



Legislative Fiscal Bureau

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2017

Joint Committee on Finance

Paper #545

Additional Tax Enforcement Positions (Revenue -- Tax Administration)

[LFB 2017-19 Budget Summary: Page 381, #1, Page 384, #1]

CURRENT LAW

The Department of Revenue (DOR) is statutorily authorized to supervise, administer, and enforce state tax laws. Under this authority, DOR administers a number of auditing programs. In state fiscal year 2015-16, DOR's Audit Bureau issued audit assessments of \$330.0 million, of which \$172.1 million was collected by the Audit Bureau. An audit assessment is considered unpaid by the taxpayer after 72 days, after which the assessment is transferred to DOR's Compliance Bureau as a delinquent tax bill. In 2015-16, DOR's Compliance Bureau collected delinquent tax revenues of \$216.6 million. The Audit Bureau's average front-line audit staffing level was 394 positions and the average staffing level of delinquent tax collection agents in the Compliance Bureau was 186 positions in 2015-16.

Under 2013 Wisconsin Act 20, 33.00 GPR project positions were provided to DOR from October 1, 2013, through September 30, 2017, to increase enforcement of state tax laws based on a backlog of federal audit reports. Once the backlog of federal audit reports was completed, those positions were reassigned to other auditing and tax enforcement activities. These positions are deleted under standard budget adjustments beginning in 2017-18. Expiration of these positions is estimated to reduce state tax revenues by \$18.75 million in 2017-18 and \$25.0 million in 2018-19.

GOVERNOR

Provide \$1,844,100 GPR in 2017-18 and \$2,458,800 GPR in 2018-19 and 38.00 GPR project positions annually to DOR to increase auditing activity and to improve tax collections. Estimate increased state tax revenues of \$32.0 million annually, beginning in 2017-18. The

project positions would be authorized from October 1, 2017, through September 30, 2021.

As noted, 33.00 tax enforcement project positions would be deleted under standard budget adjustments. According to DOR, 18 of these positions perform billing agent functions in the Audit Bureau and 15 are central compliance agents in the Compliance Bureau. The Governor's proposal would effectively extend the expiring positions for an additional four years and add 5.00 new tax enforcement project positions.

DISCUSSION POINTS

1. According to the administration, the 38 positions recommended by the Governor would be split between DOR's Audit Bureau (18) and Compliance Bureau (20). This paper provides an overview of DOR's Audit Bureau and Compliance Bureau followed by an analysis of the Governor's proposal.

Audit Bureau

2. Under the 2015-17 biennial budget bill, DOR was provided 102 positions to increase auditing activity. According to DOR, it has reconfigured its audit staff over the past two years to have each auditor focus on a specific tax type. Front-line audit staff is comprised of: (a) 83 corporate auditors; (b) 126 sales and use tax auditors, including three billing agents; (c) 18 out-of-state nexus auditors; (d) 28 pass-through entity auditors; (e) 108 individual income tax auditors, including 12 billing agents and two billing lead workers; (f) 12 excise tax auditors; (g) 12 income reconstruction specialists; and (h) seven program development and audit selection specialists. Table 1 shows the average front-line audit staffing level, annual amount of audit assessments, annual amount of audit collections, and amount sent to the Compliance Bureau as delinquent over the past six fiscal years.

TABLE 1

Audit Assessments and Collections: 2010-11 through 2015-16 (\$ in Millions)

Fiscal Year	Average Front-line Audit Staff	Audit Assessments	Average Assessment per Auditor	Audit Collections	Average Collections per Auditor	Amount Sent to Delinquent Collections*
2010-11	283	\$329.1	\$1.16	\$255.8	\$0.90	\$63.2
2011-12	280	264.8	0.95	200.3	0.72	42.7
2012-13	278	231.7	0.83	170.4	0.61	34.5
2013-14	302	180.6	0.60	151.8	0.50	39.7
2014-15	291	254.0	0.87	176.2	0.61	38.9
2015-16	394	330.0	0.84	172.1	0.44	41.7

*Includes assessed amounts for audits posted during the fiscal year that became delinquent during the same fiscal year and were referred to the Compliance Bureau for collection.

Source: Department of Revenue

3. As shown in Table 1, both audit assessments and collections declined from 2010-11

through 2013-14. Since 2013-14, audit assessments have increased by 83% and audit collections have risen by 13%. On a per-auditor basis, the average amount of assessments per auditor has increased since 2013-14, but the average amount collected per auditor has declined. According to DOR, this divergence can be partly explained by the new audit staff not having completed their initial audit assessments until near the end of 2015-16, and growth in timely-paid collections associated with those new audit assessments will be delayed until 2016-17.

4. Table 1 shows that audit assessments exceed audit collections in each year. This can be partly explained because DOR intentionally estimates the amount of unpaid taxes higher than the actual amount owed by the taxpayer. If DOR were to underestimate the amount of unpaid taxes, a taxpayer would not have an incentive to complete a corrected return because paying a lower audit assessment would be financially preferable.

5. Tables 2 and 3 provide additional detail regarding DOR audit activity by tax type. Both tables show that corporate audits have historically generated the largest share of audit assessments and collections, followed by sales and use tax audits, individual income tax audits, excise tax audits, and other audits.

TABLE 2

Audit Assessments by Tax Type: 2010-11 through 2015-16 (Millions)

<u>Fiscal Year</u>	<u>Individual Income</u>	<u>Sales and Use*</u>	<u>Corporate*</u>	<u>Excise</u>	<u>Other</u>	<u>Total</u>
2010-11	\$40.8	\$78.8	\$200.1	\$5.2	\$4.2	\$329.1
2011-12	50.6	79.8	129.9	3.7	0.8	264.8
2012-13	40.3	75.8	112.3	2.7	0.5	231.7
2013-14	42.7	59.2	76.7	1.9	0.2	180.6
2014-15	53.7	74.8	121.0	2.9	1.6	254.0
2015-16	54.5	103.9	166.7	2.8	2.2	330.0

*Nexus audit assessments are included in corporate income/franchise and sales and use tax collection data.
Source: Department of Revenue

TABLE 3

Audit Collections by Tax Type: 2010-11 through 2015-16 (Millions)

<u>Fiscal Year</u>	<u>Individual Income</u>	<u>Sales and Use</u>	<u>Corporate</u>	<u>Excise</u>	<u>Nexus*</u>	<u>Other*</u>	<u>Total</u>
2010-11	\$ 14.2	\$ 50.2	\$ 185.3	\$ 1.4	-	\$ 4.7	\$ 255.8
2011-12	18.6	49.5	130.0	0.8	-	1.5	200.3
2012-13	10.5	61.1	97.0	1.5	-	0.3	170.4
2013-14	9.9	47.8	83.4	1.3	\$9.2	0.1	151.8
2014-15	18.1	44.7	98.8	2.9	10.3	1.4	176.2
2015-16	14.4	58.5	78.0	3.3	16.1	1.9	172.1

*Nexus collections were included in "Other" tax types prior to 2013-14.
Source: Department of Revenue

6. The 102 positions provided under the 2015-17 biennial budget bill were intended to increase audit activities related to sales and use tax nexus investigation, corporate audits determining nexus and apportionment among combined group members, and audits of small pass-through entities. As shown in Table 2, the increase in 2015-16 audit assessments are almost entirely generated by corporate and sales and use tax assessments. As discussed previously, audit collections have not yet reflected that trend.

Compliance Bureau

7. DOR's Compliance Bureau is responsible for collecting all delinquent taxes and providing taxpayer assistance and information. According to DOR, the Compliance Bureau's delinquent tax collection staff totals 195 positions, comprised of: (a) 78 field revenue agents; (b) 76 central revenue agents, (c) 17 compliance service revenue agents; (d) four support staff positions; (e) 17 supervisor positions; and (f) three analysts and network coordinators. The Bureau also provides collection services for state agencies, counties, and municipalities through the statewide debt collection program and the tax refund intercept program, which are not described in this paper. Table 4 shows delinquent tax agent staffing levels in the Compliance Bureau since 2010-11, as well as delinquent taxes collected by those positions.

