

By: Representative Denton

To: Ways and Means

HOUSE BILL NO. 76

1 AN ACT TO AMEND SECTIONS 27-7-45 AND 27-7-55, MISSISSIPPI
2 CODE OF 1972, TO REMOVE PROVISIONS THAT PROVIDE THAT IF ANY
3 OFFICER OR EMPLOYEE OF THE STATE OR A POLITICAL SUBDIVISION
4 THEREOF DOES NOT PAY STATE INCOME TAX BY AUGUST 15 AFTER SUCH
5 INCOME TAX BECOMES DUE AND PAYABLE, THAT HIS WAGES, SALARY OR
6 OTHER COMPENSATION SHALL BE WITHHELD AND PAID TO THE DEPARTMENT OF
7 REVENUE; TO PROVIDE THAT THE DEPARTMENT OF REVENUE MAY PURSUE ANY
8 AND ALL REMEDIES FOR COLLECTION THAT ARE AVAILABLE TO IT IN THE
9 COLLECTION OF INCOME TAXES OWED BY PERSONS WHO ARE NOT PUBLIC
10 OFFICERS OR EMPLOYEES; TO PROVIDE THAT ANY GARNISHMENT MADE IN
11 ACCORDANCE WITH LAW SHALL BE FOR AN AMOUNT OF 25% OF THE
12 EMPLOYEE'S OR OFFICER'S SALARY OR THE AMOUNT OF THE OUTSTANDING
13 TAX LIABILITY, WHICHEVER IS LESS; TO AMEND SECTION 27-65-40,
14 MISSISSIPPI CODE OF 1972, TO REMOVE PROVISIONS THAT PROVIDE THAT
15 IF ANY OFFICER OR EMPLOYEE OF THE STATE OF MISSISSIPPI, OR ANY
16 POLITICAL SUBDIVISION THEREOF, DOES NOT PAY THE STATE SALES TAX
17 FOR WHICH HE IS RESPONSIBLE TO PAY WITHIN TWO MONTHS AFTER SUCH
18 SALES TAX BECOMES DUE AND PAYABLE, HE IS NOT ELIGIBLE TO RECEIVE
19 ANY SALARY OR OTHER EMOLUMENTS OF OFFICE FROM THE STATE, OR FROM
20 ANY POLITICAL SUBDIVISION THEREOF, UNTIL THE SALES TAX, INTEREST
21 AND PENALTY, ARE PAID IN FULL; TO PROVIDE THAT THE DEPARTMENT OF
22 REVENUE MAY PURSUE ALL REMEDIES AGAINST A PUBLIC EMPLOYEE OR
23 OFFICER AS ARE AVAILABLE AGAINST OTHER PERSONS WHO FAIL TO PAY
24 TAXES LEVIED UNDER THE SALES TAX LAW; TO PROVIDE THAT ANY
25 GARNISHMENT TAKEN AGAINST SUCH PUBLIC EMPLOYEE OR OFFICER SHALL BE
26 FOR AN AMOUNT OF 25% OF THE EMPLOYEE'S OR OFFICER'S SALARY OR THE
27 AMOUNT OF THE OUTSTANDING TAX LIABILITY, WHICHEVER IS LESS; TO
28 AMEND SECTIONS 85-3-4 AND 7-7-43, MISSISSIPPI CODE OF 1972, IN
29 CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
30 PURPOSES.

31 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:



32 **SECTION 1.** Section 27-7-45, Mississippi Code of 1972, is
33 amended as follows:

34 27-7-45. (1) The tax levied by this article shall be paid
35 when the return is due except as hereinafter provided.

