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1/26/79

HOUSE TAXATION COMMITTEE  
46th Legislature

January 26, 1979, Rep. Herb Huennekens, Chairman, called the committee to order in Room 434, at 8:30 a.m. All members were present except Rep. Harrington, who was excused. Bills to be heard were HB 275, 291, 299.

Rep. Ralph S. Eudaily, District #100, Missoula, sponsored HB 275. He explained HB 275 would provide relief on property tax on a residence destroyed by natural disaster which would be taxed on the basis of the number of days it was in existence before destruction.

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Present law requires property to be taxed at its value as of January 1, but if it is destroyed the next day, liability for taxes is for the whole year. Although the tax appeal board, county commissioners, and a statement from the governor could help to get this tax abated, none was granted in the Patty Canyon fire disaster. He feels it is inequitable to have to pay taxes on something that no longer exists. No present way in the law to obtain relief - HB 275 would grant that relief.

Dennis Burr, Department of Revenue, supported the concept of this bill.

Senators Norman and Representative Kemmis support HB 275. It isn't limited to residences - any real or personal property destroyed by natural disaster is considered.

There were no opponents.

In closing Rep. Eudaily said he was not aware that other relative bills are being prepared. It is alright with him to consider both bills together.

Rep. Fabrega - Burr: Local taxing jurisdictions operate on a tight budget. The state general fund maybe would reimburse for the loss of taxable income from the general fund where there is a major disaster in a county. Reserves carried in county funds for disaster occurrences wouldn't be used all that much. All units of government have a statutory reserve which is fairly large in all taxing districts.

The question of what is a natural disaster arose. Burr thought perhaps a house that caught fire from a burning one next door would maybe be considered a natural disaster.

Representative Daniel Kemmis, District #94, Missoula County, chief sponsor of HB 299, explained this bill would allow for special tax treatment for a capital investment in a recognized nonfossil form of energy generation by exempting the first \$100,000 of appraised value from property taxation and placing any value in excess of this amount in Class 18. To take advantage of this special treatment, a form has to be filed with the Department of Revenue and notice has to be given to assessor that you have increased the value of your

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home. Rather than involve the Department of Revenue, people insulate, but don't tell the assessor the increase in value of their property. People are not installing energy systems because of the tax cost afterwards. Does not include energy conservation practices. Particular details are open to discussion and change. Might give a complete exemption in property taxes up to \$100,000, should limit on residence buildings - doesn't need to be that high. Might use a two-phase system with a limit for residence systems and another one for commercial buildings. Might be well to wait until Rep. Ramirez' bill is heard.

This will not cause any loss in revenue that they now have - basically means that when somebody installs a new system, the county won't get any tax. Want to try to limit fossil and hydroelectric system use.

Ronald Pogue, Alternative Energy Resources Organization (AERO), editor of the AERO Sun Times on energy which is a non-profit paper issued for the purpose of educating the public about renewable energy sources, supports HB 299. We are increasing pollution by using fossil fuels. In 1910 90% of energy consumption was from wood or coal. By 1977 it had switched to petroleum and natural gas. We have the ability to transform from an almost complete reliance on one type of energy to another.

Solar energy is growing, but there are some serious questions. Technology is there, but it needs some fine tuning. There are economic barriers. Competing with conventional fossil fuels, solar installations cost 20 times more.

Convention fuels have developed a great deal of subsidies. \$123 billion in subsidies to conventional energy sources. Tax credits are not available to an individual nor accelerated depreciation allowed while there are billions of dollars of subsidies for conventional fuels. Have to look for some type of subsidy to route to solar energy and other renewable energy sources. He would like to see the billions of dollars in subsidies done away with.

Montana puts a property tax on solar energy installations. 29 states had property tax reductions. He recommends putting this bill and Ramirez' bill into a subcommittee along with all relative bills.

He proposed amendments of limiting the time to 10 years on property taxation as an incentive; break \$100,000 into categories on non-residential types; \$10,000 limit on single family dwellings. The assessor should classify as Class 18 for 10 years.

John Obermeier, Drapes Engineering, mechanical and electrical engineers, Great Falls, MT, are involved with the design and installation of solar energy. He feels the present law is a disincentive. See written testimony accompanying.

Mike Dahlem, Associated Students of the University of Montana, reported 80% of the students support the concept of alternative energy development.

