

2007 SENATE BILL 373

January 4, 2008 – Introduced by Senators JAUCH, ERPENBACH, HARSDORF, OLSEN, COWLES and GROTHMAN, cosponsored by Representatives RHOADES, BIES, MURSAU, DAVIS, LEMAHIEU, ALBERS, PETROWSKI, LOTHIAN, HAHN, STRACHOTA and TOWNSEND. Referred to Committee on Tax Fairness and Family Prosperity.

1 **AN ACT to amend** 20.566 (1) (h), 71.55 (1), 71.61 (1), 71.75 (1), 71.75 (9), 71.80
2 (3), 71.80 (3m) (a), 71.80 (3m) (b) 2., 71.88 (1) (a), 73.03 (52) and 73.03 (52m);
3 **to repeal and recreate** 343.14 (1); and **to create** 71.936 of the statutes;
4 **relating to:** setoffs against tax refunds for debts related to providing
5 ambulance services.

Analysis by the Legislative Reference Bureau

Under current law, if a person owes a debt of at least \$20 to a county or municipality, and if the debt has been reduced to a judgment or the county or municipality has provided the debtor reasonable notice and an opportunity to be heard with regards to the debt, 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. Under this bill, ambulance service providers may also certify to DOR for collection debts related to providing ambulance services to individuals in this state.

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:

SENATE BILL 373**SECTION 1**

1 **SECTION 1.** 20.566 (1) (h) of the statutes, as affected by 2007 Wisconsin Act 20,
2 is amended to read:

3 20.566 (1) (h) *Debt collection.* From moneys received from the collection of
4 debts owed to state agencies under ss. 71.93 and 565.30 (5), from the collection of
5 unpaid fines, forfeitures, costs, fees, surcharges, and restitution payments under s.
6 565.30 (5r) (b), from the collection of fees under s. 73.03 (52) and (52n), and from
7 moneys received from the collection of debts owed to municipalities and counties
8 under s. 71.935, and from moneys received from the collection of debts owed to
9 ambulance service providers under s. 71.936, the amounts in the schedule to pay the
10 administrative expenses of the department of revenue for the collection of those
11 debts, fines, forfeitures, costs, surcharges, fees, and restitution payments.
12 Notwithstanding s. 20.001 (3) (a), at the end of the fiscal year the unencumbered
13 balance of this appropriation account lapses to the general fund.

14 **SECTION 2.** 71.55 (1) of the statutes is amended to read:

15 71.55 (1) APPLICATION OF CREDIT AGAINST ANY LIABILITY. The amount of any claim
16 otherwise payable under this subchapter may be applied by the department of
17 revenue against any amount certified to the department under s. 71.93 or 71.935,
18 or 71.936 or may be credited under s. 71.80 (3) or (3m).

19 **SECTION 3.** 71.61 (1) of the statutes is amended to read:

20 71.61 (1) DEPARTMENT MAY APPLY CREDIT AGAINST ANY TAX LIABILITY. The amount
21 of any claim otherwise payable under this subchapter may be applied by the
22 department against any amount certified to the department under s. 71.93 or
23 71.935, or 71.936 or may be credited under s. 71.80 (3) or (3m).

24 **SECTION 4.** 71.75 (1) of the statutes is amended to read:

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1 71.75 (1) Except as provided in ss. 49.855, 71.77 (5) and (7) (b) ~~and~~, 71.935, and
2 71.936, the provisions for refunds and credits provided in this section shall be the
3 only method for the filing and review of claims for refund of income and surtaxes, and
4 no person may bring any action or proceeding for the recovery of such taxes other
5 than as provided in this section.

6 **SECTION 5.** 71.75 (9) of the statutes is amended to read:

7 71.75 (9) All refunds under this chapter are subject to attachment under ss.
8 49.855, 71.93 ~~and~~, 71.935, and 71.936.

9 **SECTION 6.** 71.80 (3) of the statutes is amended to read:

10 71.80 (3) CREDITING OF OVERPAYMENTS ON INDIVIDUAL OR SEPARATE RETURNS. In
11 the case of any overpayment, refundable credit or refund on an individual or separate
12 return, the department, within the applicable period of limitations, may credit the
13 amount of overpayment, refundable credit or refund including any interest allowed,
14 against any liability in respect to any tax collected by the department, a debt under
15 s. 71.93 ~~or~~, 71.935, or 71.936, or a certification under s. 49.855 on the part of the
16 person who made the overpayment or received the refundable credit or the refund
17 and shall refund any balance to the person. The department shall presume that the
18 overpayment, refundable credit or refund is nonmarital property of the filer. Within
19 2 years after the crediting, the spouse or former spouse of the person filing the return
20 may file a claim for a refund of amounts credited by the department if the spouse or
21 former spouse shows by clear and convincing evidence that all or part of the state tax
22 overpayment, refundable credit or refund was nonmarital property of the
23 nonobligated spouse.

