

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON PROPERTY TAX

Call to Order: By **CHAIRMAN COHEN**, on March 15, 1991, at 8:04 AM

ROLL CALL

Members Present:

Rep. Dan Harrington, Chairman (D)
Rep. Ben Cohen, Vice-Chairman (D)
Rep. Ed Dolezal (D)
Rep. Orval Ellison (R)
Rep. Russell Fagg (R)
Rep. Ed McCaffree (D)
Rep. Mark O'Keefe (D)
Rep. Ted Schye (D)
Rep. Fred Thomas (R)
Rep. Dave Wanzenried (D)

Staff Present: Lee Heiman, Legislative Council
Julia Tonkovich, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

DISCUSSION ON HB 701

REP. JERRY DRISCOLL explained the bill, which will establish a fund out of which loans for new technology can be granted. If a plant decides to add equipment which will improve the cleanliness of the coal-burning process, the local government will waive local property taxes on that new portion for no more than 25 years. Taxes on the existing structure, generator or boiler would remain the same. There is currently only one such MHD plant in the state; however, if another plant developed a completely new technology for burning coal, they would also be included in this plan.

REP. COHEN asked if the local government may exempt these companies from school district taxes. **REP. ELLISON** said he did not like the fact that the industry may also be exempted from the school equalization levy.

Steve Huntington, MHD Development Corporation, said in this bill, when the state allows local government to exempt property tax, the state is acting to exempt its own portion only. When this exemption goes to the local level, each local taxing jurisdiction votes on whether or not they wish to carry out the exemption.

The state exemption is not affected until the localities approve their own. The state is acting on its own exemptions; the counties are not allowed to act on the state's portion.

REP. COHEN asked for clarification of the phrase "the legislature must have approved the project" (page 2, section 2, subsection 2). REP. DRISCOLL said in some future session, the project will come back to the legislature for final/continuing approval. Mr. Huntington said this bill only approves the Billings MHD project for exemption. Any future project seeking a property tax exemption will need to come to the legislature first and ask for a proposal.

REP. COHEN asked why the exemption would hold for "the life of the project or 25 years." REP. SCHYE said according to testimony, 25 years is usually the life of such a plant.

Mr. Huntington said the proceeds will be used to retire the bond of indebtedness; most likely, the bonds will have a 15-20 year life. In this case, a 15-20 year exemption will be requested. The 25-year stipulation is there to allow the maximum time corresponding to the life of the plant.

REP. COHEN asked about the governing bodies referred to in section 2, subsection 3. Do the school district, the city and the county have to approve the project first? Mr. Heiman said this is correct; there is also an amendment that requires all these governing bodies to approve the same percentage of exemption.

Mr. Heiman explained the amendments. The amendments are footnoted; footnote 1 indicates the sponsor's amendments, and footnote 2 indicates the Department of Revenue's amendments.

REP. MCCAFFREE said HB 701 is a good piece of legislation, although he is not sure he approves of the timing of legislative approval included in the bill.

Motion/Vote: REP. FAGG moved the subcommittee DO RECOMMEND amendments 1-4 to the full committee. Motion carried unanimously.

REP. O'KEEFE asked why amendment 5 requires the governing bodies to approve an equal percentage exemption from all state and local property taxes. Mr. Huntington replied the exemption needs to be consistent across the board so everyone feels they're getting equal treatment. REP. DRISCOLL said if, for example, the school district approves only a 40% exemption for a project, and the county approves a 100% exemption, the two governing bodies would have to negotiate an agreement on the percentage. REP. ELLISON said in other similar tax-exemption programs in his county, the two parties usually don't have many problems coming to an agreement.

REP. COHEN said the only problem is the two local jurisdictions can forgive taxes, and then the state loses those moneys from the equalization fund. REP. DRISCOLL said the jurisdictions cannot lower existing taxes.

REP. MCCAFFREE said to keep in mind that the bill does not only address funds; it addresses the air we breathe. REP. DRISCOLL said if the committee does not pass one of the bills, the Billings plant will be closed down in the next few years, which will bring a potential loss of \$1 million in taxes.

