

HOUSE TAXATION COMMITTEE  
46th Legislature

Rep. Herb Huennekens, Chairman, called the meeting to order at 8:30 a.m., March 23, 1979, in room 434, Capitol Building, Helena. All members were finally present.

Bills to be heard today were committee bills HB 915, and HB 916.

House Bill 915 is an act authorizing the state board of examiners, upon recommendation of the department of administration, to issue and sell notes in anticipation of taxes and revenues appropriated for expenditure during a fiscal year; providing a limitation on the amount of notes that may be  
HOUSE issued and prescribing a method for issuance and payment of the notes;  
BILL providing that the act is effective on passage by a two-thirds vote of  
915 the members of each house of the legislature and approval by the  
governor.

Opponents -

Ed Nelson, Montana Taxpayers Association opposes HB 915. One of their concerns is that this is potentially a device to expand state expenditures beyond those allowed by the legislature, particularly where anticipated revenues do not come in and you have sold these bonds for a cash flow. You could very well put a subsequent legislature in the position of not being able to pay off the bonds when the cash comes in because it might be short. Think it better to use funds that are in various funds that are in the state. This way you keep the financial house of the state within its limits. Prefer you do it with funds within the state.

There were no questions from the committee.

House bill 916 is an act to make officers of corporations jointly and severally liable with the corporation for payment of tax withheld from employees. Rep. Reichert explained that without this bill it is costing the state about \$50,000 per year. The state has to issue refunds for money they never received  
HOUSE so individuals are not out any money. She doesn't think the employer  
BILL alone should be liable. Page 1, line 16 she suggests "an" be changed  
916 to "any" officer. It is a case of dissolving and leaving the state and  
not being able to hold people liable for monies due the state.

Mary Craig, CPA, Airector of Revenue Department, supports HB 916 - have had problems. On \$100 wage from which \$20 is withheld, the wage earner gets \$80. The state doesn't receive the \$20 and has no recourse to get it from the corporation. The state would have a much easier job if this did not happen.

Opponents -

Bruce Loble, MDU, Helena, opposes HB 916. This would destroy morale if some honest mistake is made. Can understand small underfunded corporations maybe not paying. Think it is an undesirable bill. Suggests assets of corporation be exhausted prior to proceeding against officers. See testimony attached.

Questions from the committee -

Mr. Loble said the department of revenue could sue the individual officer under HB 916.

Mary Craig said the department of revenue would never consider going after the officer at all - first they would go to the corporation and the corporation's assets. If they don't pay, would have a warrant executed and levy on the assets. Dealing with corporations that don't have any assets; so when go to levy on assets, and lots of those, there is no corporation left. They start one corporation, abandon it, and go start another right away again. Need some recourse for the benefit of the State of Montana.

Mr. Loble said that may be what you intend, but jointly and severally means you can go against any one connected with this problem. The department of revenue might go against the corporation first and then they would go against the officer.

Randy McDonald advised the law reads they could go against either of them first.

Ms. Craig said the federal law makes the officer and employees liable.

Rep. Huennekens thinks the committee can make the bill read so that the fiscal liability is placed where it should be.

Rep. Underdal said with regard to the "any" amendments - whoever had any assets would be liable and perhaps this person had no control.

Hearing on House Bills 915 and 916 was closed.

#### EXECUTIVE SESSION

Rep. Lien, chairman of the coal tax subcommittee, reported the subcommittee's recommendations: Recommend tabling all the bills but HB 550. Rep. Kemmis' bill, HB 427, takes a 1¢ for library federation. Rep. Hand's bill, HB 477, 1¢ to Sig Groff's, State Geologist and Director, department. Rep. Donaldson's bill, HB 497, would allow for state payment of interest on school bonds in excess of a certain limit. Senator Sheldon's bill, HB 866, abolishes the coal board and sets up a department in the DCA with mineral tax from all other minerals going in. The time is not now although it is a good bill. Rep. Scully's bill, HB 550, clarifies all present slices out of the coal tax.

HOUSE BILL 550 - Rep. Lien moved HB 550 DO PASS. He then moved adoption of proposed amendments. Amendments were adopted with Reps. Dassinger, Johnson, Fagg, Hirsch and Reichert voting No. Rep. Nordtvedt was absent. Rep. Hirsch opposed the bill since he does not approve of pork barrelling.

Rep. Sivertsen said he doesn't know what is the best way to work it. Do you think we have a large sum of money here and since we are the representatives, we have to figure out some way that the legislature has a revenue before these projects are considered and approved. Recommends must be submitted to the legislature. Think the day is coming when we will have to - legislature must have some type of review process.

Motion that HB 550 DO PASS AS AMENDED was adopted with Reps. Johnson, Hirsch, Reichert voting No. Rep. Nordtvedt was absent.

HOUSE BILL 427 - Rep. Reichert mosted HB 427 DO PASS. Rep. Fagg made a substitute motion HB 427 BE TABLED. Rep. Dassinger favors the motion to table.

Need more money for libraries - this is a back door attempt - it is taking money that would have gone into the general fund. He believes in the concept of the bill. They could have said we want a certain percentage of metal mines tax. This is a back door way to get general fund money.

Rep. Dozier would have liked to have passed HB 427 but do not want to open the door to the coal tax fund.

Rep. Reichert said that door has been opened by the Senate. Doesn't think librarians are sneaky.

Rep. Huennekens is against motion to table and for the original motion to adopt. The library system has had a rocky road to get appropriations for the last few years. The legislature has not been too liberal. Money is needed to fund the federations that bring to our rural areas books that would otherwise not be available. Thinks this is a contribution to our culture. The coal tax has had an aspect of giving money to build up artistic, cultural heritage. The bill lists all the small chunks - if you weigh libraries against those, I believe the library comes out on the good end. This is the only bill that would provide funds to federations - the state did not provide any.

Rep. Lien feels the coal pie has been sliced too many times already. Doesn't want to slice that coal tax. Their effort should have been directed towards getting an appropriation.

Rep. Hirsch opposes the motion to table. Montana is one of only 12 states who do not provide some sort of funding for libraries. This seems to be one way in which it could be done. Think the coal tax monies should be used for something like this that provides services to all persons in a community - everybody.

Rep. Dassinger explained the money is going to the general fund which helps everybody. Cities have tried to help the libraries. These rural areas that we are trying to help voted against it. Let the people decide on it again.

Rep. Reichert is opposed to tabling. Rep. Kemmis wants to bring it onto the floor.

Rep. Huennekens said every county in the Billings area voted for the library funding.

Rep. Dozier thinks it is for a very good purpose but doesn't want to open the coal tax door.

Rep. Fagg approves sending the bill out with a DO PASS.

Rep. Hirsch would like to have Ag-Net services plugged into libraries. It has a whole new ramification for Montana.

Rep. Williams thinks we need money for libraries.

Rep. Huennekens feels counties will fund the local area, but will not fund statewide.

Motion HB 427 BE TABLED failed by a roll call vote of 8-9. Reps. Nordtvedt and Vinger were absent. Motion HB 427 DO PASS was adopted by a roll call vote of 12-5. Reps. Nordtvedt and Vinger were absent. DO PASS AS AMENDED HB 427.

HOUSE BILL 477 - Rep. Lien moved HB 477 DO NOT PASS. Motion was adopted with a roll call vote of 12-4. Reps. Nordtvedt and Vinger were absent.

HOUSE BILL 497 - Rep. Lien moved HB 497 DO NOT PASS. Motion was adopted with no Noes. Reps. Hirsch, Vinger, Fagg, Nordtvedt were absent.

HOUSE BILL 866 - Rep. Lien moved HB 866 BE TABLED. There were no Noes. Reps. Hirsch, Vinger, Fagg, Nordtvedt were absent. The subcommittee recommended the concept of HB 866 be studied by the revenue oversight committee during the interim.

HOUSE BILL 385 - Rep. Williams, chairman of the Vehicle Tax subcommittee, said HB 385 changes to middle book values.

Rep. Huennekens said new car sales tax is under this 1 1/2% - sales tax is still on new cars. Does the fee apply the first year? Rep. Williams explained the sales tax is paid the first year - the uniform tax is the next year.

Rep. Sivertsen objects because of taking away taxable valuation from counties and cities.

HB 385 was referred back to the subcommittee.

HOUSE BILL 137 - Rep. Harrington would like to have HB 137 put on the floor and sent to the Senate. Rep. Williams said if the fee is passed on motor vehicles, it would not be deductible from income tax. Under HB 385 the fee would be based on the ad valorem value and the tax is deductible from income tax.

HOUSE BILL 568 - Rep. Fabrega explained HB 568 was killed on third reading - wants funding to come out of the general fund. The fee cannot be deducted from federal income tax. Thinks the forensic fund is O.K., but doesn't want it funded this way.

Rep. Williams moved HB 368 DO PASS. He then moved proposed amendments be adopted. Amendments were adopted with no Noes. Reps. Harrington and Robbins were absent.

Rep. Reichert supports the Do Pass motion - we are going to have to support these programs.

Rep. Huennekens said if we pick it up some other way, it would have to be through income tax since it is at the state level. Rep. Williams asked if the Law Enforcement Teletype System (LETS) was originally funded by federal grants. Mike McGrath, attorney general's office, said both programs are also funded by user charges. Counties or cities that use pay usage and user charge when people are sent to school. There is no way these can be funded by general source money, so during the biennium, they studied a method of how to fund. This is what we came up with. LETS indexed 496,000 driver's license records - invariably a motor vehicle is used in a crime. The same is with the Academy. The criminal research division budget is about \$60,000 per year and Forensic may be is the same thing. The funding comes out of the earmarked account. Several new programs have added to this bill for funding.

Rep. Dassinger feels this bill should be passed and possibly come back in 2 years and take all the fees that we pay and turn them into another way so they could be deducted. Rep. Fabrega said a fee is for services provided. He thinks the programs are well deserved.

Rep. Williams said anytime you have to go before the appropriations committee, it is tough. Need all these programs, but don't give them any money. Think they are absolutely necessary programs. The way we have to go about funding is difficult. Rep. Fabrega said the fact is that if this bill passes, there would be new money going into the general fund. Maybe should add a sunset provision so it would revert back to the original set up.

Rep. Williams said the attorney general's office had'to ask for general fund monies to reimburse the slush fund to issue new license plates. However, since the last issue, that cash balance in there has been on a declining basis and there will not be enough money to fund the registrars bureau nor to manufacture license plates. The reason is that the expense of plates has been going out of sight.

Rep. Huennekens said if the fees haven't increased, local governments haven't received any new money.

Rep. Fabrega moved to amend with a sunset provision that this act expires on July 1, 1981. Rep. Hirsch speaks in favor of the motion. This is an appropriation bill and hopefully the money will be used for what we intend it to. Motion succeeded with Reps. Huennekens and Williams voting No.

Motion HB 568 DO PASS AS AMENDED was adopted with Reps. Sivertsen and Underdal voting No.

HOUSE BILL 916 - Rep. Lien moved HH 916 DO PASS. Moved to amend on page 1, line 16-18. Amendment was adopted unanimously.


Rep. Huennekens thinks "jointly and severally" could be a problem. Should make a try to collect from corporation assets. Rep. Sivertsen thinks directors are really the governing body of a corporation. Rep. Reichert advised the state has lost about \$390,000. Rep. Fabrega stated a corporation is an individual under the law. Rep. Nordtvedt thinks the bill makes for no contingency. Rep. Lien moved other amendments which were adopted with Reps. Burnett, Sivertsen, Nordtvedt voting No. This was a proposal saying all other means of getting money from the corporation have to be taken before officers can be liable.

Rep. Bertelsen feels this is an endrun around the corporation structure which is formed to provide limited liability. Rep. Lien said this is a criminal action because it looks at money withheld in trust and not paid.

HB 916 will be considered further at a later time.

HOUSE BILL 915 - Rep. Fabrega moved to amend HB 915 as proposed. There were no Noes. He then moved HB 915 DO PASS AS AMENDED. Motion succeeded with Reps. Burnett and Underdal voting No. Reps. Gilligan, Fagg were absent.

Meeting adjourned at 11:10 a.m.

  
Josephine Lahti, Secretary

  
REP. HERB HUENNENEKSN, Chairman