

House Appropriations Committee

Wednesday, January 31, 2018

Testimony Re: HB 2402

Members of the House Appropriations Committee:

I am John Milburn, Director of Legislative and Public Affairs for the Department of Administration, and I am here today to testify in opposition to HB 2402 regarding debt collection. The agency has numerous concerns about the language in the bill and the challenges that would be created by its enactment.

BACKGROUND:

The Department of Administration previously spent numerous hours drafting and negotiating a standard agreement intended to be used with the current state-owned casinos for potential collection of Setoff Program debts. Payments to be made by the Casino to a prize winner when a W-2G is required to be filed with the IRS would be matched to the Setoff Program debtor and debts via an online access page created specifically for use by the Casino staff. The Casino staff would enter certain identifying information about the prize winner into the access page and would be provided information that the prize winner is or is not found in the debt database. If found the amount of the debt is provided to the Casino staff to be setoff/withheld from the prize payment. That amount is paid to the State Treasurer's Office for credit to the Setoff Clearing Fund and the balance of the prize payment is paid to the prize winner. The Casino staff is not provided any other debtor or debt information. If there is no match the entire prize is paid by the Casino to the prize winner.

This same process determined for the state-owned casinos, lottery gaming facility manager as defined in K.S.A. 74-8702 may be used for facility owner licensee as defined in K.S.A. 74-8802 and racetrack gaming facility manager as defined in K.S.A. 74-8702, when and if electronic gaming machines are operated at horse and greyhound racing facilities in Kansas.

HB2402 would amend the Kansas Setoff statutes to:

- 1) add the term "third party vendor" to the list of defined terms;
- 2) require the Setoff debt database debtor and debt information be provided to any "third party vendor"; and
- 3) require agreements with any "third party vendor" to assist with collection of debts owed to state agencies and other entities authorized to submit debts to the program;

As written, the bill could potentially create volumes of agreements with third party vendors as the term third party vendor is broad. Third party vendors could include collection agencies, individuals, businesses, other governmental agencies and any other entities. Because of the potential volume additional Setoff staff would be needed to administer and monitor those agreements and to provide oversight of third party vendor collection activities and correspondence, process updates to the Setoff system (KDRS) for the additional collection activities, perform periodic review of third party collections, reporting, and process receipts, transfers,

billings, etc. Additional staff would also require costs for office space rents, PCs, telephones, and related service charges.

Third party vendor is very broad and doesn't restrict participation in the Setoff Program to a target population. Third party vendor as defined can mean any person and person is defined as an individual, proprietorship, partnership, limited partnership, association, trust, estate, business trust, corporation, other entity or a governmental agency, unit or subdivision. A defined target population would allow Department of Administration to limit and manage risks associated with the additional Setoff Program participants and processes required for those new users.

Providing the debtor and debt information to any third-party vendor creates a risk for the state as the bill doesn't address how third-party vendors may use the debtor and debt information. The bill also doesn't address what sources of funds may be setoff or collection methodologies to be used by third party vendors, how frequently collections would be remitted to the Setoff Program or fees that may be charged by the third-party vendors. No direction is provided as to how frequently the updated debtor and debt information must be provided to each third-party vendor or if the Department of Administration will have access to the third-party vendor collection methods.

Additional legal assistance to review all agreements with third party vendors would create additional expenses and legal assistance would be needed for any legal actions/challenges arising from third party vendor actions and issues relating to any indemnification.

Please see the fiscal note prepared during the 2017 Session for additional details.

I thank you for allowing the Department of Administration to express our concerns and we would be pleased to answer any of your questions.

John Milburn
Director, Legislative and Public Affairs
Kansas Department of Administration
john.milburn@ks.gov
785-296-6866