

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: 17 January 2007

SUBJECT: Modification of Setoff Debt Collection Act

ATTACHMENT(S):

1. December 18, 2002 Minutes
2. Draft Resolution

SUMMARY OF REQUEST:

In December of 2002 this Board amended Henderson County's procedures for participation in the Setoff Debt Collection Act pursuant to N.C. Gen. Stat. §105A-5 as a way of collecting debts owed the County. Henderson County has participated in this program since 2002, with (as noted in the December 2002 resolution) "great success".

Certain amendments are now needed to allow continued participation in this program, and to make the County's participation less cumbersome for staff. These changes are also intended to allow future participation in this program occur automatically, without the need for regular action by this Board (although it would be subject to review by this Board at any time, of course).

County staff will be present and prepared if requested to give further information on this matter.

BOARD ACTION REQUESTED:

Adoption of the draft resolution amending this Board's December 2002 resolution.

If the Board is so inclined, the following motion is suggested:

I move that the Board adopt the draft resolution amending this Board's December, 2002, resolution regarding the Setoff Debt Collection Act program in Henderson County.

December 18, 2002

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lifetime of having to deal with the City of Asheville. He supported Henderson County finding a way to take over its own water system.

DEBT SETOFF PROGRAM

Ms. Beeker stated that the question before the Board was whether they wished to continue with the debt setoff program originally entered into a year ago. The program allows the county, for debts that are delinquent to the county including tax debts, to submit those debts to a clearinghouse which can garnish a North Carolina Income Tax Refund to reclaim those delinquent monies. She reminded the Board that Darlene Burgess had been administering this program on behalf of the Tax Collector's Office, and had agreed to work with other county departments to collect other delinquent revenues.

Ms. Burgess explained that last year was the first year the program had been offered, and that Henderson County had chosen to participate. She stated that motor vehicle tax bills had been isolated to begin the program because the statutes were very clear on what could be released and what had to be paid. She explained the following steps that had to be taken to administer the program:

- Mail a Debt Setoff notice to the debtor.
- Give the debtor 30 days to either pay the bill or to request a hearing
- After 30 days send the debt to Five Star Computing, a third party acting between Henderson County and the clearinghouse, who submits it to the Department of Revenue.

Last year when the initial notices were sent out, the County collected about \$23,000 in voluntary payments. About \$21,000 had been collected throughout the year through income tax garnishment, bringing the total to \$44,000. She informed the Board that for this year, they had identified about 800 motor vehicle tax bills amounting to \$83,000 that they would like to submit. They also plan to submit 569 EMS bills, amounting to about \$210,000, and about 50 miscellaneous debts totaling over \$25,000. She stated that they would like to send the notices out on January 1st.

Following brief discussion, *Chairman Hawkins made the motion to join the program as the county had in the past year so that notices could be sent January 1st.* Ms. Beeker stated that a Resolution had been prepared that outlined all the specifics of the Debt Setoff Program. She requested the Resolution be amended to include in number three "the North Carolina Local Government Debt Setoff Program Local Collection Assistance Fee Rider." *Chairman Hawkins amended his motion to include those changes and to adopt the Resolution. All voted in favor and the motion carried.*

Article 44 Sales Tax

Commissioner Moyer had requested that this be put on the agenda for the new Board to review. He felt the County would need the funds that would be generated for various projects, to restore the fund balance, and for the possible incorporation of Mills River. Based on a memo from Ms. Beeker, it appeared that the tax could not be enacted after January 1st, and there was now not enough time to have it enacted before then. The only option available would be to try to get a local bill to enable the County to shorten the notice time, or to be authorized to enact the tax at a later date.

Mr. Nicholson and Ms. Beeker answered several questions from the Board on the specifics of the various sales taxes and the Article 44 Sales tax. There was also discussion on the ability of the Governor or the General Assembly to withhold this tax as they have the other sales taxes.

RESOLUTION

WHEREAS, Chapter 105A of the North Carolina General Statutes entitled "Setoff Debt Collection Act," authorizes the North Carolina Department of Revenue to cooperate in identifying debtors who owe money to local governments and who qualify for refunds from the Department of Revenue; and

WHEREAS, the law authorizes the setting off of certain debts owed to local governments against tax refunds from the North Carolina Department of Revenue; and

WHEREAS, the North Carolina Association of County Commissioners and the North Carolina League of Municipalities have jointly established a clearinghouse to submit debts on behalf of any county or city in North Carolina wishing to participate in such debt setoff program, as provided by law; and

WHEREAS, Henderson County participated in the previous years' debt setoff program with great success, and is desirous of participating for the foreseeable future;

NOW, THEREFORE, BE IT RESOLVED by the Henderson County Board of Commissioners as follows:

1. Henderson County will participate in the debt setoff program and agrees to comply with the provisions of Chapter 105A of the North Carolina General Statutes, as amended;
2. The hearings and necessary proceedings as prescribed by law and the debt setoff program will be held by the following persons: The County Manager, or one or more designees; The County Finance Director, or one or more designees; The County Attorney, or one or more designees;
3. The Chairman of the Board of Commissioners and staff are hereby authorized to execute such documents and agreements as are necessary to participate in the debt setoff program.
4. county departments are encouraged to utilize the debt setoff program as a way of collecting delinquent debts.

THIS the _____ day of January, 2007.

HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: _____
WILLIAM MOYER, Chairman

ATTESTED BY:

Elizabeth W. Corn, Clerk to the Board