24 **SECTION 7.** 71.80 (3m) (a) of the statutes is amended to read:

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1 **71.80 (3m)** (a) Against any liability of either spouse or both spouses in respect
2 to an amount owed the department, a certification under s. 49.855 that is subject to
3 s. 766.55 (2) (b) or a debt under s. 71.93 ~~or~~ 71.935, or 71.936 that is subject to s. 766.55
4 (2) (b) and that was incurred during marriage by a spouse after December 31, 1985,
5 or after both spouses are domiciled in this state, whichever is later, except as
6 provided in s. 71.10 (6) (a) and (b) and (6m).

7 **SECTION 8.** 71.80 (3m) (b) 2. of the statutes is amended to read:

8 **71.80 (3m)** (b) 2. In respect to a debt under s. 71.93 ~~or~~ 71.935, or 71.936 or a
9 certification under s. 49.855 if that debt or certification is not subject to s. 766.55 (2)
10 (b).

11 **SECTION 9.** 71.88 (1) (a) of the statutes is amended to read:

12 **71.88 (1)** (a) *Contested assessments and claims for refund.* Except for refunds
13 set off under s. 71.93 in respect to which appeal is to the agency to which the debt is
14 owed, except for refunds set off under s. 71.935 in respect to which an appeal is held
15 under procedures that the department of revenue establishes, except for refunds set
16 off under s. 71.936 in respect to which appeal is to the ambulance service provider
17 to which the debt is owed, and except for refunds set off under s. 49.855 in respect
18 to which a hearing is held before the circuit court, any person feeling aggrieved by
19 a notice of additional assessment, refund, or notice of denial of refund may, within
20 60 days after receipt of the notice, petition the department of revenue for
21 redetermination. A petition or an appeal by one spouse is a petition or an appeal by
22 both spouses. The department shall make a redetermination on the petition within
23 6 months after it is filed.

24 **SECTION 10.** 71.936 of the statutes is created to read:

25 **71.936 Setoffs for ambulance service providers. (1)** In this section:

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1 (a) “Ambulance service provider” means an ambulance service provider, as
2 defined in s. 146.50 (1) (c), that is licensed under s. 146.50 (2) or (5).

3 (b) “Debt” means any amount incurred by an individual for transporting that
4 individual to or from a facility or institution that provides health services.

5 (c) “Debtor” means an individual who owes a debt to an ambulance service
6 provider.

7 (d) “Department” means the department of revenue.

8 (e) “Refund” has the meaning given under s. 71.93 (1) (d).

9 **(2)** An ambulance service provider may certify to the department any debt
10 owed to it. Not later than 5 days after certification, the ambulance service provider
11 shall notify the debtor in writing of its certification of the debt to the department, of
12 the basis of the certification, and of the debtor’s right to appeal. At the time of
13 certification, the ambulance service provider shall furnish to the department the
14 name and social security number of each individual debtor.

15 **(3)** If the debt remains uncollected, the department shall set off the debt
16 against any refund that is owed to the debtor after the setoffs under ss. 71.93 and
17 71.935. Any legal action contesting a setoff shall be brought against the ambulance
18 service provider that certified the debt under sub. (2).

19 **(4)** Within 30 days after the end of each calendar quarter, the department shall
20 settle with each ambulance service provider for the amounts set off against certified
21 debts for the ambulance service provider during that calendar quarter.

22 **(5)** Each debtor shall be charged for administration expenses and the amounts
23 charged shall be credited to the appropriation account under s. 20.566 (1) (h). The
24 department may set off amounts charged to the debtor under this subsection against
25 any refund owed to the debtor, in the manner provided in sub. (3). Annually on or

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1 before November 1, the department shall review its costs incurred during the
2 previous fiscal year in administering setoffs under this section and shall adjust its
3 subsequent charges to each debtor to reflect that experience.

4 **SECTION 11.** 73.03 (52) of the statutes is amended to read:

5 73.03 (52) To enter into agreements with the Internal Revenue Service that
6 provide for offsetting state tax refunds against federal tax obligations; and to charge
7 a fee up to \$25 per transaction for such offsets; and offsetting federal tax refunds
8 against state tax obligations, if the agreements provide that setoffs under ss. 71.93
9 ~~and, 71.935, and 71.936~~ occur before the setoffs under those agreements.

10 **SECTION 12.** 73.03 (52m) of the statutes is amended to read:

11 73.03 (52m) To enter into agreements with other states that provide for
12 offsetting state tax refunds against tax obligations of other states and offsetting tax
13 refunds of other states against state tax obligations, if the agreements provide that
14 setoffs under ss. 71.93 ~~and, 71.935, and 71.936~~ occur before the setoffs under those
15 agreements.

16 **SECTION 13.** 343.14 (1) of the statutes, as affected by 2007 Wisconsin Act 20,
17 is repealed and recreated to read:

18 343.14 (1) Every application to the department for a license or identification
19 card or for renewal thereof shall be made upon the appropriate form furnished by the
20 department and shall be accompanied by all required fees. Names, addresses,
21 license numbers, and social security numbers obtained by the department under this
22 subsection shall be provided to the department of revenue for the purpose of
23 administering ss. 71.93, 71.935, and 71.936 and state taxes.

24 **SECTION 14. Effective dates.** This act takes effect on the day after publication,
25 except as follows:

