

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 20, 1979

The sixth meeting of the Taxation Committee was called to order on the above date in Room 415 of the State Capitol Building by Chairman Turnage.

ROLL CALL: Roll call found all members present with the exception of Sen. Hager, who was excused.

Witnesses who gave testimony are listed on attached Visitors' Register.

CONSIDERATION OF SENATE BILL 67: Senator Manley distributed copies of the recent Supreme Court decision which ruled on a suit brought by taxpayers against the Department of Revenue, State of Montana, regarding the tax exemption of above-ground sprinkler irrigation systems, the subject of SB67. Results of this ruling are attached, see Exh. #1. Sen. Manley, in presenting his bill, said the Department had declared the systems to be machinery and therefore, in a number of counties, taxed as machinery. The Supreme Court ruling, he felt, was not clear enough as regards present law, and he felt if the committee passed SB67, they should clarify present statutes in regard to the exemptions.

Mr. Loble, who had represented the taxpayers in their suit against the Department, see Exh. #1, was also a proponent and said the Court's decision was based on a principal of law, that since the law in question would have been unconstitutional, the law was not ever in effect.

Chairman Turnage at this time pointed out that 84-206 was the section that was unconstitutional, and is now 15-206 of the statutes. He said that assuming the bill receives favorable action by the committee, they must reenact the section.

Others who appeared in support of the bill were Mr. Hollenback, Mr. Cook and Mr. Dutton, also Mr. Wallace and Mr. Radke. Mr. Jackson gave a brief history of irrigation in the West and stated that even present systems will soon be outmoded as newer and better systems are introduced and taxation of these systems seems unjustified. Mr. Murphy representing a number of farm organizations which claim a total membership of some 80,000 members, also supported the bill, as did Mr. Biggerstaff, who mentioned the fact that sprinkler irrigation makes better use of water supplies and leaves soil in better condition than the older flood irrigation methods, which are presently tax exempt.

Proponents also included: Mr. Ellis, Mr. Morrow, whose testimony is attached, Exh. #2, Mr. Gilbert, Mr. Teigen, Mr. Spilde and Senator Boylan, one of the sponsors of the bill, and Senator Etchart.

Following their testimony Chairman Turnage called for opponents

of the bill and there were none. The meeting was then open for questioning by the witnesses by the committee. Sen. Manley had some figures to show that sprinkling irrigation increased land values, therefore raising classification of the land, thus putting the land in higher tax class, bringing increased taxes to the counties. He felt this compensated in part for loss of revenues if the systems were exempt from taxes.

During the questioning he also submitted testimony reminding the committee that irrigation brought increased trade to an area, through sale of equipment and other related businesses necessary to sale and distribution, maintenance of the systems. He felt these, together with increased land values, more than compensated for revenue losses.

Chairman Turnage noted, for the record: "Mr. Loble, if agricultural land now presently classed as dryland, non-irrigated land has installed upon it a sprinkler irrigation system and the Department of Revenue reclassifies the land to irrigated classification, do you see any possibility that this reclassification will be challenged because of the exemption allowed in this act?"

Mr. Loble: "It is not the intention of this statute to reclassify land for taxing purposes but to exempt sprinkler irrigation systems. Once such a system has been introduced to the land the land will bear a higher land value, which must be reclassified and then taxed accordingly."

It was pointed out that in order for the statute to become law, under the new constitution, paragraph 1 of the bill would have to be underscored, as an amendment.

Sen. Towe thus Moved SB67 Be Amended by Inserting this Paragraph into the Statues. The motion was carried unanimously.

Sen. Towe then Moved SB67, As Amended, Do Pass. Motion was carried unanimously.

Chairman Turnage noted there was ambiguity in the old law and the amendment will clarify that; the old statute referred only to underground systems and not above-ground sprinkler systems. Both systems are exempt, under legislation proposed in SB67.

Following this decision, the meeting was adjourned.


JEAN A. TURNAGE - CHAIRMAN

Date JAN. 20. 1975

ROLL CALL

SENATE TAXATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
SEN. GOODOVER (Vice Chairman)	✓		
SEN. BROWN	✓		
SEN. HAGER			✓
SEN. MANLEY	✓		
SEN. MANNING	✓		
SEN. McCOLLUM	✓		
SEN. NORMAN	✓		
SEN. ROSKIE	✓		
SEN. SEVERSON	✓		
SEN. TOWE	✓		
SEN. WATT	✓		
CHAIRMAN TURNAGE	✓		

Each Day Attach to Minutes.

