
Committee Report

CONSENT CALENDAR

February 14, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Executive Departments and Administration to which was referred HB 503-FN,

AN ACT prohibiting state employees from providing accounting services on behalf of a third party. Having considered the same, report the same with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Kristina Schultz

FOR THE COMMITTEE

COMMITTEE REPORT

| | |
|-------------------|--|
| Committee: | Executive Departments and Administration |
| Bill Number: | HB 503-FN |
| Title: | prohibiting state employees from providing accounting services on behalf of a third party. |
| Date: | February 14, 2019 |
| Consent Calendar: | CONSENT |
| Recommendation: | INEXPEDIENT TO LEGISLATE |

STATEMENT OF INTENT

This bill would have prohibited any state entity from providing any accounting service or payroll deduction on behalf of a private corporation or organization. The fiscal note stated that this would not provide any savings to the state. It would prove detrimental to charities and some small businesses who depend on these deductions for much of their income. It would also prohibit collection of child support and court-ordered restitution through the payroll process. As well as being a large inconvenience to employees, written testimony revealed that this prohibition would violate RSA 275:48 and RSA 273-A:5 (i), relative to terms of negotiated contracts with employees.

Vote 19-0.

Rep. Kristina Schultz
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Executive Departments and Administration

HB 503-FN, prohibiting state employees from providing accounting services on behalf of a third party. **INEXPEDIENT TO LEGISLATE.**

Rep. Kristina Schultz for Executive Departments and Administration. This bill would have prohibited any state entity from providing any accounting service or payroll deduction on behalf of a private corporation or organization. The fiscal note stated that this would not provide any savings to the state. It would prove detrimental to charities and some small businesses who depend on these deductions for much of their income. It would also prohibit collection of child support and court-ordered restitution through the payroll process. As well as being a large inconvenience to employees, written testimony revealed that this prohibition would violate RSA 275:48 and RSA 273-A:5 (i), relative to terms of negotiated contracts with employees. **Vote 19-0.**

From: Schultz, Kris
Sent: Tuesday, February 12, 2019 9:59 AM
To: Goley, Jeff; Simmons, Miriam; Goley, Jeff
Subject: HB 503 committee report

This bill would have prohibited any state entity from providing any accounting service or payroll deduction on behalf of a private corporation or organization. The fiscal note stated that this would not provide any savings to the state. It would prove detrimental to charities and some small businesses who depend on these deductions for much of their income. It would also prohibit collection of child support and court-ordered restitution through the payroll process. As well as being a large inconvenience to employees, written testimony revealed that this prohibition would violate RSA's 275:48 and 273-A:5 (i), relative to terms of negotiated contracts with employees.

St Rep Kris Schultz
C- (603) 275-2227
- text is great too
Sent from my iPhone



Voting Sheets

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 503-FN

BILL TITLE: prohibiting state employees from providing accounting services on behalf of a third party.

DATE: February 5, 2019

LOB ROOM: 306

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Schultz

Seconded by Rep. Grote

Vote: 19-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,



Rep John Sytek, Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 503-FN

BILL TITLE: prohibiting state employees from providing accounting services on behalf of a third party.

DATE: 2/5/19

LOB ROOM: 306

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. SCHULTZ Seconded by Rep. GIBO TB Vote: 19-0

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

Minority Report? _____ Yes _____ No If yes, author, Rep: _____ Motion _____

Respectfully submitted: John Sytek
Rep John Sytek, Clerk



2019 SESSION

Executive Departments and Administration

Bill #: HB 503 Motion: ITL AM #: _____ Exec Session Date: 2/5/19

| <u>Members</u> | <u>YEAS</u> | <u>Nays</u> | <u>NV</u> |
|----------------------------------|-------------|-------------|-----------|
| Goley, Jeffrey P. Chairman | X | | |
| Schuett, Dianne E. Vice Chairman | X | | |
| Jeudy, Jean L. | X | | |
| Schmidt, Peter B. | X | | |
| Schultz, Kristina M. | X | | |
| Fontneau, Timothy J. | X | | |
| Desjardin, Kathy J. | X | | |
| Fellows, Sallie D. | X | | |
| Fox, Samantha L. | X | | |
| Grote, Jaci L. | X | | |
| Merchant, Gary | X | | |
| Pimentel, Roderick L. | X | | |
| McGuire, Carol M. | X | | |
| Sytek, John Clerk | X | | |
| Beaudoin, Steven P. | | | |
| Proulx, Mark L. | X | | |
| Panasiti, Reed A. | X | | |
| Pearson, Stephen C. | X | | |
| Roy, Terry | X | | |
| Yakubovich, Michael | X | | |
| TOTAL VOTE: | <u>19</u> | <u>0</u> | |

