

HOUSE BUSINESS AND INDUSTRY COMMITTEE

February 23, 1981

SUMMARY OF HB 753

Introduced by Rep. Kemmis and others, authorizes investment of portions of the coal tax receipts in home mortgages during periods of high interest. When the prime rate as set by Citibank of New York is above 12%, the Department of Commerce is required to invest one-fourth of the money deposited each quarter in the coal severance tax trust fund in Montana residential mortgages for which the borrower will pay 10 3/8% interest to a lending institution. The state will buy the mortgage from the lending institution at an amount that will yield the state 10% interest. Borrowers will be selected at random in a drawing to be conducted each quarter.

HOUSE BILL 762

Introduced by Rep. Kemmis and others, authorizes short-term investment of coal tax trust funds in Montana banks and lending institutions that have a record of advancing the stability and diversity of the Montana economy. One-fourth of the money deposited in the coal severance tax trust fund may be invested in one-year certificates of deposit in Montana banks and lending institutions at not more than 2% below the interest rate on one-year U.S. Treasury bills. Each quarter, the Department of Commerce will call for bids on the amount each bank will accept, but not more than 10% of the bank's assets, and the rate of interest it will pay.

The bid must also state the bank's assets, deposits, loans outstanding and outstanding to Montana businesses, and the holdings of the bank in general obligation and revenue bonds, interest-bearing warrants, obligations of housing authorities, mortgages on Montana real property in Montana, bonds issued by rural or municipal improvement districts, bonds issued under the Housing Act of 1975, and university revenue bonds. The Board of Investments shall purchase CD's from the banks according to priority determined by the Department of Commerce using a formula based on the above information.

HOUSE BILL 814

Introduced by Rep. Pistoria and others, requires that whenever a water service is metered, water and sewage charges must be based on actual water use readings. No person may be required to have a water or sewer meter, but any customer may obtain one by accepting the offer of the utility to install a meter.

THE HOUSE BUSINESS AND INDUSTRY COMMITTEE

The committee was called to order February 23, 1981, at 8:00 a.m. in room 129 Capitol Building, Helena. All members were present. Bills to be heard were HB 753, 762, 814. Rep. Fabrega was chairman.

HOUSE BILLS 753 and 762 -

REP. DANIEL KEMMIS, House District #94, Missoula, chief sponsor of both HB 753 and 762, said they both have to do with the investment of the coal tax trust fund. He would address both bills together. Argument against both bills is that the investment of the coal tax trust fund should be left to the market place. The market place should determine where those funds go so they will get the highest return. That is a restriction of the coal tax trust fund and the legislature should play no role in directing those investments. The market place is imperfect and inefficient. As an effort to correct market inefficiencies, the price of natural resources, particularly non-renewable, is systematically lower than it should be because it doesn't take into account all the costs of production. The price of coal does not include the costs to the communities involved - those are costs of production and are not reflected.

When a non-renewable resource is extracted you take something away from future generations. They then have a reduced valuation and it is not reflected in the market place. You reflect in the selling price of coal those which the market place does not reflect. The cost to future generations is great. Montana has had a history of its non-renewable resources being taken out of the state with nothing left except problems. We are going to resist this happening with coal. If the coal tax is going to be set aside to reimburse them for what is being taken away from them, we invested the principal and do a good job in guarding the principal. We invest this in order to get the highest monetary return which is in the neighborhood of 11% on the average. We spend that income currently and it does future generations no good at all. We invest it in utilities, in nuclear power plants, etc., and they give us a high rate of return because they aren't paying their full costs and are passing their costs on to future generations.

When the trust fund is being established for the future, how do we want to see it invested? Out-of-state having a high rate or in the Montana economy in such a way that we can strengthen Montana's economy and in the end get a less return but have a stronger Montana economy. The answer is to take a lower rate of return to get a higher economy.

HOUSE BILL 753 would provide for the investment of 1/4 of the money that is flowing in. When the interest rate gets above 12% housing dries up. Whenever the prime rate gets to 12% for that quarter, one-fourth of the money that goes into the trust fund invests in the housing market. Home mortgages during that period would be made available at 10 3/8% from the banks and the state guarantees 3/8% to the banks. Applications would be taken and a drawing held to make it equal throughout the state. He would make an amendment on page 2, line 4, to replace the Citibank of New York with the Federal Bank of St. Louis.

HOUSE BILL 762 would take one-fourth of the money that is going into

2/23/81

Page 2

the coal tax trust fund and direct it to the investment in Montana economy, Montana businesses and get performance for the investment of this money. The payments would essentially be paid on the money up to within two points of federal treasury bills. Those banks doing the best job of investing in Montana businesses would get first crack at the money. It would simply be an investment - none of it would be lost. This would not be spending the money, just investing it in Montana and not outside of the state.

ROBERT N. HELDING, Montana Wood Products Association, Missoula, is an attorney and executive of the Montana Wood products Association in Missoula. They support HB 753 which would invest in the wood products industry.

JOHN ALKE, Montana Bankers Association, supports both bills proposed by the Commerce Department. HB 753 would guarantee a reasonable mortgage rate for Montana citizens. Montana is a capital short state when it comes to investment, particularly in Montana, which relies solely on the secondary market. Banks act as agents - they make the mortgage and turn right around and sell it and so are subject to eastern categories. The only beneficiary under that bill is the home owner. The bank gets the service fee no matter what market they sell to.

House Bill 762 - Rep. Kemmis has worked on this for a long time. It is an outgrowth of venture capital. A number of measures have been proposed and some have been give away programs. Kemmis has proposed legislation to provide the way to invest trust funds for Montana's economic benefit. The risk is something that's hard to guarantee at this time. The ratings system would be quite hard to work out for the banks. He asks that both bills of Kemmis' be supported.

ED JASMIN, on behalf of the Montana Bankers Association, supports HB 762. He likes the efficiencies in the way this is being done. It is already through the banking system that is qualified to make this kind of loans and provides incentives. There is some incentive to go out and put some money back into the community for new and already established businesses. The individuals getting the money will be paying taxes and provide employment. The funds are at the risk of the bank - not coal tax funds. If the bank makes a bad loan, they are the losers and the state will get back its loan.

MARK MELOY, Montana SBA, favors both bills at the request of other members of their board. According to a nationwide study, no large businesses are interested in Montana. They build near their home offices in the same state. Accepting this statistic, Montana won't get much money for the thousands of fledgling and established businesses throughout the state. The potential for expansion is great. Most small businesses die within the first 5 years because of lack of capital - if they can make it through the first five years, the business will survive and grow. Small businesses employ 2/3 of all those employed in Montana. The average business in Montana hires fewer than five employees. Small businesses with the aid of HB 762 would ensure that we build a strong and sustaining Montana. He would like to see Dan's investment of coal tax money include some money for remodeling of houses. This would be a big economic boost.

2/23/81

Page 3

TOM RYAN, Montana Senior Citizens Association, is retired from teaching and a member of the Electrical Union. This would alleviate some of the seasonal fluctuation in building. He believes this bill is a viable way for funds collected by the state to be made available to the private sector. It would be particularly important for job development. It appears to be less permissive - it gives specific directions to the bureaucrats ratings, and then allows them to make policy. HB 753 -- likes the merit system idea and because they have earned the right to benefit in Montana development. See his testimony EXHIBIT A.

HAROLD PITTS, Montana Independent Bankers, Helena, supports both bills. For about the last 10-12 years they have been trying to encourage the reinvestment of Montana funds back into Montana. Investment out-of-state gives a higher rate of interest return, but they don't realize the spin-off rate. They encourage the committee to support both bills.

