

HOUSE BILL No. 2669

AN ACT authorizing certain state agencies to collect fees for services rendered; concerning the division of accounts and reports; relating to the write off of accounts receivable; setoff collection assistance fee; establishing the treasurer services reimbursement fund; amending K.S.A. 44-716a and K.S.A. 2003 Supp. 60-2310 and 75-6210 and repealing the existing sections; also repealing K.S.A. 75-3728a, 75-3728c and 75-3728d and K.S.A. 2003 Supp. 75-3728b.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 44-716a is hereby amended to read as follows: 44-716a. (a) There is hereby created in the state treasury a special fund to be known as the special employment security fund. All interest and penalties collected under the provisions of the Kansas employment security law shall be paid into this fund. No such moneys shall be expended or available for expenditure in any manner which would permit their substitution for, or a corresponding reduction in, federal funds which in the absence of such moneys would be available to finance expenditures for the administration of the employment security law. Nothing in this section shall prevent such moneys from being used as a revolving fund, to cover expenditures, necessary and proper under the law, for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. Except as otherwise authorized by this section or by appropriations act, the moneys in this fund may be used by the secretary of human resources only for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants, or other funds, received for or in the employment security administration fund. In addition to the other purposes for which expenditures may be made from the special employment security fund as authorized by this section or by appropriations act, moneys from this fund may be used to finance activities as deemed necessary by the secretary of human resources for the efficient operation of activities under or the administration of the employment security law, except that (1) no moneys shall be used for such purposes unless the secretary has determined that no other funds are available or can be properly used to finance expenditures for such purposes, and (2) expenditures during any fiscal year for purposes authorized under this section shall not exceed \$110,000 except upon approval of the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed by subsection (c) of K.S.A. 75-3711c and amendments thereto. No expenditures of this fund shall be made except on written authorization by the governor and the secretary of human resources.

(b) The director of accounts and reports is hereby directed to draw warrants upon the state treasurer against the money in the special employment security fund for the use and purposes authorized under this section upon vouchers, approved by the secretary of human resources, and accompanied by the written authorization of the governor and the secretary of human resources. The moneys in this fund are hereby specifically made available to replace, within a reasonable time, any moneys received by this state pursuant to section 302 of the federal social security act, as amended, which, because of any action or contingency, have been lost or have been expended for purposes other than, or in amounts in excess of, those necessary for the proper administration of the employment security law. The moneys in this fund shall be continuously available to the secretary of human resources for expenditure in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund, except as otherwise authorized in subsection (c) or subsection (d).

(c) In addition to expenditures authorized by this section, the director of accounts and reports may transfer funds from the special employment security fund to the accounting services recovery fund as provided in K.S.A. ~~75-3728b~~ and 75-6210 and amendments thereto.

(d) In addition to expenditures authorized by this section, the director of accounts and reports is directed and authorized to transfer funds from the special employment security fund to the department of human resources federal indirect cost offset fund on July 1 of each year in the amount contained in appropriation bills to be expended from the federal indirect cost offset fund for that fiscal year.

(e) In addition to expenditures authorized by this section, the director of accounts and reports is directed and authorized to transfer funds from

the special employment security fund to the clearing account of the employment security fund to be expended in the payment of interest due employers from erroneously collected contributions or benefit cost payments as provided in subsection (h) of K.S.A. 44-717 and amendments thereto.

Sec. 2. K.S.A. 2003 Supp. 60-2310 is hereby amended to read as follows: 60-2310. (a) *Definitions*. As used in this act and the acts of which this act is amendatory, unless the context otherwise requires, the following words and phrases shall have the meanings respectively ascribed to them:

(1) “Earnings” means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise;

(2) “disposable earnings” means that part of the earnings of any individual remaining after the deduction from such earnings of any amounts required by law to be withheld;

(3) “wage garnishment” means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt; and

(4) “federal minimum hourly wage” means that wage prescribed by subsection (a)(1) of section 6 of the federal fair labor standards act of 1938, and any amendments thereto.

(b) *Restriction on wage garnishment*. Subject to the provisions of subsection (e), only the aggregate disposable earnings of an individual may be subjected to wage garnishment. The maximum part of such earnings of any wage earning individual which may be subjected to wage garnishment for any workweek or multiple thereof may not exceed the lesser of: (1) Twenty-five percent of the individual’s aggregate disposable earnings for that workweek or multiple thereof; (2) the amount by which the individual’s aggregate disposable earnings for that workweek or multiple thereof exceed an amount equal to 30 times the federal minimum hourly wage, or equivalent multiple thereof for such longer period; or (3) the amount of the plaintiff’s claim as found in the order for garnishment. No one creditor may issue more than one garnishment against the earnings of the same judgment debtor during any one 30-day period, but the court shall allow the creditor to file amendments or corrections of names or addresses of any party to the order of garnishment at any time. In answering such order the garnishee-employer shall withhold from all earnings of the judgment-debtor for any pay period or periods ending during such 30-day period an amount or amounts as are allowed and required by law. Nothing in this act shall be construed as charging the plaintiff in any garnishment action with the knowledge of the amount of any defendant’s earnings prior to the commencement of such garnishment action.

(c) *Sickness preventing work*. If any debtor is prevented from working at the debtor’s regular trade, profession or calling for any period greater than two weeks because of illness of the debtor or any member of the family of the debtor, and this fact is shown by the affidavit of the debtor, the provisions of this section shall not be invoked against any such debtor until after the expiration of two months after recovery from such illness.

(d) *Assignment of account*. If any person, firm or corporation sells or assigns an account to any person or collecting agency, that person, firm or corporation or their assignees shall not have or be entitled to the benefits of wage garnishment. The provision of this subsection shall not apply to the following:

(1) Assignments of support rights to the secretary of social and rehabilitation services pursuant to K.S.A. 39-709 and 39-756, and amendments thereto, and support enforcement actions conducted by court trustees pursuant to K.S.A. 23-492, *et seq.*, and amendments thereto;

(2) support rights which have been assigned to any other state pursuant to title IV-D of the federal social security act (42 U.S.C. § 651 *et seq.*); or

~~(3) assignments of accounts receivable or taxes receivable to the director of accounts and reports made under K.S.A. 75-3728b and amendments thereto; or~~

~~(4) (3) collections pursuant to contracts entered into in accordance~~

with K.S.A. 75-719 and amendments thereto involving the collection of restitution or debts to district courts.

(e) *Exceptions to restrictions on wage garnishment.* The restrictions on the amount of disposable earnings subject to wage garnishment as provided in subsection (b) shall not apply in the following instances:

(1) Any order of any court for the support of any person, including any order for support in the form of alimony, but the foregoing shall be subject to the restriction provided for in subsection (g);

(2) any order of any court of bankruptcy under chapter XIII of the federal bankruptcy act; and

(3) any debt due for any state or federal tax.

(f) *Prohibition on courts.* No court of this state may make, execute or enforce any order or process in violation of this section.

(g) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed:

(1) If the individual is supporting a spouse or dependent child (other than a spouse or child with respect to whose support such order is used), 50% of the individual's disposable earnings for that week;

(2) if the individual is not supporting a spouse or dependent child described in clause (1), 60% of such individual's disposable earnings for that week; and

(3) with respect to the disposable earnings of any individual for any workweek, the 50% specified in clause (1) shall be 55% and the 60% specified in clause (2) shall be 65%, if such earnings are subject to garnishment to enforce a support order for a period which is prior to the twelve-week period which ends with the beginning of such workweek.

Sec. 3. K.S.A. 2003 Supp. 75-6210 is hereby amended to read as follows: 75-6210. (a) Upon completion of a setoff transaction, the director shall transfer the net proceeds collected to the account or fund of the state agency, ~~foreign state agency to which the debt was owed or shall pay the net proceeds collected to the municipality, foreign state agency or court to which the debt was owed.~~

(b) ~~From the gross proceeds collected by the director through setoff, the director shall retain a reasonable collection assistance fee in an amount based on cost, as determined by generally accepted cost allocation techniques, except that in the case of transactions for collection of debts arising from the employment security law such fee shall not exceed \$300 for any transaction.~~ The director shall retain a reasonable collection assistance fee from the gross proceeds of collections collected through setoff on behalf of the following entities:

(1) a state agency in an amount not to exceed 20%;

(2) a municipality ~~as in an amount~~ specified in an agreement entered into pursuant to K.S.A. 75-6204, and amendments thereto, ~~or; or~~

(3) a foreign state agency in ~~such an amount as~~ specified in the reciprocal agreement entered into pursuant to K.S.A. 75-6215, and amendments thereto. The director may credit a portion of the collection assistance fee to the appropriate account or fund of any other state agency that has incurred expenses in assisting in the collection of the debt. The amount of the collection assistance fee retained by the director shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each ~~such~~ remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the accounting services recovery fund.

