

TAXATION COMMITTEE
45TH LEGISLATURE

Rep. Herb Huennekens, Chairman, called the committee to order at 9:00 a.m., April 5, 1977, in room #434, Capitol Building, Helena. All members were present except Rep. Peter Gilligan, Jr., who was excused.

Senator Towe was permitted to finish his closing statements on SB 211. Attorneys advise their clients who set up corporations for farms, to retain the mineral rights as individuals, splitting the rights, with the corporation owning the land. He thinks the 2½¢ per acre tax is warranted. This tax amounts to \$16 on a section of land.

It was suggested that every person who pays a tax under this bill pay at least 1¢ per acre to take care of the paper work involved, or \$1 per person. These mineral rights are a real property right, and under 84-101 would go into Class 11 which is assessed at 40%. The right of entry tax is still taxed at 100%.

The committee had questions why a mineral right when it reverted or became reattached to the surface right had no value, and was not taxed. Sen. Towe explained that if a farm had some special project, such as a dike, and it was damaged by someone who had a right of entry or had mineral interests on that land, came in and proceeded to build roads, etc., and explore or produce some mineral laying under the surface, it would be worth a great deal to have the rights belong to the surface owner to protect his own interests. He thinks there is enough validity to this to stand up in court. Mineral rights would be in Class 7.

The right of entry is intrinsic with a mineral right, otherwise you would have to purchase a right of entry. Damages caused by right of entry don't always solve the problem. If you own the property, you should have the right to say No.

The DOR testified in support of this bill in the Senate. Timber has an ad valorem tax at the present time. The more timber on a place, the more the tax is. This problem should be adjusted - timber should be taxed when it is severed.

It is hard to tell how many mineral rights have some value, but the mere fact that you can take a potential value and separate it from the property itself, has a value in and of itself because of that separation Sen. Towe believes.

When oil companies, etc., lease property on a bid basis, they are bidding for the operating interest.

Senator Towe said if a mineral right is severed, and the new buyer and you each own half, the two together have a value of \$1. Although if the land owner owns all the right, he pays no tax. The question of why a value is established for the severed half arose. It is impossible to buy a right from the federal government. Under later Homestead laws the government held the mineral rights. The federal government might or might not pay mineral rights taxes.

In the case of a clearly known mineral deposit, unless a separable value can be conclusively valued, it might be well to add at that point "and in no event shall such value exceed \$1 per acre". This wouldn't affect exploration at all. Bringing all these fractionated interests back to the surface owner would make for better development possibilities because when an interested party finds so many owners to a piece of property, some of whom are not able to be located, he becomes discouraged and goes elsewhere, especially when there is no definite value known. This would be especially helpful when it applies to oil and gas drillers.

Rep. Fabrega mentioned that if you cannot find the owner, it goes into an escrow account. The committee recessed to an executive session.

SENATE BILL 177 - Terry Cohea, researcher, explained the requests the committee had made of her in a former meeting. Wisconsin requires that numbers be on both sides of a snowmobile and not less than three inches in size. There snowmobiles may operate in borrow pits.

Rep. Bertelsen moved that the railroad proposed amendments be adopted in their entirety. This was unanimously approved. Rep. Gilligan was absent.

Rep. Severson moved that the motorboat language wherein the numbers go on both sides of the cowl with the tax-paid decal on one side large enough to see easily be inserted. Also Cohea's suggested amendments are to be included. These amendments were unanimously approved. Reps. Harrington, Fabrega, Gilligan were absent; copy of amendments can be found in standing committee reports.

Discussion of the operation of snowmobiles on highways was quite lengthy. Rep. Sivertsen moved to reinsert the stricken material on page 13, lines 12-14 beginning with the word "No person". There were no Noes.

Rep. Dassinger moved that subsection (2), page 14, lines 8-18 be stricken. After discussion, this motion failed.

Rep. Williams made a motion that SENATE BILL 177 be recommended AS AMENDED BE CONCURRED IN. There were no Noes. Rep. Gilligan was absent.

Rep. Underdal moved that SENATE BILL 211 Not Be Concurred In. Rep. Lien made a substitute motion that SB 211 Be Concurred In. This motion failed 5-9. Rep. Dassinger moved to amend page 2, line 17, following the word "taxation" through the word "produced" on line 21, all material be stricken. Motion failed with 5 Yes, 9 No, 3 absent.

Rep. Sivertsen moved that SENATE BILL 252 be recommended NOT BE CONCURRED IN. After discussion, this motion was withdrawn. Rep. Williams moved that SENATE BILL 252 BE TABLED. Motion carried.

SENATE BILL 150 - Rep. Williams moved that SENATE BILL 150 BE CONCURRED IN. Unanimous acceptance. Four members were absent.

SENATE BILL 145 - Rep. Williams moved that SENATE BILL 145 NOT BE CONCURRED IN. Motion carried. Reps. Uhde, Vincent voted No; Reps. Fabrega and Gilligan were absent.

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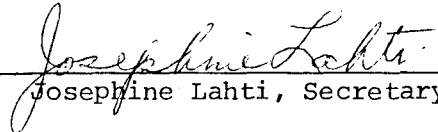
Rep. Vincent moved that one-half of the court costs be paid by the taxpayer; and for the purposes of this act, the attorney's fees shall not exceed \$50 per hour. This would allow \$25 per hour recovery by the taxpayer. This motion failed.

SENATE BILL 121 - Rep. Dassinger moved that SENATE BILL 121 NOT BE CONCURRED IN. Motion carried 10 - 3 with four members absent. No votes were Reps. Lien, Vincent, Williams. This bill will be protested and Rep. Lien will carry it on the House floor.

Meeting adjourned at 10:00 a.m.



REP. HERB HUENNEKENS, CHAIRMAN



Josephine Lahti, Secretary