

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7795

BILL NUMBER: SB 457

NOTE PREPARED: Feb 23, 2007

BILL AMENDED: Feb 22, 2007

SUBJECT: Verification of Withholding Exemptions.

FIRST AUTHOR: Sen. Riegsecker

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill requires an employer to verify that an employee is entitled to claim Adjusted Gross Income Tax withholding exemptions for more than four individuals. It provides that unless an employer knows an employee's representations are false, the requirement for an employer to verify any additional withholding exemptions claimed by an employee is met if the employer obtains for each additional individual for whom the employee claims a withholding exemption a copy of any document specified in the statute, including a driver's license or Social Security card. The bill provides that an employee's submission of a false or fictitious document to an employer for the purpose of claiming more withholding exemptions than the employee is entitled to claim is a Class A misdemeanor. It also provides that if an employer determines that an employee has provided false information, the employer shall notify the employee that the employee may be committing a Class A misdemeanor.

Effective Date: July 1, 2007.

Explanation of State Expenditures: (Revised) The Department of State Revenue (DOR) could potentially incur additional administrative cost to implement and enforce the proposed requirements for employers to verify certain withholding exemptions claimed by employees. However, the precise fiscal impact of this provision is indeterminable. The funds and resources that may be required for the DOR to implement and enforce the withholding exemption verification requirements could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions. The state vacant position report for

February 19, 2007, indicates that the DOR has 248 vacant full-time positions.

Background Information: The bill requires an employer who is required to withhold state income tax and local option income tax to verify that employees who claim more than four exemptions are entitled to the exemptions in excess of four. Generally, current statute requires employers to withhold state income tax and local option income tax on wage payments made to employees if the wage payments are taxable and the employer is required to withhold federal income tax on these wage payments. The bill specifies that the verification requirement is met by the employer if the employer obtains from the employee a copy of one of the following for each of the additional exemptions the employee claims:

- (1) A birth certificate.
- (2) A Social Security card.
- (3) A marriage license.
- (4) A driver's license or state issued identification card.
- (5) A federal document establishing lawful permanent residence or naturalization.
- (6) A passport.
- (7) A court order establishing paternity.

Explanation of State Revenues: (Revised) Under the bill, if an employer determines that an employee has provided false or fictitious documents relating to withholding exemptions the employee claims, the employer must notify the employee that the employee may be committing a Class A misdemeanor by doing so.

The bill creates a penalty for employees who violate the withholding exemption verification provisions. An employee commits a Class A misdemeanor if the employee knowingly furnishes to an employer false documentation in order to claim more withholding exemptions than the employee is entitled to claim.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Department of State Revenue.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

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