

HB 800 INTRODUCED BY RAPP-SVRCEK, ET AL.
ALLOW DISCHARGE OF SUPPORT DELINQUENCIES IN CERTAIN
INCOME WITHHOLDING CASES

2/17	INTRODUCED		
2/17	REFERRED TO JUDICIARY		
2/20	HEARING		
2/21	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/24	2ND READING PASSED	99	0
2/24	3RD READING PASSED	100	0
	TRANSMITTED TO SENATE		
3/02	REFERRED TO JUDICIARY		
3/13	HEARING		
3/16	ADVERSE COMMITTEE REPORT ADOPTED	47	2
3/19	RETURNED TO HOUSE NOT CONCURRED		

1 (2) If the obligor requests a hearing within the time
2 allowed, income withholding may not take effect until the
3 conclusion of the hearing or the date of the hearing if the
4 obligor fails to appear at a scheduled hearing.

5 (3) Venue for the administrative hearing may be in the
6 county where the obligor resides if the obligor resides in
7 this state, the county in which the payor or the payor's
8 agent is located, or the county in which the department or
9 any of its regional offices is located.

10 (4) The administrative hearing must be held by
11 teleconferencing methods unless the obligor or the
12 department expressly requests an in-person hearing before
13 the hearing examiner.

14 (5) For purposes of the hearing process, arrearages of
15 support must be computed on the basis of the amount owed and
16 unpaid on the date the obligor was served with the notice of
17 intent to withhold income, and the fact that the obligor may
18 have later paid the arrearage does not remove from the
19 hearing examiner the authority to direct the department to
20 order income withholding, except as provided in 40-5-413(3).

21 (6) The obligor within 45 days of service of the
22 notice of intent to withhold income must be informed of the
23 hearing decision on whether income withholding will take
24 place."

25 NEW SECTION. Section 3. Extension of authority. Any

1 existing authority of the department of revenue to make
2 rules on the subject of the provisions of this act is
3 extended to the provisions of this act.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 800

INTRODUCED BY RAPP-SVRCEK, ADDY, MERCER, HANNAH

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW DISCHARGE OF
SUPPORT DELINQUENCIES IN CERTAIN ADMINISTRATIVE INCOME
WITHHOLDING CASES; AND AMENDING SECTIONS SECTION 40-5-413
AND 40-5-414, MCA."

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

Section 1. Section 40-5-413, MCA, is amended to read:

"40-5-413. Notice of intent to withhold income --
discharge of delinquency. (1) Prior to service of an order
on the payor to commence income withholding, the department
shall serve upon the obligor a notice of the intended
withholding action. The notice must contain a statement:

(a) of the amount to be withheld, including a
computation showing the period and total amount of the
arrearages as of the date of the notice;

(b) that withholding applies to all current and
subsequent payors;

(c) of the obligor's right to a hearing under 40-5-414
to contest the implementation of income withholding on the
ground that withholding, including the amounts to be
withheld, is not proper because of mistake of fact; and

(d) of the period of time within which the obligor

must request a hearing and that failure to request the
hearing within the time limit will result in income
withholding orders being served upon the payor.

(2) The notice must be served upon the obligor
personally or by certified mail.

(3) If at any time before an order to withhold and
deliver income is issued under 40-5-415 an obligor who has
not previously been served with a notice of intent to
withhold income pays the total amount of support payments
due and payable plus an amount equal to or in excess of 1
month's support payment, no order to withhold income may be
made by the department and the withholding proceedings must
be terminated. This discharge of delinquency does not
affect or otherwise limit any action based upon any
subsequent delinquencies.

(4) The name of an obligor whose delinquencies are
discharged under subsection (3) must be removed from any
list of offenders kept by the department."

Section 2. Section 40-5-414, MCA, is amended to read:
"40-5-414. Hearing. (1) The obligor may within 10
days of being served with notice of the intended income
withholding under 40-5-413 file with the department a
written request for an administrative hearing to be held
pursuant to the contested case provisions of Title 2,
chapter 4, part 6.

1 ~~{2}--If the obligor requests a hearing within the time~~
 2 ~~allowed, income withholding may not take effect until the~~
 3 ~~conclusion of the hearing or the date of the hearing if the~~
 4 ~~obligor fails to appear at a scheduled hearing.~~

5 ~~{3}--Venue for the administrative hearing may be in the~~
 6 ~~county where the obligor resides if the obligor resides in~~
 7 ~~this state, the county in which the payor or the payor's~~
 8 ~~agent is located, or the county in which the department or~~
 9 ~~any of its regional offices is located.~~

10 ~~{4}--The administrative hearing must be held by~~
 11 ~~teleconferencing methods unless the obligor or the~~
 12 ~~department expressly requests an in person hearing before~~
 13 ~~the hearing examiner.~~

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 15 ~~support must be computed on the basis of the amount owed and~~
 16 ~~unpaid on the date the obligor was served with the notice of~~
 17 ~~intent to withhold income, and the fact that the obligor may~~
 18 ~~have later paid the arrearage does not remove from the~~
 19 ~~hearing examiner the authority to direct the department to~~
 20 ~~order income withholding, except as provided in 40-5-413{3}.~~

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 22 ~~notice of intent to withhold income must be informed of the~~
 23 ~~hearing decision on whether income withholding will take~~
 24 ~~place."~~

25 NEW SECTION. Section 2. Extension of authority. Any

1 existing authority of the department of revenue to make
 2 rules on the subject of the provisions of this act is
 3 extended to the provisions of this act.

-End-

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15 withholding action. The notice must contain a statement:

16 (a) of the amount to be withheld, including a
17 computation showing the period and total amount of the
18 arrearages as of the date of the notice;

19 (b) that withholding applies to all current and
20 subsequent payors;

21 (c) of the obligor's right to a hearing under 40-5-414
22 to contest the implementation of income withholding on the
23 ground that withholding, including the amounts to be
24 withheld, is not proper because of mistake of fact; and

25 (d) of the period of time within which the obligor

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11 month's support payment, no order to withhold income may be
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