

HOUSE BILL No. 6089

July 21, 2004, Introduced by Reps. Stakoe, Meyer, Wenke, Condino, Zelenko, Milosch, Hummel, Nofs, Sheen, Koetje, Taub, LaJoy, Acciavatti, Ward, DeRoche and Pastor 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
2 perform the duties formerly vested in a department, board,
3 commission, or other agency, in connection with taxes due to or

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

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

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

14 (b) After reasonable notice and public hearing, the
15 department may promulgate rules consistent with this act in
16 accordance with the administrative procedures act of 1969, 1969
17 PA 306, MCL 24.201 to 24.328, necessary to the enforcement of the
18 provisions of tax and other revenue measures that are
19 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,
23 and 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
9 and 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
19 index and explain current department interpretations of current
20 state tax laws. ~~Beginning 90 days after the effective date of~~
21 ~~the amendatory act that added this sentence, each~~ **Each** bulletin
22 or letter ruling issued by the department on or after August 18,
23 2000 shall be published and made available to the public in
24 printed and electronic formats. The department may charge a
25 reasonable fee for subscriptions to this service not to exceed
26 the cost of printing. The money received from the sale of
27 subscriptions shall revert to the department and be placed in the

1 taxation manual revolving fund.

2 (2) Except as otherwise provided in subsections (3) and (4),
3 a rule or bulletin issued by the department under this act shall
4 not apply before the earliest of the following dates:

5 (a) The date on which the rule or bulletin is filed with the
6 office of the Great Seal.

7 (b) The date on which any notice substantially describing the
8 expected contents of a rule or bulletin is issued to the public.

9 (3) Subsection (2)(a) does not apply to any rule issued
10 within 18 months of the date of the enactment of the statutory
11 provision to which the rule relates or as otherwise provided by
12 law.

13 (4) The treasurer may provide that any rule or bulletin may
14 take effect or apply retroactively to prevent abuse or to correct
15 a procedural defect in the issuance of any prior rule or
16 bulletin.