

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairperson Eleanor Vaughn, on March 5, 1991,
at 10 A.M. in room 331.

ROLL CALL

Members Present:

Eleanor Vaughn, Chairman (D)
Bob Pipinich, Vice Chairman (D)
John Jr. Anderson (R)
Chet Blaylock (D)
James Burnett (R)
Harry Fritz (D)
Bob Hockett (D)
Jack Rea (D)

Members Excused: Senator Bernie Swift

Members Absent: Senator Bill Farrell

Staff Present: David Niss (Legislative Council).

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

Announcements/Discussion: None

HEARING ON HOUSE BILL 434

Presentation and Opening Statement by Sponsor:

Representative Ed McCaffree, House District 27, said House Bill 434 will allow the state treasurer to assess counties an interest charge for the late remittance of money collected by county treasurers for the state, rather than require the assessment. Quite often there is a legitimate reason for a late payment. Late assessments last year would have amounted to \$13,000 and the counties collected \$79 million for the state, so there isn't much abuse.

Proponents' Testimony:

Chuck Verag, Administrator of the Accounting and Management Support Division, Department of Administration, is responsible for the State Treasury Function. Current statute does require the State Treasurer to assess a 10% interest charge on any late

remittances collected by the counties. In the past the State Treasurer has not chosen to assess that late interest charge. A good working relationship with the counties ensures that there is a follow up to determine the problem and they have always had a good reason for noncompliance. He left written testimony in exhibit 1.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Vaughn asked if counties have to budget for that interest, would it be a county expense? Chuck Verag said yes that interest would be a county expense.

Senator Blaylock asked whether they had been assessing that interest? Chuck Verag said they had not been doing that assessment. During the last audit, the auditor felt the law should be followed.

Senator Anderson asked why are counties late? Are collections late? Chuck Verag answered that a common problem is computer breakdown. They rely on computers to identify how the funds they've collected should be distributed. What portion is the state's, and what portion stays in the county. The interest would only be paid on the length of time counties hold the funds. If a corporation is late paying their taxes, the county isn't obliged to pay late interest on that.

Closing by Sponsor:

Representative McCaffree closed by saying there are two important words in the bill. On line 5 it says a act to allow and on line 8 rather than require He hopes the committee supports this bill. He asked Senator Weeding to carry House Bill 434.

EXECUTIVE ACTION ON HOUSE BILL 434

Motion:

Senator Blaylock moved that we DO CONCUR IN HOUSE BILL 434.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The VOTE was UNANIMOUS in favor of concurring in House Bill 434. Senator Weeding will carry HB 434 to the Senate floor.

HEARING ON HOUSE BILL 453

Presentation and Opening Statement by Sponsor:

Representative Russell Fagg, House District 89, said House Bill 453 requires a public employer to pick up a member's contribution under the Montana Judges' Retirement System and deduct from the member's compensation an amount equal to the amount of the member's contribution picked up by the employer and requires a member to pay state and local taxes on a refund of certain contributions. This is the same way all the other retirement systems work.

Proponents' Testimony:

Tom Honzel, District Judge of the First Judicial District, Lewis & Clark and Broadwater Counties, rose in support of House Bill 453. This is the same status as all the other public employees as far as their contributions to the retirement system. His testimony is in exhibit 2.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Blaylock asked if you are asking the State of Montana to pay your part of the contribution out of your salary? That is correct, with pre-tax dollars rather than after-tax dollars. That defers the taxes on judges contributions until they start to draw retirement.

Senator Burnett if we pass this, then they wouldn't pay any tax on what they contribute? If we exempt retirements and they haven't paid any tax on their contribution, would that mean they wouldn't pay any tax at all? Representative Fagg explained this is talking about pre-tax dollars and post-tax dollars.

Linda King said that if the legislature makes monthly pension payments nontaxable, you wouldn't recover the tax dollars. But if someone took a refund, they would be taxed on that amount. There are 8 other public retirement systems that are treated in this manner, that pay their contributions with tax deferred dollars.

Closing by Sponsor:

Representative Fagg mentioned the fiscal note puts the cost to the state at \$7,000 per year. Assuming tax laws don't change, they will be taxed when they draw it out. It puts all the retirees on the same plane.

EXECUTIVE ACTION ON HOUSE BILL 453Motion:

Senator Burnett moved that we DO CONCUR IN HOUSE BILL 453.

Discussion:

Senator Blaylock said that Senator Burnett has raised a good point, but it is up to the legislature to make difficult public policy decisions where we're going to set that exemption. Some teachers want all of the teachers' retirement exempted and others say, everyone should be treated the same, which includes private retirees, federal retirees and state retirees.

