

HCS HB 1030 -- COLLECTION OF STATE MONEY

SPONSOR: Silvey (Flanigan)

COMMITTEE ACTION: Voted "do pass" by the Committee on Budget by a vote of 28 to 0.

This substitute changes the laws regarding the collection of money owed to the state. In its main provisions, the substitute:

(1) Allows all state agencies to refer to the department for the collection of any debt owed to them. The department and the referring state agency are authorized to exchange any necessary information but the referring agency must follow all federal and state laws regarding the confidentiality of information and records. The department may compromise any referred state debt and use all general remedies afforded creditors of Missouri, remedies specific to the referring state agency, and remedies afforded the state in general. The department can employ department staff and attorneys, the Attorney General, prosecuting attorneys, and private collection agencies to aid in the collection of debt. The department must add 10% to the amount of debt to be collected for the cost of collection which can be waived under specified conditions (Sections 32.028, 32.420, 32.430, 32.440, 32.450, and 32.460, RSMo);

(2) Allows the Director of the Department of Revenue, beginning January 1, 2013, to mail any document by first class mail if at least one collection notice is sent by certified mail to the taxpayer's last known address (Section 32.058);

(3) Authorizes the department director to retain 1% of the amount of any local sales or use taxes collected for the cost of collection (Section 32.087);

(4) Authorizes an amnesty from the assessment or payment of all penalties, additions to tax, and interest on delinquencies of unpaid taxes administered by the department which occurred on or prior to December 31, 2011. A taxpayer must apply for amnesty, file a tax return for each tax period for which amnesty is requested, pay the unpaid taxes in full from August 1, 2012, to October 31, 2012, and agree to comply with state tax laws for the next eight years from the date of the agreement. All new revenues resulting from the tax amnesty program will be deposited into the General Revenue Fund unless otherwise earmarked by the Missouri Constitution. The department must submit a report by December 31, 2012, to the Speaker of the House of Representatives and the President Pro Tem of the Senate (Section 32.383);

(5) Allows the department director and the Commissioner of the

Office of Administration to enter into a reciprocal agreement with the federal government to offset vendor and contractor payments for any type of debt owed to the state. Currently, the department has a reciprocal agreement with the United States Treasury to offset income tax overpayments (Section 32.385);

(6) Requires anyone making a claim or having a judgment under the provisions of the State Legal Expense Fund to have a no-tax due statement from the department before any moneys can be expended from the fund for the settlement of any liability claim and allows an offset from the fund to satisfy any delinquent tax debt owed before payment is made to the person. Payments of less than \$10,000 from the fund for property damage claims are not required to have a no-tax due statement (Section 105.716);

(7) Allows the department director to issue an administrative garnishment once he or she has filed a certificate of lien in the circuit court for delinquent income or sales or use taxes. Any person receiving this order must turn over any of the taxpayer's assets in his or her possession and any assets that are to become due the taxpayer including wages, salaries, commissions, bonuses, workers' compensation benefits, disability benefits, pension or retirement payments, and interest less a fee to cover costs of up to \$6 per month. The taxpayer may obtain relief from the garnishment by paying the total amount owed (Section 140.910); and

(8) Requires the department director, at a taxpayer's request, to hold a refund claim unprocessed without accruing interest pending the outcome of a legal proceeding. A purchaser can submit a refund claim directly to the department director as long as the tax has been remitted to the department director, the claim is refunded only once, and a notarized assignment of rights statement by the vendor is provided or a notarized statement confirming the efforts that have been made to obtain the statement is included. An amended return is not required for refund claims made by a purchaser under these provisions. A purchaser can appeal a refund denial to the Administrative Hearing Commission within 60 days from the date the department director mailed the notice. Also, a purchaser is allowed to file an appeal of the department director's decision to deny a refund claim if the appeal is filed no later than August 28, 2013, for a refund denied on or after January 1, 2007 (Section 144.190).

The provisions of the bill regarding the tax amnesty contain an emergency clause.

FISCAL NOTE: Estimated Net Income on General Revenue Fund of More than \$100,000 in FY 2013, FY 2014, and FY 2015. Estimated Net Income on Other State Funds of Unknown in FY 2013, FY 2014,

and FY 2015.

PROPOSERS: Supporters say that approximately \$53 million will be generated from the tax amnesty and provide much needed revenue. The money is already included in the \$90 million that the Governor expects to collect to help balance the budget. This is tax money owed to the state. Amnesty speeds collection of tax revenue that would have come in at a later time. Of the estimated \$75 million in revenues, the department estimates \$21 million from unknown sources and the rest is known and the taxpayers have been contacted by the department, but have yet to pay. Currently, a taxpayer can print a no-tax due statement by entering his or her taxpayer identification number into the system and printing the form without a charge. The department will make changes as needed and allow an individual to print a no-tax due statement.

Testifying for the bill were Representative Flanigan; Associated Industries of Missouri; Linda Luebbering, State Budget Director; and Department of Revenue.

OPPOSERS: Those who oppose the bill say that Section 32.088 of the proposed substitute requires a no-tax due letter that includes all types of tax. On the department's website, a taxpayer must have a sales tax number to get a no-tax due letter for sales tax. If a person opens an account to pay sales tax, he or she will need to file zero returns forever, just to get a no-tax due statement out of the system.

Testifying against the bill were Missouri Association of Insurance and Financial Advisors; Missouri Bankers Association; and Lewis, Rice and Fingersh, LLC.