



Legislative Fiscal Bureau

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April 19, 2005

Joint Committee on Finance

Paper #657

Alcohol and Tobacco Agent Funding Conversion (DOR -- Tax Administration)

[LFB 2005-07 Budget Summary: Page 434, #9]

CURRENT LAW

The Alcohol and Tobacco Section (ATS) in the Department of Revenue (DOR) provides uniform statewide enforcement of Wisconsin's alcohol beverage, cigarette, tobacco product, and controlled substance tax laws. In addition, the Section is responsible for enforcing certain laws relating to commercial gambling, the use of premises for commercial gambling, and dealing with gambling devices that involve not more than five video gambling machines on premises for which a Class "B" license or permit has been issued.

DOR computer and audit costs incurred in administering the state liquor tax are funded from a 3 cents a gallon fee imposed on intoxicating liquor subject to the state liquor tax. Fees are paid by distributors along with monthly liquor tax payments. Fee collections are placed in a separate program revenue liquor tax administration appropriation. At the end of each fiscal year, the unencumbered balance in the appropriation in excess of 10% of the amounts expended and encumbered in the fiscal year lapse to the general fund.

GOVERNOR

Delete \$749,500 GPR and 8.0 GPR positions and provide expenditure authority of \$749,500 PR and 8.0 PR positions annually to convert the funding source for eight alcohol and tobacco agents in ATS from GPR to program revenue. Program revenue funding for the positions would be provided by modifying statutory provisions governing the liquor tax administration appropriation to permit enforcement costs to be funded from the appropriation, and by increasing the administrative fee by 8 cents, from 3 cents per gallon of intoxicating liquor to 11 cents per gallon. The fee increase would first apply to fees and taxes due on the 15th day of the month following the month in which the budget bill takes effect. Under AB 100, it is

estimated that the administrative fee increase would generate an additional \$892,000 annually in program revenues.

Annual expenditure authority in the liquor tax administration appropriation would be reduced by \$59,600. The Department would be required to annually lapse this amount from the appropriation to the general fund.

DISCUSSION POINTS

1. Alcohol and tobacco enforcement agents were first employed by the former Wisconsin Department of Taxation to conduct investigations of illegalities, ensure collection of excise taxes, and regulate activities related to the sale of alcohol and tobacco products. In the early 1960s the agents were transferred to the Department of Justice (DOJ) where they were assigned to a separate bureau. In 1975, the function was transferred back to the Department of Revenue to provide statewide enforcement of the state alcohol, beverage, cigarette, tobacco product and controlled substance laws. The 2003-05 biennial budget gave DOR authority to enforce laws relating to certain commercial gambling, use of premises for commercial gambling, and dealing in gambling devices involving five or less video gambling machines on the premises of holders of Class "B" liquor licenses. The bill repealed Department of Justice authority to enforce these laws.

2. ATS agent responsibilities include: (a) examination and inspection of licensed premises, including taverns, restaurants, liquor stores, and grocery stores, that hold alcohol beverage and/or cigarette and tobacco licenses or permits, to ensure compliance with state laws and rules; (b) conducting investigations of persons and businesses suspected of committing criminal violations of state alcohol beverage, cigarette, and tobacco products tax laws; (c) providing technical assistance to government officials, tobacco and alcohol beverage industry employees and representatives, and the public; (d) maintaining a working connection with local, state, and federal enforcement agencies, and local prosecutor's offices.

3. The ATS is located in the Division of Income, Sales and Excise tax and is staffed with eight excise tax senior agents. All employees of the Section are registered law enforcement officers, and their position classifications are law enforcement classifications. The Section is provided base level funding of \$749,500 GPR and 8.0 GPR positions.

4. The liquor tax administration appropriation has base level expenditure authority of \$258,700 PR and 2.75 PR positions. The appropriation funds a programmer in the Office of Technology Services, a revenue field auditor in the Excise Field Audit unit, and a 0.75 tax representative who performs office audits of beverage tax returns and compiles reports. The source of program revenue is a fee of 3 cents per gallon of intoxicating liquor.

5. Under AB 100, the liquor tax administration appropriation would be provided annual expenditure authority of \$952,000 PR and 10.75 PR positions. The funding level includes the annual increase of \$749,500 PR expenditure authority and 8.0 PR positions to convert the funding source for the excise tax agents from GPR to PR, and an annual decrease of \$59,600 PR for

base budget reductions. The base reduction is specifically lapsed to the general fund. In addition, the unencumbered year-end balance in the appropriation in excess of 10% of annual expenditures must also be lapsed. Under the bill, the total lapse to the general fund from the appropriation is projected to be \$126,100 in 2005-06 and \$127,500 in 2006-07 (including the base budget reduction). However, based on revised program revenue estimates, the estimated lapse to the general fund (including the required annual lapse of \$59,600) would be \$178,400 in 2005-06 and \$252,400 in 2006-07. This would be an increase in the estimated lapse of \$52,300 in 2005-06 and \$124,900 in 2006-07.

6. In 2003-04, collections from the 3 cent fee for the liquor tax administration appropriation were \$334,500. Collections from that fee are projected to be \$336,400 in 2005-06 and \$341,200 in 2006-07. In order to fund the agent positions with program revenue, the fee would be increased to 11 cents per gallon of intoxicating liquor, which is estimated to generate additional program revenues of \$895,800 in 2005-06 and \$908,600 in 2006-07.

7. Total fee collections are projected to be \$1,232,200 in 2005-06 and \$1,249,800 in 2006-07. Total expenditures (including reserves for pay plan, health insurance, and space rental) are estimated to be \$981,500 in 2005-06 and \$996,000 in 2006-07. Consequently, ongoing program revenues would be substantially higher than ongoing expenditures, following the funding conversion. The fee increase could be reduced and still generate sufficient program revenues to fund the additional eight positions through the liquor tax administration appropriation.

8. A complicating factor in reducing the fee increase would be the effect of any fee reduction on the amount of revenues lapsed from the liquor tax administration appropriation to the general fund. The proposed administrative fee could be reduced from 11 cents per gallon to 9 cents per gallon and still generate sufficient program revenue to fund ongoing expenditures. The 9 cent fee would result in estimated total fee collections of \$1,009,200 in 2005-06 and \$1,023,600 in 2006-07, an estimated increase of \$672,800 in 2005-06 and \$682,400 in 2006-07. However, the required annual \$59,600 lapse to the general fund would place the appropriation balance in deficit. The 9 cent fee would be sufficient to fund appropriation expenditures without causing a deficit if the required \$59,600 annual lapse was eliminated. On the other hand, the total lapse would be reduced by \$126,100 in 2005-06 and by \$127,500 in 2006-07.

9. As an alternative, the proposed administrative fee could be reduced to 10 cents per gallon of intoxicating liquor. Total estimated fee collections would be \$1,121,300 in 2005-06 and \$1,134,300 in 2006-07, an estimated increase of \$784,900 in 2005-06 and \$793,100 in 2006-07. The total annual GPR-Earned lapse (including the required \$59,600 lapse) from the liquor tax administration appropriation would decrease by \$58,600 in 2005-06 and increase by \$9,400 in 2006-07, for a net biennial decrease of \$49,200

10. Converting the funding source for the excise tax agents would reduce GPR expenditures and charge an industry that benefits from agent activities for their services. However, the agents enforce cigarette and tobacco products tax laws as well. All alcohol beverage, cigarette and tobacco products taxes are general fund taxes. Administration of general fund taxes is primarily

funded with GPR. Therefore, it might be considered appropriate to continue GPR funding for the agent positions. Maintaining the agent positions as GPR but including the \$59,600 annual base level expenditure reduction would result in an increase in the appropriation lapse to the general fund of \$5,600 in 2005-06 and \$100 in 2006-07.

11. The liquor tax administration appropriation has lapsed an average of \$8,000 in supplies and services funding expenditure authority the past two years. As a separate alternative, the Committee may wish to reduce annual base level supplies and services expenditure authority by \$8,000 in the liquor tax administration appropriation. This would increase the lapse to the general fund of \$8,800 in 2005-06 and \$8,000 in 2006-07. The additional revenue could partially offset the effects of decreasing the administrative fee.

ALTERNATIVES

1. Adopt the Governor's Recommendation to: (a) reduce annual base level funding for the liquor tax administration appropriation by \$59,600, and require that that amount be annually lapsed to the general fund; (b) delete \$749,500 GPR and 8.0 GPR positions and provide expenditure authority of \$749,500 PR and 8.0 PR positions annually to convert the funding source for eight alcohol and tobacco agents from GPR to program revenue; and (c) reestimate the total lapse from the liquor tax administration appropriation to be \$178,400 in 2005-06 and \$252,400 in 2006-07. The reestimated lapse amounts are higher than the amounts estimated in the bill by \$52,300 in the first year and \$124,900 in the second year.

<u>Alternative 1</u>	<u>GPR-REV</u>
2005-07 REVENUE (Change to Bill)	\$177,200

2. Modify the Governor's recommendation to convert the funding source for 8.0 excise tax agents from GPR to PR to increase from 3 cents to 9 cents (rather than 11 cents) per gallon of intoxicating liquor, the liquor tax administrative fee, and delete the required annual lapse of \$59,600 from the liquor tax administration appropriation to the general fund

<u>Alternative 2</u>	<u>GPR-REV</u>	<u>PR-REV</u>	<u>PR</u>
2005-07 REVENUE (Change to Bill)	-\$253,600	-\$428,800	
2005-07 FUNDING (Change to Bill)			\$119,200

3. Modify the Governor's recommendation to convert the funding source for 8.0 excise tax agents from GPR to PR to increase from 3 cents to 10 cents (rather than 11 cents) per gallon of intoxicating liquor, the liquor tax administrative fee.

<u>Alternative 3</u>	<u>GPR-REV</u>	<u>PR-REV</u>
2005-07 REVENUE (Change to Bill)	- \$49,200	- \$206,000

4. Modify the Governor's recommendation to reduce annual base level supplies and services expenditure authority by \$8,000 in the liquor tax administration appropriation.

<u>Alternative 4</u>	<u>GPR-REV</u>	<u>PR</u>
2005-07 REVENUE (Change to Bill)	\$16,800	
2005-07 FUNDING (Change to Bill)		- \$16,000

5. Delete Governors' recommendation to convert the funding source for 8.0 excise tax agents from GPR to PR and to increase, from 3 cents to 11 cents per gallon of intoxicating liquor, the liquor tax administration fee.

<u>Alternative 5</u>	<u>GPR-REV</u>	<u>GPR</u>	<u>PR-REV</u>	<u>PR</u>	<u>TOTAL</u>
2005-07 REVENUE (Change to Bill)	\$5,700		- \$1,784,000		
2005-07 FUNDING (Change to Bill)		\$1,499,000		- \$1,499,000	\$0
2006-07 POSITIONS (Change to Bill)		8.00		- 8.00	0.00

6. Maintain current law.

<u>Alternative 6</u>	<u>GPR-REV</u>	<u>GPR</u>	<u>PR-REV</u>	<u>PR</u>	<u>TOTAL</u>
2005-07 REVENUE (Change to Bill)	- \$119,500		- \$1,784,000		
2005-07 FUNDING (Change to Bill)		\$1,499,000		- \$1,499,000	\$0
2006-07 POSITIONS (Change to Bill)		8.00		- 8.00	0.00

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