

Regular Session, 2010

HOUSE BILL NO. 1019

BY REPRESENTATIVES GREENE, FANNIN, HENRY, HOFFMANN, AND JANE SMITH

REVENUE DEPARTMENT: Establishes the La. Debt Recovery Program at the Dept. of Revenue for the collection of delinquent debts owed to certain governmental entities

1 AN ACT

2 To enact R.S. 47:1676, relative to collections by the Department of Revenue; to establish the
3 Louisiana Debt Recovery Program in the Department of Revenue to collect certain
4 delinquent debts owed to or collected by the state; to provide for definitions; to
5 provide for the administration of the program; to authorize political subdivisions to
6 participate in the program under certain circumstances; to provide relative to the
7 procedure for collection of certain debts; to provide for certain requirements and
8 limitations; to authorize the collection of a fee; to authorize the secretary of the
9 department to establish an electronic debt registry; to authorize the promulgation of
10 rules and regulations; to provide for an effective date; and to provide for related
11 matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 47:1676 is hereby enacted to read as follows:

14 §1676. Louisiana Debt Recovery Program

15 A. It shall be the public policy of this state to aggressively pursue the
16 collection of accounts or claims due and payable to the state of Louisiana through all
17 reasonable means. The Louisiana Debt Recovery Program, hereinafter referred to
18 as "program", of the Department of Revenue shall serve as the primary debt
19 collecting entity for the state and in that capacity shall collect delinquent debts on

1 behalf of all state agencies. All debts owed the state shall be referred to the program
2 when delinquent for more than sixty days.

3 B. For purposes of this Section, the following words shall have the following
4 meanings unless the context clearly indicates otherwise:

5 (1) "Agency" means any state office, department, board, commission,
6 institution, division officer or other person, or functional group, existing or created,
7 that is authorized to exercise, or that does exercise, any function of state government
8 in the executive branch, but does not mean any governing body or officer of any
9 local government or subdivision of the state, or any parochial officer who exercises
10 functions coterminous with the municipality in which he performs those functions.

11 (2) "Authenticated" means that the referring agency has certified the amount
12 of the delinquent debt, the debtor's liability, the debtor's name, address, telephone
13 number, and social security number.

14 (3) "Debt" means any legally collectible liquidated sum due and owing an
15 agency, or due and owing a person and collectible by any agency, or a judgment,
16 order of the court, or bond forfeiture which is properly certified by the clerk and
17 which orders the payment of a fine or other court-ordered penalty. The legally
18 collectible and liquidated sum due includes principal and accruing interest, fees, and
19 penalties, if appropriate.

20 (4) "Department" means the Louisiana Department of Revenue.

21 (5) "Delinquent debt" means a debt that is more than sixty days past due.

22 (6) "Final" means the amount due is no longer negotiable and that the debtor
23 has no further right of administrative or judicial review.

24 (7) "Secretary" means the secretary of the Department of Revenue.

25 C.(1) Notwithstanding any other provision of law to the contrary, in addition
26 to any duties, powers, or responsibilities otherwise conferred, the secretary of the
27 Department of Revenue shall collect and enforce certain delinquent debts due to state
28 agencies according to rules promulgated by the department.

1 (2)(a) State agencies shall refer delinquent debts which are due the state to
2 the secretary as provided by rule. Such referrals shall include data and information
3 in the required format necessary to institute collection procedures. All debts must
4 be final and authenticated by the state agency prior to being referred to the secretary.

5 (b) After transferring the debt to the department for collection, the referring
6 state agency or political subdivision shall terminate all collection activities with
7 respect to that debt except to provide assistance to the department as may be
8 requested. The department shall notify the debtor by letter, within fifteen days of
9 receiving the referral, that such debt has been referred to the department for
10 collection. Upon receipt of the debt referral, the department shall assume all liability
11 for its actions without recourse to the agency or political subdivision and shall
12 comply with all applicable state and federal laws governing the collection of the
13 debt. For purposes of this Section, the department shall not be considered a
14 collection agency as defined in R.S. 9:3534.1.

15 (3) Political subdivisions which are not statewide political subdivisions may
16 participate in the Louisiana Debt Recovery Program pursuant to a formal agreement
17 with the department.

18 D. Notwithstanding any other provision of law to the contrary, the secretary
19 may treat a delinquent debt referral in the same manner as an assessment that has
20 become final without restriction or delay. The secretary may use any collection
21 remedy provided by state law to facilitate the collection of taxes to collect the
22 delinquent debt. The department may use a participating agency's or political
23 subdivision's statutory collection authority to collect the participating agency's
24 delinquent debts owed to or being collected by the state. The department may also
25 use authority granted in R.S. 47:299.3 regarding offset from income tax refunds or
26 other accounts payable by the state for any delinquent debt transferred by state
27 agencies and agencies of political subdivisions. The secretary has the discretion to
28 determine which method or combination thereof is most suitable to collect the
29 delinquent debt.

1 E. The department shall charge the debtor a fee not to exceed twenty-five
2 percent of any monies the department collects for an agency. Notwithstanding any
3 other law concerning delinquent debts, the twenty-five percent fee shall be added to
4 the amount due to the state when the collection is made. Fees collected under this
5 Subsection shall be retained by the department after the debt is collected. The
6 department shall transfer any monies collected from a debtor to the referring agency
7 within thirty days after the end of the month in which the monies were collected.
8 Money received by the secretary from the fees imposed pursuant to this Section are
9 designated self-generated revenues of the department.