SEN.

BILL 67SENATE TAXATION COMMITTEE

VISITORS' REGISTER

DATE 1-20-79Please note bill no.
(check one)

NAME	REPRESENTING	BILL #	SUPPORT	OPP
Lester H Loble I	Sprinkler Tax Group		X	
Mr John Bucher	Sprinkler Tax Group		X	
John Bucher	Rancher		X	
John Hollenback	Rancher		X	
Max Cook	"		X	
David Dutton	Rancher		X	
Edgar Lane Ranch William W. Wallace	Rancher		X	
Ed Ratche	Rancher		X	
Bill Juff	Dept of Rev			
Debbie Bunn	"			
Peter Jackson	Rancher		X	
Terry Murphy	NFO + Samuel Farming's.		X	
Bob Kinnestuff	Utah Conservation District		X	
R. A. Ellis	Helena Valley		X	
Edna T. C. Morrow	Fort Benton		X	
Tom Hellet	Montana West Shovel		X	
Myra Lippin	Mont. Stockman's Assn.		X	
Bill & Sue Leiker	TENNCO Coal Co			
Tom Elton	Cherokee Co			
Bob Randal	State Tax Appeal Board			
GENE SPINDE	BIG TIMBER		X	
Paul F. Boyla	Senate District 3 R		X	
Mark Eberhart	Senate District 2		X	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

EXH. #1

No. 14150

IN THE SUPREME COURT OF THE STATE OF MONTANA

1978

JOHN BUCHER, et al.,

Plaintiffs and Respondents,

-vs-

POWELL COUNTY, et al.,

Defendants and Appellants.

1-20-79
Re: 80-67

No. 14130

ROBERT JOHNSON,

Plaintiff and Respondent,

-vs-

ROSEBUD COUNTY, et al.,

Defendants and Appellants.

Appealed from: District Courts of the Third and Sixteenth Judicial Districts,
Honorable James D. Freebourn and Honorable Alfred B. Coate,
Judges presiding.

Counsel of Record:

For Appellants:

R. Bruce McGinnis argued, Dept. of Revenue, Helena, Montana
John S. Forthye, County Attorney, Forsyth, Montana

For Respondents:

Loble, Pauly, Harlen, Picotte and Norris, Helena, Montana
Lester Loble, II argued, Helena, Montana

Submitted: October 12, 1978

Page 2 Fenwick C. Morsen-

and business.

We must encourage economic growth, and work use of our water.

Sen Bill # 67

Jan. 29, 1979

2# 1174

My name is Fenwick C. Morsen
irrigation rancher from
Fort Benton, Chouteau County

I have been an appraiser
and classifier in Chouteau
County 1957-60. I was
a Federal land bank
appraiser for six years
working on many irrigation
projects.

With all the saline water
problems I observed from
flood irrigation, everyone
should be happy to see
the move to sprinkler
irrigation.

Sprinkler irrigation practices
relate to the future
development of agriculture,

STANDING COMMITTEE REPORT

January 20 19 79

MR. President.....

We, your committee on Taxation.....

having had under consideration Senate Bill No. 67.....

Respectfully report as follows: That Senate Bill No. 67.....,

introduced bill, be amended as follows:

1. Title, line 4.

Following: "EXEMPT"

Insert: "IRRIGATION, DRAINAGE, AND"

2. Title, line 5.

Following: "TAXATION"

Strike: "; AMENDING SECTION 15-6-206, MCA"

3. Pages 1 and 2.

Strike: all of the bill following the enacting clause

Insert: "Section 1. Irrigation and drainage facilities -- when exempt,

(1) All irrigation and drainage facilities, including bonds, rights-of-way, ditches, flumes, pipelines, dams, water rights, reservoirs, and other property of like character shall be taxed as like facilities of the federal and state government; in cases where property taxes apply and where an increase in land value results, such facilities shall be taxed as such land is improved and such land shall be

~~RD-PASS~~

CONTINUED PAGE 2

classified for tax purposes as the tax classification law provides.

(2) Sprinkler irrigation systems are exempt from taxation. Such systems include all pipes, hoses, rollers, spray attachments, connectors pumps, and other items integral to the functioning of a sprinkler irrigation system installed and used on a farm or ranch but exclude underground water distribution lines and other elements of the system sufficiently affixed to land that they become real property."

And, as so amended,

Do Pass


JEAN A. TURNAGE - CHAIRMAN