

HOUSE BILL 686

Introduced by Driscoll, et al.

3/18	Introduced
3/18	Referred to Workers' Compensation Select Committee
3/18	First Reading
3/18	Fiscal Note Requested
3/19	Hearing
3/22	Fiscal Note Received
3/22	Fiscal Note Printed
3/26	Missed Transmittal Deadline

1 House BILL NO. 686
2 INTRODUCED BY Orinell, H. J. Egan
3 BY REQUEST OF THE HOUSE SELECT COMMITTEE ON
4 WORKERS' COMPENSATION

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE
7 APPLICABILITY OF THE WORKERS' COMPENSATION EMPLOYER PAYROLL
8 TAX; AMENDING SECTIONS 39-71-2501 AND 39-71-2503, MCA; AND
9 PROVIDING AN EFFECTIVE DATE."
10

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

12 **Section 1.** Section 39-71-2501, MCA, is amended to read:

13 "39-71-2501. Definitions. As used in this part, the
14 following definitions apply:

15 (1) "Department" means the department of revenue
16 provided for in 2-15-1301.

17 (2) "Employer" has the meaning set forth in 39-71-117.

18 (3) "Payroll" means the payroll of an employer for each
19 of the calendar quarters ending March 31, June 30, September
20 30, and December 31, ~~for all employments covered under~~
21 ~~39-71-401.~~

22 (4) "State fund" means the state compensation mutual
23 insurance fund.

24 (5) "Tax" means the workers' compensation payroll tax
25 provided for in 39-71-2503.

1 (6) "Tax account" means the workers' compensation tax
2 account created by 39-71-2504."

3 **Section 2.** Section 39-71-2503, MCA, is amended to read:

4 "39-71-2503. Workers' compensation payroll tax. (1) (a)
5 ~~There~~ Unless prohibited by federal law, there is imposed on
6 each employer a workers' compensation payroll tax in an
7 amount equal to 0.28% of the employer's payroll in the
8 preceding calendar quarter ~~for all employments covered under~~
9 ~~39-71-401~~, except that if an employer is subject to
10 15-30-204(2), the tax is an amount equal to 0.28% of the
11 employer's payroll in the preceding week. This payroll tax
12 must be used to reduce the unfunded liability in the state
13 fund incurred for claims for injuries resulting from
14 accidents that occurred before July 1, 1990. If one or more
15 loans or bonds are outstanding, the tax must be continued at
16 the 0.28% rate and the legislature may not modify the tax
17 rate, the use of the tax proceeds, or this section in a
18 manner that reduces the security for repayment of the
19 outstanding loans or bonds, except that the legislature may
20 forgive payment of the tax or reduce the tax rate for any
21 12-month period if the workers' compensation bond repayment
22 account contains on the first day of that period an amount,
23 regardless of the source, that is in excess of the reserve
24 maintained in the account and that is equal to the amount
25 needed to pay and dedicated to the payment of the principal,

1 premium, and interest that must be paid during that period
2 on the outstanding loans or bonds. The legislature may not
3 increase the tax rate except upon a two-thirds vote of each
4 house.

5 (b) Each employer shall maintain the records the
6 department requires concerning the employer's payroll. The
7 records are subject to inspection by the department and its
8 employees and agents during regular business hours.

9 (2) All collections of the tax are appropriated to and
10 must be deposited as received in the tax account. The tax is
11 in addition to any other tax or fee assessed against
12 employers subject to the tax.

13 (3) (a) On or before the last day of April, July,
14 October, and January, each employer subject to the tax shall
15 file a return in the form and containing the information
16 required by the department and, except as provided in
17 subsection (3)(b), pay the amount of tax required by this
18 section to be paid on the employer's payroll for the
19 preceding calendar quarter.

20 (b) An employer subject to 15-30-204(2) shall remit to
21 the department a weekly payment with its weekly withholding
22 tax payment in the amount required by subsection (1)(a).

23 (c) A tax payment required by subsection (1)(a) must be
24 made with the return filed pursuant to 15-30-204. The
25 department shall first credit a payment to the liability

1 under 15-30-202 and credit any remainder to the workers'
2 compensation tax account provided in 39-71-2504.

3 (4) An employer's officer or employee with the duty to
4 collect, account for, and pay to the department the amounts
5 due under this section who willfully fails to pay an amount
6 is liable to the state for the unpaid amount and any penalty
7 and interest relating to that amount.

8 (5) Returns and remittances under subsection (3) and
9 any information obtained by the department during an audit
10 are subject to the provisions of 15-30-303, but the
11 department may disclose the information to the department of
12 labor and industry under circumstances and conditions that
13 ensure the continued confidentiality of the information.

14 (6) The department of labor and industry and the state
15 fund shall, on July 1, 1991, or as soon after that date as
16 possible, give the department a list of all employers having
17 coverage under any plan administered or regulated by the
18 department of labor and industry and the state fund. After
19 the lists have been given to the department, the department
20 of labor and industry and the state fund shall update the
21 lists weekly. The department of labor and industry and the
22 state fund shall provide the department with access to their
23 computer data bases and paper files and records for the
24 purpose of the department's administration of the tax
25 imposed by this section.

1 (7) The provisions of Title 15, chapter 30, not in
2 conflict with the provisions of this part regarding
3 administration, remedies, enforcement, collections,
4 hearings, interest, deficiency assessments, credits for
5 overpayment, statute of limitations, penalties, and
6 department rulemaking authority apply to the tax, to
7 employers, and to the department."

8 NEW SECTION. **Section 3.** Effective date. [This act] is
9 effective July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0686, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act extending the applicability of the workers' compensation employer payroll tax, and providing an effective date.

ASSUMPTIONS:

1. Fiscal year payroll tax collections at a 0.28 percent tax rate were \$12,759,456 and \$14,067,435, respectively for FY91 and FY92 (SBAS). The rate of increase between fiscal years is considered anomalous due to a change in administration of payroll tax collections.
2. The current law payroll tax base increases for FY94 and FY95 will be according to the linear trend in payroll computed for the period 1975-1991, adjusted for actual collections history. The implicit annual growth rate is approximately 3.5%.
3. Projected current law payroll tax collections (rounded to the nearest thousand \$) are \$15,019,000 for FY94 and \$15,535,000 for FY95 ("Workers' Compensation Payroll Tax Report", (November 1992), Office of Budget and Program Planning and Department of Revenue).
4. The taxation of interstate railroad employers in terms of a payroll tax is assumed not prohibited by federal law.
5. The potential payroll tax collections from casual employment, family workers, persons working for room and board only, athletic event officials, newspaper carriers, free-lance correspondents, and currently voluntarily exempted corporate officers, are small and assumed zero for revenue estimating purposes.
6. For revenue estimating purposes, the added payroll tax base will consist of railroad payroll and household workers' payroll. This combined payroll is assumed to remain essentially constant between FY91 and FY95, after an up and down history between 1980 and 1991.
7. There will be administrative expenses in FY93 related to the notification of employers of a payroll tax base change.

FISCAL IMPACT:Expenditures:

FY93 start-up costs are estimated to be \$12,600, funded from the workers' compensation payroll tax account.

Revenues:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Workers' Comp. Payroll Tax	\$15,019,000	\$ 15,489,000	\$ 470,000	\$15,535,000	\$ 16,005,000	\$ 470,000

David Lewis 3-22-93
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

*This fiscal note is in order
 any this session*
 JERRY L. DRISCOLL, PRIMARY SPONSOR DATE

Fiscal Note for HB0686, as introduced.

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