

# 2A:16-11.1

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2005 **CHAPTER:** 124

**NJSA:** 2A:16-11.1 (Enhances debt collection by the State)

**BILL NO:** S3002 (Substituted for A4408)

**SPONSOR(S):** Bryant and Quigley

**DATE INTRODUCED:** June 27, 2005

**COMMITTEE:** **ASSEMBLY:**  
**SENATE:** Budget and Appropriations

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:** **ASSEMBLY:** June 30, 2005

**SENATE:** June 30, 2005

**DATE OF APPROVAL:** July 2, 2005

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

**S3002**

[SPONSOR'S STATEMENT:](#) (Begins on page 7 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**A4408**

[SPONSOR'S STATEMENT:](#) (Begins on page 7 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** [ASSEMBLY:](#) [Yes](#)

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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No

**NEWSPAPER ARTICLES:**

No

IS 7/6/07

§1 - C.2A:16-11.1  
§§2-4, 6 -  
C.52:18-36 to  
52:18-39  
§§5,8 -  
C.52:14F-22 &  
52:14F-23

P.L. 2005, CHAPTER 124, *approved July 2, 2005*  
Senate, No. 3002

1 **AN ACT** providing for enhanced collection of certain debt owed to the  
2 State, amending N.J.S.2A:17-50, N.J.S.2A:17-52, N.J.S.2A:17-55  
3 and N.J.S.2A:17-56 and P.L.1981, c.239 and supplementing Title  
4 54 of the Revised Statutes.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. (New section) a. In addition to any other remedy provided by  
10 law, where a debt is owed to a State department or agency, and the  
11 person who owes the debt has failed to comply within 30 days after  
12 service of any notice, demand or order directing payment of any  
13 amount found to be due, the Department of Treasury, on behalf of the  
14 department or agency, may issue a certificate of debt to the Clerk of  
15 the Superior Court stating that the person identified in the certificate  
16 of debt is indebted to the State in such amount as shall be stated in the  
17 certificate of debt.

18 b. The certificate of debt shall reference the statute, regulation or  
19 other legal authority under which the indebtedness arises. Thereupon  
20 the clerk to whom such certificate of debt shall have been issued shall  
21 immediately enter upon the record of docketed judgments the name of  
22 such person or entity as debtor; the State as creditor; the address of  
23 such person or entity, if shown in the certificate of debt; a reference to  
24 the statute, regulation or other legal authority under which the debt  
25 arises; and the date of making such entries.

26 c. The docketing of the certificate of debt shall have the same force  
27 and effect as a civil judgment docketed in the Superior Court subject  
28 to the procedures for appeal as set forth in section 4 of P.L. , c.  
29 (C. ) (now pending before the Legislature as this bill). The  
30 docketing of the certificate of debt shall be without prejudice to the  
31 right of appeal to the Appellate Division of the Superior Court.

32 d. As used in this section and in sections 2, 3, 4, 5, 6, and 8 of  
33 P.L. , c. (C. ) (now pending before the Legislature as this bill):

34 "Debt" means a fee, fine, cost, penalty or assessment that has been  
35 due and owing a State department or agency for 120 days or more.  
36 "Debt" does not include inter-agency debts and debts associated with

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 loans, notes, grants, and contracts.

2 e. As used in this amendatory and supplementary act, "State  
3 department or agency" does not include an independent authority or  
4 instrumentality that is independent of the operational and budgetary  
5 control of the department to which it is allocated.

6

7 2. (New section) The Department of Treasury shall have all the  
8 remedies and may take all of the proceedings for the collection thereof  
9 which may be had or taken upon the recovery of a judgment in an  
10 action, but without prejudice to any right of appeal. Upon entry by the  
11 clerk of the certificate of debt in the record of docketed judgments in  
12 accordance with section 1 of P.L. , c. (C. ) (now pending before  
13 the Legislature as this bill), interest in the amount specified by the  
14 court rules for post-judgment interest shall accrue from the date of the  
15 docketing of the certificate of debt; however, payment of interest may  
16 be waived by the Treasurer or the Treasurer's designee.

17

18 3. (New section) In the event that the debt remains unpaid  
19 following the issuance of the certificate of debt and the State takes any  
20 further collection action, including referral of the matter to the  
21 Attorney General or the Attorney General's designee, the fee imposed,  
22 in lieu of the actual cost of collection, may be 20 percent of debts of  
23 \$1,000 or more. The Treasurer or his designee may establish a sliding  
24 scale, not to exceed a maximum amount of \$200, for debt principal  
25 amounts of less than \$1,000 at the time the certificate of debt is  
26 forwarded to the Superior Court for filing.

27

28 4. (New section) a. The Treasurer shall provide written  
29 notification to the debtor of the proposed issuance of the certificate of  
30 debt pursuant to section 1 of P.L. , c. (C. ) (now pending before  
31 the Legislature as this bill) at least 30 days prior to the proposed  
32 issuance. Such notice shall be mailed to the debtor's last known  
33 address. The notice shall advise the debtor that, if the debtor wishes  
34 to contest the validity of the underlying debt that is the subject of the  
35 certificate of debt, he may appeal the determination of underlying debt  
36 within 30 days of the mailing of the notice by filing an appeal with the  
37 State Treasurer.

38 b. Filing of such appeal shall stay the issuance of the certificate of  
39 debt pending determination by the Office of Administrative Law in  
40 accordance with section 5 of P.L. , c. (C. ) (now pending before  
41 the Legislature as this bill). Upon exhaustion and determination of  
42 such appeal in favor of the State, the stay shall be lifted and the  
43 certificate of debt issued.

44

45 5. (New section) a. Appeals filed with the Treasurer pursuant to  
46 section 4 of P.L. , c. (C. ) (now pending before the Legislature as

1 this bill) shall be referred to the Office of Administrative Law for  
2 hearing, and shall be given priority by that office.

3 b. The Office of Administrative Law shall establish a system for  
4 expedited hearings of contested determinations of debt in accordance  
5 with the provisions of section 4 of P.L. , c. (C. ) (now pending  
6 before the Legislature as this bill).

7 c. The Office of Administrative Law shall establish a system for  
8 expedited hearings of the State's applications for wage executions in  
9 accordance with the provisions of subsection b. of N.J.S. 2A:17-50.

10 d. Nothing herein shall preclude the Office of Administrative Law  
11 from joining the hearings of contested determinations of debt and the  
12 State's applications for wage executions in appropriate cases.

13 e. The provisions of the "Administrative Procedure Act," P.L.1968,  
14 c.410 (C.52:14B-1 et seq.) shall apply to hearings and appeals  
15 pursuant to P.L. , c. (C. ) (now pending before the Legislature as  
16 this bill).

17

18 6. (New section) Nothing in this act shall be construed as  
19 depriving the State of any remedy for the enforcement of any State  
20 debt through any procedure or remedies provided in the law imposing  
21 such debt or in any other law, nor shall this act be construed as  
22 repealing or altering any such law or laws.

23

24 7. N.J.S.2A:17-50 is amended to read as follows:

25 2A:17-50. a. When a judgment has been recovered in the Superior  
26 Court, and where any wages, debts, earnings, salary, income from trust  
27 funds, or profits are due and owing to the judgment debtor, or  
28 thereafter become due and owing to him, to the amount of \$48.00 or  
29 more a week, the judgment creditor may, on notice to the judgment  
30 debtor unless the court otherwise orders, apply to the court in which  
31 the judgment was recovered, or to the court having jurisdiction of the  
32 same, and upon satisfactory proofs, by affidavit or otherwise, of such  
33 facts, the court shall grant an order directing that an execution issue  
34 against the wages, debts, earnings, salary, income from trust funds, or  
35 profits of the judgment debtor.

36 b. Notwithstanding the provisions of subsection a. or any other law  
37 to the contrary, when a wage execution application is filed by the State  
38 arising out of a determination by a State department or agency that a  
39 person owes the department or agency a debt as defined in section 1  
40 of P.L. , c. (C. ) (now pending before the Legislature as this bill),  
41 such application may be filed with the Office of Administrative Law  
42 rather than with the Superior Court.

43 (cf: P.L. 1991, c.91, s.42)

44

45 8. (New section) a. An Administrative Law Judge shall have the  
46 power to hear the State's application for a wage execution pursuant

1 to subsection b. of N.J.S. 2A:17-50 and to issue an order directing that  
2 an execution issue against wages, earnings, salary, income from trust  
3 funds or profits of the person who owes the debt.

4 b. The State shall serve the person who owes the debt with a copy  
5 of the application for wage execution. Such notice shall be mailed to  
6 the person's last known address and shall advise the person that, if the  
7 person wishes to contest the application, he may request a hearing  
8 within 30 days by filing such request with the Office of Administrative  
9 Law and the State Treasurer.

10 c. Such applications shall be heard and decided by the Office of  
11 Administrative Law within 45 days of the date of the filing of the  
12 application by the State.

13 d. The provisions of the "Administrative Procedure Act,"  
14 P.L.1968, c.410 (C.52:14B-1 et seq.) shall apply to hearings and  
15 appeals pursuant to this section.

16 e. An order of an Administrative Law Judge pursuant to this  
17 section shall be considered final agency action for the purposes of the  
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)  
19 and shall be subject only to judicial review as provided in the Rules of  
20 Court.

21  
22 9. N.J.S. 2A:17-52 is amended to read as follows:

23 2A:17-52. Number of executions issued and levied at same time.

24 a. Only one execution against the wages, debts, earnings, salary,  
25 income from trust funds or profits of such judgment debtor shall be  
26 satisfied at one time, and where more than one execution shall be  
27 issued pursuant to the provisions of this article against the same  
28 judgment debtor, they shall be satisfied in the order of priority in  
29 which such executions are presented to the person or persons from  
30 whom such wages, debts, earnings, salary, income from trust funds or  
31 profits are due and owing, irrespective of the fact that such executions  
32 shall be issued out of different courts; provided, however, that where  
33 more than one such execution shall be presented to any such person on  
34 the same day and one of such executions derives from a court order  
35 for suitable support and maintenance of a wife, child or children it  
36 shall be first satisfied, notwithstanding the prior presentation on the  
37 same day of any other such execution.

38 b. Notwithstanding subsection a., any wage execution applications  
39 filed by the State after the effective date of P.L. , c. (now pending  
40 before the Legislature as this bill), including those arising out of a  
41 determination by a State department or agency that a person owes the  
42 department or agency a debt as defined in section 1 of P.L. , c.  
43 (C. )(now pending before the Legislature as this bill), shall have  
44 priority over any other wage execution filed on or after the effective  
45 date of this act except as follows:

46 (1) the execution set forth in this subsection shall not have priority

1 over any execution that derives from a court order for suitable support  
2 and maintenance of a wife, child or children;

3 (2) the execution set forth in this subsection shall not have priority  
4 over any execution otherwise required to have priority pursuant to any  
5 other law.

6 (cf: P.L.1969, c. 292, s. 2).

7  
8 10. N.J.S.2A:17-55 is amended to read as follows:

9 2A:17-55. Either party may apply at any time to the court or, in the  
10 case of executions pursuant to subsection b. of N.J.S.2A:17-50, to an  
11 Administrative Law Judge from which an execution mentioned in  
12 [section] N.J.S. 2A:17-50 [of this title] shall issue, upon such notice  
13 to the other party as such court shall direct, for a modification of such  
14 execution. Upon the hearing, such court or Administrative Law Judge  
15 may make such modification of such execution as shall be deemed just.  
16 Such execution as so modified shall continue in full force and effect  
17 until fully paid and satisfied, or until further modified as herein  
18 provided.

19 (cf: N.J.S. 2A:17-55).

20  
21 11. N.J.S. 2A:17-56 is amended to read as follows:

22 2A:17-56. a. In no case shall the amount specified in an execution  
23 issued out of any court against the wages, debts, earnings, salary,  
24 income from trust funds or profits due and owing, or which may  
25 thereafter become due and owing to a judgment debtor, exceed 10%,  
26 unless the income of such debtor shall exceed [the sum of \$7,500.00  
27 per annum] 250 % of the poverty level for an individual taking into  
28 account the size of the individual's family, in which case the court out  
29 of which the execution shall issue may order a larger percentage.

30 b. Notwithstanding subsection a. or any other law to the contrary,  
31 for all wage execution applications filed by the State pursuant to  
32 subsection b. of N.J.S.2A:17-50 after the effective date of P.L. , c.   
33 (C. ) (now pending before the Legislature as this bill), the State  
34 may seek a wage execution of up to 25% of the debtor's gross  
35 earnings, provided that after the execution the debtor's income will not  
36 be less than 250 % of the poverty level for an individual taking into  
37 account the size of the individual's family.

38 Nothing in this subsection shall be construed to violate any  
39 provision of federal law.

40 (cf: P. L.1970, c. 287, s. 1)

41  
42 12. Section 1 of P.L.1981, c.239 (C.54A:9-8.1) is amended to read  
43 as follows:

44 1. a. Whenever any taxpayer or resident shall be entitled to any  
45 refund of taxes pursuant to the "New Jersey Gross Income Tax Act"  
46 (N.J.S.54A:1-1 et seq.), including an earned income tax credit

1 provided as a refund pursuant to P.L.2000, c.80 (C.54A:4-6 et al.), or  
2 whenever any individual is eligible to receive a homestead rebate  
3 pursuant to P.L.1990, c.61 (C.54:4-8.57 et al.), P.L.1999, c.63  
4 (C.54:4-8.58a et al.) or P.L.2004, c.40, and if the rebate is not  
5 required to be paid over to the municipal tax collector under the  
6 provisions of section 8 of P.L.1990, c.61 (C.54:4-8.64), and at the  
7 same time the taxpayer or resident shall be indebted to any agency or  
8 institution of State Government, to the Victims of Crime  
9 Compensation Board for the portion of an assessment ordered  
10 pursuant to N.J.S.2C:43-3.1 for deposit in the Victims of Crime  
11 Compensation Board Account or restitution ordered to be paid to the  
12 board pursuant to N.J.S.2C:44-2 for deposit in the Victims of Crime  
13 Compensation Board Account, or for child support under Title IV-A,  
14 Title IV-D, or Title IV-E of the federal Social Security Act (42 U.S.C.  
15 s.601 et seq.), or other indebtedness in accordance with section 1 of  
16 P.L.1995, c.290 (C.2A:17-56.11b) the Department of the Treasury  
17 shall apply or cause to be applied the refund, homestead rebate, or all,  
18 or so much of any or all as shall be necessary, to satisfy the  
19 indebtedness. Child support indebtedness shall take precedence over  
20 all other indebtedness. The Department of the Treasury shall retain a  
21 percentage of the proceeds of any collection setoff as shall be  
22 necessary to provide for any expenses of the collection effort.

