

11.
1/19/79

HOUSE TAXATION COMMITTEE

46th Legislature

Chairman Representative Herb Huennekens, called the meeting to order on January 19, 1979, at 9:00 a.m., in Room 434, Capitol Building, Helena. All members were present except Rep. Hershel Robbins, who was excused.

Bills to be heard were HB 188 and 181.

Representative Harrison Fagg, District #63, Billings, explained HB 188, saying state contractors receive a preferential treatment when it comes to bidding on public contracts. HB 188 allows the Revenue Department to decide who is qualified as a resident Montana contractor when requested to do so rather than qualify all contractors registered. There has been a loop-hole for out-of-state contractors.

HOUSE BILL 188

Robert McGee, Department of Revenue, said the department is required to make a determination of residency or non-residency of all public contractors and they do not have the facilities or staff to do so. They have only about a half dozen requests a year. It would be better if they could determine residency when questions came in rather than on all contractors since it is a costly procedure to check on whether or not they bought all their material in Montana, hired Montana labor where they can, etc. They want the statute reworded to place the burden on a statute.

There were no opponents.

Rep. Vinger asked what kind of contractor is referred to; and Rep. Fagg told him contractors come in and establish a base for one public contract. Requirements for a resident are necessity of purchasing materials in the state, hiring Montana labor, and residency for one year, and others. Bidding is a highly competitive procedure and it gets down to where the 3% state allowance makes a difference. There is no penalty when doing work for private contracts. On public contracts, an out-of-state contractor has to add 3%. Montana contractors can bid 3% higher than out-of-state contractors and still get the bid.

McGee said surrounding states also have 2-3% preferential treatment for their resident contractors. There is no problem with the interstate commerce clause. The 3% preferential treatment applies to federal projects.

At present the DoR has to basically certify all contractors - there are about 2,000. They would like to have to certify only those on which residency questions arise.

James Lear, attorney for the legislative council, advised HB 181 was a Code Commissioner bill sponsored by Rep. Robert Marks. Mr. Lear with the chairman's permission explained that HB 181 was an act to generally revise and

HOUSE BILL clarify the laws relating to Taxation.

181 Mr. Lear advised the Code Commissioner will try to put discrepancies together after the Legislature since they cannot be corrected in the present legislative session. The Code Commissioner now has authority make corrections, and there would be very isolated cases which could not be corrected. Under present code commissioner practice with two bills overlapping is the matter of time, and if it is erroneous, conflicts develop, it is through oversight because of the volume of bills coming in. It is impossible to keep track of so many bills affecting an area. If one bill is passed that says another thing, that is where you need the next session to clarify intent. Bruce McGinnis, Assistant Administrator of the Legal Division of the DoR, advised 401-402 is in the same section as is the payment of taxes under protest section.

Rep. Fabrega asked the corporation fee for Subchapter S corporations. Mr. McGinnis said they have been paying \$10.

Regarding 15-32-108 - this section was first set for alternative energy. Alternative energy section is being transferred to the income tax section.

Executive Session:

Rep. Williams moved HB 188 DO PASS. Motion was adopted unanimously - Rep. Robbins was absent. Motion to go to consent calendar was made, but because Rep. Burnett objected, it did not carry.

Rep. Orren Vinger moved that HB 80 DO PASS. He then moved Item 1 of the proposed amendment attached Do Pass. Amendment Item 1 was approved unanimously. Further discussion brought about a motion by Rep. Fagg that further action be deferred until more information is available. Motion carried.

Rep. Fabrega moved that HB 154 DO NOT PASS. Motion carried - Representatives Robbins and Fagg were absent.

Rep. Fabrega moved that HB 161 DO PASS. Rep. Reichert moved that a maximum of \$500 total deduction on a year's income tax return be permitted. No action was taken on either motion after further discussion.

Rep. Nordtvedt moved a substitute amendment that the 20% of rent paid by taxpayers be changed to 12-1/2% on page 2, line 3 since 1.5% property tax in the state corresponds to 12-1/2% rent which makes for equality as closely as possible.

Rep. Williams moved a substitute motion for all motions pending that no further action be taken before a fiscal note has been received. Motion to defer action carried with Reps. Johnson, Nordtvedt, Dassinger and Fabrega voting No. Rep. Dozier said his constituents would not be able to avail themselves of this proposed relief from income tax. The bill will be brought before the committee at a later date for further discussion.

The meeting adjourned at 10:45 a.m.

Josephine Lahti

Herb Huennkens

REP. HERB HUENNEKENS, Chairman