



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #546

Additional State Debt Collector Positions (Revenue -- Tax Administration)

[LFB 2017-19 Budget Summary: Page 384, #2]

CURRENT LAW

The Department of Revenue (DOR) administers a 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. DOR may enter into agreements with such entities and charge a fee for the collection of unpaid fines, forfeitures, costs, fees, surcharges, or restitution payments on behalf of those entities.

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. Fees generated from SDC agreements are deposited as program revenue in DOR's collection of taxes -- debt collection appropriation. At the end of each fiscal year, the unencumbered balance in that appropriation account lapses to the general fund.

GOVERNOR

Provide \$383,600 PR in 2017-18 and \$511,500 PR in 2018-19 and 8.0 PR project positions (seven debt collector agents and one supervisor) annually to DOR's collection of taxes - - debt collection appropriation to improve the collection of debts owed to state agencies and local governments. Estimate increased amounts lapsed to the general fund of \$750,000 in 2018-19. The administration estimates that the additional project positions would increase debts collected by DOR by \$7.0 million over the biennium. The project positions would be authorized from October 1, 2017, through September 30, 2021.

DISCUSSION POINTS

1. The SDC program was created as a pilot project in the 2007-09 biennial budget bill. Prior to that time, DOR contracted with private collection agencies to take actions against delinquent tax accounts. DOR believed it could generate a greater return on investment if the state were to use its own compliance and audit staff to aggressively pursue delinquent accounts that would otherwise be referred to private collection businesses. The Department has the authority to take certain actions under the SDC program, such as to attach wages, levy nonwage assets, seize monies and personal property, and negotiate installment agreements, which are not available to private collection agencies. The Attachment shows the types of collection activities that DOR may engage in under current law.

2. State agencies are required by statute to enter into an SDC agreement with DOR to collect any amount owed to the 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 agency determines that the debtor is adhering to an acceptable payment arrangement. DOR is permitted to enter into similar agreements with the courts, the Legislature, state authorities, and local units of government.

3. The Legislature expanded the SDC program several times during the 2015-17 legislative session. Funding was provided to DOR under 2015 Wisconsin Act 55 to increase the number of dedicated SDC revenue agents from seven positions to 18 positions and to upgrade its information technology systems so that the Department could collect debts jointly-owed to state agencies and the federal government, such as debts owed the Department of Veterans Affairs and student loan debts owed to the University of Wisconsin. Restitution payments certified as owed by the Department of Corrections or the Clerk of Circuit Court were authorized to be included in SDC agreements pursuant to 2015 Wisconsin Act 355. In addition, 2015 Wisconsin Act 59 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. Table 1 shows information regarding SDC participation and collections since 2013-14.

TABLE 1

SDC Participants and Collections: 2013-14 through 2016-17

<u>SDC Participant</u>	<u>Number of Agencies</u>	<u>Debts Referred</u>	<u>Debts Recovered</u>	<u>Collection Fee</u>	<u>Total SDC Collections</u>
State Fiscal Year 2013-14					
Local Agency	24	690	\$117,121	\$37,122	\$154,243
Local Agency (Utility)	10	169	24,944	7,106	32,050
Municipal Court	1	1	5,017	1,817	6,834
State Agency	26	4,598	1,048,091	319,442	1,367,533
Technical College	5	352	143,186	79,026	222,212
University	<u>17</u>	<u>9,264</u>	<u>8,567,230</u>	<u>1,690,228</u>	<u>10,257,458</u>
2013-14 Total:	83	15,074	\$9,905,589	\$2,134,741	\$12,040,330
State Fiscal Year 2014-15					
Local Agency	57	3,022	\$446,678	\$115,382	\$562,060
Local Agency (Utility)	16	1,334	144,231	34,598	178,829
Municipal Court	12	2,725	322,721	105,684	428,405
State Agency	25	3,592	1,076,367	252,236	1,328,603
Technical College	9	4,074	1,785,387	490,071	2,275,458
University	<u>18</u>	<u>9,001</u>	<u>8,710,695</u>	<u>1,525,341</u>	<u>10,236,036</u>
2014-15 Total:	137	23,748	\$12,486,079	\$2,523,312	\$15,009,391
State Fiscal Year 2015-16					
Local Agency	86	2,920	\$893,745	\$231,320	\$1,125,065
Local Agency (Utility)	20	1,654	264,964	56,392	321,356
Court	5	5,112	196,976	63,251	260,227
Municipal Court	37	9,049	927,464	215,652	1,143,116
State Agency	26	3,291	1,171,665	261,549	1,433,214
Technical College	11	6,497	3,337,037	724,341	4,061,378
University	<u>19</u>	<u>10,648</u>	<u>10,481,167</u>	<u>1,843,344</u>	<u>12,324,511</u>
2015-16 Total:	204	39,171	\$17,273,018	\$3,395,849	\$20,668,867
YTD 2016-17 through April 1, 2017					
Local Agency	115	33,254	\$1,076,823	\$255,139	\$1,331,962
Local Agency (Utility)	22	1,668	173,907	35,704	209,611
Court	22	7,616	1,325,310	346,076	1,671,386
Municipal Court	85	39,229	1,960,670	523,504	2,484,174
State Agency	24	3,405	895,888	231,687	1,127,575
Technical College	12	9,896	3,467,724	678,960	4,146,684
University	7	11,177	7,788,278	1,128,101	8,916,379
Restitution	<u>24</u>	<u>86</u>	<u>1,347</u>	<u>423</u>	<u>1,770</u>
2016-17 YTD:	311	106,331	\$16,689,947	\$3,199,594	\$19,889,541

Source: Department of Revenue

4. As shown in Table 1, the number of participating SDC entities and number of debts referred to DOR have steadily increased each year. In addition, both the amount of debts recovered

and the amount of DOR's collection fee have increased each year, and the amounts collected through April 1, 2017 (nine months) nearly equal the total amount collected in 2015-16 (12 months). Increased collections and amount of debts referred to DOR in 2015-16 and 2016-17 reflect the legislative changes that expanded the types of debts that can be referred to DOR, as well as the increased debt collection activity from the added positions authorized under Act 55. Table 2 shows information regarding the balance of outstanding debts to be collected, the number of debt collector agents, and the amount of debts collected.

TABLE 2

SDC Balance, Collections, and Debt Collectors: 2010-11 through 2015-16

<u>State Fiscal Year</u>	<u>SDC Closing Balance*</u>	<u>SDC Collections</u>	<u>Debt Collector Agents</u>	<u>SDC Collections per Agent</u>
2011-12	\$29,116,987	\$4,090,178	N/A**	N/A**
2012-13	38,137,915	9,870,323	7	1,410,046
2013-14	46,870,171	12,053,147	7	1,721,878
2014-15	54,234,578	15,021,382	7	2,145,912
2015-16	71,895,022	20,709,782	18	1,150,543
March 1, 2017*	102,380,711	TBD	18	N/A

*SDC balance of debts shown is the closing balance for that year. March 1, 2017 shows the most recent closing balance provided by DOR.

**DOR did not have staff solely dedicated to the SDC program until 2012-13.

Source: Department of Revenue

5. As shown above, the balance of debts referred to DOR has grown steadily each year. The outstanding balance of debts grew by \$9.0 million in 2012-13, \$8.7 million in 2013-14, \$7.4 million in 2014-15, \$17.7 million in 2015-16, and by \$30.5 million through the first eight months of 2016-17. The large growth in the balance of SDC debts in 2015-16 and 2016-17 reflects the aforementioned law changes, including the increased number of debt collection agents working to broaden the number of SDC partners, and natural expansion as additional local units of government choose to enter into SDC agreements.

6. As shown in Table 1, the number of agencies partnering with DOR increased by 127% over the course of one year and nine months after 2014-15 (from 137 to 311). Table 2 shows that the balance of outstanding debts referred to the SDC program increased by 92% during the one year and two month period after 2014-15. Table 2 also shows that, although the balance of debts increased, the amount of SDC collections per agent increased from 2012-13 through 2014-15, but dropped by 43% in 2015-16 (the first year in which the additional 11 positions were authorized). According to DOR, the new positions focused on increasing debt collection capacity by increasing the number of SDC partners across the state. Although the amount declined, the average debt collected per agent still exceeded \$1.15 million.

7. The administration recommends adding 8.0 SDC project positions, comprised of one

supervisor and seven debt collector agents. DOR estimates that each new agent position would increase the amount of debts collected by approximately \$1.0 million annually once the positions are trained and working at full capacity. The estimate appears reasonable compared to the average amount of debt collected per agent shown in Table 2.

8. The administration has recommended the 8.0 positions be project positions, rather than permanent positions. According to DOR, project positions would allow the Department to reexamine the productivity of these positions after four years to determine if the positions are necessary. As shown in Tables 1 and 2, the number of SDC partnering agencies, debts referred to DOR, amount of debts recovered, and the outstanding balance of debts to be collected have steadily increased.

