

HOUSE TAXATION COMMITTEE

46th Legislature

Rep. Herb Huennekens, Chairman, called the meeting to order at 8:30 a.m., February 14, 1979, in room 434, Capitol Building, Helena. All members were finally present. Randy McDonald, Staff Attorney was present,

House Bills 462, 543 and 573 were to be heard,

Rep. R. Budd Gould, District #98, Missoula, chief sponsor explained HB 462 would give half the beer tax money - \$1.2 million - to the cities and half to the counties. HB 627 deals with tax for alcohol rehabilitation. Need to tighten up what alcohol revenue is going for - should be going to the counties because of previous law stating drunks cannot be put in jail and have to be taken to detox ward,

Mike Stephens, Montana Association of Counties, Helena, support HB 462. The county has just as much problem with law enforcement as cities. The county would pick up the tab while patient was in detox unit in the hospital and for transportation to hospital. Feel the counties are entitled to some money.
See testimony attached,

HOUSE BILL

462

Bill Brinkle, County Commissioner of Stillwater County, feels the county should get at least 50% of beer tax allotted to Stillwater County. See testimony attached,

Roger Barber, Fergus County, Denton, feels a portion of the beer tax should go to the counties, Supports HB 462.

Kenneth A. Coulter, Garfield County Commissioners and MACo., supports HB 462. The county runs the only public transportation system in their town as well as the county, mostly for the benefit of senior citizens. The county sheriff provides law enforcement for the city. They run an alcohol program. This money was intended to help counties as well as cities with these problems. See testimony attached.

L. W. Fasbender, Cascade County Commissioner, strongly supports HB 462. They are the only providers of a detox unit. They feel since the City of Great Falls gets money from the beer tax, the county should share in this tax. When they started the detox center, their ambulance bill rose from \$357 to \$8,000 in a quarter. Supports an ambulance system for the County of Cascade and City of Great Falls. Urges committee to do pass on this bill. See testimony attached.

Alfred Kaschube, Roosevelt County, Brockton, support HB 462. Thinks the beer tax money going for health, the alcohol problems needs more help since there are insufficient funds to pay good help and so a lot of transportation expense is necessary to get them to the hospital. See testimony attached.

Opponents of HB 462 -

Dan Mizner, Montana League of Cities and Towns, Helena, opposes HB 462 saying counties do not fund in the operation of alcohol treatment program - money is collected at the state level and passed down for that purpose, All alcohol

money comes from the state and part goes to the counties and cities, earmarked for the cities. Taxpayers of cities and towns are taxpayers of the county and taxpayers in the cities are paying 60% of the tax going into the operation of cities. Paying 50-60% of the cost of operation of law enforcement.

The legislature has seen fit to mandate expenses for police officers. Money was coming out of taxpayers of cities. Think this should be offset by some other source of revenue. Police and fire are taking up about 70% - 50% of that expense has been mandated by the legislature. You have a property tax mandated at the local level. There is no way cities can absorb the loss of 50% of beer tax money. Counties get more federal money from various sources and do not transfer any to the cities. Want split 50/50 of the \$30 million coming from the government. Urges do not pass. See testimony attached.

Larry M. Heggen, finance director of City of Missoula, opposes the bill. Detox centers are financed by the liquor tax. Missoula County has 52 all-beverage licenses within a 5½ mile area, 43 of which are inside the city. Can't say the problem of alcoholism is not directly related to area of licenses. See testimony attached.

Larry Grahl, City of Billings, said HB 462 places the burdens on the cities. There would be no choice but to increase tax burdens through city levies for that amount if money is not made available. See testimony attached.

Al Thelen, City of Helena, opposes HB 462. See his testimony attached.

Dan Mizner requested the committee might extend the courtesy of hearing others who were coming up to this hearing, but because of the storm could not make it.

Rep. Gould closed saying the intention of HB 426 is only one and that is compassion. It is not meant to be punitive. He feels it is much better to continue the way we are today, but feels this beer tax should go for helping these people.

Questions from the committee -

Rep. Robbins asked about earmarked funds - Mr. Fasbender said he knew of no such reserved earmarked funds.

Rep. Sivertsen said HB 627 of which the beer tax was a part was amended so that it would not earmark revenue and county funds were earmarked, so you can not say that cities have not been well treated. Mr. Mizner said alcohol tax money was earmarked to go to the state for alcohol treatment and cities would get about an 8% increase from alcohol money. Rep. Sivertsen asked if money from the beer tax is earmarked. Mr. Mizner answered it is earmarked for transportation and public health. Rep. Sivertsen asked if that could be used for anything. Mr. Mizner said it would be part of the fund earmarked within the police budget.

Rep. Underdal asked what percentage of alcoholism problems are in the city and outside the city. Mr. Mizner said he didn't have those figures. A greater percentage of people are in the cities. He suggested running one program for all the people, both in cities and counties.

Rep. Bertelsen remarked city people are still able to use county services, Mr. Mizner said cities are part of the county and those taxpayers in the city use parts of the county also.

