



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

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Joint Committee on Finance

Paper #681

### **Lottery and Gaming Credit Certification (Shared Revenue and Tax Relief -- Property Tax Credits)**

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#### **CURRENT LAW**

Every five years, owners of properties eligible for the lottery and gaming credit are required to file an application on which they attest that they owned the property and used it as their principal dwelling as of January 1 of the year in which taxes are levied in order to receive the credit. Applications must be filed with the treasurer of the county where the property is located or the treasurer of the City of Milwaukee, if the property is located there, and are valid for five years. During the intervening four years, owners of properties that are eligible for the credit may receive the credit by filing an application with the appropriate treasurer. Every five years, counties and the City of Milwaukee receive \$0.70 for each claim that is certified. Payments are made from a sum sufficient appropriation from the lottery fund.

#### **GOVERNOR**

No provision.

#### **DISCUSSION POINTS**

1. State law requires the tax credit certification procedure to be undertaken once every five years. Since certification last occurred in 1999, it is scheduled to recur in 2004. Related payments will be made in September, 2004 (2004-05). The appropriation schedule in SB 44 does not reflect any expenditures from the certification appropriation, but the Department of Administration has requested that the appropriation schedule be amended to reflect the expenditure of \$960,000 SEG. Based on the statutory reimbursement rate of \$0.70 per claimant, this request reflects 1,371,429 claims, which is comparable to the number of claims in 2001-02.

2. In 1999, the Wisconsin Constitution was amended to allow the use of lottery proceeds exclusively for residential property tax relief. Since 1999, the lottery and gaming credit has been targeted to primary residences, and the number of credit recipients has increased by 4.8% from 1999 through 2002, although this rate has slowed to 1.0% annually since 2000.

<u>Year</u>	<u>Number of Credit Recipients</u>	<u>Percent Change</u>
1999	1,318,955	
2000	1,354,279	2.7%
2001	1,371,057	1.2
2002	1,381,768	0.8

3. Assuming 1% annual increases in the number of credit recipients, 1,409,500 lottery and gaming credit claims are estimated for 2004. This would result in certification reimbursement payments of \$986,700 in 2004-05. Expenditures from the certification appropriation reduce the amount of lottery and gaming proceeds that are available to fund lottery and gaming credits on a dollar-for-dollar basis, reducing the average credit by \$0.70.

4. Between 1999 and 2002, the consumer price index increased at an average, annual rate of 2.6%. Based on current forecasts of inflation for 2003 and 2004, the index would be 12.2% higher at the end of 2004 than at the end of 1999. If the certification reimbursement rate was increased similarly, a reimbursement rate of about \$0.80 would result, and certification payments would total an estimated \$1,127,600.

5. The 1999 constitutional amendment necessitated several law changes to bring the state statutes into conformity with the Constitution. Because the Constitution was changed to require the use of lottery and gaming proceeds "for property tax relief for residents of this state," the state statutes were changed to target the lottery and gaming credit to property used as the owner's principal dwelling. The certification procedure was created as a mechanism to verify that properties receiving the credit fulfill the constitutional requirement. Another change allows counties to use an alternate certification procedure, if the procedure is approved by DOR, the procedure includes a method to identify properties eligible for the credit, and the procedure has a similar effect to the statutorily specified procedure.

6. In 1999, DOR authorized Kenosha, Portage, and Waupaca counties to use an alternate procedure. These included a process whereby street addresses were matched with mailing addresses for residential properties within each county's property tax database. In addition, each county undertook a public outreach campaign utilizing public notices in libraries, newspapers, and other venues. In one of the counties, these efforts resulted in costs that were less than \$0.70 per claimant, and the county received reimbursement at the lower amount. DOR staff report that Waupaca County has already indicated its interest in using the alternate procedure in 2004.

7. Last session, 2001 Wisconsin Act 109 (the budget adjustment bill) included a provision authorizing DOR and other state agencies to grant waivers to counties and municipalities, upon their request, from state mandates. DOR has received over 100 requests for mandate waivers,

including 18 from counties seeking a waiver from the certification requirement. The requests indicate that the local treasurers have implemented a system that identifies newly-eligible properties. Based on records related to real estate improvements and transfers, the treasurers send lottery and gaming credit applications to the owners of properties that may be eligible for the credit. The mandate waiver requests do not seek reimbursement related to the counties' remaining certification activities.

8. Although none of the applications have been denied, DOR staff indicate that the Department is likely to refuse the waiver requests. DOR staff note that, despite the identification procedure implemented by the treasurers, the procedure has failed to identify approximately 3,000 eligible claimants each year, who instead file late claims. If the Committee agrees with the Department's position, the state statute authorizing the lottery and gaming credit certification procedure could be amended to be excluded from the mandate waiver provisions authorized under current law.

9. A group of county treasurers has developed a proposal, supported by the Wisconsin Counties Association, that would eliminate the five-year certification procedure and, instead, make claims valid for as long as the property is eligible for the credit. The proposal would also eliminate the certification reimbursement payments. A concern with this approach, as well as the waiver requests, is whether these procedures will achieve the same level of compliance with the Wisconsin Constitution that the statutory procedure, or the alternate certification procedure, are intended to ensure. This concern could be addressed by modifying the proposal to also require each county and city administering the credit to implement a procedure for periodically verifying the eligibility of properties receiving the credit. Beginning in 2004, and in every fifth year thereafter, a report providing a description of the verification procedures and evaluating the procedures' efficacy could be required from each county and city administering the credit. The Department could be required to prescribe the format for the report and could be required to submit a report summarizing the local procedures to the Joint Committee on Finance. Finally, the DOR report could contain a recommendation regarding whether the certification process should continue unchanged or be modified to ensure greater compliance with the Constitution's requirement.

**ALTERNATIVES**

1. Reestimate the sum sufficient appropriation for lottery and gaming credit certification payments at \$986,700 in 2004-05.

<b>Alternative 1</b>	<b>SEG</b>
<b>2003-05 FUNDING</b> (Change to Bill)	\$986,700

2. Increase the certification reimbursement rate from \$0.70 to \$0.80 for each credit certified and reestimate the sum sufficient appropriation at \$1,127,600 in 2004-05.

**Alternative 2****SEG****2003-05 FUNDING** (Change to Bill)

\$1,127,600

3. In addition to Alternative 1 or Alternative 2, amend the state statute authorizing the lottery and gaming credit certification procedure to exclude the procedure from the mandate waiver provisions authorized under state law.

4. Repeal the statutory provisions authorizing the lottery and gaming credit certification reimbursement payment and the related aid appropriation. Delete the current law provision that limits the validity of lottery and gaming credit claims to five years and, instead, provide that claims are valid as long as the property is eligible for the credit. Require counties and cities that administer the credit to implement a procedure to periodically verify the eligibility of properties receiving the credit. Require those local governments to file a report with the Department of Revenue beginning in 2004, and in every fifth year thereafter. Specify that the report include a description of each local government's verification procedures and an evaluation of the procedures' efficacy. Direct the Department of Revenue to prescribe the format for the local government reports and require the Department to submit a report to the Joint Committee on Finance, by January 31, 2005, and every five years thereafter, that summarizes the local procedures. Direct DOR to include a recommendation in its report regarding whether the certification process should continue unchanged or be modified to achieve increased compliance with the Wisconsin Constitution.

Prepared by: Rick Olin