

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1352**

**Bill Subtitle: CONCERNING THE COLLECTION OF DEBTS AND OVERPAYMENTS BY THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO AMEND THE DEFINITION OF "CLAIMANT AGENCY"; AND TO DECLARE AN EMERGENCY.**

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### **Basic Change :**

**Sponsor: Rep. Warren**

HB1352 amends § 26-36-303 to add the Arkansas Public Employees' Retirement System (APERS) as a claimant agency eligible to offset a taxpayer's state income tax refund to satisfy a debt owed to APERS.

### **Revenue Impact :**

None.

### **Taxpayer Impact :**

A taxpayer that owes a debt to APERS and is due a refund from the Department of Finance and Administration (DFA) for individual income taxes would be subject to a refund offset to satisfy the debt.

### **Resources Required :**

Computer programs, tax forms, and instructions will need to be updated.

### **Time Required :**

Adequate time is provided for implementation.

### **Procedural Changes :**

Department employees will need to be educated as well as the tax community.

### **Other Comments :**

It is unknown if APERS meets the outstanding debt limit of \$200,000 in order to be added to the list of eligible "claimant agencies" under § 26-36-303.

### **Legal Analysis :**

§ 26-36-301 et seq. provides a mechanism to collect debts owed to the state, the Internal Revenue Service, Arkansas counties, cities, and towns, and certain housing authorities through the offset of an individual's state income tax refund. Entities to whom a debt is owed are known as "claimant agencies." A new claimant agency cannot be added to the list of claimant agencies unless that agency has an annual outstanding debt of \$200,000 as debt is defined in § 26-36-303(2). See § 26-36-303(1)(B). Each claimant agency is required to follow a statutory process to ensure that due process and other rights are afforded to a taxpayer whose refund is to be offset to the claimant agency. HB1352 adds APERS as a claimant agency eligible to offset a taxpayer's state income tax refund to

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satisfy a debt owed to APERS.

The bill may benefit from an amendment to the definition of "debt" in § 26-36-303 to specifically provide for debts and overpayments to APERS. Under 26-36-303(2)(A), a "debt" means any liquidated sum due and owing any claimant agency, which has accrued through contract, subrogation, tort, operation of law, legal proceeding, or any other legal theory, regardless of whether there is an outstanding judgment for that sum.