

4/9/79

HOUSE TAXATION COMMITTEE

46th LEGISLATURE

The House Taxation Committee was called to order by Chairman Herb Huennekens on April 9, 1979, at 8:30 a.m., in Room 434, Capitol Building. Representatives Bertelsen and Burnett were absent and Representative Gilligan was excused. The staff attorney Randy McDonald was present.

Executive action was taken on the following bills: SBs 195, 306, 463, 142, 303, 325, 50 177, 172, 312 and 389

EXECUTIVE ACTIONSENATE BILL 195

Chairman Huennekens asked the committee to resume consideration of this bill which had been discussed at the last meeting.

Rep. Sivertsen suggested on page 2, subsection 2 to add words that would exclude retail businesses and say it only applies to a new business. We don't want to impose a burden on someone that has built their own business and then allow industrial bonds to be used by a competitor.

Rep. Fagg said in our capital poor state we don't want to turn down anyway to get money into Montana.

Rep. Reichert mentioned it was brought out that the local governing powers have this discretionary power now. Rep. Fabrega agreed and said he was willing to kill the bill and let the local authorities make the determination. He moved the bill be not concurred in. Rep. Dassinger agreed that the local people can make the decision now so the bill is not needed. Rep. Dozier felt it was a bad bill. He said it is attacking a local specific problem by penalizing everybody statewide.

Rep. Lien felt the bill was needed much more than just for Denver Dry. Doesn't make any difference if the majority of the people are opposed--two people can unilaterally control several million dollars. This is a completely unfair position to put our county commissioners or city council in--it is a temptation. We lose all tax advantage on municipal bonds. He felt the bill was overdue and should have been in two years ago. This is a step in the right direction.

Rep. Williams said he disagrees with his good friend, Mr. Lien. He said what surprises him is that the author is supposed to be one of the greatest proponents of the free enterprise system. He said he has been involved in the promotion of the bonds from the beginning. He said look at the record--the bill has done fair--more good than harm. Amend it to include agriculture products and agricultural processes.

Rep. Nordtvedt moved to amend page 2, line 25 by striking "county" and inserting "jurisdictional planning area." Rep. Fagg spoke against using the words "jurisdictional area." He felt you could just put in "grey area." He said it is a bad bill and didn't think it could be cleaned up. Rep. Nordtvedt withdrew his motion.

Question was called and Chairman Huennekens called for a roll call vote on the motion of BE NOT CONCURRED IN. The motion carried 9 to 5. Those voting against were Reps. Johnson, Lien, Nordtvedt, Sivertsen and Underdal; absent were Reps. Bertelsen and Burnett, Gilligan and Harrington and Robbins.

SENATE BILL 306

Rep. Hirsch moved be concurred in. He also moved to amend on page 3, line 24, following "exceed" to insert "not to exceed 36%."

Rep. Fabrega said this will mean the total bonded indebtedness will be 36%-- 18% for sewer and water and 18% for other purposes.

Rep. Harrington moved to amend by striking the "10" and putting in "36." He said there would be no increase in bonded indebtedness. Motion carried unanimously with those present to accept the amendment.

Question was called on the bill and the motion of BE CONCURRED IN AS AMENDED carried unanimously with those present. Rep. Robbins had come so absent were Reps. Bertelsen, Burnett, Gilligan and Harrington. Rep. Robbins will carry.

SENATE BILL 463

Rep. Hirsch said their subcommittee recommended that this bill be concurred in. He so moved.

Rep. Dassinger suggested the bill be amended to four mills as quite a few of the counties are over four mills. He said according to the arguments the intent is to keep some of these small counties from getting into a bad situation because of what happens in their counties. He moved this amendment.

Rep. Reichert said the purpose of the bill is for the state to help these counties by assuming more of the responsibility for district court cases.

Chairman Huennekens said justice is basically not a local function but a state function.

Rep. Dassinger said maybe we should go a little further and get rid of all county attorneys and let the state take over. The local people should be taking care of their local affairs. I believe these people want to take care of their own problems. I feel four mills would not be too high as some of these counties are paying that now and it is not breaking them.

Rep. Lien disagreed. He felt it should say "reasonable local effort" and then they should be able to apply for assistance.

Rep. Fabrega said he agreed with Mr. Dassinger. We have to set a level and from there on the state will act as the insurer.

Chairman Huennekens mentioned the Department of Administration is given a lot of power in making these grants and he was wondering if there should be guidelines more specific than appear in this bill.

Rep. Lien felt 3 or 3 1/2 mills would be better than four.

Action was taken on Rep. Dassinger's amendment and it failed. Question was then called on the motion of BE CONCURRED IN and this motion carried with Rep. Dassinger voting no, and the same absent as the last bill. Rep. Underdal will carry the bill on the floor.

SENATE BILL 142

Rep. Fabrega moved be concurred in. He said the committee had passed Chairman Huenneken's bill which set the 5% limitation for residential property and this would extend it to the other properties in the class--speak more directly to the total question. He said if you take the average evaluation of 57 1/2% times 8.55 you come up with the same as if you take 5% of the true market value. You should. If you don't and it is greater than 5% the taxpayer has the opportunity to appeal before the tax appeal board and this would make a good defense for him.

