

SENATE BILL NO. 337

INTRODUCED BY BLAYLOCK

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

IN THE SENATE

February 7, 1985	Introduced and referred to Committee on Labor and Employment Relations.
February 8, 1985	Fiscal Note requested.
February 13, 1985	Fiscal Note returned.
	Committee recommend bill do pass. Report adopted.
February 14, 1985	Bill printed and placed on members' desks.
February 15, 1985	Second reading, do pass.
February 16, 1985	Considered correctly engrossed.
February 18, 1985	Third reading, passed. Ayes, 49; Noes, 0.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Business and Labor.
March 22, 1985	Committee recommend bill be concurred in. Report adopted.
March 23, 1985	Second reading, pass consideration.
March 26, 1985	Second reading, concurred in as amended.

March 27, 1985

Third reading, concurred in.

Returned to Senate with
amendments.

IN THE SENATE

March 27, 1985

Received from House.

April 2, 1985

Second reading, amendments
concurred in.

April 4, 1985

Third reading, amendments
concurred in.

Ayes, 50; Noes, 0.

Sent to enrolling.

Reported correctly enrolled.

1 Senate BILL NO. 337
 2 INTRODUCED BY Blaylock
 3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

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 5 A BILL FOR AN ACT ENTITLED: "AN ACT MODIFYING THE PROCEDURE
 6 FOR COLLECTING UNPAID UNEMPLOYMENT COMPENSATION
 7 CONTRIBUTIONS; AMENDING SECTIONS 39-51-1303 AND 39-51-1304,
 8 MCA."

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

11 Section 1. Section 39-51-1303, MCA, is amended to
 12 read:

13 "39-51-1303. Collection of unpaid contributions by
 14 civil action. (1) If, after due notice, any employer
 15 defaults in any payment of contributions or interest
 16 thereon, the department may in its discretion initiate a
 17 civil action in the name of the Montana department of labor
 18 and industry to collect the amount due, and the employer
 19 adjudged in default shall pay the costs of such action.

20 ~~{2}--Civil--actions--brought--under--this--section--to~~
 21 ~~collect-contributions-or-interest--thereon--from--an--employer~~
 22 ~~must-be-heard-by-the-court-at-the-earliest-possible-date-and~~
 23 ~~are--entitled--to--preference-upon-the-calendar-of-the-court~~
 24 ~~over-all-other-civil-actions-except-petitions--for--judicial~~
 25 ~~review--under--this--chapter--and--cases--arising--under--the~~

1 ~~workers'-compensation-law-of-this-state:~~

2 ~~{3}{2} An action for the collection of contributions~~
 3 ~~due must be brought within 5 years after the due date of~~
 4 ~~such contributions or it is barred.~~

5 ~~{3} The department may pursue its remedy under either~~
 6 ~~this section or 39-51-1304, or both."~~

7 Section 2. Section 39-51-1304, MCA, is amended to
 8 read:

9 "39-51-1304. Lien for payment of unpaid contributions
 10 -- levy and execution. ~~{1}--if-any-contributions-payable-by~~
 11 ~~an-employer-under-this-chapter-or-any-portion-thereof-is-not~~
 12 ~~paid--within--25--days--after--the--same--becomes--due,--the~~
 13 ~~department--may-issue-a-certificate-under-its-official-seal,~~
 14 ~~setting-forth-the-amount-of-contributions-due--and--interest~~
 15 ~~accrued,--directed-to-the-sheriff-of-any-county-of-the-state~~
 16 ~~commanding-him-to-levy-upon-and-sell-the-real--and--personal~~
 17 ~~property--of--the--employer-owing-the-same,--found-within-his~~
 18 ~~county,--for-the-payment-of--the--amount--thereof,--with--the~~
 19 ~~added--penalties,--interest,--and-costs-of-executing-the-same~~
 20 ~~and-to-return-such-certificates-to-the-department-and-pay-to~~
 21 ~~the-department-the-money-collected-by-virtue--thereof--by--a~~
 22 ~~time-to-be-therein-specified,--not-more-than-90-days-from-the~~
 23 ~~date-of-the-certificate.~~

24 ~~{2}--The-sheriff-shall,--within-5-days-after-the-receipt~~
 25 ~~of--the--certificate,--file--with--the-clerk-of-the-district~~



1 court-of-his-county-a-copy-thereof-and-thereupon--the--clerk
 2 of--the-district-court-shall-enter-in-the-judgment-docket-in
 3 the-column-for-judgment-debtors-the--name--of--the--employer
 4 mentioned--in-the-certificate-and-in-the-appropriate-columns
 5 the-amount-of-contributions-due-and-the-penalties-for--which
 6 the--certificate--is--issued--and-the-date-when-such-copy-is
 7 filed,--and-thereupon--the--amount--of--such--certificate--so
 8 docketed--shall-become-a-lien-upon-the-title-to-and-interest
 9 in-real-property-or-chattels-real-of--the--employer--against
 10 whom--it--is--filed-in-the-same-manner-as-a-judgment-docketed
 11 in-the-office-of-such-clerk.

