



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

| | |
|--|--|
| 2003 Assembly Bill 365 | Assembly Substitute Amendment 1 |
| <i>Memo published: October 9, 2003</i> | <i>Contact: Don Dyke, Senior Staff Attorney (266-0292)</i> |

2003 Assembly Bill 365 authorizes a municipal court to contract with a collection agency to collect unpaid forfeitures, assessments, and surcharges. Under the bill, costs of collection are deducted before the recovered forfeitures, assessments, and surcharges are disbursed so that the collection costs are shared pro rata by those to whom the recovered amounts are distributed.

Assembly Substitute Amendment 1 relocates the provisions of the proposal to ch. 755, Stats. (municipal courts), for better placement in the Wisconsin Statutes. No substantive change is intended.

Assembly Substitute Amendment 1 was introduced by Representative Nischke. The Assembly Committee on Urban and Local Affairs recommended adoption of the amendment by a vote of Ayes, 8, Noes, 0.

DD:wu



**WISCONSIN LEGISLATIVE COUNCIL
ACT MEMO**

| | |
|---|---|
| 2003 Wisconsin Act 140 [2003 Assembly Bill 365] | Use of Collection Agencies by Municipal Courts |
| 2003 Acts: www.legis.state.wi.us/2003/data/acts/ | Act Memos: www.legis.state.wi.us/lc/act_memo/act_memo.htm |

Current law authorizes the clerk of circuit court to contract with a collection agency for the collection of unpaid fines and forfeitures. Section 59.40 (4), Stats. Current law is silent on the authority of municipal courts to contract with collection agencies.

2003 Wisconsin Act 140 expressly authorizes a municipal court to contract with a collection agency to collect unpaid forfeitures, assessments, and surcharges. Under the Act, costs of collection are deducted from the recovered forfeitures, assessments, and surcharges so that the collection costs are effectively shared prorata when the remaining recovered amounts are distributed.

Effective Date: Act 140 became effective March 25, 2004.

Prepared by: Don Dyke, Chief of Legal Services

April 1, 2004

DD:ksm

This memo provides a brief description of the Act. For more detailed information,
consult the text of the law and related legislative documents.



WISCONSIN LEGISLATURE
P.O. Box 8953 Madison, WI 53708-8953

OCT 27 2003

October 24, 2003

Senator Ron Brown, Chair
Senate Committee on Homeland Security,
Veterans and Military Affairs, and Government Reform
Room 104 South, State Capitol

Dear Senator Brown,


I am writing to request that the Senate Committee on Homeland Security, Veterans and Military Affairs, and Government Reform schedule a hearing on Assembly Bill 365, which relates to authorizing municipal courts to contract with collection agencies and the sharing of collection costs by cities, villages, towns, and counties.

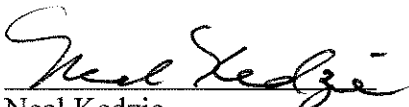
On October 21, 2003, Assembly Bill 365 was passed by the Assembly, was messaged to the Senate, and referred to your committee. At the Assembly Public Hearing, there was no opposition to the bill, it passed out of committee unanimously, and was passed by the Assembly on a unanimous voice vote.

It would be very much appreciated if you would schedule this bill for Public Hearing at the earliest convenient time.

Thank you for your consideration.

Sincerely yours,


Ann Nischke
State Representative


Neal Kedzie
State Senator

cc. Senator Mary Panzer



State Senator

Neal J. Kedzie

11th Senate District

**SENATE COMMITTEE ON HOMELAND SECURITY,
VETERANS AND MILITARY AFFAIRS, AND GOVERNMENT
REFORM**

**KEDZIE TESTIMONY ON ASSEMBLY BILL 365
JANUARY 14, 2004 – 10:00 AM**

Mr. Chairman and members of the Committee...

Thank you for holding a hearing today on Assembly Bill 365. Representative Nischke and myself introduced this legislation after being contacted by Judge Doug Stern, who is a Municipal Judge for the Lake Country Municipal Court, which serves 13 communities in Southeastern Wisconsin.

Assembly Bill 365 is a fairly simple, but important bill. The bill authorizes municipal courts to contract with a collection agency to collect outstanding forfeitures, assessments and surcharges. The bill also specifies that the collection agency shall be paid for from the proceeds collected prior to the funds being disbursed to the appropriate entity.

Assembly Bill 365 will give municipal courts the same authority that circuit courts currently have. It also gives municipal courts another tool for collecting unpaid forfeitures and assessments, and will result in more revenue for municipalities, counties and the State of Wisconsin.

Assembly Bill 365 passed the Assembly, as amended, on a voice vote. The substitute amendment that was adopted is a technical amendment that simply places the provisions of the bill in a different chapter of the Statutes than the original bill. At the public hearing in the Assembly, no one testified or registered against the legislation.