10 F. The secretary shall establish a centralized electronic debt registry to
11 compile the information provided by state agencies and participating political
12 subdivisions and shall maintain all information provided from all sources within the
13 state concerning addresses, financial records, and any other information useful in
14 assisting the department in collection services in the centralized registry.
15 Notwithstanding any other provision of law to the contrary, the data compiled in this
16 registry from the referring agencies and the department shall be available for cross-
17 referencing and for the identification of debtors necessary for the collection of the
18 delinquent debt. For purposes of this Subsection, the provisions of R.S. 47:1508
19 shall be inapplicable.

20 G. The secretary shall promulgate rules and regulations in accordance with
21 the Administrative Procedure Act to implement the provisions of this Section,
22 including rules authorizing any reasonable procedure or requirement for agencies
23 or political subdivisions referring delinquent debt to the department for collection
24 and any requirements regarding information necessary to collect the debt and the
25 formatting of that information. Any rule promulgated by the department shall be
26 construed in favor of the secretary.

27 H. Reciprocal debt collection agreement with federal government. The
28 secretary may enter into a reciprocal collection and offset of indebtedness agreement
29 with the federal government, pursuant to which the state shall agree to offset from

1 state tax refunds and payments otherwise due to vendors and contractors providing
 2 goods or services to state agencies, non-tax debt owed to the federal government, and
 3 the federal government shall agree to offset from federal payments to vendors,
 4 contractors and taxpayers debt owed to the state.

5 Section 2. This Act shall become effective upon signature by the governor or, if not
 6 signed by the governor, upon expiration of the time for bills to become law without signature
 7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 9 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Greene

HB No. 1019

Abstract: Establishes the La. Debt Recovery Program whereby the Dept. of Revenue will serve as the primary debt collecting entity for the state for the collection of delinquent debts on behalf of all state agencies.

Proposed law establishes the La. Debt Recovery Program, hereinafter "program", which authorizes the Dept. of Revenue (DOR) to serve as the primary debt collecting entity for the state for the collection of delinquent debts on behalf of all state agencies.

Proposed law requires all debts owed to the state to be referred to the program when delinquent for more than 60 days. Defines "debt" as any legally collectible, liquidated sum due and owing an agency, or due and owing a person and collectible by any agency, or a judgment, order of the court, or bond forfeiture which is properly certified by the clerk and which orders the payment of a fine or other court ordered penalty. Further provides that the legally collectible and liquidated sum due includes principle and accruing interest, fees, and penalties, if appropriate.

Proposed law requires that all debts be final and authenticated by the state agency prior to being referred to the program. Further requires the department to comply with all state and federal law applicable to the collection of the debt and for the state to assume all liability for its actions without recourse to the agency or political subdivision owed the debt.

Proposed law permits political subdivisions which are not statewide political subdivisions to participate in the program pursuant to a formal agreement with the department.

Proposed law authorizes the department to use a participating agency's or political subdivision's statutory collection authority to collect delinquent debts. The department may also use authority granted in present law regarding offset from income tax refunds or other accounts payable by the state for any delinquent debt transferred by state agencies or political subdivisions. Grants the secretary discretion to determine which collection method or combination of methods is most suitable to collect the delinquent debt.

Proposed law requires the department to charge the debtor a fee not to exceed 25% of any monies the department collects for an agency. Further provides that the 25% fee shall be added to the amount due to the state when the collection is made. Fees collected according to the provisions of proposed law shall be retained by the department after the debt is collected. Requires DOR to transfer any monies collected from a debtor to the referring agency within 30 days after the end of the month in which the collection was made.

Proposed law provides that money received by the secretary from the fees imposed pursuant to proposed law shall be designated self-generated revenues of the department.

Proposed law requires the department to establish a centralized electronic debt registry to compile the information provided by state agencies and participating political subdivisions and to maintain all information provided from all sources concerning addresses, financial records, and any other information useful in assisting the department in collection services in the centralized registry. Further provides that the data compiled in the registry from referring agencies, and the department shall be available for cross-referencing and identifying debtors necessary for collecting delinquent debts.

Proposed law requires the department to promulgate rules and regulations in accordance with the APA to implement the provisions of proposed law. Further provides that any rule promulgated by the department shall be construed in favor of the secretary.

Proposed law authorizes the secretary to enter into reciprocal collection and offset of indebtedness agreements with the federal government.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 47:1676)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Ways and Means to the original bill.

1. Expanded the definition of "agency" and "debt" and added definitions for "authenticated" and "final".
2. Deleted authority for the secretary to assign a debt to a collection contractor or to any other private collection agency for collection.
3. Changed authority of the secretary to treat a delinquent debt referral in the same manner as a final assessment without restriction or delay from mandatory to permissive.
4. Authorized the secretary to use any collection remedy provided in present law to collect the delinquent debt and granted the secretary discretion to determine which collection methods are suitable to collect the delinquent debt.
5. Added designation that the money received from the fees imposed by proposed law shall be considered self-generated revenues of the department.
6. Added provision that the data compiled in the registry shall be available for cross-referencing and identifying debtors who owe delinquent debts.
7. Deleted provision whereby the debt recovery program established in proposed law would not be available to state agencies unless the department received appropriations to design, implement, and operate the centralized electronic debt recovery registry.