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May 25, 2023 Joint Committee on Finance Paper #671

Statewide Debt Collection Positions (Revenue -- Tax Administration)

[LFB 2023-25 Budget Summary: Page 544, #4]

CURRENT LAW

The Department of Revenue (DOR) administers the 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. The program requires DOR to enter into a written agreement to have the Department collect any amount owed to a 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 debtor is adhering to an acceptable payment arrangement. Additionally, DOR is authorized (but not required) to enter into similar agreements with the courts, the Legislature, state authorities, and local units of government.

The Department also administers the tax refund interception program (TRIP) for the purpose of offsetting refunds owed a debtor against debts owed by the debtor to state agencies, the courts, the Legislature, state authorities, local units of government, the federal government, federally-recognized tribes, and certain ambulance service providers.

Together, TRIP and SDC are provided 31 full-time equivalent (FTE) positions in 2022-23, comprised of 24 revenue agents (including two lead workers), two supervisors, two business analysts, and three support staff. In addition, approximately 10 limited-term employees are typically hired during the months of January through June.

State law authorizes DOR to charge a transaction fee for each debt it collects, under both SDC and TRIP. DOR has set its SDC fee equal to the greater of $35 or 15% of the debt certified to be collected. The fee is charged to the debtor. Under TRIP, the Department charges the debtor the following amounts per debt it offsets: (a) $5 for state and municipal debts; (b) $15 for debts owed the State of Minnesota and its localities; and (c) $25 for debts owed the Internal Revenue Service and federally-recognized tribes. These fees are deposited in DOR's debt collection, program revenue appropriation, and are used to offset its expenses for administering both programs. At the end of each fiscal year, any remaining balance resulting from fee revenues in excess of program expenses is deposited in the general fund.

DISCUSSION POINTS

1. The SDC program was created under 2009 Act 28. Prior to the SDC program, agencies utilized the services of private debt collection companies or internal collection staff to collect debts. The Department believed that centralizing state agency debt collection activities in a uniform process administered by DOR would improve the efficiency of state debt collection, and therefore increase resources available to state agencies. The Department has the authority under the SDC program to take certain enforcement actions not available to private collection agencies, such as to administratively attach wages, levy nonwage assets, and seize monies and personal property. Additionally, state law gives DOR the ability to charge collection fees above the amount of debt owed to offset the administrative expenses of collection. In contrast, private debt collection companies are prohibited under state law from collecting any amount in excess of what is owed by a debtor. As a result, state agencies and local units of government utilizing the SDC program can receive the entire outstanding debt, rather than having to remit a portion of the debt to compensate a private collection company.

2. The 24 revenue agent positions are responsible for collecting debt referred to SDC. DOR has the authority under the SDC program to collect debt through offsets of a tax refund or unclaimed property. Beyond these authorities, the Department has several additional tools available to aid in the collection of SDC debt. DOR's preferred option for collecting debt referred to the SDC program is by setting up a voluntary payment arrangement with the debtor to collect payments. This can be done through a payment plan, or by providing an agreed-upon time frame to submit full payment. However, in the event that debt cannot be collected voluntarily, revenue agents will, most commonly, attach wages through wage certifications or levy a debtor's bank account.

3. The Legislature has expanded the SDC program multiple times since it was created. Under 2015 Act 55, an additional 11.0 positions were authorized for the program to address the growing balance of outstanding debts at that time. Debts referred to the program were expanded under: (a) 2015 Act 355, which authorized restitution payments certified as owed by the Department of Corrections or the Clerk of Circuit Court to be included in SDC agreements; and (b) 2015 Act 59, which authorized debts owed to certain ambulance service providers operating under a contract with a municipality or county to be referred to DOR under an SDC agreement. In response to the increase in debts referred, the program was again expanded under the 2017-19 biennial budget act (2017 Act 59), which provided 8.0 project positions to the SDC program. These project positions were made permanent by 2021 Act 58 (the 2021-23 biennial budget act).

4. Under AB 43/SB 70, the Governor recommends providing $423,500 PR in 2023-24 and $516,600 PR in 2024-25 and 7.0 FTE positions annually to DOR's debt collection appropriation to increase efforts to collect debts owed to state agencies and local governments under the SDC program.