Thank you for your consideration of this bill.

- ▶ Home
- ▶ Lobbying in Wisconsin
- ▶ Organizations employing lobbyists
- ▶ Lobbyists



as of Monday, February 02, 2004

2003-2004 legislative session

Legislative bills and resolutions

(search for another legislative bill or resolution at the bottom of this page)

- Text, Sponsors and Analysis
- Status and Fiscal Estimate
- Lobbying Effort on this item

Assembly Bill 365

authorizing municipal courts to contract with collection agencies and the sharing of collection costs by cities, villages, towns, and counties

| Organization | | These organizations have reported lobbying on this proposal: | Place pointer on icon to display comments click icon to display prior comments | | |
|--------------|-----------|--|---|----------|----------|
| Profile | Interests | | Date Notified | Position | Comments |
| ● | ● | City of Madison | 10/3/2003 | ↑ | |
| ● | ● | City of Milwaukee | 1/12/2004 | ↑ | |
| ● | ● | League of Wisconsin Municipalities | 7/16/2003 | ↑ | |
| ● | ● | Waukesha County Municipal Executives | 6/2/2003 | ? | |
| ● | ● | Wisconsin Alliance of Cities Inc | 10/21/2003 | ↑ | |
| ● | ● | Wisconsin Merchants Federation | 6/9/2003 | ? | |
| ● | ● | Wisconsin Professional Police Association | 6/25/2003 | ? | |

Select a legislative proposal and click "go"

House
Proposal Type
Proposal Number (enter proposal number)
Legislative Session

January - December 2003

| Month | Village CHENOWA | Town DELAFIELD | Village DOBSMN | Village HARIND | Town LIBELLE | Town LISBON | Town MERTON | Village NASH | Village of OCLAKE | City OCONO | Town OCONO | Town SUMMIT | Village of SUSSEX | Ward/City TREASUR | STATE WISC | Jefferson Co Treas |
|--|--------------------|-------------------|-------------------|-------------------|-----------------|----------------|----------------|-----------------|----------------------|---------------|---------------|----------------|----------------------|----------------------|---------------|-----------------------|
| JAN | \$1,944.34 | \$231.29 | \$1,021.60 | \$4,976.08 | \$30.00 | \$5,815.00 | \$2,455.08 | \$440.00 | \$1,169.20 | \$21,884.89 | \$10,160.98 | \$2,751.05 | \$3,403.65 | \$12,937.08 | \$24,272.71 | \$0.00 |
| FEB | \$1,823.36 | \$220.00 | \$768.87 | \$5,668.03 | \$330.00 | \$6,390.39 | \$2,250.00 | \$733.00 | \$1,206.00 | \$17,110.63 | \$10,652.67 | \$4,222.88 | \$3,143.93 | \$12,125.56 | \$23,713.76 | \$10.00 |
| MAR | \$2,427.70 | \$432.00 | \$842.00 | \$5,592.80 | \$50.00 | \$6,854.80 | \$2,131.51 | \$280.00 | \$2,985.00 | \$18,458.30 | \$8,668.30 | \$2,808.68 | \$4,017.64 | \$12,542.64 | \$24,250.99 | \$0.00 |
| APR | \$2,105.31 | \$430.00 | \$599.44 | \$5,624.00 | \$130.00 | \$5,405.00 | \$805.00 | \$615.00 | \$1,443.00 | \$20,230.40 | \$10,812.78 | \$3,616.25 | \$4,477.80 | \$12,621.22 | \$24,577.94 | \$0.00 |
| MAY | \$1,719.99 | \$765.56 | \$437.00 | \$6,909.88 | \$581.45 | \$5,622.62 | \$1,141.95 | \$170.00 | \$3,124.22 | \$18,678.12 | \$9,533.36 | \$3,141.13 | \$4,196.17 | \$15,033.48 | \$26,578.12 | \$0.00 |
| JUN | \$2,330.26 | \$2,024.57 | \$665.00 | \$5,764.88 | \$163.33 | \$5,996.21 | \$1,892.35 | \$360.00 | \$2,548.20 | \$21,390.27 | \$9,491.49 | \$2,555.59 | \$6,080.00 | \$13,974.10 | \$27,500.15 | \$0.00 |
| JUL | \$3,051.18 | \$764.10 | \$350.00 | \$6,392.46 | \$348.55 | \$7,270.50 | \$865.00 | \$355.00 | \$3,313.00 | \$24,054.12 | \$10,499.22 | \$3,582.08 | \$3,078.00 | \$14,980.11 | \$28,158.83 | \$0.00 |
| AUG | \$2,755.46 | \$1,780.75 | \$1,180.61 | \$5,935.20 | \$1,152.86 | \$7,125.27 | \$1,741.62 | \$90.00 | \$2,184.58 | \$25,965.10 | \$9,678.36 | \$2,381.99 | \$5,774.66 | \$13,856.49 | \$28,854.12 | \$0.00 |
| SEP | \$2,412.22 | \$682.15 | \$1,337.84 | \$6,533.29 | \$0.00 | \$7,180.39 | \$1,733.82 | \$180.00 | \$2,084.47 | \$21,542.79 | \$9,977.10 | \$3,591.34 | \$4,882.33 | \$14,684.03 | \$28,678.09 | \$0.00 |
| OCT | \$3,728.82 | \$1,236.37 | \$630.00 | \$7,407.86 | \$152.79 | \$7,346.43 | \$1,489.83 | \$396.39 | \$3,022.25 | \$28,537.85 | \$12,788.83 | \$3,759.15 | \$5,055.77 | \$17,154.68 | \$34,429.99 | \$0.00 |
| NOV | \$2,375.42 | \$681.61 | \$242.61 | \$6,943.42 | \$0.00 | \$6,905.23 | \$1,919.84 | \$156.78 | \$2,207.63 | \$24,090.59 | \$9,124.37 | \$2,682.21 | \$4,863.41 | \$14,175.42 | \$28,237.70 | \$0.00 |
| DEC | \$2,828.35 | \$1,680.07 | \$813.22 | \$8,254.19 | \$90.00 | \$6,087.02 | \$1,863.19 | \$158.78 | \$2,245.56 | \$23,269.67 | \$10,581.25 | \$3,473.42 | \$5,173.07 | \$15,324.13 | \$30,261.78 | \$0.00 |
| TOTAL | \$29,502.41 | \$10,928.47 | \$8,888.19 | \$76,002.09 | \$3,228.98 | \$77,998.86 | \$20,289.19 | \$3,934.95 | \$27,533.11 | \$265,210.73 | \$121,968.71 | \$38,565.77 | \$54,146.43 | \$169,408.94 | \$329,514.18 | \$10.00 |
| Monthly Average | \$2,458.53 | \$910.71 | \$740.68 | \$6,333.51 | \$269.08 | \$6,499.91 | \$1,690.77 | \$327.91 | \$2,294.43 | \$22,100.89 | \$10,164.06 | \$3,213.81 | \$4,512.20 | \$14,117.41 | \$27,459.52 | \$0.83 |
| % of Court | 0.04 | 0.01 | 0.01 | 0.10 | 0.00 | 0.11 | 0.03 | 0.01 | 0.04 | 0.36 | 0.17 | 0.05 | 0.07 | | | |
| TOTAL RETURNED TO PARTICIPATING COMMUNITIES - \$738,197.89 | | | | | | | | | | | | | | | | |
| \$61,516.49 | | | | | | | | | | | | | | | | |

