

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 9, 1985

The twenty-seventh meeting of the Taxation Committee was called to order by Chairman Thomas E. Towe at 8:09 am in Room 413-415 of the Capitol Building.

ROLL CALL: Senators Brown and Mazurek were absent, all other members of the committee were present. Senator Mazurek joined the committee at 8:20 am; Senator Brown at 8:25 am.

CONSIDERATION OF HB 27: Chairman Towe recognized Representative Mel Williams, House District 85, as chief sponsor of the bill. Representative Williams explained that the bill was introduced at the request of the Department of Revenue with the approval of the Revenue Oversight Committee. He explained that the deductions from salaries and wages to be paid the Department of Revenue, often were not paid by employers facing bankruptcy. When those employers went bankrupt the state had little standing in the lien priority against the existing property of the debtor. Currently \$3 million is owed the state from about 100 bankrupt employers. This bill would give the Department a lien priority.

PROPONENTS

Mr. Ken Morrison, Deputy Director of the Department of Revenue, said that the priority should be granted as it is actually employee money that is held in trust by the employer and not submitted to the state.

OPPONENTS

None were heard.

Questions from the committee were called for.

In response to a question from Senator McCallum it was clarified that the priority date would be the date the warrant for restraint is filed and not the date the taxes were actually due. If the lien was filed ahead of other creditors it would have priority, but if the employer owed others first, they would be given priority.

Senator Goodover said that the high number of bankruptcies indicates that something is wrong with the system.

Discussion of the committee clarified that the employee is credited by the Department with the withdrawal from wages even if the employer has not remitted the money to the state.

Representative Williams closed saying that the bill does not interfere with the wages of employees, but that it does move the state closer to collecting the dollars from a bankruptcy.

CONSIDERATION OF HB 30: Representative Mel Williams, House District 85, was recognized as chief sponsor of the bill. HB 30 was introduced

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at the request of the Department of Revenue with the approval of the Revenue Oversight Committee. He noted first that the bill was an entirely new law and that Representative Ramirez had extensively amended it on the House floor by detailing the requirements of the Department of Revenue.

The bill is designed to make it easier for the Department to deal with tax protesters, which cause considerable delay and expense to the system. The penalties are not harsh enough to require compliance, said Representative Williams. He said this would eliminate the loopholes that tax protesters use to prolong the process.

PROPONENTS

Mr. Ken Morrison of the Department of Revenue said the problem with the current statute is that the questions introduced by tax protesters had to go through the administrative process. This bill would place it in the court jurisdictions where it properly belongs. He said the bill is patterned after legislation from Oregon and Idaho where it has worked well.

OPPONENTS

None were heard.

Questions from the committee were called for.

In response to a question from Senator Hager it was clarified that "due date" means the extended due date when an extension has been filed.

Senator McCallum asked if the civil rights of the protesters were being protected. Senator Mazurek said the bill requires the argument to be raised before a court and the Department of Revenue must prove to the court they have a case before a hearing is even required. He said clearly it would apply only to someone who was abusing the system.

Representative Williams closed saying that the House amendments were good and that the Department concurred with them. He said it allows them to approach the tax protester on a civil rather than a criminal basis.

MOTION: Senator Goodover moved that HB 30 be concurred in. The motion carried unanimously. Senator McCallum agreed to carry the bill on the floor.

FURTHER CONSIDERATION OF HB 27:

MOTION: Senator Hager moved that HB 27 do pass.

MOTION: Senator Goodover moved as a substitute motion that HB 27 do not pass. He addressed his motion saying that the real problem was the state policies that forced businesses to bankruptcy.

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Senator Mazurek noted that the bill would work against an unsecured creditor. Senator Eck clarified that the employee was credited by the state for the amount withheld from wages.

Senator Hager said that he did not want the Department to make the employee pay. Mr. Morrison said that the employee had fulfilled his obligation when the dollars were originally withheld.

Chairman Towe called the question on Senator Goodover's motion. With Senators Goodover and McCallum voting yes; and all other senators voting no, the motion failed.

The question was then called on Senator Hager's motion that HB 27 do pass. With Senators Goodover and McCallum voting no, and all other senators voting yes, the motion carried. Senator Hager agreed to carry HB 27 on the Senate floor.

MOTION: Senator Goodover moved that the committee request a committee bill to sunset the Revenue Oversight Committee. He said the Revenue Oversight Committee is often just a stamp of legitimacy to the Department legislation that should be carried on its own merit.

Senator Neuman noted that another problem with many of the bills was the over use of an immediate effective date.

Senator Goodover withdrew his motion.

Senator Towe asked the committee if they would be interested in taxing utilities to fund the Public Service Commission as is done by every other state in the west. Senator Neuman said he was not in favor, adding that if a tax increase is needed the committee ought to bite the bullet and levy one, instead of indirectly taxing the consumer through higher utility rates.

MOTION: Senator Mazurek moved that the committee request a bill for discussion purposes based on the suggestion of Senator Towe. He said that he would vote against his own motion. Senator Towe indicated the committee could address the issue when they had more time.

MOTION: Senator Halligan moved that the meeting be adjourned.

Senator Towe adjourned the meeting at 9 am.



Chairman

ROLL CALL

SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date February 9, 85

Location -- Room 413-415

Name Present Absent Excused

Senator Brown	8:25		
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	✓		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	8:20		
Senator McCallum	✓		
Senator Neuman	✓		
Senator Severson	✓		
Senator Towe	✓		

COMMITTEE ON Senate Taxation DATE February 9, 1985

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VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretariat)

STANDING COMMITTEE REPORT

February 9, 1985

MR. PRESIDENT

Taxation

We, your committee on.....

House Bill

having had under consideration..... No. 27

third reading copy (blue color)

(Senator Leyer)

WITHHOLDING TAX: PRIORITY DATE FOR WARRANT FOR DISTRAINT

Respectfully report as follows: That..... house bill No. 27

BE CONCURRED IN

XDCRASS

XDCRASS

Senator Thomas E. Rowe, Chairman.

STANDING COMMITTEE REPORT

February 9, 1935

MR. PRESIDENT

We, your committee on Taxation

having had under consideration House Bill No. 30

third reading copy (blue)
color

(Senator McCallum)

TAX PROTESTERS SHOW CAUSE HEARING

Respectfully report as follows: That House Bill No. 30

BE CONCURRED IN

DO PASS

DO NOT PASS

Chairman.