

54:49-13A

LEGISLATIVE HISTORY CHECKLIST

(Director/Division of Taxation
additional authority to collec
taxes)

NJSA 54:49-13A

LAWS 1981

CHAPTER 392

Bill No. A-1532

Sponsor(s) Van Wagner

Date Introduced April 17, 1980

Committee: Assembly Revenue, Finance and Appropriations

Senate Revenue, Finance and Appropriations

Amended during passage Yes
According to Governor's recommendations

~~XX~~ Amendments denoted by asterisks.

Date of Passage: Assembly June 12, 1980

Re-enacted 12-7-81

Senate Oct 6, 1980

Re-enacted 12-7-81

Date of approval January 6, 1982

Following statements are attached if available:

Sponsor statement	Yes	XX
Committee Statement:	Assembly	XX
	Senate	XXX No
Fiscal Note	XXX	No
Veto Message	Yes	XX
Message on signing	XXX	No

Following were printed:

Reports	XXX	No
Hearings	XXX	No

DEPOSITORY COPY
 Do Not Remove From Library

6/22/81

392 81
11-6-82

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 1532

STATE OF NEW JERSEY

INTRODUCED APRIL 17, 1980

By Assemblymen VAN WAGNER and KARCHER

Referred to Committee on Revenue, Finance and Appropriations

AN ACT to provide for additional tax enforcement authority, supplementing the "state tax uniform procedure law," subtitle 9 of Title 54 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. As an additional or alternate remedy, the director may issue
2 a warrant, directed to the sheriff of any county commanding him to
3 levy upon and sell the real and personal property of any person
4 liable for any State tax, which may be found within his county, for
5 the payment of the amount thereof, with any penalties and interest,
6 and the cost of executing the warrant, and to return such warrant
7 to the director and to pay to him the money collected by virtue
8 thereof within 60 days after the receipt of such warrant. The sheriff
9 shall within 5 days after the receipt of the warrant file with the
10 county clerk a copy thereof, and thereupon such clerk shall enter
11 in the judgment docket the name of the person mentioned in the
12 warrant and the amount of the tax, penalties and interest for
13 which the warrant is issued and the date when such copy is filed.
14 Thereupon the amount of such warrant so docketed shall become a
15 lien upon the title to and interest in real and personal property of
16 the person against whom the warrant is issued. The sheriff shall
17 then proceed upon the warrant, in the same manner, and with like
18 effect, as that provided by law in respect to executions issued
19 against property upon judgments of a court of record and for
20 services in executing the warrant he shall be entitled to the same
21 fees, which he may collect in the same manner. In the discretion of
22 the Director of the Division of Taxation, Department of the
23 Treasury, a warrant of like terms, force and effect may be issued
24 and directed to any officer or employee of the Division of Taxation,
25 and in the execution thereof such officer or employee shall have all
26 the powers conferred by law upon sheriffs, but shall be entitled to
26a no fee or compensation in excess of the actual expenses paid in the

27 performance of such duty. **Except in the case of an arbitrary*
28 *assessment, any warrant issued and directed to any officer or em-*
29 *ployee of the Division of Taxation prior to the time for filing an*
30 *appeal to the tax court has expired, or after an appeal has been*
31 *filed, shall not be executed upon unless a notice of intention to pro-*
32 *ceed upon the warrant shall have been directed to the person named*
33 *in the warrant, which notice shall state the amount of taxes, pen-*
34 *alties and interest claimed to be owing and shall specify the right*
35 *of the taxpayer to contest the execution upon the warrant in the*
36 *tax court or in the Superior Court, within 3 days following receipt*
37 *by the taxpayer of that notice. The court shall restrain the execu-*
38 *tion upon the warrant upon a showing that the State's taxes, pen-*
39 *alties and interest claimed to be owing will be adequately protected*
40 *by bond or other security.** If the warrant is returned not satisfied
41 in full, the director may from time to time issue new warrants and
42 shall also have the same remedies to enforce the amount due there-
43 under as if the State had recovered judgment therefor and execu-
44 tion thereon had been returned unsatisfied.

1 2. This act shall take effect immediately.

27 performance of such duty. If the warrant is returned not satisfied
28 in full, the director may from time to time issue new warrants and
29 shall also have the same remedies to enforce the amount due there-
30 under as if the State had recovered judgment therefor and execu-
31 tion thereon had been returned unsatisfied.

1 2. This act shall take effect immediately.

STATEMENT

This bill is designed to provide the Director of the Division of Taxation with additional authority to enforce collection of all taxes, either by issuing a warrant of execution to the sheriff or to any officer or employee of the Division. The power to issue a warrant in the latter situation is presently provided for in the Sales Tax Act where it has been highly effective.

A 1532 (1980)

ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1532

STATE OF NEW JERSEY

DATED: MAY 15, 1980

This bill is designed to provide the Director of the Division of Taxation with additional authority to enforce collection of all taxes, either by issuing a warrant of execution to the sheriff or to any officer or employee of the division. The power to issue a warrant in the latter situation is presently provided for in the Sales Tax Act where it has been highly effective.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

November 30, 1981

Assembly Bill No. 1532

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 1532 with my objections.

This bill would amend the State Tax Uniform Law, N.J.S.A. 54:48-1 et seq., to permit the Director of the Division of Taxation to execute and levy upon real and personal property without court proceedings to collect all unpaid State taxes. Such a procedure is now available to the Director for State sales taxes only.

The bill would permit the Director to issue warrants for execution on real and personal property either to a county sheriff or to any employee of the Department of Taxation to collect any unpaid States taxes. When issued to a sheriff, the writ would be docketed with the county clerk and operate as a lien on real and personal property in the county. When issued to a State employee, the writ would give the State employee all the powers of a sheriff under the law governing execution and levy.

The bill in its present form would extend existing collection procedures in two important respects. First, it would dispense with the need for judicial proceedings. Under existing law, the State can levy only after either filing suit, obtaining a judgment, and applying for a writ of execution, or filing a certificate of debt with the court clerk, and applying for a writ of execution, N.J.S.A. 54:49-12. Second, it would free the Director from reliance on county sheriffs to actually execute the writ and make the levy.

In my judgment the bill fails to provide due process for the allegedly delinquent taxpayer. It makes no provision for prior notice to the alleged delinquent taxpayer nor does it require exhaustion of less preemptory means of collection. Furthermore, the language of the bill authorizing writ of execution for "real and personal" property appears to permit issuance of an execution against wages without the prior court hearing otherwise required by N.J.S.A. 2A:17-50.

Accordingly, I am returning Assembly Bill No. 1532 with the following recommendations for amendment which would require prior notice of taxes due and the right to contest execution in the Tax Court or Superior Court:

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

-2-

Page 2, Section 1, Line 27: After "duty." insert "Except in the case of an arbitrary assessment, any warrant issued and directed to any officer or employee of the Division of Taxation prior to the time for filing an appeal to the Tax Court has expired, or after an appeal has been filed, shall not be executed upon unless a notice of intention to proceed upon the warrant shall have been directed to the person named in the warrant, which notice shall state the amount of taxes, penalties and interest claimed to be owing and shall specify the right of the taxpayer to contest the execution upon the warrant in the Tax Court or in the Superior Court, within three days following receipt by the taxpayer of that notice. The court shall restrain the execution upon the warrant upon a showing that the State's taxes, penalties and interest claimed to be owing will be adequately protected by bond or other security."

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY