



1995 ASSEMBLY BILL 642

October 27, 1995 – Introduced by Representative JENSEN, cosponsored by Senator RUDE, by request of the Department of Regulation and Licensing and the Department of Revenue. Referred to Committee on Consumer Affairs.

1 **AN ACT to repeal** 440.08 (2g) (b) 3.; **to renumber and amend** 440.08 (4) (b); **to**
2 **amend** 71.78 (4) (o), 77.62 (1) (intro.), 78.70 (1) (intro.), 139.03 (2x) (c), 139.03
3 (4), 139.315 (3), 139.39 (6), 440.03 (12) and 440.08 (2r); and **to create** 71.91 (8),
4 73.03 (28g), 77.61 (5) (b) 10., 440.01 (2) (cm) and 440.08 (4) (b) 3. and 4. of the
5 statutes; **relating to:** denial by the department of regulation and licensing of
6 applications for renewal of a credential based on a credential holder's tax
7 delinquency.

Analysis by the Legislative Reference Bureau

Under current law, the department of regulation and licensing (DORL) and examining boards and affiliated credentialing boards attached to DORL (attached boards) issue certain professional and occupational credentials. A person who holds a credential issued by DORL or by an attached board (a credential holder) must renew his or her credential periodically (generally every 2 years). As part of the credential renewal process, a credential holder must provide DORL with his or her social security number and sign a statement attesting that he or she is not liable for any delinquent taxes owed to this state. In addition, at the time a credential holder applies to renew a credential DORL must determine whether the credential holder is liable for any delinquent taxes owed to this state. Current law does not specify what it means for a credential holder to be liable for any delinquent taxes owed to this state. If the credential holder is liable for any delinquent taxes owed to this state, DORL must deny the person's application for renewal of the credential. A person whose renewal application has been denied is entitled to a hearing before DORL.

This bill makes the following changes in that part of the credential renewal process that relate to the determination of a credential holder's tax delinquency:

1. The bill defines “liable for delinquent taxes” to mean that a person has been finally determined to be delinquent in the payment of specified state taxes (including income and franchise taxes, estate taxes and sales and use taxes) and that the person remains delinquent in the payment of those taxes at the time that DORL requests the department of revenue (DOR) to certify whether the credential holder is liable for delinquent taxes.

2. The bill provides that, instead of making its own determination as to whether a credential holder is liable for any delinquent taxes, DORL must request DOR to certify whether a credential holder is liable for delinquent taxes.

3. The bill provides that, instead of having a hearing before DORL if his or her credential renewal application is denied due to tax delinquency, a credential holder is entitled to a hearing before DOR. The hearing before DOR is limited to the questions of: a) mistaken identity of the credential holder; and b) whether the credential holder has paid the delinquent taxes for which he or she is liable. If, after the hearing, DOR affirms its certification that the credential holder is liable for delinquent taxes, DORL must affirm its denial of the credential holder’s renewal application. The credential holder may then seek judicial review of DORL’s affirmance in the Dane County circuit court.

4. The bill provides that if a credential holder’s renewal application was denied due to tax delinquency and he or she subsequently reapplies for renewal of his or her credential, DORL must deny the reapplication unless the credential holder submits a certificate from DOR that states that he or she is not liable for delinquent taxes.

5. The bill eliminates the requirement that a credential holder sign a statement attesting that he or she is not liable for any delinquent taxes.

For further information see the *state* 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:

1 **SECTION 1.** 71.78 (4) (o) of the statutes, as created by 1995 Wisconsin Act 27,
2 is amended to read:

3 71.78 (4) (o) The department of regulation and licensing for the purpose of
4 determining certifying under s. 440.08 (2~~r~~) whether an applicant for renewal of a
5 credential is liable for ~~any delinquent taxes owed to this state.~~

6 **SECTION 2.** 71.91 (8) of the statutes is created to read:

7 71.91 (8) HEARING ON CERTIFICATION OF TAX DELINQUENCY. The department of
8 revenue shall conduct a hearing requested by a credential holder under s. 440.08 (4)

1 (b) 2. to review a certification of tax delinquency that is the basis of a denial by the
2 department of regulation and licensing under s. 440.08 (4) (b) 1. of an application for
3 the renewal of a credential. A hearing under this subsection is limited to questions
4 of mistaken identity of the credential holder and prior payment of the delinquent
5 taxes for which the department of revenue certified the credential holder is liable.
6 At a hearing under this subsection, any statement filed by the department of revenue
7 or the department of regulation and licensing may be admitted into evidence and is
8 prima facie evidence of the facts that it contains.

9 **SECTION 3.** 73.03 (28g) of the statutes is created to read:

10 73.03 (28g) To certify to the department of regulation and licensing, at the
11 request of the department of regulation and licensing under s. 440.08 (2r), whether
12 a person who holds a credential issued under chs. 440 to 480 is liable for delinquent
13 taxes, as defined under s. 440.01 (2) (cm).

14 **SECTION 4.** 77.61 (5) (b) 10. of the statutes is created to read:

15 77.61 (5) (b) 10. The department of regulation and licensing for the purpose of
16 certifying under s. 440.08 whether an applicant for renewal of a credential is liable
17 for delinquent taxes.

18 **SECTION 5.** 77.62 (1) (intro.) of the statutes is amended to read:

19 77.62 (1) (intro.) The department of revenue may exercise the powers vested
20 in it by ss. 71.80 (12), 71.82 (2), 71.91 (1) (a) and (c), (2) to (5m) ~~and~~, (7) and (8) and
21 71.92 in connection with collection of delinquent sales and use taxes including,
22 without limitation because of enumeration, the power incorporated by reference in
23 s. 71.91 (5) (j), and the power to:

24 **SECTION 6.** 78.70 (1) (intro.) of the statutes is amended to read:

1 78.70 (1) DEPARTMENT AUTHORITY. (intro.) The department may collect
2 delinquent motor vehicle fuel, alternate fuel and general aviation fuel taxes in the
3 manner provided for the collection of delinquent income and franchise taxes under
4 ss. 71.80 (12), 71.82 (2), 71.91 (1) (a) and (c) and (2) to ~~(7)~~ (8) and 71.92, including
5 proceeding under the authority incorporated by reference in s. 71.91 (5) (j) and the
6 authority to:

7 **SECTION 7.** 139.03 (2x) (c) of the statutes is amended to read:

8 139.03 (2x) (c) *Administration.* Sections 71.74 (1), (2), (10), (11), (13) and (14),
9 71.75 (4) to (7), 71.80 (12), 71.82 (2), 71.83 (2) (b) 3., 71.88 (1) (a) and (2) (a), 71.89,
10 71.90, 71.91 (1) (a) and (c) and (2) to ~~(7)~~ (8), 71.92, 73.01 and 73.015 apply to the
11 administration of this subsection for the assessment and collection of additional
12 taxes when tax rate changes become effective.

13 **SECTION 8.** 139.03 (4) of the statutes is amended to read:

14 139.03 (4) Sections 71.74 (1), (2), (10), (11), (13) and (14), 71.75 (4) to (7), 71.80
15 (12), 71.82 (2), 71.83 (2) (b) 3., 71.88 (1) (a) and (2) (a), 71.89, 71.90, 71.91 (1) (a) and
16 (c) and (2) to ~~(7)~~ (8), 71.92, 73.01 and 73.015 apply to the administration of this section
17 for the assessment and collection of additional taxes when a tax rate change becomes
18 effective.

19 **SECTION 9.** 139.315 (3) of the statutes is amended to read:

20 139.315 (3) ADMINISTRATION. Sections 71.74 (1), (2), (10), (11), (13) and (14),
21 71.75 (4) to (7), 71.80 (12), 71.82 (2), 71.83 (2) (b) 3., 71.88 (1) (a) and (2) (a), 71.89,
22 71.90, 71.91 (1) (a) and (c) and (2) to ~~(7)~~ (8), 71.92, 73.01 and 73.015 apply to this
23 section.

24 **SECTION 10.** 139.39 (6) of the statutes is amended to read:

1 139.39 (6) Sections 71.74 (1), (2), (10), (11) and (14), 71.77, 71.80 (12), 71.91 (1)
2 (a) and (c) and (2) to (7) ~~(8)~~ and 71.92 as they apply to the taxes under ch. 71 apply
3 to the taxes under this subchapter. Section 71.74 (13) as it applies to the collection
4 of the taxes under ch. 71 applies to the collection of the taxes under this subchapter.

