



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #561

Additional Positions for Statewide Debt Collection (DOR -- Tax Administration)

[LFB 2015-17 Budget Summary: Page 382, #2]

CURRENT LAW

The Department of Revenue (DOR) administers a statewide debt collection (SDC) program for the purpose of collecting debts owed to state agencies, the courts, the Legislature, state authorities, and local units of government. DOR may enter into agreements with such entities and charge a fee for the collection of unpaid fines, forfeitures, costs, fees, surcharges, or restitution payments on behalf of those entities. Fees generated from those agreements are deposited as program revenue in DOR's collection of taxes -- debt collection appropriation. At the end of each fiscal year, the unencumbered balance in that appropriation account lapses to the general fund.

GOVERNOR

Provide \$803,800 PR in 2015-16, \$947,700 PR in 2016-17, and 11.0 PR revenue agent positions annually for the SDC program to improve the collection of debts owed to state agencies and other governmental entities with which the Department has entered into debt collection agreements. According to DOR, the additional positions would increase the amount of revenues that would transfer to the general fund by an estimated \$3.77 million in 2015-16 and \$7.44 million in 2016-17.

DISCUSSION POINTS

1. Under the SDC program, DOR charges a fee equal to the greater of \$35 or 15% of the debts certified to be collected. The fee is charged to the debtor in addition to the debt amounts

collected on behalf of those entities, and is deposited as program revenue in DOR's collection of taxes -- debt collection appropriation. Amounts collected by the Department are first deposited in DOR's appropriation to cover the Department's surcharge. Once the amounts collected have paid for DOR's fee, the debts collected by the Department are paid to the respective state agency or governmental entity. At the end of each fiscal year, the unencumbered balance in DOR's appropriation account transfers to the general fund.

2. SDC is a relatively new program that was created as a pilot project in 2007-09 biennial budget bill. Prior to that time, DOR contracted with private collection agencies to take actions against delinquent tax accounts. At that time, the Department believed it could generate a greater return on investment if the state were to use its own compliance and audit staff to aggressively pursue delinquent accounts that would otherwise be referred to private collection businesses. Under SDC, the Department has the authority to take certain actions, such as to attach wages, levy non-wage assets, seize monies and personal property, and negotiate installment agreements, which are not available to private collection agencies. The program has since expanded, and DOR indicates that SDC has improved state debt collection efforts as compared to the state's previous contracts.

3. State agencies and DOR are required by statute to enter into a written agreement with the Department to collect any amount owed to the state agency that is more than 90 days past due, unless: (a) negotiations between the agency and debtor are actively ongoing; (b) the debt is the subject of legal action or administrative proceedings; or (c) the agency determines that the debtor is adhering to an acceptable payment arrangement. DOR is permitted to enter into similar agreements with the courts, the Legislature, state authorities, and local units of government. While DOR and the Legislative Reference Bureau have noted that the Department is statutorily permitted to enter into such agreements with courts, local units of government, and county boards, certain circuit courts have determined that DOR is considered to be a "debt collector" under the Wisconsin Consumer Act and that the Department is therefore prohibited from collecting a surcharge above the amount of debt owed, unless otherwise specified in statute. Because of this determination, certain county boards and local units of government that would have otherwise entered into such agreements have not done so. While DOR disagrees with the ruling of those courts because DOR's statutes specifically authorize the Department to enter into agreements with such entities to collect such debts, a separate provision of the budget bill has been recommended by the Governor to specify in the statutes governing the powers and duties of counties that DOR may collect a fee in excess of the amount of debts owed.

4. The Department dedicated seven full-time employees to SDC in 2013-14 and 2014-15; one business analyst and six collection agents. In 2013-14, \$2,135,000 in fee revenues were deposited into DOR's appropriation, and the Department incurred approximately \$440,000 in direct costs and \$228,000 in other departmental expenses to support the program. As a result, approximately \$1,467,000 was generated under the program in excess of expenditures and was deposited into the general fund at the end of state fiscal year 2013-14. Associated debts recovered on behalf of those agencies were \$9,906,000 in 2013-14.

5. In 2013-14, fee revenues collected by DOR represented 21.6% of the debts that were recovered under SDC, which is higher than the 15% fee generally charged under current law. The

surcharge appears artificially high because payments made by a debtor are first paid to the Department prior to the agency recovering those debts. Because the program is relatively new and the number of debt collection agreements with state agencies, localities, and courts has been increasing, it is anticipated that the ratio of DOR fees collected, as compared to the amount of agency debts recovered, will decline to approximately 15% once participation in the program has stabilized.

6. According to DOR, the balance of debts outstanding that have been referred to the Department by courts, local units of government, or other state agencies since the end of 2013-14 through February, 2015, has been between \$48 and \$49 million. According to the Department, the current staff dedicated to SDC are operating at close to capacity and, absent staff increases, it is estimated that approximately \$12.5 million in state debts could be recovered annually, and approximately \$3 million per year would be deposited in DOR's current PR appropriation. Of that amount, approximately \$2.3 million would transfer annually to the general fund. To the extent that growth in the program requires additional DOR staff, other compliance staff would need to be reassigned to keep up with any additional debts assigned to the Department. To the extent that reassigned compliance staff were shifted to address the increased workload, any increased transfer to the general fund from SDC fee revenues may be offset by reduced tax collection enforcement efforts in other DOR programs, resulting in a minimal change in state revenues.

