

CHAPTER NO. 680.

HOUSE BILL NO. 910

INTRODUCED BY TAXATION COMMITTEE, HUENNEKENS, CHAIRMAN

IN THE HOUSE

March 13, 1979	Introduced and referred to Committee on Taxation.
March 20, 1979	Committee recommend bill do pass. Report adopted.
March 21, 1979	Printed and placed on members' desks.
March 22, 1979	Second reading, do pass.
March 23, 1979	Considered correctly engrossed.
March 24, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

March 24, 1979	Introduced and referred to Committee on Taxation.
April 6, 1979	Committee recommend bill be concurred in as amended. Report adopted.
April 9, 1979	Second reading, concurred in.
April 11, 1979	Third reading, concurred in as amended.

IN THE HOUSE

April 12, 1979	Returned from second house. Concurred in as amended.
April 13, 1979	Second reading, amendments adopted.
April 16, 1979	Third reading, amendments adopted. Sent to enrolling. Reported correctly enrolled.

1 HOUSE BILL NO. 910  
 2 INTRODUCED BY TAXATION COMMITTEE  
 3 Hert Henningsen, Chairman

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REAFFIRM THE INTENT  
 5 OF THE LEGISLATURE REGARDING THE STATUS OF TAXES OR LICENSE  
 6 FEES PAID TO THE STATE UNDER PROTEST; AMENDING SECTION  
 7 15-1-402, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8  
 9 WHEREAS, section 15-1-402, MCA, has been amended by the  
 10 Montana legislature several times since the original  
 11 enactment in 1895; and

12 WHEREAS, it has been the intent of the Montana  
 13 legislature to provide for payment of taxes, licenses, and  
 14 other demands for public revenue under protest; and

15 WHEREAS, it has been the intent of the Montana  
 16 legislature that protested payments of taxes, licenses, or  
 17 other demands for public revenue paid to the state shall not  
 18 be placed in a special protest fund by the department of  
 19 revenue.

20 THEREFORE, it is the purpose of this act to clarify  
 21 that legislative intent.

22  
 23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 24 Section 1. Section 15-1-402, MCA, is amended to read:  
 25 "15-1-402. Payment of taxes under protest -- action to

1 recover. (1) In all cases of levy of taxes, licenses, or  
 2 other demands for public revenue which are deemed unlawful  
 3 by the party whose property is thus taxed or from whom such  
 4 tax or license is demanded or enforced, such party may,  
 5 before such tax or license becomes delinquent, pay under  
 6 written protest such portions of such tax or license deemed  
 7 unlawful to the officers designated and authorized to  
 8 collect the same, specifying the grounds of protest.  
 9 Thereupon the party so paying or his legal representatives  
 10 may bring an action in any court of competent jurisdiction  
 11 against the officers to whom said license or tax was paid or  
 12 against the county or municipality in whose behalf the same  
 13 was collected and the department of revenue, which shall be  
 14 served with summons and copy of the complaint, to recover  
 15 such portions of such tax or license paid under protest. Any  
 16 action instituted to recover any such portions of license or  
 17 tax paid under protest shall be commenced and summons served  
 18 within 60 days after the date of payment of the same. When  
 19 any such license or tax is payable in installments, the  
 20 first installment portion of such tax or license as may be  
 21 deemed unlawful may be paid under written protest and suit  
 22 commenced and summons served to recover the same within the  
 23 time herein prescribed, and if any subsequent installment of  
 24 such license or tax shall become due or payable before the  
 25 final determination of the suit commenced to recover the

1 first installment portion paid under protest, then such  
 2 subsequent installment portion deemed unlawful may also be  
 3 paid under written protest and no suit or action need be  
 4 commenced to recover the same, but the determination of the  
 5 suit or action commenced to recover the first installment  
 6 portion paid under protest shall determine the right of the  
 7 party paying such subsequent installment to have the same or  
 8 any part thereof refunded to him. All such portions of  
 9 licenses and taxes when so paid under protest shall be  
 10 deposited by the treasurer of the county or municipality to  
 11 the credit of a special fund to be designated as protest  
 12 fund and shall be invested in interest-bearing deposits in  
 13 local banks or savings and loan associations and retained in  
 14 such protest fund until the final determination of any suit  
 15 or action to recover the same. Nothing contained herein  
 16 prohibits the investment of the moneys of this fund in the  
 17 state unified investment program. The provision creating the  
 18 special protest fund does not apply to any payments made  
 19 under protest directly to the state.

