

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 31, 1987

The thirteenth meeting of the Senate Taxation Committee was called to order at 8:00 A.M. on January 31, 1987 by Chairman George McCallum in Room 413/415 of the Capitol Building.

ROLL CALL: All committee members were present with the exception of Senators Severson and Hager.

CONSIDERATION OF SJR 7: Senator Eck, Senate District 40, presented this resolution to the committee. She said this resolution would encourage the state to work towards a system where they could take the magnetic tape or diskette in lieu of the paper form for income tax. She said the Department thinks this is possible. She noted that the fiscal note indicated that eventually there may be some savings to the state.

PROPOSERS: None.

OPPOSERS: None

QUESTIONS FROM THE COMMITTEE: None.

Senator Eck closed.

CONSIDERATION OF SB 162: Senator Mazurek, Senate District 23, presented this bill to the committee. He said this is a fairly important bill relating to major revisions in the laws on property tax collections, delinquencies and the tax deeding process. Over the years there have been a number of efforts to revise the tax deeding process. As the result of a bill by Representative Marks, SJR 14 directed the Revenue Oversight Committee to study the tax deeding and tax delinquency process and to try to get a handle on the problem. There was general agreement that the process was complicated and it was virtually impossible to go through the taxpayer process without creating an error. For someone purchasing property at a tax sale it is almost impossible to get title. During the interim the Revenue Oversight Committee worked with a group of people who are actively involved in this process to review the existing law and to come up with a proposal which would revise the laws in this area. What this bill does is to revise parts of Title 15, Chapter 16 and then repeals all of Chapters 17 and 18 in Title 15. The first

pages of the bill are 26 new sections of law, as proposed by the committee, to make this more understandable. In making these recommendations, the committee looked at laws from a number of other states. There were a couple of features in the previous law that the committee felt were important but one of the big problems in the old law was that there was no requirement that the purchaser make application to obtain a tax deed. He reviewed the bill, section by section, with the committee.

PROPOSERS: Cort Harrington, representing the Montana County Treasurers Association, gave testimony in support of this bill. He said the County Treasurers Association was involved in the drafting of this bill. He presented the committee with some proposed amendments to this bill, attached as Exhibit 1. He said the amendments are changes that do not have any significant effect and were requested by Fern Hart of Missoula County. He is not sure if the county notices will be out prior to the effective date of this act and in that regard he questions whether an amendment would be necessary to clarify which process the county should use.

Greg Jackson, representing the Montana Clerk and Records Association, gave testimony in support of this bill. He said he would like to have this bill passed and try the procedure for two years. A lot of work went into this bill and if there are problems we can come back in two years and clean up any problems.

Sandra Whitney, Montana Taxpayers Association, gave testimony in support of this bill. She said a lot of research was done on this bill and it has a good structure to work with.

Susan Spurgem, Montana Treasurers Association, gave testimony in support of this bill. She said this problem does need to be addressed and this bill is a step in the right direction.

Gloria Paladichuk, Richland County Treasurer, gave testimony in support of this bill. She said she was involved in the drafting of this bill. She said if the county does have assessments against the property being sold, the taxpayer is responsible for paying special improvement districts. When taking tax deed, the taxes are written off but the SID's must be paid.

Martha McGee, Lewis and Clark County Treasurer, stood in support of this bill.

OPPONENTS: Gene Phillips, Montana Land Title Association, gave testimony in opposition to this bill. They feel that legislation in this area is needed and they do think this bill is a start in the right direction. He said the Association could support this bill with a few changes. An example of one of the problems is on page 2, the definition of "property tax lien" means a lien acquired by the payment at a tax sale of all outstanding delinquent taxes, including penalties, interest, and costs." Then on page 1, line 20, subsection (6)(a) it says "with respect to real property and improvements, the offering for sale by the county treasurer of a property tax lien representing delinquent taxes, including penalties, interest, and costs". In one instance they are saying a property tax lien is what is acquired at the sale and the other one is different. This needs clarification. In Section 16 you don't have interest on real property and you do not record security interest. On page 16 and 17 the language pertaining to the record is simply not accurate under existing Montana law. Page 17, line 1 refers to the holder of a contract for deed. He would suggest that they mean the vendee/vendor. Page 19, line 6 refers to how long the county should hold the money and it says for a period of one year from the date of publication. That should be the "last date" of publication on line 6 and line 14. They obviously will publish more than once. Page 27, line 23, says that the deed shall be free of all encumbrances and clear of any and all claims. That is not customary for real estate. Normally lien is against the property secured for obligation. Encumbrances would refer to assessment, restrictive covenant, something of that nature. He does not think that is what they want to do. These are the principal problems they have with this bill.

Chuck Stearns, City of Missoula, gave testimony in opposition to this bill. His testimony is attached as Exhibit 2.

QUESTIONS FROM THE COMMITTEE: Senator Crippen said he is a little surprised by the acceptance of this bill by the Montana Taxpayers Association. On page 38, line 21, we are putting into law an Attorney General Opinion which states that partial payments for taxes are not acceptable. He asked Sandra Whitney to comment.

Sandra Whitney said we have in the tax law right now a provision for a person to protest his taxes. If a person feels his tax has been raised too high, he can

protest the amount of tax that he feels is too high. While they are very concerned about protecting the rights of the taxpayer, they are not sympathetic to the person not paying taxes. This particular provision would require that a person pay taxes in full. In the past they were allowed to pay the oldest payment and then could stay in arrears for three years. This particular provision refers to a person who is delinquent and he has to pay all his taxes if he is going to pay any. She is in agreement with that provision.

Senator Bishop asked Gene Phillips if they were involved in the process of preparing this bill.

Gene Phillips said not to his knowledge.

Senator Bishop would like to hear something from them as they will have to issue title insurance.

Senator Mazurek said his understanding was that a representative from the Helena Abstract and Title Company was to be present at the hearing. He said he would insure that he has their comments before proceeding with this bill.

Senator Halligan asked if the taxpayer received a copy of the Notice of Pending Tax Sale.

Senator Mazurek said he would have received the tax notices once a year and that is all.

Senator Bishop said he would like some specifics on what is wrong with the existing law. He has been working with this law for 34 years and it is working just great for him.

Susan Spurgem said it is very difficult to get an actual tax deed because of the encumbrances that can come up and the appeals. She does not really know where to start to address all the problems. What we would like is something in the law that very clearly tells us what our steps are. The regulations right now are very unclear.

Senator Bishop again stated he would like some specifics on what is wrong with the old law.

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January 31, 1987
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Senator Mazurek closed by stating he will work with some of the questions raised.

ADJOURNMENT: The meeting adjourned at 9:00 A.M.


SENATOR McCALLUM, Chairman

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ROLL CALL

TAXATION

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 1-31-87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR NEUMAN	✓		
SENATOR SEVERSON			✓
SENATOR LYBECK	✓		
SENATOR HAGER		✓	
SENATOR MAZUREK	✓		
SENATOR ECK	✓		
SENATOR BROWN	✓		
SENATOR HIRSCH	✓		
SENATOR BISHOP	✓		
SENATOR HALLIGAN, VICE CHAIRMAN	✓		
SENATOR McCALLUM, CHAIRMAN	✓		

Each day attach to minutes.

AMENDMENT TO SB 162

1. Page 16, line 4, following "tax penalties"
Strike "and"
Following "interest"
Insert "costs and charges"
2. Page 21 line 21 following "(2)"
Strike "If"
Insert "(a) Except as provided in subsection (2)(b) if"
3. Page 22 line 2 following "the county"
Strike "treasurer"
Insert "clerk"
4. Page 22 following line 7
Insert "(b) If the county commissioners direct the county treasurer to issue a tax deed within six months subsequent to giving of the notice required by subsection (1)(a) no additional notice need be given."
5. Page ~~6~~³ line 21 following (1)
Strike "For"
Insert "(a) Except as provided in subsection (1)(b) for"
6. Page ~~6~~³ line 25 following "1, 1988."
Insert "(b) A tax deed may be issued between the effective date of this act and July 1, 1988 if the tax deed is issued for property on which property taxes are delinquent for 1982 and prior years."

SENATE TAXATION

EXHIBIT NO. 1

DATE 1-31-87

BILL NO. SB-162

Miscellaneous P.O.



FINANCE OFFICE

201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700

FINANCE AND DEBT MANAGEMENT
BUDGET AND ANALYSIS
ACCOUNTING
CITY CLERK
UTILITY BILLING
RISK MANAGEMENT

CITY OF MISSOULA TESTIMONY ON SENATE BILL NUMBER 162

The City of Missoula opposes Senate Bill 162 as written, even though it deals well with some existing problems in tax deed and tax collection procedures. The City commends the Legislature and the Revenue Oversight Committee for its work on this complex and difficult subject. The City of Missoula would support this bill except for two major problem areas.

The first problem area deals with a city's inability to initiate the tax deed process without going through the procedures as a citizen would. As this bill is written, counties are under no obligation to take a tax deed even after the three year redemption period has expired (page 20, lines 16-19). However, cities are required to rely on the counties for tax deed and tax sale procedures even if the cities collect their own property taxes and SID assessments (7-6-4423 MCA). The only method for cities to go through tax deed procedures is if they act as citizens and pay all of the tax and SID delinquencies. The difficulty with this method is that if the proceeds from the eventual disposition of the property do not recover the full amount of delinquencies, the city loses money while the other taxing jurisdictions come out whole, because the city has to pay all delinquencies. If the county had taken tax deed and sold the property for less than the full amount of delinquencies, all taxing jurisdictions would share in the loss on a pro rata basis.

