

SENATE BILL No. 891

November 10, 2005, Introduced by Senators HARDIMAN, JACOBS and SCOTT and referred to the Committee on Families and Human Services.

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 the title and sections 1, 3, 13, and 28 (MCL 205.1, 205.3, 205.13, and 205.28), the title and section 1 as amended by 2002 PA 657, section 3 as amended by 2003 PA 92, section 13 as amended by 1996 PA 479, and section 28 as amended by 2003 PA 114;

and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act to establish the revenue collection duties of the
 3 department of treasury; to prescribe its powers and duties as the
 4 revenue collection agency of ~~the~~ **THIS** state; to prescribe certain
 5 powers and duties of the state treasurer; **TO ESTABLISH THE**
 6 **COLLECTION DUTIES OF CERTAIN STATE DEPARTMENTS FOR MONEY OR**
 7 **ACCOUNTS OWED TO THIS STATE;** to regulate the importation, stamping,
 8 and disposition of certain tobacco products; to provide for the
 9 transfer of powers and duties now vested in certain other state
 10 boards, commissions, departments, and offices; to prescribe certain
 11 duties of and require certain reports from the department of
 12 treasury; to provide procedures for the payment, administration,
 13 audit, assessment, levy of interests or penalties on, and appeals
 14 of taxes and tax liability; to prescribe its powers and duties if
 15 an agreement to act as agent for a city to administer, collect, and
 16 enforce the city income tax act on behalf of a city is entered into
 17 with any city; to provide an appropriation; to abolish the state
 18 board of tax administration; to prescribe penalties and provide
 19 remedies; and to declare the effect of this act.

20

Sec. 1. (1) The department ~~of treasury~~ is the agency of this
 21 state responsible for the collection of taxes and is responsible
 22 for all of the following:

23

(a) Coordinated collection of state taxes, assessments,
 24 licenses, fees, and other money as may be designated by law.

25

(b) Specialized service for tax enforcement, through

1 establishment and maintenance of uniformity in definition,
2 regulation, return, and payment.

3 (c) Avoidance of duplication in state facilities for tax
4 collections that involve seasonal or occasional increases of staff,
5 duplication of audits, and wasteful travel expenses.

6 (d) Safeguarding tax and other collections wherever received
7 until duly deposited in the state treasury.

8 (e) Providing an advisory service on fiscal status, processes,
9 and needs of state government, including periodic reports on
10 payments, receipts, and debts.

11 (f) Development of a state revenue enforcement service by
12 means of a staff that is permanent, qualified by training and
13 experience, protected by merit system procedure, and so organized
14 as to serve the public with efficiency, economy, consistency, and
15 equity.

16 (G) **EXCEPT AS OTHERWISE PROVIDED UNDER SECTION 5E OF THE**
17 **SUPPORT AND PARENTING TIME ENFORCEMENT ACT, 1982 PA 295, MCL**
18 **552.605E, AND THIS ACT, SUPERVISE AND CONTROL THE COLLECTION OF ALL**
19 **PAST DUE MONEY AND ACCOUNTS OWED TO THIS STATE OR TO ANY OFFICER,**
20 **DEPARTMENT, COMMISSION, BOARD, OR AGENCY OF THIS STATE.**

21 (2) Any reference to the department of revenue in this act or
22 any other act shall mean the state treasurer. Any reference to the
23 state commissioner of revenue in this act or any other act shall
24 mean the state treasurer.

25 (3) As used in this act, "department" means the department of
26 treasury.

