

50TH LEGISLATIVE SESSION
MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

April 14, 1987

The twenty-second meeting of the Senate Local Government Committee was called to order at 12 Noon in Room 405 of the Capitol by Chairman Bruce D. Crippen.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 496. Representative Dorothy Bradley, Bozeman, District #79, presented the bill to the committee. She said the purpose of the bill was to establish a grant program for the construction of public water systems in the form of a gross receipts tax on public contracts. This would establish a small trust fund account and a public water systems board to help local governments improve or replace water supply systems, sewer systems and drainage systems, improve drinking water etc. It should create employment by providing funding for these projects, she said. About \$4 million should be raised by the 1% tax, which would be matched on a 2 to 1 basis, making \$12 million available on an annual basis. She said there was some objection in the House by people who felt the bill was special interest oriented. The trust provided for in this bill will be an ongoing source of money coming from both public and private construction projects. She presented two amendments for the committee's consideration (Exhibit 1).

PROPOSERS:

Senator Tom Rasmussen, Helena, District #22, urged support on the basis that it will create work in his opinion.

Gene Fenderson, representing the Montana Building Trades, said this type of funding is used extensively in the East and works well. He said the Midgetman missile system is to come into the Great Falls area and will be putting money into this fund if the bill passes. The infrastructure in the state of Montana is badly in need of repair and noted that the Helena water system restructuring is going to create \$60 per month water bills for property owners. He would object, he said, to having the highway portion deducted out of the bill.

Jim Jensen, representing the Montana Environmental Information Center, said the standards for evaluation were excellent reasons for passing the bill.

Tim Barnard, owner of Barnard Construction Company of Bozeman, said he felt high quality water and sewer systems are very important to our lives and health. This bill will provide water systems to large and small towns, which are badly in

need at this time. Wyoming has a 3 or 4% sales tax, a mineral tax and a tax on equipment when you bring any into the state, as well as North Dakota, Arizona and Washington. That, he said, is how those states fund their infrastructure projects. Last year his firm had a \$2-million project at Canyon Ferry which would have raised \$20,000 from the federal government had this trust been in place. Matched 2 to 1, it would provide \$60,000 for a project, he said. He pointed out that water projects create work for other types of contractors such as paving of streets. He urged support of the bill.

Steve Pilcher, Department of Health and Environmental Sciences, said the state has adopted laws for safe drinking water. This will allow the laws to be properly enforced by better construction, replacement and repair of water systems.

Ron Waterman, lobbyist for the Montana Utility Contractors, said this bill will allow the legislature an opportunity to address a need in the state.

Mark Wayman, a contractor from Great Falls, supported the bill and said that defense contracts such as the Midgetman missile project will help Montanans pay for water projects.

Bruce Restad, representing the County Water District of Billings Heights, supported the bill.

OPPONENTS:

Gordon Morris, Montana Cities and Counties (MACo), said he felt the state, federal and county project costs would be driven up as contractors would have to come up with the money for the tax. He noted that school districts were exempted from the tax and he thought it might be well to take a look at county and state roads as benefactors as well. He did not see this bill as one that would create jobs, but one that will increase the cost of doing business, increase the cost of projects for the benefit of the few.

QUESTIONS FROM THE COMMITTEE:

Chairman Crippen asked if SIDs were included in the definition of "public contracts". Rep. Bradley said that they did. He then asked what projects would pay the tax and she answered that all "publicly-funded projects" would. In further questioning, he asked if the applicability date referred to projects that are planned but not started, having no contracts let as yet. Mr. Waterman said the present 1% tax is imposed at the time the contract is let. If the contract is let

before the applicability date (Dec. 31, 1987), this tax would not apply, he said.

Chairman Crippen said that, on some SIDs, cities work from an improvement contract on projects scheduled for the future. However, an agreement does exist to provide monies. An example would be street lights. Bonds may have been provided, money held in escrow and he was concerned to have this added tax added onto the cost. Mr. Waterman said the same system would be used as it is with the present 1% tax -- tax at the time the contract is let. The 1% tax is often "eaten" by the contractors, he said. In small lighting districts, the 1% is not very significant -- only \$200 on a \$20,000 contract. Chairman Crippen commented that for large contracts in the hundreds of thousands of dollars, that 1% would not be insignificant and he asked if there would be objection to amending this area (work to be done at a future date). Mr. Waterman said he would not have any objection to an amendment that addresses the commitments made now, but are not financially capable of being funded until a future date.