REP. MCCAFFREE questioned the 25-year exemption. REP. DRISCOLL said if the exemption is lowered to 15 years, only 15-year bonds can be sold. Mr. Huntington said the bill is designed to cover more new technology than just MHD. 15-20 years may be enough for an MHD plant; however, there may be some other new technology that requires 25 years.

REP. MCCAFFREE asked whether the language on page 1, line 25, indicates that a plant with a coal-drying process would qualify for the tax exemption. REP. DRISCOLL said a coal-drying process probably would have qualified; however, construction has already begun on the plant in question, and when the project is finished, it will duplicate an existing process. This bill is only effective for "new technology." REP. MCCAFFREE said the coal-drying process is also clean-coal technology, and should be included in the exemption.

Motion/Vote: REP. MCCAFFREE moved the subcommittee DO RECOMMEND amendments 5 and 6 to the full committee. Motion carried unanimously.

Mr. Heiman explained amendments 7 and 8, subsection 5, which come from the Department of Revenue and clarify administrative procedures.

Motion/Vote: REP. ELLISON moved the subcommittee DO RECOMMEND amendments 7 and 8 to the full committee. Motion carried unanimously.

REP. O'KEEFE asked who the state treasurer (section 3, subsection 2) is. Mr. Huntington said the state treasurer is the director of the department of administration. REP. O'KEEFE said the nature of that position has changed since the definition of "state treasurer" was put into the Montana code, and wondered if section 3's reference is still correct. Mr. Heiman said he believed it is.

REP. O'KEEFE said the language concerning the timing and method of transferring money to the plant from the coal severance fund seemed nebulous. This bill will not impact other in-state investment programs until the money transfer goes into effect. When the transfer begins and money in the coal severance fund begins to decrease, the percentage of money that can be used for

new industry will also decrease. Mr. Huntington said this is incorrect. The clean coal account exists within the trust fund. Because the account is inside the permanent fund, 25% of all new revenue is still available for new investment. This account does not diminish what is available in the permanent fund for other new industry, nor does it intend to. REP. O'KEEFE said he asked the people in charge of accounts for water bonding and R&D projects, and they say this bill does affect the money available for other new industries in the state. If this is the case, it must be made clear that the clean coal money stays in the permanent fund as long as possible.

REP. COHEN appointed REP. O'KEEFE to work with Mr. Huntington to draft amendments to clarify that this fund would not affect money for other new industries.

REP. COHEN asked who would be getting the \$5 million. Mr. Huntington replied every year when the coal tax is collected, it is put in a bond fund, and remains there until debt service requirements on the water development project are satisfied. It is then transferred out of the bond fund into the permanent fund. Almost all of the approximately \$20 million collected from coal tax goes into the permanent fund, since the Department of Natural Resources hasn't had a water project requiring subsidy of debts for some time. This bill takes \$5 million from the funds that would go to the permanent account.

REP. MCCAFFREE asked what will happen to this fund if the Big Sky Dividend passes. Mr. Huntington said if the Big Sky Dividend passes, it destroys the flow of new revenue to the trust, so this \$5 million would not be available on an annual basis anymore. If the legislature passes one of the alternative programs proposing that the state subsidize debt service with coal tax income, those debt services will be satisfied first, and this money would then be transferred out of the bond fund after these debt service requirements are satisfied. Any program will have an impact, either by eradicating the \$5 million, or by delaying the transfer of funds.

REP. COHEN asked whether the \$5 million in the clean coal technology demonstration fund will be used for bonds or loans. Mr. Huntington said the \$5 million/year, along with the \$25 million that will be transferred by this bill, will be put into an account within the permanent fund. Loans may be drawn from the account in the future with legislative approval (upon recommendation of the Department of Natural Resources). It is a subset of the permanent trust. The Department of Natural Resources will determine whether a project needs a 3/4 vote for approval; usually, prudent projects will not. There is a layer of legislative scrutiny in this bill that isn't available with other loans. REP. ELLISON noted that not every loan made out of the permanent trust or the General Fund is voted on.