Hearing Minutes

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Minutes of public hearings before the ED&A committee – January 22, 2019

HB-503. Relative to Mechanical Licensing Board. The hearing opened at 10:00 AM and closed at 10:15 AM.

^{renewal 2/24}
1 Rep. Marple introduced the bill and said that it was in accordance with the NH Constitution which provides for “frugal” government. He said that this would prohibit payroll deductions which cost the state money but would not provide his constituents any services. He spoke about the IRS as an agent of the US Government and distributed a flow chart showing the collection and distribution of federal taxes. He cited President Johnson’s removal of silver as a medium of exchange and that led to a distinction between “discharging” a debt and “paying” a debt, the latter of which no longer being possible in his view.

2 Michael Apfelberg of the Nashua United Way spoke in opposition and said that this would hurt charitable agencies. He said that 89% of contributors use payroll deductions (only 11% made one-time contributions). Weekly deductions provided for more budgetary convenience and allowed changing of mind if individual circumstances changed.

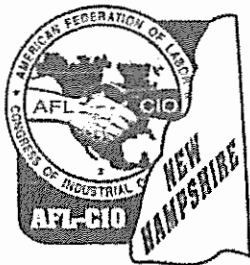
3 Robin Maddaus of the Department of Corrections spoke in opposition and said that this would prohibit payroll deductions of court ordered restitution.

4 Glenn Brackett of the NH AFL-CIO spoke in opposition and distributed written testimony.

by O Sytek

o

Testimony



NEW HAMPSHIRE AFL-CIO

PRESIDENT
Glenn Brackett

EXECUTIVE VICE PRESIDENT
David Pelletier

SECRETARY/TREASURER
Laura Hainey

4

PRESIDENT EMERITUS
Mark S. MacKenzie
Harland W. Eaton

SECRETARY-TREASURER
EMERITUS
William A. Stetson
James D. Casey

Chair and members of the committee,

My name is Glenn Brackett and I am the President of the NH AFL-CIO. The NH AFL-CIO is the largest labor organization in the State of New Hampshire. I am here today to testify in on behalf our members in opposition to HB 503, AN ACT prohibiting state employees from providing accounting services on behalf of a third party.

161 LONDONDERRY TURNPIKE
HOOKSETT, NH 03106
PHONE: (603) 623-7302
FAX: (603) 623-7304
EMAIL:
president@nhaficio.org
WEBSITE:
www.nhaficio.org

House Bill 503 would affect any organization that currently receives withheld wages from the state. While this includes labor unions representing state employees, it also represents charities like the United Way. House Bill 503 could require charities that benefit from withholding arrangements with the State of New Hampshire to adopt new accounting practices to deal with contributions from state employees, expending resources that should be spent on pursuing their charitable initiatives. More troublingly, this legislation doesn't have any provisions dealing with funds currently withheld due to court cases, perhaps putting at-risk the timely delivery of child-support payments and the continuity of insurance coverage for children mandated by our family courts. This could also have the effect of shifting the costs for court-ordered garnishments from the Department of Administrative Services to the New Hampshire Judicial Branch.

Finally, while it claims to save the state money, neither the bill's sponsors nor the Department of Administrative Services can specifically identify any savings. The fiscal note attached at the end of this legislation has zeroes next to the dollar signs and the best the three state agencies contacted to determine the financial impact - the Department of Administrative Services, the Judicial Branch and the Legislative Branch - can tell, this legislation would provide no demonstrable saving. The DSA put their expectations this way "(HB 503) would not significantly impact the overall time and resources required for processing the statewide payroll."