MEMO

TO: Chief James Race
Chief Robert Rosch
Chief Donald Wiemer
FROM: Douglas Stern
DATE: 5-16-02
RE: Professional Collections Solutions Proposal

I have made a number of inquiries with the legal department at the Wisconsin Department of Transportation and reviewed relevant statutes on the issue of assessing the defendant the 25% collection fee.

I enclose copies of Section 814.65 and 757.05 of the Wisconsin Statutes. You will note that 814.65(4) specifically prohibits the assessment of any fees and costs except those specified. The costs of collection is not specified. 757.05(1) regards penalty assessment and allows this portion of the forfeiture to be reduced pro rata. If we only collect 75%, then the penalty assessment is reduced to 75% of the original amount. This is not true for the \$5.00 costs. The \$5.00 is a set fee no matter what is collected, pursuant to 814.65(1).

Based upon the above, the example of a \$100 forfeiture sent to collection and returning \$75.00, \$5.00 would come off the top and the balance of \$70.00 would be divided pro-rata between state, county, court and municipality. I trust the enclosed answers this issue.

cc: Pamela Strunk

LAKE COUNTRY MUNICIPAL COURT

174 E. Wisconsin Avenue
Oconomowoc, WI 53066

Phone: (262) 569-0920

Fax: (262) 569-0771

website: lcmunict.com/lcmunict.org

email address: clerk@lcmunict.com

January 30, 2003

Attorney General Peggy A. Lautenschlager
Wisconsin Department of Justice
PO Box 7857
Madison, WI 53707-7857

Re: Collection of delinquent forfeitures

Dear Attorney General Lautenschlager:

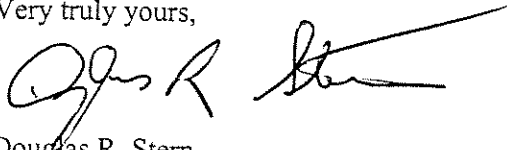
This court's operations committee has directed me to request an opinion concerning our proposal to submit for collection delinquent forfeitures. For your reference, I enclose a copy of our 2002 spread sheet indicating that we sent the State almost \$300,000.00. I also enclose a copy of my memo of May 16, 2002, which outlines the nature of my inquiry. Essentially, this court has approximately \$500,000.00 in delinquent forfeitures that we could turn over for collection. The collection agency charges a standard contingency fee based upon amounts collected.

The question is how the amounts collected should be divided. We have not been able to come up with the algebraic formula necessary to take the §814.65(1) fee off the top and then divide the balance somehow between the remaining interests. This is quite complex since there are various percentage portions going to the State and County. In fact, the only way to do it pursuant to the statute is by hand calculating each forfeiture or portion of forfeiture paid. This is so labor intensive as to be impractical.

My opinion is that every entitled interest to the forfeiture should share pro-rata in the cost of collection. Otherwise, we will not be able to move forward with this initiative. This is not a minor matter, multiply our situation times two hundred plus other municipal courts in the state.

I appreciate any advice and/or direction that your office can provide. If you or one of your deputies needs to call, please feel free to call the above number on any Friday or (414) 771-7780/(262) 227-9779 any Monday through Thursday.

Very truly yours,


Douglas R. Stern
Municipal Court Judge

DRS:mjm
Enclosures

cc: Operations Committee

Douglas R. Stern
Municipal Judge

Pamela Strunk
Court Clerk

Theresa Berlin
Deputy Clerk

Proudly Serving:

Village of Chenequa
Town of Delafield
Village of Dousman
Village of Hartland
Village of Lac La Belle
Town of Lisbon
Town of Merton
Village of Nashotah
City of Oconomowoc
Town of Oconomowoc
Village of Oconomowoc Lake
Town of Summit
Village of Sussex



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

PEGGY A. LAUTENSCHLAGER
ATTORNEY GENERAL

Daniel P. Bach
Deputy Attorney General

114 East, State Capitol
P.O. Box 7857
Madison, WI 53707-7857

January 6, 2004

The Honorable Douglas R. Stern
Municipal Judge
Lake Country Municipal Court
174 East Wisconsin Avenue
Oconomowoc, WI 53066

Dear Judge Stern:

I am writing in response to your January 30, 2003, letter in which you request an opinion on a proposal that your court operations committee has made with respect to collection of delinquent forfeitures. I have great appreciation for the frustrations encountered in dividing amounts collected between a collection agency, the municipality and the various state and county offices that are entitled to a share of amounts you may collect.

I read the article in the July 23, 2003, Milwaukee Journal Sentinel, in which you expressed many of the same concerns as you did in your letter to me. I am aware that Assembly Bill 365 is pending. Assembly Bill 365 was amended in October to renumber the proposed statute to include it in Wis. Stat. Ch. 755, which deals with municipal courts.

You raise a significant issue of mutual concern to both municipal and state courts. It may be useful for you, while this legislation is pending, to contact the Director of State Courts to get his opinion and input on your proposal for prorating the costs of a collection agency. To get in touch with the Director of State Courts, contact:

John Voelker
Director of State Courts
119 Martin Luther King Jr. Blvd., Suite LL2
Madison, WI 53703
(608) 266-6828

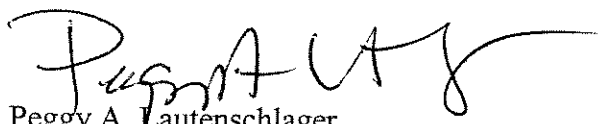
Karla Baumgartner is the program attorney at the Wisconsin Supreme Court's Office of Judicial Education. She can be reached at (608) 266-7816. As you are probably aware, Ms. Baumgartner's office assembles and updates the Wisconsin Municipal Judicial Benchbook. The Wisconsin Municipal Judge Benchbook states at Paragraph 3 in Section F on Page 13-16 (Rev'd 2002) that "[t]he collection fee payable to the collection company must be paid out of the forfeiture amount, not out of the fees and assessments." Certainly the math is easier if this is in fact the approach a municipality takes, but you make a good point that it seems unfair that the

The Honorable Douglas R. Stern
Page 2

municipality absorb the full cost of using a collection agency, when the state and county treasuries also benefit from engaging the services of a collection agency. The Municipal Judge Benchbook's authority for its proposition that the collection company be paid solely out of the forfeiture amount is Wis. Stat. § 800.095(7), which provides that "a municipality may enforce the judgment in the same manner as for a judgment in an ordinary civil action." Upon passage of Assembly Bill 365, the Benchbook should be revised to reflect that fees and assessments be computed based upon the net forfeitures received from the collection agency. In this case, the pending legislation should provide you with the legal authority you were looking for in accounting for forfeitures when a collection agency is used.

Thank you for your inquiry. I encourage you to work with your elected representatives and with other municipal courts in Wisconsin to obtain a legislative resolution to the issues you present.

Very truly yours,



Peggy A. Lautenschlager
Attorney General

PAL:DLR:kdh