While this issue may not sound very significant, with the widely publicized SID delinquency problem in Montana, the money involved can be large. One example from Missoula may help to point out the extent of the problem. Attached to this testimony is a copy of a correspondence from the Missoula County Treasurer's Office which describes that the City of Missoula will have to pay over \$825,000 to take the tax deed to 61 lots and the common area in a failed subdivision. The City will receive back over \$795,000 of the \$825,000 for City taxes and SID delinquencies, but will lose \$30,000 to pay other taxing jurisdictions their full amount of taxes. When all costs of this failed subdivision are totalled, the City will have paid \$995,770 for the 61 lots and common area, an average cost of approximately \$16,300 per lot. These lots have been appraised at approximately \$4,300 each (free and clear of all encumbrances) in today's market. The stakes are obviously large and this type of situation has been repeated elsewhere throughout the state. The City of Missoula may only receive twenty-five cents on the dollar for these delinquencies, but still had to pay 100% of the other taxing jurisdictions' encumbrances in order to obtain the properties.

One of two alternatives can be suggested to alleviate this problem. Either the County Commissioners should be compelled to take tax deed at the end of the redemption period so that the situation is not strung out and compounded, or cities should be allowed to acquire tax deeds at no cost and then share the proceeds from the sale of the property with the other taxing jurisdictions on a pro rata basis just as is now required if a county takes a tax deed. The second option is the preferred option of cities and was adopted by the Montana League of Cities and Towns as an initiative for this legislative session (see attached Resolution 1986-21).

SENATE TAXATION

EXHIBIT NO. 2

DATE 1-31-87

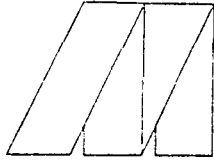
The City of Missoula's second problem area deals with a county's disposition of tax deeds once they have obtained them. Section 7-8-2304 MCA allows the county commissioners to sell tax deed property on contract terms for a period up to five years at 8% interest on outstanding principal. At least in Missoula County, the County does not share the interest from these contracts on a pro rata basis with the taxing jurisdictions, but deposits the 8% interest proceeds from these contracts into the general fund. The City of Missoula feels that the interest proceeds from these contracts should be distributed pro rata to all taxing jurisdictions until all jurisdictions are made whole, and then any remaining money would go to the general fund. This situation could be rectified by changing the words "All money received from purchasers..." in the tenth line of page 9 and the second line on page 35 of the bill to read "All money, including all proceeds received from term sales in Section 7-8-2304 MCA, received from purchasers...". The City of Missoula would support such a change.

Other than these issues, Senate Bill 162 goes a long way toward addressing the tax deed and tax collection problems. If these two issues can be resolved, the City of Missoula could support the bill. The City of Missoula appreciates your consideration of its position.

SENATE TAXATION

EXHIBIT NO. 2

DATE 1-3-87



MISSOULA CO.

OFFICE OF THE COUNTY TREASURER
P. O. BOX 7249
MISSOULA, MONTANA 59807

Date: January 22, 1987

To: Chuck Stearns, Fiscal Analyst
City of Missoula Finance Office

From: Beverly Hiday
Missoula County Treasurer-
Real Estate Supervisor

Ref: Hillview Heights #6 Subdivision

Attached are delinquent statements for the individual lots of the subdivision. The amounts indicated are taxes, penalty interest, city specials, penalty and interest for each year of delinquency. Summary totals are also indicated.

The total amount due by February 3, 1987 is:

Principal-taxes and city specials	\$504,665.78
Penalty	11,006.95
Interest	209,006.60
Total due	<u>\$724,679.33</u>

The date of the first "Treasurer's Tax Sale Certificate" is July 22, 1981. I have indicated the total principal amount within this sale on each printout to the far right. (*). The totals can be verified by adding these principal amounts due for 1980. (Taxes and city specials).

As agreed upon, the City check will not be deposited by us until we have exchanged our check to you for the City SID's. This exchange will occur when we have completed our receipting of the tax bills. Barring complications, the date of completion will hopefully be February 20, 1987. Efforts will be made to issue you the assignments within a few days of our receiving your payment check. These arrangements should meet with your approval.

Contact me should you have further questions regarding this transaction.

BREAKDOWN

	bh/me	
	APPROX	
CITY SID'S	\$782,659	(Returned Immediately) 94.8%
CITY TAXES	\$ 13,000	(Returned w/ monthly taxes)
CITY RECEIVES	\$795,659	96.4%
OTHER TAXES	\$ 30,000	(City loses this money) 3.6%



SENATE TAXATION

DATE 1-3-87

BILL NO S.B. - 162

RESOLUTION 1986-21

ED THAT THE MONTANA LEAGUE OF CITIES AND TOWNS WILL
ISLATION IN 1987 THAT WILL 1) ALLOW CITIES TO ACQUIRE
IES, PROPERTIES WITH DELINQUENT SID'S WITHOUT PAYING
UTURE SID'S OR GENERAL PROPERTY TAXES SIMILAR TO THE
CURRENTLY AVAILABLE FOR COUNTIES; 2) MAKE IT EASIER
L GOVERNMENTS TO DISPOSE OF TAX SALE PROPERTIES BY SHORTENING
RIOD OF TIME IT CURRENTLY TAKES FOR A PURCHASER OF TAX
SALE PROPERTY TO ACQUIRE A CLEAR TITLE, AND BY ELIMINATING RESTRIC-
TIONS ON THE AMOUNT TAX SALE PROPERTIES MUST SELL FOR.

SENATE TAXATION

EXHIBIT NO. 2

DATE 1-31-87