9. 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. The Committee could consider authorizing the recommended 8.0 positions as permanent positions, rather than project positions, if the Committee determines that these positions would likely be engaging in regular, recurring debt collection activities of the Department.

10. As noted, DOR has set its SDC fee equal to the greater of \$35 or 15% of the debts certified to be collected. The fee is charged to the debtor in addition to the debt amount collected on behalf of the entities owed the debt. Fees generated from those agreements are deposited as program revenue in DOR's collection of taxes -- debt collection appropriation to fund administration of the SDC program. At the end of each fiscal year, the unencumbered balance in that appropriation account lapses to the general fund. Table 3 shows the amount of fees collected by DOR, the Department's annual expenses incurred under the SDC program, and revenues transferred to the general fund over the last three state fiscal years.

TABLE 3

**SDC Fees Collected, Expenses Incurred, and Transferred to the General Fund:
2013-14 through 2015-16**

<u>State Fiscal Year</u>	<u>Fee Collected</u>	<u>DOR Expenses</u>	<u>General Fund Lapse</u>
2013-14	\$2,135,000	\$510,497	\$1,624,503
2014-15	2,523,000	545,909	1,977,091
2015-16	3,396,000	1,321,596	2,074,404

Source: Department of Revenue

11. As shown above, the fee paid by debtors to DOR has exceeded SDC program expenses by between \$1.6 million and \$2.1 million, or by between 157% and 362%. DOR estimates that fee revenues will exceed expenditures in 2016-17 and in each year of the 2017-19 biennium such that the transfer to the general fund will increase by approximately \$5 million annually compared to the

amount transferred in 2015-16. The administration estimates the additional 8.0 project positions would increase the estimated transfer to the general fund by \$750,000 in 2018-19. Based on information provided by DOR, it is estimated that the amount transferred to the general fund from the SDC program would be almost \$15 million (almost 400% more than estimated program expenditures) over the 2017-19 biennium if the Governor's recommendation were adopted.

12. The Committee could consider whether imposing a fee that is five times the cost incurred by DOR to collect debts on behalf of state and local units of government is an appropriate method for raising revenues that transfer to the general fund. As a comparison, private sector debt collectors are generally prohibited from collecting a surcharge above the amount of debt owed under the Wisconsin Consumer Act, but retain a portion of the repaid debt owed to the contracted entity.

13. Under the tax refund intercept program (TRIP), a program similar to the SDC program and funded with fee revenues deposited in the same appropriation, DOR can charge a fee for its administration expenses to offset costs incurred in administering TRIP. However, DOR is required to review its costs incurred during the previous year in administering TRIP and adjust its subsequent charges to each debtor to reflect that experience. DOR asserts that this provision does not apply to the fee charged under the SDC program because the Department is authorized to impose a "collection fee" rather than a charge for "administrative expense." Alternatives 3 and 4 present options that would require DOR to annually set its SDC fee at a rate that is estimated to generate fee revenues that are either: (a) as close as practicable to its costs incurred under the SDC program; or (b) twice the estimated costs incurred to administer the program. Although each alternative would reduce revenues available in the general fund, debtors would pay a lower fee that would cover the Department's costs to administer the SDC program.

ALTERNATIVES

1. Adopt the Governor's recommendation to provide \$383,600 PR in 2017-18 and \$511,500 PR in 2018-19 and 8.0 PR project positions annually to DOR's collection of taxes -- debt collection appropriation. Estimate increased amounts transferred to the general fund of \$750,000 in 2018-19.

ALT 1	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$895,100	8.00	\$0	0.00
GPR-REV	\$750,000		\$0	

2. Adopt the Governor's recommendation under Alternative 1, but make the positions permanent positions, instead of project positions.

ALT 2	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$895,100	8.00	\$0	0.00
GPR- REV	\$750,000		\$0	

3. In addition to either Alternative 1 or 2, require DOR to annually adjust the fee it charges debtors under the SDC program to be:

A. As close as practicable to DOR's estimated costs incurred to administer the program. Estimate that a minimal amount of revenue would transfer to the general fund each year.

ALT 3A	Change to	
	Base	Bill
GPR- REV	-\$14,200,000	-\$14,950,000

B. Twice the amount of DOR's estimated expenditures under the program. Estimate the amount transferred to the general fund at \$1.8 million in 2017-18 and \$2.0 million in 2018-19.