Motion/Vote: REP. THOMAS moved the subcommittee DO RECOMMEND amendment 9 to the full committee. Motion carried unanimously.

Mr. Huntington explained section 6, clarifying the process by which clean coal demonstration loans can be made. It requires the Department of Natural Resources to study proposed projects and make recommendations to the legislature, which then has power to approve or disapprove the loan. The section also clarifies the type of loan and what might be used as a retainment income stream. A collateralized, "bankable" loan will be a majority-vote loan. A contingent loan will probably be a 3/4 vote loan.

Motion/Vote: REP. MCCAFFREE moved the subcommittee DO RECOMMEND amendments 10, 11 and 12 to the full committee. Motion carried unanimously.

REP. FAGG moved the committee DO RECOMMEND amendment 13. Motion carried unanimously.

DISCUSSION ON HB 702

REP. DRISCOLL clarified that the bill will reduce the amount the coal severance tax gives to the General Fund by 7%.

REP. FAGG said he supports the bill. The money is coming from coal tax anyway; this bill would bring the money back into coal development resources.

REP. O'KEEFE said if the committee passes all bills that use tax as a source of funding, it will take close to \$17 million out of the General Fund. The Appropriations Committee probably won't support it either.

Mr. Huntington explained section 2 of the bill, which creates an account (administered by the Department of Natural Resources) to benefit early stage clean coal projects.

REP. ELLISON said he prefers HB 701 to HB 702; taking money out of the General Fund to support unproven technology is not a good idea. REP. MCCAFFREE asked where the General Fund would be if it weren't for coal. The legislature should be willing to put a little money back into coal technology.

REP. DRISCOLL said he would like to see HB 702 go to the Appropriations Committee. REP. COHEN said REP. DRISCOLL should make a motion on the House floor to send the bill to the Appropriations Committee, and he would tell the taxation committee of that recommendation.

Motion/Vote: REP. THOMAS moved the subcommittee DO RECOMMEND HB 701 to the full committee. Motion carried unanimously.

DISCUSSION ON SB 69

REP. THOMAS said the bill clarifies that parcels of land larger than 20 acres which are prohibited from being used for agricultural purposes may not be classified as agricultural land for tax purposes.

Motion/Vote: REP. FAGG moved the subcommittee DO RECOMMEND SB 69 to the full committee. Motion carried unanimously.


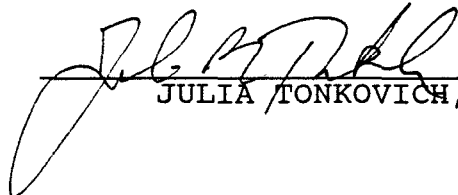
DISCUSSION ON HB 444

REP. WANZENRIED presented amendments, which clarifies budget adjustments should be calculated based on enrollment. The budget will still be driven by FTEs, and there is a 5% cap placed on budget growth.

Motion/Vote: REP. O'KEEFE moved the subcommittee DO RECOMMEND HB 444 as amended to the full committee. Motion carried 6 to 4.

ADJOURNMENT

Adjournment: 8:55 AM


BEN COHEN, Chair
JULIA TONKOVICH, Secretary

BC/jmt

HOUSE OF REPRESENTATIVES

PROPERTY TAX SUBCOMMITTEE

ROLL CALL

DATE

3/15/91

NAME	PRESENT	ABSENT	EXCUSED
REP. BEN COHEN, VICE-CHAIR	X		
REP. ED DOLEZAL	X		
REP. ORVAL ELLISON	X		
REP. RUSSELL FAGG	X		
REP. DAVID HOFFMAN	X		
REP. ED MCCAFFREE	X		
REP. MARK O'KEEFE	X		
REP. TED SCHYE	X		
REP. FRED THOMAS	X		
REP. DAVE WANZENRIED	X		
REP. DAN HARRINGTON, CHAIRMAN			