

LL

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 8, 1983

The forty-first meeting of the Taxation Committee was called to order at 8 a.m. by Chairman Pat M. Goodover in Room 415 of the Capitol Building.

ROLL CALL: All members were present except Senator Towe.

CONSIDERATION OF HOUSE BILL 716: Representative Jerry Metcalf, House District 31, sponsored the bill. He said the changes will improve the marketability of local government bonds.

PROPOSERS

Bill Verwolf, finance director of the city of Helena, submitted written testimony, attached as Exhibit A.

Alec Hanson, representing the Montana League of Cities and Towns, felt it was important to hire competent help to ensure that the bond issues are properly put together.

OPPOSERS

There were no opposers to HB 716.

Questions from the committee were called for.

Senator McCallum asked if D. A. Davidson or a broker would get involved in helping set up the bond issues. Alec Hanson replied that the bonds have to be sold at public bid.

Representative Metcalf added that if D. A. Davidson gets involved, they build in their fee. Under HB 716, if a local government pays for the issue off the top, they end up not paying so much for it. Sections 1 through 4 of the bill deal with county bonds; sections 5 through 8, city bonds; and sections 9 through 12, school bond issues.

The hearing on HB 716 was closed.

CONSIDERATION OF HOUSE BILL 641: Representative Jack Sands, House District 68, carried this bill on behalf of the County Treasurers Association. HB 641 raises the penalty rate for unpaid taxes. There have been a number of delinquencies in paying taxes. Some people think it is good to take advantage of the low interest rate of the penalty. Eighty percent of the \$23 million in delinquent taxes is owed by large property holders. HB 641 provides a minimum payment for property taxes of \$10 for processing. That, he said, is not covered by the interest rate on small amounts.

PROPONENTS

Charles Graveley, representing the County Treasurers and County Assessors Associations, recalled that there was a bill increasing the interest rate from 2/3 of 1% per month. Then, the increase to 5/6 of 1% per month was improperly put together in that it was not made retroactive. With a second Attorney General's opinion, it was determined that the interest was retroactive. Any delinquent taxes after November 30, 1983, would be subject to 1% per month interest. He noted one correction regarding the \$10 minimum fee. There are several tax bills for only \$2 or \$3. Silver Bow County has some that are only 89 cents. It costs \$4+ to process one bill. There is some concern, he said, as to whether the \$10 minimum fee would be constitutional. He checked with a bank and was told larger sums of money draw interest at 14% to 16%, depending on the day the money comes in. People paying their taxes are being penalized by those who do not pay. People should not be rewarded (by low interest rates) for paying delinquent taxes.

Mike Young, finance director for the city of Missoula, said current levels of interest are not in relationship to the penalty charged to provide an incentive for people to come in and pay their taxes.

Doris Shepherd, representing the Montana Association of Counties, also supported the bill.

Bill Verwolf, finance director for the city of Helena, also supported the bill. The 8% interest rate was, for many years, higher than the rate of return you could get on investments. The interest on delinquencies should be higher.

Alec Hanson, representing the Montana League of Cities and Towns, said they support the bill.

OPPONENTS

There were no opponents to HB 641.

Questions from the committee were called for.

Senator Lynch didn't agree with arbitrarily assessing a \$10 fee on those notices which are for less than \$10 in taxes. It would make more sense to have a property owner pay when what is due accrues to \$10.

Representative Sands agreed with Senator Lynch and said that those who really cannot afford to pay would be jeopardized. Those not paying the low penalty and interest are doing so as part of their financial strategy.

Senator Crippen recalled that two years ago, the legislature found that the majority of delinquencies were owed by a few but that as far as the number of taxpayers, there were more

smaller taxpayers than large ones. He didn't care for the \$10 fee either. He asked Mr. Graveley about the retroactive provision at the end of the bill. Mr. Graveley stated that the treasurers asked that this be included. He told them there might be a problem with that. A couple of other states do have this in their laws, he said. Regarding Senator Lynch's question of unemployed people trying to pay taxes, people pay into reserve accounts on the homes they are buying. Very seldom are these people losing their homes to delinquent taxes. In Lewis and Clark County last year, there were 220 parcels of property noticed for sale for delinquent taxes. On the date of sale, all but 13 of those had paid their property taxes. With respect to the provision on retroactivity, without it, the 8% rate would first apply, then the rate of $\frac{2}{3}$ of 1% a month, and then the rate of $\frac{5}{6}$ of 1% a month. The treasurers said it was virtually impossible because they would have 8 to 10 bills from different school districts to figure for one person. The attorney general said the tax and interest rates in effect at the time the tax was assessed applied.

Senator Severson commented that he had no problems with the 1% a month rate, but he did with the \$10 fee. A tax notice of \$9.99 would have to pay \$19.99.

Senator Elliott asked what rates cities and counties pay on registered warrants. Mr. Graveley replied 9%. Mr. Graveley said that even if this goes to 12%, the counties are still losing money.

Senator Elliott thought the county treasurers should go to banking school to learn to figure interest rates.

Senator McCallum said Mrs. Fern Hart, Clerk and Recorder of Missoula County, indicated that better than 80% of the delinquent notices were for less than \$500 there. In the 1930s, he said, the legislature lowered the percentages of the penalties. Here we are again in a recession, and we are raising it this time.

Mr. Graveley commented that statutory authority would be needed to appeal to the county commissions for relief. He said that for the people who were willing to make payments on their delinquent taxes, he established a trust fund to put their money into and when the property owner had paid enough to pay off the tax bill, he paid the treasurer and they accepted the funds. It was not accepted by the county commissioners. He felt that the county commissioners should do everything possible to help residents get their taxes paid. With respect to the \$10 fee, he said, the treasurers and assessors would not be offended if those provisions were stricken.

Senator Crippen noted that the comment had been made that corporations owed the bulk of the delinquent taxes. Is that like Burlington Northern and Montana Power, he asked. Mr. Graveley responded that Fairmont Hot Springs Resort and the

shipping center in Butte were a couple of them. You are talking about \$750,000 in back taxes. Formerly, the legislature allowed SIDs to be paid in two payments.

Senator Lynch asked if they were always three years behind, and Mr. Graveley replied that Fairmont is due for sale this year.

Senator Turnage thought it was not proper to tax at 12% interest rates.

In closing, Representative Sands said he understood the arguments on both sides, and they are trying to get interest rates somewhere in between. Interest rates did not fall during this recession. Calculation of interest will be difficult if you don't make the bill retroactive.

The hearing on HB 641 was closed.

CONSIDERATION OF HOUSE BILL 654: Representative Harrison Fagg, House District 63, discussed this bill dealing with SID assessments based on square footage or front footage of lots and noted that 50% or more could protest out the district.

PROPONENTS

Al Thelen, city administrator in Billings, said HB 654 will give added flexibility in the use of SIDs. They are used more and more to finance services at the local level. One problem had to do with utility assessments with different size lots. There was a 100-300 differential in square footage and front footage, but everyone had one connection to the sewer system. HB 654 creates a method for the greatest degree of equity.

Bill Verwolf, finance director of the city of Helena, also supported the bill, as did Alec Hanson, Montana League of Cities and Towns, and Mike Young, city finance director in Missoula.

OPPONENTS

There were no opponents to HB 654.

Questions from the committee were called for.

Senator Severson said he was not sure how the four different options were worked. Suppose you have a highrise and a spread out building, he said. Representative Fagg said he could use any option or combine the options as set forth in 7-12-4162.

Senator Crippen said it is important that the right to protest follow exactly the amounts paid by the property owner. If one taxpayer is going to pay 25% of the total cost of improvements under the method chosen, that taxpayer should be allowed 25% of the protest.

Mr. Thelen pointed out that that section of the bill (section 1(1)) was rewritten by Bill Johnstone of the Dorsey Windhorst law firm in Minnesota.

Senator Crippen was concerned about section 3(1)(c) on page 4, lines 3-7, which provides that the city can assess the cost equally if the benefit derived is substantially equivalent between all owners (i.e., one hookup per lot).

Mr. Thelen stated that resolutions of intent would be sent to the current property owners.

Senator Severson wondered how they could come any closer to equitability than by the valuation method. Mr. Thelen said that in some areas you have vacant lots. The square footage method or other method might be more valuable.

Senator Lynch asked if they were aiming for equalization on SIDs, and the Rimrock Mall in Billings uses one method or combination, and the shopping mall in Great Falls uses a different method or combination, is there equalization statewide? Mr. Thelen didn't think it was important to use equalization statewide. You get more equity with flexibility.

Senator Mazurek said suppose you have a drive-in bank and a laundromat next to each other. The bank has restrooms, and the laundromat has washers, and restrooms, too, and uses much more water than the bank, but the bank pays more property tax.

Senator Elliott wondered why they couldn't use any of the first four alternatives for Cobb Field. Mr. Thelen responded that they had a chance for a federal grant, and their timetable did not allow for federal obligation bonds.

Senator Elliott asked for examples where they are having trouble using these to arrive at fair equalization. Mr. Thelen stated they can't use per lot value now. Senator Elliott wondered why he couldn't just get by without using the combination feature now. Mr. Thelen said they want to treat industrial and commercial property differently because of usage and value.

Senator Crippen noted that the frontage option and area option are available now. HB 654 repeals those and asks for a lot option and the assessed value option.

Representative Fagg, in closing, said HB 654 deals with blended areas, and when you try to assess both for the same value, one party wins and the other loses.

The hearing on HB 654 was closed.

CONSIDERATION OF HOUSE BILL 593: Representative Harrison Fagg, House District 63, said HB 593 deals with interest on unpaid income taxes. The lowest is 9%, on withholding, and the highest is 12%, on corporation taxes.

PROPOSERS

Jim Spring noted that this could be a crucial issue in the future.

Dan Bucks, from the Department of Revenue, said they wish to go on record as supporting the bill.

OPPOSERS

There were no opposers to HB 593.

Questions from the committee were called for.

Senator Norman asked what the rate was for delinquency on personal income taxes, and Mr. Bucks answered 9%. Senator Norman asked if this was in addition to the 5%, and Mr. Bucks said that was if the return was not filed. There is also a penalty, he said, if a return is filed but the tax is not paid on time. The penalty may be waived for reasonable cause. There are conditions and circumstances under which no penalties are assessed for non-payment. If a person has underreported his income, he can borrow from the state and pay a 10% penalty for failure to pay a tax when due.

Senator Norman said suppose he owes \$400 and paid you \$350. Then what happens, he asked. Mr. Bucks replied there would be no penalty if the additional tax were paid within 60 days of the notice and an appeal was not filed.

The hearing was closed on HB 593.

Chairman Goodover stated that, tentatively, the committee would meet in executive session on Saturday, March 12, from 8 a.m. to 9 a.m. to take care of any House bills not yet acted upon.

Senator Mazurek asked if he could be excused from the committee meeting on Tuesday, March 9, and the chairman approved.

The meeting adjourned at 9:30 a.m.

Chairman

ROLL CALL

SENATE TAXATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3/8 /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	✓		

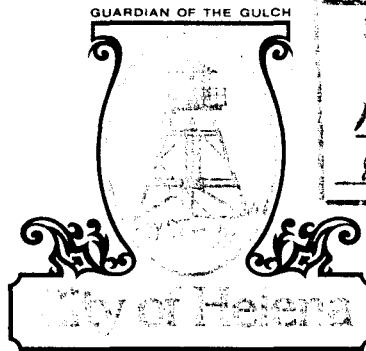
(All visitors sign this sheet even if not testifying.)
DATE 4/20/83, 1983

COMMITTEE ON TAXATION (SENATE)

VISITORS' REGISTER

[illegible]

Commissioners
Russell J. Ritter, Mayor
Rayleen Beaton
Michael J. DaSilva
Joan A. Duncan
Dale L. Johnson



SENATE TAXATION COMMITTEE	
EXHIBIT <u>A</u>	City-County Admin. Bldg.
<u>March 8, 1983</u>	316 North Park
<u>House BILL/RES. 716</u>	Helena, MT 59623
	Phone 406/442-9920

Robert A. Erickson
City Manager

March 25, 1983

Montana State Senate
Capitol Station
Helena, MT 59620

Honorable Senator McCallum:

You have before you in the Taxation Committee HB 716, which makes several changes in the provisions for local governments to issue general obligation bonds. The major changes proposed in this bill are:

- 1) Redemption of bonds at a premium - This allows the investor in these bonds to project his earnings for the life of the bond, and if the bonds are called early, a premium is paid to compensate the investor for the change in the life of the bond. This feature is currently allowed in revenue bonds, and makes the bonds more attractive to investors.
- 2) Establishment of the maturity schedule by the issuing local government - This allows the local government to set the maturity schedule so the annual payments of principal and interest fit with the ability of the jurisdiction to pay. The primary use of this will be to create a bond redemption series with equal annual total debt service requirements. The bill also provides a control to prevent placing an excessive principal obligation in one year.
- 3) Allows the first interest payment date to be set by the issuing local government, to allow the first tax collection to be received for this payment prior to the first interest payment date. Under current law in many cases an interest payment is required before the tax levy can be made or collected.
- 4) Sale at discount - The ability to purchase at less than par allows the broker to take his margin and still sell the bonds at par. This makes the bonds easier to sell to the investor, since he is not required to pay a premium. The benefit to the local government is a lower effective interest rate.
- 5) Consultant's fee and attorneys fees - The requirements of the offering statement and the issuing of bonds have become more complex both due to regulation of the bond industry and the information bond buyers require. It is essential to selling bonds at a favorable rate that the offering statement be very well prepared and include all the information possible. This is a technical process and is best handled by individuals who keeping with current requirements and know what to include.

This bill is important for making the general obligation bond issue requirements more beneficial to the issuing governments. The changes allow a little more flexibility to the issuer and make the bonds more attractive to the potential investor, causing lower interest rates.

The sale at a discount, down to 97% of par does not necessarily change the amount of profit to the bond broker. However, if this section causes undue concern, the other sections of the bill are of more importance and we would much rather the bill be approved without that section rather than lose the entire bill.

I thank you for taking the time to review this request.

Sincerely,



W. J. VERWOLF

Director

Administrative Services

WJV/jsa