

HOUSE BILL No. 5355

October 25, 2005, Introduced by Reps. Sheen, Wenke, Jones, Huizenga, Pastor, Palmer, Vander Veen, Meyer, Hummel, Amos, Kahn, Baxter and Robertson and referred to the Committee on Tax Policy.

A bill to amend 1941 PA 122, entitled

"An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to regulate the importation, stamping, and disposition of certain tobacco products; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act,"

by amending section 3 (MCL 205.3), as amended by 2003 PA 92.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) The department shall have all the powers and

1 perform the duties formerly vested in a department, board,
2 commission, or other agency, in connection with taxes due to or
3 claimed by this state and in connection with unpaid accounts or
4 amounts due to this state or any of its departments, institutions,
5 or agencies that may be made payable to or collectible by the
6 department created by this act. The department has the power and
7 authority incidental to the performance of the following acts,
8 duties, and services:

9 (a) The state treasurer or a duly appointed agent of the state
10 treasurer may examine the books, records, and papers ~~touching~~
11 **CONCERNING** the matter at issue of any person or taxpayer subject to
12 any tax, unpaid account, or amount the collection of which is
13 charged to the department. The state treasurer or a duly appointed
14 agent of the state treasurer may issue a subpoena requiring a
15 person to appear and be examined ~~with reference to~~ **CONCERNING** a
16 matter within the scope of the inquiry or investigation being
17 conducted by the department and to produce any books, records, or
18 papers. The state treasurer or a duly appointed agent, referee, or
19 examiner of the state treasurer may administer an oath to a witness
20 in any matter before the department. The department may invoke the
21 aid of the circuit court of this state in requiring the attendance
22 and testimony of witnesses and the ~~producing~~ **PRODUCTION** of books,
23 papers, and documents. The circuit court of this state within the
24 jurisdiction of which an inquiry is carried on, in case of
25 contumacy or refusal to obey a subpoena, may issue an order
26 requiring the person to appear before the department and produce
27 books and papers ~~if so ordered~~ and any evidence ~~touching~~

1 **CONCERNING** the matter in question **IF SO ORDERED**, and **THE** failure to
2 obey the order of the court may be punished by the court as a
3 contempt. A person shall not be excused from testifying or from
4 producing any books, papers, records, or memoranda in any
5 investigation, or upon any hearing when ordered to do so by the
6 state treasurer, upon the ground that the testimony or evidence,
7 documentary or otherwise, may tend to incriminate or subject him or
8 her to a criminal penalty. ~~—, however—~~ **HOWEVER**, a person shall not
9 be prosecuted or subjected to any criminal penalty for or on
10 account of any transaction made or ~~—thing—~~ **ANYTHING** concerning
11 which he or she may testify or produce evidence, documentary or
12 otherwise, before the department or its agent. A person testifying
13 is not exempt from prosecution and punishment for perjury committed
14 while testifying.

15 (b) After reasonable notice and public hearing, the department
16 may promulgate rules consistent with this act in accordance with
17 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
18 to 24.328, necessary to the enforcement of the provisions of tax
19 and other revenue measures that are administered by the department.

20 (c) The department may consult with the governor and the
21 legislature on the subject of taxation, revenue, and the
22 administration of the laws in relation to taxation and revenue, and
23 the progress of the work of the department, including the
24 furnishing of reports, information, and other assistance as the
25 governor may require.

26 (d) The department may investigate and study all matters of
27 taxation and revenue as the basis of recommending to the governor

1 and the legislature those changes and alterations in the tax laws
2 of this state, ~~as~~ **THAT** in the state treasurer's judgment may
3 bring about a more adequate and just system of state and local
4 taxation.

5 (e) The department may formulate a standard procedure that
6 requires the departments, commissions, boards, institutions, and
7 the agencies of this state that collect taxes, fees, or accounts
8 for this state to report all sums of money due and uncollected and
9 those uncollected items as prescribed by law and by the state
10 treasurer. The procedure prescribed in this subdivision shall
11 include a standard practice for receiving, receipting,
12 safeguarding, and periodically reporting all state revenue
13 receipts, whether current, delinquent, penalty, interest, or
14 otherwise, and the amounts, kinds, and terms of items either
15 collected, compromised, or still outstanding, to be summarized,
16 studied, and reported upon as the state treasurer considers
17 advisable.

18 (f) The department may periodically issue bulletins that index
19 and explain current department interpretations of current state tax
20 laws. ~~Beginning 90 days after the effective date of the amendatory~~
21 ~~act that added this sentence, each~~ **EACH** bulletin or letter ruling
22 issued by the department on or after August 18, 2000 shall be
23 published and made available to the public in printed and
24 electronic formats. The department may charge a reasonable fee for
25 subscriptions to this service not to exceed the cost of printing.
26 The money received from the sale of subscriptions shall revert to
27 the department and be placed in the taxation manual revolving fund.

1 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (3) AND (4), A
2 RULE OR BULLETIN ISSUED BY THE DEPARTMENT UNDER THIS ACT SHALL NOT
3 APPLY BEFORE THE EARLIEST OF THE FOLLOWING DATES:

4 (A) THE DATE ON WHICH THE RULE OR BULLETIN IS FILED WITH THE
5 OFFICE OF THE GREAT SEAL.

6 (B) THE DATE ON WHICH ANY NOTICE SUBSTANTIALLY DESCRIBING THE
7 EXPECTED CONTENTS OF A RULE OR BULLETIN IS ISSUED TO THE PUBLIC.

8 (3) SUBSECTION (2)(A) DOES NOT APPLY TO ANY RULE ISSUED WITHIN
9 18 MONTHS OF THE DATE OF THE ENACTMENT OF THE STATUTORY PROVISION
10 TO WHICH THE RULE RELATES OR AS OTHERWISE PROVIDED BY LAW.

11 (4) THE TREASURER MAY PROVIDE THAT ANY RULE OR BULLETIN MAY
12 TAKE EFFECT OR APPLY RETROACTIVELY TO PREVENT ABUSE OR TO CORRECT A
13 PROCEDURAL DEFECT IN THE ISSUANCE OF ANY PRIOR RULE OR BULLETIN.