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MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 11, 1983

The forty-fourth 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 Senators Turnage and Halligan, who were attending other committee meetings.

CONSIDERATION OF HOUSE BILL 702: Representative Dan Yardley, House District 74, presented the bill to the committee and introduced Joe Roberts, who explained it.

PROPOSERS

Joe Roberts, representing the legislative action committee for the developmentally disabled, said HB 702 came about because of an interpretation by the Department of Revenue. As he understands it, he said, page 2, line 19 (15-6-201(e), MCA) exempts institutions of purely public charity. They thought they fell in that category before. An organization which received some government funds was considered purely public charity. Mr. Roberts felt HB 702 was drawn too tightly. It should serve the vocationally handicapped as well as the developmentally disabled. None of these facilities are paying property taxes now.

OPPOSERS

There were no opposers to HB 702.

TECHNICAL INFORMATION

Gregg Groepper, Property Assessment Division of the Department of Revenue, noted that this pertained primarily to organizations used for the educational process. The Department of Revenue questions whether these agencies should be allowed the exemption. He indicated that their attorney was present to answer any legal questions.

Questions from the committee were called for.

Senator Towe indicated that Ellen Feaver, the director of the Department of Revenue, had told the Southwest Mental Health Clinic that "purely public charities" does not include mental health centers. Joe Roberts didn't mind if we added mental health centers to the bill.

Senator Goodover asked if developmentally disabled would include mental health.

Mr. Groepper said the issue with mental health is property exempt from taxation. Exclusive use of vehicles for educational purposes would exclude vehicles from taxation, too. Exclusive use is the determining factor.

Jack Ellery, administrator of the Developmental Disabilities Division of SRS, noted that no fees are charged to the developmentally disabled. They only have social security income, which is used for room and board. They make very little in the workshop.

Senator Mazurek asked if that was why they distinguish between the developmentally disabled and an achievement place group home.

Mr. Groepper said that every time they allow an exemption, they erode the tax base and raise everyone else's taxes to make up for it. They are not exempt unless specifically exempted and they can come before the State Tax Appeal Board and make their case if they don't like the Department of Revenue's decision.

Senator Mazurek asked why they were making this sudden move to change what has been on the books for the past 10 years regarding group homes. Mr. Groepper said they may have been exempt before the 1972 Constitution, but no one ever did anything about it when the Constitution changed. Regarding developmentally disabled, is the use of property educational and how should the use be defined? The bill needs a definition. He said he would get a copy of the amendment they submitted to the House for this committee to review. He noted that there is no religious exemption for motor vehicles. So then you go to educational exemptions. For example, three busses took kids to Fairmont Hot Springs Resort to swim, and that is all they did. That is not a religious activity, and it is not educational.

Senator Eck stated there was a law on the books which allows cities to negotiate with various groups for city services. Senator Mazurek thought churches and group homes paid SIDs even though they were exempt from paying general property taxes. Mike Young, Missoula finance director, stated that that was true.

The hearing on HB 702 was closed.

Senator Towe moved the following amendments be adopted:

Title, line 7.

Following: "DISABLED"

Insert: ", VOCATIONALLY HANDICAPPED AND MENTALLY ILL"

Page 3, line 15.

Following: "DISABLED"

Insert: ", vocationally handicapped or mentally ill"

The motion was seconded.

Senator Goodover asked if that would include organizations like Easter Seals. Mr. Groepper said Easter Seals is considered a purely public charity and that they don't have a problem with the buildings, but with the motor vehicles.

A vote was taken on Senator Towe's motion, and it passed unanimously.

Senator Towe further moved that the following amendments be adopted:

Title, line 9.

Following: "MCA"

Insert: "AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

Page 4, following line 13.

Insert: "Section 2. Effective date. This act is effective upon passage and approval."

The motion was seconded and passed unanimously.

Senator Towe further moved the following amendment be adopted:

Page 3, line 24.

