

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON PROPERTY TAX

Call to Order: By **CHAIRMAN COHEN**, on March 13, 1991, at 8:05 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 677

Mr. Heiman explained amendments.

Motion/Vote: REP. THOMAS moved the subcommittee DO RECOMMEND March 9 amendments to HB 677 to the full committee. Motion carried unanimously.

Motion/Vote: REP. THOMAS moved the subcommittee DO RECOMMEND HB 677 as amended to the full committee. Motion carried unanimously.

**DEPARTMENT OF REVENUE PRESENTATION:
AGRICULTURAL LAND VALUATION**

Randy Wilke, Property Assessment Division, explained the Department of Revenue (DOR) policy on agricultural land valuation. Exhibit 1 Productivity, not market value, is the primary criteria for valuing agricultural land. Prior to the 1986 special session, there were no acreage restrictions on the classification of agricultural land; the owner had to market \$1500 annual gross income from the land in order to qualify it as agricultural.

REP. COHEN asked in what year the \$1500 amount was set, since an inflation adjustment may be necessary. Mr. Wilke said that figure has been standard since 1973, if not earlier. The "Greenbelt" law was passed in 1973, and it has been changed every session since then. In 1985, most of the acreage requirements (and most of the law itself) were discarded, and the \$1500 requirement was inserted; however, that figure was in use before 1985. In 1986, the acreage limitation was restored. A property owner with over 20 acres is automatically given agricultural status; productivity value, not market value, is taxed.

REP. COHEN asked for clarification of the term "recreational area." Mr. Wilke replied larger tracts of land, often only slightly over 20 acres, that are not used for agricultural purposes are classified as "recreational areas."

REP. O'KEEFE said his bill deals with the 20-acre restriction for subdivisions for land use, not taxation. 20-acre subdivisions are killing the state; no matter which bill passes, the subdivision definition will be changed. HB 671 (Gilbert) should be added to the list of bills attempting to deal with the subdivision problem.

REP. THOMAS said a potential solution is to require any land parcels in excess of 20 acres to be used for an agricultural purpose in order to qualify for the agricultural tax classification. REP. ELLISON said the acreage limit is the problem. The legislature should fix an income figure which allows landowners to qualify for agricultural status.

Mr. Wilke explained how several other states (Wyoming, North and South Dakota, and Idaho) deal with this problem.

REP. O'KEEFE said the problem is finding the middle ground between a property owner who has 100 acres of dry-land hay and one who has 25 acres of land with one horse grazing on it. Currently, both qualify for agricultural status, and that should not be the case.

REP. ELLISON said there should be a new classification, "rural-residential," which would be taxed at a rate between the agricultural and the residential tax rate, since most of the problematic tracts are primarily residential. Gregg Groepper, Office of Public Instruction, said changing the law will undoubtedly bring public outcry. If the legislature wants to create a new classification, a grandfather clause should be incorporated so the change can occur gradually. The classification change should take place at point of sale, and the realtor should be required to notify the buyer of the change. This would alleviate public pressure and allow the state to bring the tax rates for those properties up to where they should be.

REP. DOLEZAL said in that situation, landowners would complain that they couldn't sell their property because of the increase in tax rates. Mr. Groepper said in that case, the legislature could

put the law into effect a year from now and notify the landowners, so they could sell their land now (at its current tax rate) if they wished. People are concerned about being forced to sell because of a changing tax system. Without a grandfather clause, there will be a large amount of public pressure.

REP. THOMAS said the most serious problem is the discrepancy between the landowner with 5 acres and no agricultural activity who is taxed at the residential rate, and the landowner with 21 acres and no agricultural activity who is taxed at the agricultural rate. You can beat the system by simply owning the acreage, and that shouldn't happen. It is difficult to define "agricultural activity," but a landowner should be obligated to prove that activity is happening in order to qualify for the lower tax rate.

REP. MCCAFFREE said the acreage requirements should be discarded, and agricultural status be determined by the percentage of gross income earned by agricultural activity.

Mr. Wilke said there are several options for the legislature to consider. The acreage requirements could be discarded, and the landowner would then have to prove that the land did bring in a certain percentage of gross income. The acreage requirements could also be increased from 20 to 25. Most of the subdivisions are between this range. The requirements could also be increased from 20 to 40, as they have been in Wyoming.

ADJOURNMENT

Adjournment: 8:54 AM


BEN COHEN, Chair


JULIA TONKOVICH, Secretary

BC/jmt

HOUSE OF REPRESENTATIVES
PROPERTY TAX SUBCOMMITTEE

ROLL CALL

DATE

3/13/91

NAME	PRESENT	ABSENT	EXCUSED
REP. BEN COHEN, VICE-CHAIR	X		
REP. ED DOLEZAL			
REP. ORVAL ELLISON	X		
REP. RUSSELL FAGG	X		
REP. DAVID HOFFMAN			
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			

Ex. 1
3-13-91
Subcomm on Prop
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TSX

INFORMATION ON AGRICULTURAL LAND VALUATION

What is the current law on eligibility for valuation as agricultural for land?

1. Parcels of land 20 acres or more under one ownership are taxed as agricultural land.
2. Parcels of land less than 20 acres under one ownership are taxed as agricultural land if they produce \$1,500 in annual gross income from the raising of livestock, poultry, field crops, fruit, and other animal and vegetable matter for food or fiber.
3. Land is not valued as agricultural if it is subdivided with stated restrictions prohibiting its use for agricultural purposes.

What was the case we lost on the agricultural restrictions - what were the main points?

Norman Rogers vs. Department of Revenue. Norman Rogers lost his case at both the County and State Tax Appeal Boards and appealed to the District Court and won.

Mr. Rogers owned land in excess of 20 acres that was restricted from agricultural use. The law prohibits the classification of subdivided land as agricultural if it is restricted from agricultural use.

The District Court ruled that the land must be classified as agricultural since the definition of "subdivision" includes land less than 20 acres. Since Mr. Rogers' land is greater than 20 acres, the Court decided that there is no "subdivision" and that the law pertaining to restrictions doesn't apply.

What bills are in the session to deal with this problem?

SENATE BILL 69 (Eck) It defines "subdivided" as including land in excess of 20 acres for purposes of agricultural land classification.

HOUSE BILL 744 (O'Keefe) Removes the 20 acre restriction in the definition of a "subdivision".

HOUSE BILL 844 (Wanzenried) Removes the 20 acre restriction in the definition of a "subdivision".

Ex. 1

3/13/91

Subcomm. on

Prop Tax

What do other states do to distinguish agricultural and timberland from residential?

Attachment

What options does the committee have to address this question?

1. Require all land regardless of size to produce a certain level of income.
2. Increase the acreage requirement from 20 to 25.
3. Increase the acreage requirement from 20 to 40.

In order to obtain ag land status, the following conditions must be met for each of the states in question.

	MT.	WY.	ND	SD	ID
Acre Requirement	>20	>40	>10	>20	>5
*Proven Income from the land	\$1,500	\$1,000		\$2,500	\$1,000
*Application process	yes	no	no	yes	yes
Primary Use	ag	ag	ag	ag	ag
*Loss of ag land status with restrictions prohibiting ag use.	yes	yes	yes	yes	yes
Years devoted to ag use-if any	0	2+	0	5+	January 1st

*To achieve ag land status for less than the acreages shown, an applicant must do each of the following.