

CHAPTER NO. 281

HOUSE BILL NO. 318

INTRODUCED BY LIEN

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

January 23, 1979	Introduced and referred to Committee on Local Government.
February 13, 1979	Committee recommend bill do pass as amended. Report adopted.
February 15, 1979	Printed and placed on members' desks.
February 16, 1979	Second reading, do pass.
February 17, 1979	Considered correctly engrossed.
February 19, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 20, 1979	Introduced and referred to Committee on Taxation.
March 8, 1979	Committee recommend bill be concurred in. Report adopted.
March 10, 1979	Second reading, concurred in.
March 13, 1979	Third reading, concurred in.

IN THE HOUSE

March 14, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 6 15-1-402, MCA; PROVIDING THAT BOTH THE OFFICERS COLLECTING
 7 LICENSES AND TAXES OR THE COUNTIES OR THE MUNICIPALITIES IN
 8 WHOSE BEHALF THEY WERE COLLECTED AND THE DEPARTMENT OF
 9 REVENUE MUST BE SERVED WITH SUMMONS AND COMPLAINT IN AN
 10 ACTION TO RECOVER TAX PAID UNDER PROTEST."

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 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 13 Section 1. Section 15-1-402, MCA, is amended to read:
 14 "15-1-402. Payment of taxes under protest -- action to
 15 recover. (1) In all cases of levy of taxes, licenses, or
 16 other demands for public revenue which are deemed unlawful
 17 by the party whose property is thus taxed or from whom such
 18 tax or license is demanded or enforced, such party may,
 19 before such tax or license becomes delinquent, pay under
 20 written protest such portions of such tax or license deemed
 21 unlawful to the officers designated and authorized to
 22 collect the same, specifying the grounds of protest.
 23 Thereupon the party so paying or his legal representatives
 24 may bring an action in any court of competent jurisdiction
 25 against the officers to whom said license or tax was paid or

1 against the county or municipality in whose behalf the same
 2 was collected and the department of revenue ~~which shall be~~
 3 ~~served with summons and copy of the complaint to recover~~
 4 ~~such portions of such tax or license paid under protest.~~
 5 Both the officers to whom the license fee or tax was paid or
 6 the county or municipality in whose behalf the same was
 7 collected and the department of revenue must be served with
 8 summons and complaint within the time prescribed. Any action
 9 instituted to recover any such portions of license or tax
 10 paid under protest shall be commenced and summons served
 11 within 60 days after the date of payment of the same. When
 12 any such license or tax is payable in installments, the
 13 first installment portion of such tax or license as may be
 14 deemed unlawful may be paid under written protest and suit
 15 commenced and summons served to recover the same within the
 16 time herein prescribed, and if any subsequent installment of
 17 such license or tax shall become due or payable before the
 18 final determination of the suit commenced to recover the
 19 first installment portion paid under protest, then such
 20 subsequent installment portion deemed unlawful may also be
 21 paid under written protest and no suit or action need be
 22 commenced to recover the same, but the determination of the
 23 suit or action commenced to recover the first installment
 24 portion paid under protest shall determine the right of the
 25 party paying such subsequent installment to have the same or

1 any part thereof refunded to him. All such portions of
 2 licenses and taxes when so paid under protest shall be
 3 deposited by the treasurer of the county or municipality to
 4 the credit of a special fund to be designated as protest
 5 fund and shall be invested in interest-bearing deposits in
 6 local banks or savings and loan associations and retained in
 7 such protest fund until the final determination of any suit
 8 or action to recover the same. Nothing contained herein
 9 prohibits the investment of the moneys of this fund in the
 10 state unified investment program.

11 (2) If no action is commenced within the time herein
 12 specified or if such action be commenced and finally
 13 determined in favor of the county or municipality or
 14 treasurer thereof, the amount of such protested portions of
 15 the license or tax shall be taken from such protest fund and
 16 deposited to the credit of the fund or funds to which the
 17 same property belongs, but if such action is finally
 18 determined adversely to such county or municipality or the
 19 treasurer thereof, then the treasurer shall, upon receiving
 20 a certified copy of the final judgment in said action,
 21 refund to the person in whose favor such judgment is
 22 rendered the amount of such protested portions of the
 23 license or tax, with costs of suit and interest at the rate
 24 currently paid on short-term interest-bearing time deposits
 25 in banks in the county or 5% a year, whichever is greater,

1 from the date of payment under protest. If such action was
 2 commenced for the purpose of recovering the first
 3 installment portions of any such license or tax and any
 4 subsequent installment thereof has been paid under protest
 5 as herein provided, then the county treasurer shall, at the
 6 time of refunding the amount of such first installment
 7 required by such judgment, also refund such portion of any
 8 subsequent installment as the person holding such judgment
 9 is entitled to recover, together with interest thereon at
 10 the rate of 6% a year from the date of payment under
 11 protest.*

-End-

Approved by Comm.
on Local Government

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against the county or municipality in whose behalf the same was collected and the department of revenue, ~~which shall be served with summons and copy of the complaint, to recover such portions of such tax or license paid under protest. Both the officers to whom the license fee or tax was paid or the county or municipality in whose behalf the same was collected, and the department of revenue must be served with summons and complaint within the time prescribed.~~ Any action instituted to recover any such portions of license or tax paid under protest shall be commenced and summons served within 60 90 days after the date of payment of the same. When any such license or tax is payable in installments, the first installment portion of such tax or license as may be deemed unlawful may be paid under written protest and suit commenced and summons served to recover the same within the time herein prescribed, and if any subsequent installment of such license or tax shall become due or payable before the final determination of the suit commenced to recover the first installment portion paid under protest, then such subsequent installment portion deemed unlawful may also be paid under written protest and no suit or action need be commenced to recover the same, but the determination of the suit or action commenced to recover the first installment portion paid under protest shall determine the right of the party paying such subsequent installment to have the same or

1 any part thereof refunded to him. All such portions of
 2 licenses and taxes when so paid under protest shall be
 3 deposited by the treasurer of the county or municipality to
 4 the credit of a special fund to be designated as protest
 5 fund and shall be invested in interest-bearing deposits in
 6 local banks or savings and loan associations and retained in
 7 such protest fund until the final determination of any suit
 8 or action to recover the same. Nothing contained herein
 9 prohibits the investment of the moneys of this fund in the
 10 state unified investment program.

11 (2) If no action is commenced within the time herein
 12 specified or if such action be commenced and finally
 13 determined in favor of the county or municipality or
 14 treasurer thereof, the amount of such protested portions of
 15 the license or tax shall be taken from such protest fund and
 16 deposited to the credit of the fund or funds to which the
 17 same property belongs, but if such action is finally
 18 determined adversely to such county or municipality or the
 19 treasurer thereof, then the treasurer shall, upon receiving
 20 a certified copy of the final judgment in said action,
 21 refund to the person in whose favor such judgment is
 22 rendered the amount of such protested portions of the
 23 license or tax, with costs of suit and interest at the rate
 24 currently paid on short-term interest-bearing time deposits
 25 in banks in the county or 5% a year, whichever is greater,

1 from the date of payment under protest. If such action was
 2 commenced for the purpose of recovering the first
 3 installment portions of any such license or tax and any
 4 subsequent installment thereof has been paid under protest
 5 as herein provided, then the county treasurer shall, at the
 6 time of refunding the amount of such first installment
 7 required by such judgment, also refund such portion of any
 8 subsequent installment as the person holding such judgment
 9 is entitled to recover, together with interest thereon at
 10 the rate of 6% a year from the date of payment under
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23 Thereupon the party so paying or his legal representatives
24 may bring an action in any court of competent jurisdiction
25 against the officers to whom said license or tax was paid or

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2 was collected and the department of revenue ~~which shall be~~
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6 the county or municipality in whose behalf the same was
7 collected, and the department of revenue must be served with
8 summons and complaint within the time prescribed. Any action
9 instituted to recover any such portions of license or tax
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11 within 60 ~~90~~ days after the date of payment of the same.
12 When any such license or tax is payable in installments, the
13 first installment portion of such tax or license as may be
14 deemed unlawful may be paid under written protest and suit
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