



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

MEMORANDUM

DATE: March 5, 2015

TO: Honorable Diane Rosenbaum, Chair
Senate Committee on Rules

FROM: Aaron Knott, Legislative Director

SUBJECT: SB 55 – Collection Bill

This testimony is presented to provide technical feedback regarding SB 55. This bill relates to the collection of debts owed to the State of Oregon. The Department of Justice had some technical concerns with the original version of SB 55. Many of these concerns would be resolved with the proposed amendments that will be submitted with Eli Justman's written testimony for March 5, 2015 ("the amended bill"). We are currently working with the proponents and are suggesting the following changes to the amended bill.

SUGGESTED LANGUAGE

The sections referred to in this written testimony are found in the amended bill that will be submitted with Eli Justman's written testimony.

Federal Offset Provisions May Conflict With ORS 305.612

Sections 9 through 13 allow the Department of Administrative Services (DAS) to enter into reciprocal offset agreements with the United States Treasury for the purpose of collecting any state debts (which would include tax debts and debts assigned to the Department of Revenue (DOR) for collection. However, DOR is already allowed to do this. ORS 305.612 authorizes DOR to enter into intergovernmental agreements with the Internal Revenue Service (IRS) and the US Financial Management Service (FMS) for doing offsets between federal tax refunds or payments against liquidated state debts (and vice versa). SB 55 does not repeal DOR's authority to enter into these agreements nor does it specify how DAS would fit within these arrangements. The Committee may wish to amend the bill to reconcile it with existing law.

May Allow DAS to Control How Agencies Collect State Debts.

Section One could be construed to allow the Department of Administrative Services to promulgate rules that control how agencies collect debts, even before those debts are referred to the Department of Revenue or a Private Collection agency for collection. This concern could be addressed by deleting the words "collect upon" and by clarifying DAS's role in giving collection guidance to agencies.

Collection Fee Notice Given to Debtors.

Section 3(12) requires that debtors be given notice that they are subject to a collection fee. The notice would be more accurate if the phrase "or the Department of Revenue" were added after "private collection agency" in Section 3(12)(b).

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Criminal Judgments Imposing Compensatory Fines.

Section 4(3)(b) provides that criminal restitution judgments are not subject to offers of compromise. The Legislature may wish to expand this to include compensatory fines, which also compensate crime victims for their injuries. This could be accomplished by replacing “criminal restitution judgments” with “criminal money judgment that requires a defendant to pay restitution or a compensatory fine” in Section 4(3)(b).

Write-Off Collection Exemption for Compromised Debts May be Unnecessary.

Section 5(2) essentially provides that if an agency settles a debt, it may not subsequently collect that debt. This provision appears to be unnecessary. A debt no longer exists after it has been settled through an offer of compromise.

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