



DIVISION OF RESEARCH MEMORANDUM

To: Interested Parties
From: Deborah Gottschalk & Rich Dillard, Senior Legislative Attorneys, Division of Research
Date: 03/08/2022
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Re: Considerations for Mandatory Introduction of Revenue Raising Bills in the House of Representatives

QUESTION PRESENTED

When is an Act a “bill for raising revenue” within the meaning of § 2 of Article VIII of the Delaware Constitution and therefore required to be introduced in the House of Representatives?

DISCUSSION

Section 2 of Article VIII of the Delaware Constitution states:

All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose alterations as on other bills; and no bill from the operation of which, when passed into a law, revenue may incidentally arise shall be accounted a bill for raising revenue; nor shall any matter or cause whatever not immediately relating to and necessary for raising revenue be in any manner blended with or annexed to a bill for raising revenue.

*Yourison v. State*¹ is directly on point regarding the interpretation of this provision as to whether a bill which is raising revenue must start in the House. The question in *Yourison* was whether a bill requiring a license fee to regulate boats carrying fishing parties for hire was a bill for raising revenue and thus had to have originated in the House.

¹ *Yourison v. State*, 33 Del. 577 (Del. Super 1927).

The *Yourison* court stated that a bill must be introduced in the House if the act imposes taxes for the general use of the government or if it extracts money from persons for which they receive nothing in return.²

The Act before the *Yourison* court directed the money from the licensing fees to a fund that was used by the Board of Game and Fish Commissioners for activities related to the enforcement of game and fish laws and restocking game and fish. Thus, the court held the Act “is not to be used to defray the general expenses of the government, but only for the purposes specified” and that “no citizen is required to license a boat for carrying out fishing parties” and “may decide for himself whether he desires to engage in the business of carrying out fishing parties, for hire, in a boat.”³

The *Yourison* court also quoted a Montana decision that stated:

The real distinction between a bill for raising revenue, and a bill providing for the licensing of a particular business, is the distinction between a general tax imposed on all citizens, or on all property of a designated class, on the one hand, and a license fee or tax which the citizen may pay or not at his pleasure, depending upon whether he desires the privilege covered by the license.⁴

Another factor in *Yourison* was where the revenue from the Act goes. The court found 3 cases cited by the plaintiff did not control because funds either went to the public treasury for all purposes or because it did not appear “that the funds raised were to be placed under the full control of a commission.”⁵

With these standards in mind, the *Yourison* court ultimately concluded that the Act was not a bill for raising revenue.

In 1967, the Justices of the Delaware Supreme Court were asked by the Governor whether a bill which allowed Vocational-Technical school districts to levy and collect taxes for local school purposes was required to have been introduced in the House.⁶ The Justices stated that because the bill had been

² *Id.* at 580.

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 581.

⁶ Opinion of the Justices 233 A.2d 59 (Del. 1967).

passed by the General Assembly and signed into law by the Governor, under the Enrolled Bill Doctrine “the regularity of the legislative action leading to the enactment ordinarily would be conclusively presumed.”⁷ But, since this was not an ordinary case, but rather a question asked by the Governor, the Justices provided an analysis as if there was no Enrolled Bill Doctrine, and stated that the action in the bill did not constitute raising revenue for the purposes of mandatory introduction in the House because “laws delegating authority to local governmental units to levy and collect taxes for local purposes are not bills for ‘raising revenue’ within the meaning of that term as used in the constitutional requirement.”⁸ The Justices also affirmed the reasoning in *Yourison* and provided some historical background on the origins of the constitutional requirement.

Thus, in determining that an Act is a “bill for raising revenue” mandating introduction in the House of Representatives, all of the following questions should be answered in the affirmative:

1. Does the Act collect money for the general use of the State government?
2. Will the money go to the State treasury for all purposes?
3. Does the Act extract money from persons for which they receive nothing in return?
4. Does the Act require all persons to pay the money required without a choice?

Legislators exploring this subject are encouraged to contact a legislative attorney in the Division of Research to assist in analyzing this issue.

⁷ *Id.* at 61.

⁸ *Id.* at 62.