36 (2) If any officer or employee of the State of Mississippi,
37 or any political subdivision thereof, * * * is in arrears in child
38 support payments for thirty (30) days after such payments become
39 due and payable, his wages, salary or other compensation shall be
40 withheld and paid to the * * * Department of Human Services * * *
41 in satisfaction of * * * any child support arrearage until paid in
42 full. This provision shall apply to any installments of * * *
43 child support due, after the first installment, to require payment
44 of the entire balance of child support * * * due, plus interest
45 and penalty, if any, before an officer or employee of the State of
46 Mississippi, or any political subdivision thereof, is eligible to
47 draw any salary or other emoluments of office. * * * The
48 Department of Human Services is required to furnish the officer's
49 or the employee's employer, or other appropriate officer of the
50 State of Mississippi or its political subdivision, as the case may
51 be, with notice that child support payments have not been made.
52 This notice shall serve as a lien or attachment upon any salary or
53 compensation due any employee or officer, disregard of this notice
54 creating personal liability against such officer for the full
55 amount of the income tax due, plus interest and penalty. * * *
56 Regardless of the amount designated in the Department of Human



57 Service's notice for withholding and regardless of other fees
58 imposed or amounts withheld pursuant to this section, the payor
59 shall not deduct from the income of the officer or employee in
60 excess of the amounts allowed under Section 303(b) of the Consumer
61 Credit Protection Act, being 15 USCS 1673, as amended.

62 (3) The * * * child support payment may be paid with
63 uncertified check during such time and under such regulations as
64 the * * * Department of Human Services shall prescribe, but if the
65 check so received is not paid by the bank on which it is drawn,
66 the officer or employee for whom such check is tendered shall
67 remain liable for the * * * child support payment and for all
68 penalties, the same as if such check had not been tendered.

69 (4) If a corporation is subject to LIFO recapture pursuant
70 to Section 1363(d) of the Code, then:

71 (a) Any increase in the tax imposed by Section 27-7-5
72 by reason of the inclusion of the LIFO recapture amount in its
73 income shall be payable in four (4) equal installments;

74 (b) The first installment shall be paid on or before
75 the due date (determined without regard to extensions) for filing
76 the return for the first taxable year for which the corporation
77 was subject to the LIFO recapture;

78 (c) The three (3) succeeding installments shall be paid
79 on or before the due date (determined without regard to
80 extensions) for filing the corporation's return for the three (3)
81 succeeding taxable years; and



82 (d) For purposes of computing interest on
83 underpayments, the last three (3) installments shall not be
84 considered underpayments until after the payment due date
85 specified above.

86 (5) For purposes of this section, a political subdivision
87 includes, but is not limited to, a county or separate school
88 district, institution of higher learning, state college or
89 university, or state community college.

90 (6) The tax levied by this article and paid by a business
91 enterprise located in a redevelopment project area under Sections
92 57-91-1 through 57-91-11 shall be deposited into the Redevelopment
93 Project Incentive Fund created in Section 57-91-9.

94 (7) If any officer or employee of the State of Mississippi,
95 or any political subdivision thereof, does not pay his state
96 income tax on or before August 15 after such income tax becomes
97 due and payable, the Department of Revenue may pursue any and all
98 remedies for collection that are available to it in the collection
99 of such taxes owed by persons who are not public officers or
100 employees. Any garnishment made in accordance with law shall be
101 for an amount of twenty-five percent (25%) of the employee's or
102 officer's salary or for the amount of the outstanding tax
103 liability, whichever is less.

104 **SECTION 2.** Section 27-7-55, Mississippi Code of 1972, is
105 amended as follows:



106 27-7-55. If any taxpayer, liable for the payment of income
107 taxes, penalties or interest, fails or refuses to pay them after
108 receiving the notice and demands as provided in Sections 27-7-49,
109 27-7-51 and 27-7-53, and if the taxpayer has not filed a timely
110 appeal to the board of review as provided by law, the commissioner
111 may file a notice of tax lien for the income taxes, penalties and
112 interest with the circuit clerk of the county in which the
113 taxpayer resides or owns property, which shall be enrolled on the
114 judgment roll. Immediately upon receipt of the notice of tax lien
115 for income taxes, penalties and interest, the circuit clerk shall
116 enter upon the judgment roll, in the appropriate columns, the name
117 of the taxpayer as judgment debtor, the name of the commissioner
118 or Department of Revenue as judgment creditor, the amount of the
119 taxes, penalties and interest, and the date and time of
120 enrollment. The judgment shall be valid as against mortgagees,
121 pledgees, entrusters, purchasers, judgment creditors, and other
122 persons from the time of filing with the clerk. The amount of the
123 judgment shall be a debt due the State of Mississippi and remain a
124 lien upon all property and rights to property belonging to the
125 taxpayer, both real and personal, including choses in action, with
126 the same force and like effect as any enrolled judgment of a court
127 of record, and shall continue until satisfied; however, the
128 judgment shall not be a lien upon the property of the taxpayer for
129 a longer period than seven (7) years from the date of the filing
130 of the notice of tax lien for income taxes, penalties and interest



131 unless an action is brought on the lien before the expiration of
132 such time or unless the commissioner refiles the notice of tax
133 lien before the expiration of such time. The judgment shall be a
134 lien upon the property of the taxpayer for a period of seven (7)
135 years from the date of refileing such notice of tax lien unless an
136 action is brought on the lien before the expiration of such time
137 or unless the commissioner refiles such notice of tax lien before
138 the expiration of such time. There shall be no limit upon the
139 number of times that the commissioner may refile notices of tax
140 liens. The judgment shall serve as authority for the issuance of
141 writs of execution, writs of attachment, writs of garnishment or
142 other remedial writs. The commissioner may issue warrants for
143 collection of income taxes from such judgments in lieu of the
144 issuance of any remedial writ by the circuit clerk.

145 Upon failure to pay the taxes imposed under this article by
146 any taxpayer who has executed any bond, the commissioner shall
147 give notice of the failure to the sureties of the bond and demand
148 payment of the tax, penalties and interest within ten (10) days.
149 If the sureties of the taxpayer's bond shall fail or refuse to pay
150 the penal sum demanded within the ten (10) days allowed, the
151 commissioner may file a notice of tax lien with the circuit clerk
152 of the county in which the sureties reside or own property, which
153 shall be enrolled upon the judgment roll, and the commissioner may
154 proceed to collect from the sureties as provided in this section
155 for collecting from any judgment debtor.



156 The commissioner is hereby authorized to pay the clerk's fee
157 for enrolling certificates of indebtedness and any court costs
158 that may be adjudged against the department or commissioner out of
159 funds appropriated by the Legislature to defray expenses of the
160 Department of Revenue. Any action taken against public employees
161 or officers for failing to pay taxes levied by this chapter shall
162 be consistent with the requirements of Section 27-7-45.

163 **SECTION 3.** Section 27-65-40, Mississippi Code of 1972, is
164 amended as follows:

165 27-65-40. If any officer or employee of the State of
166 Mississippi, or any political subdivision thereof, does not pay
167 the state sales tax for which he is responsible to pay within two
168 (2) months after such sales tax becomes due and payable, * * * the
169 Department of Revenue may pursue all remedies against such
170 taxpayer as are available against other persons who fail to pay
171 taxes levied by this chapter. Any garnishment taken against such
172 public employee or officer shall be for an amount of twenty-five
173 percent (25%) of the employee's or officer's salary or for the
174 outstanding tax liability, whichever is less.

175 **SECTION 4.** Section 85-3-4, Mississippi Code of 1972, is
176 amended as follows:

177 85-3-4. (1) The wages, salaries or other compensation of
178 laborers or employees, residents of this state, shall be exempt
179 from seizure under attachment, execution or garnishment for a



180 period of thirty (30) days from the date of service of any writ of
181 attachment, execution or garnishment.

