



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1306/P4  
JK:kjf:jf

P5

DOA:.....Grinde, BB0314 - State agency debt collection

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

11-30-89

Don't Gen

D-N

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**TAXATION**

**OTHER TAXATION**

Under current law, a state agency may certify to DOR a debt owed to the state agency so that DOR can collect the debt by subtracting the debt amount from the debtor's state tax refund. A debt which a state agency may certify to DOR includes an amount that has been reduced to a judgment or an amount for which the state agency has provided the debtor reasonable notice and an opportunity to be heard with regard to that amount. Under current law, DOR charges the debtor an amount to cover DOR's administrative expenses related to offsetting the debt from the debtor's refund.

This bill generally requires a state agency to enter into a written agreement with DOR to have DOR collect any amount owed to a state agency that is at least 90 days past due, unless negotiations between the agency and the debtor are actively ongoing, the debt is the subject of legal action or administrative proceedings, or the agency determines that the debtor is adhering to an acceptable payment arrangement. Under the agreement, DOR, rather than the state agency, may provide the debtor reasonable notice and an opportunity to be heard with regard to the debt. Also, DOR may collect the debt directly from the debtor rather than offset the debt amount from a state tax refund. Under the bill, DOR charges the debtor an amount to cover DOR's administrative expenses related to collecting the debt.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 71.93 (1) (a) <sup>2/3</sup> of the statutes is created to read:

2           71.93 (1) (a) <sup>2/3</sup> Any amount owed to a state agency and collected pursuant to  
3 a written agreement between the department of revenue and the state agency as  
4 provided under sub. (8) (b), if the debt has been reduced to a judgment or if the state  
5 agency or the department has provided the debtor reasonable notice and an  
6 opportunity to be heard with regard to the amount owed.

7           **SECTION 2.** 71.93 (3) (a) of the statutes is amended to read:

8           71.93 (3) (a) ~~In administering this section the department shall first check with~~  
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11 setoff any debt or other amount owed to the department, regardless of the origin of  
12 the debt or of the amount, its nature or its date. If after the setoff there remains a  
13 refund in excess of \$10, the department shall set off the remaining refund against  
14 certified debts of other state agencies. If more than one certified debt exists for any  
15 debtor, the refund shall be first set off against the earliest debt certified, except that  
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19 be refunded to the debtor by the department. Any legal action contesting a setoff  
20 under this paragraph shall be brought against the state agency that certified the  
21 debt under sub. (2).

1           **SECTION 3.** 71.93 (8) of the statutes is renumbered 71.93 (8) (a).

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17 charge each debtor whose debt is subject to collection under this paragraph an  
18 amount for administrative expenses and that amount shall be credited to the  
19 appropriation under s. 20.566 (1) (h).

20           2. The department may enter into agreements described under subd. 1. with  
21 the courts, the legislature, authorities, and local units of government. Payments  
22 received by a debtor pursuant to an agreement under this subdivision shall first  
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24 state agencies, before being applied to debts owed to the courts, the legislature,  
25 authorities, or local units of government.



**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1306/P5ins  
JK:kjf:jf

**Insert 2 - 6**

Handwritten annotations: a circled number 7, the number 114, and the number 11, with lines pointing to the text below.

\*\*\*NOTE: This is reconciled s. 71.93 (1) (a) ~~8~~. This SECTION has been affected by drafts with the following LRB numbers: 1306 and 1687.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1306/P5dn

JK:kjf:jf

*Date*

+ This draft reconciles LRB-1306/P4 and LRB-1687/1. *Both* All of these drafts should continue to appear in the compiled bill.

Joseph T. Kreye  
Senior Legislative Attorney  
Phone: (608) 266-2263  
E-mail: joseph.kreye@legis.wisconsin.gov

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## 2009-11 LRB Draft Review

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**Date:** January 31, 2009

**LRB Number:** 1306/P5

**Reviewed by:** Diane Hardt

**Brief Description of LRB Draft:**

The proposed legislation will require state agencies to enter agreements with DOR to have DOR collect amounts owed that are at least 90 days past due, unless the agency has a valid repayment plan, is in the negotiations with the debtor for resolution of the debt, or the debt is the subject of legal action or administrative proceedings. Under the bill, DOR charges the debtor an amount to cover DOR's administrative expenses related to collecting the debt.

**Comments on Draft:**

The legislation will meet the agency needs, with the changes noted below.