Rep. Robbins asked if cities can now contribute to the alcohol treatment program? Mr. Mizner said they can.

Rep. Dassinger asked why "incorporated" on line 14 had been struck, Mr. Stephens said otherwise it would have to be an incorporated city to get funds from this tax. Rep. Gould said Missoula County made 370 calls in the city last year.

Rep. Dozier asked if any cities pay for use of the jail? Mr. Mizner said there are many, many approaches to the operation of the programs.

Rep. Fagg if there would be any objection to this bill being written over on a 50/50 or proportion of alcoholism in each local government?

Rep. Gilligan asked which cities contribute to the program? Billings and some other small cities.

Rep. Huennekens asked if the solution to this program would be to raise the tax on beer and alcohol? Mr. Mizner said if this committee feels that there is a need in the counties for additional funds for operation of the sheriffs office outside of alcohol monies that are necessary for policing, etc., that might be a consideration. To take from one to give to another creates a problem.

Rep. Huennekens remarked the hard liquor tax is distributed 50% of which 66 2/3% goes into the alcohol treatment fund and the balance goes to the county and then a percent of that money goes into the city fund - 6-7% of that goes to city. Mr. Mizner said it is not 50/50. Distribution from the state back to the cities that have established alcohol programs - goes to county for administration of alcohol programs.

Rep. Johnson asked about 75% to cities and 25% to the county? Mr. Mizner said the majority of cities are at their maximum mill levies now. Legislature should authorize some other means of revenue otherwise.

Mr. Stephens said the counties are trying to do that. They have a beer related program and regardless of what has happened, the beer tax as compared to alcohol money is strictly for a set purpose and the cities' portion is not earmarked. In relation to payment of the beer tax, they are in both realms of city and county and are strapped somewhat by the alcohol tax because they do not have flexibility. He feels the county fair share should go to the county.

Rep. Wes Teague, District #69, Billings, chief sponsor, explained HB 543 would require first and second class cities to levy a tax of from 1 to 4 mills in order to raise revenue for the firefighters' disability and pension fund.

See his more complete explanation attached.

HOUSE BILL

543

Rey E. Blehm, Jr., Montana State Firemens Association, Billings, supports HB 543 as it will maintain fund growth equal to 1 mill, See his testimony attached.

Al Thelen, City Manager of Helena, has no problem with what HB 543 is trying to do - to eliminate the 2% - unrealistic to tie 2% to tax millage. Unfunded liability in fire and police are the two most serious problems. They need some assistance from the legislature for fire. They have about a \$1 million unfunded liability. He suggests the committee look at a coming bill before making a decision.

Dan Mizner, Montana League of Cities and Towns, Helena, in essence support the bill. On page 3, line 4-11, this bill changes from 3rd class cities to include all towns. Many of the cities and towns and third class cities have a system of retirement which is entirely different from that of first and second class cities. Third class cities do not choose to come under metropolitan rules. They have a choice of taking rules or city starting one by monies set aside.

Take a hard look at subsection 2 because it will create some different kinds of situations and problems in those towns that do not have paid fire departments. Delete relative to towns and say those third class cities that joined those metropolitan laws.

There were no opponents.

Rep. Teague closed suggesting the committee ask Ray Blehm's comments regarding subsection 2 on page 3. Mr. Blehm thinks volunteers should be in this section.

Rep. Audrey G. Roth, District #10, Big Sandy, chief sponsor of HB 573, said this bill would allow income tax consideration to those who have expenses in connection with the preservation of historic structures. HB 573 would require the department of revenue to include a brief description of the itemized deductions for certain approved expenses incurred in rehabilitating certified historic structures on income tax forms. The Historical Preservation office will establish standards and rules for certification.

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573

Edrie Venson, has been connected with the Montana Historic Society, and is speaking as a citizen, advised the Society has been certifying historic structures for federal programs for two years. The Society also administers grants-in-aid funds and certifies. Rehabilitation should be certified because those unintelligible make mistakes in repairing historic buildings. There are \$.5 million in grants at the moment. \$3.7 million is used in preservation work every year, so it might be possible to get a program going with less than 10%. A tax break would make for persons to put their own money in such preservation. See testimony attached.

Shirley K. Gannon and F.M. Gannon, Helena, support HB 573. Approve preservation by private persons.

Opponents -

Laurie Lewis, Acting Director of the department of revenue, says HB 573 refers to section 161 which refers to itemized deductions. Benefit derived from historic reconstruction is not a deductible item in section 161, should be section 191. As a matter of clarification and comment - the department is to include a brief description of this itemized deduction in the tax report forms and this is alright, but some technical problems may be in the bill.

Rep. Roth in closing said current Montana law allows a taxpayer to amortize his taxes over a 5-year period,

Mr. Lewis said the Montana income tax law does adopt 191 and allows amortization. If the purpose of HB 873 is to merely make this an allowable deduction, it is already in the law - if it is to provide instruction to deduct for this purpose, that is alright. There is no income tax deduction for certified historic structure preservation.

