



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #680

Debt Offset Program Expansion (DOR -- Tax Administration)

[LFB 2009-11 Budget Summary: Page 554, #2]

CURRENT LAW

Under current law, the Department of Revenue (DOR) is authorized to offset against state tax refunds amounts owed for state taxes, debts to state agencies, delinquent child and spousal support and maintenance payments, and municipal fines, fees, forfeitures, and delinquent property taxes. The Department is allowed to enter into agreements with the Internal Revenue Service (IRS) to offset state tax refunds against federal tax obligations, if the IRS offsets federal tax refunds against state tax obligations. A fee of up to \$25 for each such transaction can be charged. DOR can enter into agreements with other states to offset state tax refunds against the tax obligations of those states, if those states offset their tax refunds against Wisconsin tax obligations. DOR is also authorized to enter into agreements with federally-recognized Indian tribes in Wisconsin to offset state tax refunds against tribal obligations, and to charge a fee of up to \$25 for each transaction for such setoffs. In general, costs of the debt collection activities are funded by fees charged to the debtor, and amounts collected are placed in the Department's debt collection appropriation. Base level expenditure and position authority for the debt collection appropriation is \$468,400 PR and 5.50 PR positions. The year-end unencumbered balance in the appropriation lapses to the general fund.

GOVERNOR

Provide expenditure authority of \$88,500 PR in 2009-10 and \$265,600 PR in 2010-11 to administer a debt collection initiative under which DOR would collect nontax debt for state agencies.

DISCUSSION POINTS

1. Under the current debt collection program, DOR is authorized to intercept, or set off, tax refunds, refundable tax credits and lottery prizes against delinquent taxes owed the Department, and against debts owed other state agencies. State agencies may certify to DOR for setoff any unpaid debt (exceeding \$20) that has been reduced to judgment, or debts where the taxpayer has been afforded reasonable notice and opportunity to be heard in regard to the debt. Several other types of debts, including delinquent child or spousal support payments are also eligible. At least 30 days prior to certification, a state agency must notify the debtor in writing that their debt may be certified to DOR for refund interception, and what their appeal rights are.

2. DOR first offsets tax refunds against delinquent taxes. Refunds for which no tax liability exists, or where the refund exceeds any tax liability are matched against certified state agency debts. The Department intercepts any tax refunds or lottery prizes determined for debtors, and remits them to the agency to apply to the debt.

3. The table below shows statistics for the debt collection program from state fiscal year 2003-04 through 2007-08. The table shows the number of debts referred and the total amount of debts on file. The number of state agency debts certified to DOR for setoff increased from about 370,000 in 2003-04 to over 630,000 in 2007-08. Also the total amount of state agency debts on file grew from \$2.3 billion in 2003-04 to \$2.7 billion in 2007-08.

Refund Setoffs

<u>Fiscal Year</u>	<u>Number Referred</u>	<u>Debts on File</u>	<u>Number Setoff</u>	<u>Amount of Setoff</u>
State Agency Debts				
2003-04	367,141	\$2,305,000,000	58,554	\$21,306,000
2004-05	403,123	2,383,000,000	54,259	20,705,300
2005-06	438,200	2,483,000,000	56,186	21,583,000
2006-07	516,001	2,613,000,000	52,568	20,046,000
2007-08	631,395	2,748,000,000	87,544	33,706,000
County and Municipal Debts				
2003-04	338,146	\$129,000,000	76,324	\$10,305,500
2004-05	492,436	176,000,000	87,656	12,948,300
2005-06	651,943	224,000,000	130,556	17,129,100
2006-07	828,333	282,000,000	127,340	19,141,600
2007-08	947,883	343,000,000	178,229	25,143,900
Total				
2003-04	705,287	\$2,434,000,000	134,878	\$31,611,500
2004-05	895,559	2,559,000,000	141,915	33,653,600
2005-06	1,090,203	2,707,000,000	186,742	38,712,100
2006-07	1,344,334	2,895,000,000	179,908	39,187,600
2007-08	1,579,278	3,091,000,000	265,773	58,849,900

4. State agencies use a variety of different methods to collect debts. For example,

employers that operate without worker's compensation are assessed a penalty by the Department of Workforce Development (DWD) that is deposited in the Uninsured Employer's Fund (UEF). DWD has two positions assigned to collecting employer assessments. The collector sends assessment notices, and if an assessment bill is not paid within 45 days, the collector issues a warrant and certifies the debt to DOR for setoff. The collector can also assess personal liability to officers and issue warrants. Thirty days after a warrant is issued the collector sends a notice of intent to take legal action. The notice is required before DWD can take actions, such as a bank levy or garnishment. Each collector generates about \$1.5 million in payments.

5. The debt collection initiative in AB 75 is intended to centralize state agency debt collection activities in a uniform process administered by DOR. The Department would be required to enter into a written agreement to collect any amount owed to a state agency that is more than 90 days past due, unless negotiations between the agency and debtor were actively ongoing, the debt was the subject of legal action or administrative proceedings, or the agency determined that the debtor was adhering to an acceptable payment arrangement. Agreements with state agencies would be required to be completed by July 1, 2010, except an agreement could allow a delay or phase-in of referrals. At least 30 days before the Department pursued collection of any debt referred by a state agency, either DOR or the agency would be required to provide the debtor with a written notice that the debt will be referred to DOR for collection. DOR would be authorized to collect amounts owed, pursuant to the written agreement, from the debtor, in addition to offsetting the amounts against tax refunds, as provided under current tax law provisions. If the debtor owed debt to DOR and to other state agencies, payments would first apply to debts owed to DOR, and then to debts owed to the state agencies, in the order in which the debts were referred to DOR. The Department would charge each debtor whose debt was subject to collection an amount for administrative expenses and that amount would be credited to the Department's debt collection appropriation.

6. The Department would develop a debt collection process that would be separate from the tax refund interception program (TRIP) for collecting state agency debts. Under the current TRIP program, DOR collects a fee of \$5 for each debt certified. However, DOR indicates that the fee for state agency debt collection under the new provisions could be set at 15% of the amount referred, which would often be greater than \$5. Depending upon the number of agreements signed, it is possible that additional revenue would be generated. However, the amount of additional revenue has not been included in the budget because the number of agreements is not known.

7. The expenditure authority provided for the debt collection initiative would fund two additions to the Wisconsin Income Processing and Audit System (WINPAS), the Department's general fund and special tax information technology processing and audit system. The estimated cost of the additions would be \$1.0 million for centralized debt collection and \$500,000 for replacing the current TRIP system. The amount of funding (\$88,600 in 2009-10, and \$265,800 in 2010-11) is based on seven-year master leases, with payments on the centralized collection component beginning in fiscal year 2009-10 and payments for TRIP replacement beginning in 2010-11.

8. DOR indicates that there have been some preliminary discussions with state agencies, but the number and amount of debts that would be subject to the agreements cannot

currently be predicted. Specifically, the Department has had contact with DWD and the Department of Regulation and Licensing. Neither agency has committed to participate in the program. Expenditure authority for the modifications could be deleted, and DOR could request the funding under s.16.515 when it could better determine the level of participation.

9. As noted, the year-end unencumbered balance in the debt collection appropriation lapses to the general fund. Under the bill, the lapse is estimated to be \$1,399,200 in 2000-10 and \$1,434,800 in 2010-11. However, these estimates are based on projections of fee collections that were included in the DOR agency request. The Department has since reduced the estimate of fee collections. As a result, the lapse is reestimated to be \$684,200 in 2009-10 and \$490,200 in 2010-11. The reestimate reduces the lapse by \$715,000 in 2009-10 and \$944,600 in 2010-11.

ALTERNATIVES

1. Adopt the Governor's recommendation to provide expenditure authority of \$88,500 PR in 2009-10 and \$265,600 PR in 2010-11 to implement and administer a debt collection initiative under which DOR would collect nontax debt for state agencies. Reestimate the lapse from the debt collection appropriation to be \$684,200 in 2009-10 and \$944,600 in 2010-11.

ALT 1	Change to Bill	
	Revenue	Funding
GPR	- \$1,659,600	

2. Delete expenditure authority of \$88,500 PR in 2009-10 and \$265,600 PR in 2010-11 for information technology improvements. Reestimate the lapse from the debt collection appropriation to be \$684,200 in 2009-10 and \$944,600 in 2010-11. This option would retain the statutory provisions recommended by the Governor. DOR could request funding under s. 16.515 when it can better determine participation in the program.

ALT 2	Change to Bill	
	Revenue	Funding
GPR	- \$1,659,600	
PR		- \$354,100

3. Delete the Governor's recommendation. Reestimate the lapse from the debt collection appropriation to be \$684,200 in 2009-10 and \$944,600 in 2010-11.

ALT 3	Change to Bill	
	Revenue	Funding
GPR	- \$1,659,600	
PR		- \$354,100

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