5 **SECTION 11.** 440.01 (2) (cm) of the statutes is created to read:

6 440.01 (2) (cm) “Liable for delinquent taxes” means that a person has been
7 finally determined to be delinquent in the payment of taxes, including penalties,
8 interest, fees and costs, under ch. 71, 72, 76, 77, 78, 125 or 139 and the person
9 remains delinquent in the payment of those taxes at the time the department
10 requests a certification under s. 440.08 (2r) of liability for delinquent taxes.

11 **SECTION 12.** 440.03 (12) of the statutes, as created by 1995 Wisconsin Act 27,
12 is amended to read:

13 440.03 (12) The department shall establish a procedure for making the
14 determination a request under s. 440.08 (2r) ~~concerning the liability of credential~~
15 holders to the department of revenue to certify whether a credential holder is liable
16 for delinquent taxes.

17 **SECTION 13.** 440.08 (2g) (b) 3. of the statutes, as created by 1995 Wisconsin Act
18 27, is repealed.

19 **SECTION 14.** 440.08 (2r) of the statutes, as created by 1995 Wisconsin Act 27,
20 is amended to read:

21 440.08 (2r) (title) ~~DETERMINATION~~ CERTIFICATION CONCERNING DELINQUENT TAXES.
22 ~~Before~~ Except as provided in sub. (4) (b) 4., before granting an application to renew
23 any credential issued under chs. 440 to 480, the department shall ~~determine~~, in
24 accordance with the procedure established under s. 440.03 (12), request the

1 department of revenue to certify whether the applicant for the credential renewal is
2 liable for any delinquent taxes owed to this state.

3 **SECTION 15.** 440.08 (4) (b) of the statutes, as created by 1995 Wisconsin Act 27,
4 is renumbered 440.08 (4) (b) 1. and amended to read:

5 440.08 (4) (b) 1. If the department ~~determines~~ of revenue certifies, after a
6 request from the department of regulation and licensing under sub. (2r), that an
7 applicant for renewal is liable for any delinquent taxes owed to this state, or if an
8 applicant does not complete the information on the credential renewal application
9 form that is required under sub. (2g) (b), the department of regulation and licensing
10 shall deny the applicant's application for credential renewal.

11 2. The department of regulation and licensing shall notify an applicant for
12 credential renewal that his or her application has been denied under subd. 1. by
13 mailing to the holder of the credential a notice of denial that includes a statement
14 of the facts that warrant the denial under ~~this paragraph~~ subd. 1. and a notice that
15 the holder may, within 30 days after the date on which the notice of denial is mailed,
16 file a written request with the department of revenue to have the certification of tax
17 delinquency on which the denial is based reviewed at a hearing ~~before the~~
18 department under s. 71.91 (8).

19 **SECTION 16.** 440.08 (4) (b) 3. and 4. of the statutes are created to read:

20 440.08 (4) (b) 3. If the certification of tax delinquency that is the basis of a
21 denial of a credential renewal application under subd. 1. is reviewed at a hearing
22 under s. 71.91 (8) and the department of revenue informs the department of
23 regulation and licensing that, as a result of the hearing, the department of revenue
24 affirmed its certification that the applicant is liable for delinquent taxes, the
25 department of regulation and licensing shall affirm its denial under subd. 1. of the

1 applicant's credential renewal application. A credential holder may seek judicial
2 review under ch. 227 in the circuit court for Dane County of an affirmation by the
3 department of regulation and licensing of a denial under subd. 1.

4 4. If the department of regulation and licensing denies a credential renewal
5 application under subd. 1. or affirms the denial of a credential renewal application
6 under subd. 3. and the applicant subsequently reapplies for renewal of his or her
7 credential, the department of regulation and licensing shall deny the applicant's
8 application for credential renewal unless the applicant presents a certificate issued
9 by the department of revenue that states that the applicant is not liable for
10 delinquent taxes.

11 **SECTION 17. Initial applicability.**

12 (1) This act first applies to applications submitted to the department of
13 regulation and licensing or to an examining board or affiliated credentialing board
14 attached to the department of regulation and licensing to renew credentials that
15 expire on or after January 1, 1996, or on or after the effective date of this subsection,
16 whichever is later. This subsection does not preclude denial of a credential renewal
17 application to which this act applies based on liability for delinquent taxes for which
18 the credential holder was finally determined to be delinquent before the effective
19 date of this subsection.

20 (END)