

2015 DRAFTING REQUEST

Bill

Received: 12/19/2014 Received By: mshovers
Wanted: As time permits Same as LRB:
For: Administration-Budget 6-7597 By/Representing: Wimmer
May Contact: Drafter: mshovers
Subject: Local Gov't - counties Addl. Drafters:
Tax, Other - miscellaneous Extra Copies: EVM,

Submit via email: YES
Requester's email:
Carbon copy (CC) to: joseph.kreye@legis.wisconsin.gov
sbostatlanguage@webapps.wi.gov

Pre Topic:

DOA:.....Wimmer, BB0319 -

Topic:

Specify that a county board may enter into debt collection agreements with DOR

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 12/22/2014			_____			
/1		evinz 12/26/2014	jmurphy 12/26/2014	_____	mbarman 12/26/2014		

FE Sent For:

<END>

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1/2	mshovers	1 eev 12/26/14	1 eev 12/26/14				
1	MES	12/22/14					
FE Sent For:							

<END>

Shovers, Marc

From: Hanaman, Cathlene
Sent: Thursday, December 18, 2014 3:41 PM
To: Kreye, Joseph; Shovers, Marc
Subject: FW: Statutory Language Drafting Request - BB0319
Attachments: County Court SDC Debts - December 16, 2014.docx

From: robert.wimmer@wisconsin.gov [mailto:robert.wimmer@wisconsin.gov]
Sent: Thursday, December 18, 2014 3:40 PM
To: Hanaman, Cathlene
Cc: Ziegler, Paul - DOA; Wimmer, Robert C - DOA; Connor, Christopher B - DOA
Subject: Statutory Language Drafting Request - BB0319

Biennial Budget: 2015-17

Topic: Allow County Courts to Enter into Collection Agreements with DOR

Tracking Code: BB0319

SBO Team: TLGED

SBO Analyst: Wimmer, Robert
Phone: 608-266-7597
E-mail: robert.wimmer@wisconsin.gov

Agency Acronym: DOR

Agency Number: 566

Priority: Medium

Intent: To specifically authorize county Clerks of Court to enter into debt collection agreements with DOR. Also, to specify each debtor whose debt is subject to collection a collection fee.

Attachments: True

Please send completed drafts to SBOStatlanguage@webapps.wi.gov

TITLE: Specific Authorization of County Courts to Enter into Collection Agreements with the Department of Revenue and Clarifying Excess Revenue Lapse Ability

DESCRIPTION OF CURRENT LAW AND PROBLEM

The Department of Revenue (DOR) currently has the authority to collect state agency debts under Sec. 71.93(8)(b)(1), Wis. Stats. The authority under Sec. 71.93(8)(b)(2), Wis. Stats. also allows courts, the legislature, authorities, and local units of governments to enter into debt collection agreements.

Growth in the SDC program is with local governments. County circuit court debts are of particular potential for greatly increased SDC participation. The courts are responsible for the collection of fines, fees, forfeitures, and restitution related to judgments.

Some county Clerks of Court have stipulated that Sec. 59.52(28), Wis. Stats., is silent on the permissibility of entering into collections agreements with DOR. These clerks view this perceived silence as prohibiting their participation. This is delaying the ability for counties to take greater advantage of the State Debt Collection (SDC) program.

DOR assesses a collection fee of 15% (\$35 minimum) to the debtor when a debt is certified for collection through the SDC program. The fee revenue pays for program administration. Excess fees lapse to the general fund.

RECOMMENDATION FOR ACTION

Update Sec. 59.52(28), Wis. Stats., to specifically authorize county Clerks of Court to enter into debt collection agreements with DOR.

Update Sec. 71.93(8)(b) to clarify the amount charged by DOR to debtors is a collection fee that is credited to appropriation under s. 20.566 (1) (h).

IMPACT ON JOBS CREATION

There is no impact on jobs creation.

