

HOUSE TAXATION COMMITTEE

46th LEGISLATURE

The House Taxation Committee was called to order by Chairman Huennekens at 8:30 a.m., in Room 434, Capitol Building, on April 5, 1979. All members were present. The staff attorney Randy McDonald was present.

Senator George McCallum, District #22, chief sponsor of SB 306, which was requested by the Code Commissioner, was unable to be present, so Larry Weinberg, Legislative Council Attorney, presented the bill. He said the bill clarifies and updates certain local government percentage limitations on indebtedness that should have been amended in HB 70 passed in the 1977 session. A summary sheet is attached and part of the minutes. Mr. Weinberg went through the bill explaining it.

Dan Mizner, Montana Cities and Towns, spoke in support. He said at the present time bond issues on the water and sewer are 5% of the taxable value, 10% of the assessed value. An additional 18% over not to exceed the 36% brings it back on taxable value where it was before. To accomplish this strike the 10% on page 3, line 24, and insert 36%. The way the statutes read now leaves some of the cities and towns right at or just over the taxable value. There would be no increase in the dollars that can be used for sewer and water.

Senator Lawrence G. Stimatz, District #43, Butte, the chief sponsor of SB 492, which is at the request of the Attorney General and the Department of Revenue, said the bill was introduced to clear up some technicalities in sets of laws for escheated property. Escheated property is unclaimed or abandoned property or someone dies with no known heirs, and can be real or personal property. One change was to reduce from 10 to 5 years the statute of limitations when action must be brought to recover escheated property; and the words executor and administrator is changed to personal representative. Tom Stohl, Department of Revenue, Dennis Dumphy, Attorney General's Office, and Frances C. Elge, American Archives Association, Washington, DC, were present and would answer any questions.

Frances Elge, American Archives Association, Washington, DC, said this is a beautiful, well-written bill. As a result the law business will not be quite so good. She said 10 years is too long and two years is too short for the claimant--five years would be good.

Senator Stimatz in closing said \$300,000 comes to the state in unclaimed property.

There were no opponents and no questions from the committee.

Senator George Roskie, District #21, Great Falls, the chief sponsor of SB 142, said most of the language originally in the bill has been stricken and the new section put in simply says that taxable value may not exceed 5% of its true market value. The property classifications involved are 14, 15 and 18. What this does is put everybody on an equitable basis and in effect is a limit on how high your property can be assessed and taxed. It does not impinge

unnecessarily on the local government's tax base. If adopted the Department of Revenue would move closer to equity and fair value.

Representative Jay Fabrega said that originally the bill called for the Department of Revenue to reappraise all property to the five percent. This was stricken in the Senate.

Ed Nelson, Montana Taxpayers Association, said he supported the legislation as he supported Rep. Huennekens' bill in terms of concept. The implication of this is that the Department will continue with reappraisal and if they continue with reappraisal to adopt an extension of the schedule that was in HB 70 as without that you will be in a precarious position. This would force the department to continue its efforts in terms of reappraisal. Two sections provides they do it over a five years program. He emphasized the need to have the schedule in the legislation.

Roskie closed saying he hoped the committee had listened carefully to Nelson as it applies to bananas.

Chairman Huennekens felt the current year's true market value would serve as a guide to the department and be good grounds for the county tax board as that is a figure that is arrived at with a normal commercial appraisal.

Vice Chairman Dassinger took the chair as the Chairman had to leave.

Senator Tom Towe, District #34, chief sponsor of SB 347, which sets out specific guidelines for the coal board to examine with regard to local effort when awarding grants. The guidelines tie local effort to the history of the mill levy of the area local government. He said this bill came out of the Coal Tax Oversight Committee, which committee will sunset itself in July of this year. The Coal Tax Oversight Committee reviewed the activity of the Coal Board. He said due to criticism leveled at this Board he had personally reviewed some of the files and is satisfied the Board is doing a good job at not only looking at the specific needs brought about by coal impacts but at the ability of different units to supply that need. He said the areas of impact have had a good decrease in mill levy and this has caused some of the criticism to be levied at them. Even though he felt they were doing a good job, to forestall criticism this bill would add guidelines for this Coal Board and restrict some of their discretion. He said for the most part the Coal Board is in agreement with the bill. The bill says the Board must review the mill levies prior to coal development. If the average of the three years prior to 1972 (beginning of coal development) is higher than the present mill levy it will be deemed to mean lack of local effort and the application will be denied. It would not be right for them to get by with less bonded indebtedness than other counties.

