

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION
COMMITTEE ON TAXATION**

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on January 18, 1995, at 8:00 a.m.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Mike Foster, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John G. Harp (R)
Sen. Dorothy Eck (D)
Sen. Barry "Spook" Stang (D)
Sen. Fred R. Van Valkenburg (D)

Members Excused: None

Members Absent: None

Staff Present: Jeff Martin, Legislative Council
Rene'e Podell, Committee Secretary

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

Committee Business Summary:

Hearing: SB 126, HB 38
Executive Action: HB 38, SB 56

HEARING ON SB 126

Opening Statement by Sponsor:

SEN. TOM BECK, Senate District 28, explained that the Department of Revenue desires to charge a fee for providing information from any property valuation, and assessment system data base maintained by the department. He noted that this bill, as proposed, is intended to extend the department's ability to charge a fee for data base information. **SEN. BECK** remarked that he didn't want the department to have the ability to charge local governments, and it has been written into the bill. He stated this bill was presented to the Revenue Oversight Committee, and endorsed by the committee.

{Tape: 1; Side: A; Approx. Counter: 3.5.}

Proponents' Testimony:

Mick Robinson, Director, Department of Revenue, commented that SB 126 is a clean-up piece of legislation coming out of HB 50. He explained that numerous requests for transferring a large block of information by electronic means has come from realtors, consultants and fee appraisers. Mr. Robinson expressed support for SB 126 stating it provides an efficient way of transferring info, and for recovering department costs for the use of the system.

Opponents' Testimony:

Robert Leach, Real Estate Agent, Member of the Billings Association of Realtors, submitted written testimony in opposition to SB 126 stating that subsection 2, item #4 of the bill should be deleted. EXHIBIT 1. Mr. Leach submitted a copy of a billing statement from the Department of Revenue, at the request of the committee. EXHIBIT 2

Clayton Fiscus, Fiscus Realty, sent written testimony to the committee opposing SB 126, noting that the government should not charge for public information. EXHIBIT 3

Howard Sumner, President, Billings Association of Realtors, sent written testimony to the committee opposing SB 126. EXHIBIT 4

John Shontz, Montana Association of Realtors, explained that the association is willing to pay actual costs to obtain needed information, but they aren't willing to pay costs above that. He submitted an amendment for committee consideration. EXHIBIT 5

Informational Testimony:

Dennis Burr, Montana Taxpayers Association, stated he is bothered by the idea of providing a tape which allows the public to browse through personal information.

{Tape: 1; Side: A; Approx. Counter: 17.2.}

Questions From Committee Members and Responses:

SEN. LORENTS GROSFIELD asked Mick Robinson what information is contained in the data system tape. Mr. Robinson said a portion of the information contained on the tape is the same information currently listed on property record cards. He avowed that no confidential information would be transferred to the tape.

SEN. GROSFIELD questioned Mr. Robinson in regards to what types of costs were being submitted to those requesting data system information. Mr. Robinson discussed the departmental charges. CHAIRMAN GERRY DEVLIN asked Mr. Robinson to present to the committee a copy of the spreadsheet he was using to convey the

departmental costs.

SEN. GROSFIELD asked **Mr. Robinson** what fee (referring to Page 2, Lines 5 & 6) the department proposes to charge for development and maintenance. **Mr. Robinson** said the only amount that could be associated with that would be the \$39.00 per hour system development fee.

SEN. FRED VAN VALKENBURG asked **Mr. Robinson** why the department wants to charge state agencies. **Mr. Robinson** said the department is not budgeted to provide that information. He explained that some agencies request significant data. **SEN. VAN VALKENBURG** asked **Mr. Robinson** if he had an objection to an amendment that would exclude the budget office or the fiscal analyst office. **Mr. Robinson** commented that he wouldn't have a problem with the amendment, but those offices wouldn't be requesting the information contained on the data system.

SEN. MIKE FOSTER requested a direct and in-direct breakdown of charges. **Mr. Robinson** asked **Mary Whittinghill** from the Department of Revenue to comment. **Ms. Whittinghill** stated that the hand out which will be provided will contain fixed costs for data processing charges from the AS 400 system.

SEN. MIKE FOSTER asked **Mr. Shontz** if there was something he wanted to comment on. **Mr. Shontz** explained that no one is asking for on-line access. He noted that no realtor in the state is asking for statewide access.