182 (2) After the passage of the period of thirty (30) days
183 described in subsection (1) of this section, the maximum part of
184 the aggregate disposable earnings (as defined by Section 1672(b)
185 of Title 15, USCS) of an individual that may be levied by
186 attachment, execution or garnishment shall be:

187 (a) In the case of earnings for any workweek, the
188 lesser amount of either * * *:

189 (i) Twenty-five percent (25%) of his disposable
190 earnings for that week, or

191 (ii) The amount by which his disposable earnings
192 for that week exceed thirty (30) times the federal minimum hourly
193 wage (prescribed by section 206 (a) (1) of Title 29, USCS) in
194 effect at the time the earnings are payable; or

195 (b) In the case of earnings for any period other than a
196 week, the amount by which his disposable earnings exceed the
197 following "multiple" of the federal minimum hourly wage which is
198 equivalent in effect to that set forth in * * * paragraph (a) (ii)
199 of this subsection (2): The number of workweeks, or fractions
200 thereof multiplied by thirty (30) multiplied by the applicable
201 federal minimum wage.

202 (3) (a) The restrictions of subsections (1) and (2) of this
203 section do not apply in the case of:



204 (i) Any order for the support of any person issued
205 by a court of competent jurisdiction or in accordance with an
206 administrative procedure, which is established by state law, which
207 affords substantial due process, and which is subject to judicial
208 review.

209 (ii) Any debt due for any state or local tax that
210 is being levied and garnished in the amount provided in Section
211 27-7-45 or 27-65-40.

212 (b) Except as provided in subparagraph * * *(iii) of
213 this * * * paragraph (b), the maximum part of the aggregate
214 disposable earnings of an individual for any workweek which is
215 subject to garnishment to enforce any order for the support of any
216 person shall not exceed:

217 (i) Where such individual is supporting his spouse
218 or dependent child (other than a spouse or child with respect to
219 whose support such order is used), fifty percent (50%) of such
220 individual's disposable earnings for that week; and

221 (ii) Where such individual is not supporting such
222 a spouse or dependent child described in subparagraph * * *(i) of
223 this * * * paragraph (b), sixty percent (60%) of such individual's
224 disposable earnings for that week;

225 (iii) With respect to the disposable earnings of
226 any individual for that workweek, the fifty percent (50%)
227 specified in subparagraph * * *(i) of this * * * paragraph (b)
228 shall be deemed to be fifty-five percent (55%) and the sixty



229 percent (60%) specified in subparagraph * * *(ii) of this * * *
230 paragraph (b) shall be deemed to be sixty-five percent (65%), if
231 and to the extent that such earnings are subject to garnishment to
232 enforce a support order with respect to a period which is prior to
233 the period of twelve (12) weeks which ends with the beginning of
234 such workweek.

235 **SECTION 5.** Section 7-7-43, Mississippi Code of 1972, is
236 amended as follows:

237 7-7-43. (1) Except as otherwise provided in subsection (3)
238 of this section, the State Fiscal Officer, any chancery or city
239 clerk, or the fiscal officer of any county or separate school
240 district, institution of higher learning, state college,
241 university or state community college, shall not issue any warrant
242 upon any allowance made to, or claim in favor of, any person, his
243 agent, or assignee who shall be indebted to the state, or against
244 whom there shall be any balance appearing in favor of the state;
245 but such officer shall allow such debtor a credit on his account
246 for such allowance or claim.

247 (2) For state tax claims, the * * * Commissioner of Revenue
248 is required to furnish the appropriate fiscal officer with notice
249 that state taxes have not been paid. Except as otherwise provided
250 in subsection (3) of this section, this notice shall serve as a
251 stop order upon any allowance made to, or claim in favor of, any
252 person, his agent, or assignee who shall be indebted to the state,
253 or any political subdivision thereof, or against whom there shall



254 be any balance appearing in favor of the state or any political
255 subdivision thereof. Disregard of the stop order notice shall
256 create a personal liability against such fiscal officer for the
257 full amount of state taxes due, plus interest and penalty.

258 (3) This section shall not apply in the case where a
259 person's wages or salary are levied and garnished in the amount
260 provided in Section 27-7-45 or 27-65-40.

261 **SECTION 6.** This act shall take effect and be in force from
262 and after July 1, 2023.

