

HCS HB 116 & 316 -- COLLECTION OF STATE MONEYS

SPONSOR: Koenig (Flanigan)

COMMITTEE ACTION: Voted "do pass" by the Committee on Ways and Means by a vote of 12 to 0.

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

(1) Authorizes the Director of the Department of Revenue to retain 1% of the amount of any local sales or use taxes collected by the department for the cost of collection;

(2) Requires an individual, beginning January 1, 2012, 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 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;

(3) 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 \$10,000 or greater from the fund for property damage claims are not required to have a no-tax due statement;

(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, 2010. 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, 2011, to October 31, 2011, 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;

(5) 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 and 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. Unless a judgment or lien was filed prior to the agency referring the debt to the department, the venue for any suit filed for the collection of state debt will be in Cole County. The department can employ staff, 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;

(6) 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 no more than \$6 per month. The taxpayer may obtain relief from the garnishment by paying the total amount owed; and

(7) Requires, beginning January 1, 2012, the Department of Elementary and Secondary Education to provide, at least annually, to the Director of the Department of Revenue the name and Social Security number of each certificate holder or applicant for a certificate of license to teach in Missouri. The Director of the Department of Revenue must at least once a year verify that all income taxes have been paid, state income tax returns have been filed in the past three years, and send a notice to the Department of Elementary and Secondary Education and the certificate holder or applicant if a person has not paid his or her taxes or filed the tax returns. A certificate holder's license must be suspended within 90 days after the notice, and an applicant's license cannot be issued unless the taxes are paid, an arrangement has been made with the Department of Revenue to pay the taxes, the taxes were paid under protest, or the tax liability is found to be reasonably disputed.

The provisions regarding the tax amnesty contain an emergency clause.

FISCAL NOTE: Estimated Net Income on General Revenue Fund of More than \$100,000 in FY 2012, FY 2013, and FY 2014. Estimated Net Income on Other State Funds of Unknown in FY 2012, FY 2013, and FY 2014.

PROPOSERS: Supporters of House Bill 116 say that the amnesty provisions will bring in around \$70 million. A tax amnesty brought in about \$75 million in 2002 and \$37.5 million in 2003.

Supporters of House Bill 316 say that the bill contains many enhancements and collection procedures for the Department of Revenue. The department is a better collector of state debt than other local or state agencies. Last year, 97% of general revenue was collected by the department. The bill will generate more revenue for the state and help the department with state collections.

Testifying for HB 116 were Representative Flanigan; and Department of Revenue.

Testifying for HB 316 were Representative Kelly (24); and Department of Revenue.

OPPONENTS: There was no opposition voiced to the committee.