

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 2, 1983

The seventeenth meeting of the Taxation Committee was called to order at 9 a.m. by Chairman Pat M. Goodover in Room 415 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 133: Representative Mel Williams, House District 70, the sponsor of the bill, said that in 1980, about 2,600 employers did not submit withholding returns and forms W-2 as required by statute. Without those, the Department of Revenue cannot reconcile with other reports to see if the proper taxes have been paid. The result is a failure to collect income taxes that are due. The withholding tax is the largest source of the state's general fund. This bill would encourage filing the returns and forms. The bill also provides for abating the penalty for good cause shown. The Department of Revenue has not been imposing a penalty for failure to file the returns and forms. The only regular penalty that could be assessed is \$5 (15-30-321, MCA). The cost to assess the penalty is more than the penalty itself.

PROPOSERS

There were no further proposers.

OPPOSERS

There were no opposers to HB 133.

Questions were called for from the committee.

In response to a question from Senator Crippen, Dan Bucks from the Department of Revenue stated that they are merely adding a penalty to this statute. About 26,000 employers in Montana are required to file the returns and forms, so about 10% of them are not filing.

Senator Elliott asked if an employer filing 10 or 15 days late would be penalized or would the penalty be abated. Mr. Bucks said there is no way of knowing because no penalty is applied now, so they have not had any requests from employers to abate the penalty. He said in the cases to which he was referring, the returns and forms were not submitted at all. They have still not received the returns and forms from all of those employers.

Senator Elliott asked if 1099s were included in this section 15-30-207 which is being amended. Mr. Bucks replied negatively.

Senator Elliott asked if the penalties of 15-30-207 would carry over to 15-30-301 and if so what penalties would apply. Mr. Bucks explained that the penalties would not carry over and that 15-30-207(2) indicates that when an employer files his annual statement, he is complying with the information required to be submitted. The statements required under 15-30-207 are the W-2 and the annual reconciliation statement, both furnished by the employer.

Representative Williams closed the hearing on SB 133.

CONSIDERATION OF HOUSE BILL 56: Representative Bob Pavlovich sponsored the bill and urged the committee to pass it.

PROPONENTS

John Frankino, representing the Montana State Golf Association, stated that during the 1979 legislature, the statute provided for a sunset in 1983 because some legislators were concerned about the abuse of the law with other than golf course property. This was a test period for the legislation, and if there were no problems, then the subsection (15-6-134(2)(c), MCA) could be retained. Golf courses throughout the state have asked that this provision be retained; if it is not, they could have problems. The Department of Revenue has indicated they have no problems administering the law, and we ask favorable consideration of the bill.

Gerald L. Eller spoke for Mr. McDonald, the executive vice president of the Montana State Golf Association who could not be here today. This bill assures their association's representation in national competition to represent the state of Montana in junior company competition. Twenty-seven boys and 7 girls have attended colleges or universities through their golf scholarships which are made available through the golf association.

John L. "Jack" Peterson, representing the Butte Country Club, submitted a written statement and it is attached as Exhibit A. A second written statement from the Butte Country Club, signed by Colin W. Raff, was also submitted and is attached as Exhibit B.

Senator Lynch stated that he is a past representative of the Montana State Golf Association. They were successful a few years ago in getting legislation through. There is no exemption of taxes, he said, and there has been no abuse, so the bill should receive a BE CONCURRED IN.

OPPONENTS

There were no opponents to HB 56.

Questions were called for from the committee.

Senator Gage asked if there were any other non-profit golf course corporations in the state of Montana. Mr. Frankino was not aware of any. At one of the state golf association meetings, Senator Gage recalled, the subject of the junior golf course program was raised. It was thought that junior golf was not being supported that much by the golf courses in Montana. They had asked if they could practice on a course, or even walk around the perimeter of the course, and they were told no.

Senator Towe asked what class this would fall into if the bill did not pass and the termination date was effective. Randy Wilke, the Real Property Bureau Chief from the Department of Revenue, said that it would still be class 4 property, but would be taxed at 8.55%. Right now, it is taxed at half of that.

Senator Turnage moved that HB 56 BE CONCURRED IN. The motion was seconded and passed unanimously.

CONSIDERATION OF HOUSE BILL 133 (CONTINUED): Senator McCallum moved that HB 133 BE CONCURRED IN.

Senator Elliott made a motion to amend the bill on page 2 at line 8 following "of" by striking "\$20" and inserting "\$5"; and following "failure" on line 8, inserting "or a minimum of \$50". The motion was seconded.

Mr. Bucks stated that this penalty is not in lieu of the penalty assessed when an employer has failed to pay the tax. The HB 133 penalty is for failing to file the returns and forms. If this sentence was not added, the provisions in HB 133 could be interpreted as being in lieu of the penalties under 15-30-209, 15-30-321, or others; but they are separate from those other penalties. Under 15-30-321, the base penalty if an employer fails to file is 5% of the tax due, but not less than \$5, and if he fails to pay, it is 10% of the tax due, but not less than \$5, plus interest. We could interpret subsection (1) as being \$5. But that \$5 is for filing returns of income and not paying the tax (not for withholding returns and W-2 forms). There is no penalty tailored to this particular problem.