In conclusion, the New Hampshire AFL-CIO is opposed to HB 503. This legislation is, at best, a solution in search of a problem. At worst, it would make the work of our charities, family courts, and labor unions like the AFL-CIO unnecessarily harder. Please vote inexpedient to legislate on HB 503.

Thank you, Glenn Brackett
President, AFL-CIO

LEGISLATIVE HISTORY

FEDERAL TAX LIEN ACT OF 1966

P.L. 89-719, see page 1516

House Report (Ways and Means Committee) No. 1884,
Aug. 24, 1966 [To accompany H.R. 11256]

Senate Report (Finance Committee) No. 1708,
Oct. 11, 1966 [To accompany H.R. 11256]

Cong. Record Vol. 112 (1966)

DATES OF CONSIDERATION AND PASSAGE

House Sept. 12, Oct. 20, 1966

Senate Oct. 13, 1966

The Senate Report is set out.

SENATE REPORT NO. 1708

THE Committee on Finance, to which was referred the bill (H.R. 11256) to amend the Internal Revenue Code of 1954 with respect to the priority and effect of Federal tax liens and levies, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

I. GENERAL STATEMENT

The bill as reported by your Committee makes one amendment to the bill as passed by the House. This amendment is with respect to the place of filing (and of refiling, discussed in A.6 and A.7 below) notice of a tax lien.

The Federal Tax Lien bill of 1966 represents the first comprehensive revision and modernization of the provisions of the internal revenue laws concerned with the relationship of Federal tax liens to the interests of other creditors.

Since the adoption of the Federal income tax in 1913, the nature of commercial financial transactions has changed appreciably. Business practices have been substantially revised and, as a result, many new types of secured transactions have been developed. In an attempt to take into account these changed commercial transactions, and to secure greater uniformity among the several States, a Uniform Commercial Code was promulgated somewhat over 10 years ago by the American Law Institute and the National Conference of Commissioners on Uniform State Laws. A revised version of this code is already law in over 40 States and could well be adopted by many of the remaining States in the near future. Under the Commercial Code, priority now is afforded new types of commercial secured creditors not previously protected.

This bill is in part an attempt to conform the lien provisions of the internal revenue laws to the concepts developed in this Uniform Commercial Code. It represents an effort to adjust the provisions in the internal revenue laws relating to the collection of taxes of delinquent persons to the

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NEW HAMPSHIRE
SECRETARY OF STATE

FEDERAL TAX LIEN ACT

more recent developments in commercial practice (permitted and protected under State law) and to deal with a multitude of technical problems which have arisen over the past 50 years. The bill represents the culmination of a project initiated approximately 10 years ago by those concerned with the relationship of the tax lien provisions to the interests of other creditors. Since that time, the suggestions and ideas of various groups have been studied and analyzed carefully, both by the groups themselves and by the staffs of the Treasury Department and the congressional committees.

Under present law, a lien for Federal taxes arises when a taxpayer's liability is assessed. The lien attaches to all of the property he then holds or subsequently acquires. The assessment is made when the unpaid tax liability is entered on the appropriate records of the Internal Revenue Service—which occurs, in the case of a taxpayer who voluntarily shows the tax liability on his return, shortly after the time the return is filed. Although the lien arises on the date of assessment, present law provides that purchasers and certain categories of secured creditors are given priority over the tax lien up to the time a notice of the tax lien is filed in the appropriate local office as designated by State law. Mortgagees, pledgees, purchasers, and judgment lien creditors are given this priority status. In addition, in the case of securities and motor vehicles, present law provides that even a filed Federal tax lien is not generally to be effective as against a purchaser or a mortgagee or pledgee of securities or a purchaser of motor vehicles.

This bill substantially improves the status of private secured creditors. This is accomplished, first, by expanding the categories of creditors protected as against a nonfiled tax lien to include a mechanic's lienor.

Second, various types of secured creditor interests already having, or given, priority status over tax liens are specifically defined, and it is provided that where those interests qualify under the definitions they are to be accorded this priority status whether or not they are in all other respects definite and complete at the time notice of the tax lien is filed.

