

HOUSE BILL 2366

By McCormick

AN ACT to amend Tennessee Code Annotated, Section 50-7-303(d)(3)(B); Section 50-7-304(b)(2); Section 50-7-501 and Section 50-7-715, relative to recovering benefit overpayments through the Internal Revenue Service's Treasury Offset Program.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-7-303(d)(3)(B), is amended by deleting the language “three (3)” wherever it appears and substituting instead the language “six (6)”.

SECTION 2. Tennessee Code Annotated, Section 50-7-304(b)(2), is amended by inserting a new subdivision (E) as follows:

(E) OFFSET EXPENSES AND FEES.

In accordance with the Treasury Offset Program of the United States, the agency may set off any covered unemployment compensation debt due to the agency against any federal income tax refund due to the agency's claimant debtor. The agency may exercise this right of setoff if the obligation of the claimant debtor was the result of one of the following: (i) fraud or the claimant debtor's failure to report earnings, (ii) past due contributions due to the state's unemployment fund that remain uncollected and the state has determined the taxpayer debtor to be liable for those contributions, or (iii) any penalties and interest assessed by the agency on a debt contemplated by this subsection. Any fee or administrative expense imposed by the United States Treasury or the United States Department of Labor in connection with such offset shall be the responsibility of the claimant debtor. Following such offset, the amount of credit

to which a claimant debtor is entitled shall not exceed the amount of the credit received by the agency.

SECTION 3. Tennessee Code Annotated, Section 50-7-501(a)(1), is amended by adding the following as a new subdivision (l):

(l) Collection of fees authorized under the Treasury Offset Program described in Section 6402(f) of the Internal Revenue Code.

SECTION 4. Tennessee Code Annotated, Section 50-7-501(c), is amended by deleting the first sentence in its entirety and substituting instead the following:

Money shall be requisitioned from the state's account in the unemployment trust fund and shall be used exclusively for the payment of benefits, including extended benefits authorized by § 50-7-305, for refunds pursuant to § 50-7-404, and for the payment of fees authorized under the Treasury Offset Program described in Section 6402(f) of Internal Revenue Code, except that money credited to this state's account pursuant to § 903 of the Social Security Act, codified in 42 U.S.C. § 1103, by the Employment Security Administration Financing Act of 1954, shall be used for the purpose of paying benefits as provided in this section, and for any purposes for which an appropriation may be made, which general appropriations act shall specifically comply with all the requirements of § 903 of the Social Security Act, codified in 42 U.S.C. § 1103, by the Employment Security Administration Financing Act of 1954

SECTION 5. Tennessee Code Annotated, Section 50-7-715, is amended by inserting the following as a new subdivision (b) and renumbering the remaining subsections accordingly:

(b)

(1) The commissioner shall assess a penalty equal to (15%) fifteen percent of the overpaid benefits as described in subsection (a) to comply with the requirements of 42 U.S.C. 503(a).

(2) The commissioner shall further assess a penalty equal to (7.5%) seven point five percent of the overpaid benefits described in subsection (a). Monies collected by this penalty shall be used to defray the costs of deterring, detecting, or collecting overpayments. The penalty provided in this subsection (b)(2) is in addition to the penalty provided in subsection (b)(1).

This section is further amended by deleting the newly renumbered (c) and substituting instead the following:

(c) In addition to the requirements of subsection (a) and (b), the commissioner shall assess interest at a rate of no more than one and one half percent (1.5%) per month on the total amount due that remains unpaid for a period of thirty (30) or more calendar days after the date on which the commissioner sends notice of the commissioner's determination that a violation has occurred to the last known address of the claimant. For purposes of this subsection (c), "total amount due" includes the unemployment benefits received pursuant to subsection (a) and the penalties provided in subsection (b). This subdivision is further amended in the newly designated (e) by deleting the language "and (b)" and substituting instead the language ", (b), and (c)".

SECTION 6. This act shall take effect July 1, 2012, the public welfare requiring it.