Senator Eck said she liked Senator Elliott's amendments. She said some employers would rather pay the penalty. Senator Goodover stated that paying the penalty does not excuse an employer from filing the returns and forms. They have to file regardless.

Senator Towe requested that each part of the amendment proposed by Senator Elliott be voted on separately. The first part of the motion amending "\$20" to "\$5" was voted on and passed, with Senators Lynch and Norman voting no.

Several different wordings for the second part of Senator Elliott's amendment were proposed by committee members, and

Chairman Goodover appointed Senators Elliott and Towe to work with Dan Bucks to come up with some appropriate language for the second part of the amendment tomorrow.

RECONSIDERATION AND DISPOSITION OF SENATE BILL 185: Senator Towe moved that the committee reconsider its action taken yesterday on SB 185 in regard to the nonseverability clause that was added. The motion was seconded and passed unanimously.

Senator Towe moved that the nonseverability clause have added to it, after the words "parts are invalid", the following:

"and the prior law as reflected in sections 15-6-208 and 15-35-103 prior to the passage of this act shall remain in full force and effect."

The motion was seconded.

Senator Towe said that if any part of the act is declared unconstitutional, we want the whole act to be unconstitutional, and it will go back to the 20,000 exemption as it was prior to passage of this act. Otherwise, all the coal companies will come in and challenge this and their exemption will be 50,000 tons. A vote was taken on the amendment, and the amendment passed, with Senators Crippen and McCallum voting no.

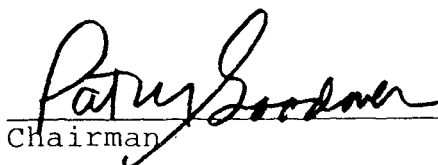
Senator Towe moved that SB 185 be given a DO PASS AS AMENDED recommendation. The motion was seconded and passed unanimously.

CONSIDERATION RE TURNAGE COMMITTEE BILL: Senator Turnage moved that the committee authorize the amendment of the title of the proposed committee bill to include "AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE." (A section of the proposed bill already has an effective date section in it, but it was left out of the title.) The motion was seconded.

Senator Norman then asked Senator Turnage if he had given thought as to how this was going to be paid for. He said it was going to cost Missoula County about \$70,000. Senator Turnage said the work would fall on the county treasurers, and the cost will be in the postage. It shouldn't cost more labor. Senator Norman thought that was acceptable if the treasurers were going to do the work. Senator Goodover felt the cost should be borne by the school system reserve fund since they created the problem in the first place.

A vote was taken on Senator Turnage's motion, and it passed unanimously. The effective date language will be included when the draft is prepared by the Legislative Council.

The meeting adjourned at 10 a.m.


Chairman

ROLL CALL

SENATE TAXATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 2/2/83

NAME	PRESENT	ABSENT	EXCUSED
SENATOR GOODOVER, CHAIRMAN	✓		
SENATOR McCALLUM, VICE CHAIRMAN	✓		
SENATOR BROWN	✓		
SENATOR CRIPPEN	✓		
SENATOR ELLIOTT	✓		
SENATOR GAGE	✓		
SENATOR TURNAGE	✓		
SENATOR SEVERSON	✓		
SENATOR HAGER	✓		
SENATOR ECK	✓		
SENATOR HALLIGAN	✓		
SENATOR LYNCH	✓		
SENATOR NORMAN	✓		
SENATOR TOWE	✓		
SENATOR MAZUREK	✓		

DATE February 2, 1983

COMMITTEE ON TAXATION

VISITORS' REGISTER

NAME (PLEASE PRINT)	REPRESENTING	BILL #	Check One	
			Support	Oppose
Colin Raff	Butte Country Club	HB 56	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Howise Raff	Butte Country Club	HB 56	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gene Wm. Gamble	Wyoming-Montana Golf Course Superintendents Assoc	HB 56	<input checked="" type="checkbox"/>	<input type="checkbox"/>

SENATE TAXATION COMMITTEE

BILL H B-56

VISITORS' REGISTER

DATE 2/2/83

[illegible]

STATEMENT OF BUTTE COUNTRY CLUB
IN SUPPORT OF HB 56

Mr. Chairman, Members of the Committee:

I am John L. Peterson of Butte, Montana. As a director of the Butte Country Club and a past president of that organization, I am appearing here today to express the Club's support of House Bill 56, which removes the January 1, 1983, termination date for the applicability of Class 4 property taxation to land and improvements of Montana non-profit corporations which are used for golfing purposes.

We appreciate the committee's courtesy in granting us time to discuss this legislation, which is so vitally important to the Butte Country Club and its continued existence.

We concur in, and fully endorse, the testimony of Mr. John Frankino, whose statement presents the position of the Montana State Golf Association and its member clubs.

Mr. Frankino's statement reflects the problems being encountered statewide by non-profit golfing corporations. The passage of this legislation is especially crucial to the Butte Country Club due to the adverse economic conditions that now prevail in Butte and because the vast majority of the Club's members are wage-earners who rely on the Club to provide recreational, social and related services at dues levels which they can afford. The Butte Country Club has experienced difficult problems in attempting to maintain its services to its members and, at the same time, break even financially without having to increase membership dues to levels which most of its members can not afford. Especially because of the economic setbacks which Butte has suffered recently, the Club's problems certainly will be more difficult than before.

The Butte Country Club's 1982 property tax payment was \$19,657.48, of which \$15,613.68 represented property taxes on land and improvements reflecting the Class 4 tax treatment and \$4,043.80 represented taxes related to the Metro System and sewage treatment.

If the January 1, 1983, termination date applying to Class 4 tax treatment is not removed, the land and improvement taxes would double to \$31,227.36. Based on the Club's current financial situation, this magnitude of tax increase would place the Club in a loss position. In order to break even, the Club would be forced to increase membership dues substantially, and this would almost certainly result in a significant loss of membership and financial disaster for the Club.

For these reasons, we respectfully urge this committee to report favorably on House Bill 56 so that the existing termination date for the applicability of Class 4 property taxation is removed.

We appreciate the opportunity to present our views.

Director, Butte Country Club

STATEMENT OF BUTTE COUNTRY CLUB

The Butte Country Club located in Butte, Montana, supports and fully endorses the testimony of Mr. John Frankino, urging the Montana State Legislature to enact legislation removing the January 1, 1983, termination date for the applicability of Class 4 property taxation to land and improvements of Montana non-profit corporations which are used for golfing purposes. It is our understanding that this can be achieved by repealing Section 2, Chapter 638, Laws of 1979.

The continuation of Class 4 property taxation is vitally important to the Butte Country Club. The vast majority of its members are wage-earners who rely on the Club to provide recreational, social and related services at dues levels which they can afford. The Club has experienced difficult problems in attempting to maintain its services and, at the same time, break even financially without increasing membership dues to levels which its members cannot afford. Because of general economic conditions and especially because of the economic setbacks which Butte has suffered recently, the problems of the Club certainly will be more difficult than before.

The Butte Country Club's 1982 property tax payment totaled \$19,657.48, of which \$15,613.68 represented property taxes on land and improvements which reflect the Class 4 tax treatment and \$4,043.80 represented taxes related to the Metro System and sewage treatment.

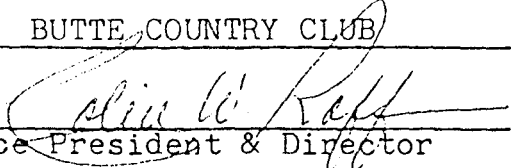
If the January 1, 1983, termination date applying to Class 4 tax treatment is not removed, the land and improvement taxes would double to \$31,227.36. With the Butte Country Club's current financial situation, this level of increase would require substantial increases in dues and charges which almost certainly would result in a significant loss of membership and financial disaster for the Club.

For these reasons, we urge this Committee to report favorably on legislation to remove the existing termination date for the applicability of Class 4 property taxation.

Respectfully,

BUTTE COUNTRY CLUB

By:


Vice President & Director

STANDING COMMITTEE REPORT

.....February 2..... 19 83.....

MR. PRESIDENT.....

We, your committee on taxation.....

having had under considerationHouse..... Bill No. 56.....

Pavlovich (Turnage)

Respectfully report as follows: That.....House..... Bill No. 56.....

BE CONCURRED IN
~~DO PASS~~
~~XXXXX~~

STANDING COMMITTEE REPORT

February 2 19 83

MR. **PRESIDENT**

We, your committee on **taxation**

having had under consideration **Senate** Bill No. **185**

Respectfully report as follows: That **Senate** Bill No. **185**

introduced bill, be amended as follows:

1. Page 1, line 13.

Following: "207,000"

Strike: "100,000"

Insert: "50,000"

2. Page 2, line 14.

Following: "207,000"

Strike: "100,000"

Insert: "50,000"

B. Page 2, line 15.

Following: "than"

Strike: "100,000"

Insert: "50,000"

~~DO PASS~~
~~XXXXXX~~

(CONTINUED ON PAGE 2)

[Signature]

February 2 19 83

4. Page 2, line 18.

Following: line 17

Insert: "NEW SECTION. Section 3. Nonseverability. It is the intent of the legislature that each part of this act is essentially dependent upon every other part and if one part is held unconstitutional or invalid, all other parts are invalid, and the prior law as reflected in sections 15-6-208 and 15-35-103 prior to the passage of this act shall remain in full force and effect."

Renumber: subsequent section

And, as so amended

DO PASS

Handwritten initials