

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SCS/Senate Bill No. 90, Page 8, Section 288.130, Line 39,

2 by inserting after all of said line the following:

3 "288.160. 1. If any employer neglects or refuses to make a  
 4 report as required by this [law] chapter the division shall make  
 5 an estimate based on any information in its possession or that  
 6 may come into its possession of the amount of wages paid by such  
 7 employer for the period in respect to which the employer failed  
 8 to make the report, and upon the basis of such estimated amount  
 9 compute and assess the contributions and interest payable by such  
 10 employer, adding to such sum a penalty as set forth in subsection  
 11 2 of this section. Promptly thereafter, the division shall give  
 12 to such employer written notice of such estimated contributions,  
 13 interest and penalties as so assessed, the notice to be served  
 14 [personally or] by [registered] certified mail, directed to the  
 15 last known [principal place of business] address of such employer  
 16 [in this state or in any state in the event the employer has none  
 17 in this state].

18 2. If any employer neglects or refuses to file any required  
 19 report by the last day of the month following the due date there  
 20 shall be imposed a penalty, equal to the greater of one hundred  
 21 dollars or ten percent of the contributions required to be shown

1 on the report, for each month or fraction thereof during which  
2 such failure continues, provided, however, that the penalty shall  
3 not exceed the greater of two hundred dollars or twenty percent  
4 of the contributions in the aggregate.

5 3. In any case in which any contributions, interest or  
6 penalties imposed by this [law] chapter are not paid when due, it  
7 shall be the duty of the division, when the amount of  
8 contributions, interest or penalties is determined, either by the  
9 report of the employer or by such investigation as the division  
10 may make, to assess the contributions, interest and penalties so  
11 determined against such employer and to certify the amount of  
12 such contributions, interest and penalties and give such employer  
13 written notice, served [personally or] by [registered] certified  
14 mail, directed to the last known address of such employer [in  
15 this state or in any state, in the event the employer has none in  
16 this state].

17 4. If fraud or evasion on the part of any employer is  
18 discovered by the division, the division shall determine the  
19 amount by which the state has been defrauded, shall add to the  
20 amount so determined a penalty equal to twenty-five percent  
21 thereof, and shall assess the same against the employer. The  
22 amount so assessed shall be immediately due and payable;  
23 provided, however, that the division shall promptly thereafter  
24 give to such employer written notice of such assessment.

25 5. Any employer against whom an assessment is made pursuant  
26 to the provisions of subsections 1, 2, 3 and 4 of this section  
27 may petition for reassessment. The petition for such  
28 reassessment shall be filed with the division during the  
29 thirty-day period following the [day of service or] mailing of

1 the notice of such assessment. In the absence of the filing of  
2 such a petition for reassessment the assessment shall become  
3 final upon the expiration of such a thirty-day period. Each such  
4 petition for reassessment shall set forth specifically and in  
5 detail the grounds upon which it is claimed the assessment is  
6 erroneous.

7 6. (1) In any case in which any contributions, interest or  
8 penalties imposed by [law] this chapter are not paid when due,  
9 the notice of the assessment of such contributions, interest and  
10 penalties shall be served upon or mailed to the employer within  
11 three years of the date upon which the payment of the  
12 contributions was due except that in any case of fraud or  
13 misrepresentation on the part of the employer, the notice of the  
14 assessment of the contributions, interest and penalties may be  
15 served [upon or mailed] by mail to the last known address of such  
16 employer at any time.

17 (2) The giving of the notice of the making of the  
18 assessment shall toll any statute of limitations on the  
19 collection of any contributions, interest and penalties assessed.

20 (3) In the event any employer is entitled to the advantage  
21 of the Soldiers' and Sailors' Civil Relief Act of 1940, or any  
22 amendment thereto, prior to the date any assessment becomes  
23 final, such employer shall be permitted to file a petition for  
24 reassessment at any time within ninety days following such  
25 employer's discharge from the armed services.

26 (4) The certificate of assessment which, pursuant to the  
27 provisions of section 288.170, may be filed with the clerk of the  
28 circuit court shall, upon such filing, thereafter be treated in  
29 all respects as a final judgment of the circuit court against the

1        employer and the general statute of limitations applying to other  
2        judgments of courts of record shall apply."; and  
3                Further amend the title and enacting clause accordingly.