20 (2) If no action is commenced within the time herein  
 21 specified or if such action be commenced and finally  
 22 determined in favor of the county or municipality or  
 23 treasurer thereof, the amount of such protested portions of  
 24 the license or tax shall be taken from such protest fund and  
 25 deposited to the credit of the fund or funds to which the

1 same property belongs, but if such action is finally  
 2 determined adversely to such county or municipality or the  
 3 treasurer thereof, then the treasurer shall, upon receiving  
 4 a certified copy of the final judgment in said action,  
 5 refund to the person in whose favor such judgment is  
 6 rendered the amount of such protested portions of the  
 7 license or tax, with costs of suit and interest at the rate  
 8 currently paid on short-term interest-bearing time deposits  
 9 in banks in the county or 5% a year, whichever is greater,  
 10 from the date of payment under protest. If such action was  
 11 commenced for the purpose of recovering the first  
 12 installment portions of any such license or tax and any  
 13 subsequent installment thereof has been paid under protest  
 14 as herein provided, then the county treasurer shall, at the  
 15 time of refunding the amount of such first installment  
 16 required by such judgment, also refund such portion of any  
 17 subsequent installment as the person holding such judgment  
 18 is entitled to recover, together with interest thereon at  
 19 the rate of 6% a year from the date of payment under  
 20 protest."

21 Section 2. Effective date. This act is effective on  
 22 passage and approval.

-End-

Approved by Committee  
on Taxation

HOUSE BILL NO. 910

INTRODUCED BY TAXATION COMMITTEE

*Herb H. Hennrich, Chairman*

A BILL FOR AN ACT ENTITLED: "AN ACT TO REAFFIRM THE INTENT OF THE LEGISLATURE REGARDING THE STATUS OF TAXES OR LICENSE FEES PAID TO THE STATE UNDER PROTEST; AMENDING SECTION 15-1-402, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, section 15-1-402, MCA, has been amended by the Montana legislature several times since the original enactment in 1895; and

WHEREAS, it has been the intent of the Montana legislature to provide for payment of taxes, licenses, and other demands for public revenue under protest; and

WHEREAS, it has been the intent of the Montana legislature that protested payments of taxes, licenses, or other demands for public revenue paid to the state shall not be placed in a special protest fund by the department of revenue.

THEREFORE, it is the purpose of this act to clarify that legislative intent.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-402, MCA, is amended to read:

"15-1-402. Payment of taxes under protest -- action to

recover. (1) In all cases of levy of taxes, licenses, or other demands for public revenue which are deemed unlawful by the party whose property is thus taxed or from whom such tax or license is demanded or enforced, such party may, before such tax or license becomes delinquent, pay under written protest such portions of such tax or license deemed unlawful to the officers designated and authorized to collect the same, specifying the grounds of protest. Thereupon the party so paying or his legal representatives may bring an action in any court of competent jurisdiction against the officers to whom said license or tax was paid or 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. Any action instituted to recover any such portions of license or tax paid under protest shall be commenced and summons served within 60 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

1 first installment portion paid under protest, then such  
 2 subsequent installment portion deemed unlawful may also be  
 3 paid under written protest and no suit or action need be  
 4 commenced to recover the same, but the determination of the  
 5 suit or action commenced to recover the first installment  
 6 portion paid under protest shall determine the right of the  
 7 party paying such subsequent installment to have the same or  
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 9 licenses and taxes when so paid under protest shall be  
 10 deposited by the treasurer of the county or municipality to  
 11 the credit of a special fund to be designated as protest  
 12 fund and shall be invested in interest-bearing deposits in  
 13 local banks or savings and loan associations and retained in  
 14 such protest fund until the final determination of any suit  
 15 or action to recover the same. Nothing contained herein  
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1 same property belongs, but if such action is finally  
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 3 treasurer thereof, then the treasurer shall, upon receiving  
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 9 in banks in the county or 5% a year, whichever is greater,  
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 20 protest."

21 Section 2. Effective date. This act is effective on  
 22 passage and approval.

-End-

April 6, 1979

SENATE STANDING COMMITTEE REPORT  
(Taxation)

That House Bill No. 910, third reading bill, be amended as follows:

1. Page 1, line 21.

Following: "intent"

Strike: "."

Insert: "and to clarify the existing law to reflect the original  
intent of the legislature. No change in the law is contemplated  
by this act"



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20 THEREFORE, it is the purpose of this act to clarify  
21 that legislative intent. AND TO CLARIFY THE EXISTING LAW TO  
22 REFLECT THE ORIGINAL INTENT OF THE LEGISLATURE. NO CHANGE IN  
23 THE LAW IS CONTEMPLATED BY THIS ACT.

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23 Section 2. Effective date. This act is effective on  
 24 passage and approval.

-End-