12 (3)--The-sheriff-shall-thereupon-proceed-upon-the--same
 13 in--all--respects,--with-like-effect,--and-in-the-same-manner
 14 prescribed-by-law-in-respect-to--executions--issued--against
 15 property--upon--judgment--of--a-court-of-record-and-shall-be
 16 entitled-to-the-same-fees-for-his-services-in-executing--the
 17 certificate,--to--be--collected--in--the-same-manner. Unpaid
 18 contributions have the effect of a judgment against the
 19 employer, arising at the time the contributions are due. The
 20 department may issue a lien setting forth the amount of
 21 contributions due and accrued interest and directing the
 22 clerk of the district court of any county of the state to
 23 enter the certificate as a judgment in the docket pursuant
 24 to 25-9-301. The department may enforce the judgment
 25 pursuant to Title 25, chapter 13, except that the department

1 may enforce the judgment at any time within 10 years of the
 2 creation of the lien."

3 NEW SECTION. Section 3. Extension of authority. Any
 4 existing authority of the department of labor and industry
 5 to make rules on the subject of the provisions of this act
 6 is extended to the provisions of this act.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN 369-85

Form BD-15

In compliance with a written request received February 8, 19 85, there is hereby submitted a Fiscal Note for S.B. 337 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 337 provides the Department of Labor with a stronger creditor position in regard to collection of past due contributions.

This bill should allow for collection of more past due contributions by:

- 1) Improving the Department's position over other creditors.
- 2) Extending time limit for enforcement of liens to ten years.

The Department does not have data to support any predictable fiscal impact to general fund or other funds.

David L Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 13, 1985

SB337

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

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16 thereon, the department may in its discretion initiate a
17 civil action in the name of the Montana department of labor
18 and industry to collect the amount due, and the employer
19 adjudged in default shall pay the costs of such action.

20 ~~(2) Civil actions brought under this section to~~
21 ~~collect contributions or interest thereon from an employer~~
22 ~~must be heard by the court at the earliest possible date and~~
23 ~~are entitled to preference upon the calendar of the court~~
24 ~~over all other civil actions except petitions for judicial~~
25 ~~review under this chapter and cases arising under the~~

1 ~~workers' compensation law of this state.~~

2 ~~(3)(2) An action for the collection of contributions~~
3 ~~due must be brought within 5 years after the due date of~~
4 ~~such contributions or it is barred.~~

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6 ~~this section or 39-51-1304, or both."~~

7 Section 2. Section 39-51-1304, MCA, is amended to
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9 "39-51-1304. Lien for payment of unpaid contributions
10 -- levy and execution. ~~(1) If any contributions payable by~~
11 ~~an employer under this chapter or any portion thereof is not~~
12 ~~paid within 25 days after the same becomes due, the~~
13 ~~department may issue a certificate under its official seal,~~
14 ~~setting forth the amount of contributions due and interest~~
15 ~~accrued, directed to the sheriff of any county of the state~~
16 ~~commanding him to levy upon and sell the real and personal~~
17 ~~property of the employer owing the same, found within his~~
18 ~~county, for the payment of the amount thereof, with the~~
19 ~~added penalties, interest, and costs of executing the same~~
20 ~~and to return such certificates to the department and pay to~~
21 ~~the department the money collected by virtue thereof by a~~
22 ~~time to be therein specified, not more than 90 days from the~~
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 24 to 25-9-301. The department may enforce the judgment
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 2 creation of the lien."

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 4 existing authority of the department of labor and industry
 5 to make rules on the subject of the provisions of this act
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 23 ~~date of the certificate.~~

24 ~~(2) The sheriff shall, within 5 days after the receipt~~
 25 ~~of the certificate, file with the clerk of the district~~

1 ~~court of his county a copy thereof and thereupon the clerk~~
 2 ~~of the district court shall enter in the judgment docket in~~
 3 ~~the column for judgment debtors the name of the employer~~
 4 ~~mentioned in the certificate and in the appropriate columns~~
 5 ~~the amount of contributions due and the penalties for which~~
 6 ~~the certificate is issued and the date when such copy is~~
 7 ~~filed, and thereupon the amount of such certificate so~~
 8 ~~docketed shall become a lien upon the title to and interest~~
 9 ~~in real property or chattels real of the employer against~~
 10 ~~whom it is filed in the same manner as a judgment docketed~~
 11 ~~in the office of such clerk.~~

12 (3) ~~The sheriff shall thereupon proceed upon the same~~
 13 ~~in all respects, with like effect, and in the same manner~~
 14 ~~prescribed by law in respect to executions issued against~~
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COMMITTEE OF THE WHOLE AMENDMENT

3251110b.cw

HOUSE

3-25-85

DATE

11:10

TIME

MR. CHAIRMAN: I MOVE TO AMEND Senate Bill No. 337

3rd reading copy (blue) as follows:
Color

- 1. Page 3, line 24.
- Strike: "The"
- Insert: "After the due process requirements of sections 39-51-1109 and 39-51-2403 have been satisfied, the"

ADOPT

REJECT

39A

[Handwritten signature]

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