Sen. Beck asked if this additional 1% would be added onto the contract and Mr. Barnard said that it could be.

Sen. Hirsch said there was an infrastructure study done two years ago, and he wondered if this bill developed out of that study. Rep. Bradley said the study showed a need, but this bill resulted from the contractors requesting it.

Sen. Story said the hardest things to get funding for were things other than water projects. There are EPA and RIT funds available for water and sewer projects. Jails, schools, roads are among the projects that are difficult to fund, he said. Rep. Bradley said there are many crying needs for funding and that this bill attempted to address one of them.

Sen. Crippen said there was some concern that the projects in the larger cities would be paying for those needed in the smaller cities. The City of Billings had expressed concern that this bill would cost them \$100,000 in additional project costs. Rep. Bradley said that large cities would be able to qualify for grants as well as small ones, because all potential grant applications would be evaluated equally. The Billings Heights favors the bill, she pointed out.

Sen. Crippen asked if the sponsor would object to exempting SIDs entirely. She said if one exemption is made, there would be more requested. Sen. Crippen said that a bill before the

Local Government Committee proposed reducing the amount of time an SID could be delinquent before it is put up for sale on a tax deed. Present law is 3 years, he said, and the committee amended it to 18 months. In addition, there are many kinds of fees tacked onto SIDs, he said, and he hated to see an additional 1%. Mr. Waterman said that an SID, while it might not rate as a high priority, could qualify for a grant in this program. Sen. Crippen doubted if it ever would.

CLOSING: Rep. Bradley closed the hearing urging the committee to give the bill a two-year trial period to see how well it would work. She said it was the only infrastructure bill left alive in the session and would like to see it tried.

EXECUTIVE SESSION:

ACTION ON HOUSE BILL 496: Sen. Eck MOVED that the amendments in EXHIBIT 1 be ADOPTED by the committee. The MOTION PASSED UNANIMOUSLY.

In further discussion, Sen. Walker said he had problems with this bill limiting its range to water projects only. He said his home town of Great Falls had an excellent water system, well-maintained, and had no need of this type of grant. And, why should they pay the tax when they would not benefit from it.

Sen. Crippen suggested the committee work on the bill, amending it into the best possible condition in the event it was debated and voted upon on the Senate floor.

Sen. Crippen MOVED TO AMEND on page 13, line 1, after "to", to add "public contracts let, special improvement districts formed, and", as suggested by Mr. Waterman. The MOTION CARRIED UNANIMOUSLY.

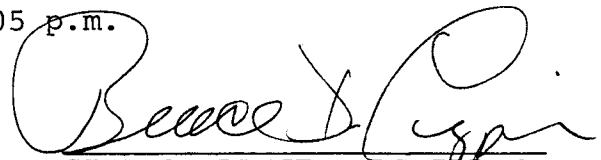
Sen. Beck MOVED to SUNSET THE BILL TO DECEMBER, 1989. The MOTION FAILED by a vote of 5 to 5, with Senators Pinsoneault, Hirsch, Eck, Vaughn and Harding voting NO.

Sen. Eck MOVED that HB 496 BE CONCURRED IN AS AMENDED. The MOTION FAILED by a vote of 3 to 7, the NO votes being cast by Senators Hirsch, Beck, Story, Walker, Hammond, Harding and Crippen.

Sen. Walker MOVED TO REVERSE THE MOTION AND THE VOTE to BE NOT CONCURRED IN AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

Local Government Committee
April 14, 1987
Page 5

The meeting was adjourned at 1:05 p.m.

A handwritten signature in cursive script, appearing to read "Bruce D. Crippen". The signature is written in black ink and is positioned above a horizontal line.

