

1 HOUSE BILL NO. 442
2 INTRODUCED BY McLennan
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT FINES,
5 FORFEITURES, AND PENALTIES IMPOSED BY STATE TAX LAWS BE
6 DEPOSITED IN THE COUNTY GENERAL FUND; AMENDING SECTIONS
7 15-1-105, 15-17-322, 15-17-911, AND 15-18-114, MCA; AND
8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 15-1-105, MCA, is amended to read:

12 "15-1-105. Fines and forfeitures to county. All fines,
13 forfeitures, and penalties ~~incurred by a violation of any of~~
14 ~~the provisions of the~~ imposed by state tax laws, except
15 those paid to a justice's court, must be paid into the
16 ~~treasury for the use of~~ county general fund of the county
17 where the person against whom the recovery is had resides
18 or, in a case involving real or personal property, the
19 county where the property is located."

20 **Section 2.** Section 15-17-322, MCA, is amended to read:

21 "15-17-322. Disposition of money from tax sale. All
22 money received from purchasers for delinquent taxes,
23 penalties, interest, and costs must be deposited in the
24 county treasury. The money received, other than costs or
25 penalties, must be credited to the various funds to which

1 the taxes would have originally been distributed and in the
2 same proportion as the taxes would have originally been
3 distributed. Any money received for costs or penalties or
4 any money remaining after crediting the separate funds must
5 be deposited to the credit of the county general fund."

6 **Section 3.** Section 15-17-911, MCA, is amended to read:

7 "15-17-911. Sale of personal property for delinquent
8 taxes -- fee -- disposition of proceeds -- unsold property.
9 (1) The tax on personal property may be collected and
10 payment enforced by the seizure and sale of any personal
11 property in the possession of the person assessed. Seizure
12 and sale are authorized at any time after the date the taxes
13 become delinquent or by the institution of a civil action
14 for its collection in any court of competent jurisdiction.
15 A resort to one method does not bar the right to resort to
16 any other method. Any of the methods provided may be used
17 until the full amount of the tax is collected.

18 (2) The provisions of 15-16-113 and this section apply
19 to a seizure and sale under subsection (1).

20 (3) A sale under subsection (1) must be at public
21 auction. The minimum bid for any property offered for sale
22 must be of a sufficient amount to pay the delinquent taxes,
23 including penalties, interest, and costs.

24 (4) For seizing and selling personal property, the
25 treasurer shall charge \$25, plus the mileage allowance

provided by law to the sheriff, plus reasonable expenses for seizing, handling, keeping, or caring for any property so seized. The charge and other costs may be charged only when property is actually seized and offered for sale or sold.

(5) On payment of the price bid for any property sold as provided in this section, delivery of the property, with a bill of sale, vests the title of the property in the purchaser.

(6) (a) All money collected from the sale of property in liquidation of the delinquency, including delinquent taxes, ~~penalties~~, and interest but not costs or penalties, must be credited by the treasurer to the appropriate funds. Costs and penalties must be deposited to the credit of the county general fund.

(b) Any money collected in excess of the delinquent tax, penalties, interest, costs, and charges must be returned to the person owning the property prior to the sale, if known. If the person does not claim the excess immediately following the sale, the treasurer shall deposit the money in the county treasury for a period of 1 year from the date of sale. If the person has not claimed the excess within 1 year from the date of sale, the county treasurer shall deposit the amount in the county general fund and the person has no claim to it ~~thereafter~~ after deposit.

(7) Any property seized for the purpose of liquidating

a delinquency by a tax sale that remains unsold following a sale may be left at the place of sale at the risk of the owner."

Section 4. Section 15-18-114, MCA, is amended to read:

"15-18-114. Distribution of redemption proceeds. (1) When a property tax lien for which the county is listed as purchaser is redeemed, the money received from the redemption, including ~~penalties and~~ interest but not costs or penalties, must be distributed to the credit of the various funds to which the taxes would have originally been distributed and in the same proportion as the taxes would have originally been distributed. Costs and penalties must be distributed to the credit of the county general fund.

(2) (a) When a property tax lien for which the recorded purchaser is other than the county is redeemed, the money received from the redemption, including penalties and interest but not costs, must be distributed to the person listed as the purchaser on the tax sale certificate and in the record kept by the county treasurer.

(b) (i) The distribution must be made by certified mail by the county treasurer to the purchaser at the address listed on the tax sale certificate as provided in 15-17-212(1)(e).

(ii) If the money distributed to the purchaser is returned unopened to the county treasurer, the treasurer

1 shall publish once a week for 2 consecutive weeks in the
2 official newspaper of the county a notice stating that:

3 (A) the county treasurer is in possession of money
4 belonging to the purchaser for the redemption of the
5 delinquency on the property named in the tax sale
6 certificate;

7 (B) the money will be held by the county treasurer for
8 a period of 1 year from the date of publication; and

9 (C) if the money is not claimed by the purchaser
10 within the 1-year period, the purchaser relinquishes all
11 claim to the money and the money will be credited to the
12 county general fund.

13 (3) The publication required in subsection (2)(b)(ii)
14 must be made at least annually, but the 1-year period
15 described in subsection (2)(b)(ii)(B) may not begin until
16 the date of publication.

17 (4) The county treasurer shall keep an accurate
18 account of all money paid in redemption, including a
19 separate accounting of other delinquent taxes, interest,
20 penalties, and costs, and when and to whom distributed."

21 NEW SECTION. **Section 5.** Extension of authority. Any
22 existing authority to make rules on the subject of the
23 provisions of [this act] is extended to the provisions of
24 [this act].

25 NEW SECTION. **Section 6.** Effective date. [This act] is

1 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB442, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

HB442 would provide that fines, forfeitures and penalties imposed by state tax laws be deposited in the county general fund.

ASSUMPTIONS:

1. Under current law, the fines, forfeitures and penalties are paid into the county treasury for distribution to the various taxing jurisdictions, including cities and school districts.
2. Under proposed law, the fines, forfeitures and penalties would be deposited in the county general fund for county use.
3. No fiscal assumptions regarding the impact of proposed law on local tax jurisdictions can be made due to inadequate data.
4. There is no state fiscal impact.

FISCAL IMPACT: None for state.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Cities, school districts and other local taxing jurisdictions will lose a proportionate share of fines, and the extent of the impact is unknown.



2/2/89

RAY/SHACKLEFORD BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING



LLOYD J. MCCORMICK, PRIMARY SPONSOR

DATE

Fiscal Note for HB442, as introduced

HB 442