Senator Burnett said that the bill for taxing retirements should address this issue. Senator Blaylock said we have to treat them all the same.

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The VOTE was UNANIMOUS in favor of concurring in House Bill 453. Senator Pipinich will carry HB 453 to the Senate floor.

HEARING ON HOUSE BILL 456Presentation and Opening Statement by Sponsor:

Representative Jim Rice, House District 43, East Helena Valley, sponsors House Bill 456 which increases the number of reporting times for statewide ballot issue committees to file reports. It revises campaign reporting requirements concerning identification of persons making certain contributions. It revises certain limits on contributions subject to reporting and requires that employers of contributors be identified. The campaign about I 115 brought much money into the State of Montana and those people did not have to report to the Commissioner of Political Practices until just before the General Election. It mandates the single threshold amount of \$35 for reporting for individual contributors.

Proponents' Testimony:

Dolores Colburg, Commissioner of Political Practices appeared in support of House Bill 456. Her written testimony is exhibit 3.

C. B. Pearson, Executive Director of Common Cause/Montana, rose in support in House Bill 456. Timely disclosure is important, particularly when you are focused on the initiative process. They have seen activity in terms of special interest money in the last 2 elections and this would assist the public in understanding the role of money in campaigns. He particularly likes the single threshold amount and urges a do pass.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Burnett asked Dolores Colburg if House Bill 456 would increase her budget? Dolores Colburg said no, it will decrease costs because they will use the same forms for some of the reporting.

Senator Fritz asked if \$35 is keyed to inflation? Dolores Colburg responded that it is not keyed to inflation and it would need to be changed legislatively. She wanted 1 threshold amount in order to avoid confusion and so she chose the lower amount.

Senator Blaylock asked about a person who gives a donation to a campaign and puts his home address, what is wrong with that? Dolores Colburg said under current law you must provide occupation and place of business of contributors. This bill changes place of business to employer.

Senator Pipinich asked about a laborer who works for many different employers, what do you do? Dolores Colburg responded that he is self-employed. He also asked that campaign treasurers be taught and given explicit instructions about record keeping for candidates.

Senator Blaylock asked if we take out the portion about the employer and the address, would it make any difference? C. B. Pearson said it would make a significant difference. The intent is to provide as much disclosure as is appropriate. When a group of individuals who represent an industry are making a large number of contributions, the less disclosure you require the less ability you have to know whose manipulating laws.

Closing by Sponsor:

Representative Rice said there is some confusion in the law and House Bill 456 will clarify that confusion. He would appreciate your consideration of the bill as written.

EXECUTIVE ACTION ON HOUSE BILL 456

Motion:

Senator Blaylock moved that we DO CONCUR IN HOUSE BILL 456.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The VOTE was UNANIMOUS in favor of CONCURRING IN HOUSE BILL 456. Senator Blaylock will carry HB 456 to the Senate floor.

HOUSE BILL 404

Hearing on House Bill 404 was cancelled at the request of John A. Mercer, Minority Leader, because the sponsor, Larry Hal Grinde, had a death in his family. This will be rescheduled.

HOUSE BILL 158

Representative Wanzenried wasn't available so we did not hold a hearing on House Bill 158. It will be rescheduled.

ADJOURNMENT

Adjournment At: 10:55 A.M.


ELEANOR VAUGHN, Chairman


DOLORES HARRIS, Secretary

ROLL CALL

STATE ADMINISTRATION COMMITTEE

DATE March 5, 1991

52 LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR ELEANOR VAUGHN	X		
SENATOR BOB PIPINICH	X		
SENATOR JOHN ANDERSON	X		
SENATOR CHET BLAYLOCK	X		
SENATOR JAMES BURNETT	X		
SENATOR "BILL" FARRELL		X	
SENATOR HARRY FRITZ	X		
SENATOR BOB HOCKETT	X		tardy-
SENATOR JACK "DOC" REA	X		
SENATOR BERNIE SWIFT			excused

Each day attach to minutes.

DATE March 5, 1941

COMMITTEE ON State Administration

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

TESTIMONY
DEPARTMENT OF ADMINISTRATION
HB 434

SENATE STATE ADMIN.
EXHIBIT NO. ~~16~~ 1
DATE 3-5-91
BILL NO. 434

TITLE: "AN ACT TO ALLOW THE STATE TREASURER TO ASSESS COUNTIES AN INTEREST CHARGE FOR THE LATE REMITTANCE OF MONEY COLLECTED BY COUNTY TREASURERS FOR THE STATE, RATHER THAN TO REQUIRE THE ASSESSMENT; AMENDING SECTION 15-1-504, MCA; AND PROVIDING AN EFFECTIVE DATE."

