

MINUTES OF THE MEETING
AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

March 11, 1987

Rep. Duane W. Compton, Chairman, called this meeting to order at 1:00 p.m. in Room 317 of the Capitol.

ROLL CALL

All members were present

Bills to be heard were SB 327 and SJR 12.

SENATE JOINT RESOLUTION 12

Senator Weeding, Senate District #14, was the sole sponsor of this resolution. The Act requests Congress to clarify eligibility requirements for general partners receiving farm commodity program payments. Sen. Weeding explained SJR 12 speaks to the last farm bill, the Securities Act of 1985, specifically to the provision of general partnership. It is drafted totally on his own in response to some things he was observing and hearing about abuses. He felt responsible farm people should draw attention to Congress that unless - it will become a public issue anyway - it will be a national scandal, and something should be done about the general partnership provision that is being abused by groups to get around the \$50,000 limit in the 1985 Securities Act.

A group of general partnerships is put together - it can be any number of people. He knows of one that has 35 members in it. In some cases these are put together apparently for the sole purpose of getting around the limitations and milking the farm program. The one he is most acquainted with has 35 members who bought in for \$10 a piece. These people immediately signed a power of attorney back to an operator who then collects all the money, transacts all the business and these people have no part in the management at all. By doing this, that one in particular, signed up for 35 times the \$50,000. They drew \$933,000 last year and have been tentatively approved for \$1.4 million this year. That was tentatively approved over the interests of local people. It is being investigated and may not come about. That was done in Washington.

The second part of it was the farm crop insurance program. These people are just as eligible for that and invariably they take advantage of it and contrive acreages based on county averages or something like that that are proven history and collect quite a lot of insurance payments, too. In this case it appears they

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE

March 11, 1987

Page 2

could even get another \$600,000. They are the people who seeded the grain on top of the snow with an airplane about Thanksgiving last fall. They hit the Billings and Great Falls newspapers as well as some national ones. The North Dakota papers also picked up and a state representative is doing essentially what Sen. Weeding is doing in Montana.

That is not the only group in Montana. Texas has one with more members than this one in Montana. They will take \$2.4 million out of the federal farm program next year through this funnel group.

There is a place for large farms and a legitimate place for general partnerships that are genuine. That was the intent of Congress. Congress is looking at this now and he hopes SJR 12 will give some impetus to that investigation. SJR 12 asks for clarification language as it pertains to general partnerships; and to make it conform to the intent of Congress that there be a \$50,000 limit per operation. Multiple partnerships should be allowed but not these frontal groups that put these things together. It is not his intent to cause any legitimate farm partnerships to suffer any diminution of their payments because of this resolution.

PROPOSERS - None

OPPOSERS - None

QUESTIONS FROM THE COMMITTEE

Rep. Poff asked if Montana's Congressional delegation had been contacted. Sen. Weeding has contacted most of them and has received letters from them as well as the administrator of the ASCS and the federal crop insurance administrator. The federal crop administrator did not respond.

Rep. Corne' asked about the sodbusting operation north of Billings. Sen. Weeding said that was not quite the same as these other groups. Hearsay is that there are many of them in Texas and the one in Montana is based in Texas and all members are Texans.

Rep. Holliday said the Greytak operation is another example of what is being done, but is not quite the same, and is not based in Texas. Sen. Weeding said there is another group around Glasgow that operates on this general scheme of general partnership. With the lower grain prices today they will probably fade away or they will have to do something like this.

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE

March 11, 1987

Page 3

Senator Weeding closed. He invited the committee to concur with SJR 12, and to ask somebody to carry it on the House floor.

SENATE BILL 327

Senator Bill Yellowtail, Senate District #50, Big Horn, as a sponsor of SB 327 said this act authorizes irrigation districts to issue revenue bonds to fund irrigation projects and small power production facilities; amends three sections, MCA; and provides an immediate effective date. This bill would give irrigation districts the authority to issue revenue bonds which would be repaid by revenue produced by projects that the district might undertake such as a hydro project on a federal reclamation dam. Districts current bonding authority is limited to bonds to be repaid by acreage assessments alone.

There are actually four irrigation districts now that are planning such projects that may need authority for their financing: East Bench Irrigation District, Clark Canyon Dam; Greenfield Irrigation District, Gibson Dam; Helena Valley Irrigation District, Canyon Ferry; and the Milk River Irrigation District, Tiber Dam. This bill would allow the sale of revenue bonds but would not give districts any more powers beyond those already in statute or provided by the Federal Energy Regulatory Commission upon approval of a hydropower project. As the bill was originally drafted there was a problem with the language. Some of the utility folks were concerned but the Senate was careful to amend those problem areas out, especially those having to do with eminent domain language. He thinks it now stands with the support of the utility folks as well as the irrigation districts.

PROPOSERS

JO BRUNNER, Montana Water Development Association, said this bill started out 1½" long and has grown until it is now a 15-page bill. It eliminated territorial integrity allowing unlimited rights to eminent domain and it gave individual districts the right to market energy among other prominent features. Montana Power, Montana Dakota Utilities, Pacific Power & Light, and worst of all the Cooperatives, all of which are members of the MWDA objected to the original bill. This bill was arrived at after extensive discussion, adjustment, amendment, and apologizing on the part of MDWA. The amendments in the first 2-4 pages were agreed to by all those concerned, including the utilities and the bill now does what it was intended to do in the first place. It gives the irrigation districts authority to issue revenue bonds, and that alone. It was never intended to do anything with the existing eminent domain laws or the territorial integrity laws.

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE
March 11, 1987
Page 4

RON SCOFIELD, President of the Montana Water Development Association, and Manager of the Helena Valley Irrigation District, would like the committee's support of SB 327. Primarily, revenue bonds can now be issued for hydropower projects. He is involved with the hydropower project irrigation district on Canyon Ferry Dam, and one of the questions that has come up is why are you in this business anyway. At the very beginning, we approached the power company to see if it was a worthwhile project. The power company felt that they had never done that before and would like to, but at the present time they said no. They were in the throes of the Public Service Commission and the Colstrip problems at that time. We are still working with the power company on projects like this and think that this is a way to get these things moving. This is an option to it, it may not be the only option. There may be other ways of financing, but he thinks this is necessary or could be necessary to them.

GENE PHILLIPS, Pacific Power & Light Company, is a full member of the MWDA board. This bill was initially broader than it needed to be to do the job that they wanted done. Through no fault of Sen. Yellowtail, it did cause some concern among the utility companies because it gave an irrigation district the right to generate, transmit and market, and distribute electric energy in their territories and they took offense at that. The bill could not be amended and under FERC regulations utilities would be required to buy any output from a generating facility there that was a qualified facility. They have no problems with the bill as it now exists and he hoped the committee give it a Do Pass.

OPPONENTS - None

QUESTIONS FROM THE COMMITTEE

Rep. Campbell asked Sen. Yellowtail if there is any particular reason a yea or nay vote is required as it states on page 13, line 20. Sen. Yellowtail said it is perhaps unusual, but that is in existing law.

Rep. Hanson asked if this power production would be used for income from power sale? Sen. Yellowtail answered the purpose for bonding is so they will be able to build those projects that will provide some revenue producing means for the district.

Mr. Phillips explained what you are referring to is a qualified facility as defined in the public utility regulatory policies act which requires a facility such as the PP&L, MPC, MDU to buy the output from a qualifying facility and they pay what is known as their avoided cost, but it is really a money machine

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE

March 11, 1987

Page 5

for them. They sell power to the utility at about 45 mills and buy it back at about half that. It is a good deal for them. They will get some income from it. The utilities are required by law to buy it; and what power is excess for their use, they can sell.

Rep. Ellison advised there is a state limit on how many bonds can be issued. Since these would be revenue bonds for that particular district they may not come under that limitation. Mr. Scofield said on page 15 of the bill there is a limit to the debt incurring power of the irrigation district. A new section would say if this project is authorized by this legislature, then those limits would not apply. Mr. Gomez advised Rep. Ellison is referring to the cap for all industrial revenue bonds and similar type bonds that may be sold in any given state. There is a limitation. However, this doesn't do anything in terms of disqualifying that. A cap does apply because this does come under that. It is his understanding that the state is not even close to the cap.

Rep. Holliday asked if this bonding authority falls under the cap of \$105 million that is allotted to the state of Montana. Mr. Gomez answered that is so in terms of qualified bonds that meet requirements for tax exemption or for tax purposes under federal law for revenue bonds. Rep. Holliday thought the \$105 million cap is in the areas of housing and a few others, but nothing that would identify this kind of bond within those limitations.

Rep. Koehnke asked what the bonds will be used for. Mr. Scofield said they have a preliminary permit right now for a hydropower facility on Canyon Ferry. The Bureau of Reclamation has three units there. The district has a unique pumping facility with pumps driven by a centrifugal pump driven by turbines, waterpowered turbines, and they have developed a scheme where they might be able to use those same turbines during the off season and connect them to generators. They would actually use most of the available facilities. The plan is still in very preliminary stages and there may be some problems with it yet. That would be the generation they would be trying to sell.

Sen. Yellowtail closed thanking the committee for this hearing and he understands that Rep. Manuel has agreed to carry this bill on the House floor.

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE

March 11, 1987

Page 6

EXECUTIVE SESSION

SENATE BILL 327

Rep. Giacometto moved SB 327 BE CONCURRED IN; Rep. Corne' seconded the motion, and it was adopted unanimously. Rep. Patterson was excused. Rep. Manuel will carry this bill on the House floor.

SENATE JOINT RESOLUTION 12

Rep. Campbell moved SJR 12 BE CONCURRED IN; Rep. Giacometto seconded the motion. There was unanimous concurrence. Rep. Campbell will carry SJR 12 on the House floor.

ADJOURNMENT

There being no further business to come before this meeting, the committee adjourned at 2:30 p.m.

Duane W. Compton
REP. DUANE W. COMPTON, Chairman

