2005 ASSEMBLY BILL 211

March 16, 2005 – Introduced by Representatives GOTTLIEB, SEIDEL, BIES, GIELOW, GRONEMUS, GUNDERSON, HAHN, HUNDERTMARK, JESKEWITZ, KESTELL, KREIBICH, LEMAHIEU, MONTGOMERY, OTT, OWENS, PETTIS, TOWNS, TOWNSEND, UNDERHEIM, VOS, MURSAU, ALBERS, VRAKAS, KERKMAN, STRACHOTA, BERCEAU, RICHARDS, NISCHKE, KESSLER, MOLEPSKE, NELSON, PARISI, POPE-ROBERTS, SHERMAN, SHILLING, VRUWINK, SHERIDAN and STONE, cosponsored by Senators GROTHMAN, KEDZIE, A. LASEE, OLSEN and WIRCH. Referred to Committee on Corrections and the Courts.

1   AN ACT *to amend* 59.40 (4), 59.52 (28), 71.935 (2), 71.935 (5), 85.103 (6), 342.06

2   (1) (intro.), 342.06 (1) (eg), 343.027, 343.14 (1) and 343.14 (2j) (b); and *to create*

3   59.40 (5), 969.02 (2m) and 969.03 (1m) of the statutes; **relating to:** collection

4   of fees, fines, forfeitures, and surcharges by credit or debit card; setoffs against

5   tax refunds; disclosing information obtained by the Department of

6   Transportation to the Department of Revenue; and creation of a fine or

7   forfeiture service fee and a payment plan fee.

Analysis by the Legislative Reference Bureau

Under current law, when a circuit court (court) imposes a fine or forfeiture on a person for the violation of a state law or local ordinance, the person is also required to pay certain fees and surcharges, depending on the type of violation involved. For example, in a criminal case, the defendant must pay a $20 fee to the court for all necessary filing, entering, or recording done by the court. Currently, the clerk of circuit court (clerk) must collect the amount owed and pay that amount to the county treasurer, but the clerk may contract with a collection agency to collect unpaid fines and forfeitures. The collection agency is paid for its services from the proceeds collected.

This bill allows the county to hire a debt collector (a business or individual who engages in debt collection), instead of a collection agency, to collect unpaid fines and

forfeitures. The bill allows the clerk of circuit court to accept credit cards and debit cards for any required payment to the clerk and for the payment of bail and to charge a fee for that service. The clerk of circuit court may also charge a fee for establishing and monitoring a payment plan ordered by the court.

Under current law, if a person owes a debt related to unpaid fines, fees, or forfeitures to a county or municipality, the county or municipality may certify the debt to the Department of Revenue (DOR) so that DOR may collect the debt for the county or municipality by subtracting the amount of the debt from any tax refund owed to the debtor. DOR charges the county or municipality an administrative fee for collecting a certified debt. Under the bill, DOR charges the person who owes the certified debt an administrative fee for collecting the debt, rather than charging the county or municipality that certifies the debt.

Under the bill, the Department of Transportation must disclose any information that it obtains from driver's license and vehicle title applications to DOR for the purposes of administering state taxes and collecting debt, including social security numbers and signatures.

For further information see the ***state and local*** 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. 59.40 (4) of the statutes is amended to read:

2   59.40 **(4)** CLERK OF CIRCUIT COURT; ~~COLLECTION AGENCY~~ DEBT COLLECTOR CONTRACT.

3   If authorized by the board under s. 59.52 (28), the clerk of circuit court may contract

4   with a ~~collection agency~~ debt collector, as defined in s. 427.103 (3), for the collection

5   of unpaid fines and forfeitures. Any contract entered into shall provide that the

6   ~~collection agency~~ debt collector shall be paid from the proceeds recovered by the

7   ~~collection agency~~ debt collector. The net proceeds received by the clerk of circuit court

8   after the payment to the ~~collection agency~~ debt collector shall be considered the

9   amount of fines and forfeitures collected for purposes of distribution to the state and

10   county under sub. (2) (m).

11   SECTION 2. 59.40 (5) of the statutes is created to read:

1   59.40 **(5)** CLERK OF CIRCUIT COURT; CREDIT AND DEBIT CARDS; PAYMENT PLANS. (a)

2   In this subsection:

3   1. "Credit card" means a card or other similar device existing for the purpose

4   of obtaining money, property, or services on credit under an open−end credit

5   agreement.

6   2. "Debit card" means a card or other similar device existing for the purpose of

7   obtaining money, property, or services through the use of a depository−institution

8   access device.

9   3. "Depository−institution access device" means a terminal or other facility or

10   installation, attended or unattended, that is not located at the principal place of

11   business or at a branch or remote facility of a depository institution and through

12   which depository institutions and their customers may engage, by means of either

13   the direct transmission of electronic impulses to and from a depository institution or

14   the recording of electronic impulses or other indicia of a transaction for delayed

15   transmission to a depository institution, in transactions that are incidental to the

16   conduct of the business of a depository institution.

17   4. "Open−end credit agreement" means an agreement under which credit is

18   extended on an account and under which all of the following are true:

19   a. The debtor may make purchases or obtain loans, from time to time, directly

20   from the creditor or indirectly by use of a credit card, check, or other device, as the

21   plan may provide.

22   b. The debtor has the privilege of paying the balance in full or in installments.

23   c. The creditor may from time to time assess a charge, computed on any

24   outstanding unpaid balance.

1   (b) The clerk of circuit court may accept a credit card or debit card for any

2   required payment to the clerk of circuit court and may charge and collect a

3   reasonable service fee for the use of a credit card or debit card. The county board shall

4   establish the amount of the service fee, which shall be retained in full by the county.

5   (c) The clerk of circuit court may charge and collect a fee for the establishment

6   and monitoring of a payment plan for persons ordered to make payments to the clerk

7   of circuit court. The amount of the fee may not exceed $15 and shall be on a sliding

8   scale based on the person's ability to pay in view of the person's income.

9   SECTION 3. 59.52 (28) of the statutes is amended to read:

10   59.52 **(28)** COLLECTION OF COURT IMPOSED PENALTIES. The board may adopt a

11   resolution authorizing the clerk of circuit court, under s. 59.40 (4), to contract with

12   a collection agency debt collector, as defined in s. 427.103 (3), for the collection of

13   unpaid fines and forfeitures.

14   SECTION 4. 71.935 (2) of the statutes is amended to read:

15   71.935 **(2)** A municipality or county may certify to the department any debt

16   owed to it. Not later than 5 days after certification, the municipality or county shall

17   notify the debtor in writing of its certification of the debt to the department, of the

18   basis of the certification and of the debtor's right to appeal and, in the case of parking

19   citations, of the debtor's right to contest the citation. At the time of certification, the

20   municipality or county shall furnish to the department the name and social security

21   number or operator's license number of each individual debtor and the name and

22   federal employer identification number of each other debtor.

23   SECTION 5. 71.935 (5) of the statutes is amended to read:

24   71.935 **(5)** At the time of each settlement, each municipality and county debtor

25   shall be charged for administration expenses, and the amounts charged shall be

1 credited to the appropriation account under s. 20.566 (1) (h). The department may

2 set off amounts charged to the debtor under this subsection against any refund owed

3 to the debtor, in the manner provided in sub. (3). Annually on or before November

4 1, the department shall review its costs incurred during the previous fiscal year in

5 administering setoffs under this section and shall adjust its subsequent charges to

6 each ~~municipality and county~~ debtor to reflect that experience.

7   **SECTION 6.** 85.103 (6) of the statutes is amended to read:

8   85.103 **(6)** The department may disclose the personal identifier of any person

9 who has made a designation under sub. (2) or (3) if the department discloses the

10 personal identifier under s. 341.17 (9), 342.06, 343.027, 343.14, 343.234, 343.235,

11 343.24 (3) and (4), or 343.245 (3m).

12   **SECTION 7.** 342.06 (1) (intro.) of the statutes is amended to read:

13   342.06 **(1)** (intro.) An application for a certificate of title shall be made to the

14 department upon a form or in an automated format prescribed by it and shall be

15 accompanied by the required fee and any applicable taxes. Information obtained by

16 the department under this subsection shall be provided to the department of revenue

17 for the purposes of administering state taxes and collecting debt. Each application

18 for certificate of title shall include the following information:

19   **SECTION 8.** 342.06 (1) (eg) of the statutes is amended to read:

20   342.06 **(1)** (eg) Except as provided in par. (eh), if the applicant is an individual,

21 the social security number of the applicant. The department of transportation may

22 not disclose a social security number obtained under this paragraph to any person

23 except to the department of workforce development for the sole purpose of

24 administering s. 49.22 and to the department of revenue for the purposes of

25 administering state taxes and collecting debt.

1   SECTION 9. 343.027 of the statutes is amended to read:

2   **343.027 Confidentiality of signatures.** Any signature collected under this

3 chapter may be maintained by the department and shall be kept confidential. The,

4 except that the department ~~may~~ shall release a signature or a facsimile of a signature

5 ~~only~~ to the department of revenue for the purposes of administering state taxes and

6 collecting debt or to the person to whom the signature relates.

7   SECTION 10. 343.14 (1) of the statutes is amended to read:

8   343.14 **(1)** Every application to the department for a license or identification

9 card or for renewal thereof shall be made upon the appropriate form furnished by the

10 department and shall be accompanied by the required fee. Information obtained by

11 the department under this subsection shall be provided to the department of revenue

12 for the purposes of administering state taxes and collecting debt.

13   SECTION 11. 343.14 (2j) (b) of the statutes is amended to read:

14   343.14 **(2j)** (b) Except as otherwise required to administer and enforce this

15 chapter, the department of transportation may not disclose a social security number

16 obtained from an applicant for a license under sub. (2) (bm) to any person except to

17 the department of workforce development for the sole purpose of administering s.

18 49.22 or to the department of revenue for the purposes of administering state taxes

19 and collecting debt.

20   SECTION 12. 969.02 (2m) of the statutes is created to read:

21   969.02 **(2m)** The clerk of circuit court may accept a credit card or debit card,

22 as defined in s. 59.40 (5) (a) and 1. and 2., instead of cash under sub. (2).

23   SECTION 13. 969.03 (1m) of the statutes is created to read:

24   969.03 **(1m)** The clerk of circuit court may accept a credit card or debit card,

25 as defined in s. 59.40 (5) (a) 1. and 2., instead of cash under sub. (1) (d).

2005 – 2006 Legislature   – 7 –   LRB–1547/1
RPN&MJL&JK:cjs:pg
SECTION 14

ASSEMBLY BILL 211

1   **SECTION 14. Initial applicability.**

2   (1) This act first applies to payments ordered in actions commenced on the

3 effective date of this subsection.

4   **SECTION 15. Effective date.**

5   (1) This act takes effect on the first day of the 4th month beginning after

6 publication.

7   **(END)**