23 b. A State department or agency which is owed a debt shall notify  
24 the Department of Treasury of the existence of the debt and shall  
25 request that the Department of Treasury execute a setoff as provided  
26 for in this section.

27 (cf: P.L. 2004, c.40, s.11)

28

29 13. This act shall take effect immediately

30

31

32

33

#### STATEMENT

34

35 This bill would enhance the collection of certain debts owed to the  
36 State by authorizing the Department of Treasury, on behalf of a State  
37 department or agency to whom a debt is owed, to obtain a certificate  
38 of debt that is docketed by the Clerk of the Superior Court. The  
39 certificate of debt procedure would be applicable in situations where  
40 a person owes a debt to a State department or agency and has failed  
41 to comply within 30 days after service of notice, demand or order for  
42 payment of the debt. The bill defines "debt" as a fee, fine, cost,  
43 penalty or assessment that has been due and owing a State department  
44 or agency for 120 days or more.

45 The docketed certificate of debt would have the same force and  
46 effect as a civil judgment docketed in the Superior Court pending the



1 appeal process. After docketing, interest would accrue on the debt,  
2 in the amount specified by the court rules for post-judgment interest.

3 Under the bill, following the issuance of the certificate of debt, the  
4 State could take further collection action, including referral of the  
5 matter to the Attorney General. In such cases the fee imposed, in lieu  
6 of the actual cost of collection, could be 20 percent of debts of \$1,000  
7 or more. The bill provides that the Treasurer could establish a sliding  
8 scale for debt principal amounts of less than \$1,000.

9 Under the bill, the Treasurer would provide written notification to  
10 the person who owes the debt of the proposed issuance of the  
11 certificate of debt at least 30 days prior to the proposed issuance. The  
12 notice would advise the person that, if the person wishes to contest the  
13 validity of the underlying debt that is the subject of the certificate of  
14 debt, he may appeal the determination of underlying debt within 30  
15 days of the mailing of the notice by filing an appeal with the State  
16 Treasurer. Filing of such appeal would stay the issuance of the  
17 certificate of debt pending determination by the Office of  
18 Administrative Law (OAL). The matter would be referred to the  
19 Office of Administrative Law for a hearing and would be given priority  
20 by the OAL. Upon determination of the appeal in favor of the State,  
21 the stay would be lifted and the certificate of debt issued.

22 Under the bill the State agency which is owed the debt would  
23 request that the Department of Treasury execute a setoff against any  
24 State tax refund or homestead rebates that may be owed to the person.

25 The bill also provides that any wage execution applications filed by  
26 the State arising out of a determination by a State administrative  
27 agency that a person owes the agency fines, surcharges, penalties, or  
28 fees may be filed with the OAL rather than with the Superior Court.  
29 This bill does not alter the current process for enforcement of child  
30 support collections. An Administrative Law Judge would have the  
31 power to hear the State's application for a wage execution and to issue  
32 an order directing an execution. The notice would advise the person  
33 that, if he wishes to contest the application, he may request a hearing  
34 within 30 days by filing such request with the OAL and the State. The  
35 applications would be heard and decided by the OAL within 45 days  
36 of the date of the filing of the application by the State. A wage  
37 execution order of an Administrative Law Judge would be considered  
38 a final agency action and would be subject only to judicial review as  
39 provided in the Rules of Court.

40 The bill provides that any wage execution filed by the State  
41 including those arising out of these matters would have priority over  
42 any other wage execution, except for a wage execution for child  
43 support or any other execution priority required by law.

44 Under the bill, the State could seek a wage execution of up to 25  
45 percent of the debtor's gross earnings, provided that after the  
46 execution, the debtor's income will not be less than 250% of the

1 poverty level for an individual taking into account the size of the  
2 individual's family. The bill provides that it shall not be construed to  
3 violate any provision of federal law concerning wage executions.

4

5

6

7

8 Enhances debt collection by the State.

**SENATE, No. 3002**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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INTRODUCED JUNE 27, 2005

**Sponsored by:**

**Senator WAYNE R. BRYANT**

**District 5 (Camden and Gloucester)**

**Assemblywoman JOAN M. QUIGLEY**

**District 32 (Bergen and Hudson)**

**SYNOPSIS**

Enhances debt collection by the State.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 7/1/2005)**

S3002 BRYANT

2

1 AN ACT providing for enhanced collection of certain debt owed to the  
2 State, amending N.J.S.2A:17-50, N.J.S.2A:17-52, N.J.S.2A:17-55  
3 and N.J.S.2A:17-56 and P.L.1981, c.239 and supplementing Title  
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6 **BE IT ENACTED** by the Senate and General Assembly of the State  
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10 law, where a debt is owed to a State department or agency, and the  
11 person who owes the debt has failed to comply within 30 days after  
12 service of any notice, demand or order directing payment of any  
13 amount found to be due, the Department of Treasury, on behalf of the  
14 department or agency, may issue a certificate of debt to the Clerk of  
15 the Superior Court stating that the person identified in the certificate  
16 of debt is indebted to the State in such amount as shall be stated in the  
17 certificate of debt.

18 b. The certificate of debt shall reference the statute, regulation or  
19 other legal authority under which the indebtedness arises. Thereupon  
20 the clerk to whom such certificate of debt shall have been issued shall  
21 immediately enter upon the record of docketed judgments the name of  
22 such person or entity as debtor; the State as creditor; the address of  
23 such person or entity, if shown in the certificate of debt; a reference to  
24 the statute, regulation or other legal authority under which the debt  
25 arises; and the date of making such entries.

26 c. The docketing of the certificate of debt shall have the same force  
27 and effect as a civil judgment docketed in the Superior Court subject  
28 to the procedures for appeal as set forth in section 4 of P.L. , c.  
29 (C. ) (now pending before the Legislature as this bill). The  
30 docketing of the certificate of debt shall be without prejudice to the  
31 right of appeal to the Appellate Division of the Superior Court.

32 d. As used in this section and in sections 2, 3, 4, 5, 6, and 8 of  
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37 loans, notes, grants, and contracts.

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40 instrumentality that is independent of the operational and budgetary  
41 control of the department to which it is allocated.

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**Matter underlined thus is new matter.**

S3002 BRYANT

1 remedies and may take all of the proceedings for the collection thereof  
2 which may be had or taken upon the recovery of a judgment in an  
3 action, but without prejudice to any right of appeal. Upon entry by the  
4 clerk of the certificate of debt in the record of docketed judgments in  
5 accordance with section 1 of P.L. , c. (C. ) (now pending before  
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8 docketing of the certificate of debt; however, payment of interest may  
9 be waived by the Treasurer or the Treasurer's designee.

