

HCS HB 1030 -- COLLECTION OF STATE MONEY (Flanigan)

COMMITTEE OF ORIGIN: Committee on Budget

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 notice of deficiency or assessment 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) Requires an individual, unless already subject by law to a state tax check to retain a professional license under Sections 168.071, 324.010, or 484.053, beginning January 1, 2013, to possess a no-tax due statement from the department dated within 90 days of a person's licensure application before any city or county occupation license or any state business license can be issued or renewed. The department director may enter into an agreement with any state agency responsible for issuing any state license requiring the agency to provide the department director with the name and tax identification number of each applicant for licensure within one month of the date the application is filed or at least one month prior to the anticipated license renewal. If an applicant is delinquent on any taxes, the department director must send a notice to the licensing agency and the applicant. An applicant's license must be suspended within 90 days after the notice unless the taxes are paid, an arrangement has been made with the department to pay the taxes, the taxes were paid under protest, or the tax liability is found to be

reasonably disputed (Section 32.088);

(5) 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);

(6) 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);

(7) 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);

(8) 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

(9) 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 September 28, 2012, for a refund denied on or after January 1, 2007, and the claim is based solely on the issue of the exemption of the electronic transmission or delivery of computer software (Section 144.190).

The provisions of the substitute 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.