Chairman Huennekens said his concern was residential property as he felt the real crunch was on the homeowner. He felt a competitive advantage doesn't exist as long as all pay on the same basis. His bill has the term "current year true market value" and this bill says "most current value." He recommended this be changed in this bill to the same words as in his bill.

Rep. Fabrega said there would be no impacts except where properties are assessed over 100% of their market value. This just gives some recourse to the property owner. He moved to amend page 2, line 1, strike "most" and insert after "current" "year true market". This motion carried with Rep. Nordtvedt voting no and the same absent as previous bill.

Rep. Reichert expressed concern at having the industrial and commercial properties included with the residential.

As there still seemed to be questions Chairman Huennekens said action would be deferred until Mantz Hutchinson from the Department of Revenue came. He had been called.

SENATE BILL 303

Rep. Fabrega passed copies of an amendment. The amendment is on page 1, line 21. It would restore the language "with land they occupy". This was a drafting error made in the Senate Committee. A copy of this is attached. The staff attorney suggested including in this amendment the correcting of a typo on page 2, line 25, putting the "h" in the. Rep. Fabrega moved this amendment. The motion carried unanimously with those present.

Rep. Hirsch said he opposed the bill because he did not see why it should not be taxed. Why would you want the land to lay idle.

Chairman Huennekens asked if the bill allows commercially operated cemeteries to be exempt. He said nonprofit enterprises should not be exempt from taxes but charitable and educational should be exempt.

Rep. Fabrega said the present law excludes all but the Catholic cemeteries and that is why the bill. The bill I carried last time didn't call for the corporations sole specifically and that is why the problem.

Rep. Fabrega moved that on page 2, line 9, to remove Chapter 2. This motion carried unanimously with those present.

Rep. Hirsch questioned the exemption of the land left idle around the cemetery. Rep. Fabrega said as he understood the language if they are deriving income from it they will be taxed.

Rep. Johnson moved that the land must be used exclusively for a cemetery. Rep. Fabrega said then until the land is actually used as a cemetery it can be taxed. Rep. Sivertsen said this bill could put up a beautiful arrangement for somebody who wanted to make a speculation and hold. Rep. Fabrega pointed out line 15 which says "and produces no income." Rep. Johnson withdrew her motion to amend.

Rep. Fabrega moved the bill as amended be concurred in. A roll call vote was taken and the motion failed with 7 yes and 9 no and 3 absent. Voting yes were Reps. Dassinger, Dozier, Fabrega, Harrington, Johnson, Lien, Underdal and absent were Reps. Bertelsen, Burnett and Gilligan. The committee moved to reverse the vote on a BE NOT CONCURRED AS AMENDED.

SENATE BILL 142

Chairman Huennekens since Dennis Burr of the Revenue Department was now present returned the consideration of the committee to this bill. He asked since the bill was changed to say the taxable evaluation could not exceed 5% of the current year value--is there any impact based on that?

Dennis Burr said he didn't think there is.

The Chairman asked how close commercial values are to 5% of the current value. Mr. Burr said approximately 4% on commercial and industrial.

Rep. Fabrega said this is the only way by putting on this amendment that we can bring this to a head. He said since we are not using the exact meaning of the law this bill is needed to give a taxpayer that is overtaxed a chance to protest. Those who are under won't do anything as they would be running a risk of having their taxes increased. Rep. Fabrega felt that all under this property classification should be under the same evaluation as we are supposedly taxing them all the same.

Mr. Burr said they are probably not going to be putting new values on the books for three or four years and this will take care of the exceptions. Those that are at a higher percentage could come in on the exception case. He felt the bill that dealt with just residential made it plainer that it was just on exception basis.

Rep. Fabrega said Proposition 13 in California does not permit property to be taxed more than 1% and it is unworkable. This bill would say cannot exceed 5% of the market value (taxable evaluation can't exceed more than 5%) and it allows for the millage differentials.

Rep. Hirsch reminded them of the amendment made on page 1, line 18. The question was called and a roll call vote taken on be concurred in as amended. The

motion failed with 7 voting for and 9 opposed. Those voting for were: Reps. Fabrega, Fagg, Hirsch, Lien, Nordtvedt, Sivertsen and Underdal and absent were Reps. Bertelsen, Burnett and Gilligan. The committee moved to reverse the vote so the bill receives a BE NOT CONCURRED IN AS AMENDED recommendation.

SENATE BILL 312

Rep. Hirsch said the subcommittee recommended tabling this bill to check on Rep. Yardley's bill. Don't need this bill unless we want back down to the 100%.

Rep. Williams moved to table the bill.

Rep. Fabrega moved BE NOT CONCURRED IN and this motion carried unanimously with those present (same absent as previous bill).

SENATE BILL 325

Rep. Hirsch moved be concurred in. It asks that the Department of Health make the determination rather than the staff of the Department of Revenue and we could find nothing wrong with that logic. Rep. Reichert said the fiscal impact is negligible.

