

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Bob Brown, on January 18, 1989,  
at 8:00 a.m.

ROLL CALL

Members Present: Chairman Brown, Vice Chairman Hager,  
Senator Bishop, Senator Crippen, Senator Eck, Senator  
Gage, Senator Halligan, Senator Harp, Senator Mazurek,  
Senator Norman, Senator Severson, Senator Walker

Members Excused: None

Members Absent: None

Staff Present: Jeff Martin, Legislative Council Researcher,  
Jill Royhans, Committee Secretary

Announcements/Discussion: None

HEARING ON SENATE BILL 132

Presentation and Opening Statement by Sponsor: Senator  
Mazurek, District 23, sponsor, said the bill was  
introduced at the request of the county treasurers.  
Senate Bill 162 of the 1987 session was drawn up by  
representatives of the county officials and taxpayer  
associations - as a total tax sale and tax deed  
revision. This last year being the first time the  
county treasurers really worked with the bill, a few  
problems have surfaced and this bill is an effort to  
solve them. There was quite a battle in the last  
session over payment of delinquent taxes. The  
compromise reached stated that if you were over one  
year delinquent, you could pay the current year and any  
one year of the delinquency, but you did not have to  
pay the entire delinquency in order to pay the current  
taxes. Essentially, you could pay two years at a time  
to reduce the delinquency. Yellowstone County objected  
to that and the Attorney General issued an opinion,  
which muddies the water even further. However, Senator  
Mazurek said that provision is covered in a House bill  
this session and is not covered in this bill.

One of the provisions of Senate Bill 162 (1987) allowed county treasurers to assess costs in the tax sale process. However, "cost" was never defined and, therefore, Senate Bill 132 includes a broad definition of costs. Once the county goes through the lengthy process of preparing property for tax sale, the county is entitled to collect the preparation costs upon redemption. It does not allow the county to collect costs incurred by someone who comes in to purchase the property. If the owner comes in to redeem the property, he would only have to pay the costs the county incurred, not the costs of the purchaser. At present, county treasurers find themselves in the position of a collection agency for the purchaser when that property is redeemed by the owner.

Section 2 clarifies the redemption of the proceeds.

Section 3 clarifies that upon redemption, the redemptioner must pay all subsequently assessed taxes. Under the provisions of Senate Bill 162, the owner had to come back and pay only the taxes that had been paid by the county or some other purchaser. This bill makes it clear that if the property is redeemed by the owner, he has to pay all of the taxes paid by someone else as well as any taxes that were assessed from the date purchase took place.

Senator Mazurek presented a proposed amendment to Section 15-18-214 to the committee. (Exhibit 1). In this particular section when a deed is given, the county conveys absolute title free and clear of all encumbrances except those listed. The exception in subsection c (Exhibit 1) specifies "an interest in" and the amendment would strike that language. The language in the statute 15-18-309 (1985) says "when the land is owned". At this point, because of the "interest in" language, a question is raised as to whether a mortgage, lease, or trust indenture is an "interest in" that is not extinguished when there is a tax sale. This is an unintentional change, and it becomes a real problem in the major commercial properties when the Small Business Administration is involved. This section is not in the bill and should be added to it so it can be clarified and we are protecting some mortgage holders and not others.

List of Testifying Proponents and What Group they Represent:

Cort Harrington, County Treasurers  
Martha McGee, Lewis and Clark County Treasurer

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Cort Harrington, County Treasurers, said the main problem is in the "cost" area. An assignee or purchaser (other than the county) must pay costs when purchasing property at a tax sale. When the owner comes back and redeems the property, he pays everything to the county. The county keeps the money paid for costs; costs do not return to the purchaser.

He also pointed out the problem of partial payment of delinquencies, which is not addressed in this bill, but which the committee might want to address.

Martha McGee, Lewis and Clark County Treasurer, agreed the cost definition is too loose. She felt from experience working with the language from Senate Bill 162, that it is very confusing and needs clarification.

There were no further proponents.

Opponents:

None

Questions From Committee Members: Senator Crippen asked if a purchaser takes tax title and the redemption is then made, wouldn't the purchase be affecting a lien on the property. Since the costs have been paid to the county and the purchaser isn't going to lose those costs, wouldn't that create a lien the redeemer would have to pay.? Secondly, he asked if a lien is being created that has to be paid off.

Mr. Harrington replied the first question is not addressed in the bill. As to the second query, he felt a lien may or may not be created under general secure transaction law. It is not real clear.

Senator Mazurek said he had done research on this question in his private practice, and he had determined there is an equitable lien against the property, because money is advanced to protect the purchaser's interest when he voluntarily paid the owners obligation. This gives rise to an equitable lien, but does not cause a cloud

upon the title.

Senator Crippen asked if the county has a lien for costs.

Senator Mazurek said yes, they have it statutorily, because the statute says the owner pays all the taxes plus costs. This defines what the costs are and that costs must be paid to the purchaser.

Senator Halligan asked how treasurers arrive at a cost figure.

Mr. Harrington said they assess an administrative cost after reviewing the time and expenses involved. One of the big costs is notifying all interested parties. Many treasurers contract with title companies to do this and conduct the title search. Costs can run an average of \$10 - \$125.

Senator Gage referred to Section 3 subsection 2 in this bill. He asked if the purchaser paid subsequent assessments timely so there was no penalty or interest, would he be entitled to receive penalty and interests on the payments of those subsequent assessments from the owner even though he didn't pay it.

Mr. Harrington said if the assessments are paid timely there is no penalty and interest.

Senator Crippen wondered if it was possible for costs to get so high in relationship to the value of the property that people would not be interested in a tax sale.

Mr. Harrington says that is a concern, but it provides a check for the counties in not charging exorbitant costs.

Senator Mazurek said a bill has been introduced, which allows county commissioners to waive costs.

Closing by Sponsor: Senator Mazurek closed.

#### DISPOSITION OF SENATE BILL 132

Discussion: None

Amendments and Votes: Senator Crippen moved to amend Senate Bill 132 by adding a new section and amending the title to reflect Senator Mazurek's amendment (Exhibit 1).

The motion CARRIED unanimously.

Senator Mazurek felt the language currently in statute regarding delinquencies is perfectly clear. It says if you have a delinquency and you want to pay less than the full delinquency, as long as you pay the full amount of the current taxes, you can go back and pay any one year of the delinquency. He said you will always pay for two years, so slowly you are gaining. He said this was a good faith resolution to a very hot issue last session.

He also felt somewhat disgusted that the law isn't being applied as it was a very delicate issue and throwing it out (i.e. the Attorney General's decision) is a breach of faith with the members of the Senate.

Mr. Harrington felt it is perfectly clear, also. He said the Attorney General reached his opinion in a vacuum, and said it was intended that all the delinquencies must be paid before the current year could be paid. That was not the compromise and it is not necessary to clarify it again.

Senator Crippen reviewed the process again and said he felt it should be addressed in this bill even though Representative Hannah has a bill in to do this. He asked Jeff Martin to look into it.

The committee decided to hold the bill for a bit while Senator Mazurek and Jeff Martin discuss what to do with it.

#### DISPOSITION OF SENATE BILL 42

Discussion: Senator Eck presented the revised fiscal note to the committee (Exhibit 2). It shows there are costs incurred, but they are covered by federal payments and incentives.

Senator Gage asked how 10 FTE's could be funded with \$110,000.

Mr. Wallace, Department of Revenue, said the fiscal note only reflects the Montana share and the federal dollars will make up the difference.

Amendments and Votes: Senator Crippen moved to amend the

bill on page 10, line 18, striking "shall" and inserting "may"; and on page 10, line 25, striking "only".

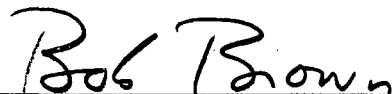
The motion CARRIED with Senators Harp and Halligan voting no.

Senator Gage still had some concern about the FTE's, but said he would get the information himself to use on the floor.

Recommendation and Vote: Eck moved Senate Bill 42 DO PASS AS AMENDED. The motion CARRIED unanimously.

ADJOURNMENT

Adjournment At: 10:00 a.m.



\_\_\_\_\_  
SENATOR BOB BROWN, Chairman

BB/jdr

min118jr.sr

ROLL CALL

TAXATION

COMMITTEE

5054 LEGISLATIVE SESSION -- 1989

Date 1/18/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	x		
SENATOR CRIPPEN	X		
SENATOR ECK	x		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP	X		
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON	X		
SENATOR WALKER	X		

Each day attach to minutes.

STANDING COMMITTEE REPORT

January 18, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration SB 42 (first reading copy -- white), respectfully report that SB 42 be amended and as so amended do pass:

1. Page 10, line 18.

Strike: "shall"

Insert: "may"

2. Page 10, line 25.

Strike: "only"

AND AS SO AMENDED DO PASS

Signed: \_\_\_\_\_

*Bob Brown*  
Bob Brown, Chairman

Statement of Intent attached.

*H.C.  
1/19/89  
10:25  
A.M.*



## STATEMENT OF INTENT

### Senate Bill 42

A statement of intent is required for Senate Bill No. 42 because it amends several sections within Title 40, chapter 5, part 2, on child support enforcement services. These amendments are proposed to bring state law into compliance with federal law. The department of revenue is granted an extension of authority to adopt rules in accordance with this bill that conform with federal laws and regulations.

The legislature intends that the department adopt rules that:

(1) reduce Aid to Families With Dependent Children (AFDC) expenditures by ensuring that the parent or other person responsible pays for the care, support, or maintenance of a child under the provisions of 40-5-202, (1);

(2) ensure child enforcement services will continue to be provided to families that cease to receive public assistance under AFDC, without requiring an application or payment of a fee;

(3) establish the terms and conditions of providing continued services for families no longer receiving public assistance; and

(4) establish procedures for the discontinuance of child support services when the custodial parent:

(a) ceases or fails to cooperate with the department as provided under 40-5-204; or

(b) takes an action to prejudice the rights of the department under 40-5-202 (4) and (5).

*Amend as follows*

**15-18-214. Effect of deed.** (1) A deed issued under this chapter conveys to the grantee absolute title to the property described therein as of the date of the expiration of the redemption period, free and clear of all liens and encumbrances, except:

(a) when the claim is payable after the execution of the deed and:

(i) a property tax lien attaches subsequent to the tax sale; or

(ii) a lien of any special, rural, local improvement, irrigation, or drainage assessment is levied against the property;

(b) when the claim is an easement, servitude, covenant, restriction, reservation, or similar burden lawfully imposed on the property; or

(c) when ~~an interest in~~ the land is owned by the United States, this state, or a subdivision of this state.

(2) Under the conditions described in subsection (1), the deed is prima facie evidence of the right of possession accrued as of the date of expiration

*Compare to 1987 pre 1987 statute that was repealed.*

**15-18-309. Effect of deed.** The deed issued under this or any other law of this state shall convey to the grantee the absolute title to the lands

described therein as of the date of the expiration of the period for redemption, free of all encumbrances and clear of any and all claims of said defendants to said action except the lien for taxes which may have attached subsequent to the sale and the lien of any special, local improvement, irrigation, and drainage assessments levied against the property, payable after the execution of said deed, and except when the land is owned by the United States or this state, in which case it is prima facie evidence of the right of possession accrued as of the date of expiration of such period for redemption.

EXHIBIT NO. 2

DATE 1/18/89

BILL NO. SB 42

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SBO42 (revised fiscal note), as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise the laws relating to the administrative enforcement of child support to conform the laws to federal regulations; providing an automatic extension of services upon termination of public assistance; granting equal status to non-public assistance cases; decreasing the response times for administrative procedures; and providing for temporary support orders.

ASSUMPTIONS:

1. The first year the non-public assistance caseload will increase by 2900 cases above current levels.
2. The second year the non-public assistance caseload will increase by 4900 cases above current levels.
3. At 500 cases per FTE, there will be 6 additional FTE the first year; 2 at grade 9 and 4 at grade 12.
4. Four more FTE will be required the second year; 2 at grade 9 and 2 at grade 12; for a total of 10 new positions.
5. These positions will be hired at step 2; there will be no wage increase in the biennium; fringe benefits will be 21.94% the first year and 22.23% the second year.
6. There will be a one-time data processing cost of \$11,200 to change the system. This will be done in the first quarter of FY90.
7. The federal government covers 68% of total administrative costs until October, 1989; after that time the federal government will cover 66% of costs. (The additional administrative expense shown below reflects the state portion only.)
8. Department collections will be \$907,577 the first year and \$1,533,498 the second year.
9. Federal government incentive payments (these are based on cost-effectiveness ratios) will be 7% of collections, or \$63,530 for the first year and \$107,345 for the second year.
10. Under current law the department does not provide medical support obligation enforcement, and would not under the proposed law.
11. Noncompliance with this requirement could result in IV-A federal funding graduated sanctions ranging from 1% to 5%. If a 1% sanction is applied, it would represent a reduction of \$270,663 in federal AFDC funding. If a 5% sanction is applied, it would represent a reduction of \$1,353,314 in funding. It is assumed the proposal will allow the state to avoid federal sanctions in the areas referenced by this proposal.

RECEIVED  
MONTANA DEPARTMENT OF REVENUE  
JAN 24 1989

*Ray Shackelford* 1/17/89

RAY SHACKLEFORD, DIRECTOR DATE  
Office of Budget and Program Planning

DOROTHY ECK, PRIMARY SPONSOR DATE  
Fiscal Note for SBO42, as introduced

Ex. # 2 pg. 2  
1/18/89  
SB-12

**FISCAL IMPACT:**

Revenue Impact:

	FY '90	
	Current Law	Proposed Law
Fed. Govt. Incentive Payment	\$ 0	\$ 63,530
		Difference \$ 63,530

	FY '91	
	Current Law	Proposed Law
	\$ 0	\$ 107,345
		Difference \$ 107,345

**FY '90**

Expenditure Impact:

	Current Law	Proposed Law	Difference
Personal Services	\$ 0	\$ 41,478	\$ 41,478
Operating Expense	0	20,271	20,271
Capital Outlay	0	4,275	4,275
TOTAL	\$ 0	\$ 66,024	\$ 66,024

**FY '91**

	Current Law	Proposed Law	Difference
	\$ 0	\$ 69,340	\$ 69,340
	0	28,227	28,227
	0	0	0
	\$ 0	\$ 97,566	\$ 97,566