TOM HARRISON, on behalf of the Montana Homebuilders Association, strongly support HB 753. They consider the language that just refers to mortgages as the potential to become substitute capital. It is their hope that the committee might see fit to put something in the bill that this is for first owner homes or new construction. Page 3, section 5 of the bill says this is to be done by department rule. Last time, the department went 50/50 on new vs existing construction. They would favor that this is of importance enough to enact that into the statute - to include that 100% go into the new construction field.

MARGARET McDonald, Montana Northern Resource Company, supports these bills.

IRVIN DELLINGER, Montana Building Dealers Association, Helena, is executive director. They support HB 753.

DON JUDGE, MONTANA STATE AFL-CIO, has publicly supported the investment of the coal severance tax in resources in Montana - this was adopted at their convention. Construction increased 30% from 1979 to 1980, but finance charges of 14-1/2 - 15-1/2 will have to go down to 12% before building can pick up again. Passage of this bill will help.

JERRY DRISCOLL, Laborers Union #98 in Billings, support this bill.

OPPONENTS -

ROD YOUNG, Board of Investments, said the Board made some suggestions on these bills that were approved by the Board at their last Friday's meeting. See testimony attached EXHIBITS B and C.

KEN NORDTVEDT, House Representative from District #77, Gallatin Co., is not exactly an opponent, but is troubled by several features. We have a very high quality Board of Investments which is immune from political pressures. It has done an excellent job in investing state funds. Anything that we do that reduces their independence would be a serious mistake. He would heartily endorse the suggestions made to appropriate the money to the Board of Housing to carry on the goals of these bills and putting the Board of Investments in a position of not having to compromise their independence, you will do as much as selective tax relief. When you give a

2/23/81

Page 4

selected group a 2% interest differential benefit, you are setting up a selective tax relief program. So the differences are not that distinct. He would suggest the Housing Act of 1975 would all be ineligible under HB 753. There a number of criteria required on income and other things. This is another state income deduction and are saying only certain Montanans are eligible to receive that benefit. A person who fails to win on his income - is slightly over a certain ceiling - will have to pay more. Distinguishing between good and bad banks. Some problems there and he is not sure that the state wants to get into grading banks on their performance. Keeping funds invested in Montana - there are a few features you should take a closer look at if these bills are passed.

QUESTIONS -

Rep. Vincent asked if there would be two separate ways other than going to a bank or would all the housing money go through this program? Rep. Kemmis said there are two separate programs. The rate of interest is 10% under one and under the other program what would the interest rate be? Kemmis said this would depend upon where the bonds could be sold, depending on what the market would be at that time. It would be somewhat close. Rep. Vincent further asked how the idea of the drawing would be addressed. Rep. Kemmis said it is the luck of the draw. Rep. Vincent asked if such an option if his application were not drawn would be to wait for the next drawing or go ahead and invest in the higher mortgage. Rep. Kemmis said those on top of the situation would get the money if it were a case of 'first come, first served'.

Rep. Ellison remarked this would artificially lower the interest rates to special interests while one of the ways the government is trying to control inflation is by raising interest rates. What is going to happen to the private financial market if all states follow this route of creating artificially low interest rates? Mr. Young presumed while the state of Montana still has the funds, we would be the biggest item in the whole mortgage market. Those lending would not be able to compete. Just doesn't think it is enough money. They do buy about 89% of the mortgages offered to them. They have been taking mortgages at the market rate and pretty much buying all the mortgages offered to them.

Rep. Fabrega questioned whether investing funds in this way is in keeping with the 'prudent man rule'. He asked Rep. Nordvedt how he would invest. Rep. Nordvedt said he would first invest in any public sector capital projects that are investments in the long term production well-being of Montana. They are things that are in the public sector.

Rep. Fabrega further asked how he would get the Board of Investments to be able to approve of this type of investment. Rep. Nordvedt said if you take 2% off the yield of the coal trust fund money, that comes out of the earnings of the fund. He would spend the earnings of the coal constitutional trust fund on the public sector which would have a chance of benefitting all Montanans and which will allow for the most productivity of Montana. Once you have attained the maximum yield, you would be willing to use that at the lower interest? Rep. Nordtvedt thinks the proper capital investments for a first-class library system would be one of the best things to increase

2/23/81

Page 5

Montana economy. Before he would subsidize people through the banks - a selected category - he would invest in the public sector.