FISCAL EFFECT

In FY2014, the monthly cumulative average amount of debt certified from county Clerks of Court to DOR through the Tax Refund Interception Program (TRIP) was \$267 million. Through TRIP, DOR collected \$13.9 million in FY2014, which is 5.2% of the amount certified. The SDC program has demonstrated the ability to collect 27% of the debts referred for collections annually. If county courts certify \$100 million in debts through SDC, we estimate annual collections of \$27 million and an increase in collection fee revenue of \$7 million annually.

However, unknown factors that may decrease the amount collected exist, including: the age of the debt, the age of the debtor, and wages and other assets of the debtor. We do not require agencies to close out TRIP debt, so some of the debt may be very old with little possibility for collection. DOR attempts to collect SDC debts for up to 5 years, unless we determine before 5

years that the debt is uncollectible. Once we determine the debt is uncollectible or we reach the 5 year point, the debt is returned to the referring agency.

Debts are collected either through SDC or through TRIP. If county Clerks of Court increase debt referred to SDC rather than using TRIP, the TRIP collections and TRIP fee revenue will decrease. If \$100 million is referred by the Clerks of Court for SDC collection, we estimate TRIP fee revenue will decrease by \$311,000.

The second provision in this template, which specifies that the surcharge is a collection fee rather than an administrative expense, will ensure the Department's ability to continue to lapse revenues in excess of administrative costs to the general fund.

DRAFTING INSTRUCTIONS

Amend sec. 59.52(28), Wis. Stats. :

59.52(28) COLLECTION OF COURT IMPOSED PENALTIES. ~~The board may adopt a resolution authorizing the clerk of circuit court, under s. 59.40 (4), to contract with a debt collector, as defined in s. 427.103 (3), for the collection of unpaid fines and forfeitures.~~

(a) The board may enter into a written agreement to have the Department of Revenue collect any amount owed to the county under s.71.93(8)(b).

(b) The board may adopt a resolution authorizing the clerk of circuit court, under s. 59.40 (4), to contract with a debt collector, as defined in s. 427.103 (3), for the collection of unpaid fines and forfeitures.

Amend sec. 71.93(8)(b), Wis. Stats.:

71.93(8)(b)

1. Except as provided in subd. 2., a state agency and the department of revenue shall enter into a written agreement to have the department collect any amount owed to the state agency that is more than 90 days past due, unless negotiations between the agency and 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. At least 30 days before the department pursues the collection of any debt referred by a state agency, either the department or the agency shall provide the debtor with a written notice that the debt will be referred to the department for collection. The department may collect amounts owed, pursuant to the written agreement, from the debtor in addition to offsetting the amounts as provided under sub. (3). The department shall charge each debtor whose debt is subject to collection under this paragraph ~~a collection fee an amount for administrative expenses and that amount shall be credited to the appropriation under s. 20.566 (1) (h).~~

EFFECTIVE DATE AND/OR INITIAL APPLICABILITY

Day after publication.

INTERESTED/AFFECTED PARTIES

County courts, local governments, and taxpayers with delinquent debts to units of government.

DOR CONTACT PERSON

Mike Wagner (608)-266-6785



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0994/7
MES.....

Handwritten initials and scribbles

DOA:.....Wimmer, BB0319 – Specify that a county board may enter into debt collection agreements with DOR

FOR 2015-2017 BUDGET – NOT READY FOR INTRODUCTION

SAD
xref/

IN 12/22

D-NOTE

Duf
Jan. 12/26

do not
gen ✓

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

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

Under current law, DOR may enter into debt collection agreements with the courts and local units of government. This bill specifies that a county board may enter into a debt collection agreement with DOR.

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

2 **SECTION 1.** 59.40 (4) of the statutes is amended to read:

3 59.40 (4) CLERK OF CIRCUIT COURT; DEBT COLLECTOR CONTRACT. If authorized by
4 the board under s. 59.52 (28) (a), the clerk of circuit court may contract with a debt
5 collector, as defined in s. 427.103 (3), for the collection of unpaid fines and forfeitures.

6 Any contract entered into shall provide that the debt collector shall be paid from the

1 proceeds recovered by the debt collector. The net proceeds received by the clerk of
2 circuit court after the payment to the debt collector shall be considered the amount
3 of fines and forfeitures collected for purposes of distribution to the state and county
4 under sub. (2) (m).

History: 1995 a. 27 ss. 3290, 3291; 1995 a. 201 ss. 311 to 318, 320 to 322, 325; 1995 a. 224 ss. 11 to 13; 1995 a. 227 s. 203; 1995 a. 279 s. 8; 1995 a. 404 s. 185; 1995 a. 438; 1995 a. 448 s. 61; Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 3, 27; 1997 a. 35 ss. 185, 186; 1997 a. 39, 135, 148, 191, 237, 248, 252; 1999 a. 9, 32; 1999 a. 150 s. 672; 2001 a. 16, 56, 61, 105; 2003 a. 33, 139, 321, 326; 2005 a. 25, 59, 204; 2007 a. 20; 2013 a. 107, 164.

5 **SECTION 2.** 59.52 (28) of the statutes is renumbered 59.52 (28) (a).

6 **SECTION 3.** 59.52 (28) (b) of the statutes is created to read:

7 59.52 (28) (b) The board may enter into a written agreement under s. 71.93 (8)
8 (b) to have the department of revenue collect any amount owed to the county.

9 **SECTION 4.** 71.93 (8) (b) 1. of the statutes is amended to read:

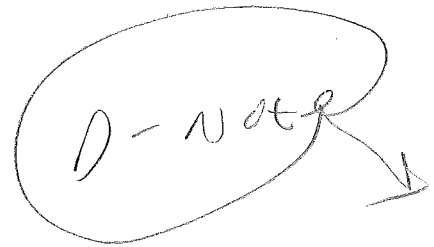
10 71.93 (8) (b) 1. Except as provided in subd. 2., a state agency and the
11 department of revenue shall enter into a written agreement to have the department
12 collect any amount owed to the state agency that is more than 90 days past due,
13 unless negotiations between the agency and debtor are actively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

1 ~~amount for administrative expenses~~ a collection fee and that amount shall be
2 credited to the appropriation under s. 20.566 (1) (h).

History: 1987 a. 312; 1989 a. 31; 1993 a. 437; 1995 a. 27 ss. 3427 to 3429, 9126 (19), 9130 (4); 1995 a. 404; 1997 a. 3, 27; 2001 a. 16; 2003 a. 33; 2005 a. 25, 59, 254; 2007 a. 20 ss. 2141 to 2142, 9121 (6) (a); 2007 a. 97, 200; 2009 a. 28; 2013 a. 20, 308.

3

(END)



D-Note

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

LRB-0994/dn
MES.

1

Leeu

date

Robert Wimmer:

This bill is drafted according to your instructions but it does not seem to make any changes to current law. It seems to me that the authority granted to a county board under created s. 59.52 (28) (b) is already covered by s. 71.093 (8) (b) 2., which authorizes DOR to enter into debt collection agreements with the courts and local units of government. This current law provision certainly implies that a local unit of government or a court may enter into such agreements with DOR, so created s. 59.52 (28) (b) doesn't seem to add anything to current law. In addition, changing "an amount for administrative expenses" to "a collection fee" in s. 71.98 (8) (b) 1. does not seem to make any changes to current law. Please let me know if you'd like any changes made to the draft.

Marc E. Shovers
Assistant Chief Counsel
(608) 266-0129
marc.shovers@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0994/1dn
MES:eev:jm

December 26, 2014

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State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0994/1
MES:eev:jm

DOA:.....Wimmer, BB0319 – Specify that a county board may enter into debt collection agreements with DOR

FOR 2015-2017 BUDGET – NOT READY FOR INTRODUCTION

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24 (END)