5. The fiscal year ending balance, new debts referred, and debts recovered since 2013-14

for the SDC program can be seen in Table 1. The amount of debts recovered excludes agency fees collected by DOR from debtors to offset the expenses of the program. The table shows the number of revenue agents authorized for the SDC program each year, as well as per-agent collections. Between 2016-17 (one year prior to the authorization of eight new revenue agents) and 2021-22, DOR data show that the year-end balance increased 275%, from $123.6 million to $463.7 million. Over that same period, the annual amount of debts recovered increased 154%, from $23.4 million to $59.6 million. Despite the general increase in debts collected per agent since 2013-14, the average amount of debts recovered has been less than 30% of new debts referred over the past five years, resulting in a growing balance of debts. Overall, the SDC closing balance has increased to nearly 10 times the amount it was in 2013-14. It should be noted that a portion of debts can be returned to agencies if deemed uncollectible, which reduces the SDC closing balance and partly explains the decline from 2020-21 to 2021-22. DOR also indicates that it identified an error in its system in which some debts were not being written off as uncollectible correctly. Correcting this issue resulted in a large balance being returned to agencies as uncollectible in 2021-22.

TABLE 1

SDC Balance, Debts Referred, Collections, and Revenue Agents ($ in Millions): 2013-14 through 2021-22

Fiscal Year	SDC Closing Balance	New Debts Referred	SDC Debts Recovered	Revenue Agents	Debts Recovered Per Agent
2013-14	$46.87	$22.13	$9.91	7	$1.42
2014-15	54.17	28.12	12.49	7	1.78
2015-16	71.29	41.99	17.27	18	0.96
2016-17	123.57	83.16	23.44	18	1.30
2017-18	213.49	141.38	35.76	24	1.49
2018-19	372.08	235.89	51.93	24	2.16
2019-20	462.83	172.33	55.35	24	2.31
2020-21	500.94	137.17	57.72	24	2.41
2021-22	463.68	236.63	59.61	24	2.48

Source: Department of Revenue

6. Although DOR was provided an additional 11 revenue agents for the SDC program beginning in 2015-16 and eight agents beginning in 2017-18, these positions did not contribute a full year of collection activity to the program until 2016-17 and 2018-19, respectively. As shown in Table 1, between 2014-15 and 2018-19, SDC debts recovered grew 316%, and collections per agent grew 21% (from $1.8 million to $2.2 million). The decline in debts recovered per agent between 2014-15 and 2018-19 partly reflects time spent hiring and training the increased number of revenue agents. Since 2018-19, collections have continued to grow due to the increased proficiency of revenue agents as they become more experienced. However, the rate of growth has slowed. DOR indicates that this is because its current staff are working at capacity, and additional staff are needed to further increase its collection efforts.

7. As the amount of debt referred to DOR has increased, the number of debt collection bills (bills for individual debtors) referred to the Department has also grown, partly in response to new debt types authorized for referral under 2015 Acts 59 and 355. Data from DOR indicate that the average monthly number of new debt collection bills referred per FTE increased from 160 in 2015-16 to 642 in 2021-22, or an increase of over 300% on a per-FTE basis. As such, DOR reports that its current SDC staffing level is insufficient to meet the growing number of participating agencies and the corresponding growth in overall debt volumes.

8. To the extent that DOR's debt collection program enhances revenues that would otherwise not be returned to state agencies and local units of government, the program limits the need to provide these entities with additional expenditure authority. Table 2 shows SDC debt collections by agency type for 2021-22. Active debts represent the number of unresolved debts held with DOR by agency type as of June 30 of each fiscal year. As presented in the table, the highest collection totals for 2021-22 came from the courts, municipal courts, and universities within the University of Wisconsin (UW) System, making up a combined 80.1% of total SDC collections. DOR indicates that there is still the possibility for additional debts to be referred, as Milwaukee County Circuit Court has yet to join the SDC program. It is estimated that this entity alone would increase the current SDC debt balance by more than $100 million.

TABLE 2

SDC Collection Activity by Agency Type (2021-22)

SDC Participant	Number of Agreements	Active Debts	Fiscal Year Ending Balance	Debts Recovered	Collection Fees	Total SDC Collections
Local Agency	230	30,921	$36,868,747	$4,265,576	$741,485	$5,007,061
Local Agency (Utility)	31	2,347	1,325,545	377,352	65,595	442,947
Court	63	251,947	192,136,967	23,394,374	4,066,645	27,461,019
Municipal Court	190	202,113	89,257,615	15,196,959	2,641,688	17,838,647
State Agency	27	3,148	55,672,327	1,628,902	283,152	1,912,054
Technical College	14	8,934	9,572,351	3,181,842	553,100	3,734,942
UW System	36	7,498	25,550,347	9,135,956	1,588,103	10,724,059
Restitution	61	9,510	51,955,620	2,302,332	400,214	2,702,546
Housing Authority	21	353	1,342,598	127,786	22,213	149,999
Total	673	516,771	$463,682,117	$59,611,079	$10,362,195	$69,973,274

Source: Department of Revenue

9. As shown in Table 3, the number of agreements with SDC partnering agencies, active debts, and the amount of debts recovered have steadily increased since 2013-14. Restitution payments were added to the list of authorized debts to refer in 2016-17, following enactment of Act 355. The table shows that the largest year-over-year increase in active debts occurred in 2018-19, following a large increase in court and municipal debts referred to the SDC program (which corresponds to the spike in 2018-19 new debts referred in Table 1). DOR indicates that the decline in the number of

active debts in 2021-22 is partly due to debts being returned to agencies as uncollectible, as discussed previously.

