

IN THE HOUSE

FEBRUARY 10, 1987

ON MOTION, REQUEST OF SENATE GRANTED
FOR RETURN OF HB NO. 170 FOR
FURTHER CONSIDERATION.

RETURNED TO SENATE.

IN THE SENATE

FEBRUARY 11, 1987

RECEIVED FROM HOUSE.

REFERRED TO COMMITTEE ON
LABOR & EMPLOYMENT RELATIONS.

MARCH 21, 1987

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 26, 1987

SECOND READING, CONCURRED IN.

MARCH 28, 1987

THIRD READING, CONCURRED IN.
AYES, 50; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 7, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 8, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 HB BILL NO. 170
2 INTRODUCED BY James C. Smith

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE PROVISION
5 DEFINING PRIORITY DATE AND ESTABLISHING LIEN PRIORITY OF
6 WITHHOLDING TAXES; AMENDING SECTION 15-30-208, MCA; AND
7 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
8 DATE."
9

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

11 Section 1. Section 15-30-208, MCA, is amended to read:

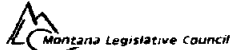
12 "15-30-208. Withheld taxes held in trust for state --
13 warrants to collect. (1) Every employer who deducts and
14 withholds any amounts under the provisions of 15-30-201
15 through 15-30-209 shall hold the same in trust for the state
16 of Montana.

17 (2) If any tax imposed by 15-30-201 through 15-30-209
18 or any portion of such tax is not paid when due, the
19 department may issue a warrant for distraint as provided in
20 Title 15, chapter 1, part 7. ~~The priority date of the tax~~
21 ~~lien created by filing the warrant for distraint is the date~~
22 ~~the tax was due as indicated on the warrant for distraint."~~

23 NEW SECTION. Section 2. Extension of authority. Any
24 existing authority of the department of revenue to make
25 rules on the subject of the provisions of this act is

1 extended to the provisions of this act.
2 NEW SECTION. Section 3. Effective date --
3 applicability. This act if effective on passage and approval
4 and applies to taxes due after December 31, 1986.

-End-



-2- INTRODUCED BILL
HB-170

RE-REFERRED AND
APPROVED BY COMM. ON
BUSINESS AND LABOR

1 HB BILL NO. 170
2 INTRODUCED BY James C. Smith

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE PROVISION
5 DEFINING PRIORITY DATE AND ESTABLISHING LIEN PRIORITY OF
6 WITHHOLDING TAXES; AMENDING SECTION 15-30-208, MCA; AND
7 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
8 DATE."

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14 withholds any amounts under the provisions of 15-30-201
15 through 15-30-209 shall hold the same in trust for the state
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19 department may issue a warrant for distraint as provided in
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22 ~~the tax was due as indicated on the warrant for distraint."~~

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24 existing authority of the department of revenue to make
25 rules on the subject of the provisions of this act is

1 extended to the provisions of this act.

2 NEW SECTION. Section 3. Effective date --
3 applicability. This act if effective on passage and approval
4 and applies to taxes due after December 31, 1986.

-End-



1 HB BILL NO. 170
2 INTRODUCED BY James C. Smith

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE PROVISION
5 DEFINING PRIORITY DATE AND ESTABLISHING LIEN PRIORITY OF
6 WITHHOLDING TAXES; AMENDING SECTION 15-30-208, MCA; AND
7 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
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15 through 15-30-209 shall hold the same in trust for the state
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18 or any portion of such tax is not paid when due, the
19 department may issue a warrant for distraint as provided in
20 Title 15, chapter 1, part 7. ~~The priority date of the tax~~
21 ~~lien created by filing the warrant for distraint is the date~~
22 ~~the tax was due as indicated on the warrant for distraint."~~

23 NEW SECTION. Section 2. Extension of authority. Any
24 existing authority of the department of revenue to make
25 rules on the subject of the provisions of this act is

1 extended to the provisions of this act.
2 NEW SECTION. Section 3. Effective date --
3 applicability. This act if effective on passage and approval
4 and applies to taxes due after December 31, 1986.

-End-



-2- THIRD READING
HB-170

HOUSE BILL NO. 170

INTRODUCED BY JONES, C. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~REPEAL~~ THE PROVISIONS ~~DEFINING PRIORITY DATE AND ESTABLISHING LIEN PRIORITY OF WITHHOLDING TAXES~~ PROVIDE THAT THE LIEN ON REAL OR PERSONAL PROPERTY CREATED BY A WARRANT FOR DISTRAINT IS NOT VALID AGAINST A THIRD PARTY WHO RECEIVED AN AFFIDAVIT FROM THE MOST RECENT GRANTOR CONFIRMING THAT ALL TAXES, ASSESSMENTS, PENALTIES, AND INTEREST DUE HAVE BEEN PAID; AMENDING SECTION 15-30-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-30-208, MCA, is amended to read:

"15-30-208. Withheld taxes held in trust for state -- warrants to collect. (1) Every employer who deducts and withholds any amounts under the provisions of 15-30-201 through 15-30-209 shall hold the same in trust for the state of Montana.

(2) If any tax imposed by 15-30-201 through 15-30-209 or any portion of such tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. ~~The priority date of the tax lien created by filing the warrant for distraint is the date~~

~~the tax was due as indicated on the warrant for distraint.~~ THE PRIORITY DATE OF THE TAX LIEN CREATED BY FILING THE WARRANT FOR DISTRAINT IS THE DATE THE TAX WAS DUE AS INDICATED ON THE WARRANT FOR DISTRAINT.

(3) THE TAX LIEN PROVIDED FOR IN SUBSECTION (2) IS NOT VALID AGAINST ANY THIRD PARTY OWNING AN INTEREST IN THE REAL OR PERSONAL PROPERTY WHOSE INTEREST IS RECORDED PRIOR TO THE FILING OF THE WARRANT FOR DISTRAINT IF THE THIRD PARTY RECEIVES FROM THE MOST RECENT GRANTOR OF THE INTEREST AN AFFIDAVIT STATING THAT ALL TAXES, ASSESSMENTS, PENALTIES, AND INTEREST DUE FROM THE GRANTOR HAVE BEEN PAID.

(4) A GRANTOR WHO SIGNS AND DELIVERS TO THE THIRD PARTY AN AFFIDAVIT AS PROVIDED IN SUBSECTION (3) IS SUBJECT TO THE PENALTIES IMPOSED BY 15-30-321(3) IF ANY PART OF THE AFFIDAVIT IS UNTRUE. NOTWITHSTANDING THE PROVISIONS OF 15-30-321(3), THE DEPARTMENT MAY BRING AN ACTION AS PROVIDED FOR IN THAT SUBSECTION IN THE NAME OF THE STATE TO RECOVER THE CIVIL PENALTY AND ANY DELINQUENT TAXES."

NEW SECTION. Section 2. Extension of authority. Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 3. Effective date -- applicability. This act is effective on passage and approval and applies to taxes due ~~after December 31, 1986~~ ON AND



HB 0170/02

1 AFTER THE EFFECTIVE DATE OF THIS ACT.

-End-

STANDING COMMITTEE REPORT

Labor
HB 170
Page 2

March 19, 1987

SENATE

March 19, 1987

MR. PRESIDENT

We, your committee on LABOR AND EMPLOYMENT RELATIONS

having had under consideration HOUSE BILL No. 170

third reading copy (blue color)

DELETE PROVISION SETTING LIEN PRIORITY OF WITHOLDING TAXES

JONES (GAGE)

- 3. Page 2, line 4.
Following: "due"
Strike: "after December 31, 1986"
Insert: "on and after the effective date of this act"

Respectfully report as follows: That HOUSE BILL No. 170 be amended as follows:

- Title, lines 4 through 6.
Following: "AN ACT TO" on line 4
Strike: remainder of line 4 through "TAXES" on line 6
Insert: "PROVIDE THAT THE LIEN ON REAL OR PERSONAL PROPERTY CREATED BY A WARRANT FOR DISTRAINT IS NOT VALID AGAINST A THIRD PARTY WHO RECEIVED AN AFFIDAVIT FROM THE MOST RECENT GRANTOR CONFIRMING THAT ALL TAXES, ASSESSMENTS, PENALTIES, AND INTEREST DUE HAVE BEEN PAID"
- Page 1, line 22.
Following: "~~distrainr~~"
Insert: "The priority date of the tax lien created by filing the warrant of distraint is the date the tax was due as indicated on the warrant for distraint.
(3) The tax lien provided for in subsection (2) is not valid against any third party owning an interest in the real or personal property whose interest is recorded prior to the filing of the warrant for distraint if the third party receives from the most recent grantor of the interest an affidavit stating that all taxes, assessments, penalties, and interest due from the grantor have been paid.
(4) A grantor who signs and delivers to the third party an affidavit as provided in subsection (3) is subject to the penalties imposed by 15-30-321 (3) if any part of the affidavit is untrue. Notwithstanding the provisions of 15-30-321 (3), the department may bring an action as provided for in that subsection in the name of the state to recover the civil penalty and any delinquent taxes."

DO PASS (CONTINUED)

DO NOT PASS

5-20-3

MB

AND AS AMENDED,
BE CONCURRED IN

Chairman

Sen. John "J.D." Lynch Chairman