SEN. JOHN HARP remarked that he heard **Ms. Whittinghill** say that the DOR would charge half the fee that the Department of Administration would charge for data. He asked **Ms. Whittinghill** how the DOR can do that. **Ms. Whittinghill** explained that the DOR is operating an AS 400 system, and the processing time is slower than the state's mainframe which was more costly.

SEN. BARRY "SPOOK" STANG asked **Mr. Leach** if Association of Realtor members are charged a fee for the information. **Mr. Leach** commented that members are provided services at a cost of \$40.00 per member, per month.

Mick Robinson proclaimed the reason for bringing this bill forward was to clarify that local governments will not be charged a fee for the use of the data system. He stated that the department's intent is not to try to recapture money that has been put into the system over the years.

CHAIRMAN DEVLIN commented to **Mr. Shontz** that the amendments he submitted would kill the bill. **Mr. Shontz** stated that he didn't want to kill the bill. He explained his intent was to allow the department to recover the costs involved in making the tape.

Closing by Sponsor:

SEN. TOM BECK said that Mr. Shontz's amendments would kill the bill. He remarked that the Revenue Oversight Committee endorsed the bill, and he asked for the committee's favorable consideration.

CHAIRMAN DEVLIN announced he asked the researcher to find out what other states are charging for requested AS 400 system data.

{Tape: 1; Side: A; Approx. Counter: 60.6.}

HEARING ON HB 38

Opening Statement by Sponsor:

REP. DAN HARRINGTON, House District 38, noted that HB 38 is a straight forward, simple bill. He reported the Department of Revenue, and the Revenue Oversight Committee endorsed it.

Proponents' Testimony:

Don Hoffman, Department of Revenue, Natural Resource Bureau, noted the purpose of this bill is to make the statutes more understandable for taxpayers.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

None

Closing by Sponsor:

REP. HARRINGTON closed the hearing on HB 38. REP. HARRINGTON announced that SEN. BARRY "SPOOK" STANG would like to carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 38

Motion: SEN. DELWYN GAGE MOVED HB 38 BE CONCURRED IN.

Discussion: None

Vote: HB 38 CARRIED UNANIMOUSLY on oral vote.

EXECUTIVE ACTION ON SB 56

Motion: SEN. LORENTS GROSFIELD MOVED AMENDMENTS TO SB 56
(151250SC.SRF).

Discussion: SEN. GROSFIELD asked Mr. Robinson for comment on the fiscal note. Mr. Robinson stated that taxpayers are utilizing the 100% clause, and it doesn't appear there will be any impact on the interest.

Motion/Vote: SEN. GROSFIELD MOVED SB 56 DO PASS AS AMENDED.
MOTION PASSED UNANIMOUSLY on oral vote.


Discussion: SEN. STANG commented he doesn't see a need for the bill. He stated that the idea of the bill was to make it easier for the taxpayers.

Tape: 1; Side: B; Approx. Counter: .2:}

Vote: SB 56 DO PASS AS AMENDED. The MOTION PASSED 6-3 on oral vote with SEN. DELWYN GAGE, SEN. FRED VAN VALKENBURG, and SEN. BARRY "SPOOK" STANG voting in opposition to the bill.

ADJOURNMENT

Adjournment: 9:06 a.m.


GERRY DEVLIN, Chairman


RENEE J. PODELL, Secretary

GD/rp

MONTANA SENATE
1995 LEGISLATURE
TAXATION COMMITTEE

ROLL CALL

DATE _____

January 19, 1995

[illegible]

SEN:1995
wp.rollcall.man
CS-09


SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 18, 1995

MR. PRESIDENT:

We, your committee on Taxation having had under consideration HB38 (third reading copy -- blue), respectfully report that HB38 be concurred in,

Signed: Sen. Gerry Devlin
Senator Gerry Devlin, Chair

 Amd. Coord.

SA Sec. of Senate

Senator Carrying Bill

151243SC.SRF

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 18, 1995

MR. PRESIDENT:

We, your committee on Taxation having had under consideration SB56 (first reading copy -- white), respectfully report that SB56 be amended as follows and as so amended do pass.

