



Legislative Fiscal Bureau

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June 1, 2005

Joint Committee on Finance

Paper #342

Revocation or Denial of Law License Based on Tax Delinquency (General Fund Taxes --Tax Administration)

[LFB 2005-07 Budget Summary: Page 218, #3]

CURRENT LAW

Under current law, occupational licenses may be denied, revoked, or not renewed when the licensee or applicant owes delinquent taxes. When the Department of Revenue (DOR) discovers a delinquency, it sends a certificate of delinquency to the occupational licensing agency indicating that the individual's license should be revoked or not renewed or an application for a license denied. The individual licensee or applicant can request an administrative hearing with DOR. If the DOR hearing examiner affirms the certificate of tax delinquency, the licensing agency must affirm the DOR hearing examiner's finding. The licensing agency's affirmation of the license denial or revocation can be appealed to the Circuit Court. DOR has entered into a number of memoranda of understanding (MOUs) with licensing agencies to administer these provisions.

The application of the duties and powers on licensing agencies, with respect to the Supreme Court, is subject to the Supreme Court's agreement. The denial or revocation procedure that requires affirmation of DOR's certificate of delinquency and related license denial, non-renewal, or revocation before the entire hearing process is completed is inconsistent with the Supreme Court's authority over attorney licensure. As a result, DOR and the Supreme Court have not entered into an MOU to apply the license revocation or denial procedure to attorneys.

GOVERNOR

Modify current law provisions related to revocation, non-renewal, or denial of occupational licenses due to tax delinquency to require that the hearing process for a law license applicant or attorney owing delinquent taxes be concluded prior to DOR certification to the

Supreme Court that such an individual is delinquent. After the delinquency is certified, the Supreme Court would decide what action to take regarding the individual's law license. The bill also includes specific notice and hearing provisions for attorneys. These provisions would first apply to hearings that commence on the day after publication of the bill.

DISCUSSION POINTS

1. The current provisions requiring the revocation or denial of licenses or credentials due to tax delinquencies were adopted in the 1997-99 budget adjustment bill (1997 Wisconsin Act 237). It was believed that the Supreme Court could not be mandated to participate in these provisions due to separation of powers concerns. However, the intent was for these provisions to apply to law licenses, with the agreement of the Supreme Court.

2. To date, the Supreme Court has not entered into an MOU with DOR regarding these provisions because the license denial, non-renewal, or revocation may occur before the entire hearing process is completed. The provisions of the bill, which are outlined in detail below, are intended to address this concern regarding law licenses. The bill's provisions do not affect other licenses or credentials.

3. Under the bill, DOR could not submit a certification of tax delinquency to the Supreme Court until after the license holder or applicant has exhausted his or her opportunities for review and remedy or has failed to make use of such review and remedy. *Currently, DOR is required to provide certifications to licensing agencies and then the license holder or applicant is provided an opportunity to have the matter reviewed.*

Also under the bill, if DOR believes an individual is delinquent in the payment of taxes, the Department would have to mail a notice to the license holder or applicant indicating that the individual may request a hearing to review the finding of delinquency. The notice would also have to state that DOR must submit a certificate of delinquency to suspend, revoke, or deny a license to practice law to the Supreme Court after the license holder or applicant has exhausted his or her remedies or has failed to make use of such remedies. In addition, the notice would have to indicate that DOR may not submit a certificate of delinquency to the Supreme Court if the license holder or applicant pays the delinquent tax in full or enters into an agreement with DOR to satisfy the delinquency. *Currently the licensing agency is required to provide notice to the license holder or applicant after DOR has certified a delinquency.*

Under the bill, if notified by DOR that it has affirmed a certification of tax delinquency after any requested review, the Supreme Court would have to decide whether to suspend, revoke, or deny a license to practice law. *Currently, for other licenses and credentials, suspension is mandatory if the certification of delinquency is reviewed and affirmed.*

The bill also would specify that if a person who holds a license to practice law or who is an applicant for a law license receives a hearing by DOR to review a certification or determination of tax delinquency and the delinquency is affirmed, the person could seek judicial

review in the Dane County circuit court. If a determination by DOR is appealed under this provision, DOR could not notify the Supreme Court of its determination until after the judicial review. *Under current law, judicial review is available only after the certification of delinquency has been affirmed by DOR and the license has been suspended, revoked, or denied by the licensing agency.*

4. State law also provides that licenses and credentials may be suspended or denied if an individual owes past-due child support or fails to comply with a subpoena or warrant relating to paternity establishment or child support proceedings. The Supreme Court has agreed to cooperate with the Department of Workforce Development in administering these provisions for lawyers. According to the Director of the Office of Lawyer Regulation, the modifications included in the budget bill are designed to make the procedure for license denials due to tax delinquencies, as they relate to attorneys, more like those used under the child support provisions. It is hoped that these changes will persuade the Supreme Court to enter into an MOU with DOR to make attorneys who are delinquent in the payment of taxes subject to license denial or revocation. This would provide for more consistent treatment of attorneys and other occupational license holders.

5. The administration estimates that including attorneys in the occupational license denial, non-renewal, or revocation provisions would increase general fund revenues by \$350,000 annually. This estimate is based on a review of delinquent tax accounts of attorneys by revenue agents at DOR.

6. If the Committee chooses to adopt the Governor's recommendation, a technical modification should be made to clarify that all of the new provisions would apply to license suspensions, as well as denials or revocations. As drafted, one of the sections in AB 100 excluded the word "suspensions."

ALTERNATIVES

1. Approve the Governor's recommendations regarding the denial, suspension, or revocation of licenses to practice law for individuals who are delinquent in the payment of state taxes with a modification to clarify that all of the new provisions would apply to license suspensions, as well as denials or revocations.

2. Delete provision.

<u>Alternative 2</u>	<u>GPR-REV</u>
2005-07 REVENUE (Change to Bill)	- \$700,000

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