Rep. Harper asked how the banks feel about this grading system. Mr. Pitts said the grading system is somewhat new, but it is not insurmountable.

Rep. Kessler asked if, when there are particularly high interest rates, considering the economy, are you setting something up that is a permanent feature. Rep. Kemmis said we are really in trouble if we are always to have a 12% interest rate.

Rep. Vincent asked what are current income and purchase price limitations on qualifications under the Title Act of 1975. Rep. Kemmis said he thinks it is still \$60,000 and he didn't know about the income limitation. Rep. Fabrega said they can do that by rule. It is governed by the Board of Housing and by administrative rule. \$18,000 is the maximum that can be earned, and the maximum for a purchase price for a house is \$55,000 - in Great Falls it is \$60,000. These figures are not realistic in some places.

TOM WESTON, Montana Home Builders Association, suggested legislation changes should be made to include families of lower income.

Rep. Wallin said the banks are operating on 3/8% - is there any responsibility that the banks will be paid? Rep. Kemmis said the banks have the initial opportunity to screen the loan applicants. Guidelines say what kind of loans can be made.

Rep. Kemmis closed.

Rep. Fabrega explained it is not so much to keep the coal industry from becoming the dominant factor, but to make sure that Montana is not so much entirely dependent on the kinds of industries that are boom and bust. The suggestion that we have the wrong trigger by using the prime rate - the prime rate was used because a little lead time is needed. The Board has complained that they can't administer these programs - all the administration is done by another department. They are to make the investments when they are told to make them. The Prudent Man Rule which is applied to private trusts is not entirely for funds that exist for the benefit of future generations. Have to look at something besides the high rate of return. Investing in banks in terms of increased payrolls and taxes is higher than if investing out-of-state. The Board of Investments has a good record of making investments but those are not to the advantage of future generations.

THE STATEMENT OF INTENT FOR HB 762 WAS APPROVED.

HOUSE BILL 814 -

REP. PAUL PISTORIA, House District #39, Great Falls, said the title of HB 814 states what the bill is intended to do. It is to require billing for water and sewer use to be based upon actual use when the use

2/23/81

Page 6

is metered, except under certain conditions; prohibiting utilities from requiring a customer to have a water or sewer meter. Under 2(a) charges would be suspended for as long as the reading of meters remains impracticable due to an emergency or major disaster or severe weather conditions. Mobile homes cannot be metered. If the committee felt that subsection 2(b) would kill his bill, it could be deleted. Water and sewer are charged for separately. In some places the sewer is charged as a separate rate because some cities have privately-owned water. Some sewer charges are on a flat rate because of a city owning it. The water used is one charge and the sewer water is charged for by averaging the lowest sewer readings for four lowest reading months. They estimate the sewer separate from what goes through the meter quarterly. Customers never receive the exact charge for the amount of water used. Public demand is the reason for this bill. The PSC doesn't have the power or the help to remedy many complaints. PSC examined the Great Falls situation. Because of computer setup and not enough help, this is a continuous problem. The ownership changes 2-3 times a year and the city has to estimate the previous owner's water usage. The new owner should not have to pay for the previous owner's water usage. Sewage usage is always one number. The sewer water used is charged estimate upon estimate. This is unnecessary. With a flat rate there would be no problems. Estimates upon estimates are caused by having one or two meters. Meters for water and sewer are different than for gas. It requires approximately four meter readers to read all meters every four months. HB 814 will correct all these problems. Helen O'Connell is an ardent supporter.

OPPONENTS -

GENE PHILLIPS, Pacific Power and Light, Kalispell, said they have two water systems - one in Big Fork and one in Libby, and they have meters on their water systems. (b) is their problem - no customer of a utility has no meter. There is no charge for the meter or hook up. If some customers didn't want to be metered, they would have some having a meter and some not having any. He wants (b) deleted.