Murray T. Neal, Energy Solutions, Inc., Stevensville, developers of solar energy systems in this region, supports the Kemmis issues. Solar energy at this point is a good payoff and a good investment, but it takes years for it to pay for itself and without a tax incentive, it would take longer.

The federal tax savings could initially be a large incentive. Property tax would be in the neighborhood of \$1,200-\$1,500 which would make for savings five to six times larger in the early years. It is a serious disincentive at this point. He would not quarrel with some time limit on it - 10 years is a reasonable limit. At the end of that time, incentives will not be needed.

\$100,000 limitation on a commercial system is quite reasonable; however, it would probably cost over \$100,000 for a commercial installation over all. Commercial systems can make larger savings than on a house which would average 15-20% up to 20-30% - as far as residences, this would be more real.

Rep. Jack Ramirez, District #64, Billings, said there is a great deal of interest in this kind of an incentive. This won't take anything off the tax rolls. He suggests changing the limitation on the number of years. His bill does have a limitation. The department of revenue would have trouble administering this bill - could refer it to natural resources to ascertain if it is really a practical and effective installation. This might eliminate problems for the department of revenue.

There were no opponents.

Rep. Kemmis closed saying limitations of \$100,000 to \$250,000 could be included, but the bill still gives a significant break for over \$100,000. The limits for residence systems will encourage people to look harder at systems that are available. Asked that the committee look at the bill and proposed amendments and work towards something reasonable. He has no objection to deleting language regarding shrubs and windbreaks, etc.

Questions from the committee -

Rep. Lien -- mentioned this is not retroactive.

Rep. Dassinger asked Mr. Burr asked how alternative energy portions are taxed. Mr. Burr said in 1976, \$548 worth of property tax - won't be a great loss of revenue. May be removing a disincentive. It is not too important.

Rep. Reichert - Burr: Could utilization of wind energy be included. Mr. Burr doesn't think this would change the value of a house too much - depends on other values than solar incentive.

Mr. Obermeier stated five or six houses with solar installations have been assessed in Great Falls.

Rep. Underdal asked who the beneficiary of the tax allowance would be if a house is sold. Mr. Burr said if he had to make a choice, he would just as soon make it a total exemption, and if want to reappraise it at that time, it would be easier to administer.

Rep. Huennekens feels that if we are trying to encourage use of this, it would be well to continue relief to the buyer.

Rep. Fabrega thought the 10-year administration being a problem, it could be put on the assessment list.

Rep. Williams asked Rep. Kemmis if he would approve if such property was totally exempt for 3 years as an incentive to install energy equipment? Rep. Kemmis said if the total exemption were up to \$100,000. He prefers that the time be longer, and the first \$100,000 is totally exempt.

Rep. Fagg said he is working on a bill regarding tax relief for solar installation through an investment credit. Rep. Dozier asked if that would include nuclear installations. Rep. Vinger said there are 10-12 installations being worked on in Billings - how many are doing it on their own? Mr. Pogue said only 2 or 3 have obtained grants.

Rep. Huennekens asked the committee to consider alternative energy bills in relation with one another.

Rep. Lien moved that the committee reconsider their action on HB 150 until information on other relative bills is received. Unanimous approval.

Rep. Dassinger moved that the committee reconsider their action on HB 94. Howard Vralsted, Department of Revenue, estimated about \$300,000 loss to the state if investment credit allowance was raised to 50% of the amount over \$5,000 exemption. To raise it would only benefit a few and those benefited would be the more affluent.

Rep. Williams agrees. the Department of Revenue has been using the 20% figure - 20% of the federal rate all the way through. Putting 50% in would be different from present procedure and would cost the state a reduction in revenue. Motion to reconsider was adopted 11-7, Rep. Sivertsen was absent. Roll call vote.

Rep. Vicki Johnson, District #72, Columbus, sponsor of HB 291, explained this bill would tax real estate which is owned by non-resident aliens at 50% of its value rather than 30%. Foreign businesses were included. Any agricultural related expenses cannot be deducted for alien investors. The bill doesn't restrict ownership, but makes it cost more.

HOUSE BILL                      Rep. Williams believes in the concept.

291                      The Montana report of the Old West Regional Commission pointed out this was becoming a great concern. The U.S. has been responsible through the years for putting billions of dollars into foreign investments. Foreign investors find there is no land to buy in their own areas, and so are buying U.S. land. The Old West Commission has no objection to bringing their money into alternative investments other than buying land in the U.S. They can invest in commercial interests, but should not buy land. This basically limits aliens coming into the U.S. and owning land. Think it is a real deterrent to the economy of this country Rep. Sivertsen said.

Rep. Fabrega endorses effort in this area. In Mexico, if you are an alien, you don't own any land. He believes what the bill proposes is not enough - putting it into commercial values and an additional amount might not be enough of a deterrent.

Rep. Dassinger took over chairmanship of the committee.

Rep. Huennekens endorses this bill. The ultimate security and ultimate value in this whole world is the land. The bill is broad. He believes that somehow we've got to control Montana's land at least by Montanans especially. Must address the question of who is on the land. He then resumed the chairmanship.

Rep. Underdal endorses the idea; we have problems in my area - a large corporation supposedly based in Great Falls, has bought up a great deal of land. They broke up 1700 acres of grazing land. We are subsidizing these operations and and we should put some kind of a hindrance on this so that foreign money can't take it over. Can make the incentive less acceptable.

Opponents:

Don Allen, Montana Petroleum Association, Helena, said the only people we would be concerned about under the definition of having controlling interest, would be a Dutch company which is one of the two largest taxpayers as far as mineral production value goes. They have no problem with surface rights. Trying to find out the actual impact it would have. Might have to sell to smaller and less aggressive companies that are not a member of OPEC. OPEC nations have nationalized American companies there. The companies are operating on a contract basis at the present time. He wants to know if there would be an impact.

Rep. Nordtvedt, District #77, opposes this bill on very general grounds. Free movement of people and capital throughout the country and to a larger extent throughout the world - human progress is basically related to how much movement of people and capital occurs. We have more investments in foreign countries than they have in our country. Barriers against free trade, lack of free movement and capital into free people and nations - are just adding more barriers to free people in the world and that is an anti approach to solving problems. To allow the sale of \$300 million in bonds to bring capital to the state when this bill would prevent the flow of capital into Montana is contradictory. His view of the trend of human progress is that you try to encourage free movement of people and capital.

In closing Rep. Johnson said we should address the legislation - it is not a big problem at this time - but it should be addressed at this time, not after capital investment money is drained out of the country.

Rep. Burnett asked Rep. Johnson if she had researched how much problem we do have in this state. She said the U.S. and state have laws making purchase of land by an alien recordation required. In October 1976 the law went into effect. Equal protection under the law and due process does not apply. National classification as long as there is no favored nation applies.

Mr. Dowling, attorney, advised the federal provision has a constitutional problem. Can't impede trade.

Mr. Burr said a non-resident alien is not protected by the U.S. constitution. Is a foreign corporation registered in the U.S. considered a citizen? Randy McDonald, Staff Attorney, said it would be a non-resident alien.

Rep. Sivertsen believes there is a constitutional problem. Are there other states with similar legislation?

Rep. Underdal asked Rep. Nordtvedt since the U.S. has more capital invested than they do in the U.S., do you know how much capital has been expropriated by those countries? He didn't know.

Rep. Reichert asked if the Family Farm Act had been passed would we have had this problem, it would not have addressed the question of foreign ownership but would have included development of size of operations. Perhaps the element of size could be considered.

Rep. Dassinger said the Family Farm Act would have required all corporations to list the 10 largest holders, thereby trying to find out who owned the property. Rep. Huennekens said this would be the people who vote as stockholders but are not the owner.

Rep. Johnson said farm related expenses cannot be deducted under HB 291.

Rep. Fabrega asked Mr. Burr what problems would the department have if all land were put under Class 11 market value except lands that are operated by citizens of the U.S. which would then go into Class 6 if farmed by a resident citizen or legal resident of the U.S. for purposes of trying to protect the land. Mr. Burr said utilities may be represented by land. Rep. Fabrega asked about an amendment to Class 6 that all agricultural land not owned by a citizen or a legal resident would then go back to Class 11 market value. Mr. Burr said determining who is a resident and who is protected by the U.S. constitution and who isn't is a big problem. Rep. Fabrega said a legal resident definitely comes in under this problem. Mr. Burr feels they need some type of better guidance in qualifying for Class 6 if not a resident or citizen.

The meeting adjourned at 10:55 a.m.

  
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REP. HERB HUENNEKENS, Chairman

  
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Secretary