

HOUSE No. 5586

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 26, 1978.

The committee on Taxation, to whom was referred the petition (accompanied by bill, House, No. 5140) of Francis W. Hatch, Jr., for legislation to establish a tax enforcement commission for the purpose of making an investigation and study of the administration and collection of taxes in the Commonwealth, reports recommending that the accompanying bill (House, No. 5586) ought to pass.

For the committee,

VINCENT J. PIRO.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Eight.

AN ACT ESTABLISHING GREATER TAX ENFORCEMENT PROCEDURES IN THE COMMONWEALTH.

1 *Whereas*, The deferred operation of this act would tend to defeat
2 its purpose, which is to insure the orderly administration and
3 collection of taxes in the commonwealth, therefore, it is hereby
4 declared to be an emergency law, necessary for the immediate
5 preservation of public convenience and necessity.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Notwithstanding any provision of general or
2 special law to the contrary, for a period of two years commencing
3 with the effective date of this act, the Attorney General of the
4 Commonwealth shall, solely for the specific purposes contained
5 herein, have the power and authority to summon and examine
6 under oath any person who might, in the opinion of the Attorney
7 General, have knowledge or information as to the affairs,
8 transactions, or occurrences relative to the administration and
9 collection of taxes in the Commonwealth.

1 SECTION 2. The summons authorized by the preceding
2 section shall be signed by the Attorney General or by an Assistant
3 Attorney General specifically designated by the Attorney General.
4 It may require the attendance of the witness at any courthouse or at
5 any office maintained by the Attorney General within the
6 Commonwealth. It may require the presence of the witness at any
7 time during normal business hours. The summons shall describe
8 with particularity the books, records, documents, papers or
9 tangible objects to be produced.

1 SECTION 3. The summons authorized by section one shall be

2 served upon the witness not later than two business days prior to
3 the time at which he is required to appear. The summons may be
4 served at any place within the Commonwealth and in any manner
5 authorized by law for the service of summons upon witnesses in
6 criminal cases. No fees need be tendered at the time of service.

1 SECTION 4. Examination of the witness shall be conducted by
2 the Attorney General or by an Assistant Attorney General, who
3 shall first place the witness on oath or affirmation. The person
4 conducting the examination may arrange to have the testimony
5 taken stenographically or recorded by any other means authorized
6 by law or by rule of court. The witness may have counsel present to
7 advise him during the examination.

1 SECTION 5. If a witness fails to answer a question propound-
2 ed, or fails to submit any document summoned under this act, the
3 Attorney General may apply to the Superior Court for an order
4 compelling an answer to the question or the production of the
5 documents summoned. If it appears that the witness has been
6 properly summoned and has either refused to answer a question
7 propounded, or has failed to submit a document summoned, the
8 Court shall enter the order unless the witness has claimed a valid
9 privilege or otherwise shows cause why it should not do so. The
10 Attorney General may either complete or adjourn examination of
11 the witness before he applied for the order. If the Court denies the
12 application in whole or in part, it may make such protective order
13 as is authorized by law.

1 SECTION 6. Whoever willfully fails to appear in response to a
2 summons, or refuses to be sworn or affirmed, or, after being
3 directed to do so by a Justice of the Superior Court, fails to refuse
4 to answer a question propounded or to supply a document
5 summoned, shall be guilty of contempt and shall be punished by a
6 fine of not more than five thousand dollars or by imprisonment for
7 not more than six months or by both such fine and imprisonment.

1 SECTION 7. Upon application by any person upon whom the

2 summons authorized by section one has been served, a Justice of
3 the Superior Court may, for cause shown, order that the summons
4 be quashed, that the time or place of the examination be altered,
5 that the examination of the witness be restricted or that any other
6 appropriate action be taken. Application for a Protective Order
7 shall not stay the effect of the summons or excuse the witness from
8 attending and testifying as ordered.

1 SECTION 8. No person performing an official act in connec-
2 tion with the proceedings authorized by sections one to six,
3 inclusive, shall, except in the performance of his official duties or
4 unless specifically directed to do so by a court, disclose that a
5 summons authorized by section one has issued, the nature of the
6 information sought by means of such summons, or any matter
7 occurring at the examination of any witness whose presence has
8 been compelled by such summons. The examination of the witness
9 shall be closed to the public; no person shall be present except the
10 Attorney General, such Assistant Attorneys General as are
11 necessary or convenient to the examination of the witness, the
12 witness under examination, the witness's counsel, and such other
13 persons as are necessary or convenient to the examination of the
14 witness. If a transcript of the testimony given by any witness is
15 prepared, it shall not be delivered to any one other than the
16 Attorney General or an Assistant Attorney General unless a
17 Justice of the Superior Court otherwise directs, provided,
18 however, that if criminal proceedings are instituted against any
19 person, the testimony which any witness in such proceedings has
20 given shall be discoverable in the same manner as the statements of
21 any other witness.

1 SECTION 9. Whoever, having been sworn or affirmed as
2 provided in section four, willfully gives testimony which is false in
3 any matter material to the investigation or inquiry in progress shall
4 be guilty of perjury and subject to the penalties therefor.

1 SECTION 10. The provisions of this act shall take effect on the
2 date its passage and shall expire two years from said date.