TABLE 4

**Compliance Bureau Delinquent Tax Collection Staffing Levels:
2010-11 through 2015-16 (\$ in Millions)**

<u>Fiscal Year</u>	<u>Number of Agents</u>	<u>Delinquent Tax Collections</u>	<u>Collections per Agent</u>
2010-11	178	\$202.3	\$1.14
2011-12	142	193.3	1.36
2012-13	141	193.6	1.37
2013-14	168	194.2	1.16
2014-15	170	204.1	1.20
2015-16	171	216.6	1.27

Source: Department of Revenue

8. As shown in Table 4, delinquent tax collections have been relatively stable since 2010-11. On a per agent basis, annual collections have been between \$1.14 million and \$1.37 million. Table 5 shows the average outstanding delinquent tax balance, the amount of new bills referred to the Collection Bureau, the amount of delinquent taxes collected, and the amount written off as uncollectible. The balance of other agency debt and total outstanding debt is also shown because DOR states that it cannot delineate the amount of delinquent tax bills written off from the amount of other agency debt written off.

TABLE 5

**Compliance Bureau Balance of Delinquent Debts
2010-11 through 2015-16 (Millions)**

<u>Fiscal Year</u>	<u>Delinquent Tax Balance</u>	<u>Other Agency Debts*</u>	<u>Total Balance*</u>	<u>New Delinquent Tax Bills Added</u>	<u>Delinquent Taxes Collected</u>	<u>Uncollectible Amounts Written off**</u>
2010-11	\$930.9	\$3.0	\$933.9	N/A	\$202.3	\$195.7
2011-12	968.5	29.7	998.2	\$424.0	193.3	126.5
2012-13	971.3	38.1	1,009.4	392.6	193.6	123.5
2013-14	975.5	46.9	1,022.4	412.5	194.2	122.0
2014-15	928.3	54.2	982.5	453.2	204.1	141.2
2015-16	950.4	71.9	1,022.3	633.1	216.6	129.4

* DOR could not provide data separating delinquent tax bills added and written off from non-tax debts owed to other agencies.

**Amounts written-off include debts owed to other agencies.

Source: Department of Revenue

9. As shown in Table 5, the amount of new bills referred exceeds the combined amount of delinquent taxes collected and the amount written off by the Collections Bureau. However, the delinquent tax balance is not shown to increase year-to-year. As noted previously, delinquent tax bills referred to the Compliance Bureau include delinquent assessments that are intentionally estimated higher than the amount actually owed by the taxpayer.

10. Table 5 shows that delinquent bills referred to the Compliance Bureau increased steadily from 2012-13 to 2014-15, but increased by \$179.9 million in 2015-16. According to DOR, the 2015-16 increase is likely a result of improved use of technology, increased income bills, strong efforts of individual staff, and auditing activity from the positions added in the 2015-17 biennial budget bill. As noted, if an audit assessment is not received by DOR's Audit Bureau within 72 days of issuing the assessment, the assessment amount is transferred to the Compliance Bureau and is recorded as a delinquent tax collection rather than an audit collection (Table 3). DOR believes that delinquent tax bills added to the Compliance Bureau will increase in 2016-17 after the new audit positions have been in effect for a full year.

Governor's Proposal

11. The Governor has recommended providing 38 project positions to DOR, 18 of which would be provided in the Audit Bureau and 20 in the Compliance Bureau. These project positions would be authorized beginning October 1, 2017, through September 30, 2021. Under a separate provision of the budget, 33 project positions that were authorized under 2013 Wisconsin Act 20 for a four-year period to increase enforcement of state tax laws based on a backlog of federal audit reports would expire on September 30, 2017. The expiring project positions had been reassigned to other auditing and tax enforcement activities after the backlog of federal audit reports was completed, and lower state tax revenues associated with the expiration of these positions have been accounted for in our office's state revenue estimates. According to the administration, it is likely that

a number of the same individuals currently working in the expiring Act 20 project positions would apply for the new project positions if authorized by the Committee. If that were to occur, it is reasonable to assume that those individuals would not require a significant non-revenue generating training period.

12. Under state law, a project position is defined as a position which is normally funded for a temporary workload increase or for a planned undertaking which is not a regular function of the employing agency and which has an established probable date of termination. A project position may not exist for more than four years.

13. As noted, the 33 expiring Act 20 project positions were repurposed for other tax enforcement activity after the backlog of federal audits was completed. The 38 project positions recommended by the Governor would be authorized on the day following expiration of the Act 20 project positions for the purpose of increasing tax enforcement activity. If approved by the Committee, the net number of tax enforcement project positions would increase by five on October 1, 2017.

14. According to DOR, project positions are being requested, rather than permanent positions, because it would provide the Department flexibility to review its staffing needs at the expiration of these positions to see if a future request is warranted and to what degree. However, it could be argued that recommending reauthorization and expansion of the number of tax enforcement project positions shows that the need is an ongoing, regular function of DOR. In addition, DOR and other state agencies can evaluate staffing needs and recommend deletion of permanent positions that are no longer needed in future budget submissions. The Committee could choose to provide permanent positions, rather than project positions, if the Committee believes that the positions are needed on an ongoing basis [Alternative 2].

15. The 18 project positions provided to the Audit Bureau would be comprised of 15 billing agents and three supervisors/lead workers. Billing agents do not conduct field audits of businesses, but perform audit related activities such as identifying: (a) discrepancies between W-2 forms and other information returns; (b) unreported income or deductions from pass-through entities; (c) unpaid sales taxes on private vehicle sales; and (d) Wisconsin tax liability changes resulting from federal audit reports. DOR estimates that the additional 15 billing agents will increase revenues collected by the Audit Bureau by \$12 million annually, or \$800,000 per billing agent. The administration's estimate for the amount of revenue generated per billing agent position is consistent with the average audit assessment per auditor over the past six years (as shown in Table 1), but is higher than the average amount of collections per auditor in five of the most recent six fiscal years. However, DOR states that different position types that focus on different audit activities generate differing revenue amounts.

16. The remaining 20 positions would be provided to the Compliance Bureau, comprised of 19 central compliance agents and one supervisor. The central revenue agents would perform some federal audit report work, but would also concentrate on income tax delinquencies and out-of-state delinquent accounts. DOR estimates that these positions would generate approximately \$20 million, annually, or \$1.05 million per central compliance agent. The administration's estimate for the amount of revenue generated per central compliance agent is lower than the average amount of

delinquent tax revenues collected per compliance agent shown in Table 4 from 2010-11 through 2015-16.

17. The administration's estimates for the amount of revenues generated per billing agent appear slightly high, but the amount of revenues generated per central compliance agent appears slightly low. On balance, the annual fiscal estimate of revenues generated by approving these positions appears reasonable. The administration has not accounted for a non-revenue generating training period, which is plausible if most of these positions would be filled by individuals already employed in expiring tax enforcement project positions. However, the administration estimates that revenues generated by these positions would be \$32 million in each year of the biennium, even though the positions would only be authorized for nine months in 2017-18. The estimate for revenues associated with these positions has been reduced by \$8 million in 2017-18 to account for the shorter period of authorized employment (nine months) in that year.

18. As noted, adopting the Governor's recommendation would increase the number of DOR tax enforcement positions by five compared to the number of tax enforcement positions authorized for 2016-17. As shown in Table 5, the amount of new delinquent bills referred to DOR's Compliance Bureau increased by almost \$180 million in 2015-16 compared to the amount referred in the prior year. It is reasonable to assume that the amount of delinquent bills referred to the Compliance Bureau will also increase in 2016-17 after the additional auditor positions authorized in the last budget have been effective for a full year. Under a separate provision of the bill, employers would be required to submit new information returns to DOR related to wages paid during a year to an employee from whom the employer is not required to deduct and withhold state withholding taxes. It would be reasonable to assume that the overall workload for billing agents that currently match information returns in DOR's Audit Bureau would also increase if that provision is adopted.

ALTERNATIVES

1. Adopt the Governor's recommendation to provide \$1,844,100 GPR in 2017-18 and \$2,458,800 GPR in 2018-19 and 38.00 GPR project positions annually to DOR to increase auditing activity and improve tax collections. Reestimate increased state tax revenues at \$24.0 million in 2017-18 and \$32.0 million in 2018-19. The project positions would be authorized from October 1, 2017, through September 30, 2021. Adopting the Governor's recommendation would increase net tax enforcement positions provided to DOR by five after expiration of the Act 20 positions.

ALT 1	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$4,302,900	38.00	\$0	0.00
GPR-Tax	\$56,000,000		- \$8,000,000	

2. Adopt Alternative 1, but provide permanent positions instead of project positions.

ALT 2	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$4,302,900	38.00	\$0	0.00
GPR-Tax	\$56,000,000		- \$8,000,000	

3. Delete the positions recommended by the Governor and maintain current law.

ALT 3	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$0	0.00	- \$4,302,900	- 38.00
GPR-Tax	\$0		- \$64,000,000	

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