Following: "profit"

Insert: "and which are exempt under section 501(c)(3) of the federal Internal Revenue Code, or that section as it may be amended or renumbered"

Cort Harrington, the committee's staff attorney, stated that that would be adding a new requirement. He asked Senator Towe if he was trying to limit or expand the bill. Senator Towe said that as far as limitations, HB 702 now requires that organizations show they have 501(c)(3) status. It is also an expansion because it specifically overrides the Department of Revenue's definition of public charity. It is broader and more in keeping with the Department's traditional definition in the past. Mr. Groepper said he would like to leave 501(c)(3) off for another two years. You are going to be exempting a lot of organizations you don't know about, he warned. Senator Towe noted that 501(c)(3) includes religious, educational and charitable organizations that give no private benefit to any one individual.

Senator Towe withdrew his motion on the 501(c)(3) amendment.

CONSIDERATION OF HOUSE BILL 742: Representative Helen O'Connell, House District 34, sponsored this bill at the request of the City of Great Falls. The fundamental reason for developing alternative methods of assessment is the concept of "the user pays." The Public Service Commission wants to place the cost of utilities upon the users. Representative O'Connell gave the committee some information on the combination formula (no written copies furnished). She said they have areas where lots are 1/2 acre in size and they are charged by footage. They would pay a \$13.50 assessment per year instead of \$100 per year.

PROPOSERS

Bill Verwolf, finance director for the city of Helena, said HB 742 answers two questions that have been a problem. A method other than square footage or front footage is needed. The value of a lighting district should not be tied to square footage. You should take the valuations of lots in a district in ratio of valuations and not in ratio of square footage. Small towns run into another problem because they don't know how many square feet they have in their lots. It is easier to find out taxable valuations of every lot in a district than to find the square feet. Great Falls has undeveloped areas that are within lighting districts. HB 742 will allow them to pay on the assessed valuation as to vacant lots and developed lots. HB 742 is an improvement in the methods of assessing costs.

Mike Young, finance director from the city of Missoula, supported HB 742.

Jim VanArsdale, city councilman from Billings, supported the bill also.

OPPOSERS

There were no opposers to HB 742.

Questions from the committee were called for.

Senator Eck asked if protest would be in relation to value also.

Senator Goodover thought square footage and taxable valuation information would be available at the courthouse for lots in question. Bill Verwolf couldn't understand why square footage of lots couldn't be figured, either. He noted, too, that the Public Service Commission sets rates for power and lighting. The annual assessment is changed every year.

Senator Elliott asked Mike Young if they charge all lights against the property owners in Missoula, and Mr. Young replied that they do.

Bill Verwolf indicated that the city of Helena contributes 25% of the cost on arterial streets, but otherwise, property owners pay. The city pays Montana Power Company for use of those improvements, but Montana Power owns them. The city passes the annual charge on to the property owners.

Senator Mazurek noted that this was just for annual costs in the city budget process.

Senator Crippen asked what the various ways of protesting would be.

Senator Towe asked Mr. Verwolf what happens when you want to make an assessment. You set up the district to create improvements. Then if you go through protest, the city council decides whether it will be by square feet or by front feet.

Senator Towe wondered why "shall" is changed to "may."

Senator Eck said that regarding creation of districts, Representative O'Connell said they could change the assessments each year for maintenance as valuations change. Representative O'Connell said this has nothing to do with new districts, but is for districts that are in place now.

The hearing on HB 742 was closed.

CONSIDERATION OF HOUSE BILL 766: Representative Tom Asay, House District 50, said the state is getting into a difficult situation with centrally assessed property. Tax suits are being filed by Northwest Airlines--in Butte and other areas around the state. HB 766 allows the Department of Revenue to use a qualified independent appraiser when the Department and the property owner agree on the appraiser, to share the costs, and to accept the results of the appraisal.

PROPOSERS

There were no proposers other than the sponsor.

OPPOSERS

There were no opposers to HB 766.

Questions from the committee were called for.

Senator Lynch asked Representative Asay to explain the fiscal note, and Representative Asay said the fiscal note doesn't tell you anything about this situation.

Gregg Groepper, Property Assessment Division of the Department of Revenue, speaking of the fiscal note, said that sometimes the cost of going to court outweighs the cost of hiring an independent appraiser.

Representative Asay said that if the Department has the authority to do this already, it has not been well defined. This will emphasize that this procedure can be used.

Senator Towe asked Representative Asay if he was now only contemplating Burlington Northern. Representative Asay replied that trucklines, airlines, everyone is suing. They really require the expertise of someone they might have to hire anyway.

Senator Eck asked if it was possible to find an appraiser agreeable to both the taxpayer and the Department of Revenue.

Mr. Groepper replied that sometimes they have to redo appraisals because the taxpayers think the Department of Revenue's choice of appraisers is biased.

Senator Towe, referring to the codification section, said we don't use valuation on centrally assessed property anyway. Representative Asay agreed that maybe it didn't belong there then.

Mr. Groepper stated that the bulk of the problem will be in centrally-assessed property. We can bring an appraiser in from another area of the state to do an appraisal locally. It will be helpful to have this bill. It suggests that the person bringing suit could pay part of the appraisal cost.

Stan Kaleczyk, representing the Burlington Northern, stated that they did not testify as a proponent or opponent of this bill. When a taxpayer is fighting with the Department of Revenue, he has the alternative that is in this bill in lieu of going to court. In litigation, both sides hire their own experts. Here, an expert is agreed upon to do the valuation. As Senator Eck pointed out earlier, he said, there are only a few who are qualified to appraise centrally-assessed property.

The hearing on HB 766 was closed.

CONSIDERATION OF HOUSE BILL 556: Representative Tom Asay, House District 50, said this bill deals with taxes prepaid by a major new industrial facility to a local government. The problem comes in recovering those taxes. The facilities are taxed as they are being built, and taxes go up throughout the period of building. After the facilities come on line, the local governments can start recovering those taxes from the industry. These are dollars the local governments have to have to operate schools. They have to allow some place in their budgets for that money, which means they have to increase their budgets in some manner. In order to recover taxes, we have to raise taxes. These facilities were brought in for energy impacts, and it is fair and right that their problem be met by impact money. This is an option for local governments to consider. "Prepaid taxes" means that the facility intends to repay these taxes.

PROPOSERS

There were no proposers other than the sponsor.

OPPOSERS

There were no opposers to HB 556.

Questions from the committee were called for.

Senator Towe wondered if the bill was really necessary.

Representative Asay said that the Coal Board does not have the authority to award these grants now. If a grant is made, it must be made in accordance with 90-6-206.

Senator Towe asked if he was talking about school districts, and Representative Asay said he was. A facility can't apply for recovery until it is on line.

Senator Gage asked Representative Asay if he anticipated the local governments would request four-year grants or annually or what. Representative Asay said they would have to request annually. The school districts would prepare their budgets and get money.

Senator Gage asked if municipalities and school districts could jointly request a grant. Representative Asay replied no, it would have to be in conjunction with a school because of budgetary needs.

Senator Towe said that the section which authorizes prepayment of taxes authorizes an industry to pay, up front, three years' taxes on a facility, and after the facility is completed, there must be a repayment to the local government of 1/5 of the amount in each of five years, so they figure their normal tax bill and reduce it by 1/5 of the prepaid amount.

Senator Elliott asked if the prepaid amounts went to all levels of taxing jurisdictions. Representative Asay replied that the statute provides that when prepayment of taxes is made, the money will be excluded so that, as costs come on line, they are met. The county commissioners request prepayment from the facility, and it is distributed to the three levels of taxing jurisdictions. He added that there is one provision they have not allowed recovery for--if the mill levy hasn't gone up, you are left out in the cold.

The hearing on HB 556 was closed.

Senator Eck stated that here, we have a matter where the impact is not being fairly distributed among the taxpayers who feel the impact. In Circle, for example, the impact is 30 miles from the city. Any money not spent goes to the educational trust fund.

Senator Towe noted that if a district includes a coal mine, it is in good shape; others are not.

Mr. Groepper said that with one school district, and the way prepayment works, new industry classified at 3%. Colstrip paid at 12-15% classification. When they came on line, the school board hadn't budgeted for it. They had 84 mills in 1982. The problem is paying in excess of the new industry rate so no taxes are due and school districts won't count on that.

Senator Towe had a question about "paying for" on line 12 of the bill. Mr. Groepper stated that the local government is obligated to give the credit, not to give the money.

Senator Lynch moved that HB 556 BE CONCURRED IN. The motion was seconded and passed, with Senators Mazurek and Gage voting no, and Senator McCallum abstaining since he did not hear the testimony on the bill. Senator Elliott will carry the bill on the floor.

CONSIDERATION OF HOUSE BILL 466: Senator Goodover stated that the committee should clear up a clerical error made in our committee's HB 466 amendments, to-wit: "32 feet" in the insert in amendment No. 8 should be "45 feet" to be consistent with the other changes the committee made. (See Exhibit A) No objections were made, and the secretary was asked to have the Senate amendments coordinator take care of this so the amendments would show up correctly on the next printing of the bill.

CONSIDERATION OF HOUSE BILL 621: Senator Elliott said that SB 414 picks up the Internal Revenue Code regulations. He said he didn't know Representative Ramirez's feelings on SB 414, but this is a matter of form of business organization rather than effect of taxation on Montana business people. SB 414 is a simple bill that refers back to the Internal Revenue Code, while HB 621 puts the Internal Revenue Code into the Montana statutes.

Dan Bucks from the Department of Revenue had left a note with Senator Elliott indicating that both bills have fiscal problems. Should we have our statutes dependent upon federal statutes? You are subjecting Montana taxpayers to maintaining two sets of books every time there is a change.

Cort Harrington noted that the state and federal laws would not conflict until the Internal Revenue Code is amended.

Senator Mazurek wondered about adopting the federal law. Cort said that would be a problem with our tax codes in Montana.

The meeting adjourned at 10 a.m.

Chairman

ROLL CALL

SENATE TAXATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3/11/83

NAME	PRESENT	ABSENT	EXCUSED
SENATOR GOODOVER, CHAIRMAN	✓		
SENATOR McCALLUM, VICE CHAIRMAN	✓		
SENATOR BROWN	✓		
SENATOR CRIPPEN	✓ 8:50		
SENATOR ELLIOTT	✓ 8:25		
SENATOR GAGE	✓ 9:10		
SENATOR TURNAGE		✓	
SENATOR SEVERSON	✓		
SENATOR HAGER	✓		
SENATOR ECK	✓		
SENATOR HALLIGAN		✓	
SENATOR LYNCH	✓		
SENATOR NORMAN	✓		
SENATOR TOWE	✓		
SENATOR MAZUREK	✓		

DATE March 11, 1983

COMMITTEE ON TAXATION

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

March 9, 1983

SENATE STANDING COMMITTEE REPORT
(Taxation)

SENATE TAXATION COMMITTEE
EXHIBIT <u>A</u>
<u>March 11, 1983</u>
<u>House</u> BILL/RES. <u>466</u>

That House Bill No. 466 be amended as follows:

1. Title, lines 6 and 7.

Following: "TRAILERS"

Strike: "WITH NOT MORE THAN 400 SQUARE FEET OF FLOOR SPACE"

Insert: "45 FEET OR LESS IN LENGTH AND 8 FEET OR LESS IN WIDTH"

2. Title, line 7.

Following: "~~PRINCIPAL~~"

Insert: "PRINCIPAL"

3. Page 1, line 13.

Following: "32"

Strike: "with 400 square"

Insert: "45"

4. Page 1, line 14.

Following: "8-feet"

Insert: "or less in length and 8 feet"

Following: "width"

Strike: "floor space"

Insert: "width"

5. Page 1, line 17.

Following: "principal"

Insert: "principal"

6. Page 2, line 21.

Following: "32-feet"

Strike: "400 square feet"

Insert: "8 feet in width or 45 feet"

7. Page 2, line 22.

Following: "length"

Strike: "floor space"

Insert: "length"

8. Page 2, lines 24 and 25.

Following: "up to"

Strike: "400 square feet in floor space"

Insert: "8 feet in width or 32 feet in length"

9. Page 2, line 25.

Following: "used as a"

Insert: "principal"

45(?)

STANDING COMMITTEE REPORT

March 11 19 83

MR. **PRESIDENT**

We, your committee on **taxation**

having had under consideration **House** Bill No. **556**

Asay (Elliott)

Respectfully report as follows: That **House** Bill No. **556**

third reading copy

BE CONCURRED IN

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g/c