Third, the bill adds to the "superpriority" status accorded to certain interests in securities and motor vehicles an additional eight categories of interests in properties which are to be effective as against a tax lien, even though notice of the lien has been filed.

Fourth, a priority status is provided for interests arising under three types of financing agreements entered into before the tax lien filing—commercial transactions financing, real property construction or improvement financing, and obligatory disbursements—even though the funds are advanced or the property comes into existence after the tax lien filing. In the case of commercial transactions financing, the protection generally is afforded even though the property underlying the lien is not yet in existence or is turned over within a short time (45 days) after the tax lien filing as long as the loan or purchase is made within this time. In the absence of this grace period, commercial factors and other lenders would have to check on a daily basis to see if a tax lien is filed to protect their interests. Interests arising under the real property construction and improvement financing agreements are protected even though loans are made after the tax lien filing because the construction is expected to enhance the value of the property underlying the tax lien. Interests arising under an obligatory disbursement agreement are protected because a person is obliged un-

OCT 22 1998

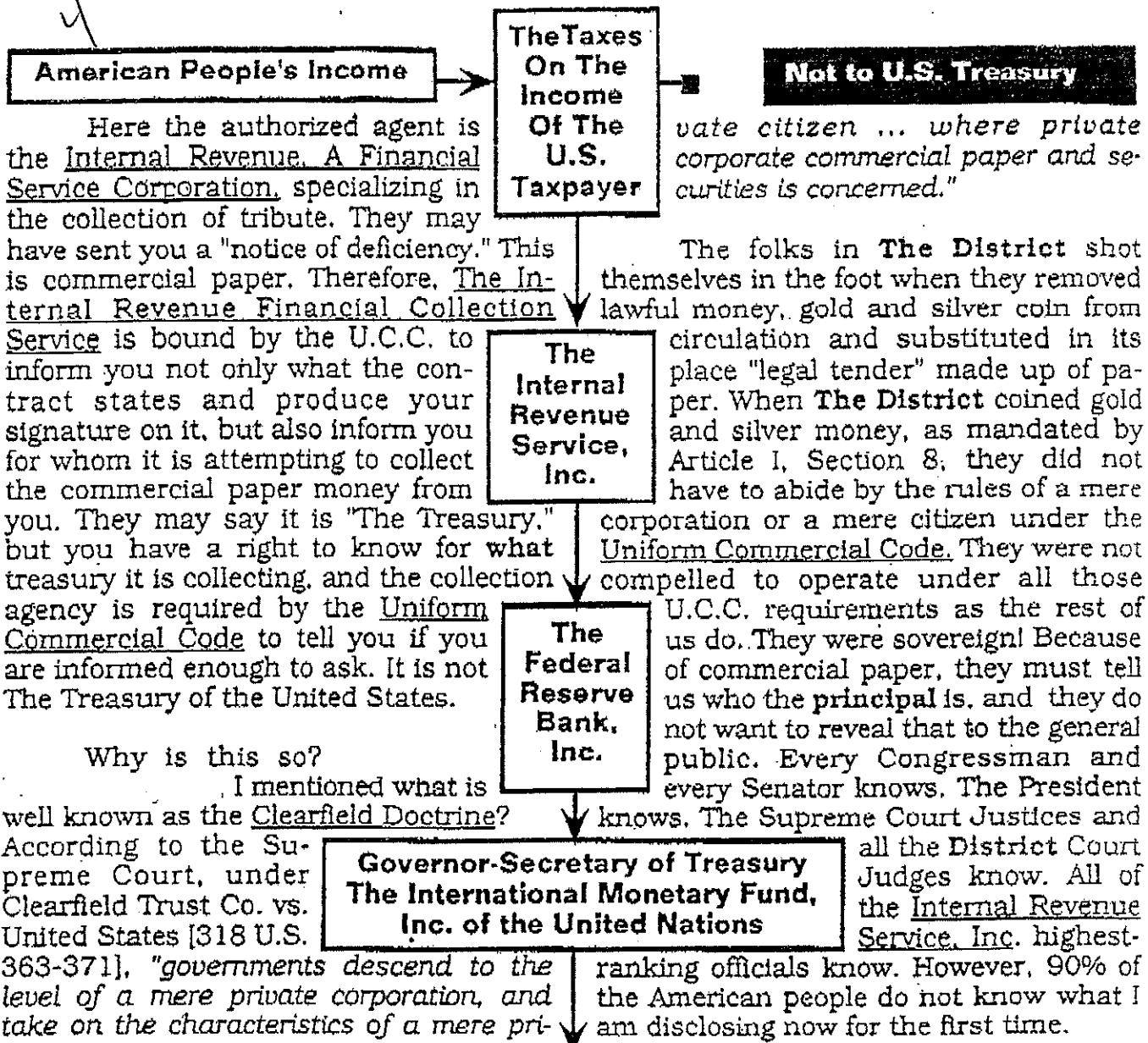
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LIEN
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SEE