SENATOR BRUCE D. CRIPPEN
Chairman

ROLL CALL

SENATE LOCAL GOVERNMENT COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date April 14,
1987

| NAME | PRESENT | ABSENT | EXCUSED |
|--------------------|---------|--------|---------|
| BRUCE CRIPPEN | X | | |
| R. J. PINSONEAULT | X | | |
| TOM BECK | X | | |
| DOROTHY ECK | X | | |
| H. "SWEDE" HAMMOND | X | | |
| ETHEL HARDING | X | | |
| LES HIRSCH | X | | |
| PETER STORY | X | | |
| ELEANOR VAUGHN | X | | |
| MIKE WALKER | X | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Each day attach to minutes.

COMMITTEE ON

DATE April 14, 1987
Local Government

VISITORS' REGISTER

| NAME | REPRESENTING | BILL # | Check One | |
|---------------------|-----------------------------------|--------|-----------|--------|
| | | | Support | Oppose |
| John Christian Hill | Mt. Utility Contractors Assoc | 496 | X | |
| Gerald M. Smith | Salato Co. Water Cont. | 496 | X | |
| BRUCE KESTAD | County Water Dist of Blys Heights | 496 | X | |
| Robb McCracken | DOC / LG AD | 496 | | |
| Ordon Munn | MAACO | 496 | | X |
| Jim Halverson | MAACO | 496 | | |
| Jim Jensen | MT. ENVIRON. INFO Center | 496 | X | |
| MARY Lehman | Lehman Const. Co. | 496 | X | |
| Richard J. Lee | R.T. Dates Const. Co. | 496 | X | |
| Fritz Tossberg | MAACO | 496 | | |
| Ren Waterman | MUCA | 496 | ✓ | |
| Tim Darnold | BARNAARD CONST | 496 | ✓ | |
| Lloyd Wickham, Jr | Mont. Const. ASSOCIATION | 496 | ✓ | |
| STEVE Picher | MT. Dept. of Health + Env. Sci. | 496 | ✓ | |
| Kay Foster | City of Boise | 496 | | ✓ |
| Walter Ferrel | Mt State Bly trader | 496 | X | |

Exhibit 1
HB 496
4-14-87

PROPOSED AMENDMENTS TO HB 496 THIRD READING COPY

1. Page 10, line 3
Following: "(B)"
Insert: "a gross receipts tax in a sum equal to 1% of the gross receipts, as defined in 15-50-101, from public contracts during the income year for which the tax is due"

2. Page 12, line 25
Following: line 24
Insert: "NEW SECTION." Section 13. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.
Renumber: subsequent sections

Testimony in opposition to HB496 .

My name is Kay Foster. I am appearing on behalf of the City of Billings in opposition to HB496. This bill is extraordinarily disadvantageous to the City of Billings, Yellowstone County and the Billings public schools. We had thought that the bill had been killed earlier in the session but it has apparently been introduced in the Senate by special vote along with a package of other bills.

This bill is presented to be a tax on contractors. It is, however, a tax on public contracts. This means that all contractors will uniformly increase the amounts of their bids and this in turn will increase the amount of all public construction contracts. That increase will mean there will be less work done on the original construction contracts because in almost all cases our budget amounts are fixed. This bill does not create new money. It simply takes money from those actively involved in public sector contracts as a surcharge and recycles it as a grant program to other participants.

This bill is tremendously inequitable. For example, a developer doing an SID in Billings, whether a gravel street in a developed neighborhood or a raw land development district, will have his costs increased by 1%. The proceeds will be collected by the State and a program will give out water grants to other communities. We do not see why residents seeking to pave a gravel street, or an owner of a raw land district in Billings, should help subsidize a water project in another community. This same case would apply to contracts to build schools, jails and other public facilities.

Part of the justification for this bill is that we will capture huge amounts of federal contract monies flowing through the state. This may be a false assumption. The Federal Government will not want to pay a tax to our state in what is an obvious attempt to capture more federal revenue and distribute it throughout the state.

Water projects can already be funded. All municipalities in the state can increase their water rates up to 12% per year without PSC review. The impact of this bill is to provide a grant program for those not willing to increase their rates adequately to pay for such improvements. It is a detriment for all cities who have rates high enough currently to pay for improvements in their communities. It is a subsidy from those willing to charge their customers adequate amounts for replacement to those who are not.

The City of Billings does more construction work than any city in the state. We have a \$2 million annual utilities replacement program which is far above the level of anyone else in the state. This would now be subject to a one percent increase and the proceeds would go to other communities through a state grant formula. The City, in the past few years, has built over \$20 million in sanitary sewers in Billings Heights and our West End. The 1% increase in costs for projects of this kind would also go to other communities. We are planning downtown projects with tax increment funds. This too would subsidize other areas. Considering the past three years and looking into next year, we feel this bill would cost the City of Billings an average of \$100,000 per year in lost ability to purchase. Costs would also be significant for Yellowstone County and our schools.

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date April 14, 1987 House _____ Bill No. 496 Time 2:15 p.m.

| NAME | YES | NO |
|--------------------|-----|----|
| BRUCE CRIPPEN | | X |
| R. J. PINSONEAULT | X | |
| TOM BECK | | X |
| DOROTHY ECK | X | |
| H. "SWEDE" HAMMOND | | X |
| ETHEL HARDING | | X |
| LES HIRSCH | | X |
| PETER STORY | | X |
| ELEANOR VAUGHN | X | |
| MIKE WALKER | | X |
| | | |

Rosemary Jacoby
Secretary

Bruce Crippen
Chairman

Motion: Sen. Eck's motion - Be Concurred In As Amended
Motion failed by a vote of 3 to 7

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date April 14, 1987 House _____ Bill No. 496 Time 2 p.m.

| NAME | YES | NO |
|--------------------|-----|----|
| | | |
| | | |
| BRUCE CRIPPEN | X | |
| R. J. PINSONEAULT | | X |
| TOM BECK | X | |
| DOROTHY ECK | | X |
| H. "SWEDE" HAMMOND | X | |
| ETHEL HARDING | | X |
| LES HIRSCH | | X |
| PETER STORY | X | |
| ELEANOR VAUGHN | | X |
| MIKE WALKER | X | |
| | | |

Rosemary Jacoby
Secretary

Bruce Crippen
Chairman

Motion: Sen. Beck's motion to "sunset"
Motion failed by a vote of 5 to 5

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date April 14, 1987 House Bill No. 496 Time 2:05 p.m.

| NAME | YES | NO |
|--------------------|-----|----|
| BRUCE CRIPPEN | X | |
| R. J. PINSONEAULT | X | |
| TOM BECK | X | |
| DOROTHY ECK | X | |
| H. "SWEDE" HAMMOND | X | |
| ETHEL HARDING | X | |
| LES HIRSCH | X | |
| PETER STORY | X | |
| ELEANOR VAUGHN | X | |
| MIKE WALKER | X | |
| | | |

Rosemary Jacoby

Bruce Crippen

Secretary

Chairman

Motion: Chairman Crippen's motion to exclude SIDs

STANDING COMMITTEE REPORT

HB 496

SCRNB496

.....April 14..... 1927.....

MR. PRESIDENT

Local Government

We, your committee on.....

House Bill

195

having had under consideration..... No.....

third

blue

reading copy ()

color

Bradley (Crippen)

INCREASING PUBLIC CONTRACTOR TAX; CREATING WATER SYSTEM BOARD & GRANT PRGN.

Respectfully report as follows: That.....House Bill..... No. 496.....

BE AMENDED AS FOLLOWS:

1. Page 10, line 3.

Following: "(B)"

Insert: "a gross receipts tax in a sum equal to 1% of the gross receipts, as defined in 15-50-101, from public contracts during the income year for which the tax is due"

2. Page 12, following line 24.

Insert: "NSW SECTION. Section 13. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

Renumber: subsequent sections

3. Page 13, line 1.

Following: "to"

Insert: "public contracts let, special improvement districts formed, and"

**AND AS AMENDED,
BE NOT CONCURRED IN**

DO PASS

DO NOT PASS

.....
Chairman.

Senator Crippen