

1999 HOUSE FINANCE AND TAXATION

HB 1112

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1112

House Finance and Taxation Committee

Conference Committee

Hearing Date January 12, 1999

Tape Number	Side A	Side B	Meter #
1	x		6 - 10
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

REP. BELTER Opened the hearing.

DONNITA WALD, SPECIAL ASST. ATTORNEY GENERAL, OFFICE OF STATE TAX COMMISSIONER, Testified in support of the bill. See attached written testimony.

With no further testimony, the hearing was closed.

COMMITTEE ACTION Tape #1, Side A, Meter # 18.1

REP. NICHOLAS Made a motion for a DO PASS.

REP. WARNER Second the motion. MOTION CARRIED

15 Yes 0 No 0 Absent

REP. WINRICH Was given the floor assignment.

Please type or use black pen to complete

Date 1-12-99

Roll call vote # 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1112

House HOUSE FINANCE & TAX Committee

Subcommittee on _____

Conference Committee

} Identify or check where appropriate

Legislative Council Amendment Number _____

Action Taken Do pass

Motion Made By Rep. Nicholas Seconded By Rep. Warner

Representatives	Yes	No	Representatives	Yes	No
BELTER	✓		WINRICH	✓	
RENNERFELDT	✓				
CLARK	✓				
FROELICH	✓				
GRANDE	✓				
GROSZ	✓				
HERBEL	✓				
KROEBER	✓				
MICKELSON	✓				
NICHOLAS	✓				
RENNER	✓				
SCHMIDT	✓				
WARNER	✓				
WIKENHEISER	✓				

Total 15 0
(Yes) (No)

Absent 0

Floor Assignment Rep. Winrich

If the vote is on an amendment, briefly indicate intent:

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE (410)
January 12, 1999 1:29 p.m.

Module No: HR-06-0510
Carrier: Winrich
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1112: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1112 was placed on the Eleventh order on the calendar.

1999 SENATE FINANCE AND TAXATION

HB 1112

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1112

Senate Finance and Taxation Committee

Conference Committee

Hearing Date 2-3-99

Tape Number	Side A	Side B	Meter #
HB 1112	A		1380-2000
Committee Clerk Signature <i>Donnita Wald</i>			

Minutes:

Sen Urlacher opened the hearing on HB 1112. A BILL RELATING TO BOND REQUIREMENTS FOR INCOME TAX WITHHOLDING PURPOSES.

Donnita Wald - Submitted testimony and it is attached. The testimony is in support of HB 1112.

A MOTION TO DO PASS WAS MADE BY SEN STENEHJEM, AND SECONDED BY SEN. CHRISTMANN. 7 Y - 0 N - 0 ABSENT. SEN. WARDNER WILL BE CARRIER.

Date: 2/3/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1112

Senate Senate Finance and Taxation Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number Do Pass

Action Taken _____

Motion Made By Sen Stenehjem Seconded By Sen Christmann

Senators	Yes	No	Senators	Yes	No
SENATOR URLACHER	✓				
SENATOR CHRISTMANN	✓				
SENATOR SCHOBINGER	✓				
SENATOR STENEHJEM	✓				
SENATOR WARDNER	✓				
SENATOR KINNOIN	✓				
SENATOR KROEPLIN	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment Sen. Wardner

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 3, 1999 4:27 p.m.

Module No: SR-22-1804
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1112: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (7 YEAS, 00 NAYS, 0 ABSENT AND NOT VOTING). HB 1112 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

HB 1112

**TESTIMONY BEFORE THE
HOUSE FINANCE AND TAXATION COMMITTEE
ON HOUSE BILL 1112**

January 12, 1999

Chairman Belter, members of the House Finance and Taxation Committee, my name is Donnita Wald, Special Assistant Attorney General for the Office of State Tax Commissioner. I am here today to testify in support of House Bill 1112 which was introduced at the request of the Tax Commissioner.

As committee members may know, bonds can be required by the state tax commissioner, as a precedent for receiving certain state tax permits. In most sections of the code, the bond requirement is at the discretion of the tax commissioner. There is one exception, and that is within the withholding chapter of the code. In the withholding tax law, an employer who has not "continuously maintained a domicile in this state for a period of one full year from January first to December thirty-first" is **required** by law to post a bond. Also, like other tax types, the withholding tax law provides that a bond **may be** required of any other employer at the discretion of the tax commissioner. The amount of the bond is to be set in an amount which is reasonably calculated to ensure payment to the state of income taxes withheld.

House Bill 1112 originated from an internal Tax Department committee which was charged with reviewing the processes and procedures of our collections and compliance sections. The team is forwarding this bill for your consideration, for the following reasons:

- This law currently singles out “non-domiciled” employers for an extra requirement. It raises questions about the impression the state is giving to potential new employers, whose tax history is unblemished. Commissioner Clayburgh reports that he has received correspondence from potential employers who are disgusted at the “anti outside business” nature of this requirement.
- The bonding requirements of the withholding tax law has no “teeth.” If the employer wants to ignore the bond requirement and set-up shop in North Dakota, it can do so while still ignoring the state’s requirement to post a bond - there is no enforcement mechanism - the likes of which exist with other tax types. The question becomes, “why anger potential employers over a requirement over which they could, in theory, thumb their noses at.”
- The current law raises significant constitutional concerns under the interstate commerce clause, because it treats in- and out-of-state employers differently.

If passed, withholding bonding requirements would be made just like those of all other tax types, at the discretion of the tax commissioner. We ask for your favorable consideration of HB

1112.

**TESTIMONY BEFORE THE
SENATE FINANCE AND TAXATION COMMITTEE
ON HOUSE BILL 1112**

February 3, 1999

Chairman Urlacher, members of the Senate Finance and Taxation Committee, my name is Donnita Wald, Special Assistant Attorney General for the Office of State Tax Commissioner. I am here today to testify in support of House Bill 1112 which was introduced at the request of the Tax Commissioner.

As committee members may know, bonds can be required by the state tax commissioner as a precedent for receiving certain state tax permits. In most sections of the code, the bond requirement is at the discretion of the tax commissioner. There is one exception, and that is within the income tax withholding chapter of the code. In the withholding tax law, an employer who has not "continuously maintained a domicile in this state for a period of one full year from January first to December thirty-first" is **required** by law to post a bond. Also, like other tax types, the withholding tax law provides that a bond **may be** required of any other employer at the discretion of the tax commissioner. The amount of the withholding tax bond is to be set in an amount which is reasonably calculated to ensure payment to the state of income taxes withheld.

House Bill 1112 originated from an internal Tax Department committee which was charged with reviewing the processes and procedures of our collections and compliance sections. The team is forwarding this bill for your consideration, for the following reasons:

- This law currently singles out “non-domiciled” employers for an extra requirement. It raises questions about the impression the state is giving to potential new employers, whose tax history is unblemished. Commissioner Clayburgh reports that he has received correspondence from potential employers who are disgusted at the “anti outside business” nature of this requirement.
- The bonding requirements of the withholding tax law has no “teeth.” If the employer wants to ignore the bond requirement and set-up shop in North Dakota, it can do so while still ignoring the state’s requirement to post a bond - there is no enforcement mechanism - the likes of which exist with other tax types. The question becomes, “why anger potential employers over a requirement over which they could, in theory, thumb their noses at.”
- The current law raises significant constitutional concerns under the interstate commerce clause, because it treats in- and out-of-state employers differently.

If passed, withholding bonding requirements would be made just like those of all other tax types, at the discretion of the tax commissioner. We ask for your favorable consideration of HB 1112.
