

HOUSE BILL No. 5303

November 13, 2003, Introduced by Rep. Wenke 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 sections 3 and 4 (MCL 205.3 and 205.4), section 3 as amended by 2003 PA 92 and section 4 as amended by 2002 PA 657.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. The department shall have all the powers and
2 perform the duties formerly vested in a department, board,

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

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

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

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

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

25 (d) The department may investigate and study all matters of
26 taxation and revenue as the basis of recommending to the governor
27 and the legislature those changes and alterations in the tax laws

1 of this state, as in the state treasurer's judgment may bring
2 about a more adequate and just system of state and local
3 taxation.

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

17 (f) The department may periodically issue bulletins that
18 index and explain current department interpretations of current
19 state tax laws. Beginning ~~90 days after the effective date of~~
20 ~~the amendatory act that added this sentence~~ **October 24, 2003,**
21 each bulletin or letter ruling issued by the department on or
22 after August 18, 2000 shall be published and made available to
23 the public in printed and electronic formats **and on the**
24 **department's website.** The department may charge a reasonable fee
25 for subscriptions to this service not to exceed the cost of
26 printing. The money received from the sale of subscriptions
27 shall revert to the department and be placed in the taxation

1 manual revolving fund.

2 Sec. 4. (1) Not later than 1 year after the effective date
3 of this section, the department of treasury shall submit rules
4 for a public hearing pursuant to the administrative procedures
5 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that provide for
6 all of the following:

7 (a) Standards to be followed by department officers and
8 employees for the fair and courteous treatment of the public, and
9 a system for monitoring compliance with those standards.

10 (b) The procedures governing an informal conference held
11 under section 21. These procedures shall include at least all of
12 the following:

13 (i) A method by which the department attempts to schedule the
14 informal conference at a mutually convenient time and place.

15 (ii) A requirement that the department include in the notice
16 for the informal conference the scope and nature of the subject
17 of the informal conference.

18 (iii) Authorization for the taxpayer at whose request the
19 informal conference is being held to make a sound recording of
20 the informal conference with prior notice to the department and
21 for the department to do the same with prior notice to the
22 taxpayer.

23 (2) Not later than 1 year after the effective date of this
24 section, the department shall develop guidelines to govern
25 departmental employee responses to inquiries from the public and
26 standards for tax audit activities. The guidelines shall
27 explicitly exclude the use of a collection goal or quota for

1 evaluating an employee. The department shall assemble the
2 guidelines required by this subsection into an employee
3 handbook. However, the handbook shall not disclose information
4 or parameters excluded from disclosure under section 28(1)(f).
5 The department shall distribute the handbook to all departmental
6 employees involved in the collection or auditing of taxes and
7 shall make the handbook available to the public.

8 (3) the department shall publish a handbook for taxpayers and
9 tax preparers. The handbook shall be made available **on the**
10 **department's website and** at a reasonable cost, not to exceed the
11 actual cost of publication, and shall contain all of the
12 following:

13 (a) The audit and collection procedures used by the
14 department.

15 (b) The procedures governing departmental communications with
16 taxpayers in the audit and collection process.