7. The administration has recommended the 11.0 PR positions and associated funding to support those additional positions to: (a) increase the amount of outstanding debts that could be recovered; and (b) increase participation in the program among local governmental entities. As noted, participation in the program by local units of government is voluntary. New SDC staff would be assigned to work on, in part, promotional efforts to encourage enrollment of nonparticipating local units of government in addition to providing sufficient support to collect debts on behalf of those new participants.

8. The administration estimates that the 11.0 additional SDC positions could collect an additional \$37 million from debtors over the 2015-17 biennium, of which \$13 million would be paid in fees to DOR and \$24 million would be paid to the entity to which the debt was owed. Under the administration's estimates, the additional revenues collected over each fiscal year would be:

**Additional Monies Generated by New SDC Positions
(\$ in Millions)**

	<u>Total Debt Collected</u>	<u>Creditor Share</u>	<u>DOR Fee</u>	<u>DOR Administrative Expenses</u>	<u>General Fund Transfer</u>
2015-16	\$12.57	\$8.00	\$4.57	\$0.80	\$3.77
2016-17	<u>24.39</u>	<u>16.00</u>	<u>8.39</u>	<u>0.95</u>	<u>7.44</u>
Biennial Total	\$36.96	\$24.00	\$12.96	\$1.75	\$11.21

9. The administration's estimates assume that there would be economies of scale in adding all 11 positions due, in part, to the additional outreach efforts that could be conducted. As a

result, the estimates assume that debts collected by the Department would increase at a faster rate with the addition of a tenth and eleventh position under the bill, as compared to the first few positions recommended by the Governor. As noted, DOR estimates that approximately \$12.6 million in 2015-16 and \$24.4 million in 2016-17 would be collected by the additional positions.

10. According to the Department, the first five positions added under the bill would allow DOR to increase debt collections related to organic program growth from additional debts certified from current participants and from governmental entities that have expressed interest in SDC participation. The fifth and sixth positions added would enable DOR to expand its collection efforts to include delinquent debts that are jointly-referred to DOR from state agencies under federal programs with specific collection rules. Certain partners, such as the Department of Veterans Affairs, issue debts jointly with the federal government and require DOR to upgrade certain computer programming in order to collect these debts in accordance with federal law. Funding associated with the computer programming costs is included under the Governor's recommendation. The growth associated with the eighth and ninth revenue agents recommended to be added under the bill assumes that the two additional positions would increase debt collections associated with new court and state programs that have federal components. The tenth and eleventh positions added under the bill would allow DOR to increase debt collections related to delinquent property debt referrals from counties.

11. DOR did not estimate additional debt collections that might be generated from adding a twelfth position. As previously noted, the outstanding pool of debts from state agencies, courts, and local units of government is slightly less than \$50 million; therefore, it is reasonable to assume that additional staff would enable the Department to draw down the pool of existing identifiable debts up to that amount. The Department's estimates are based on the following assumptions: (a) currently nonparticipating courts and local units of government will voluntarily enter into agreements with DOR; and (b) debts that can only be collected under specific federal rules can be collected by the Department. To the extent that other units of government choose not to participate in the program, or that federal rules subsequently prohibit certain types of state debt collection that nullify the proposed programmatic changes and collection practices, it is possible that the Department's estimates are overstated for future years.

12. Although the fiscal effects of the proposed expansion are difficult to estimate, the administration's projections do not appear to be unreasonable. The program has shown success in increasing state agency debt collections and it is reasonable to assume that additional local units of government will choose to participate in the program. In addition, the added positions could focus more time on revenue producing debt collection activities once sufficient staff time has been dedicated to increasing the number of program participants. If the Committee chose to delete the positions recommended by the Governor, DOR's expenditures and position authority under the bill would be reduced by \$803,800 PR in 2015-16, \$947,700 PR in 2016-17, and 11.0 PR positions annually. In addition, departmental revenues that would otherwise lapse to the general fund under the bill would decrease by an estimated \$3.77 million in 2015-16 and \$7.44 million in 2016-17.

ALTERNATIVES

1. Approve the Governor's recommendation.
2. Delete provisions. Delete \$803,800 PR in 2015-16, \$947,700 PR in 2016-17, and 11.0 PR positions annually that would have been provided to DOR's collection of taxes -- debt collection appropriation. Reduce estimated revenues that were estimated to lapse from DOR to the general fund by \$3,770,000 in 2015-16 and \$7,440,000 in 2016-17.

ALT 2	Change to Bill	
	Funding	Positions
PR	- \$1,751,500	- 11.00
GPR-REV	- \$11,210,000	

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