TABLE 3

SDC Program Activity: 2013-14 through 2021-22

Fiscal Year	Number of Agreements	Active Debts	Debts Recovered
2013-14	91	17,618	$9,905,589
2014-15	143	26,674	12,486,079
2015-16	227	49,075	17,273,018
2016-17	346	127,238	23,442,833
2017-18	454	258,962	35,804,626
2018-19	564	459,772	51,881,072
2019-20	637	579,205	54,812,788
2020-21	653	636,557	57,719,912
2021-22	673	516,771	59,611,079

Source: Department of Revenue

10. As noted, DOR charges a collection fee in excess of debts owed to offset the administrative expenses of the SDC program. At the end of each fiscal year, any fees collected in excess of expenses are transferred to the general fund. Table 4 shows SDC fees collected, expenses incurred, and the amount transferred to the general fund since 2013-14. Between 2014-15 and 2016-17, fees collected increased by nearly $2.1 million, reflecting increased collection activity from the additional 11 revenue agents provided to the SDC program. Fees collected increased further between 2016-17 and 2018-19, from $4.6 million to $10.5 million, as another eight positions were added to the program. As seen with SDC debt collections, fee collections appear to have leveled off since 2018-19, and have even declined slightly. DOR attributes the slight decline, in part, to the reduced ability for individuals to pay, and DOR reducing involuntary collection activity, during the COVID-19 pandemic. In addition, many agencies stopped referring new debts during the pandemic, but have started referring debts again during the last two fiscal years.

TABLE 4

SDC Fees Collected, Expenses Incurred, and Amount Transferred to the General Fund (Millions): 2013-14 through 2021-22

Fiscal Year	Fees Collected	DOR Expenses	General Fund Transfer
2013-14	$2.14	$0.51	$1.63
2014-15	2.52	0.55	1.97
2015-16	3.40	1.32	2.08
2016-17	4.57	1.57	3.00
2017-18	7.24	1.97	5.27
2018-19	10.54	2.14	8.40
2019-20	9.97	2.27	7.70
2020-21	9.96	2.32	7.64
2021-22	10.36	2.37	7.99

Source: Department of Revenue

11. DOR sends letters to debtors to notify, update, and encourage voluntary resolution of debt, as well as to notify debtors of involuntary collection actions, and indicates that $130,000 is currently allocated for postage expenses. However, despite efforts to increase electronic notice delivery for customers who opt-in, DOR states that postage costs over the last three fiscal years have averaged $472,000 from the increased volume of debts referred. The Department now estimates that each revenue agent position for the SDC program generates approximately $18,000 in postage costs per year. As such, DOR states that additional supplies and services for postage costs for the requested revenue agent positions are needed. Including funding for postage costs would increase the Governor's recommendation by $81,000 in 2023-24 and $108,000 in 2024-25.

12. The SDC program is currently organized into two collection units, each with 11 revenue agents, one lead (who is included in the count of revenue agents in Table 1), and one supervisor. Providing an additional seven positions to the program would allow DOR to create an additional unit, in which each of the three units would consist of nine revenue agents, one lead, and one supervisor (for a total of 27 revenue agents, three lead workers, and three supervisors).

13. As seen in Table 1, debt collections have plateaued under the SDC program, despite a rising closing balance of debts referred for collection. Data suggests that new positions would provide an increase in state agency and local government debts collected. If the Committee wishes to address the rising SDC debt balance, it could provide 7.0 positions to create a new SDC unit within DOR and provide the additional supplies and services estimated for postage costs [Alternative 1].

14. DOR now estimates that each new revenue agent (not including lead or supervisor positions) would generate just under $2.4 million in additional debts collected. Therefore, providing an additional seven positions (including five revenue agents) to the SDC program and additional funding for postage associated with the positions would increase annual debts collected and remitted to agency partners by $4,000,000 in 2023-24 and $11,875,000 annually thereafter. The Department

also estimates that the positions would: (a) increase fees collected by DOR by $600,000 in 2023-24 and $2,125,000 in 2024-25; (b) increase expenses incurred by $504,500 PR in 2023-24 and $624,600 PR in 2024-25; and (c) increase the year-end transfer to the general fund by an estimated $95,500 in 2023-24 and $1,500,400 in 2024-25.