DENNIS LOPACH, Mountain Water Co., Helena, serving Superior and Missoula, feels problems with utilities should be kept at the local level they are and not subject the whole state to this. (b) causes problems with them also. The rationale is by tying a consumers price to his usage it is a much greater incentive for the consumer to conserve. They also have problems with (a) although the trend is to install these remote read meters to all. A great many are in the basement and the meter reader has to go into the home and when the customer isn't home and (a) it would require that be done. Don't think it is workable nor necessary across the board.

DAN MIZNER, Executive Director of the League of Cities and Towns, said such a problem should be settled at the local level. There are some 17 cities that do not own their own water systems, but do own their sewers. A lot of small cities have gone to meters. Many of them are read and billed quarterly, and they have no problem with them. HB 814 asks for monthly billing, and he doesn't want this imposed on all the cities and towns.

2/23/81

Page 7

QUESTIONS -

Rep. Robbins asked if a private ownership is considered the same as a utility in this bill. Mr. Lopach said ownership is not relevant to the requirement.

Rep. Bergene advised Helena leaves meter reading cards. Isn't this used throughout? Mr. Lopach said the customer calls in the reading and if the customer doesn't do that by the time the utility has to bill, this would be prevented under HB 814.

Rep. Kitselman said in Billings most new water meters are equipped with 'remote read' systems. Mr. Lopach said this saves time and trouble.

Rep. Schultz asked that if under 2(a) no minimum charge for a water meter system - a minimum charge plus a meter? Rep. Pistoria said there is no way for a customer to have a card sent to read his meter.

Rep. Fabrega remarked perhaps there would be an increase in price to consumers if it is required that they be read every month. Rep. Pistoria said they could go to computer meters - there is no way the customer can read his meter where you use the plug-in system. Rep. Fabrega asked if the sponsor had discussed this with the City Commission in Great Falls. Rep. Pistoria said he had done so many times but their answer is that there is no problem. The PSC has gone into it and they found discrepancies in their meter reading. They propose that I get them more money to operate in this area.

Rep. Manning asked if there are different charges on a flat rate. Rep. Pistoria said there are no complaints on flat rates.

Rep. Pistoria closed saying he could see Mr. Phillips' point and Mr. Lopach's.

EXECUTIVE SESSION -

HOUSE BILL 762 discussion: One-fourth of the quarterly income from the tax going into the trust fund would be made available to finance housing at 10-3/8%. Loans are handled so that the financing institution retains 3/8% and the package is sold to the Board of Housing. HOUSE BILL 753 - short-term investments are defined as for one year. They meet certain criteria for investing their own funds in the best interests of Montana, and if they are investing efficiently, and if they meet certain liquidity requirements. This criteria would have to be developed - it is a philosophical decision that would have to be made.

The Prudent Man Rule has been rigidly interpreted. A mechanical problem would have to be addressed, but that can be made before getting to the Senate. A prudent man would invest his own money in his own business (we are representing the people of Montana) so that a prudent man would invest his own money in his own business if he felt reasonably sure that the expansion provided to his business in stability and profit would be increased in the future although he could get more at the moment from investing his funds in someone else's business. The Board of

2/23/81

Page 8

Investments has done an excellent job and have a very well established rule as to what the Prudent Man Rule is. This could go out as a Do Pass or with No Recommendation.

Rep. Kitselman asked if an out-of-state bid 1/2 point higher or a 1/4 of a point, it had to leave the state for the other investment? Rep. Fabrega said the Board of Investments has taken the highest return with prudent security.

Rep. Jensen moved HOUSE BILL 753 DO PASS. Motion carried with Reps. Ellerd and Ellison voting No.

Rep. Jensen moved HOUSE BILL 762 DO PASS. Motion carried 17-2 with Reps. Ellerd and Ellison voting No.