PURPOSE

The purpose of this legislation is to amend current statutes to allow rather than require that the State Treasurer assess counties an interest charge for late remittances. The State Treasurer has not complied with this requirement in the past, and consequently the Legislative Auditor recommended that the Department of Administration propose legislation to amend the related statute.

TESTIMONY

Under current law, the State Treasury must collect interest at the rate of 10% per annum from counties who do not remit by the 25th day of each month all State moneys collected during the preceding month. This statute does not allow for extenuating circumstances which can occur at the county level, such as computer problems in small counties where repairmen may only be available once a week or illnesses in an office with limited staff.

The State has not assessed a late remittance charge for at least the past 10 years because of the desire to maintain a good working relationship with the county treasurers and the lack of a significant problem in this area. FY 1990 provides an example of the minimal potential financial effects of charging counties interest on late remittances. During FY 1990 the county treasurers collected, and deposited with the State, over \$79 million of State funds. The State could have assessed the counties interest charges of approximately \$13,000 for the late remittance of these funds.

If this proposed legislation were enacted, the State would retain its authority to penalize counties for the late remittance of State moneys. However, the State could exercise judgement in determining when such a penalty was justified given the circumstances surrounding the late remittance.

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Office of the Legislative Auditor

State of Montana



Report to the Legislature

June 1989

Performance Audit Report

Treasury Bureau

Department of Administration

This report contains recommendations for improvements in the maintenance of depository bank accounts. The recommendations address:

- ▶ Criteria for determining compensating balances.
- ▶ Obtaining banking services.
- ▶ Consolidating the number of depository banks.

Direct comments/inquiries to:
Office of the Legislative Auditor
Room 135, State Capitol
Helena, Montana 59620

88P-42A

Chapter III Bureau Administration

Late Transfers From Counties

Montana law (section 15-1-504, MCA) requires counties to remit to the state treasurer, by the 25th of the month, all moneys belonging to the state collected by the county treasurer during the preceding month. If the counties do not remit collected funds by the 25th, the county treasurer shall pay interest at a rate of 10 percent per annum.

We selected a judgmental sample of six months during fiscal year 1987-88 to determine if the Treasury Bureau received money from counties in a timely manner. For each month we reviewed county collection reports from the 56 counties. We found 57 out of 336 collection reports were delinquent. Delinquent reports ranged from 1 to 100 days late. A majority of the reports included notes attached explaining the cause of the delay. The most common cause was computer trouble. Based upon the interest rate specified in the law, the state of Montana should have received \$20,185 during the six months sampled as a result of late payments.

A contract audit report, presented by a public accounting firm to the Legislative Audit Committee in September 1980, recommended the state treasurer collect the interest due on the county collection reports. The report suggested warning counties of the change in policies before implementation. In the state treasurer's reply to this report, she indicated her office would implement the recommendation as of October 1980.

The current bureau chief said the bureau was not charging interest at the time he became bureau chief in 1982. Department personnel indicated they would need to notify the counties before implementing a change in policy. Bureau personnel indicated they will review the bureau's current policy, and may charge interest on late reports if an acceptable reason is not provided by the county.

An alternative the department has to charging interest is to seek a statutory change. The current law requires the bureau to charge interest. A change to permissive language would allow the bureau the flexibility to assess interest charges if necessary.

Chapter III Bureau Administration

Late Transfers from Counties (continued)

Recommendation #5

We recommend the bureau:

- A. Assess interest on late revenue transfers from counties as required by law, or
- B. Seek a change in the statutes requiring the assessment of interest on late revenue transfers.

HB 453

REQUIRING EMPLOYER TO PICK-UP MEMBERS' CONTRIBUTION
TO JUDGES' RETIREMENT SYSTEM

In 1985, the Montana Legislature enacted legislation at the request of the Executive Branch, requiring public employers to "pick-up and pay" the mandatory retirement contribution of their employees prior to withholding federal and state income taxes on salaries. This resulted in a larger net paycheck each payday because the taxes on this portion of members' salaries are deferred until actually received -- in the form of a refund or monthly retirement benefit.

The Judges's and Firefighters' Unified retirement systems were originally included in the 1985 legislation. However, that bill was amended to exclude these two systems because federal tax laws at that time provided significant advantages to those two groups to pay their taxes "up-front", rather than after retirement.