Rep. Lien asked Ms. Venson if grants require matching funds? She said federal grants have to be matched on a 50/50 basis. When grants are given to the city or county or private persons, they provide the match.

Rep. Reichert asked how far back they could go and pick up any allowed deductible expense paid?

Rep. Huennekens asked if this deduction is already included in your federal and when take federal adjusted gross, it is already there? Mr. Lewis said it means that if taken advantage of in the federal, it is already there when figuring the Montana return. Allowability of deduction has been available - 60-month write-off.

Rep. Sivertsen said the problem was brought to their attention in regards to some of our historical structures because of some having been repaired and then have been put on the tax rolls and people, rather than having to pay taxes on them, have destroyed them. Perhaps this should be looked at by the department of revenue.

Ms. Venson said in regard to certifying, in order to meet requirements, how complicated are they for this purpose? They should be replaced with the same materials - can't sand blast - can't change look of the building from its original state, can change interior to make it useable.

Rep. Sivertsen asked the cost of putting some more language on the income tax return form as mandated in subsection 2 on page 2. Rep. Roth answered it would be minimal to add just a brief instruction that this income tax credit might be available. Mr. Lewis didn't think a brief instruction on the form would be difficult. Would only affect a very few people - most readers won't know what it would mean. They are listed individually and have several blank lines. He doesn't think the form would have to be changed.

Rep. Johnson asked about maximum allowable deduction.

Rep. Fabrega wondered if HB 873 asks for individual or asks for people in a community to be allowed such a credit. This applies only to commercial structures, so owners of commercial historic structures would be eligible. Private owners of homes, farm buildings, whatever other buildings that aren't used for commercial purposes have no way of writing off their expenses. Homes are not getting grants. Rep. Fabrega asked Rep. Roth if what HB 873 is trying to accomplish would cover such a building as the Grand Union Hotel at Fort Benton? He is selling it to people who would like to restore the hotel and for the money they put out, they could deduct from their income tax? Did not contemplate people in the community would donate.

Rep. Lien asked if this is to just bring to the attention of the taxpaying public that this is available? Ms. Venson said all commercial properties

have this tax break. Mr. Lewis said it does apply more to commercial property. Allowance of deduction by every person that elects it shall be entitled to it.

EXECUTIVE SESSION

HOUSE BILL 461 - Rep. Bertelsen asked Bruce McGinnis, DoR legal department, if he had any particular objection to making an evasion a felony, and in the case of an attempt, that would be a misdemeanor. Recommendations made by Rep. Scully, chairman, and the judiciary committee. Mr. McGinnis thought they both ought to be felonies. The question of where such a case should be tried was discussed. Mr. McGinnis said the court in Helena had tried 6 or 7 cases and is becoming sophisticated enough to understand tax evasion cases. They don't have revenue or resources to go out into the county and try them in the county where the taxpayer lives. Could only take those cases where there is a big enough return to justify the cost. This is an effective program.

Rep. Huennekens asked if the cases of downright refusal to pay are cases the department is trying to correct. Mr. McGinnis said a person was scheming and goes out of business without reporting income. The total income tax is 11% - total tax evasion is \$12,000 - that's a lot of income not reported.

Rep. Lien asked how many actual criminal prosecutions are there in a year out of 200,000 returns? Mr. McGinnis said they have filed approximately 9 cases. They have presently pending another 40 some that they could file on and will eventually get to those. Their audit programs are becoming more sophisticated and are becoming more aware of what is going on in this regard and it is difficult to say how many cases would have in any one year. In the future would have some 10-15 of this type a year. They are experiencing quite a bit of pressure from people that are attending seminars, etc.

Rep. Bertelsen asked Mr. McGinnis if a person doesn't file a return because he doesn't know, that would be a misdemeanor; and the person who is trying to get out of the tax, that would be a felony. Mr. McGinnis said could make the whole thing a felony.

Rep. Underdal asked how many cases has the department of revenue won? All of them. Question of reimbursing those who win arose.

Rep. Huennekens said the committee will have the researcher work with the attorneys from the department of revenue and draft a bill for clarification of attempt to evade and evasion.

HOUSE BILL 457 - Rep. Lien moved statement of intent be included in HB 457. Motion adopted unanimously.

HOUSE BILL 499 - Rep. Johnson moved HB 499 DO PASS. Rep. Vinger made a substitute motion HB 499 DO NOT PASS. Rep. Burnett commented when hauling livestock trucks are regulated, but when hauling grain are not regulated. Rep. Sivertsen feels should change for hauling livestock. A roll call vote was 7-8 for a DO NOT PASS motion, so motion failed. Decision was reversed making HB 499 DO PASS. Reps. Robbins, Hirsch, Gilligan, Fagg were absent.

Meeting adjourned at 11:15 a.m.

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Josephine Lahti - Secretary


REP. HERB HUENNEKENS, Chairman