COMMITTEE REPORT

March 25, 2015

**S. 526**

Introduced by Senator Leatherman

S. Printed 3/25/15--S.

Read the first time March 10, 2015.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 526) to amend the Code of Laws of South Carolina, 1976, by adding Section 12‑4‑397 so as to authorize the Department of Revenue to designate a three‑month, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill would have no expenditure impact on the general fund, federal fund, or other fund since all revenue collection processes and procedures at the Department of Revenue are currently in place.

Given the permissive nature of this legislation as to when an amnesty program may be implemented, if at all, we do not estimate any appreciable increase in revenue from the enactment of this bill. If an amnesty period is announced, the revenue impact will depend upon the details and conditions existing at that time.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill adds Section 12-4-397 to allow the Department of Revenue (DOR) to designate an amnesty period from time to time as determined by DOR. DOR may waive a portion or all penalties and interest for taxpayers who voluntarily file delinquent returns and pay all taxes owed. DOR must inform the General Assembly at least 60 days before the commencement of the amnesty period. DOR must be reimbursed five percent of the amounts collected through amnesty for administrative costs. Overdue tax debt, defined as tax debt that remains unpaid one hundred twenty days or more after a notice of assessment has been issued by DOR, may be subject to an additional ten percent collection assistance fee. The current collection assistance fee pursuant to Section 12-55-60 is twenty percent of the overdue tax.

This bill would have no expenditure impact on the general fund, federal fund, or other fund since all revenue collection processes and procedures at the Department of Revenue are currently in place.

**State Revenue**

Given the permissive nature of this legislation as to when an amnesty program may be implemented, if at all, we do not estimate any appreciable increase in revenue from the enactment of this bill. If an amnesty period is announced, the estimated revenue impact will be based upon the details and conditions at that time. These details include the type of tax revenue affected and the impact the amnesty program has upon regular enforcement activity and collections for that fiscal year. The timing of an amnesty program will significantly impact revenue due to the cyclical nature of tax collections. Adjustments for potential increased revenue collections in one year may need to be offset with a potential decrease in the next year. Offsets for increased DOR administrative cost reimbursements and additional collection assistance fess will also require analysis. Currently, insufficient data exists to provide a concise estimate.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑4‑397 SO AS TO AUTHORIZE THE DEPARTMENT OF REVENUE TO DESIGNATE A THREE‑MONTH AMNESTY PERIOD DURING WHICH THE DEPARTMENT SHALL WAIVE DELINQUENT TAX PENALTIES AND INTEREST AND SHALL NOT INITIATE A CRIMINAL INVESTIGATION, TO SPECIFY TAXPAYERS THAT MAY PARTICIPATE IN THE PROGRAM, AND TO SET FORTH THE MANNER IN WHICH THE DEPARTMENT SHALL ADMINISTER THE PROGRAM.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 3, Chapter 4, Title 12 of the 1976 Code is amended by adding:

“Section 12‑4‑397. (A) In order to encourage the voluntary disclosure and payment of taxes owed to the State, the General Assembly finds it desirable to allow the Department of Revenue to designate an amnesty period which has a beginning and ending date from time to time as determined by the department. During the amnesty period, the department shall waive the penalties and interest or portion of them at its discretion imposed pursuant to Titles 12, 27, and 61 for a taxpayer who voluntarily files delinquent returns and pays all taxes owed. If the department establishes an amnesty period pursuant to this section, it must notify the General Assembly of the amnesty period at least sixty days before the commencement of the amnesty period.

(B) If a taxpayer is granted amnesty, the department shall not initiate a criminal investigation or refer the taxpayer to the Office of the Attorney General for criminal prosecution for the tax or tax periods covered by the granting of amnesty.

(C) The department shall grant amnesty to a taxpayer who files a request for amnesty form and:

(1) voluntarily files all delinquent tax returns and pays in full all taxes due;

(2) voluntarily files an amended tax return to correct an incorrect or insufficient original return and pays all taxes due; or

(3) voluntarily pays in full all previously assessed tax liabilities due within an extended amnesty period which begins at the close of the amnesty period and runs for a period of time as determined by the department. The department may set up installment agreements as long as all taxes are paid within this period. An installment agreement must be agreed upon before the close of the amnesty period established pursuant to subsection (A).

(D) The department shall not grant amnesty to a taxpayer who is the subject of a state tax‑related criminal investigation or criminal prosecution.

(E) The department shall not waive penalties and interest attributable to any one filing period if the taxpayer has outstanding liabilities for other periods.

(F) A taxpayer who has an appeal pending with respect to an assessment made by the department is eligible to participate in the amnesty program if the taxpayer pays all taxes owed. Payment of the outstanding liability does not constitute a forfeiture of appeal or an admission of liability for the disputed assessment.

(G) The department must be reimbursed the administrative costs associated with the amnesty period in the amount of five percent of the amounts collected through amnesty. This amount may be retained and expended for budgeted operations.

(H) The department may review all cases in which amnesty has been granted and may on the basis of mutual mistake of fact, fraud, or misrepresentation rescind the grant of amnesty. A taxpayer who files false or fraudulent returns or attempts in any manner to defeat or evade a tax under the amnesty program is subject to applicable civil penalties, interest, and criminal prosecution.

(I) Compromised liabilities as allowed by Section 12‑4‑320(3), may be eligible for relief under the amnesty period at the department’s discretion.

(J) Any overdue tax debt, as defined in Section 12‑55‑30, remaining unpaid may have imposed on it at the department’s discretion an additional ten percent collection assistance fee. This collection assistance fee initially may be imposed on any overdue tax debt at the close of the extended amnesty period as prescribed by the department. This additional collection assistance fee only may be imposed for a period of one year after the close of the extended amnesty period.”

SECTION 2. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