27 Sec. 3. ~~The~~ **EXCEPT AS OTHERWISE PROVIDED UNDER SECTION 5E OF**

1 **THE SUPPORT AND PARENTING TIME ENFORCEMENT ACT, 1982 PA 295, MCL**
2 **552.605E, AND THIS ACT, THE** department shall have all the powers
3 and perform the duties formerly vested in a department, board,
4 commission, or other agency, in connection with taxes due to or
5 claimed by this state and in connection with unpaid accounts or
6 ~~amounts~~ **MONEY** due to this state or any of its departments,
7 institutions, or agencies that may be made payable to or
8 collectible by the department created by this act. The department
9 has the power and authority incidental to the performance of the
10 following acts, duties, and services:

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

1 appear before the department and produce books and papers if so
2 ordered and any evidence touching the matter in question, and
3 failure to obey the order of the court may be punished by the court
4 as a contempt. A person shall not be excused from testifying or
5 from producing any books, papers, records, or memoranda in any
6 investigation, or upon any hearing when ordered to do so by the
7 state treasurer, upon the ground that the testimony or evidence,
8 documentary or otherwise, may tend to incriminate or subject him or
9 her to a criminal penalty, however, a person shall not be
10 prosecuted or subjected to any criminal penalty for or on account
11 of any transaction made or thing concerning which he or she may
12 testify or produce evidence, documentary or otherwise, before the
13 department or its agent. A person testifying is not exempt from
14 prosecution and punishment for perjury committed 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 in the state treasurer's judgment may bring about
3 a more adequate and just system of state and local 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 and
8 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 index
18 and explain current department interpretations of current state tax
19 laws. Beginning 90 days after the effective date of the amendatory
20 act that added this sentence, each bulletin or letter ruling issued
21 by the department on or after August 18, 2000 shall be published
22 and made available to the public in printed and electronic formats.
23 The department may charge a reasonable fee for subscriptions to
24 this service not to exceed the cost of printing. The money received
25 from the sale of subscriptions shall revert to the department and
26 be placed in the taxation manual revolving fund.

27 Sec. 13. (1) The department of treasury shall administer and

1 enforce the following laws and shall succeed to and is vested with
2 all of the powers, duties, functions, responsibilities, and
3 jurisdiction now or hereafter conferred upon the following:

4 (a) State board of tax administration, by the general sales
5 tax act, ~~Act No. 167 of the Public Acts of 1933, being sections~~
6 ~~205.51 to 205.78 of the Michigan Compiled Laws~~ **1933 PA 167, MCL**
7 **205.51 TO 205.78**, and by the use tax act, ~~Act No. 94 of the Public~~
8 ~~Acts of 1937, being sections 205.91 to 205.111 of the Michigan~~
9 ~~Compiled Laws~~ **1937 PA 94, MCL 205.91 TO 205.111.**

10 (b) Auditor general, by ~~Act No. 282 of the Public Acts of~~
11 ~~1905, being sections 207.1 to 207.21 of the Michigan Compiled Laws~~
12 **1905 PA 282, MCL 207.1 TO 207.21**, and by the Michigan estate tax
13 act, ~~Act No. 188 of the Public Acts of 1899, being sections~~
14 ~~205.201 to 205.256 of the Michigan Compiled Laws~~ **1899 PA 188, MCL**
15 **205.201 TO 205.256.**

16 (c) State tax commission, by ~~Act No. 48 of the Public Acts of~~
17 ~~1929, being sections 205.301 to 205.317 of the Michigan Compiled~~
18 ~~Laws, and by Act No. 301 of the Public Acts of 1939, being sections~~
19 ~~205.131 to 205.147 of the Michigan Compiled Laws~~ **1929 PA 48, MCL**
20 **205.301 TO 205.317.**

21 (d) State tax commission, by section 61524 ~~of part 615~~
22 ~~(supervisor of wells)~~ of the natural resources and environmental
23 protection act, ~~Act No. 451 of the Public Acts of 1994, being~~
24 ~~section 324.61524 of the Michigan Compiled Laws~~ **1994 PA 451, MCL**
25 **324.61524.**

26 ~~—— (e) The commission shall also succeed to and is vested with~~
27 ~~all of the powers, duties, functions, responsibilities, and~~