(c) Upon receipt by the state agency, ~~foreign state agency or municipality~~ of the net proceeds collected, the state agency, ~~foreign state agency or municipality~~ shall credit the debtor's obligation in the amount of the gross proceeds collected.

(d) Except as otherwise prescribed by the director or the secretary of administration, any state agency, foreign state agency or municipality which receives any payment from a debtor after notification to the debtor under K.S.A. 75-6206, and amendments thereto, other than payments collected pursuant to K.S.A. 44-718, and amendments thereto, or collected through the federal government or judicial process, shall remit the collection assistance fee imposed under subsection (b) to the director which shall be credited to the accounting services recovery fund. If a state agency fails to remit the collection assistance fee as required by this sub-

section, the director may transfer an amount equal to such collection assistance fee from the appropriate account or fund of the state agency to the accounting services recovery fund. If a foreign state agency or municipality fails to remit the collection assistance fee as required by this subsection, the director may seek collection of ~~such~~ the fee in ~~such any~~ manner ~~as may be~~ allowed by law.

(e) In cases involving the collection of debts arising from the employment security law, the entire amount collected shall be credited to the employment security fund and the collection assistance fee shall be transferred from the special employment security fund to the accounting services recovery fund.

New Sec. 4. (a) The state treasurer is hereby authorized to charge fees to other state agencies for the services that it provides including, but not limited to, banking services fees based upon the number and type of transactions processed by each agency through the state's operating accounts established under K.S.A. 75-4202 and amendments thereto and transaction fees for processing vouchers, warrants and direct deposits, except that payroll warrants shall not be subject to any fee. The fees shall be based upon a combination of the banking fees incurred by the treasurer and the operating costs for providing each service.

(b) The state treasurer shall revise its schedule of fees annually after consulting with various state agencies.

(c) There is hereby established in the state treasury the treasurer services reimbursement fund. The fees collected under this section shall be deposited in the treasurer services reimbursement fund. Moneys in the treasurer services reimbursement fund may be expended for the treasurer's office general operating expenses in accordance with the provisions of appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or by a person designated by the state treasurer.

(d) The director of accounts and reports shall transfer to the treasurer services reimbursement fund of the state treasurer one or more amounts certified by the state treasurer for expenses incurred for unemployment insurance benefit warrants issued and processed and electronic transactions processed for the department of human resources payable from the employment security fund, from moneys made available to the state under section 903(d) of the federal social security act, as amended, and credited to the employment security fund.

(e) The provisions of this section shall expire on July 1, 2008.

New Sec. 5. In addition to providing and maintaining the KANS-A-N telephone directory on the internet, the department of administration shall publish paper-bound copies of the KANS-A-N telephone directory in January of calendar year 2005 and in January of each odd-numbered year thereafter. The secretary of administration shall fix, charge and collect a fee of not more than \$5 for each paper-bound copy of the KANS-A-N telephone directory to recover costs incurred for publication and distribution of such telephone directories. All moneys received for such fees shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the information technology fund.

Sec. 6. K.S.A. 44-716a, 75-3728a, 75-3728c and 75-3728d and K.S.A. 2003 Supp. 60-2310, 75-3728b and 75-6210 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.

Governor Sebelius' Veto Message for House Bill 2669

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto **House Bill 2669**. **House Bill 2669** codifies into law funding the State Treasurer's Office through "banking fees," fees charged on warrants issued by other state agencies. This funding mechanism was first implemented in the FY 2004 budget as a response to my request for the State Treasurer's Office to become a self-supporting agency. In my FY 2004 budget, I recommended a new plan to fund this office, one that would not place an unnecessary burden upon other state agencies. However, the State Treasurer rejected that plan. In the FY 2005 budget I signed last month, "banking fees" again fully fund the State Treasurer's office.

I believe the State Treasurer's Office should operate with funding that is not simply shifted from other state agencies, but generated from fees on services the Treasurer's Office delivers to the people of Kansas.

The veto of this legislation in no way jeopardizes the funding of the Treasurer's Office. Full funding of the State Treasurer's office is provided under the FY 2005 budget. This measure, however, does allow the State Treasurer's Office, the office of the Governor, and the legislature to further discuss how best to fund the Treasurer's Office.

Dated: May 17, 2004

KATHLEEN SEBELIUS
Governor