

**REPORT OF THE  
ECONOMIC DEVELOPMENT,  
CAPITAL IMPROVEMENT &  
OTHER TAXES SUBCOMMITTEE**

(Loftis, Cobb-Hunter, Stavrinakis, Hardwick & Lowe - Staff Contact: AJ Newton)

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**SENATE BILL 526**

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S. 526 -- Senator Leatherman: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-4-397 SO AS TO AUTHORIZE THE DEPARTMENT OF REVENUE TO DESIGNATE A THREE-MONTH AMNESTY PERIOD DURING WHICH THE DEPARTMENT SHALL WAIVE DELINQUENT TAX PENALTIES AND INTEREST AND SHALL NOT INITIATE A CRIMINAL INVESTIGATION, TO SPECIFY TAXPAYERS THAT MAY PARTICIPATE IN THE PROGRAM, AND TO SET FORTH THE MANNER IN WHICH THE DEPARTMENT SHALL ADMINISTER THE PROGRAM.

***Summary of Bill:***

- The bill creates Section 12-4-397.
- It would allow the Department of Revenue to designate a periodic amnesty period. During this period the Department shall waive delinquent tax penalties, interest, and shall not initiate a criminal investigation.
- The Department of Revenue must notify the General Assembly at least sixty days before commencement of the amnesty period.
- The Department of Revenue shall be reimbursed five percent of the amounts collected through amnesty for administrative costs.
- The bill outlines exceptions to the amnesty period.
- The bill also states that overdue tax debt may be subject to an additional ten percent collection assistance fee.

***Introduced:*** 01/10/2014

***Received by Ways and Means:*** 04/14/2014

***Estimated Fiscal Impact:***

The bill would have no Fiscal Impact.

***Subcommittee Recommendation:***

Favorable

***Full Committee Recommendation:***

Pending

***Other Notes/Comments:***

Overdue Tax Debt: any tax debt that remains unpaid one hundred twenty days or more after the taxpayer receives a notice. It is currently subject to a collection assistance fee of twenty percent of the amount of overdue tax.



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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Bill Number: S. 0526  
 Author: Leatherman  
 Requestor: Senate Finance  
 Date: March 24, 2015  
 Subject: Tax Amnesty  
 RFA Analyst(s): Shuford and Shealy

**Estimate of Fiscal Impact**

	<b>FY 2015-16</b>	<b>FY 2016-17</b>
<b>State Expenditure</b>		
General Fund	\$0	N/A
Other and Federal	\$0	N/A
Full-Time Equivalent Position(s)	0.00	0.00
<b>State Revenue</b>		
General Fund	\$0	N/A
Other and Federal	\$0	N/A
<b>Local Expenditure</b>	N/A	N/A
<b>Local Revenue</b>	N/A	N/A

**Fiscal Impact Summary**

This bill would have no expenditure impact on the General Fund, Federal Funds, or Other Funds since all revenue collection processes and procedures at the Department of Revenue are currently in place.

Given the permissive nature of this legislation as to when an amnesty program may be implemented, if at all, we do not estimate any appreciable increase in revenue from the enactment of this bill. If an amnesty period is announced, the revenue impact will depend upon the details and conditions existing at that time.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill adds Section 12-4-397 to allow the Department of Revenue (DOR) to designate an amnesty period from time to time as determined by DOR. DOR may waive a portion or all penalties and interest for taxpayers who voluntarily file delinquent returns and pay all taxes owed. DOR must inform the General Assembly at least 60 days before the commencement of the amnesty period. DOR must be reimbursed five percent of the amounts collected through amnesty for administrative costs. Overdue tax debt, defined as tax debt that remains unpaid one hundred twenty days or more after a notice of assessment has been issued by DOR, may be subject to an additional ten percent collection assistance fee. The current collection assistance fee pursuant to Section 12-55-60 is twenty percent of the overdue tax.

This bill would have no expenditure impact on the General Fund, Federal Funds, or Other Funds since all revenue collection processes and procedures at the Department of Revenue are currently in place.

**State Revenue**

Given the permissive nature of this legislation as to when an amnesty program may be implemented, if at all, we do not estimate any appreciable increase in revenue from the enactment of this bill. If an amnesty period is announced, the estimated revenue impact will be based upon the details and conditions at that time. These details include the type of tax revenue affected and the impact the amnesty program has upon regular enforcement activity and collections for that fiscal year. The timing of an amnesty program will significantly impact revenue due to the cyclical nature of tax collections. Adjustments for potential increased revenue collections in one year may need to be offset with a potential decrease in the next year. Offsets for increased DOR administrative cost reimbursements and additional collection assistance fees will also require analysis. Currently, insufficient data exists to provide a concise estimate.

**Local Expenditure**

N/A

**Local Revenue**

N/A



Frank A. Rainwater, Executive Director

**South Carolina General Assembly**  
121st Session, 2015-2016

**S. 526**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Leatherman

Document Path: I:\council\bill\bbs\9214dg15.docx

Introduced in the Senate on March 10, 2015

Introduced in the House on April 14, 2015

Currently residing in the House Committee on **Ways and Means**

Summary: Tax penalties

**HISTORY OF LEGISLATIVE ACTIONS**

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
3/10/2015	Senate	Introduced and read first time ( <u>Senate Journal-page 4</u> )
3/10/2015	Senate	Referred to Committee on <b>Finance</b> ( <u>Senate Journal-page 4</u> )
3/25/2015	Senate	Committee report: Favorable <b>Finance</b> ( <u>Senate Journal-page 18</u> )
3/31/2015	Senate	Read second time ( <u>Senate Journal-page 23</u> )
3/31/2015	Senate	Roll call Ayes-41 Nays-0 ( <u>Senate Journal-page 23</u> )
4/1/2015	Senate	Read third time and sent to House ( <u>Senate Journal-page 17</u> )
4/14/2015	House	Introduced and read first time ( <u>House Journal-page 34</u> )
4/14/2015	House	Referred to Committee on <b>Ways and Means</b> ( <u>House Journal-page 34</u> )

View the latest [legislative information](#) at the website

**VERSIONS OF THIS BILL**

[3/10/2015](#)

[3/25/2015](#)

1 COMMITTEE REPORT  
2 March 25, 2015

3  
4 **S. 526**

5  
6 Introduced by Senator Leatherman

7  
8 S. Printed 3/25/15--S.  
9 Read the first time March 10, 2015.

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11  
12 **THE COMMITTEE ON FINANCE**

13 To whom was referred a Bill (S. 526) to amend the Code of Laws  
14 of South Carolina, 1976, by adding Section 12-4-397 so as to  
15 authorize the Department of Revenue to designate a three-month,  
16 etc., respectfully

17 **REPORT:**

18 That they have duly and carefully considered the same and  
19 recommend that the same do pass:

20  
21 HUGH K. LEATHERMAN, SR. for Committee.

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24 **STATEMENT OF ESTIMATED FISCAL IMPACT**

25 **Fiscal Impact Summary**

26 This bill would have no expenditure impact on the general fund,  
27 federal fund, or other fund since all revenue collection processes and  
28 procedures at the Department of Revenue are currently in place.

29 Given the permissive nature of this legislation as to when an  
30 amnesty program may be implemented, if at all, we do not estimate  
31 any appreciable increase in revenue from the enactment of this bill.  
32 If an amnesty period is announced, the revenue impact will depend  
33 upon the details and conditions existing at that time.

34 **Explanation of Fiscal Impact**

35 **State Expenditure**

36 This bill adds Section 12-4-397 to allow the Department of  
37 Revenue (DOR) to designate an amnesty period from time to time  
38 as determined by DOR. DOR may waive a portion or all penalties  
39 and interest for taxpayers who voluntarily file delinquent returns and  
40 pay all taxes owed. DOR must inform the General Assembly at least  
41 60 days before the commencement of the amnesty period. DOR  
42 must be reimbursed five percent of the amounts collected through

1 amnesty for administrative costs. Overdue tax debt, defined as tax  
2 debt that remains unpaid one hundred twenty days or more after a  
3 notice of assessment has been issued by DOR, may be subject to an  
4 additional ten percent collection assistance fee. The current  
5 collection assistance fee pursuant to Section 12-55-60 is twenty  
6 percent of the overdue tax.

7 This bill would have no expenditure impact on the general fund,  
8 federal fund, or other fund since all revenue collection processes and  
9 procedures at the Department of Revenue are currently in place.

10 **State Revenue**

11 Given the permissive nature of this legislation as to when an  
12 amnesty program may be implemented, if at all, we do not estimate  
13 any appreciable increase in revenue from the enactment of this bill.  
14 If an amnesty period is announced, the estimated revenue impact  
15 will be based upon the details and conditions at that time. These  
16 details include the type of tax revenue affected and the impact the  
17 amnesty program has upon regular enforcement activity and  
18 collections for that fiscal year. The timing of an amnesty program  
19 will significantly impact revenue due to the cyclical nature of tax  
20 collections. Adjustments for potential increased revenue collections  
21 in one year may need to be offset with a potential decrease in the  
22 next year. Offsets for increased DOR administrative cost  
23 reimbursements and additional collection assistance fess will also  
24 require analysis. Currently, insufficient data exists to provide a  
25 concise estimate.

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27 Frank A. Rainwater, Executive Director

28 Revenue and Fiscal Affairs Office

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## A BILL

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11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,  
12 1976, BY ADDING SECTION 12-4-397 SO AS TO AUTHORIZE  
13 THE DEPARTMENT OF REVENUE TO DESIGNATE A  
14 THREE-MONTH AMNESTY PERIOD DURING WHICH THE  
15 DEPARTMENT SHALL WAIVE DELINQUENT TAX  
16 PENALTIES AND INTEREST AND SHALL NOT INITIATE A  
17 CRIMINAL INVESTIGATION, TO SPECIFY TAXPAYERS  
18 THAT MAY PARTICIPATE IN THE PROGRAM, AND TO SET  
19 FORTH THE MANNER IN WHICH THE DEPARTMENT  
20 SHALL ADMINISTER THE PROGRAM.

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22 Be it enacted by the General Assembly of the State of South  
23 Carolina:

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25 SECTION 1. Article 3, Chapter 4, Title 12 of the 1976 Code is  
26 amended by adding:

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28 “Section 12-4-397. (A) In order to encourage the voluntary  
29 disclosure and payment of taxes owed to the State, the General  
30 Assembly finds it desirable to allow the Department of Revenue to  
31 designate an amnesty period which has a beginning and ending date  
32 from time to time as determined by the department. During the  
33 amnesty period, the department shall waive the penalties and  
34 interest or portion of them at its discretion imposed pursuant to  
35 Titles 12, 27, and 61 for a taxpayer who voluntarily files delinquent  
36 returns and pays all taxes owed. If the department establishes an  
37 amnesty period pursuant to this section, it must notify the General  
38 Assembly of the amnesty period at least sixty days before the  
39 commencement of the amnesty period.

40 (B) If a taxpayer is granted amnesty, the department shall not  
41 initiate a criminal investigation or refer the taxpayer to the Office of



1 the Attorney General for criminal prosecution for the tax or tax  
2 periods covered by the granting of amnesty.

3 (C) The department shall grant amnesty to a taxpayer who files  
4 a request for amnesty form and:

5 (1) voluntarily files all delinquent tax returns and pays in full  
6 all taxes due;

7 (2) voluntarily files an amended tax return to correct an  
8 incorrect or insufficient original return and pays all taxes due; or

9 (3) voluntarily pays in full all previously assessed tax  
10 liabilities due within an extended amnesty period which begins at  
11 the close of the amnesty period and runs for a period of time as  
12 determined by the department. The department may set up  
13 installment agreements as long as all taxes are paid within this  
14 period. An installment agreement must be agreed upon before the  
15 close of the amnesty period established pursuant to subsection (A).

16 (D) The department shall not grant amnesty to a taxpayer who is  
17 the subject of a state tax-related criminal investigation or criminal  
18 prosecution.

19 (E) The department shall not waive penalties and interest  
20 attributable to any one filing period if the taxpayer has outstanding  
21 liabilities for other periods.

22 (F) A taxpayer who has an appeal pending with respect to an  
23 assessment made by the department is eligible to participate in the  
24 amnesty program if the taxpayer pays all taxes owed. Payment of  
25 the outstanding liability does not constitute a forfeiture of appeal or  
26 an admission of liability for the disputed assessment.

27 (G) The department must be reimbursed the administrative costs  
28 associated with the amnesty period in the amount of five percent of  
29 the amounts collected through amnesty. This amount may be  
30 retained and expended for budgeted operations.

31 (H) The department may review all cases in which amnesty has  
32 been granted and may on the basis of mutual mistake of fact, fraud,  
33 or misrepresentation rescind the grant of amnesty. A taxpayer who  
34 files false or fraudulent returns or attempts in any manner to defeat  
35 or evade a tax under the amnesty program is subject to applicable  
36 civil penalties, interest, and criminal prosecution.

37 (I) Compromised liabilities as allowed by Section 12-4-320(3),  
38 may be eligible for relief under the amnesty period at the  
39 department's discretion.

40 (J) Any overdue tax debt, as defined in Section 12-55-30,  
41 remaining unpaid may have imposed on it at the department's  
42 discretion an additional ten percent collection assistance fee. This  
43 collection assistance fee initially may be imposed on any overdue

1 tax debt at the close of the extended amnesty period as prescribed  
2 by the department. This additional collection assistance fee only  
3 may be imposed for a period of one year after the close of the  
4 extended amnesty period.”

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6 SECTION 2. This act takes effect upon approval by the Governor.

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