1 ~~jurisdiction of the corporation and securities commission over the~~
2 ~~enforcement, investigation, and collection of past due and~~
3 ~~delinquent corporate privilege and franchise fees and license fees~~
4 ~~of any nature. The corporation and securities commission shall,~~
5 ~~whenever requested by the department, report to the department the~~
6 ~~names of all delinquent corporations and delinquent licensees, and~~
7 ~~the department shall be charged with the collection of all fees and~~
8 ~~licenses covered in the reports.~~

9 ~~— (f) The department shall succeed to and is vested with all~~
10 ~~powers, duties, functions, responsibilities, and jurisdiction of~~
11 ~~the attorney general over the collection of all past due money and~~
12 ~~accounts that are owing to the state of Michigan or any department,~~
13 ~~commission, or institution of this state, vested in the attorney~~
14 ~~general by Act No. 375 of the Public Acts of 1927, being sections~~
15 ~~14.131 to 14.134 of the Michigan Compiled Laws.~~

16 (E) ~~—(g) For cities that enter into an agreement with the~~
17 ~~department of treasury pursuant to section 9 OF CHAPTER 1 of the~~
18 ~~city income tax act, Act No. 284 of the Public Acts of 1964, being~~
19 ~~section 141.509 of the Michigan Compiled Laws 1964 PA 284, MCL~~
20 ~~141.509, the department of treasury is vested with all the powers,~~
21 ~~duties, functions, responsibilities, and jurisdiction to~~
22 ~~administer, collect under, and enforce Act No. 284 of the Public~~
23 ~~Acts of 1964 as provided in Act No. 284 of the Public Acts of 1964~~
24 **THE CITY INCOME TAX ACT, 1964 PA 284, MCL 141.501 TO 141.787, AS**
25 **PROVIDED IN THE CITY INCOME TAX ACT, 1964 PA 284, MCL 141.501 TO**
26 **141.787,** and the agreement. The department of treasury shall not
27 charge to or collect from a taxpayer any amount not otherwise

1 authorized by law in conjunction with the collection of the tax
2 pursuant to an agreement entered into under section 9 of chapter 1
3 of ~~Act No. 284 of the Public Acts of 1964~~ THE CITY INCOME TAX
4 ACT, 1964 PA 284, MCL 141.509.

5 (2) THE DEPARTMENT OF LABOR AND ECONOMIC GROWTH IS VESTED WITH
6 ALL THE POWERS, DUTIES, FUNCTIONS, RESPONSIBILITIES, AND
7 JURISDICTION OF THE DEPARTMENT OF TREASURY UNDER THIS ACT FOR THE
8 ENFORCEMENT, INVESTIGATION, AND COLLECTION OF PAST DUE AND
9 DELINQUENT CORPORATE PRIVILEGE AND FRANCHISE FEES AND LICENSE FEES
10 OF ANY NATURE FOR LICENSES ISSUED BY THE DEPARTMENT OF LABOR AND
11 ECONOMIC GROWTH.

12 (3) THE DEPARTMENT OF COMMUNITY HEALTH IS VESTED WITH ALL OF
13 THE POWERS, DUTIES, FUNCTIONS, RESPONSIBILITIES, AND JURISDICTION
14 OF THE DEPARTMENT OF TREASURY UNDER THIS ACT FOR THE ENFORCEMENT,
15 INVESTIGATION, AND COLLECTION OF DELINQUENT LICENSE FEES OF ANY
16 NATURE FOR LICENSES ISSUED BY THE DEPARTMENT OF COMMUNITY HEALTH.