**Changes Needed & Why:**

Page 3, line 7, delete "at least" and insert "more than" after the word "is"  
I assume the intent of this legislation is to require state agencies to refer their debt to DOR before the debt ages to the point where collection is doubtful. If you leave the wording to say "at least", an agency could choose to wait until the debt is one year or more old before referring it to DOR.

Page 3 line 15, delete "tax" after the word "owes".  
The department collects debts owed to the Lottery which are not tax debts.

Page 3 line 17, delete "tax".

Page 3, line 23, define "authorities."

Page 3, line 25, delete "tax".

Page 4, line 21, add

Section 7. 806.115 of the statutes is amended to read:

806.115 The department of revenue may file in any county a duplicate copy of a warrant filed under s.71.74 (14), ~~or~~ 71.91 (5), or 71.93 (8) (b) 5, and the clerk of circuit court shall enter the duplicate copy on the judgment and lien docket as

provided in s. 806.11. When so entered, the duplicate copy shall have the same legal effect as the warrant filed under s. 71.91 (5).



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1306/P5  
JK:kjf:ph

RM not R

DOA:.....Grinde, BB0314 - State agency debt collection

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

in 2-2-09

Don't Gen

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

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      \*\*\*NOTE: This is reconciled s. 71.93 (1) (a) 7. This SECTION has been affected by  
drafts with the following LRB numbers: 1306/P4 and 1687/1

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*more than*

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21 appropriation under s. 20.566 (1) (h).

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23 the courts, the legislature, authorities, and local units of government. Payments  
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*, as defined in s. 16.41(4),*

1 state agencies, before being applied to debts owed to the courts, the legislature,  
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3 3. Agreements required under subd. 1. shall be completed no later than July  
4 1, 2010, except that an agreement may allow a delay or phase-in of referrals.

5 4. The secretary of revenue may waive the referral of certain types of debt. The  
6 department's determination that a debt is not collectable does not prevent the  
7 referring agency from taking additional collection actions.

8 5. The department may collect debts under this paragraph in the same manner  
9 that it collects taxes under ss. 71.91, 71.92, and 73.03 (20). The department's use of  
10 tax returns and related information to collect debts under this paragraph is not a  
11 violation of s. 71.78, 72.06, 77.61 (5), 78.80 (3), or 139.38 (6).

12 **SECTION 5.** 806.11 (1) (intro.) of the statutes is amended to read:

13 806.11 (1) (intro.) At the time of filing the warrant provided by s. 71.74 (14) ~~or~~,  
14 71.91 (5), or 71.93 (8) (b) 5., the clerk of circuit court shall enter the warrant in the  
15 judgment and lien docket, including:

16 **SECTION 6.** 806.11 (2) of the statutes is amended to read:

17 806.11 (2) If a warrant provided by s. 71.74 (14) ~~or~~, 71.91 (5), or 71.93 (8) (b) 5.  
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19 procedure under sub. (1), in the judgment and lien docket under the name of each  
20 person against whom the warrant was issued.

21 (END)

INSERT  
4-20

Insert 4-20

Section #. 806.115 of the statutes is amended to read:

102 71.93(8)(b)5.

**806.115 Filing of duplicate copy of warrant.** The department of revenue may file in any county  
→ a duplicate copy of a warrant filed under s. 71.74 (14) ~~or~~ <sup>71.91 (5)</sup> and the clerk of circuit court shall enter the duplicate copy on the judgment and lien docket as provided in s. 806.11. When so entered, the duplicate copy shall have the same legal effect as the warrant filed under s. 71.91 (5).

History: 1975 c. 224; 1987 a. 312 s. 17; 1987 a. 403 s. 256; 1995 a. 224.

end of insert 4-20



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1306/P6

JK:kjf:md

*bjk*  
*RMR*

DOA:.....Grinde, BB0314 - State agency debt collection

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

*SA-*  
*do not gen. in 2-2-09*

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      \*\*\*NOTE: This is reconciled s. 71.93 (1) (a) 7. This SECTION has been affected by  
drafts with the following LRB numbers: 1306/P4 and 1687/1

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21 appropriation under s. 20.566 (1) (h).

22 2. The department may enter into agreements described under subd. 1. with  
23 the courts, the legislature, authorities, as defined in s. 16.41 (4), and local units of  
24 government. Payments received by a debtor pursuant to an agreement under this  
25 subdivision shall first apply to any debts owed to the department, and then to any

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1 debts owed to the state agencies, before being applied to debts owed to the courts, the  
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3 3. Agreements required under subd. 1. shall be completed no later than July  
4 1, 2010, except that an agreement may allow a delay or phase-in of referrals.

5 4. The secretary of revenue may waive the referral of certain types of debt. The  
6 department's determination that a debt is not collectable does not prevent the  
7 referring agency from taking additional collection actions. *and assess interest on delinquent amounts*

8 5. The department may collect debts under this paragraph in the same manner  
9 that it collects taxes under ss. *71.82(2)* 71.91, 71.92, and 73.03 (20). The department's use of  
10 tax returns and related information to collect debts under this paragraph is not a  
11 violation of s. 71.78, 72.06, 77.61 (5), 78.80 (3), or 139.38 (6). *and assess interest*

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1 the judgment and lien docket as provided in s. 806.11. When so entered, the duplicate  
2 copy shall have the same legal effect as the warrant filed under s. 71.91 (5).

3 (END)

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## 2009-11 LRB Draft Review

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**Date:** February 2, 2009

**LRB Number:** 1306/P5

**Reviewed by:** Catherine Bink

**Brief Description of LRB Draft:**

The proposed legislation will require state agencies to enter agreements with DOR to have DOR collect amounts owed that are at least 90 days past due, unless the agency has a valid repayment plan, is in the negotiations with the debtor for resolution of the debt, or the debt is the subject of legal action or administrative proceedings. Under the bill, DOR charges the debtor an amount to cover DOR's administrative expenses related to collecting the debt.

**Comments on Draft:**

The legislation will meet the agency needs, with the changes noted below.

**Changes Needed & Why:**

Page 3, line 24, delete "a debtor" and insert "the department".

Clarifies the intent of the sentence.

Page 4, line 8, insert "and assess delinquent interest" after the phrase "The department may collect debts".

Clarifies issue of how interest will accrue on debts referred to DOR for collection.

Page 4, line 9, insert "and assesses interest" after "taxes". Insert "71.82(2)" before "71.91".

The change references the statute that authorizes delinquent interest.



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2009 - 2010 LEGISLATURE

LRB-1306/P7  
JK:kjf&bjk:md

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3 3. Agreements required under subd. 1. shall be completed no later than July  
4 1, 2010, except that an agreement may allow a delay or phase-in of referrals.

5 4. The secretary of revenue may waive the referral of certain types of debt. The  
6 department's determination that a debt is not collectable does not prevent the  
7 referring agency from taking additional collection actions.

8 5. The department may collect debts and assess interest on delinquent  
9 amounts under this paragraph in the same manner that it collects taxes and assesses  
10 interest under ss. 71.82 (2), 71.91, 71.92, and 73.03 (20). The department's use of tax  
11 returns and related information to collect debts under this paragraph is not a  
12 violation of s. 71.78, 72.06, 77.61 (5), 78.80 (3), or 139.38 (6).

13 **SECTION 5.** 806.11 (1) (intro.) of the statutes is amended to read:

14 806.11 (1) (intro.) At the time of filing the warrant provided by s. 71.74 (14) ~~or~~,  
15 71.91 (5), or 71.93 (8) (b) 5., the clerk of circuit court shall enter the warrant in the  
16 judgment and lien docket, including:

17 **SECTION 6.** 806.11 (2) of the statutes is amended to read:

18 806.11 (2) If a warrant provided by s. 71.74 (14) ~~or~~, 71.91 (5), or 71.93 (8) (b) 5.  
19 is against several persons, the warrant shall be entered, in accordance with the  
20 procedure under sub. (1), in the judgment and lien docket under the name of each  
21 person against whom the warrant was issued.

22 **SECTION 7.** 806.115 of the statutes is amended to read:

23 **806.115 Filing of duplicate copy of warrant.** The department of revenue  
24 may file in any county a duplicate copy of a warrant filed under s. 71.74 (14) ~~or~~, 71.91  
25 (5), or 71.93 (8) (b) 5. and the clerk of circuit court shall enter the duplicate copy on





State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1306/P8  
JK:kjf&bjk:md

DOA:.....Grinde, BB0314 - State agency debt collection

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**TAXATION**

**OTHER TAXATION**

Under current law, a state agency may certify to DOR a debt owed to the state agency so that DOR can collect the debt by subtracting the debt amount from the debtor's state tax refund. A debt which a state agency may certify to DOR includes an amount that has been reduced to a judgment or an amount for which the state agency has provided the debtor reasonable notice and an opportunity to be heard with regard to that amount. Under current law, DOR charges the debtor an amount to cover DOR's administrative expenses related to offsetting the debt from the debtor's refund.

This bill generally requires a state agency to enter into a written agreement with DOR to have DOR collect any amount owed to a state agency that is more than 90 days past due, unless negotiations between the agency and the debtor are actively ongoing, the debt is the subject of legal action or administrative proceedings, or the agency determines that the debtor is adhering to an acceptable payment arrangement. Under the agreement, DOR, rather than the state agency, may provide the debtor reasonable notice and an opportunity to be heard with regard to the debt. Also, DOR may collect the debt directly from the debtor rather than offset the debt amount from a state tax refund. Under the bill, DOR charges the debtor an amount to cover DOR's administrative expenses related to collecting the debt.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 71.93 (1) (a) 8. of the statutes is created to read:

2           71.93 (1) (a) 8. Any amount owed to a state agency and collected pursuant to  
3 a written agreement between the department of revenue and the state agency as  
4 provided under sub. (8) (b), if the debt has been reduced to a judgment or if the state  
5 agency or the department has provided the debtor reasonable notice and an  
6 opportunity to be heard with regard to the amount owed.

      \*\*\*NOTE: This is reconciled s. 71.93 (1) (a) 7. This SECTION has been affected by  
drafts with the following LRB numbers: 1306/P4 and 1687/1

7           **SECTION 2.** 71.93 (3) (a) of the statutes is amended to read:

8           71.93 (3) (a) ~~In administering this section the department shall first check with~~  
9 ~~the state agency certifying the debt to determine whether the debt has been collected~~  
10 ~~by other means. If the debt remains uncollected the~~ The department of revenue shall  
11 setoff any debt or other amount owed to the department, regardless of the origin of  
12 the debt or of the amount, its nature or its date. If after the setoff there remains a  
13 refund in excess of \$10, the department shall set off the remaining refund against  
14 certified debts of other state agencies. If more than one certified debt exists for any  
15 debtor, the refund shall be first set off against the earliest debt certified, except that  
16 no child support or spousal support obligation submitted by an agency of another  
17 state may be set off until all debts owed to and certified by state agencies of this state  
18 have been set off. When all debts have been satisfied, any remaining refund shall  
19 be refunded to the debtor by the department. Any legal action contesting a setoff

1 under this paragraph shall be brought against the state agency that certified the  
2 debt under sub. (2).

3 **SECTION 3.** 71.93 (8) of the statutes is renumbered 71.93 (8) (a).

4 **SECTION 4.** 71.93 (8) (b) of the statutes is created to read:

5 71.93 (8) (b) 1. Except as provided in subd. 2., a state agency and the  
6 department of revenue shall enter into a written agreement to have the department  
7 collect any amount owed to the state agency that is more than 90 days past due,  
8 unless negotiations between the agency and debtor are actively ongoing, the debt is  
9 the subject of legal action or administrative proceedings, or the agency determines  
10 that the debtor is adhering to an acceptable payment arrangement. At least 30 days  
11 before the department pursues the collection of any debt referred by a state agency,  
12 either the department or the agency shall provide the debtor with a written notice  
13 that the debt will be referred to the department for collection. The department may  
14 collect amounts owed, pursuant to the written agreement, from the debtor in  
15 addition to offsetting the amounts as provided under sub. (3). If the debtor owes debt  
16 to the department and debt to other state agencies, payments shall first apply to  
17 debts owed to the department and then to debts owed to the state agencies, in the  
18 order in which the debts were referred to the department. The department shall  
19 charge each debtor whose debt is subject to collection under this paragraph an  
20 amount for administrative expenses and that amount shall be credited to the  
21 appropriation under s. 20.566 (1) (h).

22 2. The department may enter into agreements described under subd. 1. with  
23 the courts, the legislature, authorities, as defined in s. 16.41 (4), and local units of  
24 government. Payments received by the department pursuant to an agreement under  
25 this subdivision shall first apply to any debts owed to the department, and then to

1 any debts owed to the state agencies, before being applied to debts owed to the courts,  
2 the legislature, authorities, or local units of government.

3 3. Agreements required under subd. 1. shall be completed no later than July  
4 1, 2010, except that an agreement may allow a delay or phase-in of referrals.

5 4. The secretary of revenue may waive the referral of certain types of debt. The  
6 department's determination that a debt is not collectable does not prevent the  
7 referring agency from taking additional collection actions.

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24 may file in any county a duplicate copy of a warrant filed under s. 71.74 (14) or, 71.91  
25 (5), or 71.93 (8) (b) 5. and the clerk of circuit court shall enter the duplicate copy on

1 the judgment and lien docket as provided in s. 806.11. When so entered, the duplicate  
2 copy shall have the same legal effect as the warrant filed under s. 71.91 (5).

3 **(END)**