Rep. Ellerd moved HOUSE BILL 612 be removed from TABLE. Motion carried with Rep. Jensen opposed. Rep. Ellerd explained Mike Koencke who raises potatoes and is opposed to HB 612, would not be in opposition to this bill if "grain" were specifically included in the bill. There are only 1% who do not honor their word and are creating problems.

Rep. Bardanouye said he would not ask for any futher consideration. He felt that it might be justified, and he doesn't like to overturn a committee recommendation. He would fully support any amendment that will take care of his concern.

Rep. Jensen thought this bill had a fair and complete hearing. You just can't legislate honesty.

Rep. Fabrega said this is legislating contracts. After 10 days there has to be a written confirmation. If this is not passed, it will require every farmer to come in and sign a sale agreement.

Cory Dogtrum, Peavey and Company and Montana Grain Elevator Association, has been doing business over the phone for a long time and only 1% is causing the biggest problem. The volatility of those markets and because of the big dollars involved they occasionally run into this problem. Many times, if there is no contract back of that during that period, the tendency would be to consider that whether or not they have a contract, it will be honored. They have not had a decision in any court case. Many contracts have been verbal. The question of whether a farmer is a merchant or not, and if he were declared a merchant as some states have considered him to be, they have not considered him to be a merchant. They have to honor their word and the farmer would have to honor his word on a verbal contract, and if a company lost money because they continuously had someone renegeing on a verbal contract, they would not continue to do business with him. The volatility of the market would require a decision, but most grain firms would require that the farmer would then have to come in and sign and that would be a disservice to the farmer himself.

Rep. Meyer asked how much grain can go up or down at any one day. That varies he was told - if it goes down three days in a row - you also have the futures and also a basis for paying premiums plus or minus - 20¢ a day, but sometimes it can be 30¢ a day differential. There is no variance on protein content.

2/23/81

Page 9

Rep. Jacobsen said when an elevator operator buys grain and he confirms the price, where is the basic difference between the elevator and commission man, and farmer and elevator. Most elevators sell by phone. Most elevator companies usually take that risk. If you bought grain and then had it reneged, you could have a big loss - from the producer to the elevator man and the elevator man to the commission man.

Rep. Schultz said both the elevator man and the commission man are bonded. Mr. Dogtrum said yes.

Rep. Robbins asked if this could be taken care of without a bill? When you get a bad account, you send it out COD. Couldn't you people take care of that yourself or are you changing customers all the time? Mr. Dogtrum - is the farmer a prudent marketer of his own grain? A farmer does know what he is up to. He has access to the futures market himself. He has many marketing techniques. He is considered by them to be highly knowledgeable in the marketing area.

Rep. Jensen moved to amend the title, line 5 by inserting "grain crop sales", and to make this amendment on page 2, line 11. Motion carried unanimously.

Rep. Ellerd moved HOUSE BILL 612 DO PASS AS AMENDED. Motion carried with Rep. Ellison absent, and Rep. Meyer voting No.

Rep. Jensen moved HOUSE BILL 814 BE TABLED. Motion carried with Reps. Manning, Andreason, Harper, Ellison voting No. Rep. Vincent was absent.

Meeting adjourned at 11:15 a.m.

House Agri. Com. Sub. C. Chairman
REP. W.J. FABREGA, Chairman

Josephine Lahti
Josephine Lahti, Secretary

VISITORS' REGISTER

HOUSE B 929

COMMITTEE

BILL HB753 - HB762

Date 2/23

SPONSOR K-M-NIS K-M-NIS

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Bob Fielding BILL No. AB 753

ADDRESS 316 Sammamish Blvd - Wilson DATE 2-23-81

WHOM DO YOU REPRESENT Washington State

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Don Judge BILL No. HB 753
ADDRESS P O Box 1176 DATE 2/23/81
WHOM DO YOU REPRESENT MT STATE AFL-CIO
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME E. M. D. Park BILL No. 73-767
ADDRESS 1000 2nd Street, S.E. DATE 2-23-74
WHOM DO YOU REPRESENT John
SUPPORT 4 OPPOSE 0 AMEND 0

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

18th December -

My name is James C. Scott. I am a resident
of Sacramento and have been a member of the
C. P. C. since 1937.

I have read the money bill of the last
session. The bill would be up to a limit of
\$100,000 of the money and might give the
order the Berkeley Trust as well as
similar business for it to spend & hope
that mean for the end of the day
a definite measure and agreement arrived.

I send this bill as a copy to you
for making funds collected by the
state available in the given order,
I believe it is a good one except to
apply the funds provided by the state
reserves to improving the bare necessities
resources and public expenses.

I also ~~express~~ complain of the number
of this bill. It appears to be a permanent
law most likely. It gives the state
the right to the proceeds of the
sale of all of the members of the bill
and that of account of these the members
and going forward the bill

HOUSE BILL 753

I am appearing here as a representative of and by direction of the Board of Investments, who met February 20, 1981 and gave unanimous approval to this statement:

We don't have any opposition to the social or economic aspects of the bill, but we see some problems with the bill as it might be administered by the Board of Investments. Addressing the bill itself on line 21, section 2, sub paragraph 2, the Board has always had certain minimal requirements for mortgage loan servicers which requires the servicer to demonstrate their capabilities to service loans, and in any event the Board would be reluctant to accept servicers without prequalifications.

Since prime rate is not reflective of the longer term real estate rates, it would appear more proper to implement a rate based on the secondary real estate mortgage market rather than on the prime rate.

Under section 7 the Board would object to the language which intends to modify the "Prudent Man Rule". If the Board is burdened with administration, that language be incorporated to abandon the "Prudent Man Rule" and to indemnify the Board against any suit if it is charged with administering funds as "trustee for the people of Montana", improperly. The Board finds it contradictory to the definition of "Prudent Man Rule" as defined in section 17-6-201.

The Board recognizes that there presently exists litigation regarding the Coal Severance Tax Trust Fund, and some caution should be exercised in consideration of that litigation in committing funds prior to the resolution of that litigation.

The Board of Investments is presently administering \$76 million with a limited staff, which presently has neither the capability nor the expertise to administer so large a program.

The Board feels that in as much as the Legislature has legislative power to appropriate from the Coal Severance Tax Trust Fund by extraordinary majority, it would be abandoning its legislative responsibility by imposing this responsibility

upon the Board of Investments. As the alternative, the Board would suggest that the bill be amended to provide for the appropriation of funds out of the Coal Severance Tax Trust Fund and be allocated to the Board of Housing, who have both the staff and the expertise to administer such a program.

HOUSE BILL 762

I am appearing here as a representative of and by direction of the Board of Investments, who met February 20, 1981 and gave unanimous approval to this statement:

The Board is concerned with its primary duty in following the "Prudent Man Rule" as defined by 17-6-201, and the contradictions with that rule, and the proposed legislation, which effectively redefines the "Prudent Man Rule". This redefinition provides an apparent direct benefit of lower interest loans to a specific segment of the economy rather than the intended beneficiaries for the Coal Severance Tax Trust Fund.

Would an individual "managing his own affairs" when loaning his own funds, accept a rate two percent below that which he could otherwise get in an alternative investment? Would an individual "managing his own affairs" investing his funds with long term goals, invest those funds in short term market instruments? We think not.

We feel the beneficiaries under this bill, with the subsidization that it provides, do not inure to the intended beneficiaries, the people of the state of Montana.

It would appear more prudent, if the Legislature wants to subsidize a segment of the Montana economy, they would appropriate funds by legislative action.

VISITORS' REGISTER

HOUSE Business & Industry COMMITTEE

BILL HB814
SPONSOR Pistorio

COMMITTEE

Date 2/23/81

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME George Phillips BILL No. HB 574
ADDRESS Kauai Island DATE 2/27/81
WHOM DO YOU REPRESENT Pacific Power & Light
SUPPORT OPPOSE X AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: