

## MINUTES

### MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

#### FREE CONFERENCE COMMITTEE ON SENATE BILL 195

Call to Order: By CHAIRMAN JOHN HARP, on April 16, 1997, at 4:49 p.m., in Room 325.

#### ROLL CALL

##### Members Present:

Sen. John G. Harp (R)  
Sen. Bruce D. Crippen (R)  
Sen. Mike Halligan (D)  
Rep. Chase Hibbard (R)  
Rep. Dan W. Harrington (D)  
Rep. Robert R. Story, Jr. (R)

Members Excused: None

Members Absent: None

Staff Present: Greg Petesch, Legislative Services Division  
Jodi Jones, Committee Secretary

#### HEARING ON SB 195

CHAIRMAN JOHN HARP said there are two issues that still needs to be covered. The millage for county government and the election issues pertaining to local taxing units.

REP. CHASE HIBBARD said the two percent valuation increase coupled with the ratcheting down of the rate, plus the fact that they took out the affects of cyclical reappraisal really does not leave much left. He said a mill reduction for those counties that are above average is not appropriate.

#### Motion/Vote:

REP. HIBBARD MOVED TO STRIKE THE COUNTY WIDE MILLAGE PROVISION.  
MOTION CARRIED UNANIMOUSLY.

#### Discussion:

Greg Petesch, Legislative Services Division, handed out amendments and discussed them (EXHIBIT 1).

CHAIRMAN HARP discussed the amendments (EXHIBIT 1).

**REP. DAN HARRINGTON** said the cities and counties are being treated unfairly by this amendment because the voting standards are too harsh.

**SENATOR MIKE HALLIGAN** asked why was it necessary to use the qualified elector language, this seems like an impossible task for local governments. He didn't think it would ever be possible to pass an election using the qualified elector language. **Alec Hansen, MT League of Cities and Towns**, said 40 percent of the qualified electors is a very high standard especially for cities and towns. These elections are held in odd numbered years and the percentages are generally below 40 percent. To set the standard that high there would almost have to be a catastrophic circumstance to bring those people out. The committee might want to adjust the percentage for cities and towns. The registration of voters keeps going up, but the participation keep going down. A year ago they had a statewide primary election and the percentage turnout was only 40.9 percent. There were 334,000 people who didn't vote that were registered.

**CHAIRMAN HARP** said this amendment has no time constraint or capping amount and if there was a need in that community couldn't they coincide with general elections on an even year or have mail in ballots. **Alec Hansen** said cities can participate in general elections, but they have to pay extra. Special elections in most cities and towns are about one percent of the total amount of taxes collected in that year. There is another problem in that the city and precinct boundaries don't always coincide. The way this is set up now, it will cause taxes to increase because people will wait and wait till they have no alternative and they will have to persuade the voter to vote for increased taxes or the city will be dis-incorporated. There will be no predictability in taxes or uniformity.

**Gordon Morris, MT Assoc. of Counties**, said the question they need to ask themselves is if there has been a problem with I-105 votes in the past. He said there hasn't been any problems with I-105 elections. This is a dis-incentive to voting and anybody who doesn't vote is actually voting in opposition. This is not the democratic process.

**SENATOR BRUCE CRIPPEN** said if they give the authority to cities and counties to go out and ask the people to increase their taxes by a way of a vote, it can be in this method or a relaxed standard. There was the comment that the taxes would increase and people will wait till there is a panic situation. There is going to be no cap or time limit. If the voting standards were lowered there could be the possibility for a large number of elections going on in the state. What is the amount of additional taxes that are going to be levied on the property taxpayers because of this? **Alec Hansen** said with the very high standard and the no limit there will be very radical results. If the city goes to the voters and asks them for this much money to keep their government running, then there will be an election and the people that show

up can vote for it or they can vote against it. But the other situation that might arise with these standards is people are going to say they don't think they can get a 40 percent turnout and this problem is not serious enough, so they wait till it is catastrophic.

**SENATOR CRIPPEN** asked if they lowered this down to where it was more reasonable for cities and towns would it encourage a substantial number of cities to go out and ask the taxpayers to increase taxes upon themselves? A minority of the people will be able to place those taxes on everybody if the standards are lowered. **Alec Hansen** said he didn't think there would be an influx of elections.

**SENATOR CRIPPEN** said if this bill passes and they have more stringent election standards won't there be a higher number of elections happening to take advantage of this. **Alec Hansen** said not in the first two years.

**SENATOR CRIPPEN** asked the same question to the counties. **Gordon Morris** said if SB 195 passed with the language that is in I-105 right now that calls for a special election with a simple majority there will not be an increase in elections. In the history of I-105, in 1996, there were seven I-105 elections across the state. Under this bill, those counties that would be moved to have an I-105 election out of necessity would be those counties who's 1996 cap have lost the 1986 opportunity because the mill values have dropped. Those counties might look at an election as being an alternative. He said Powder River County is below its I-105 cap when they take a look at the taxable value back in 1986 versus the value in 1997. Wibaux and Richland Counties are in the same boat and they might have to resort to a vote.

**SENATOR CRIPPEN** said he has a hard time believing that if this piece of legislation is in here that there won't be a run to the bank. If a county has been starved for the past 10 years this will give them an opportunity to have an election without showing an emergency. The county is not out anything if they try this through an election. **Gordon Morris** said County Commissioners don't like raising taxes. There is not going to be a stampede to put this question of raising taxes on the ballot.

*{Tape: 1; Side: B; Approx. Time Count: 5:14 p.m.; Comments: .}*

**Alec Hansen** said he would like to make the same point. Cities and towns don't like taxes anymore than this legislature. If the cities and towns had their own control there wouldn't be any I-105 or property tax crisis. These people are elected just like they are at the legislature.

**SENATOR CRIPPEN** asked if the cities and towns had their choice would they rather just have I-105 where it is with the automatic two percent increase. **Alec Hansen** said he would rather have the

language that is in I-105 today than this amendment. **Gordon Morris** said they are better off with the emergency language in I-105. He said County Commissioners represent as many or more people on a daily basis than the State Legislature does.

**SENATOR CRIPPEN** said these people are responsible and this needs to be considered by the committee. He is concerned if they are going to have an influx of elections they would be better off not to have that ability and give them the automatic increase. To give them the automatic two percent increase will give counties \$1,869,542 over a two year period and almost \$1 Million to the cities and towns. If this is spread out over the cities and counties they won't get much. The taxpayers will get stuck less with that than they will with a vote.

**Gloria Paladichuk, Richland Co.,** said their county has a different scenario regarding the emergency section in I-105. She said when the Sidney School system put out a request to the voters for an emergency levy, one large manufacturing firm, when they got their tax bill, protested and filed suit in district court saying it was not an emergency. They won and thousands of dollars had to be refunded to that manufacturing company.

**SENATOR HALLIGAN** said if they divide the numbers that **SENATOR CRIPPEN** gave by 890,000, how much is that per capita each year that they have coming out of the taxpayer's pocket. **SENATOR CRIPPEN** said they can't divide it out according to population because it is on an average. But if it was calculated that way it would be less than one percent on an average.

**REP. HIBBARD** said he has voted against this in committee already this session. He said if it is important to cities and counties it can be sold to the voters and they will turnout and vote. If a need for an increase is justifiable that is what democracy is all about.

**REP. STORY** said he has never maintained that local governments were irresponsible in their use of tax dollars. It was the voters that put I-105 on in the first place and said they were tired of taxes.

**REP. HARRINGTON** said he would like to add an amendment that set up the homestead relief that was taken from HB 590. It is set up on the first \$25,000 and reduces the rate to 3.32 percent and this will create a balance between the three classes. This will continue the system of cyclical reappraisal and keeps the present system intact of using market value and does allow for the reappraisal to take effect. He thought this would be a permanent solution to this problem.

**Motion:**

**REP. HARRINGTON MOVED TO ADOPT THE HOMESTEAD RELIEF.**

Discussion:

CHAIRMAN HARP said they are trying to treat all taxpayers fairly and equally and any time they start adjusting rates there is a shifting in classes and this will create winners and losers in this proposal.

SENATOR CRIPPEN said this is an interesting proposal but REP. HARRINGTON voted against a proposal like this once before called the sales tax.

SENATOR HALLIGAN said if they are trying to help all taxpayers, the homestead exemption tries to get taxpayer specific so those home owners that actually experience a tax increase would be able to claim that tax credit.

{Tape: 1; Side: A; Approx. Time Count: 5:30 p.m.; Comments: .}

REP. HARRINGTON passed out and discussed a sheet on the 101 mills (EXHIBIT 2).

Vote:

MOTION TO ADOPT THE HOMESTEAD RELIEF PROVISION FAILED 2-4 WITH CHAIRMAN HARP, SENATOR CRIPPEN, REP. HIBBARD AND REP. STORY voting no.

Discussion:

Greg Petesch explained some back-up amendments that were proposed by SENATOR HALLIGAN (EXHIBIT 3).

Motion:

SENATOR HALLIGAN MOVED TO ADOPT BACKUP AMENDMENTS IF SB 195 IS FOUND UNCONSTITUTIONAL.

Discussion:

SENATOR HALLIGAN said he realized the percentage reduction is not a final solution. But what it does do is provide a reasonable backup that they have used in the past. If they are going to put in a 10 to 13 year reappraisal cycle, the two percent phase-in, dismantle the Department of Revenue, and the interim committee doesn't do anything, this will help if this bill is found unconstitutional.

SENATOR CRIPPEN asked when would this take place. SENATOR HALLIGAN said it would only take place if the court found SB 195 unconstitutional.

SENATOR CRIPPEN said lets take for example that the court found SB 195 unconstitutional in the year 2001, what would happen at this point in time. SENATOR HALLIGAN said they would have to

decide if they should go back to the 1997 tax year. This is an issue in which they need a backup plan.

**SENATOR CRIPPEN** said they don't know when the court will rule on this or even if they will at all. This is a temporary solution and they need to assure the taxpayers that they are serious about this plan. They don't need a backup plan because then they look like they don't know what they are doing. Taxpayers want to keep their values from increasing and as a legislature this is the way to handle the problem.

**CHAIRMAN HARP** said it sends the wrong message.

**REP. HIBBARD** asked if this is just the rate for class 4. **SENATOR HALLIGAN** said it includes all three classes. **Greg Petesch** said it would apply the 2.78 percentage rate reduction of class 3 and 4. Class 10 is not addressed in this amendment.

**REP. HIBBARD** said every time they apply a rate reduction or a mill reduction it shifts burdens. What they are doing here is holding the taxpayer harmless and it is a bold step. He said they should stick with SB 195 and stay away from backup plans.

**REP. HARRINGTON** said they have passed off the fact that there is a problem with SB 195.

**SENATOR HALLIGAN** asked what the better of two evils was; having the 1996 reappraisals go into effect if this is found unconstitutional or do they want to minimize it. This amendment would encourage the interim committee to find a solution.

Vote:

MOTION TO ADOPT THE BACKUP AMENDMENTS IF SB 195 IS FOUND UNCONSTITUTIONAL FAILED 2-4 WITH CHAIRMAN HARP, SENATOR CRIPPEN, REP. STORY AND REP. HIBBARD voting no.

Discussion:

**SENATOR HALLIGAN** asked if there was any interest in allowing the phased-in portion of the reappraisal to have at least a tiny portion of the base. He said it allows for growth which might eliminate any election from happening (**EXHIBIT 4**).


**REP. HIBBARD** asked if this would allow for the two percent to be used in determining the taxable value against mills that would be applied in succeeding years, but the dollars would still be ratcheting down through the rate? **Greg Petesch** said it doesn't affect the phase-in at two percent of the change or the ratcheting of the rate. He said currently there is an exception to I-105 for cyclical reappraisal so it does not prevent increases in total taxes levied in a unit as a result of cyclical reappraisal. Rather than striking that exception, this would add

the phased-in portion of cyclical reappraisal as an exception to the total taxes levied in the unit.

**Judy Paynter, Department of Revenue** explained a sheet on estimated property taxes on change in taxable value (**EXHIBIT 5**).

ADJOURNMENT

Adjournment: 5:58 p.m.

  
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SEN. JOHN HARP, Chairman  
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JODY JONES, Secretary

JH/jj