17 (4) EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTIONS (3) AND (4)
18 AND UNDER SECTION 5E OF THE SUPPORT AND PARENTING TIME ENFORCEMENT
19 ACT, 1982 PA 295, MCL 552.605E, EACH STATE OFFICER, DEPARTMENT,
20 BOARD, COMMISSION, OR AGENCY FROM TIME TO TIME SHALL FORWARD TO THE
21 DEPARTMENT OF TREASURY STATEMENTS OF ALL DELINQUENT AND PAST DUE
22 MONEY, SPECIFIC TAXES, AND ACCOUNTS OWING OR BELONGING TO THIS
23 STATE, OR ANY OFFICER, DEPARTMENT, BOARD, COMMISSION, OR AGENCY OF
24 THIS STATE TOGETHER WITH ANY INFORMATION NECESSARY TO ENABLE THE
25 DEPARTMENT TO CARRY OUT THE PURPOSES OF THIS ACT. THE DEPARTMENT
26 SHALL DO ALL OF THE FOLLOWING:

27 (A) KEEP AN ACCURATE RECORD AND ACCOUNT OF ALL OF THE

1 STATEMENTS.

2 (B) ENFORCE PAYMENT AND COLLECTION OF THE MONEY, SPECIFIC
3 TAXES, OR ACCOUNTS.

4 (C) KEEP AN ACCURATE ACCOUNT OF ALL MONEY, SPECIFIC TAXES, OR
5 ACCOUNTS COLLECTED.

6 (D) REPORT MONTHLY ALL COLLECTIONS MADE TO THE OFFICER,
7 DEPARTMENT, BOARD, COMMISSION, OR AGENCY TO WHICH THE INDEBTEDNESS
8 WAS INCURRED.

9 (E) PAY MONTHLY TO THE STATE TREASURER ALL MONEY COLLECTED
10 UNLESS OTHERWISE PROVIDED BY LAW.

11 (5) A DEPARTMENT AUTHORIZED UNDER THIS SECTION TO COLLECT
12 MONEY OR ACCOUNTS OWED TO THIS STATE MAY SETTLE AND COMPROMISE
13 CLAIMS AND ACCOUNTS AND RECEIVE AND ISSUE RECEIPTS FOR COLLECTIONS
14 AND PAYMENTS, SUBJECT TO THE GENERAL SUPERVISION AND CONTROL OF THE
15 STATE ADMINISTRATIVE BOARD. A CLAIM OR ACCOUNT IN THE AMOUNT OF
16 MORE THAN \$1,000.00 SHALL NOT BE COMPROMISED OR SETTLED AT A
17 DISCOUNT OF MORE THAN 15% WITHOUT THE APPROVAL OF THE STATE
18 ADMINISTRATIVE BOARD.

19 (6) AT THE REQUEST OF A DEPARTMENT AUTHORIZED UNDER THIS
20 SECTION TO COLLECT MONEY, SPECIFIC TAXES, OR ACCOUNTS OWED TO THIS
21 STATE, THE ATTORNEY GENERAL SHALL BRING AN ACTION TO ENFORCE THIS
22 ACT.

23 Sec. 28. (1) The following conditions apply to all taxes
24 administered under this act unless otherwise provided for in the
25 specific tax statute:

26 (a) Notice, if required, shall be given either by personal
27 service or by certified mail addressed to the last known address of

1 the taxpayer. Service upon the department may be made in the same
2 manner.

3 (b) An injunction shall not issue to stay proceedings for the
4 assessment and collection of a tax.

5 (c) In addition to the mode of collection provided in this
6 act, the department may institute an action at law in any county in
7 which the taxpayer resides or transacts business.

8 (d) The state treasurer may request in writing information or
9 records in the possession of any other department, institution, or
10 agency of state government for the performance of duties under this
11 act. Departments, institutions, or agencies of state government
12 shall furnish the information and records upon receipt of the state
13 treasurer's request. Upon request of the state treasurer, any
14 department, institution, or agency of state government shall hold a
15 hearing under the administrative procedures act of 1969, 1969 PA
16 306, MCL 24.201 to 24.328, to consider withholding a license or
17 permit of a person for nonpayment of taxes or accounts collected
18 under this act.

