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LC 0732/01

INTRODUCED BY Menghan z 3 BY REQUEST OF THE DEPARTMENT OF LABOR 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR ÷ 6 COLLECTION OF DELINQUENT TAXES OWED BY CORPORATIONS 7 DELINQUENT IN FILING THEIR ANNUAL CORPORATE REPORT; AMENDING а SECTION 87-136, R.C.M. 1947." 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NONTANA: 11 Section 1. Section 87-136, R.C.M. 1947, is amended to 12 read as follows:

13 "87-136. Collection -- reciprocity with other states 14 in effecting collection of unpaid unemployment compensation 15 taxes. (1) If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount 16 17 due shall be collected by civil action in the name of the 18 division. Montana department of labor and industry, and the employer adjudged in default shall pay the costs of such 19 action. Civil actions brought under this section to collect zυ 21 contributions or interest thereon from an employer shall be 22 heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court 23 over all other civil actions except petitions for judicial 24 25 review under this act and cases arising under the workments

1 workers! compensation law of this state. Action for the 2 collection of contributions due shall be brought within five 3 +5+ years after the due date of such contributions, 4 otherwise to be barred as provided in section 93-2604.

(2) The courts of this state shall recognize and 5 enforce liabilities for unemployment contributions imposed 6 7 by other states which extend a like comity to this state. 8 The division, Montana department of labor and industry, is a hereby empowered to sue in the courts of any other ŁO jurisdiction which extends such comity, to collect 11 unemployment contributions and interest due this state. The 12 officials of other states which by statute or otherwise 13 extend a like comity to this state may sue in the courts of this state, to collect for such contributions and interest 14 15 and penalties, if any, due such state; in any such case the administrator may through his attorney or attorneys 16 17 institute and conduct such suit for such other state. Venue 18 of such proceedings shall be the same as for actions to collect delinquent contributions, penalties and interest due 19 under this act. A certificate by the secretary of any such 20 state under the great seal of such state attesting the 21 22 authority of such official or officials to collect unemployment compensation contributions, penalties and 23 24 interest shall be conclusive evidence of such authority. 25 (3) Any contractor, who is or becomes an employer

INTRODUCED BILL

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1 under the provisions of this act, who contracts with any 2 subcontractor, who also is or becomes an employer under the 3 provisions of this act, shall withhold sufficient money on 4 the contract to guarantee that all contributions, penalties, 5 and interest are paid upon completion of the contract. It 6 shall be the duty of any subcontractor who is or becomes an 7 employer under the provisions of this act, to furnish the 8 contractor with a certification issued by the employment 9 security division, prior to final payment for the particular 10 job, stating that said subcontractor is current and in full 11 compliance with the provisions of this act. Failure to 12 comply with the provisions of this section shall render the 13 contractor directly liable for all contributions, penalties 14 and interest due from the subcontractor on the particular 15 job and the administrator has all of the remedies of 16 collection against the contractor under the provisions of 17 this act as though the services in question were performed 18 directly for the contractor.

19 (4) When a corporation subject to Montana corporate
20 law has failed to file the annual corporation report with
21 the Montana secretary of state, as required by law, the
22 division may hold the corporate officers jointly and
23 severally liable for any contributions due for the period in
24 which the corporation is delinquent in filing the annual
25 corporation report. If the required annual corporation

- 1 report is made and filed_after_the_time_specified+_the
- 2 directors may not: on account of prior failure to make
- 3 report, be held liable for the contributions thereafter

4 accruing."

-End-

45th Legislature

LC 0732/01

Approved by Committee

on Taxation H____ BILL NO. 402 1 INTRODUCED BY Menoha z BY REQUEST OF THE DEPARTMENT OF LABOR 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR 5 COLLECTION DELINQUENT TAXES OWED BY CORPORATIONS OF 6 7 DELINQUENT IN FILING THEIR ANNUAL CORPORATE REPORT: AMENDING 8 SECTION 87-136+ R.C.M. 1947+" 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NONTANA: 10 11 Section 1. Section 87-136. R.C.N. 1947. is awended to read as follows: 12 #87-136. Collection -- reciprocity with other states 13 in effecting collection of unpaid unemployment compensation 14 taxes. (1) If, after due notice, any employer defaults in 15 any payment of contributions or interest thereon, the amount 16 17 due shall be collected by civil action in the name of the division. Montana department of labor and industry, and the 18 employer adjudged in default shall pay the costs of such 19 action. Civil actions brought under this section to collect 20 contributions or interest thereon from an employer shall be 21 22 heard by the court at the earliest possible date and shall 23 be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial 24 review under this act and cases arising under the workmen's 25

SECOND READING

workers^{*} compensation law of this state. Action for the
 collection of contributions due shall be brought within five
 t5⁺ years after the due date of such contributions,
 otherwise to be barred as provided in section 93-2604.