Jack Cohn, Montana Coal Board, said no board likes to be restricted--freedom to use common sense--be we have been mandated by the legislature and we can work with and support this bill. If we find problems that we cannot foresee right now, we would like to come back to you.

Tom Harrison, Montana Association of Coal, Oil and Gas Counties, suggested two amendments. The first was to change the date from 1972 to 1970--Rosebud County started coal development in 1969 so the year 1972 would not be a fair year to use if you are going to take them back to pre-coal impact. The second amendment is on page 2, line 5, the "shall" should be "may" as it removes all discretions from the Coal Board and completely locks it in. There should be some flexibility

and discretion left with the Coal Board which he felt they would use wisely and not abuse.

There were no opponents.

In closing Senator Towe addressed Mr. Harrison's amendments. He said if Rosebud needs the starting date as 1970, that is the date we should use. He opposed the changing of the "shall" to "may." He said the may is needed to allay some of the fears that were raised by the Finance Committee as they have had a jaundiced view of some of the grants. He said he has reviewed the papers and feels they did exactly what they were told to do. He said it is unwise to grant money to counties which have the lowest mill levies in the state and he didn't think any discretion was needed there--the bill would not be accomplishing what we want it to.

Rep. Lien mentioned the Circle area which he said is now taxing themselves to the limit to get things done and in so doing are taking themselves out of the ability to get any coal tax money. He felt for specific cases like this it might be alright to change the "shall" to "may" and leave discretion with the Coal Board.

Senator Towe responded that the towns of Hardin and Forsyth are different than the counties. The cities are up to almost their maximum limits. It is the obligation of the Coal Board to watch that. Hope the same would be true for Circle.

Rep. Fabrega said if the "shall" is changed to "may"--there will be no need for the bill. He felt the bill was needed.

Chairman Huennekens returned and took the chair.

EXECUTIVE SESSION

SENATE BILL 492

Rep. Bertelsen moved be concurred in and the motion passed unanimously with those present.

SENATE BILL
312

Senator Bill Norman, District #47, Missoula, chief sponsor of SB 312, said this bill affixes the rate of property tax classification for Class 11, 15 and 18 property at their current rate under the adjustment required by 15-7-121 of the codes. This bill is similar to HB 509 which originated with this committee and it is not important which bill passes but we do need one of them. In comparing the two bills he said SB 312 rounds out 8.55 to 8.5 and HB 509 leaves it at 8.55. HB 509 would have the floating schedule like was in old HB 70. If the bill passes this would be enacted before the reappraisal occurs and before the legislature meets. HB 509 would be 105% of the previous revenue and SB 312 would leave it a 100%. The problem was the department was going to reappraise property and since obviously the taxes were going to go way up we could feel the heat. We moved to prevent having more money brought in then was needed by local government. The figure arrived at to use was 8.55%. We got burned as counties have received less money than before. That is why the 105% in HB 509. This is the basis on which you have to consider this bill--do you want to continue at 105% or even go to 110% or do you want to hold it at 100%.

Rep. Mel Williams spoke as a proponent. He said the bill ties in well with HB 213. The bill reduces the number of classifications and sets a fast percentage that should be levied against the set value. Rep. Williams said he preferred the 8.55 rather than the 8.5 for Class 11. Also Class 15 property could continue to be taxed at 4% and Class 18, which is taxed at 2.8% in the new bill is taxed at 3%. This makes even numbers and eliminates the fractions.

Ed Nelson, Montana Taxpayers Association, said they want to go on record as supporting this bill.

Dean Zinnecker, Association of Counties, spoke as an opponent. He asked for the repeal of the section that gives the 5% latitude. He asked to have the 10% latitude be reinserted. He said they have concerns about the number of bills going through reducing their money.

Senator Norman closed.

Rep. Nordtvedt said he believed HB 509 set up a schedule that would continue the reappraisal process. Sen. Norman agreed saying this bill does not speak to that.

Rep. Fabrega asked if HB 213 rounded the 8.55 to 8.5 and the answer was no. Senator Norman said doing this would cost about 3 million statewide.

Chairman Huennekens said he had to leave so he would like to make some announcements. The committee to study and come up with a possible solution to the tax relief problem will be: Democrats--Huennekens, Dassinger, Lien, Williams, Robbins; Republicans--Sivertsen, Fabrega, Fagg, Nordtvedt and Bertelsen.

Chairman Huennekens appointed four subcommittees to review the remainder of the Senate Bills. He said the full subcommittee type of review done previously is not needed. He suggested each of the members of the subcommittees read each bill assigned and that way there would be at least three people who are conversant with each bill. Then he suggested the subcommittee get-together to discuss their bills, and be ready to enlighten the committee and suggest any amendments that may be necessary. He said he didn't feel there should be any burning compulsion as we see in the Senate to amend--but we should amend as necessary. Following is a list of the subcommittees and the area they will be studying.

Subcommittee on Fuel Bills -- 10 bills: Harrington, Dozier and Burnett
Subcommittee to Review Departments--8 bills: Gilligan, Johnson and Vinger
Subcommittee to review Property Taxation Related Bills--6 bills: Hirsch, Reichert and Underdal.

Vice-Chairman Dassinger took the chair

On SB 347 Rep. Reichert suggested that when a problem like a bridge came up to have an outside party review as the Coal Board is rather close to the whole thing.

Rep. Fabrega suggested leaving the wording as is and add "unless the Board finds sufficient mitigating circumstances."

Senator Tom Towe, District #34, Billings, chief sponsor of SB 401, said this bill relates to the Alternative Resources Fund which is now receiving 2 1/2% from the Coal Tax Fund and which amount will increase to 5% in 1980. The request has been made to remove the cautionary language that prohibits any commercial market. The thought originally was that we didn't want the Montana Power Company coming it as that was not the intent of the program. He said it has come to his attention that we are prohibiting demonstration projects for things like ohol and wind generation and having solar systems apply to more than one commercial enterprise. Perhaps it is too limiting. He said the suggestion originally came from MERDI. He introduced the following proponent.

SENATE BILL
401

E. A. O'Hair, MERDI, Deputy Director, said his specific area is the renewable resource program. Removing the restrictive language is desirable when you are in a research program as the object is to use the renewable energy. At the start you are not sure where it is going and what the best use is. He said they are looking at projects of selling straw--same BTU contained as coal. Have to burn it to get rid of it--if you had 100 tons of straw and pellitize it could you sell it? Is this development precluded from a grant by the present wording? It is a difficult phrase to interpret. Once you have developed the technology it could be something that is a commercial type of activity.

G. M. Knudsen, Department of Natural Resources, said there was very little he could add to what Senator Towe has said. He said they are constantly confronted with these issues on how far they can go. The department wants to go on record as supporting.

Senator Towe said Ron Pogue has an amendment and he felt the amendment was all right.

Ron Pogue, Alternative Energy Resources Organization, said they feel the bill is needed so that the Alternative Renewable Energy Sources Program can proceed with its long-range plan to further develop and commercialize renewable energy in Montana. However, they felt the attached amendments are necessary to help prevent grants from being awarded for purely political reasons and to ensure that adequate opportunities exist for outside and public input into the grant decision-making process. A copy of his amendments are attached.

There were no opponents. Senator Towe closed saying again he had no objection to AERO's amendments. He said the advisory council should be meeting and should be discussing these grants. He asked if Mr. Knudsen could comment on this.

Mr. Knudsen said the department is very interested in using the advisory committee. He said it was due to the recent combining and overhaul of the energy division and energy office that the advisory council was not appointed for the last group of grants. He said they are an important group and the director intends to make full use of it. He said the committee will help to review the unsolicited proposals that will be sent out.

Mr. Pogue said he would feel better if the use of the advisory council was in writing.

Mr. Knudsen said the SJR 28 sets up an advisory group for the purpose of dealing with ethanol. This would be a group over and above this advisory group.

Senator Towe said since the Coal Tax Oversight Committee doesn't go out of business until July 1 and if the Resolution does pass we could see if the two committees could be combined as we may not need more than one.

Rep. Sivertsen asked how big a staff it is going to take. Mr. Pogue said the department may employ staff--that is already in the law. The amendments change the "may" to "shall" as far as appointing and using an advisory council.

Rep. Reichert asked if the original law required the setting up of advisory councils. The answer was it was permissive. Mr. Knudsen said the advisory council was set up at the outset of the renewable program and used throughout except this last time. He said their expenses are reimbursed.

Rep. Johnson asked how strongly they rely on the advice of the committee. Mr. Knudsen said the staff would review the projects and the council would make an independent review and then they would meet and discuss and come up with a joint recommendation. Rep. Johnson asked if the council's decision was based more on political than on technical aspects. Mr. Knudsen said his consensus was on the technical.

Rep. Sivertsen questioned members of state agencies being on this council. Senator Towe said the thought was to have persons who had expertise in this area. He said it seemed appropriate to have someone like Bill Christiansen who was then Lt. Governor on this staff. He didn't feel it was too serious one way or the other. He said in fairness to Mr. Knudsen he would like to mention what had happened this past fall. The Coal Tax Oversight Committee reviews the grants on a periodic basis and we came to a point last fall when we raised some serious questions and passed a resolution that no further grants be made until the department developed a program plan and some direction. We didn't feel adequate criteria was used as a basis for making awards and grants. They did this. They made a plan and presented it to the Oversight Committee and we reviewed it carefully. We told them to make proposals but not grants until we review them again. We reviewed very carefully and were relatively satisfied with the progress. They have a consistent program and plan to follow. The grant proposals by and large followed the plan. Because of that turmoil a committee wasn't appointed.

Rep. Fabrega asked if the Coal Tax Oversight Committee was going to sunset. Senator Towe said in July and they are sunsetting themselves as they feel there is not enough need for the committee.

Rep. Johnson asked if the proposed AERO amendment was in the scope of the bill title and Senator Towe said he thought it was within the scope of the act.

Chairman Huennekens returned and took the chair.

EXECUTIVE SESSION

SENATE BILL 184

Rep. Fabrega moved be not concurred in. He said he had come up with some interesting things. One percent of the figures of last year's income was 20 1/2 million and with the fee system it would be 15 million. The department has been pushing the fee system. In a rural area that has 165 mills a 1979 vehicle would pay 118.00 but under the fee system he would pay 125.00. In a

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300 mill levy county the cost now is 218.00 and under the fee system is 125.00. The biggest break will be to the metropolitan areas and the cost will increase substantially in the rural areas. He said he couldn't buy this. We would lose the itemized deduction and lose the ability to try to convert it and can't be used for bonding purposes. Senate Bill 184 is totally unworkable.

Rep. Sivertsen said he had worked on this bill through the interim and is opposed to it. He felt Rep. Fabrega's bill addresses the problem a lot more fully than this bill.

Rep. Huennekens said it is a marvelous idea but it doesn't work too well.

Rep. Hirsch said he would not like to see the fee concept lost.

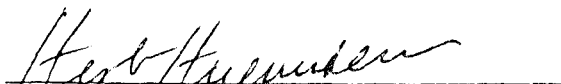
Rep. Dozier moved the first set of technical amendments to SB 184. These are attached and part of the minutes. The motion carried unanimously with those present. Rep. Dassinger moved the second set of technical amendments which are also attached. This motion carried unanimously with those present.

Question was called on the bill and the motion of BE NOT CONCURRED AS AMENDED passed. Voting no were Reps. Hirsch and Gilligan and absent were Reps. Burnett Fagg and Harrington.

Meeting adjourned at 11:30 a.m.



Emelia A. Satre, Asst. Sec.


HERB HUENNEKENS, CHAIRMAN