

SECOND REGULAR SESSION

SENATE BILL NO. 853

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS FLOTRON AND WIGGINS.

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TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 32, RSMo, by adding thereto one new section relating to the department of revenue oversight board.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 32, RSMo, is amended by adding thereto one new section, to be known as section 32.045, to read as follows:

32.045. 1. There is established within the office of administration the "Department of Revenue Oversight Board". The oversight board shall be composed of nine members, as follows:

(1) Seven members shall be individuals who are not otherwise state officers or employees and who meet the qualifications described in subsection 2 of this section and who are appointed by the governor with the advice and consent of the senate;

(2) One member shall be the director of revenue; and

(3) One member shall be an individual who is, and has been for at least five years prior to appointment, a full-time employee of the department of revenue and who shall be appointed by the governor with the advice and consent of the senate.

2. Members of the oversight board described in subdivision (1) of subsection 1 of this section shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the areas as follows:

(1) At least one member shall have experience in the tax laws of this state, including tax administration and compliance;

(2) At least one member shall have experience in information technology;

(3) At least one member shall have experience in business organization and development in this state;

(4) At least one member shall have experience in addressing the needs and concerns of individual income taxpayers of this state;

(5) At least one member shall have experience in operating a business with fewer than twenty employees in this state;

(6) At least one member shall have experience in operating a business with more than twenty and fewer than one hundred employees, with a headquarters located within this state; and

(7) At least one member shall have experience in operating a business with more than one hundred employees, with a headquarters located within this state.

3. Each member of the board, other than the director of revenue, shall be appointed for a term of five years, except that of the members initially appointed to the board, two members shall be appointed for a term of two years, two members shall be appointed for a term of three years, two members shall be appointed for a term of four years, and two members shall be appointed for a term of five years. Such members shall not serve more than one five-year term. Any vacancy on the oversight board shall be filled by a person with expertise in the same area as the person's predecessor, and shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term and may be reappointed to one full five-year term at the end of the original term.

4. The oversight board shall oversee the department in its administration, management, conduct, direction, execution and application of the tax laws of this state. Specifically, the board shall be responsible for the following:

(1) Review and approval of department of revenue strategic plans, including the establishment of mission and objectives and standards of performance relative to either;

(2) Review of the department's operational functions, including any plans for tax system modernization, outsourcing, training and education;

(3) Overseeing management of the department by recommending candidates for the director of revenue position to the governor, recommending removal of the director, if necessary, and reviewing the selection and evaluation of the senior staff of the department;

(4) Reviewing and approving or disapproving any director's plan for major reorganization of the department to ensure such reorganization serves the best interests of the taxpayers of this state;

(5) Overseeing the department's budget requests through review and approval of such requests prior to submittal to the legislature, ensuring the budget requests support the department's strategic plan;

(6) Ensuring the proper treatment of taxpayers by auditors and other department employees.

5. Tax information deemed confidential under the provisions of section 32.057 shall remain confidential and disclosure of such confidential tax information shall be allowed to board members only in accordance with the provisions of section 32.057, unless a taxpayer specifically authorizes disclosure of tax information in writing. Upon receipt of a written disclosure authorization, the department shall provide tax information regarding the taxpayer to the board. Records pertaining to the overall operation of the department's tax collection and administration, the disclosure of which is not limited by section 32.057, shall be provided to any member of the board as soon as reasonably possible following receipt by the department of revenue of a written request for such information by the board member.

6. All actions of the board shall be approved by a simple majority vote of the board.

7. In accordance with the provisions of subdivision (6) of subsection 4 of this section, and notwithstanding the provisions of any other law to the contrary, the board shall review and approve any tax administration action or collection activity that impacts a large number of businesses within a particular industry or group of taxpayers prior to department of revenue taking such action or pursuing such activity. Some factors the board shall consider include:

(1) Whether the action or activity is consistent with previous instructions given to members of the industry, both formal and informal, by the department of revenue through verifiable telephone conversations, informal letters or regulations promulgated by the department;

(2) Whether the action or activity is consistent with previous industry practices with regard to the issue at hand, determined by testimony of other businesses in the same industry;

(3) Whether the action or activity is consistent with any final decision issued by a court of competent jurisdiction or the administrative hearing commission regarding the issue at hand;

(4) The monetary impact of the action or activity on the industry as a whole; and

(5) Any other factor that, in the opinion of the board, should be considered in the interest of the fair treatment of taxpayers by the department of revenue.

8. If the board, by majority vote, determines that an action or activity of the department as determined under subsection 7 of this section is improper, the board shall have the authority to direct the department to follow a course of action deemed acceptable to a majority of the members of the board.

9. Any decision of the board shall be consistent with existing statutes and

decisions of a court of competent jurisdiction or the administrative hearing commission regarding the issue.

10. Any decision of the board may be appealed to the administrative hearing commission in the same manner as the procedure provided for appeal of decisions of the director of revenue as provided in section 621.050, RSMo, provided that any such appeal is filed within sixty days of the date the decision is issued by the board.

11. Taxpayers may personally represent themselves in any proceedings of the board. In the case of a business, any owner, partner or officer of the company may represent the business in any proceedings of the board.

12. Each member of the board shall be reimbursed for reasonable and necessary expenses, including travel expenses, actually incurred in the performance of his or her official duties.

13. Meetings of the board shall be held at least once per month and shall be subject to the provisions of chapter 610, RSMo, regarding meetings of governmental bodies. Records shall be maintained of all meetings and shall be subject to the provisions of chapter 610, RSMo, regarding public records except where disclosure of such records would violate the provisions of section 32.057, in which case the provisions of section 32.057 shall prevail.

Bill ✓

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