19 (e) Except as otherwise provided in **SECTION 13 OR** section 30c,
20 the state treasurer or an employee of the department shall not
21 compromise or reduce in any manner the taxes due to or claimed by
22 this state or unpaid accounts or amounts due to any department,
23 institution, or agency of state government. This subdivision does
24 not prevent a compromise of interest or penalties, or both.

25 (f) Except as otherwise provided in this subdivision, an
26 employee, authorized representative, or former employee or
27 authorized representative of the department or anyone connected

1 with the department shall not divulge any facts or information
2 obtained in connection with the administration of a tax or
3 information or parameters that would enable a person to ascertain
4 the audit selection or processing criteria of the department for a
5 tax administered by the department. An employee or authorized
6 representative shall not willfully inspect any return or
7 information contained in a return unless it is appropriate for the
8 proper administration of a tax law administered under this act. A
9 person may disclose information described in this subdivision if
10 the disclosure is required for the proper administration of a tax
11 law administered under this act or the general property tax act,
12 1893 PA 206, MCL 211.1 to 211.157, pursuant to a judicial order
13 sought by an agency charged with the duty of enforcing or
14 investigating support obligations pursuant to an order of a court
15 in a domestic relations matter as that term is defined in section 2
16 of the friend of the court act, 1982 PA 294, MCL 552.502, or
17 pursuant to a judicial order sought by an agency of the federal,
18 state, or local government charged with the responsibility for the
19 administration or enforcement of criminal law for purposes of
20 investigating or prosecuting criminal matters or for federal or
21 state grand jury proceedings or a judicial order if the taxpayer's
22 liability for a tax administered under this act is to be
23 adjudicated by the court that issued the judicial order. A person
24 may disclose the adjusted gross receipts and the wagering tax paid
25 by a casino licensee licensed under the Michigan gaming control and
26 revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226,
27 pursuant to section 18, sections 341, 342, and 386 of the

1 management and budget act, 1984 PA 431, MCL 18.1341, 18.1342, and
2 18.1386, or authorization by the executive director of the gaming
3 control board. However, the state treasurer or a person designated
4 by the state treasurer may divulge information set forth or
5 disclosed in a return or report or by an investigation or audit to
6 any department, institution, or agency of state government upon
7 receipt of a written request from a head of the department,
8 institution, or agency of state government if it is required for
9 the effective administration or enforcement of the laws of this
10 state, to a proper officer of the United States department of
11 treasury, and to a proper officer of another state reciprocating in
12 this privilege. The state treasurer may enter into reciprocal
13 agreements with other departments of state government, the United
14 States department of treasury, local governmental units within this
15 state, or taxing officials of other states for the enforcement,
16 collection, and exchange of data after ascertaining that any
17 information provided will be subject to confidentiality
18 restrictions substantially the same as the provisions of this act.

19 (2) A person who violates subsection (1)(e), (1)(f), or (4) is
20 guilty of a felony, punishable by a fine of not more than
21 \$5,000.00, or imprisonment for not more than 5 years, or both,
22 together with the costs of prosecution. In addition, if the offense
23 is committed by an employee of this state, the person shall be
24 dismissed from office or discharged from employment upon
25 conviction.

26 (3) A person liable for any tax administered under this act
27 shall keep accurate and complete records necessary for the proper

1 determination of tax liability as required by law or rule of the
2 department.

3 (4) A person who receives information under subsection (1)(f)
4 for the proper administration of the general property tax act, 1893
5 PA 206, MCL 211.1 to 211.157, shall not willfully disclose that
6 information for any purpose other than the administration of the
7 general property tax act, 1893 PA 206, MCL 211.1 to 211.157. A
8 person who violates this subsection is subject to the penalties
9 provided in subsection (2).

10 (5) As used in subsection (1), "adjusted gross receipts" and
11 "wagering tax" mean those terms as described in the Michigan gaming
12 control and revenue act, the Initiated Law of 1996, MCL 432.201 to
13 432.226.

14 Enacting section 1. 1927 PA 375, MCL 14.131 to 14.134, is
15 repealed.