ALT 3B	Change to	
	Base	Bill
GPR- REV	-\$10,400,000	-\$11,150,000

4. In addition to Alternative 5, require DOR to annually adjust the fee it charges debtors under the SDC program to be:

A. As close as practicable to DOR's estimated costs incurred to administer the program. Estimate that a minimal amount of revenue would transfer to the general fund each year.

ALT 4A	Change to	
	Base	Bill
GPR- REV	-\$14,200,000	-\$14,200,000

B. Twice the amount of DOR's estimated expenditures under the program. Estimate the amount transferred to the general fund at \$1.4 million annually.

ALT 4B	Change to	
	Base	Bill
GPR- REV	-\$11,400,000	-\$11,400,000

5. Delete the positions and associated funding recommended by the Governor.

ALT 5	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
PR	\$0	0.00	- \$895,100	- 8.00
GPR- REV	\$0		- \$750,000	

Prepared by: Sean Moran
Attachment

ATTACHMENT

Department of Revenue -- State Debt Collection Initiative

Department of Revenue – Collection Authorities		
Collection Activity	Description	Statutory Authority
Cash Executions (seizure)	To obtain collection of a debt by seizing cash. This action requires a warrant lien.	Sec. 71.91(5), 77.62(1), 766.31, 766.55, 71.91(2), 71.91(3), Wis. Stats.
Garnishments - Continuous Wage	To obtain payment of a debt by attaching an individual's wages, salaries, commissions and other forms of personal compensation. This action requires a warrant lien.	Sec. 812.30 through 812.44 Wis. Stats.
Garnishments - Non Earnings	To obtain payment of a debt by attaching monies owed to the debtor other than personal compensation. This action requires a warrant lien.	Sec. 71.10(6)(a), 766.55, 812.01, 812.06 Wis. Stats.
Hearings - Informal	To establish contact with the debtors to resolve the account and/or gather collection information, e.g., obtain full payment and/or missing returns.	Sec. 73.03(20) Wis. Stats.
Hearings - Supplemental	To obtain collection and/or information from the debtor to assist in the collection of debtor's account. Although the primary purpose is "asset discovery" the procedure is also used to request the appointment of a receiver. This action requires a warrant lien.	Ch. 816, 71.91(5), 73.03(9), 73.04, and 77.62(1), Stats.
Installment Agreements	To enter into an arrangement acceptable to the Department of Revenue and debtor that will resolve the collection balance.	Sec 71.92(2), 77.62(4), Wis. Stats.
Levy	To attach the assets of a debtor (\$50 and over and with consideration for bank fees charged for this action), after voluntary collection efforts have failed. Levy is used when cash or liquid assets are held by a third party, such as a commercial bank.	Sec. 71.91(6) Wis. Stats.
Liens and Judgments	To enable legal collection actions by filing warrants with the Clerks of Circuit Courts in the county where the debtor taxpayer resides or owns personal and/or real property.	Sec. 71.91(4), 71.91(5), 71.91(5)(g), 71.91(5)(m), 77.62, 806.11, 806.15(1), 815.04, 893.40 Wis. Stats.,
Marital Obligations	To insure that marital obligations are collected from either the incurring person or their spouse. Debts incurred for periods after December 31, 1985, or the marriage date (whichever is later) are presumed to have been incurred in the interest of the marriage or family. (Wisconsin Marital Property Law in effect as of January 1, 1986)	Sec, 71.10(6m)(b), 766.55 and 859.18(3), Wis. Stats.
Personal Property Executions	To obtain collection on a debtor account by seizing personal property and selling it. This action requires a warrant lien.	Sec. 71.91(5), 77.62(1), 766.31, 766.55, 71.91(2), 71.91(6)(f)6, 815.05, 815.29(1) Wis. Stats.
Refund Offset	To obtain payment of delinquent debt owed by applying overpayments from tax types to delinquent debt.	Sec. 71.80(3m), 71.80(3m)(d), 71.55(1), 71.61(1), 71.10(6a & 6b), 71.93 Wis. Stats.
Subpoena - Administrative	To obtain records and information regarding potential collection sources.	Sec. 73.03(9), 73.03(20), 73.04(3), 885.01(4) Wis. Stats.
Unclaimed Property Offsets	To obtain payment of debt owed by applying amounts owed to a debtor for the return of abandoned property.	SS. 71.93(1)(d)2 and 177.20, Wis. Stats.
Wage Assignment	To attach the wages of a debtor who voluntarily requests their wages be attached to resolve their debt.	Sec. 71.91 Wis. Stats.