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15 in lieu of the actual cost of collection, may be 20 percent of debts of  
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11 6. (New section) Nothing in this act shall be construed as  
12 depriving the State of any remedy for the enforcement of any State  
13 debt through any procedure or remedies provided in the law imposing  
14 such debt or in any other law, nor shall this act be construed as  
15 repealing or altering any such law or laws.

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21 thereafter become due and owing to him, to the amount of \$48.00 or  
22 more a week, the judgment creditor may, on notice to the judgment  
23 debtor unless the court otherwise orders, apply to the court in which  
24 the judgment was recovered, or to the court having jurisdiction of the  
25 same, and upon satisfactory proofs, by affidavit or otherwise, of such  
26 facts, the court shall grant an order directing that an execution issue  
27 against the wages, debts, earnings, salary, income from trust funds, or  
28 profits of the judgment debtor.

29 b. Notwithstanding the provisions of subsection a. or any other law  
30 to the contrary, when a wage execution application is filed by the State  
31 arising out of a determination by a State department or agency that a  
32 person owes the department or agency a debt as defined in section 1  
33 of P.L. , c. (C. ) (now pending before the Legislature as this bill),  
34 such application may be filed with the Office of Administrative Law  
35 rather than with the Superior Court.

36 (cf: P.L. 1991, c.91, s.42)

37

38 8. (New section) a. An Administrative Law Judge shall have the  
39 power to hear the State's application for a wage execution pursuant  
40 to subsection b. of N.J.S. 2A:17-50 and to issue an order directing that  
41 an execution issue against wages, earnings, salary, income from trust  
42 funds or profits of the person who owes the debt.

43 b. The State shall serve the person who owes the debt with a copy  
44 of the application for wage execution. Such notice shall be mailed to  
45 the person's last known address and shall advise the person that, if the  
46 person wishes to contest the application, he may request a hearing

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5

1 within 30 days by filing such request with the Office of Administrative  
2 Law and the State Treasurer.

3 c. Such applications shall be heard and decided by the Office of  
4 Administrative Law within 45 days of the date of the filing of the  
5 application by the State.

6 d. The provisions of the "Administrative Procedure Act,"  
7 P.L.1968, c.410 (C.52:14B-1 et seq.) shall apply to hearings and  
8 appeals pursuant to this section.

9 e. An order of an Administrative Law Judge pursuant to this  
10 section shall be considered final agency action for the purposes of the  
11 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)  
12 and shall be subject only to judicial review as provided in the Rules of  
13 Court.

14

15 9. N.J.S. 2A:17-52 is amended to read as follows:

16 2A:17-52. Number of executions issued and levied at same time.

17 a. Only one execution against the wages, debts, earnings, salary,  
18 income from trust funds or profits of such judgment debtor shall be  
19 satisfied at one time, and where more than one execution shall be  
20 issued pursuant to the provisions of this article against the same  
21 judgment debtor, they shall be satisfied in the order of priority in  
22 which such executions are presented to the person or persons from  
23 whom such wages, debts, earnings, salary, income from trust funds or  
24 profits are due and owing, irrespective of the fact that such executions  
25 shall be issued out of different courts; provided, however, that where  
26 more than one such execution shall be presented to any such person on  
27 the same day and one of such executions derives from a court order  
28 for suitable support and maintenance of a wife, child or children it  
29 shall be first satisfied, notwithstanding the prior presentation on the  
30 same day of any other such execution.

31 b. Notwithstanding subsection a., any wage execution applications  
32 filed by the State after the effective date of P.L. , c. (now pending  
33 before the Legislature as this bill), including those arising out of a  
34 determination by a State department or agency that a person owes the  
35 department or agency a debt as defined in section 1 of P.L. , c.  
36 (C. )(now pending before the Legislature as this bill), shall have  
37 priority over any other wage execution filed on or after the effective  
38 date of this act except as follows:

39 (1) the execution set forth in this subsection shall not have priority  
40 over any execution that derives from a court order for suitable support  
41 and maintenance of a wife, child or children;

42 (2) the execution set forth in this subsection shall not have priority  
43 over any execution otherwise required to have priority pursuant to any  
44 other law.

45 (cf: P.L.1969, c. 292, s. 2).

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1 10. N.J.S.2A:17-55 is amended to read as follows:

2 2A:17-55. Either party may apply at any time to the court or, in the  
3 case of executions pursuant to subsection b. of N.J.S.2A:17-50, to an  
4 Administrative Law Judge from which an execution mentioned in  
5 [section] N.J.S. 2A:17-50 [of this title] shall issue, upon such notice  
6 to the other party as such court shall direct, for a modification of such  
7 execution. Upon the hearing, such court or Administrative Law Judge  
8 may make such modification of such execution as shall be deemed just.  
9 Such execution as so modified shall continue in full force and effect  
10 until fully paid and satisfied, or until further modified as herein  
11 provided.  
12 (cf: N.J.S. 2A:17-55).

13

14 11. N.J.S. 2A:17-56 is amended to read as follows:

15 2A:17-56. a. In no case shall the amount specified in an execution  
16 issued out of any court against the wages, debts, earnings, salary,  
17 income from trust funds or profits due and owing, or which may  
18 thereafter become due and owing to a judgment debtor, exceed 10%,  
19 unless the income of such debtor shall exceed [the sum of \$7,500.00  
20 per annum] 250 % of the poverty level for an individual taking into  
21 account the size of the individual's family, in which case the court out  
22 of which the execution shall issue may order a larger percentage.

23 b. Notwithstanding subsection a. or any other law to the contrary,  
24 for all wage execution applications filed by the State pursuant to  
25 subsection b. of N.J.S.2A:17-50 after the effective date of P.L. , c.  
26 (C. ) (now pending before the Legislature as this bill), the State  
27 may seek a wage execution of up to 25% of the debtor's gross  
28 earnings, provided that after the execution the debtor's income will not  
29 be less than 250 % of the poverty level for an individual taking into  
30 account the size of the individual's family.

31 Nothing in this subsection shall be construed to violate any  
32 provision of federal law.

33 (cf: P. L.1970, c. 287, s. 1)

34

35 12. Section 1 of P.L.1981, c.239 (C.54A:9-8.1) is amended to read  
36 as follows:

37 1. a. Whenever any taxpayer or resident shall be entitled to any  
38 refund of taxes pursuant to the "New Jersey Gross Income Tax Act"  
39 (N.J.S.54A:1-1 et seq.), including an earned income tax credit  
40 provided as a refund pursuant to P.L.2000, c.80 (C.54A:4-6 et al.), or  
41 whenever any individual is eligible to receive a homestead rebate  
42 pursuant to P.L.1990, c.61 (C.54:4-8.57 et al.), P.L.1999, c.63  
43 (C.54:4-8.58a et al.) or P.L.2004, c.40, and if the rebate is not  
44 required to be paid over to the municipal tax collector under the  
45 provisions of section 8 of P.L.1990, c.61 (C.54:4-8.64), and at the  
46 same time the taxpayer or resident shall be indebted to any agency or



1 institution of State Government, to the Victims of Crime  
2 Compensation Board for the portion of an assessment ordered  
3 pursuant to N.J.S.2C:43-3.1 for deposit in the Victims of Crime  
4 Compensation Board Account or restitution ordered to be paid to the  
5 board pursuant to N.J.S.2C:44-2 for deposit in the Victims of Crime  
6 Compensation Board Account, or for child support under Title IV-A,  
7 Title IV-D, or Title IV-E of the federal Social Security Act (42 U.S.C.  
8 s.601 et seq.), or other indebtedness in accordance with section 1 of  
9 P.L.1995, c.290 (C.2A:17-56.11b) the Department of the Treasury  
10 shall apply or cause to be applied the refund, homestead rebate, or all,  
11 or so much of any or all as shall be necessary, to satisfy the  
12 indebtedness. Child support indebtedness shall take precedence over  
13 all other indebtedness. The Department of the Treasury shall retain a  
14 percentage of the proceeds of any collection setoff as shall be  
15 necessary to provide for any expenses of the collection effort.

