

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on March 24, 1999 at 8:00 A.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Bob DePratu, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Dorothy Eck (D)
Sen. E. P. "Pete" Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Alvin Ellis Jr. (R)
Sen. Bill Glaser (R)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Sandy Barnes, Committee Secretary
Lee Heiman, Legislative Branch

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: None
Executive Action: SB 92; SB 370; SB 424

EXECUTIVE ACTION ON SB 92

Motion/Vote: SEN. ECK MOVED THAT SB 92 BE TABLED. Motion carried 9-0.

EXECUTIVE ACTION ON SB 424

Motion: SEN. ELLIS MOVED SB042403.ALH, **EXHIBIT**(tas66a01).

Discussion:

SEN. ELLIS said the longer amendment deals with making sure that only a gain on the sale of a property is considered its income. The other amendments change the percentages on page 2 to one-half of what was proposed in the original bill; in other words, 40%, 30%, 20% and 10%. He said this will phase it out more quickly, but it will not cost any taxpayer deductions. However, it will cost the state a little money.

SEN. ECK said that those people at \$35,000 and just below would not have a lesser deduction than if nothing had been done, but the total impact on the General Fund is less by cutting these other percentages.

SEN. ELLIS said that a Fiscal Note will be forthcoming later today, and he suggested that the amendment be put on and any further action be put off until tomorrow.

Vote: Motion carried 9-0.

EXECUTIVE ACTION ON SB 370

SEN. STANG passed out a copy of the ordinance that was used when the resort tax was imposed in St. Regis, **EXHIBIT (tas66a02)**. He pointed out that a luxury is anything that is not a necessity of life, and that is why automobiles were not taxed. Furs and diamonds and whatnot would be taxed because they are not necessities of life, but clothing is not taxed because it is a necessity.

SEN. DEPRATU asked if hotels, motels and rental cars are rolled into this, and **SEN. STANG** said that since there are no rental cars in St. Regis, that was an issue that was never considered. He said this just points out the fact that a taxing jurisdiction has the opportunity to set out what will and will not be taxed.

CHAIRMAN DEVLIN asked how the boundaries of the tax districts are determined, and **SEN. STANG** said that under this bill, if a county wants to enact a local option tax, then it is the boundaries of the county. If a city wants to enact this local option tax, it is the boundaries of the city. If it is a resort area, that area is determined by a formula set by the Department of Commerce and by the county commissioners.

Mona Jamison, stressed that she was speaking only as a citizen, not as a lobbyist. She said she had done all of the legal work in addition to the lobbying for the unincorporated areas in Whitefish, so when she read this, it threw up red flags because

of the impact it would have on the resort areas and the resort communities. She said the boundaries are put together by a local group of citizens to meet the formula developed by the Department of Commerce. The Department of Commerce has to go through this analysis and determine that the primary source of income is tourism related. That is statutorily defined in the resort tax statute. It then goes on a ballot, and the people have to vote on the boundaries of the resort area and the amount of the tax.

SEN. STANG said that is under current law, and **SB 370** expands that to allow municipalities and counties by a vote of the electorate to do that. The boundary would be the municipality or the county, as voted on by the people.

CHAIRMAN DEVLIN asked if there was anything in the bill specifying that there has to be a certain voter turnout, and **SEN. STANG** said there was not. He said that with the new motor voter law, it is almost impossible to have a voter turnout requirement because those voter lists are never purged.

Motion: **SEN. STANG MOVED SB037002.ALH, EXHIBIT (tas66a03).**

Discussion:

Mr. Heiman said this set of amendments has three basic pieces. Amendments 1 through 5 change the definition of what a luxury is from that fairly nebulous piece on the first page to the items that are sold in the establishments listed in 7-6-1503(2)(a). Rather than establishing what items are luxuries, it establishes the places that sell luxuries. Amendments 6 and 7 are the grandfathering clause for the existing resort tax. It provides that where that tax is being levied presently, it will continue as a resort tax instead of changing to the local option tax under this bill. It also states that if the county establishes a local option tax, the resort area is separate and there would not be double taxation. Amendments 8, 9 and 10 take out the **CI-75** provisions.