NOTE

U.S Code, Title 31, Section 1321(62) defines the IRS as a foreign trust operating as an independent contractor providing administrative service in the collection of tribute from corporations who receive the benefit of limited liability. A Flow Chart follows with citations for your verification;



The United Nations Agency For International Development

The private corporation you know as the Internal Revenue Service, Inc. entered into a "service agreement" with the U.S. Treasury Department [See: Public Law 94-564; Legislative History, page 5967; The 1985 Edition of The Army Field Manual, FM 41-10 pages 3-6 and 3-8]; and the Agency For International Development pursuant to Treasury Delegation Order No. 91. The Agency For International Development is a socialist-Marxist anti-American international paramilitary task force operation which includes such activities as "assumption of full or partial executive, legislative and judicial authority over a country or area." It is that part of the United Nations which does military operations all over the world, including the more than 200,000 United Nations troops which are, right now as I write, setting up subversive tactical operations within the United States.

◆ NOTICE ◆ NOTICE ◆ NOTICE ◆

The United Nations Agency For International Development is the Principal whose name will never be disclosed by the Internal Revenue Service, Inc. This Principal is financed and funded by the IRS which collects the tribute, the commercial paper money for this paramilitary Agency within the United Nations from the U.S. Taxpayers. This is where all the money goes! It is funding the subversive objectives of The New World Order.

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SECRETARY OF STATE

LEGISLATIVE HISTORY

der a preexisting agreement to make disbursements after a tax lien filing and someone other than the taxpayer has relied on this obligation.

Fifth, a limited type of priority is given by the bill with respect to two other categories. In the case of security interests, generally, protection is afforded for a period of up to 45 days after the filing of notice of a tax lien. Also, interest paid with respect to interests having priority over a Federal tax lien and costs of preserving property subject to interests having priority over a tax lien are given a priority over tax liens even though notice has been filed (where these items have the same priority as principal debt under State law).

In addition to dealing with the relative priority of creditors' interests as against Federal tax liens, the bill also makes numerous modifications in the provisions of the internal revenue laws dealing with the procedures to be followed in collecting the taxes of a delinquent person. In general terms, these modifications are intended to represent a reasonable accommodation of the interests of the Government in collecting the taxes of delinquent taxpayers with the rights of the taxpayers and third parties. The modifications are concerned with the procedures for levying upon property of a delinquent taxpayer, the liability of lenders, sureties, etc., for withholding taxes, the running of the statute of limitations in the case of delinquent tax liabilities, procedures arising out of, or with respect to, the sale of property of delinquent taxpayers, the court procedures to be followed with respect to tax liens, and provision for the redemption of real property by the United States, where it is sold by a creditor with a higher priority.

The Treasury Department urges the adoption of this bill.

II. GENERAL EXPLANATION

A. PRIORITY OF LIENS (SEC. 101 OF THE BILL AND SEC. 6323 OF THE CODE)

(1) Interests having priority over tax liens (sec. 6323(a) of the code)

The Federal tax lien arises at the time a tax is assessed. However, present law lists certain categories of persons, whose interests arise after the Federal tax lien but before the Internal Revenue Service files a notice of the lien, who are given priority over the tax lien.

