

CONFERENCE COMMITTEE  
HOUSE BILLS 438 & 444

April 19, 1985

The Conference Committee on HB 438 and HB 444 was called to order by Chairman Tom Towe on April 19, 1985 at 11:07 a.m. in room 415 of the Capitol Building in Helena, Montana.

ROLL CALL: The members present were Representatives Dorothy Bradley, Jan Brown, Ed Grady and Jesse O'Hara and Senators Thomas Towe, Bob Brown and Dorothy Eck. There were no absences.

HOUSE BILL 438 was addressed by Representative Jan Brown who presented Representative Ramirez's concern in that he was afraid that some of the rules that were put on would harm people. Senator Towe was asked the purpose of it.

SENATOR TOWE said that this was Senator Pinsoneault's concern. Suppose a husband who might have an obligation for child support of a former marriage, then marries again, chooses to file joint income tax returns with the new spouse; the concern is for the new spouse as she could be penalized because of that support due the former wife's child. This refers to the state tax.

JOHN MC RAE, Staff Attorney for Child Support, stated that what they are supporting is the parallel to the Federal requirements. First, a notice is given to the individual whose tax refund will be off-set for child support. In that notice, they are told what the procedure is to contest the off-set if he feels it is the wrong amount; also, they are informed if there is a joint situation possible it is best for them to file separately. In the federal system, they are directed to hold the money for 6 months before distributing it to the other party. This gives the person not involved a chance to file separately. He said that they already have a procedure that they use now to off-set that which is as thorough as the bill. What they are doing now is expanding it to a non-welfare application so anyone can apply even though they are not welfare connected.

A MOTION was made by Representative Dorothy Bradley to accept the bill and ask that the Senate recede from the amendment. Senator Towe remarked that the Senate shall recede from the amendment. MOTION PASSED UNANIMOUSLY.

HOUSE BILL 444: In reference to Amendment 2. REPRESENTATIVE JAN BROWN stated that the problem with HB 444 is amendment 2, page 1, line 15, where they struck "must" (See attachment)

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and inserted the word "may." The letter that was sent by Bill Harrington, Bureau Chief of Investigations and Enforcement Program was presented to the committee as handout, shown as EXHIBIT 1, shows the department's objection. She asked that John McRae explain.

JOHN MC RAE stated the back track in the House board amendments of 1984, congress mandated certain procedures. Some are optional but some are mandated. One of the procedures mandated has to do with the wage withholding process and hand-in-hand with that process they required, and they use no hesitation language of "may" or anything else, but use language like "require" and "must" that every child support order, whether maternity or a divorce case or whatever, must have within it a statement or procedure that the party, if they fail or become delinquent in payment, is going to be subject to income withholding procedures. It forestalls the problem from ever occurring.

SENATOR TOWE said that the concern of the Judiciary Committee was if the statutes demand it and the warning is omitted by error, then the husband with the child support obligation could come in and void all obligation of the whole divorce decree on the grounds that it is illegal under state law if he doesn't have a warning.

JOHN MC RAE said that there was additional language put into the bill that should take care of that. We are concerned that by putting in "may" many people might not do it at all.

SENATOR TOWE stated that the Senate would then recede from amendment 2 and the House will accede to amendments 1, 3, 4 and 5.

SENATOR BROWN MOVED the above, and Representative O'Hara seconded the motion. The committee approved the the motion unanimously.

There was some discussion on HB 119. Senator Towe stated that he would stand in the Senate and ask for a Free Conference Committee and that the same members be appointed. Representative Dorothy Bradley will ask for the same of the House.

The Conference Committee meeting dissolved at 11:23 a.m.