(2) The courts of this state shall recognize and 5 enforce liabilities for unemployment contributions imposed 6 by other states which extend a like comity to this state. 7 The division, Montana department of labor and industry, is A hereby empowered to sue in the courts of any 9 other 10 jurisdiction which extends such comity, to collect unemployment contributions and interest due this state. The 11 12 officials of other states which by statute or otherwise extend a like comity to this state may sue in the courts of 13 this state, to collect for such contributions and interest 14 15 and penalties, if any, due such state; in any such case the administrator may through his attorney or attorneys 16 17 institute and conduct such suit for such other state. Venue 18 of such proceedings shall be the same as for actions to 19 collect delinquent contributions, penalties and interest due 20 under this act. A certificate by the secretary of any such 21 state under the great seal of such state attesting the authority of such official or officials to collect 22 23 unemployment compensation contributions, penalties and 24 interest shall be conclusive evidence of such authority. (3) Any contractor, who is or becomes an employer 25

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1 under the provisions of this act. who contracts with any 2 subcontractor, who also is or becomes an employer under the 3 provisions of this act, shall withhold sufficient money on the contract to guarantee that all contributions, penalties, 4 and interest are paid upon completion of the contract. It 5 shall be the duty of any subcontractor who is or becomes an 6 7 employer under the provisions of this act, to furnish the contractor with a certification issued by the employment 8 9 security division, prior to final payment for the particular 10 job, stating that said subcontractor is current and in full 11 compliance with the provisions of this act. Failure to 12 comply with the provisions of this section shall render the 13 contractor directly liable for all contributions, penalties and interest due from the subcontractor on the particular 14 job and the administrator has all of the remedies of 15 collection against the contractor under the provisions of 16 17 this act as though the services in question were performed 18 directly for the contractor.

19 <u>141 When a corporation subject to Montana corporate</u> 20 <u>law_has_failed_to_file.the_annual_corporation_report_with</u> 21 <u>the_Montana_secretary_of_states_as_required_by_laws_the</u> 22 <u>division__may_hold_the_corporate_officers_jointly_and</u> 23 <u>severally_liable_for_any_contributions_due_for_the_period_in</u> 24 <u>which_the_corporation_is_delinquent_in_filing_the_annual</u> 25 <u>corporation_reports_If_the_required_annual_corporation</u>

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- report is made and filed after the time specified. the
- 2 directors may not: on account of prior failure to make
- 3 report, be held liable for the contributions thereafter
- 4 accruing."

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LC 0732/01

1	H BILL NO. 402
z	INTRODUCED BY Menghan
3	BY REQUEST OF THE DEPARTMENT OF LABOR
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR
6	COLLECTION OF DELINQUENT TAXES OWED BY CORPORATIONS
7	DELINQUENT IN FILING THEIR ANNUAL CORPORATE REPORT; AMENDING
8	SECTION 87-136, R.C.N. 1947.*
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 87-136, R.C.M. 1947, is amended to
12	read as follows:
13	#87-136. Collection reciprocity with other states
14	in effecting collection of unpaid unemployment compensation
15	taxes. (1) If, after due notice, any employer defaults in
16	any payment of contributions or interest thereon, the amount
17	due shall be collected by civil action in the name of the
18	division: Montana department of labor and industry: and the
19	employer adjudged in default shall pay the costs of such
20	action. Civil actions brought under this section to collect
21	contributions or interest thereon from an employer shall be
22	heard by the court at the earliest possible date and shall
23	be entitled to preference upon the calendar of the court
24	over all other civil actions except petitions for judicial
25	review under this act and cases arising under the workmen*s

workers* compensation law of this state. Action for the
 collection of contributions due shall be brought within five
 t57 years after the due date of such contributions,
 otherwise to be barred as provided in section 93-2604.

5 (2) The courts of this state shall recognize and enforce liabilities for unemployment contributions imposed 6 7 by other states which extend a like comity to this state. я The division, Montana department of labor and industry, is 9 hereby empowered to sue in the courts of any other 10 jurisdiction which extends such comity, to collect unemployment contributions and interest due this state. The 11 officials of other states which by statute or otherwise 12 13 extend a like comity to this state may sue in the courts of 14 this state, to collect for such contributions and interest 15 and penalties, if any, due such state; in any such case the administrator may through his attorney or attorneys 16 institute and conduct such suit for such other state. Venue 17 18 of such proceedings shall be the same as for actions to 19 collect delinquent contributions, penalties and interest due under this act. A certificate by the secretary of any such 20 21 state under the great seal of such state attesting the Z2 authority of such official or officials to collect 23 unemployment compensation contributions, penalties and 24 interest shall be conclusive evidence of such authority. 25 (3) Any contractor, who is or becomes an employer

THIRD READING

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1 under the provisions of this act, who contracts with any 2 subcontractor, who also is or becomes an employer under the 3 provisions of this act, shall withhold sufficient money on 4 the contract to guarantee that all contributions, penalties, 5 and interest are paid upon completion of the contract. It 6 shall be the duty of any subcontractor who is or becomes an 7 employer under the provisions of this act, to furnish the 8 contractor with a certification issued by the employment 9 security division, prior to final payment for the particular 10 job. stating that said subcontractor is current and in full compliance with the provisions of this act. Failure to 11 12 comply with the provisions of this section shall render the contractor directly liable for all contributions, penalties 13 14 and interest due from the subcontractor on the particular 15 job and the administrator has all of the remedies of collection against the contractor under the provisions of 16 17 this act as though the services in question were performed 18 directly for the contractor.

19 <u>(4) When a corporation subject to Montana corporate</u> 20 <u>law_has_failed_to_file_the_annual_corporation_report_with</u> 21 <u>the_Montana_secretary_of_states_as_required_by_laws_the</u> 22 <u>division__may_hold_the_corporate_officers_jointly_and</u> 23 <u>severally_liable_for_any_contributions_due_for_the_period_in</u> 24 <u>which_the_corporation_is_delinquent_in_filing_the_annual</u> 25 <u>corporation_reports_lf_the_reduired_annual_corporation</u> report is made and filed after the time specified, the

- 2 directors may not, on account of prior failure to make
- 3 reports be held liable for the contributions thereafter

4 accruing="

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in the second second March 29, 1977

SENATE STANDING COMMITTEE REPORT Taxation Committee

That House Bill No. 402, third reading, be amended as follows:

1. Amend page 3, section 1, line 22.
Following: "division"
Strike: "may"
Insert: "shall"
Following: "the"
Strike: "corporate officers"
Insert: "president, vice president, secretary and treasurer"
2. Amend page 4, section 1, lines 1 and 2.

Following: "specified," Strike: "the directors" Insert: "such officers" HB 0402/02

HOUSE BILL NO. 402 1 INTRODUCED BY MENAHAN 1 BY REQUEST OF THE DEPARTMENT OF LABOR 5 A BILL FUR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR 2 LULLELIIUN OF DELINQUENT TAXES OWED BY CORPORATIONS b DELINGUENT IN FILING THEIR ANNUAL CORPORATE REPORT; AMENDING 1 в SEUTION 87-136+ K.C.M. 1947." ч BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: £υ Section 1. Section 87-136, R.C.M. 1947, is amended to 11 read as tollows: 16 "8/-136. Collection -- reciprocity with other states 13 in effecting collection of unpaid unemployment compensation 14 taxes. (1) It, after due notice, any employer defaults in 15 any payment of contributions or interest thereon, the amount 19 11 due shall be collected by civil action in the name of the civision, Montana department of labor and industry, and the 18 employer adjudged in default shall pay the costs of such 19 action. Civil actions brought under this section to collect 20 contributions or interest thereon from an employer shall be 21 neard by the court at the earliest possible date and shall 22 be entitled to preference upon the calendar of the court 23 over all other civil actions except petitions for judicial 24 25 review under this act and cases arising under the workmen*s

HB 0402/02

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REFERENCE BILL

HB 402

HB 402

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19 (4) When a corporation subject to Montana corporate 20 Jaw has failed to file the annual corporation report with 21 the Montana secretary of state. as required by Jaw. the 22 division may SHALL hold the corporate officers PRESIDENT: 23 VICE PRESIDENT: SECRETARY AND TREASURER jointly and 24 severally liable for any contributions due for the period in 25 which the corporation is delinquent in filing the annual 26 which the corporation is delinquent in filing the annual 1 corporation report. If the required annual corporation

- 2 report is made and filed after the time specified, the
- 3 directors SUCH DEFICERS may not on account of prior failure
- 4 to make report. be held liable for the contributions

5 thereafter_accruing."

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