SEN. BOHLINGER said this bill is in fine form with these amendments and should be moved forward. It would provide a source of revenue to local governments.

SEN. GLASER asked if on page 8, the property tax relief still applies, and **SEN. STANG** said it does.

CHAIRMAN DEVLIN said he was still concerned about the boundaries. He asked if city boundaries could be expanded to include small areas outside of the city limits, the donut effect. **SEN. STANG** said they would have to use the current law to do that, and they

would have to meet the requirements of the Department of Commerce that it was a resort area, unless they used this law that gives them the ability to incorporate the whole municipality or the whole county. **CHAIRMAN DEVLIN** asked if they could go beyond the city limits with this bill, and **SEN. STANG** said he did not think so. If they wanted to go beyond the city limits, the part beyond the city limits would have to go under existing law.

SEN. EKEGREN said that if that was true, and a municipality established a local option tax, would it encourage businesses to build outside the city limits, which would be a detriment to downtown businesses. **SEN. STANG** said that that would be one of the arguments for voting against the tax.

Vote: Motion carried 9-0.

Motion: SEN. STANG MOVED THAT SB 370 DO PASS AS AMENDED.

Discussion:

SEN. GLASER wondered if a greater percentage of property tax relief should be considered in this bill, something closer to 20% or 25%. **SEN. STANG** said he would not have a problem with that as long as the provisions of the amendment apply to those cities and towns and districts that already have it. Some of them may already have encumbered 95% of that in bonds, so that needs to be covered. **SEN. GLASER** said that the bonding issue is covered by the Constitution. **Mr. Heiman** said he believed it should be in the grandfather clause if it is not already covered, just to avoid litigation. **SEN. ELLIS** said that should definitely be clarified.

Motion: SEN. GLASER MOVED AN AMENDMENT TO CHANGE SECTION 8, PAGE 8, LINE 5 TO 25%, WITH A REFERENCE TO THE CONSTITUTIONAL PROVISION WHICH PROTECTS THOSE WHICH HAVE ALREADY BEEN GRANDFATHERED.

Discussion:

SEN. EKEGREN said that if the percentage of tax relief is raised, people will be inclined to vote in favor of the local option tax, but he wondered if it would be detrimental to businesses. **SEN. STANG** said that as property tax relief is increased, people may vote for that tax relief and then make their purchases outside the area of the tax. He said there is nothing in current law that prohibits 25% because it says they have to give "at least 5%" relief. He said that while the amendment might help the bill, it may take away some of the flexibility that some of those

areas have because the selling point might be that tax relief. **CHAIRMAN DEVLIN** asked if this amendment would affect those that are already existing, and **SEN. STANG** said it would not. They have been grandfathered in.

SEN. ECK said this amendment could be appealing to a lot of people who do not want to see governments have too much extra money to spend, and this specifies that 25% of it has to be spent for tax relief.

CHAIRMAN DEVLIN asked what kind of mechanism would be used to give this taxpayer relief, and **SEN. GLASER** said he would presume that they would have to reduce the current levies by that number of dollars. **SEN. DEPRATU** said that this relief amount is actually listed on the tax bills in his county so that the taxpayers can actually see where the benefit is.

Vote: Motion carried 9-0.

SEN. DEPRATU said he had a serious concern about the donut-area effect in areas where a city might vote in a local option tax and the surrounding areas would not have it. He asked if the committee would consider eliminating the city part of the bill and making the it a county option tax. He said there would have to be some method of splitting up the revenue. **SEN. STANG** said he had not thought about that situation, and he said he was not sure how the revenues would be split. He said he would prefer to see the local option tax live or die as it is.

Alec Hansen, Montana League of Cities and Towns, said that now that this bill has been amended, it applies to a very limited number of businesses. He said one thing that has to be considered is that with the Glaser amendment, at least 25% of the money generated will have to go to property tax relief, and it could be more. The businesses in town currently are at a competitive disadvantage because they pay approximately 120 city mills. This will take those city mills down, and if they are at a competitive disadvantage, what they save on property tax should help them compete with the people outside of the city. He said he favored keeping the bill as it is.