Under the bill, persons to be accorded priority over a tax lien include purchasers, judgment lien creditors, mechanic's lienors, and holders of security interests. Purchasers and judgment creditors (which has been interpreted as meaning judgment "lien" creditors), as well as mortgagees and pledgees (which under the bill are included as holders of security interests), already have this priority status under present law. The inclusion of mechanic's lienors expands somewhat the categories protected under present law. The definition of the term "purchaser" makes clear that a purchaser who has not taken title to, or fully paid for, property is protected. The substitution of "holder of a security interest" for "mortgagee" and "pledgee" replaces the latter terms with a more general term used in the Uniform Commercial Code.¹ More important, however, it is intended that, under the bill, the various types of interests defined in this provision are to have a priority over a nonfiled Federal tax lien if they come within the defini-

LIEN MUST BE FILED

¹ See Uniform Commercial Code, sec. 9-310, regarding mechanic's lienors. Compare the definition of "security interest" in Uniform Commercial Code, sec. 9-201(37).

Bill as
Introduced

HB 503-FN - AS INTRODUCED

2019 SESSION

19-0145
05/04

HOUSE BILL

503-FN

AN ACT

prohibiting state employees from providing accounting services on behalf of a third party.

SPONSORS:

Rep. Marple, Merr. 24; Rep. Harrington, Straf. 3; Rep. Spillane, Rock. 2

COMMITTEE:

Executive Departments and Administration

ANALYSIS

This bill prohibits a state employee from implementing or administering any accounting service or payroll deduction on behalf of a third party.

.....
Explanation:

Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struck through~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT prohibiting state employees from providing accounting services on behalf of a third party.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subdivision; State Employees; Third Party Accounting Services. Amend RSA 99 by
2 inserting after section 26 the following new subdivision:

3 Accounting Services for Third Parties

4 99:27 State Employees; Accounting Services for Third Parties. No state employee shall
5 implement or administer any accounting service or payroll deduction on behalf of a third party.
6 Any person who knowingly violates this section will be subject to personal liability and immediate
7 removal from his or her position.

8 2 Effective Date. This act shall take effect January 1, 2020.

HB 503-FN- FISCAL NOTE
AS INTRODUCED

AN ACT prohibiting state employees from providing accounting services on behalf of a third party.

FISCAL IMPACT: State County Local None

| STATE: | Estimated Increase / (Decrease) | | | |
|------------------------|---|------------------------------------|---|---|
| | FY 2020 | FY 2021 | FY 2022 | FY 2023 |
| Appropriation | \$0 | \$0 | \$0 | \$0 |
| Revenue | \$0 | \$0 | \$0 | \$0 |
| Expenditures | Indeterminable | Indeterminable | Indeterminable | Indeterminable |
| <i>Funding Source:</i> | <input checked="" type="checkbox"/> General Government Funds | <input type="checkbox"/> Education | <input checked="" type="checkbox"/> Highway | <input checked="" type="checkbox"/> Other - Various |

METHODOLOGY:

This bill would prohibit a state employee from implementing or administering any accounting service or payroll deduction on behalf of a third party.

The Department of Administrative Services (DAS) states this bill may prevent the State from processing payments for court-ordered garnishments. DAS is unable to quantify the potential fines or penalties the state may incur. DAS assumes the legislation is directed at deductions for non-State sponsored benefit plans only, thereby excluding: Health, Dental, Retirement, Deferred Compensation, Supplemental Life and Flexible Spending Account deductions and associated accounting. To the extent this would relieve the administrative burden associated with management of certain payroll deductions, the bill would reduce expenditures by an indeterminable amount in FY 2020 and in each year thereafter. The Department indicates eliminating certain payroll deductions may allow staffing resources to be realigned but would not significantly impact the overall time and resources required for processing the statewide payroll.

The Judicial Branch states, other than payroll deductions, the Branch cannot determine what the applicability of the proposed bill would be to the Branch. The Branch does not anticipate any fiscal impact on the Branch would exceed \$10,000.

The Legislative Branch indicates DAS operates the statewide payroll system, including the establishment and management of payroll deductions for use by agency/branch payroll staff.

The Branch assumes the elimination of payroll deductions may allow staff resources to be realigned and would have little to no impact on the Branch.

AGENCIES CONTACTED:

Department of Administrative Services, Judicial Branch and Legislative Branch