15. The Committee may want to provide the additional 7.0 positions for the SDC program without providing additional supplies and services funding for postage costs [Alternative 2]. The Governor did not include the additional supplies and services funding in AB 43/SB 70 for the seven additional SDC positions, and the Administration has not submitted an errata to request additional funding for postage associated with the positions. DOR would have to reallocate existing resources from other tax enforcement activities to offset the additional postage costs associated with the new positions. Providing the 7.0 positions without additional funding for postage would reduce PR expenditures compared to Alternative 1, by $81,000 in 2023-24 and $108,000 in 2024-25, and would increase the estimated year-end transfer to the general fund by a similar amount.

16. On September 24, 2019, a request was submitted to the Joint Committee on Finance under s. 16.515/16.505 (2) to create an additional 15.0 permanent positions for collection of SDC debt. An objection was raised and the request was not approved. DOR stated that it had reached its capacity for collecting debts with the resources available at the time. Since 2016-17, the balance of outstanding debts referred to the SDC program has grown from $123.6 million to $463.7 million at the current staffing level, despite the amount of debt collected per agent increasing each year. The Committee could consider providing 15.0 PR positions, rather than 7.0 PR positions, to further reduce the outstanding balance of SDC debts owed to state agencies, municipalities, and other SDC partners [Alternative 3].

17. DOR indicates that over 91,000 SDC debt cases have not been reviewed by the established annual work date. Due to the large balance of debts to be collected and the current level of resources available to the SDC program, DOR prioritizes collecting the easiest to reach debts. Debts that require more time and work to collect that are not acted upon within five years are returned to agencies and local governments uncollected. Providing additional positions to administer the SDC program could allow the Department to address some of the debts that are not currently receiving attention, increasing revenues available to state agencies and local units of government.

18. According to DOR, if the Committee provided an additional 15.0 FTE positions, it could create a third unit in the SDC program and increase staffing by 13.0 revenue agents, one lead worker, and one supervisor. The Department estimates that increased expenditure authority of $1,160,000 in 2023-24 and $1,360,000 in 2024-25 would support the additional 15 positions, assuming that the positions would begin on October 1, 2023. It is estimated that these additional 15.0 positions would increase fees collected by DOR by $1,365,000 in 2023-24 and $4,600,000 in 2024-25 and increase the year-end transfer to the general fund by an estimated $205,000 in 2023-24 and $3,240,000 in 2024-25. DOR also estimates that the additional revenue agents would increase debt amounts recovered for participating agencies and municipalities by $7,735,000 in 2023-24 and $30,940,000 annually thereafter ($19 million more than Alternatives 1 and 2).

19. Finally, the Committee could determine that the current level of debt collection DOR returns to state agencies and local units of government is sufficient and take no action [Alternatives

4].

ALTERNATIVES

1. Provide $504,500 PR in 2023-24 and $624,600 PR in 2024-25 and 7.0 PR positions annually to DOR's debt collection appropriation to increase efforts to collect debts owed to state agencies and local governments under the SDC program. Estimate increased fees collected of $600,000 in 2023-24 and $2,125,000 in 2024-25. Estimate an increased year-end transfer to the general fund of $95,500 in 2023-24 and $1,500,400 in 2024-25. [This alternative includes funding for postage associated with the additional positions.]

ALT 1	**Revenue**	**Change to Base Funding**	**Positions**
PR		$1,129,100	7.00
GPR-REV	$1,595,900		
PR-REV	$2,725,000		

2. Provide $423,500 PR in 2023-24 and $516,600 PR in 2024-25 and 7.0 PR positions annually to DOR's debt collection appropriation to increase efforts to collect debts owed to state agencies and local governments under the SDC program. Estimate increased fees collected of $600,000 in 2023-24 and $2,125,000 in 2024-25. Estimate an increased year-end transfer to the general fund of $176,500 in 2023-24 and $1,608,400 in 2024-25.

ALT 2	**Revenue**	**Change to Base Funding**	**Positions**
PR		$940,100	7.00
GPR-REV	$1,784,900		
PR-REV	$2,725,000		

3. Provide $1,160,000 PR in 2023-24 and $1,360,000 PR in 2024-25 and 15.0 PR positions annually to DOR's debt collection appropriation to increase efforts to collect debts owed to state agencies and local governments under the SDC program. Estimate increased fees collected of $1,365,000 in 2023-24 and $4,600,000 in 2024-25. Estimate an increased year-end transfer to the general fund of $205,000 in 2023-24 and $3,240,000 in 2024-25.

ALT 3	**Revenue**	**Change to Base Funding**	**Positions**
PR		$2,520,000	15.00
GPR-REV	$3,445,000		
PR-REV	$5,965,000		

4. Take no action.

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