



Revenue and Transportation Interim Committee

60th Montana Legislature

SENATE MEMBERS

JIM PETERSON--Chair
KIM GILLAN--Vice Chair
JIM ELLIOTT
JEFF ESSMANN
CHRISTINE KAUFMANN
ROBERT STORY JR

HOUSE MEMBERS

TIMOTHY FUREY
GALEN HOLLENBAUGH
MIKE JOPEK
BOB LAKE
PENNY MORGAN
JON SONJU

COMMITTEE STAFF

JEFF MARTIN, Lead Staff
LEE HEIMAN, Staff Attorney
FONG HOM, Secretary

MINUTES

February 7, 2008

Room 137, Capitol Building
Helena, MT

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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COMMITTEE MEMBERS PRESENT

SEN. JIM PETERSON, Chair
SEN. KIM GILLAN, Vice Chair

SEN. JIM ELLIOTT
SEN. JEFF ESSMANN
SEN. CHRISTINE KAUFMANN
SEN. ROBERT STORY JR

REP. TIMOTHY FUREY
REP. GALEN HOLLENBAUGH
REP. MIKE JOPEK
REP. BOB LAKE
REP. PENNY MORGAN

COMMITTEE MEMBERS EXCUSED

REP. JON SONJU

STAFF PRESENT

JEFF MARTIN, Lead Staff
LEE HEIMAN, Staff Attorney
FONG HOM, Secretary

Visitors

Visitors' list, Attachment #1.

COMMITTEE ACTION

CALL TO ORDER AND ROLL CALL

00:00:17 Sen. Peterson called the meeting to order at 3:00 p.m. The committee secretary took roll visually. Rep. Sonju was excused.

AGENDA

TAX INCREMENT FINANCE DISTRICTS -- Issues and Rules

00:02:47 **Authority to Adopt Rules - Lee Heiman, Legal Staff, LSD**

Mr. Heiman discussed his memorandum dated February 7, 2008, on rulemaking authority of the Department of Revenue for tax increment finance districts **(Exhibit 1)**.

Questions

00:10:39 Sen. Essmann said that Mr. Heiman talked about the base being preserved and the additional tax revenue over time flowing to the district. What happens when a local school district or a municipality has a voted mill levy increase, does that apply to the base or does that additional voted levy come from the district? Mr. Heiman said that it applies to the base. It squeezes the allocation of all revenue from the base.

Sen. Essmann asked if the voted levies adopted after the creation of the district are trapped by the district? Mr. Heiman said yes. There are ways for a district to release portions of the increment and provisions involved when bonding finishes. There are ways that some of that money can be used by other than the district, but basically, a voted levy doesn't have any effect on it.

00:12:24 **Background Information on Tax Increment Finance Districts - Alec Hansen, Montana League of Cities and Towns**

Mr. Hansen said that the tax increment law was passed in 1974, and is the financial engine that gives the urban renewal law some resources. There are 32 districts in different parts of the state. There is an incremental value of \$31 million in all of those districts. Not all of that value comes from new construction, some

has to do with reappraisal and changes in the tax system. There are a couple of districts that have terminated. In the next three years, several more will terminate and almost \$11 million of incremental value will be released to the cities, counties, school and the state.

00:24:27

Boundary Changes

Chris Behan, Assistant Director, Missoula Redevelopment Agency

Mr. Behan talked about a proposed boundary line change in one of Missoula's districts (**EXHIBIT 2**). He said that the original ordinance and the Urban Renewal Plan created the boundaries. It has always been Missoula Redevelopment Agency's contention that modifying the plan and modifying the boundaries are the same thing and therefore, section 4 of 7-15-4221 must be followed. He told the Committee the reasons for the proposed boundary line change and the benefits that that district would receive if the proposal was approved.

Questions

00:39:26

Rep. Lake asked if changed boundaries go back to public hearing? Mr. Behan said that it does because it follows the same pattern and that means that the planning board gets a comment, it goes to a public hearing.

00:40:02

Sen. Story wanted to know what happens when you set up a district and then annex property, and then tear down houses. Does the property value continue to go down, and would the city and county, and schools see a decrease in revenue because of the clean up phase? Mr. Behan said that that is a question for the Department of Revenue.

Sen. Story asked if the base stays the same and you build another property on it that had a \$20,000 taxable value on it, would the \$10,000 come back and stay in the base of the new construction, or would that \$10,000 building on the vacant land become an increment? Mr. Behan said that in determining the future taxes, you would actually subtract the \$10,000 demolished building so your net increment would be \$10,000.

00:45:17

Dave Hunter, Deputy Director, Department of Revenue, explained that if you tear down a building and that property doesn't exist, you don't pay property taxes on it. If you build a new building that has new value, you pay taxes on whatever the value is. A tax increment district is merely a mechanism of how you distribute the money. You establish a tax increment district that has a base value based on the year that it was established. You can have negative increment if buildings get torn down. You have to have new construction or increases in value for there to be an increment, but a tax increment district does not affect any of the property

tax laws as they relate to any individual property taxpayer. So if the value of property in aggregate in that district goes below the base, there is no increment to be distributed to the Tax Increment Finance District. There is only an increment if there is growth in the value of the property in that district.

00:51:36 **Bruce McCandless, Assistant City Administrator, Billings**

Mr. McCandless discussed the City of Billings' two Tax Increment Finance Districts. He distributed two maps: Downtown Billings Tax Increment Finance Districts Map 1 (**EXHIBIT 3**) and Downtown Billings Tax Increment Finance Districts Map 2 (**EXHIBIT 4**).

Questions

01:00:25

Sen. Elliott asked Mr. McCandless to explain to the Committee what the controversy is, if there is one. Mr. McCandless said that the City of Billings had been expanding districts and removed property from the old district in 2005. The City had adopted the plan, submitted the ordinances and resolutions as required by the Department and other taxing jurisdictions, and that the controversy arose when they had attempted to create the expanded North 27th Street District in 2006. They received a letter from the Department that said that the 2005 district had been extinguished by the action that the City took in 2006, and that is the disagreement that they have.

01:02:32

Sen. Gillan said that it was her understanding that the City of Billings did not feel that the Department of Revenue had jurisdiction over this. Mr. McCandless said that the City of Billings has stated on a regular and frequent basis that they don't believe that the Department has the authority to write rules concerning the tax increment districts. The City of Billings, and most other cities in the state, have been complying with a very specific set of rules for creating Urban Renewal Tax Increment Districts.

01:04:19

Dan Bucks, Director, Department of Revenue, said that the Department has looked at the issue of rulemaking authority and has concluded that their exercise of rulemaking authority is their responsibility, their duty under the Constitution, and is necessary to protect TIFs from legal challenge and is supportive of economic development.

01:17:12

Sen. Essmann said that, if he understands Mr. McCandless's interpretation of the rules, Mr. McCandless can expand the 2005 district to encompass the entire old district with the new reset tax base. Mr. McCandless said that that it would be legally permissible but not locally acceptable.

01:21:46

In response to a question from Rep. Morgan, Mr. McCandless said that districts

are established in accordance with state law. State law is very specific in defining what blight is, an area has to be blighted in order to create an urban renewal district with tax increment financing. He does not know if the Grand Avenue area would have met the threshold of determination of being blighted.

01:28:27 **Base Year Taxable Value - Colleen Balzarini, Fiscal Services Director, City of Great Falls**

Ms. Balzarini discussed how the City of Great Falls creates their tax increment districts. She explained the disagreements that the Department of Revenue and the City of Great Falls have had regarding the timing of when that base valuation actually occurs.

01:36:53 **Dave Hunter, Deputy Director, Department of Revenue**, said that the Department of Revenue proposes rules because rules provide consistent administration for TIFs and local offices. He said that the discussions and questions that were raised at this meeting illustrates how intertwined TIF Districts are with the administration of property tax system, and that is why rules are needed to clearly define things such as how base values are established, what happens when you amend the boundary of a district, how is the base value of that amended area calculated.

Questions

01:47:27 Rep. Lake said that if the values are set on the first of January of every year, would it be a challenge to go in at any other time in the year and reestablish that taxable value within the boundaries of the district. Why does the Department use the January 1 valuation? Mr. Hunter said that the January 1 date is the date that the Department uses because it is consistent for all taxpayers.

01:52:22 Sen. Gillan asked Ms. Balzarini to respond to the January 1 date. Ms. Balzarini talked about 7-15-4285, MCA. She said that her position is that whatever valuation that you are taxed on in the previous year, that is what your measurement should be. Her 2007 tax bill comes in November of 2006, and whatever that certified taxable value was, that is what the tax increment program envisions as the base taxable value. Her argument is, "as of" is December 31, 2006, and the Department of Revenue's interpretation of "as of" is, it is everything that happened the whole year of 2007. You cannot get your 2007 valuations until you do your next certification.

Sen. Gillan asked if Ms. Balzarini's difference of opinion is based not on timing but on what is constituted into the base, or is it a combination of both? Ms. Balzarini said that it is a combination of both.

- 01:58:45 Sen. Elliott asked Mr. Hunter how long would it take to certify or determine the value of new taxing jurisdictions. Mr. Hunter said that they certify the value of any taxing jurisdiction in August based on the value that existed in that jurisdiction, the preceding January 1.
- 01:59:51 Sen. Story said that the handout (**Exhibit 5**) that was put together by several entities shows how different districts use their money. Sen. Story referred the Committee to a section that talks about Special Issues and asked the members of the Committee to think about it because any time there is a change in tax policy, it affects the increments differently.
- 02:03:24 Sen. Peterson asked Mr. Hunter if he could clarify what the rules are with regard to how the base is established and what the time table on the rulemaking process is. Mr. Hunter said that the proposed rules, with regard to the establishment of the base is that if a jurisdiction creates a tax increment district at any time during the calendar year, they will get January 1 of that year. Mr. Hunter said that they would propose to submit the rules to the Secretary of State and start the process shortly, whatever the next window is that the Secretary of State has for submission of rules.

Public Comment with TIF Issue

- 02:05:38 **Craig Krueger, Executive Director, Downtown Billings Partnership and the Downtown Development Corporation**, said that he thinks the process has been working well. He said that he does have a concern about the industrial districts and the aerospace districts' lack of content in the law. He would like the Legislature to look carefully at the process of changing a law by making rules and to have input from local governments.
- 02:08:53 **Department of Revenue Reports - Dan Bucks, Director**
Mr. Bucks gave the Department of Revenue updates (**EXHIBIT 5**).

Adjournment

- 03:04:13 Sen. Peterson adjourned the meeting at 6:07 p.m. to reconvene February 8, 2008, at 8:30 a.m. CI0425 8084fhxa.