16 b. A State department or agency which is owed a debt shall notify  
17 the Department of Treasury of the existence of the debt and shall  
18 request that the Department of Treasury execute a setoff as provided  
19 for in this section.

20 (cf: P.L. 2004, c.40, s.11)

21

22 13. This act shall take effect immediately

23

24

25

26

#### STATEMENT

27

28 This bill would enhance the collection of certain debts owed to the  
29 State by authorizing the Department of Treasury, on behalf of a State  
30 department or agency to whom a debt is owed, to obtain a certificate  
31 of debt that is docketed by the Clerk of the Superior Court. The  
32 certificate of debt procedure would be applicable in situations where  
33 a person owes a debt to a State department or agency and has failed  
34 to comply within 30 days after service of notice, demand or order for  
35 payment of the debt. The bill defines "debt" as a fee, fine, cost,  
36 penalty or assessment that has been due and owing a State department  
37 or agency for 120 days or more.

38 The docketed certificate of debt would have the same force and  
39 effect as a civil judgment docketed in the Superior Court pending the  
40 appeal process. After docketing, interest would accrue on the debt,  
41 in the amount specified by the court rules for post-judgment interest.

42 Under the bill, following the issuance of the certificate of debt, the  
43 State could take further collection action, including referral of the  
44 matter to the Attorney General. In such cases the fee imposed, in lieu  
45 of the actual cost of collection, could be 20 percent of debts of \$1,000  
46 or more. The bill provides that the Treasurer could establish a sliding

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1 scale for debt principal amounts of less than \$1,000.

2 Under the bill, the Treasurer would provide written notification to  
3 the person who owes the debt of the proposed issuance of the  
4 certificate of debt at least 30 days prior to the proposed issuance. The  
5 notice would advise the person that, if the person wishes to contest the  
6 validity of the underlying debt that is the subject of the certificate of  
7 debt, he may appeal the determination of underlying debt within 30  
8 days of the mailing of the notice by filing an appeal with the State  
9 Treasurer. Filing of such appeal would stay the issuance of the  
10 certificate of debt pending determination by the Office of  
11 Administrative Law (OAL). The matter would be referred to the  
12 Office of Administrative Law for a hearing and would be given priority  
13 by the OAL. Upon determination of the appeal in favor of the State,  
14 the stay would be lifted and the certificate of debt issued.

15 Under the bill the State agency which is owed the debt would  
16 request that the Department of Treasury execute a setoff against any  
17 State tax refund or homestead rebates that may be owed to the person.

18 The bill also provides that any wage execution applications filed by  
19 the State arising out of a determination by a State administrative  
20 agency that a person owes the agency fines, surcharges, penalties, or  
21 fees may be filed with the OAL rather than with the Superior Court.  
22 This bill does not alter the current process for enforcement of child  
23 support collections. An Administrative Law Judge would have the  
24 power to hear the State's application for a wage execution and to issue  
25 an order directing an execution. The notice would advise the person  
26 that, if he wishes to contest the application, he may request a hearing  
27 within 30 days by filing such request with the OAL and the State. The  
28 applications would be heard and decided by the OAL within 45 days  
29 of the date of the filing of the application by the State. A wage  
30 execution order of an Administrative Law Judge would be considered  
31 a final agency action and would be subject only to judicial review as  
32 provided in the Rules of Court.

33 The bill provides that any wage execution filed by the State  
34 including those arising out of these matters would have priority over  
35 any other wage execution, except for a wage execution for child  
36 support or any other execution priority required by law.

37 Under the bill, the State could seek a wage execution of up to 25  
38 percent of the debtor's gross earnings, provided that after the  
39 execution, the debtor's income will not be less than 250% of the  
40 poverty level for an individual taking into account the size of the  
41 individual's family. The bill provides that it shall not be construed to  
42 violate any provision of federal law concerning wage executions.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 3002

# STATE OF NEW JERSEY

DATED: JUNE 29, 2005

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3002.

This bill would enhance the collection of certain debts owed to the State by authorizing the Department of Treasury, on behalf of a State department or agency to whom a debt is owed, to obtain a certificate of debt that is docketed by the Clerk of the Superior Court. The certificate of debt procedure would be applicable in situations where a person owes a debt to a State department or agency and has failed to comply within 30 days after service of notice, demand or order for payment of the debt. The bill defines "debt" as a fee, fine, cost, penalty or assessment that has been due and owing a State department or agency for 120 days or more.

The docketed certificate of debt would have the same force and effect as a civil judgment docketed in the Superior Court pending the appeal process. After docketing, interest would accrue on the debt, in the amount specified by the court rules for post-judgment interest.

Under the bill, following the issuance of the certificate of debt, the State could take further collection action, including referral of the matter to the Attorney General. In such cases the fee imposed, in lieu of the actual cost of collection, could be 20 percent of debts of \$1,000 or more. The bill provides that the Treasurer could establish a sliding scale for debt principal amounts of less than \$1,000.

Under the bill, the Treasurer would provide written notification to the person who owes the debt of the proposed issuance of the certificate of debt at least 30 days prior to the proposed issuance. The notice would advise the person that, if the person wishes to contest the validity of the underlying debt that is the subject of the certificate of debt, he may appeal the determination of underlying debt within 30 days of the mailing of the notice by filing an appeal with the State Treasurer. Filing of such appeal would stay the issuance of the certificate of debt pending determination by the Office of Administrative Law (OAL). The matter would be referred to the Office of Administrative Law for a hearing and would be given priority by the OAL. Upon determination of the appeal in favor of the State, the stay would be lifted and the certificate of debt issued.

Under the bill the State agency which is owed the debt would request that the Department of Treasury execute a setoff against any

State tax refund or homestead rebates that may be owed to the person.

The bill also provides that any wage execution applications filed by the State arising out of a determination by a State administrative agency that a person owes the agency fines, surcharges, penalties, or fees may be filed with the OAL rather than with the Superior Court. This bill does not alter the current process for enforcement of child support collections. An Administrative Law Judge would have the power to hear the State's application for a wage execution and to issue an order directing an execution. The notice would advise the person that, if he wishes to contest the application, he may request a hearing within 30 days by filing such request with the OAL and the State. The applications would be heard and decided by the OAL within 45 days of the date of the filing of the application by the State. A wage execution order of an Administrative Law Judge would be considered a final agency action and would be subject only to judicial review as provided in the Rules of Court.

The bill provides that any wage execution filed by the State including those arising out of these matters would have priority over any other wage execution, except for a wage execution for child support or any other execution priority required by law.

Under the bill, the State could seek a wage execution of up to 25 percent of the debtor's gross earnings, provided that after the execution, the debtor's income will not be less than 250% of the poverty level for an individual taking into account the size of the individual's family. The bill provides that it shall not be construed to violate any provision of federal law concerning wage executions.

**FISCAL IMPACT:**

The Office of Legislative Services is unable to estimate the fiscal impact of this legislation.

**ASSEMBLY, No. 4408**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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INTRODUCED JUNE 27, 2005

**Sponsored by:**

**Assemblywoman JOAN M. QUIGLEY**

**District 32 (Bergen and Hudson)**

**SYNOPSIS**

Enhances debt collection by the State.

**CURRENT VERSION OF TEXT**

As introduced.



A4408 QUIGLEY

2

1 AN ACT providing for enhanced collection of certain debt owed to the  
2 State, amending N.J.S.2A:17-50, N.J.S.2A:17-52, N.J.S.2A:17-55  
3 and N.J.S.2A:17-56 and P.L.1981, c.239 and supplementing Title  
4 54 of the Revised Statutes.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8

9 1. (New section) a. In addition to any other remedy provided by  
10 law, where a debt is owed to a State department or agency, and the  
11 person who owes the debt has failed to comply within 30 days after  
12 service of any notice, demand or order directing payment of any  
13 amount found to be due, the Department of Treasury, on behalf of the  
14 department or agency, may issue a certificate of debt to the Clerk of  
15 the Superior Court stating that the person identified in the certificate  
16 of debt is indebted to the State in such amount as shall be stated in the  
17 certificate of debt.

18 b. The certificate of debt shall reference the statute, regulation or  
19 other legal authority under which the indebtedness arises. Thereupon  
20 the clerk to whom such certificate of debt shall have been issued shall  
21 immediately enter upon the record of docketed judgments the name of  
22 such person or entity as debtor; the State as creditor; the address of  
23 such person or entity, if shown in the certificate of debt; a reference to  
24 the statute, regulation or other legal authority under which the debt  
25 arises; and the date of making such entries.

26 c. The docketing of the certificate of debt shall have the same force  
27 and effect as a civil judgment docketed in the Superior Court subject  
28 to the procedures for appeal as set forth in section 4 of P.L. , c.  
29 (C. ) (now pending before the Legislature as this bill). The  
30 docketing of the certificate of debt shall be without prejudice to the  
31 right of appeal to the Appellate Division of the Superior Court.

32 d. As used in this section and in sections 2, 3, 4, 5, 6, and 8 of  
33 P.L. , c. (C. ) (now pending before the Legislature as this bill):

34 "Debt" means a fee, fine, cost, penalty or assessment that has been  
35 due and owing a State department or agency for 120 days or more.  
36 "Debt" does not include inter-agency debts and debts associated with  
37 loans, notes, grants, and contracts.

38 e. As used in this amendatory and supplementary act, "State  
39 department or agency" does not include an independent authority or  
40 instrumentality that is independent of the operational and budgetary  
41 control of the department to which it is allocated.

42

43 2. (New section) The Department of Treasury shall have all the

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 remedies and may take all of the proceedings for the collection thereof  
2 which may be had or taken upon the recovery of a judgment in an  
3 action, but without prejudice to any right of appeal. Upon entry by the  
4 clerk of the certificate of debt in the record of docketed judgments in  
5 accordance with section 1 of P.L. , c. (C. ) (now pending before  
6 the Legislature as this bill), interest in the amount specified by the  
7 court rules for post-judgment interest shall accrue from the date of the  
8 docketing of the certificate of debt; however, payment of interest may  
9 be waived by the Treasurer or the Treasurer's designee.

10  
11 3. (New section) In the event that the debt remains unpaid  
12 following the issuance of the certificate of debt and the State takes any  
13 further collection action, including referral of the matter to the  
14 Attorney General or the Attorney General's designee, the fee imposed,  
15 in lieu of the actual cost of collection, may be 20 percent of debts of  
16 \$1,000 or more. The Treasurer or his designee may establish a sliding  
17 scale, not to exceed a maximum amount of \$200, for debt principal  
18 amounts of less than \$1,000 at the time the certificate of debt is  
19 forwarded to the Superior Court for filing.

20  
21 4. (New section) a. The Treasurer shall provide written  
22 notification to the debtor of the proposed issuance of the certificate of  
23 debt pursuant to section 1 of P.L. , c. (C. ) (now pending before  
24 the Legislature as this bill) at least 30 days prior to the proposed  
25 issuance. Such notice shall be mailed to the debtor's last known  
26 address. The notice shall advise the debtor that, if the debtor wishes  
27 to contest the validity of the underlying debt that is the subject of the  
28 certificate of debt, he may appeal the determination of underlying debt  
29 within 30 days of the mailing of the notice by filing an appeal with the  
30 State Treasurer.

31 b. Filing of such appeal shall stay the issuance of the certificate of  
32 debt pending determination by the Office of Administrative Law in  
33 accordance with section 5 of P.L. , c. (C. ) (now pending before  
34 the Legislature as this bill). Upon exhaustion and determination of  
35 such appeal in favor of the State, the stay shall be lifted and the  
36 certificate of debt issued.

37  
38 5. (New section) a. Appeals filed with the Treasurer pursuant to  
39 section 4 of P.L. , c. (C. ) (now pending before the Legislature as  
40 this bill) shall be referred to the Office of Administrative Law for  
41 hearing, and shall be given priority by that office.

42 b. The Office of Administrative Law shall establish a system for  
43 expedited hearings of contested determinations of debt in accordance  
44 with the provisions of section 4 of P.L. , c. (C. ) (now pending  
45 before the Legislature as this bill).

46 c. The Office of Administrative Law shall establish a system for

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1 expedited hearings of the State's applications for wage executions in  
2 accordance with the provisions of subsection b. of N.J.S. 2A:17-50.

3 d. Nothing herein shall preclude the Office of Administrative Law  
4 from joining the hearings of contested determinations of debt and the  
5 State's applications for wage executions in appropriate cases.

6 e. The provisions of the "Administrative Procedure Act," P.L.1968,  
7 c.410 (C.52:14B-1 et seq.) shall apply to hearings and appeals  
8 pursuant to P.L. , c. (C. ) (now pending before the Legislature as  
9 this bill).

10

11 6. (New section) Nothing in this act shall be construed as  
12 depriving the State of any remedy for the enforcement of any State  
13 debt through any procedure or remedies provided in the law imposing  
14 such debt or in any other law, nor shall this act be construed as  
15 repealing or altering any such law or laws.

16

17 7. N.J.S.2A:17-50 is amended to read as follows:

18 2A:17-50. a. When a judgment has been recovered in the Superior  
19 Court, and where any wages, debts, earnings, salary, income from trust  
20 funds, or profits are due and owing to the judgment debtor, or  
21 thereafter become due and owing to him, to the amount of \$48.00 or  
22 more a week, the judgment creditor may, on notice to the judgment  
23 debtor unless the court otherwise orders, apply to the court in which  
24 the judgment was recovered, or to the court having jurisdiction of the  
25 same, and upon satisfactory proofs, by affidavit or otherwise, of such  
26 facts, the court shall grant an order directing that an execution issue  
27 against the wages, debts, earnings, salary, income from trust funds, or  
28 profits of the judgment debtor.

29 b. Notwithstanding the provisions of subsection a. or any other law  
30 to the contrary, when a wage execution application is filed by the State  
31 arising out of a determination by a State department or agency that a  
32 person owes the department or agency a debt as defined in section 1  
33 of P.L. , c. (C. ) (now pending before the Legislature as this bill),  
34 such application may be filed with the Office of Administrative Law  
35 rather than with the Superior Court.

36 (cf: P.L. 1991, c.91, s.42)

37

38 8. (New section) a. An Administrative Law Judge shall have the  
39 power to hear the State's application for a wage execution pursuant  
40 to subsection b. of N.J.S. 2A:17-50 and to issue an order directing that  
41 an execution issue against wages, earnings, salary, income from trust  
42 funds or profits of the person who owes the debt.

43 b. The State shall serve the person who owes the debt with a copy  
44 of the application for wage execution. Such notice shall be mailed to  
45 the person's last known address and shall advise the person that, if the  
46 person wishes to contest the application, he may request a hearing



1 within 30 days by filing such request with the Office of Administrative  
2 Law and the State Treasurer.

3 c. Such applications shall be heard and decided by the Office of  
4 Administrative Law within 45 days of the date of the filing of the  
5 application by the State.

6 d. The provisions of the "Administrative Procedure Act,"  
7 P.L.1968, c.410 (C.52:14B-1 et seq.) shall apply to hearings and  
8 appeals pursuant to this section.

9 e. An order of an Administrative Law Judge pursuant to this  
10 section shall be considered final agency action for the purposes of the  
11 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)  
12 and shall be subject only to judicial review as provided in the Rules of  
13 Court.

14

15 9. N.J.S. 2A:17-52 is amended to read as follows:

16 2A:17-52. Number of executions issued and levied at same time.

17 a. Only one execution against the wages, debts, earnings, salary,  
18 income from trust funds or profits of such judgment debtor shall be  
19 satisfied at one time, and where more than one execution shall be  
20 issued pursuant to the provisions of this article against the same  
21 judgment debtor, they shall be satisfied in the order of priority in  
22 which such executions are presented to the person or persons from  
23 whom such wages, debts, earnings, salary, income from trust funds or  
24 profits are due and owing, irrespective of the fact that such executions  
25 shall be issued out of different courts; provided, however, that where  
26 more than one such execution shall be presented to any such person on  
27 the same day and one of such executions derives from a court order  
28 for suitable support and maintenance of a wife, child or children it  
29 shall be first satisfied, notwithstanding the prior presentation on the  
30 same day of any other such execution.

31 b. Notwithstanding subsection a., any wage execution applications  
32 filed by the State after the effective date of P.L. , c. (now pending  
33 before the Legislature as this bill), including those arising out of a  
34 determination by a State department or agency that a person owes the  
35 department or agency a debt as defined in section 1 of P.L. , c.  
36 (C. )(now pending before the Legislature as this bill), shall have  
37 priority over any other wage execution filed on or after the effective  
38 date of this act except as follows:

39 (1) the execution set forth in this subsection shall not have priority  
40 over any execution that derives from a court order for suitable support  
41 and maintenance of a wife, child or children;

42 (2) the execution set forth in this subsection shall not have priority  
43 over any execution otherwise required to have priority pursuant to any  
44 other law.

45 (cf: P.L.1969, c. 292, s. 2).

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6

1 10. N.J.S.2A:17-55 is amended to read as follows:

2 2A:17-55. Either party may apply at any time to the court or, in  
3 the case of executions pursuant to subsection b. of N.J.S.2A:17-50, to  
4 an Administrative Law Judge from which an execution mentioned in  
5 [section] N.J.S. 2A:17-50 [of this title] shall issue, upon such notice  
6 to the other party as such court shall direct, for a modification of such  
7 execution. Upon the hearing, such court or Administrative Law Judge  
8 may make such modification of such execution as shall be deemed just.  
9 Such execution as so modified shall continue in full force and effect  
10 until fully paid and satisfied, or until further modified as herein  
11 provided.  
12 (cf: N.J.S. 2A:17-55).

13

14 11. N.J.S. 2A:17-56 is amended to read as follows:

15 2A:17-56. a. In no case shall the amount specified in an execution  
16 issued out of any court against the wages, debts, earnings, salary,  
17 income from trust funds or profits due and owing, or which may  
18 thereafter become due and owing to a judgment debtor, exceed 10%,  
19 unless the income of such debtor shall exceed [the sum of \$7,500.00  
20 per annum] 250 % of the poverty level for an individual taking into  
21 account the size of the individual's family, in which case the court out  
22 of which the execution shall issue may order a larger percentage.

23 b. Notwithstanding subsection a. or any other law to the contrary,  
24 for all wage execution applications filed by the State pursuant to  
25 subsection b. of N.J.S.2A:17-50 after the effective date of P.L. , c.  
26 (C. ) (now pending before the Legislature as this bill), the State  
27 may seek a wage execution of up to 25% of the debtor's gross  
28 earnings, provided that after the execution the debtor's income will not  
29 be less than 250 % of the poverty level for an individual taking into  
30 account the size of the individual's family.

31 Nothing in this subsection shall be construed to violate any  
32 provision of federal law.

33 (cf: P. L.1970, c. 287, s. 1)

34

35 12. Section 1 of P.L.1981, c.239 (C.54A:9-8.1) is amended to read  
36 as follows:

37 1. a. Whenever any taxpayer or resident shall be entitled to any  
38 refund of taxes pursuant to the "New Jersey Gross Income Tax Act"  
39 (N.J.S.54A:1-1 et seq.), including an earned income tax credit  
40 provided as a refund pursuant to P.L.2000, c.80 (C.54A:4-6 et al.), or  
41 whenever any individual is eligible to receive a homestead rebate  
42 pursuant to P.L.1990, c.61 (C.54:4-8.57 et al.), P.L.1999, c.63  
43 (C.54:4-8.58a et al.) or P.L.2004, c.40, and if the rebate is not  
44 required to be paid over to the municipal tax collector under the  
45 provisions of section 8 of P.L.1990, c.61 (C.54:4-8.64), and at the  
46 same time the taxpayer or resident shall be indebted to any agency or

1 institution of State Government, to the Victims of Crime  
2 Compensation Board for the portion of an assessment ordered  
3 pursuant to N.J.S.2C:43-3.1 for deposit in the Victims of Crime  
4 Compensation Board Account or restitution ordered to be paid to the  
5 board pursuant to N.J.S.2C:44-2 for deposit in the Victims of Crime  
6 Compensation Board Account, or for child support under Title IV-A,  
7 Title IV-D, or Title IV-E of the federal Social Security Act (42 U.S.C.  
8 s.601 et seq.), or other indebtedness in accordance with section 1 of  
9 P.L.1995, c.290 (C.2A:17-56.11b) the Department of the Treasury  
10 shall apply or cause to be applied the refund, homestead rebate, or all,  
11 or so much of any or all as shall be necessary, to satisfy the  
12 indebtedness. Child support indebtedness shall take precedence over  
13 all other indebtedness. The Department of the Treasury shall retain a  
14 percentage of the proceeds of any collection setoff as shall be  
15 necessary to provide for any expenses of the collection effort.

16 b. A State department or agency which is owed a debt shall notify  
17 the Department of Treasury of the existence of the debt and shall  
18 request that the Department of Treasury execute a setoff as provided  
19 for in this section.

20 (cf: P.L. 2004, c.40, s.11)

21

22 13. This act shall take effect immediately

23

24

25

26

#### STATEMENT

27

28 This bill would enhance the collection of certain debts owed to the  
29 State by authorizing the Department of Treasury, on behalf of a State  
30 department or agency to whom a debt is owed, to obtain a certificate  
31 of debt that is docketed by the Clerk of the Superior Court. The  
32 certificate of debt procedure would be applicable in situations where  
33 a person owes a debt to a State department or agency and has failed  
34 to comply within 30 days after service of notice, demand or order for  
35 payment of the debt. The bill defines "debt" as a fee, fine, cost,  
36 penalty or assessment that has been due and owing a State department  
37 or agency for 120 days or more.

38 The docketed certificate of debt would have the same force and  
39 effect as a civil judgment docketed in the Superior Court pending the  
40 appeal process. After docketing, interest would accrue on the debt,  
41 in the amount specified by the court rules for post-judgment interest.

42 Under the bill, following the issuance of the certificate of debt, the  
43 State could take further collection action, including referral of the  
44 matter to the Attorney General. In such cases the fee imposed, in lieu  
45 of the actual cost of collection, could be 20 percent of debts of \$1,000  
46 or more. The bill provides that the Treasurer could establish a sliding

1 scale for debt principal amounts of less than \$1,000.

2 Under the bill, the Treasurer would provide written notification to  
3 the person who owes the debt of the proposed issuance of the  
4 certificate of debt at least 30 days prior to the proposed issuance. The  
5 notice would advise the person that, if the person wishes to contest the  
6 validity of the underlying debt that is the subject of the certificate of  
7 debt, he may appeal the determination of underlying debt within 30  
8 days of the mailing of the notice by filing an appeal with the State  
9 Treasurer. Filing of such appeal would stay the issuance of the  
10 certificate of debt pending determination by the Office of  
11 Administrative Law (OAL). The matter would be referred to the  
12 Office of Administrative Law for a hearing and would be given priority  
13 by the OAL. Upon determination of the appeal in favor of the State,  
14 the stay would be lifted and the certificate of debt issued.

15 Under the bill the State agency which is owed the debt would  
16 request that the Department of Treasury execute a setoff against any  
17 State tax refund or homestead rebates that may be owed to the person.

18 The bill also provides that any wage execution applications filed by  
19 the State arising out of a determination by a State administrative  
20 agency that a person owes the agency fines, surcharges, penalties, or  
21 fees may be filed with the OAL rather than with the Superior Court.  
22 This bill does not alter the current process for enforcement of child  
23 support collections. An Administrative Law Judge would have the  
24 power to hear the State's application for a wage execution and to issue  
25 an order directing an execution. The notice would advise the person  
26 that, if he wishes to contest the application, he may request a hearing  
27 within 30 days by filing such request with the OAL and the State. The  
28 applications would be heard and decided by the OAL within 45 days  
29 of the date of the filing of the application by the State. A wage  
30 execution order of an Administrative Law Judge would be considered  
31 a final agency action and would be subject only to judicial review as  
32 provided in the Rules of Court.

33 The bill provides that any wage execution filed by the State  
34 including those arising out of these matters would have priority over  
35 any other wage execution, except for a wage execution for child  
36 support or any other execution priority required by law.

37 Under the bill, the State could seek a wage execution of up to 25  
38 percent of the debtor's gross earnings, provided that after the  
39 execution, the debtor's income will not be less than 250% of the  
40 poverty level for an individual taking into account the size of the  
41 individual's family. The bill provides that it shall not be construed to  
42 violate any provision of federal law concerning wage executions.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4408

# STATE OF NEW JERSEY

DATED: JUNE 29, 2005

The Assembly Budget Committee reports favorably Assembly Bill No. 4408.

Assembly Bill No. 4408 enhances the collection of certain debts owed to the State by authorizing the Department of Treasury, on behalf of a State department or agency to whom a debt is owed, to obtain a certificate of debt that is docketed by the Clerk of the Superior Court. The certificate of debt procedure will apply in situations in which a person owes a debt to a State department or agency and has failed to comply within 30 days after service of notice, demand or order for payment of the debt. The bill defines "debt" as a fee, fine, cost, penalty or assessment that has been due and owing a State department or agency for 120 days or more.

The docketed certificate of debt will have the same force and effect as a civil judgment docketed in the Superior Court pending the appeal process. After docketing, interest will accrue on the debt, in the amount specified by the court rules for post-judgment interest.

Under the bill, following the issuance of the certificate of debt, the State could take further collection action, including referral of the matter to the Attorney General. In such cases the fee imposed, in lieu of the actual cost of collection, could be 20 percent of debts of \$1,000 or more. The bill provides that the Treasurer may establish a sliding scale for debt principal amounts of less than \$1,000.

Under the bill, the Treasurer will provide written notification to the person who owes the debt of the proposed issuance of the certificate of debt at least 30 days prior to the proposed issuance. The notice will advise the person that, if the person wishes to contest the validity of the underlying debt that is the subject of the certificate of debt, the person may appeal the determination of underlying debt within 30 days of the mailing of the notice by filing an appeal with the State Treasurer. Filing of such appeal stays the issuance of the certificate of debt pending determination by the Office of Administrative Law (OAL). The matter will be referred to the Office of Administrative Law for a hearing and given priority by the OAL. Upon determination of the appeal in favor of the State, the stay would be lifted and the certificate of debt issued.

Under the bill the State agency which is owed the debt will request that the Department of Treasury execute a setoff against any State tax

refund or homestead rebates that may be owed to the person.

The bill also provides that any wage execution applications filed by the State arising out of a determination by a State administrative agency that a person owes the agency fines, surcharges, penalties, or fees may be filed with the OAL rather than with the Superior Court. This bill does not alter the current process for enforcement of child support collections. An Administrative Law Judge will have the power to hear the State's application for a wage execution and to issue an order directing an execution. The notice will advise the person that, if the person wishes to contest the application, the person may request a hearing within 30 days by filing such request with the OAL and the State. The applications will be heard and decided by the OAL within 45 days of the date of the filing of the application by the State. A wage execution order of an Administrative Law Judge will be considered a final agency action and would be subject only to judicial review as provided in the Rules of Court.

The bill provides that any wage execution filed by the State including those arising out of these matters will have priority over any other wage execution, except for a wage execution for child support or any other execution priority required by law.

Under the bill, the State may seek a wage execution of up to 25 percent of the debtor's gross earnings, provided that after the execution, the debtor's income will not be less than 250% of the poverty level for an individual taking into account the size of the individual's family. The bill provides that it shall not be construed to violate any provision of federal law concerning wage executions.

**FISCAL IMPACT:**

No information has been provided concerning the increased revenue from improved debt collection that could be obtained under the bill.