As Introduced

132nd General Assembly Regular Session 2017-2018

S. B. No. 187

Senator Eklund

Cosponsor: Senator Wilson

A BILL

То	amend section 718.27 of the Revised Code to	1
	allow municipal corporations to charge	2
	delinquent taxpayers the costs of collecting	3
	municipal income taxes regardless of whether the	4
	costs are incurred before or after a judgment is	5
	entered against the taxpayer.	6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 718.27 of the Revised Code be	7
amended to read as follows:	8
Sec. 718.27. (A) As used in this section:	9
(1) "Applicable law" means this chapter, the resolutions,	10
ordinances, codes, directives, instructions, and rules adopted	11
by a municipal corporation provided such resolutions,	12
ordinances, codes, directives, instructions, and rules impose or	13
directly or indirectly address the levy, payment, remittance, or	14
filing requirements of a municipal income tax.	15
(2) "Income tax," "estimated income tax," and "withholding	16
tax" means any income tax, estimated income tax, and withholding	17
tax imposed by a municipal corporation pursuant to applicable	18

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law, including at any time before January 1, 2016.	19
(3) A "return" includes any tax return, report,	20
reconciliation, schedule, and other document required to be	21
filed with a tax administrator or municipal corporation by a	22
taxpayer, employer, any agent of the employer, or any other	23
payer pursuant to applicable law, including at any time before	24
January 1, 2016.	25
(4) "Federal short-term rate" means the rate of the	26
average market yield on outstanding marketable obligations of	27
the United States with remaining periods to maturity of three	28
years or less, as determined under section 1274 of the Internal	29
Revenue Code, for July of the current year.	30
(5) "Interest rate as described in division (A) of this	31
section" means the federal short-term rate, rounded to the	32
nearest whole number per cent, plus five per cent. The rate	33
shall apply for the calendar year next following the July of the	34
year in which the federal short-term rate is determined in	35
accordance with division (A)(4) of this section.	36
(6) "Unpaid estimated income tax" means estimated income	37
tax due but not paid by the date the tax is required to be paid	38
under applicable law.	39
(7) "Unpaid income tax" means income tax due but not paid	40
by the date the income tax is required to be paid under	41
applicable law.	42
(8) "Unpaid withholding tax" means withholding tax due but	43
not paid by the date the withholding tax is required to be paid	44
under applicable law.	45
(9) "Withholding tax" includes amounts an employer, any	46
agent of an employer, or any other payer did not withhold in	47

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whole or in part from an employee's qualifying wages, but that,	48
under applicable law, the employer, agent, or other payer is	49
required to withhold from an employee's qualifying wages.	50
(B)(1) This section applies to the following:	51
(a) Any return required to be filed under applicable law	52
for taxable years beginning on or after January 1, 2016;	53
(b) Income tax, estimated income tax, and withholding tax	54
required to be paid or remitted to the municipal corporation on	55
or after January 1, 2016.	56
(2) This section does not apply to returns required to be	57
filed or payments required to be made before January 1, 2016,	58
regardless of the filing or payment date. Returns required to be	59
filed or payments required to be made before January 1, 2016,	60
but filed or paid after that date shall be subject to the	
ordinances or rules, as adopted before January 1, 2016, of the	
municipal corporation to which the return is to be filed or the	63
payment is to be made.	64
(C) Each municipal corporation levying a tax on income may	65
impose on a taxpayer, employer, any agent of the employer, and	66
any other payer, and must attempt to collect, the interest	67
amounts and penalties prescribed under division (C) of this	68
section when the taxpayer, employer, any agent of the employer,	69
or any other payer for any reason fails, in whole or in part, to	70
make to the municipal corporation timely and full payment or	71
remittance of income tax, estimated income tax, or withholding	72
tax or to file timely with the municipal corporation any return	73
required to be filed.	74
(1) Interest shall be imposed at the rate described in	75

division (A) of this section, per annum, on all unpaid income

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tax, unpaid estimated income tax, and unpaid withholding tax.	77
(2)(a) With respect to unpaid income tax and unpaid	78
estimated income tax, a municipal corporation may impose a	79
penalty equal to fifteen per cent of the amount not timely paid.	80
(b) With respect to any unpaid withholding tax, a	81
municipal corporation may impose a penalty not exceeding fifty	82
per cent of the amount not timely paid.	83
(3) With respect to returns other than estimated income	84
tax returns, a municipal corporation may impose a penalty of	85
twenty-five dollars for each failure to timely file each return,	86
regardless of the liability shown thereon for each month, or any	87
fraction thereof, during which the return remains unfiled	88
regardless of the liability shown thereon. The penalty shall not	89
exceed one hundred fifty dollars for each failure.	90
(D)(1) With respect to the income taxes, estimated income	91
taxes, withholding taxes, and returns, no municipal corporation	92
shall impose, seek to collect, or collect any penalty, amount of	93
interest, charges, or additional fees not described in this	94
section.	95
(2) With respect to the income taxes, estimated income	96
taxes, withholding taxes, and returns not described in division	97
(A) of this section, nothing in this section requires a	98
municipal corporation to refund or credit any penalty, amount of	99
interest, charges, or additional fees that the municipal	100
corporation has properly imposed or collected before January 1,	101
2016.	102
(E) Nothing in this section limits the authority of a	103
municipal corporation to abate or partially abate penalties or	104
interest imposed under this section when the tax administrator	105

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determines, in the tax administrator's sole discretion, that	106
such abatement is appropriate.	107
(F) By the thirty-first day of October of each year the	108
municipal corporation shall publish the rate described in	109
division (A) of this section applicable to the next succeeding	110
calendar year.	111
(G) The municipal corporation may impose on the taxpayer,	112
employer, any agent of the employer, or any other payer the	113
municipal corporation's post judgment collection costs and fees,	114
including <u>attorney's contingency fees and other</u> attorney's fees.	115
Section 2. That existing section 718.27 of the Revised	116
Code is hereby repealed.	