest tenth of a cent. There might be a bill coming from the
Senate on this same subject, but he is not sure.

Dan Mizner, Executive Director for the LC&T, advised there is another bill in the Senate and another one in the mill. There is a joint bill with the highway department with some maintenance operations which does have an adjustment figure and an allocation to the department for maintenance.

Rep. W. Jay Fabrega, District #44, Cascade County, sponsor of HB 591, said this bill pertains to assessment of business inventories. This act establishes the basis for assessment of business inventories on their net invoice cost to the person subject to the tax. For property tax purposes, a business inventory shall be assessed at its net invoice cost to the person subject to the inventory tax. "Person" means corporations, partnerships, individuals, etc.

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There were no other proponents, and no opponents.

Committee discussion brought out some inventories can appreciate when on the shelf because of inflation. Some raw materials would not have an invoice cost and this would be determined by what is reported on the income tax return. If HB 551 passes, HB 591 might not be needed. The question of what new dealer cost would be accepted arose. The invoice cost would be that established when a new buyer purchased from a previous dealer. Rep. Teague's bill doesn't require the same report as is required on the income tax return. This type of invoice cost assessment figures would eliminate need for the taking of an inventory. This also provides a cross check on the inventory on the tax return and that reported to the tax assessor. A depreciated inventory could cause some confusion.

With regard to assessment of coal, copper, wood products that do not have an inventory or dealer cost, Mr. Burr, DOR, advised they use an arbitrary figure and in the past they have used the value shown on the owner's books as an assesment figure. Firms with invoice values in subsidiaries, can be checked by checking what they are selling with what they are selling inside to wholly-owned subsidiaries.

Rep. Harrison Fagg, District #63, Yellowstone County, sponsor of HB 630, explained this bill revises and clarifies the Montana Economic Land Development Act by substituting new sections in lieu of existing ones. This act provides two effective dates, one for land already classified in accordance with the provisions of the act and one when the classification of other land has been completed and landowners notified. Decision on land values would be made by land taxation. He presented a detailed slide show explaining this bill. There could be three sessions of the Legislature that could correct problems as they arise. This is a local option planning. Taxes would be cut 50% on agricultural land if it is left in agriculture for 25 years. There are staggered percentages of tax relief allowed.

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Tax cut percentages may vary according to the value of agricultural land. This is trying to encourage central growth and stop sprawl through taxation. Nothing in the bill has any effect on what is already built, but could have a great deal of effect on any further construction. Legislation would make impact costs in one county payable out of another county's taxes. Vacant land inside a city would be taxed higher in order to try to get more dense development.

Tom Winsor, Montana Chamber of Commerce, supports the urban commercial and residential section of the bill. He requests an opportunity to work with a subcommittee if that is what the committee wants. He suggested several amendments. He prefers less of a roll-back; the population basis should be decreased; there should be no tax penalty on vacant land either on commercial or residential until that trend has been reversed; wants a definition of "significant adverse effects". He feels if the terminology is vague, this bill is no better off than the previous bill. There is no definition of scenic characteristics. They are basically in support of the bill. One of the biggest problems in development is not knowing what the ground rules are. Nothing can be built without knowing what the tax will be. This makes it difficult to locate new industry. He left a brochure put together by the Montana Chamber of Commerce and is attached. Before 1975 Montana was the least competitive state in supporting new industry because of the tax base. HB 672 plugged in and made Montana stay competitive on a tax base. Would appreciate the opportunity to work with a subcommittee.

Dan Mizner, Montana LC&T, is concerned for the core city and immediate ground area because of the promise of services and delivery and their cost. They have been working to make that part of the bill work for the cities and towns. There has to be some kind of an orderly growth, and a tax incentive offered to make cost of services covered would help. He thinks the bill has merit. He recommends taking a look at it over the next two legislative periods. There is an immediate need because of the concern of the cities and towns which need some guidelines in order to make decisions at the local level.

Rod Wilson, Billings Chamber of Commerce, stands in full support of MELDA. He hopes the committee will continue to implement this act.

Phil Tawney, Environmental Information Center, Helena, is very much in support of HB 630. The concept is worthy of close consideration by the committee. The problem agriculture faces is to keep young farmers on the ranch. This is a very serious issue, but HB 630 begins to offer an incentive.

Rep. John Vincent thinks this is a bill that wants our approval because it addresses the problem of preserving agricultural lands. It addresses a healthy economic climate. It approaches and has the advantage of improving recreational opportunities with tax incentives by promoting a more equitable system of taxation. Speaks to sensible well-planned growth. It addresses itself to providing the same kind of conditions that has made people come from other areas to Montana. If we don't plan now, it will soon be too late.

OPPONENTS:

Steve Turkiewicz, MACo, asked where are the counties going to get the power which was taken away in 1973? If you don't remodel or keep up your home, you will be

subject to a tax. Counties were taken out of the appraisal process and cities were never allowed to do this. Counties are pitted against counties. He sees problems in administering this bill. Mail notice is required even if it is expensive. The question of where money for these planning costs is going to come from presents itself. He sees problems in maintenance of the system in the future after planning is implemented. Counties shouldn't be forced into this position. MACo does not support HB 630.

Bill Groff, DOR Director, thinks there should be a study committee appointed on this bill. He opposes this bill until a committee report is in as to whether he is fully opposed or not. Today they are fully opposed.

Rep. Jim Burnett handed out a statement from Rep. Aubyn A. Curtiss, Lincoln County Planning Board, dated March 29, 1976, addressed to Governor Thomas Judge, asking repeal of MELDA. One of the things not considered is that agriculture has been planned and regimented and they think this bill does more to you than it does for you. Letter is attached. Rep. Jim Burnett opposes HB630 himself.

Jim Richards, DCA, Helena, has been trying to cooperate with Mr. Fagg. This bill sets out at the outset admitting that a person will not have to comply with this plan if he is able to pay the tax burden imposed. Properties of this value will be taxed at a different rate, which is a conceptual thing. There are still problems - residential property which has been classified as residential which will be built in the wrong place, would be taxed. This bill operates on concentric circles. Development does not work that way. The idea of concentric circles will have to be changed. There are many of this kind of things that will have to be changed.

Bill Kerner, Independent Americans, explained this is a club of concerned citizens concerned over the land controls in this state. There is an initiative petition generated by the Independent Citizens to recall this bill as many want it recalled. It states that people don't agree with this control concept. He doesn't think members of the Legislature should come in and tell them what they are to do with their property. This bill includes a penalty and if they don't cooperate, they will be penalized. A penalty is given to someone for committing a crime, and any crime over \$20 can have a jury trial. He advised people outside don't lack understanding of the bill. He doesn't think property should be taken away without due process. 1600 people called him opposing this bill. People are generally opposed to this type of legislation.

Ed Hopkins, Ravalli County rancher, opposes HB 630. This bill is to control the rural areas and cities as well through tax incentives. Farmers want to be let alone. Farm prices are so poor that people have to sell off part of their land. See his testimony.

Margaret Davis, Missoula, opposes HB 630 and hopes the bill isn't voted on.

Stephen J. Anderson, Stevensville Land Owners Group, Stevensville, MT, a Bitterroot Valley rancher, thinks HB 630 is unworkable, costs too much, and is just another way to raise taxes. Controlling land by taxation is wrong. Cities may be able to use this, but a farmer might be able to change his operation or may have to sell part of his place to pay taxes and the mortgage. He is in favor of out-right repeal of HB 630. See his testimony.

Ann Raisner, Missoula, is opposed to HB 630, saying people have rights to own property.

Robert L. Lewis, Stevensville, distrusts this bill. If you remained in the Greenbelt where your taxes would be lower, taxes would go up anyway in order to raise money for services. Persons would have to pay more for first installations. What would happen to a person who couldn't afford to repair his home? He is definitely against this bill. See his testimony.

Donald Park, Stevensville Land Owners Grange, Stevensville, advised they had a comprehensive land plan organized. It is their plan and they will change it when necessary as it is written up that way. They felt their representatives were not doing a good job for them. He is on the Grange Board. People were invited to a meeting and 90% of them were not in favor of this bill. He can't understand why, if this is good for agriculture, the agricultural people won't back it. See his testimony.

Kyle Brinkerhoff, Stevensville Land Owners, (farmer and contractor), Stevensville, does not like the right-of-way section of MELDA. It isn't pleasant to have people come in and cause problems. Any gain in tax cut would not begin to pay for the problems. See his testimony.

Robert Marck, Independent Americans, Ravalli County, stated this governing body in the bill with its legislative jurisdiction and executive power makes for totalitarianism. He is opposed to HB 630.

G. Robert Putnam, Independent Americans, Hamilton, thinks the tax incentive would drop people into a class which leaves the poorer class in town. He doesn't think this is quite right and urges defeat of these bills. They don't like to have this type of legislation brought up again and again. He wants legislation brought up from the people, and not be brought down from Washington, D.C.

Kenneth L. Kershner, Victor, MT, opposes HB 630. See his testimony.

Rep. Fagg advised that Mr. Mizner had given him a figure of approximately \$250,000 as the cost to cities and towns for planning. This bill allows for a vote of the people concerned. There is a question as to whether this bill lends more to the area of a larger city than it does to the rural area.

The committee recessed to an executive session:

HOUSE BILL 386 - Rep. Fagg moved to recommend HB 386 DO PASS. Rep. Severson made a substitute motion to TABLE HB 386 since the committee is awaiting other bills from the Senate on this subject. Reps. Dassinger and Fagg voted No. All other members voted Yes, so HB 386 is TABLED.

HOUSE BILL 583 - Rep. Fabrega moved that HB 583 DO PASS. Rep. Sivertsen made a substitute motion that HB 583 BE TABLED until Rep. Ramirez presents his proposed amendment for this bill. Substitute motion was approved.

HOUSE BILL 584 - Rep. Sivertsen moved that HB 584 DO PASS. Rep. Sivertsen moved that HB 584 be amended. Amendments were adopted after discussion. The original motion was changed to AS AMENDED DO PASS. This motion carried with Rep. Waldron voting No.

HOUSE BILL 591 - Rep. Fabrega moved that HB 591 DO PASS. Action was deferred

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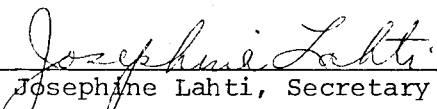
for further study on the question of elimination of an invoice.

HOUSE BILL 269 - Rep. Fabrega moved to recommend HB 269 DO PASS. Rep. Fabrega moved proposed amendments be adopted. The vote was 8-8, so motion failed. Rep. Williams made substitute motion that HB 269 DO NOT PASS. Motion was adopted, 13-3. Rep. Uhde was absent, and Reps. Sivertsen, Fagg and Fabrega noted No.

Meeting adjourned at 12:00 noon.



REP. HERB HUENNEKENS, CHAIRMAN



Josephine Lahti, Secretary