In November, 1986, Congress significantly changed tax laws relating to pensions, eliminating those previous advantages for the firefighters and judges. In 1987, the Legislature enacted legislation including the Firefighters' Unified Retirement System under the "Employer Pick-Up" provisions of state law, leaving only the Judges' Retirement System not covered by such legislation.

This bill is introduced at the request of the Montana Judges Association to grant this group the same status as other public retirement system members in Montana.

HB 453
QUESTIONS AND ANSWERS

1. What is the "Pick-up and pay" concept?"

"Pick-up and pay" is basically a deferred income plan which permits the employer to pay the employee contributions to the retirement system with before-tax dollars. Currently, judges pay federal and state taxes on their total salaries and then made contributions to their retirement system with "after-tax dollars".

2. What is the benefit to judges to have their contributions "picked-up"?

This change will increase the members' take home pay by the amount of tax liability the individual judge currently incurs on his or her retirement contribution. The deferred taxes will then be paid upon retirement.

3. Will judges have any individual choice on whether or not they participate?

No. In order for contributions to be tax-deferred, all mandatory contributions to the retirement system must be treated in the same manner.

4. What effect will this change have on future retirees?

Judges retiring after July 1, 1991, will not have to pay taxes on the portion of the benefits resulting from their pre-July 1, 1991 contributions. However, they will have to pay taxes on the portion of their benefits attributed to tax-deferred contributions, interest, employer contributions and state contributions. Since retirees' incomes are expected to be less after retirement, it is to be expected that the taxes on these benefits will be at a lower rate at that time.

5. What is the tax liability to a judge who terminates his employment and withdraws his or her contributions in a lump-sum?

A terminating judge will owe state and federal taxes on the portion of his or her refund which has been tax deferred. Those taxes will be assessed in the year in which the judge receives the refund. In addition, the federal government imposes a 10% penalty if the judge were to take a lump-sum refund of previously tax deferred amounts prior to age 59 1/2.

6. Can a judge continue to defer taxes if he or she takes a refund?

Yes. The taxable portion of any refund may be rolled-over into an IRA within 60 days of the refund without affecting a person's taxes due.

7. Will the "employer pick-up" affect the amount of retirement benefits received?

No.

COMMISSIONER OF
POLITICAL PRACTICES

SENATE STATE ADMIN.

EXHIBIT NO. 3

DATE 3-5-91

BILL NO. HB 456

STATE OF MONTANA

DOLORES COLBURG
COMMISSIONER
TELEPHONE (406) 444-2942

CAPITOL STATION
1205 EAST EIGHTH AVENUE
HELENA, MONTANA 59620-2401

March 5, 1991
Senate State Administration Committee
Hearing on HB 456

TESTIMONY IN SUPPORT OF HOUSE BILL 456

For the record, I am Dolores Colburg, Commissioner of Political Practices. I appear before the committee this morning in support of House Bill 456.

The bill has two main points.

One, it provides that statewide ballot issue committees must begin reporting their contributions and expenditures in the spring of an election year--just as candidates and other political committees do. Right now, statewide ballot issue committees do not need to report until September of an election year. Yet, as the recent election on I 115 showed, massive amounts of money were donated and spent well in advance of September. I believe that the public interest would be served better with more frequent and timely disclosure as this bill provides.

Two, the bill restores a single threshold amount, as used to be the case, for reporting by name an individual's contribution to a candidate or a political committee. Now, there are two



John A. Mercer, Minority Leader

MONTANA HOUSE OF REPRESENTATIVES

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Eleanor Vaughn
Chairman
State Administration
Montana State Senate

Re: House Bill 404

Dear Eleanor,

Please cancel the hearing set for tomorrow, March 5, 1991, for House Bill 404. Larry Hal Grinde, the sponsor, will not be here this week due to a death in his family.

Thank you for your assistance.

Sincerely,

A handwritten signature in dark ink, appearing to be "JA Mercer", written over the printed name.

John A. Mercer

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 5, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 456 (third reading copy -- blue), respectfully report that House Bill No. 456 be concurred in.

Signed: _____

Eleanor Vaughn, Chairman

3-5-91
And. Coord.

Sec. of Senate

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 5, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 453 (third reading copy -- blue), respectfully report that House Bill No. 453 be concurred in.

Signed: _____

Eleanor Vaughn
Eleanor Vaughn, Chairman

LS 3/5/1

Amd. Coord.

CP 1/5 12100

Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 5, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 434 (third reading copy -- blue), respectfully report that House Bill No. 434 be concurred in.

Signed: Eleanor Vaughn
Eleanor Vaughn, Chairman

12/14/91
Amd. Coord.

SP 3/5 12:00
Sec. of Senate