SEN. DEPRATU said he would also like the committee to consider adding rental cars as one of the items that would be taxed, because that is a legitimate tourist item.

Motion: SEN. DEPRATU MOVED AN AMENDMENT THAT TOURIST-RELATED RENTAL VEHICLES BE ADDED AS A TAXABLE ITEM ON THE LOCAL OPTION SALES TAX.

Discussion:

SEN. STANG said he would agree to that amendment, and **SEN. GLASER** said that has the potential of \$1.3 million statewide.

A discussion ensued on what exactly should be added as tourist-related rental vehicles. **CHAIRMAN DEVLIN** suggested that more research be done to make the language precise before that amendment is made. **SEN. DEPRATU** said he would withdraw his amendment and have it ready when the bill goes on the floor.

SEN. GLASER said if the donut area is a problem, perhaps this mandatory percentage of tax relief could be applied countywide. He said that might alleviate some of the resentment from the county that they are paying taxes in the city, and the local option area would end up with 75% of it. **SEN. STANG** said he felt that would do the converse of what **Mr. Hansen** had just described, that it gives those people inside the city the advantage to compete with those businesses in the donut area. If you give this tax relief to those in the donut area, it becomes less competitive for those in the city.

CHAIRMAN DEVLIN said it was amazing to him that a tax like this can be put out there and the little towns around the state can vote to have it, and still we cannot get the people of Montana to accept a sales tax that is almost dollar-for-dollar tax relief. **SEN. STANG** said he was not sure that this option would be accepted in any city in Montana, but at least they have the option to take it to the voters.

SEN. DEPRATU, in reference to the donut-area issue, said that there has been a decline in hotel/motel business in the Whitefish area, and it came to light that the travel agencies in Kalispell had been selling the point that Kalispell does not have a resort tax and Whitefish does.

SEN. ECK said that one of the things that had concerned her about the local option tax as far as fairness is that people in the surrounding areas will end up paying a good bit of the tax, and yet it is the people in the town that will get the benefits. She said the way it is written now, it is either city or county, and both the city and the county cannot each have a local option tax. She said either way, it is a hard sell.

SEN. ELLINGSON asked what happens in the administration of proceeds if a municipality adopts it first and then a couple years later a county adopts it. **Mr. Heiman** said that Section 15 says the distribution would be done on a per capita based upon population and point of origin of the tax. **SEN. ELLINGSON** asked,

then, if the city which adopted it based its projections on future revenues of that tax and then the county adopted it, the city could remain confident that it would get its prorated share, and **Mr. Heiman** said it would be roughly that way.

SEN. EKEGREN wondered if the city and the county could work those details out between themselves, and whether it had to be spelled out in the bill. **Mr. Heiman** said the distribution is on page 11 of the bill, Section 15. He said another option would be to provide that there would be an agreement between the two of them.

Vote: Motion failed 4-5, with Devlin, Ekegren, Ellis, Glaser and Depratu voting no (Roll call vote #1).

EXECUTIVE ACTION ON SB 424

SEN. ELLIS said he had received fiscal information on **SB 424, EXHIBIT (tas66a04)**, which takes into consideration the amendments.

Judy Paynter, Department of Revenue, said that the impact is about \$68,000 as amended, half of the original bill. She said the Department could not estimate at this time the effects from including the sale or transfer of capital assets in income, but they do not think that on a yearly basis it would increase the \$68,000 cost very much.

Motion/Vote: SEN. STANG MOVED THAT SB 424 DO PASS AS AMENDED. Motion carried 7-2 with Devlin and Depratu voting no.

ADJOURNMENT

Adjournment: 9:15 A.M.

SEN. GERRY DEVLIN, Chairman

SANDY BARNES, Secretary

GD/SB

EXHIBIT (tas66aad)