

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Ethel Harding, on January 26, 1989, at 1:00 p.m. in Room 405 of the Capitol.

ROLL CALL

Members Present: Senators Ethel Harding, Bruce D. Crippen, R.J. "Dick" Pinsoneault, Tom Beck, Eleanor Vaughn, H.W. "Swede" Hammond, Mike Walker, Gene Thayer, Paul Boylan

Members Excused: none

Members Absent: none

Staff Present: Connie Erickson, Legislative Council;  
Dolores Harris, Committee Secretary

Announcements/Discussion: None

HEARING ON HOUSE BILL 29

Presentation and Opening Statement by Sponsor: Dan Harrington from House District 68, Silver Bow stated HB 29 requires television districts to provide a list of their subscribers to the county assessor.

List of Testifying Proponents and What Group they Represent:

Bob Saunders, Meagher Co. Pres.

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Bob Saunders of White Sulphur Springs stated that they have a television district and this bill would clarify the problem with the assessors knowing who to charge on their taxes. It's uneven between counties and I'm very much in favor of this bill.

Questions From Committee Members: Senator Beck asked why the assessor needed these lists. Dan Harrington answered that the people pay on their taxes for the television services they receive. Senator Harding stated that in their county the assessor prepares that list and they aren't exactly certain who uses the translators and who doesn't, so this clarifies that. The way it is now, the assessor has to go find the users.

Closing by Sponsor: Dan Harrington closed.

#### DISPOSITION OF HOUSE BILL 29

Discussion: Chairman Harding asked Representative Harrington if he had anyone to carry this to the Senate floor. Senator Vaughn said she would carry this bill.

Amendments and Votes: None

Recommendation and Vote: Senator Beck MOVED that we CONCUR in HB 29. The VOTE was UNANIMOUS in favor of this bill.

#### HEARING ON HOUSE BILL 58

Presentation and Opening Statement by Sponsor: Jerry Driscoll from House District 92, Billings, stated that this bill refers to a business that has been closed down for at least 6 months. If another person wants to open that business the delinquent property taxes could be suspended, and if the new owner kept the business open for 3 years or longer, those old property taxes would be cancelled. On page 15 it states this bill does not apply to assessments made against property for the payment of bonds. The way this should work is the person interested in opening a defunct business, would go before the county commissioners, have a public hearing, and request suspension of the delinquent taxes. It is in the best interest of a community to suspend the taxes, get the business going and back paying taxes, payrolls, and so forth. The business has to be income producing and job stimulating in order to make this request. You cannot just buy it and hold it for speculation.

List of Testifying Proponents and What Group they Represent:

Kay Foster, Billings Chamber of Commerce

Jim Van Orsdale, Mayor of Billings  
Alec Hansen, Montana League of Cities and Towns  
Gordon Morris, Executive Director, MACO  
Tom Hopgood, Mont. Association of Realtors  
Don Ingels, Mont. Chamber of Commerce  
John Lawton, City of Billings  
Nathan Lubergen, City of Billings

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Kay Foster stated that the Chamber of Commerce in Billings is here to urge passage of HB 58. It has the endorsement of the Billings business community, labor, city and county governments and the school district. It's a measure that was arrived at through a community search process to encourage economic development of their area. This bill will provide an incentive for job creation. Although the bill was conceived with the closure of the 2 meat packing plants in Billings, they realize other communities have businesses closing. Not having to pay the back taxes up front certainly is an added incentive.

John Lawton, Assistant City Administrator of Billings, is also a member of the search conference steering committee, which is a committee made up of labor, business and government. Pierce Packing Company closed owing back taxes on that facility back to 1979. That plant has been sitting empty depreciating and deteriorating for 5 years. There is \$2.2 million lien plus the \$1 million in back taxes owing on this facility. In addition the county can take over a property for delinquent taxes but it takes 3 or 4 years. At present Pierce Packing is in bankruptcy and all their assets will be sold off. Probably the equipment will be sold separately from the real property and once you do that the chances of ever putting that business back together is non-existent. Had this legislation been in place 3 or 4 years ago someone might have tried to reopen it. This bill is designed to help these kinds of situations. We think there are adequate safe-guards built into it to protect the public and other taxpayers.

John Lawton mentioned Midland Packing and that tax problem has cleared up. But there are other businesses around the state that might be able to use this bill in the future. This is a tool for economic development.

Jim Van Orsdale stated that a new building could be built for less dollars than the amount delinquent taxes. In building the new building, the old building sits and becomes an eyesore.

Alec Hanson stated that at their last meeting the cities and towns adopted a resolution supporting this bill. We believe this bill will remove a major indemnity to the economic restoration to our communities.

Gordon Morris brought Section 11 to the committee's attention. From a local government's perspective this bill really does reflect a long term objective of MACO as it is a mechanism empowering county commissioners with local control in terms of making these sound management decisions that are determined to be in the best interests of the public that they serve. I recommend this bill be given your favorable consideration.

Tom Hopgood representing the Montana Association of Realtors stated that this bill encourages the sale of valuable commercial property. Without the option of tax forgiveness, this property would remain unsold and idle. Every realtor in every major town in Montana has run into situations where good pieces of commercial property is sitting vacant. We believe this is a bill that's good for the economic vitality of the state, government, and good for realtors. We ask you give this a do pass recommendation.

Don Ingles from the Montana Chamber of Commerce added his support to HB 58. He stated that business, government, and labor have sat down and worked this bill out. He hopes the committee will pass this bill.

Questions From Committee Members: Senator Crippen asked sponsor Driscoll about SIDs and G.O.Bonds. County commissioners cannot forgive SIDs or G.O.Bonds. On page 15 it states this does not apply to assessments made against property for the payment of bonds. This bill does not cover state wide mill levies? How do you define job stimulating? Mr. Driscoll stated that you must open the business and put somebody to work. The reason for those words is that somebody doesn't purchase a commercial property to hold for three years, get the taxes forgiven, and then sell it. There has to be something happening inside the property, people working, something going on. The local government hearing is the place where the city or county make certain the business is opened. Senator Beck asked

if a business has a lot of delinquent taxes, it shuts down for 6 months, he sells it to his kid. Mr. Driscoll stated page 14 Section 11, sub 211-16. If they find it is not an arms length transaction, or if the purchase otherwise appears to be a restructuring of ownership for the primary purpose of escaping payment of delinquent property taxes the governing body will deny the request. Senator Beck asked if there is a definition of arms length transaction. Yes, there is.

Senator Vaughn asked Gordon Morris what effect this would have on the tax balances for the county and cities to operate. What problems would they run into with cancelling all these delinquent taxes? He answered that from a cash perspective, if you cancel what has not been collected you are not affecting any cash flow. The more important aspect is that you get the business back on the paying tax rolls as a result of this mechanism. Then you can actually realize collection in the future. Schools will benefit, counties will benefit, as are the municipalities as well as the state of Montana. We are not losing anything. Senator Vaughn asked why this wasn't heard in the taxation committee rather than local government. Gordon Morris explained that in 1987 this bill was not put out of that committee, so it still is before you as a good bill. Senator Harding stated this would effect anticipated revenue, when they are figuring budgets. Gordon Morris stated that in figuring budgets they would come closer to 100% accuracy in terms of what was being anticipated and what was being received. Senator Beck asked if the next year the tax base had to pick up the short fall? Gordon Morris thought perhaps a small school district might come up short and have to register warrants where the taxes are uncollected so getting the taxes back might be a boon to them. From an overall county jurisdiction there aren't that many tax paying businesses that constitute a percentage of the total tax base that would make a significant difference.

Senator Harding asked the city clerk from Billings, Mr. Lubergen, how this would affect your tax base? To forgive the \$1.1 million taxes? Not having received anything, receiving something will help considerably. When we put the budget together, we include 100% but we collect about 90%. A large business might throw us off a percent more. Mr. Driscoll stated that problem started in Billings in 1979. If they don't have the money by now, they never will get it. This gives local governments the ability to wipe a bad debt off the books so that you can begin to realize some revenue

from the property.

Senator Beck asked if county commissioners could negotiate and not necessarily write off all the taxes, just a certain portion. Mr. Driscoll answered that they could. Negotiation is not prohibited by the bill. He stated that the new company has to disclose their financial statement. After 3 years, if the plant closes down, whose liable for the taxes? The property is liable for all penalty and interest.

Closing by Sponsor: Representative Driscoll stated this has been a good hearing. Presently no one has any power to forgive any taxes, and in some cases the delinquent taxes are bad debts. Hopefully this will get a business going before it goes to bankruptcy court. There has to be a notice and a public hearing. The new owner can do it or they can say no.

#### DISPOSITION OF HOUSE BILL 58

Discussion: Senator Crippen stated that the state wide levies may be a problem. Senator Beck stated local governments don't have authority over state imposed taxes. Senator Hammond stated you could have 2 owners then taxes go against the property. The bill leaves a lot to their local government and all the other tax laws apply.

Amendments and Votes: None

Recommendation and Vote: Senator Hammond made a MOTION that we DO CONCUR in HB 58. The vote was UNANIMOUS

#### HEARING ON HOUSE BILL 62

Presentation and Opening Statement by Sponsor:

Representative Marian Hanson, House District 100, Big Horn County stated that HB 62 was brought to my attention last fall because people in her area wanted to have an audit of their cemetery district. Cemetery associations have audits but cemetery districts do not and in their area there was no accountability. Because of the cost of an audit, they stipulated that cemeteries with expenditures of less than \$10,000 would be exempt from audits. This bill will give commissioners the authority to audit cemetery districts and provides accountability.

List of Testifying Proponents and What Group they Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Questions From Committee Members: Senator Pinsoneault asked if someone was absconding with funds in Big Horn County? The fact that you haven't had an audit in 10 years doesn't suggest that someone is stealing money. Yes, there is suspicion. The county levies \$40,000 a year for maintenance toward the cemeteries and it happens that the coroner is the chairman of the cemetery district and so when there is a death he proceeds to ask the people to write the check out to the mortuary and eventually he does turn a little money in to the county. But there is no record. Senator Pinsoneault asked if she had an objection if they raised the \$10,000 to \$15,000?

Senator Hammond asked if the county commissioners demand an audit? They can, but they haven't at this time. They need a report. Senator Hammond asked if this could be handled on the local level rather than coming to the state. M. Hanson stated that the fiscal note indicates that an audit would cost about \$363.00. She also stated that the district being audited has to ask for that audit. She stated that they have to audit the other entities so they could audit the cemetery district at the same time.

Senator Thayer asked who would do the audits? Connie Erickson answered the Department of Commerce. Senator Thayer asked if there are private cemeteries? Every cemetery that has a budget of less than \$10,000 are exempt from audit. Senator Thayer asked if a private audit would suffice? He thinks that a CPA in the local community should be able to do the audit. Senator Harding stated that law is on the books; they have their choice.

Gordon Morris stated that local government is statutorily empowered to conduct local governmental audits but that is not exclusive. You can go contract with any private auditing firm. The roll of the Department becomes one of reviewing and approving the audit contract. So the majority of local government entities are, in fact,

audited by private auditors, as opposed to the Department of Commerce. The reason for this is self-explanatory. The Department has such a back log that they can't get around to the counties.

Senator Beck asked on page 4, line 17 the cemetery district will file with the clerk of the district court. Why not the clerk and recorder? Good question. For cemeteries it has always been the clerk of the district court. When you deal with county commissioners, your are usually working with the clerk and recorder, not the clerk of the district court.

Senator Harding stated that Lake County has their cemetery districts audited. Gordon Morris stated that county commissioners have the responsibility to see that management practices are followed in terms of these particular entities, cemetery districts, although you find there is a lot of variation as to how cemetery districts are organized and managed. You have district trustees, or nothing but caretakers.

Closing by Sponsor: Representative Hanson feels this bill would provide some accountability and cemetery districts should be required, since they use public funds, to be accountable to those people in that district. With that I'll close.

#### DISPOSITION OF HOUSE BILL 62

Discussion: Senator Pinsoneault stated he would like to talk to Mr. French, who runs that Lake County Cemetery District, who had some concerns and I would like to postpone action on this bill until Tuesday.

Amendments and Votes: None

Recommendation and Vote: None

#### DISCUSSION ON SENATE BILL 35

Chairman Harding stated that Senator Weeding is here to offer an amendment to take care of these problems we have been wrestling with. Senator Weeding stated he did not have an amendment prepared for the retirement homes. He mentioned the wording of "beds". What about the question that Senator Farrell had regarding the vote of the people. Senator Weeding asked if Connie Erickson will prepare an amendment requiring a vote of the people. Senator Harding



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asked if he would be receptive to this being made into a district like a special improvement district and people do have to vote on that. That would be fine with Senator Weeding. C. Erickson stated if you look under 7-34-2414 which is the Section on financing of county operated hospitals and nursing homes it does say an election is required on the issuance of bonds. No bonds may be issued by any county until the question of approval of the issuance of such bonds has been submitted to the registered electors of the county at a general election or special election called for that purpose by the governing body of the county. And the majority of the electors voting on the question voted in favor thereof. Similar language could be used for county retirement homes. Senator Weeding will work with Connie Erickson on this matter.

ADJOURNMENT

Adjournment At: 2:14 p.m.

  
SENATOR ETHEL HARDING, Chairman

EH/dh

minutes.126



SENATE STANDING COMMITTEE REPORT

January 26, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 29 (third reading copy -- blue), respectfully report that HB 29 be concurred in.

Sponsor: Harrington (Vaughn)

BE CONCURRED IN

Signed: \_\_\_\_\_  
Ethel M. Harding, Chairman

*41.0.*  
*1/26/89*  
*2:45*  
*P.M.*

**SENATE STANDING COMMITTEE REPORT**

January 26, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 58 (third reading copy -- blue), respectfully report that HB 58 be concurred in.

Sponsor: Driscoll (Walker)

BE CONCURRED IN

Signed: \_\_\_\_\_  
Ethel M. Harding, Chairman

*H. C. 11/26/89  
2:45.*