Rep. Dassinger asked why the Department of Health is better qualified than the Department of Revenue. Dennis Burr of the Department of Revenue said all they are determining is if the equipment is really air pollution equipment. The Department of Revenue will still determine the value of the equipment.

Chairman Huennekens asked for a voice vote and the motion of BE CONCURRED IN passed unanimously. Rep. Hirsch will carry the bill on the floor.

SENATE BILL 389

Rep. Fagg moved to amend on page 2, line 9, a new subsection (c) "prove that the occupant is the owner of the property." Rep. Reichert moved a substitute motion to have the language needed inserted on page 2, line 4, following "habitation", to remove the semicolon and put in ", and is principal residence of the owner."

Rep. Bertelsen came.

Chairman Huennekens called for a voice vote and the amendment passed unanimously.

Rep. Williams moved to reinsert the rollback language--page 2, lines 17 through line 10 on page 3. and to reinsert lines 7-9 on page 2. This motion carried with Rep. Nordtvedt voting no and Reps. Burnett and Gilligan absent.

Rep. Fabrega asked if the committee didn't believe property should be taxed at its property value. He felt they were completely getting away from the general precept of HB 70 and going backwards.

Rep. Sivertsen said it is the problem of commercial property encroaching and driving up residential evaluations. All the homeowner wants to do is live in his home and we could be forcing him out if we tax at the higher evaluation.

Rep. Nordtvedt said you should tax the true value of the land which increases substantially in the circumstances--the improvements don't. He said he voted

against the rollback tax amendment as it is a further step in getting away from the notion of taxing property on its true value. Property should be taxed on its highest and best use. He said he opposed the bill.

Rep. Dozier said some of this property has been in a family for two or three generations. It was cow pasture when they moved in--now in trouble because they are common people that didn't fight commercial things. It is wrong to force them out of their homes.

Rep. Underdal said it was confiscation of the property by high taxation. He said he was for the bill.

Rep. Fagg spoke against the bill. He felt individual owners could profit from it and block progress. They could hold up a whole block of development.

Rep. Fagg moved be not concurred as amended. Chairman Huennekens called for a recorded vote and the motion failed with 5 yoting yes and 12 no. Voting yes were: Reps. Dassinger, Bertelsen, Fabrega, Fagg and Nordtvedt; absent were Reps. Burnett and Gilligan. The committee moved to reverse the motion so the bill received a BE CONCURRED IN AS AMENDED recommendation. Rep. Dozier will carry the bill on the floor.

SENATE BILL 50

Rep. Harrington said his subcommittee recommended the bill be concurred in. He so moved. The motion carried unanimously with those present, same absent as previous bill. Rep. Dassinger will carry the bill on the floor.

SENATE BILL 177

Rep. Harrington said the recommendation of the subcommittee was to concur in the bill. He moved that SB 177 receive a BE CONCURRED IN recommendation. The motion carried unanimously with those present, same absent as previous bill. Rep. Dassinger will carry the bill on the floor.

SENATE BILL 172

The subcommittee recommended this bill be held for more information.

Rep. Hirsch moved be concurred in.

Rep. Dassinger said he would like to check the counties and see how much tax is paid on snowmobiles.

Rep. Hirsch said it was difficult to verify use. Average consumption is about 10 miles per gallon. South Dakota uses 100 gallons per machine and Minnesota uses 129.9. He asked Mr. Hoovestall to comment on this. Mr. Hoovestall said their information is from the national office.

Rep. Sivertsen said about half of the snowmobiles are registered and he questioned the figures used. Rep. Johnson felt it didn't really address the state cost of gas. She felt the snowmobile account would be getting a disproportionate amount if the usage goes down and price increases.

Rep. Sivertsen moved to amend by inserting .5 instead of .6. He felt the bill should not be passed as more information is needed. Wait for two years and see how things look then.

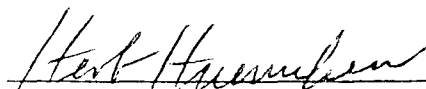
Rep. Hirsch said he opposed the amendment and wanted to stick with the .6. He felt the figures shouldn't be questioned any more than any other. He said the figures are substantiated.


Rep. Fagg felt the amendment was a step in the right direction. He felt they might be short of money for the interstate program.

Question was called and a roll call vote taken on the amendment to change from .6 of 1% to .5 of 1%. The motion carried 12 to 5. Those opposed were: Reps. Bertelsen, Dozier, Fabrega, Hirsch and Robbins; absent were Reps. Burnett and Gilligan.

The question was called on the motion to Be Concurred In as Amended. A recorded vote was taken and the motion failed 9 to 8. Voting for were Reps. Bertelsen, Dozier, Harrington, Hirsch, Lien, Nordtvedt, Robbins, Vinger and absent were Reps. Burnett and Gilligan. The committee moved to reverse the motion and SB 172 receives a BE NOT CONCURRED IN AS AMENDED recommendation.

Meeting adjourned at 11:05 a.m.


HERB HUENNEKENS, CHAIRMAN


Emelia Satre, Asst. Sec.