Signed: 
Senator Gerry Devlin, Chair

That such amendments read:

1. Title, line 6.

Following: "4 MONTHS;"

Insert: "CLARIFYING THE INFORMATION THAT MUST BE CONTAINED IN A WRITTEN APPLICATION FOR EXTENSION; REDUCING THE AMOUNT OF THE CURRENT YEAR TAX LIABILITY THAT MUST BE PAID WHEN APPLYING FOR AN EXTENSION;"

2. Page 1, line 25.

Strike: "; and"

Insert: ". If the application is made in writing, it must include substantially the same information as is required on the department's forms."

3. Page 1, line 27.

Strike: "95%"


Insert: "90%"

4. Page 2, line 5.

Strike: "years beginning"

Insert: "returns due"

-END-


Amd. Coord.
Sec. of Senate

151250SC.SRF

SENATE TAXATION

DATE January 18, 1992

EXHIBIT NO. 1

BILL NO. 126

NAME Robert Keach

ADDRESS 2224 Ash Billings, VT

HOME PHONE 252-6255 WORK PHONE 259-2250

REPRESENTING Billings Association of Realtors

APPEARING ON WHICH PROPOSAL? SB 126

DO YOU: SUPPORT _____ OPPOSE _____ AMEND X

COMMENTS:

Delete sub-section 2 item #4

"An additional fee for reimbursement for
the cost of developing & maintaining the
computer assisted mass appraisal system"
as this is cost prohibitive legislation.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Intorduction:

My name is Robert Leach- I am a native Montanan and have been a member of the Billings Association of Realtors for the past 16 years.

The Billings Association of Realtors, like other businesses, government agencies and entrepreneurs around the State survive with our abilities to provide information and services. As a result of this trend we are constantly looking for ways to reduce costs and improve services.

One of the services that we provide to the public is property assessment and appraisal information that is compiled by our state and local governments. This information is used to help the general public in there decisions to purchase and sell real property.

Like many other associations around the state, we currently research this information at the County Courthouse, making trips to the assessor's office. In the past, man hours of our State and County governments have been utilized in searching, gathering and filing this information.

Late in 1991a decision by our membership was made to obtain this information using a different type of media via computer. Utilizing this media type would provide the state and local governments with dollar savings in man hours and reduce the cost and time involved of providing and gathering this public information for our members as well.

For a number of years we have encountered resistance and delays in pursuit of this information.

In January of 1992, shortly after our initial request the Department of Revenue said it would consider our request.

A year later:

In December of 1992 the Department of Revenue denied our request for access to the magnetic tape format, citing confidentiality to information that has been clearly considered public information.

This decision to deny access was made in lieu of the fact that in 1981 Attorney General Mike Greely determined that there were no privacy concerns involved with the "property record cards." Subsequently Attorney General Marc Radicot concurred with Mike Greely's opinion of the availability of public information and the right to know.

After nearly a year of delay the Department of Revenue suggested yet another review by the Attorney General's office in early 1993.

In October of 1993 the Department of Revenue agreed that the information on the property record cards is public information. Along with this decision came yet another delay: "The department's review of options, regarding cost associated with providing the information."

In January, 1994 the Department of Revenue informed our membership that their concerns were resolved during a special legislative session and the passage of House Bill 50. Buried in House Bill 50 was legislation that allows for public access fees to be charged for electronic information. These fees include:

1. The agency's actual cost of purchasing the electronic media used for transferring data, if the person requesting the service does not provide the media, or
2. Main frame processing charges or other out of pocket expenses directly associated with the request for information,
3. An hourly fee for each hour, or fraction of an hour, after one-half hour of copying service has been provided, and
- 4. An additional fee for reimbursement for the cost of developing and maintaining the computer assisted mass appraisal system.**

Nearly 3 years later, after numerous delays and cost prohibitive legislation we have finally received estimated cost of electronic information from our Department of Revenue. Two Thousand One Hundred and Thirty Three dollars (\$2,133.00) for the initial tape and for each update tape thereafter, that would be needed to provide the most current information to our members and the public.

An annual cost of providing updates on a quarterly basis to obtain current information is cost prohibitive at over \$8,500.

Counties in other areas of the United States enjoy this time saving and cost effective media for around \$250.00 per tape or update.

Our original goal of providing quality information services and of reducing the cost for our members has been kept from us, through this cost prohibitive legislation.

Our association does not have a problem with being charged for the cost of purchasing the media, or out of pocket expenses, or reimbursement of labor cost to provide electronic media information

But the cost of developing and maintaining the computer assisted mass appraisal system is part of the operation of the Dept. of Revenue, and would reflect their cost of operation regardless. This cost should not be passed on through user fees.

If we could eliminate the cost prohibitive operation fees for public information we could, in fact reduce the cost of time intensive person hours required by physically pulling property records, copying and refiling records for approximately 2500 real estate personnel, appraisal & title personnel in our state. Overall the real estate profession, appraisers, the title company personnel and the general public would benefit through increased production and improved services.

State of Montana

Marc Racicot, Governor

SENATE TAXATION

DATE January 18, 1994

NO. 2

SB # 126



Department of Revenue

Mick Robinson, Director

Property Assessment Division

October 27, 1994

Richard D. Blythe, Treasurer
Billings Association of Realtors
1634 Lewis - Suite 12
Billings, MT 59102

RE: Request for CAMA Data Base Information

Dear Dick,

We have completed our estimates of cost for the residential and commercial information you have requested. The estimated costs would be:

Residential: \$1533.

Commercial: \$ 600.

Both: \$2133.

Please remember these prices are only estimates and that they may be a little higher or lower when the actual extract is created.

If we can be of any service to you please let us know. We look forward to hearing from you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nita".

Nita Grendal, Information Systems Specialist
Management Services Bureau
Property Assessment Division
Montana Department of Revenue

DATE January 18, 1995

EXHIBIT NO. 3

BILL NO. 126
Jan. 17, 1995

Gerry Devlin
Taxation Committee, Chairman
Capitol Station
Helena, Mt. 59601

Dear Gerry,

Please **oppose** Senate Bill 126 which will allow the Dept.
of Rev. to charge a fee for certain electronic data.

I don't believe the Government should charge for public
information.

Sincerely,



Clayton Fiscus
Fiscus Realty
Broker Owner

**BILLINGS ASSOCIATION OF REALTORS®**

1643 Lewis - Suite 12
Billings, Montana 59102
Phone: (406) 248-7145

SENATE TAXATION

DATE January 18, 1995EXHIBIT 4BILL NO. 126

January 17, 1995

The Honorable Gerry Devlin
Senate Taxation Committee
Capitol Station
Helena, MT 59620

Dear Senator Devlin:

I am writing with regard to the Senate Taxation Committee hearing scheduled for 8:00 a.m. Wednesday, January 18, 1995, on Senate Bill 126.

The Bill is an act revising the provisions under which an agency may charge for providing certain public information, allowing the Department of Revenue to charge a fee for providing information from any property valuation and assessment system data base maintained by the Department.

The Billings Association of REALTORS is concerned with regard to the amount established as a fee for access to public information in an electronic form. The Association has no problem in paying a fee for the information as long as the fee is no more than the actual cost of providing the information, employee compensation, cost of the electronic tape or copying media, actual expenses incurred for online computer access; however, establishing a fee for the development and maintenance of the property valuation and assessment system seems unduly excessive.

The information is currently available to anyone who asks in printed form at each county courthouse. Many times each day real estate agents and others receive the records using staff time to look up the records, retrieve them and replace them. With access to the information electronically staff time would be saved, visits to the county courthouse would diminish.

We would ask that you oppose Senate Bill 126. Thank you for your consideration of this request.

Sincerely,

Howard Sumner
President

SENATE TAXATION

DATE January 18, 1995

EXHIBIT NO. 5

BILL NO. 126

AMENDMENT TO SB 126
INTRODUCED BILL

PAGE ONE, LINES 27, 28, 29:

DELETE:

SUBSECTIONS (2)(b) and (2)(c) IN THEIR ENTIRETY AND
RENUMBER SUBSEQUENT PARAGRAPHS.

PAGE TWO, LINE 4:

DELETE:

SUBSECTION 4(a) IN ITS ENTIRETY AND
RENUMBER SUBSEQUENT SECTIONS.

DATE Wednesday January 18, 1995

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SB 126 Senator Beck
HB 38 Rep. Harrington

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PLEASE PRINT

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Check One

| Name | Representing | Bill No. | Support | Oppose |
|--------------|----------------------------|----------|---------|--------|
| Robert Leach | Billing Assoc. of Realtors | 126 | | X |
| J. Shontz | MT Assoc. Realtors | 126 | | X |
| Dennis Burr | MONITAX | HB 38 | ✓ | |
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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY