



DAN KNODL

STATE REPRESENTATIVE • 24TH ASSEMBLY DISTRICT

Assembly Bill 885

Public Testimony

Assembly Committee on State Affairs and Government Operations

February 16, 2016

Thank you Chairman Swearingen and committee members for hearing testimony on Assembly Bill 885. This proposal will allow the Milwaukee County administration to enter into an agreement with the State Debt Collection (SDC) program located within the Department of Revenue. The SDC program currently collects for public entities throughout the state including over 100 municipalities, 15 state agencies, and 14 UW Campuses.

Prior audits at the county level have shown that debt collection would be well served if it were centralized. Conservative estimates at the county level show a five percent increase in. Any agreement would require that Milwaukee County certify its debts to the Department of Revenue which would then become the collecting agency.

Debtors would be eligible to enter into payment plans for outstanding debt if their family income falls below 200% of the federal poverty level. There are also safeguards built in for unexpected medical expenses or unemployment as well as for active duty military service.

Some concerns were raised regarding the success of the SDC program versus current debt collection efforts in Milwaukee County. As a result of these concerns, the Department of Revenue will be required to issue an annual report on the debt collection efforts to the Joint Committee on Finance. This report would among other things, compare year to date collections with previous collection numbers to ensure that the program is successful. The Joint Committee on Finance will have the passive review process to consider recommendations offered by Department of Revenue.

A similar proposal was included in the original plan for financing the new arena in Milwaukee. You should all be in possession of a Legislative Council memo comparing the original debt collection plan to the plan proposed in AB 885. Thank you again for hearing testimony on AB 885 and I am happy to answer any questions you may have.



WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director

TO: REPRESENTATIVE DAN KNODL

FROM: Scott Grosz, ^{SA} Principal Attorney

RE: 2015 Assembly Bill 885, Relating to the Department of Revenue Collecting Debt for a County and Making an Appropriation

DATE: February 15, 2016

This memorandum responds to your request for a comparison of 2015 Assembly Bill 885 to the provisions of 2015 Assembly Bill 279, relating to constructing a sports and entertainment arena and related facilities and making appropriations. 2015 Senate Bill 209, the Senate companion to Assembly Bill 279, was amended in the Senate and enacted as 2015 Wisconsin Act 60.

LEGISLATIVE HISTORY OF 2015 WISCONSIN ACT 60

Assembly Bill 279 and its companion, Senate Bill 209, contained provisions relating to debt collection in Milwaukee County. As introduced, the bills required Milwaukee County to enter into an agreement with the Department of Revenue (DOR) no later than October 5, 2015 for the collection of debts owed to the county, and provided various procedures relating to that agreement and debt collection. The bills directed that revenues from such debt collection must be deposited in an appropriation account created by each bill.

As one component of financing for arena facilities, the bills then required \$4 million per year of such revenues to be transferred to the Wisconsin Center District. In any year in which DOR's collection of county debt is less than \$4 million, the bills provided for a reduction in the county's municipal aid payment in the amount necessary to provide the transfer of \$4 million to the Wisconsin Center District.

Prior to enactment, Senate Bill 209 was amended to remove all provisions of the bill relating to the collection of Milwaukee County's debts by DOR. Instead, under the amendment, and as enacted, the county's municipal aid payment must be reduced by \$4 million per year during the 20-year period for financing arena facilities. Act 60 retained the transfer of that \$4

million per year to the Wisconsin Center District as one component of financing for the arena facilities.

ASSEMBLY BILL 885

Assembly Bill 885, relating to DOR collecting debt for a county and making an appropriation, would use a similar structure to that proposed in Assembly Bill 279 to direct Milwaukee County to enter into an agreement with DOR to collect county debt no later than June 30, 2016. Generally, revenues collected under the agreement would be transferred to the county. In several instances, the provisions of Assembly Bill 885 depart from the provisions regarding debt collection in Assembly Bill 279, including the following:

- Technical changes to specify new dates regarding implementation of the debt collection agreement required by the bill and to recognize prior treatment of debt collection statutes in 2015 Wisconsin Act 55.
- Authorization for the Milwaukee County Executive to establish a division of revenue within the county Department of Administration to administer debt collections under the agreement and to establish payment plans for certain qualified debtors, and specification that the county executive may approve acceptable payment arrangements as those arrangements relate to collection efforts under the agreement with DOR.
- From the revenue received under the debt collection agreement, commitment of \$1 million each fiscal year for job training and workforce development programs, through agreement with the local workforce development board.
- Specification that if a county does not certify its debts to the fullest extent possible, as determined by the DOR Secretary, the Secretary shall report to the county its estimate of foregone revenue and the unit of county government responsible for not certifying the debt to the fullest extent possible. Upon receiving such a report, the county shall proportionately reduce funding to each responsible unit of county government in the final budget approved by the county.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

SG:ty

Milwaukee County Revenue Expansion Act: FAQ's

Introduced by a bipartisan coalition of Milwaukee-area legislators, AB 885/SB 735 would allow Milwaukee County to join other municipalities, state agencies, and the UW System campuses in participating in a State of Wisconsin revenue collection program created under former Governor Jim Doyle and the Democratically-controlled legislature in 2009.¹ The State of Minnesota employs a similar program with its Department of Revenue collecting debts for other state agencies, the University of Minnesota, and County and District Courts.

Participation would let Milwaukee County strengthen its debt collection efforts, primarily related to suburban-located properties, allowing the County to invest \$20 million in workforce development initiatives in areas with high poverty and high unemployment.

1. Doesn't this punish poor people?

No. Actually, this legislation provides more protections than ever before for individuals who owe debts that they are unable to pay, through no fault of their own. Right now there are no protections in place for vulnerable individuals who can't afford to pay. Through this bill, the County will be able to enter into payment plans for individuals whose family income is less than 150% of the federal poverty line (FPL), those who have experienced unemployment which is expected to drop their annual income below 150% of FPL, individuals who have experienced a family hospitalization or disability which is expected to drop their annual income below 150% FPL, and individuals who are on active duty military service.

Currently, there is no uniform criteria applied to repayment plans, income based or otherwise. Courts currently use the underwriting criteria of a private debt collector -- who can employ aggressive and arbitrary collection tactics with little to no oversight -- rather than these objective, income based standards.

The goal of this legislation is not to punish people who are down on their luck -- it is to collect payment from corporations and individuals who are able to pay what they owe but have not.

The County also recognizes that many people who need assistance may be reluctant to seek help for which they qualify out of fear of collection efforts on debts they owe the County. This legislation will help bring vulnerable individuals out of the shadows and allow them the opportunity to interact with County staff who can provide referrals to other services, such as mental health, housing, transit, job training, and child support services.

2. Why should Milwaukee County taxpayers be on the hook for an arena for billionaires? Isn't that what this is?

It's true that the legislation that passed on the Bucks arena created a \$4 million tax loophole for Milwaukee County taxpayers, which wasn't the county executive's preference. The County already has

¹ 2009 Wisconsin Act 28

<http://doa.wi.gov/Documents/DEBF/Budget/Biennial%20Budget/Biennial%20Budget%20Archives/2009-11%20Biennial%20Budget/566-DOR.pdf>

accounted for the \$4,000,000 reduced shared revenue related to the arena. Consequently, any new debt collected can be allocated.

This bill doesn't fund the arena; it simply allows the County to more effectively and efficiently collect the debts it is owed, which will generate more revenue that can be spent funding needed priorities, like workforce development, transit, housing, healthcare, and our parks.

3. How much is owed to the County? What is the debt and who owes it?

Based on conservative estimates, the County is owed approximately \$63 million in uncollected debts, a majority of which is related to unpaid property taxes in the Milwaukee County suburbs. This also includes court-related debts for things like fees and penalties associated with OWI offenses. Not included in this debt are municipal infractions, such as unpaid parking tickets issued by the City of Milwaukee or municipal fines associated with driver's license suspensions. Those debts remain with the City of Milwaukee Municipal Court, and are not a part of the County's collection efforts.

Examples of this debt include more than \$69,000 owed in property tax by a single Oak Creek Developer and \$131,466 dating back to 2004 that's owed by a Mequon corporation.

The independently elected Milwaukee County Comptroller's most conservative assumption, a revenue collection increase of just 1%, would result in an average of \$1 million per year over the next 20 years in new revenue.² A revenue collection increase of 5% would result in an average of \$1.85 million per year in new revenue.

This combined effort of (a) collecting from those that are able to pay, and (b) establishing payment plans and assistance that protect those that are not able to pay is similar to Milwaukee County's recent efforts regarding the collection of Child Support payments. This effort has resulted in a 9% increase in the delinquency collection rate over just two years, yielding millions of additional dollars collected for Milwaukee County children, and the attraction of regional awards and national grants. The County's Child Support program is also focused on empowerment; it provides opportunities for parents to increase their economic security by providing job training and driver's license recovery in addition to providing referrals to mental health counseling, family counseling, and peer mentoring programs. The County seeks to replicate this success as broadly as possible.

4. What will the County do with the money it collects?

The legislation commits the first \$1 million in new revenue to the Milwaukee Area Workforce Investment Board (MAWIB) to administer workforce training initiatives for residents of Milwaukee's poorest neighborhoods. The return on investment here can be tremendous -- this is real training that empowers people to get a family-supporting career.

MAWIB has a proven track record of achieving significant wage gains for unemployed and underemployed individuals working in the healthcare sector, and is already administering UpLift MKE,

² Milwaukee County Office of the Comptroller, "Milwaukee County's Receivables and its Collectability," June 11, 2015, Legistar File 15-442, available at <https://milwaukeecounty.legistar.com/LegislationDetail.aspx?ID=2354353&GUID=B449D931-72C2-4DAF-A053-4E465740FD9D&Options=ID|Text|&Search=15-442>

an ambitious program proposed by Milwaukee County Executive Chris Abele that provides job training, placement, and support for residents of Milwaukee's poorest neighborhoods, including 53206. The remaining new revenue will go towards other County services, like Transit, Parks, and various social services.

5. How will we ensure the defendants and property tax payers receive proper credit for payments made to the Department of Revenue?

The SDC Program provides monthly deposits and monthly reporting of debts collected. The Clerk would maintain the responsibility of entering payments received from the monthly reports into the CCAP system. The Treasurer would maintain the responsibility of entering payments received from the monthly reports into its system for tax foreclosure purposes.

6. Why isn't restitution part of the bill?

Restitution is an important part of our criminal justice system and it is important that it is collected with the same vigor as other debts. This bill, however, is about revenue for the County and those that owe money to the County. The County, of course, is not the owner of the restitution debt and the County could not, for example, use the revenue from restitution to cover workforce development expenditures as required by the bill (section 8, lines 9-12).

The actual language of the bill is "The agreement [with DOR] shall specify that debts under s. 59.40 (4) or 59.52 (28) for restitution owed to a person other than the county will not be certified for the purposes of this subdivision." (emphasis added). The Clerk would still maintain the ability to certify restitution to the SDC program, with a County Board Resolution, under Wis. Stat. 59.40(4)(a).

AB 885 – Milwaukee County Revenue Expansion
Testimony of Eric Peterson, on behalf of Milwaukee County Executive Chris Abele
Assembly Committee on State Affairs & Government Operations
Tuesday, February 16, 2016

Chairman Swearingen & members --

Thank you for taking testimony today on this bill, AB 885, Milwaukee County's Revenue Expansion which provides for the use of the State Debt Collection program for Milwaukee County debts. This issue came to prominence during the discussion of the funding mechanism for the new Bucks arena earlier this session. While the Legislature chose not to pursue this option at that time, we are thankful for the bipartisan support of the authors to advance this bill. It is important to note at the onset of this hearing and the legislative consideration of the bill that this proposal does not "fund" the Bucks arena or in any direct way connect to the County's share of the cost of the arena.

As you likely know the state debt collection program was begun in 2009 as a way to centralize and enhance the collection of debts owed to the state. The program was modeled after the very successful comparable program in Minnesota which has had remarkable success for the state. Since the inception of the program all state agency debts and local municipalities/authorities who have elected to join the state program have benefitted from the wider array of tools that can be used by the state to collect a debt.

In Milwaukee County, current practice is much like the practices of the state before centralization happened in 2009. Different departments and constitutional offices all hold different debts with different internal policies for collecting on the debt. There certainly is no consistency nor certainty for both the county on the collection of the debt and for the person owing the debt. Simply put, Milwaukee County has protected the "silos" of individual programs and offices with moving forward with common-sense centralizations and collaboration. In fact, a 2007 audit, done by the County Auditor, recommended centralizing the debt of the county in one functional place in the County. Sadly, it is 9 years later that we are before the Legislature to make such a reality happen due to local resistance to our own local advice.

This proposal is relatively simple in its concept. Bills that are past due 90 days will be considered debts and transferred to the newly created Division of Revenue at the County. That office will assess the debtors ability to pay, their income level, and the other extenuating circumstances that would prevent a debtor from being able to pay. This is where those persons in poverty would be firewalled out of the state debt collection and the county Revenue office would help to create payment plans and also connect these debtors to public and private services that can serve to help the debtor achieve a better financial foothold. Think of these revenue agents, not as the taxmen, but rather like wraparound service providers to this population.

For those with an ability to pay, the debt is then sent to the State Debt Collection program, which can set up payment plans, utilize garnishments, seize assets, etc. to collect the debt. Again, the state program is replete with examples of further success in collecting debts due to the tools a sovereign state can use to collect the debt. All of the collected debt is returned to Milwaukee County as general revenue.

Of the debts collected, the bill calls for the county and the local Workforce Investment Board, MAWIB to enter into an agreement for job training and workforce development and allocates the first million dollars of collected debt annually to fund that agreement. This represents over the 20 year lifespan of the bill, an estimated \$20 million dollar investment in workforce development and training in Milwaukee, based on a 5% increase in collections over the current methods.

The State DOR and County Comptroller, along with the authors have identified a few changes to the bill that are necessary from the original blueprint of the program laid out in the Bucks arena bill. These changes are embodied in Amendment 1 and we concur that they not only strengthen the county's position, but also provide better clarity to the intent and scope of this proposal. We urge your support of the amendment as well.

In summation, this proposal is about centralizing and leveraging a greater set of tools available to counties through state debt collection while protecting those in poverty and matching them with services. The experience in Minnesota and our state agencies has shown that this program can achieve better results for the taxpayers of Milwaukee County than our current methods and can do so without draconian impacts on the impoverished.

I have attached and distributed a far more descriptive memo and FAQ about the proposal along with points in the proposal that address some of the concerns the committee may have heard. I am happy to address those concerns and answer questions you may have.

Thank you.

Credit Management Control
RECOVERY SERVICES SINCE 1980

Presented to:



Assembly Committee State Affairs and Government Operations

Presented by:
 Jim Brick

February 16th, 2016 Credit Management Control

Credit Management Control
RECOVERY SERVICES SINCE 1980

- This bill makes the decision that Milwaukee County will no longer contract with Credit Management Control, Inc. and will use the SDC/DOR. Before entering into this decision it is only fair to hear what services we currently provide and what services they will provide.
- **If the SDC/DOR is interested in competing for this business they should complete a proposal not have a law passed to mandate they get the business.**

Credit Management Control

Credit Management Control
RECOVERY SERVICES SINCE 1980

- When this bill was proposed last week no one in the Clerk of Courts office was aware of it and are not in favor of Bill?
- **This is evident as a request of proposals was issued on 2/2/2016?**
- An RFP was issued because the SDC option was evaluated and determined to not be a valid option.
- **The Clerk of Courts is an elected official who works with the County Board in Milwaukee – this bill is an attempt to bypass them and the job they were elected to do.**

Credit Management Control

Credit Management Control
RECOVERY SERVICES SINCE 1982

Collection Services

- ✓ Pay-fine.com
- ✓ IVR – 866-421-0994
- ✓ Courtroom representative
- ✓ TRIP
- ✓ Income assignments
- ✓ Comprehensive collection services
- ✓ Restitution



Benefit for Milwaukee County	Credit Management Control	State Debt Collection
TRIP processing	YES (89% of debt certified)	YES
Wage garnishment	YES	YES
Restitution account processing at no charge	YES (Over \$625,000 collected since 2013)	NO
Exclusive pay-fine.com website to process payments (non-past due payments)	YES (\$1.4 million annually)	NO
Exclusive Interactive Voice Response (IVR) phone number for debtors	YES	NO
Agency representative at courthouse 5 days/week to accept payments	YES	NO
Continues to work TRIP accounts regardless of age	YES (over half of 15% collections has come from accounts 2 year or older)	NO (returns accounts after two tax cycles)
Can collect on accounts as low as \$20	YES	NO (\$100 minimum is proposed)
Can accept high-volume/batch listings from the county	YES	NO
All required, free-of-charge debtor notices already in system	YES	NO
Actively works voluntary pay accounts by sending notices, making calls, reporting to credit bureaus, etc.	YES	NO

Credit Management Control
RECOVERY SERVICES SINCE 1982

Pay-fine.com is a Milwaukee County-exclusive website that processes payments on new tickets



Credit Management Control
RECOVERY SERVICES SINCE 1983

Collection Process - Payment Processing

- ✓ We accept Visa, MC, Discover, Amex, debit cards, checks (processed electronically), money orders, cash, Money Gram/Western Union
- ✓ Direct payments can be called in or posted via debtor web link, www.weblinkpay.com and can be viewed by client
- ✓ Reoccurring ACH and credit cards are processed automatically on the date approved by the debtor
- ✓ All payments are matched to the account info for accuracy and posted to account the same day received
- ✓ Payments are applied to oldest accounts first



Credit Management Control
RECOVERY SERVICES SINCE 1983

Performance

Since September 2009:

- ✓ Recovered 41% of listings
- ✓ Total listings: \$41,571,572
- ✓ TRIP Collections: \$8,882,842
- ✓ Regular Collections: \$8,180,465

Total \$17,063,307

Credit Management Control
RECOVERY SERVICES SINCE 1983

Performance

2014 TRIP period: \$1,402,291
 2015 TRIP period: \$995,139
(decrease due to State income tax withholding change)

Non-past due payments processed annually \$1,405,000

Collections 1/1/15 – 6/30/15 (on accounts 2013 & older):
 \$833,363 (out of a total of \$1,535,577 collected)
(Over 90% of collections is from accounts over 2 years old)

Restitution collected at no cost (since 2013): Over \$625,000

Thank you for your time and consideration

Jim Brick

Credit Management Control
RECOVERY SERVICES SINCE 1980

Power – Performance - People

Proven Business Partner

Thank you for your time and consideration

Jim Brick



Credit Management Control



State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK ROAD • Mail Stop 624A • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX (608) 266-5718
<http://www.revenue.wi.gov>

Scott Walker
Governor

Richard G. Chandler
Secretary of Revenue

February 16, 2016

Representative Rob Swearingen
123 West, State Capitol
Madison, WI 53708

Chairman Swearingen:

As the Assembly Committee on State Affairs and Government Operations considers Assembly Bill 885, relating to the Department of Revenue's debt collection program, I want to provide some background information about the State Debt Collection (SDC) program.

Many times government entities can work together to achieve efficiencies they could not achieve alone. The SDC program run by the Wisconsin Department of Revenue is a prime example of this. It provides an efficient method of collecting delinquent debt owed to governments.

The SDC program was created by legislation in 2009 and modeled after a similar program operated successfully in Minnesota. Current participants include more than 150 government entities all across the state of Wisconsin, including municipal agencies, state agencies and University of Wisconsin campuses. Collections have increased from \$300,000 in 2011, the first full year of operation, to \$15 million in 2015. The average rate of collection for SDC participants is 28% of delinquent debts.

The SDC program is an efficient way to collect debt. The SDC program has more comprehensive collection tools than other debt collection programs. It follows best practices for collecting debt, including centralization of collections, use of the most effective collection tools, and reduced collection fees. SDC charges collection fees to the debtor, which means that governments receive full payment when debts are collected, rather than payment minus a percentage collection fee.

As it relates to AB 885, the department has shared our technical concerns with the authors. The department wants to ensure we have the resources to handle an increased workload and that any changes to the language do not interfere with the current operation of the SDC program.

We are glad to be able to work as partners to help state agencies and local governments operate more efficiently and generate resources for the critically important services they provide. I hope this background is helpful to the committee.

Sincerely,

Nate Ristow
Legislative Advisor
Department of Revenue

cc: Senator Alberta Darling, Representative Dan Knodl, Senator Lena Taylor, Representative Josh Zepnick



Supreme Court of Wisconsin

DIRECTOR OF STATE COURTS

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Shirley S. Abrahamson
Chief Justice

16 East State Capitol
Telephone 608-266-6828
Fax 608-267-0980

A. John Voelker
Director of State Courts

Testimony
Of
Nancy Rottier
Legislative Liaison

In Opposition to

2013 Assembly Bill 74

Committee on Energy, Consumer Protection, and Government Reform

Senator Robert Cowles, Chair

March 26, 2014

Thank you, Chairperson Cowles and members of the Committee. I am Nancy Rottier, the Legislative Liaison for the Director of State Courts. On behalf of the Legislative Committee of the Judicial Conference and our Committee of Chief Judges, I want to express our opposition to Assembly Bill 74, relating to the funding of crime prevention organizations through the creation of a new crime prevention funding board and a new surcharge. This testimony is substantially similar to testimony I gave on Senate Bill 100, the companion bill, before the Senate Committee on Judiciary and Labor on February 20, 2014.

The Committee of Chief Judges, made up of the ten circuit court judges appointed by the Supreme Court to handle the administrative details of the circuit courts, has a long history, going back to the mid-1990s, of attempting to properly implement the previous crime prevention organization (CPO) statute. One set of legislative reforms that we advocated was adopted in 1999 Wisconsin Act 58. I have attached a March 9, 2000 letter from the Director of State Courts to Governor Tommy Thompson, urging him to sign the bill and outlining the various reforms to the CPO process that were contained in it.

Despite the enactment of these reforms of the CPO process, problems continued and the Chief Judges once again took an in-depth look at it. Due to continuing administrative problems and the inherent ethical conflict that the previous statute posed for judges, the Chief Judges sought to repeal it. That was successfully done in 2007 Wisconsin Act 84. The 2007 legislation also stopped the practice of District Attorneys electing not to initiate a criminal prosecution based on the payment of money to a crime prevention organization or other outside agency. I have attached an October 16, 2007 letter supporting 2007 AB 472 (the companion to SB 244 that became Act 84) in order to better understand what led the Chief Judges to recommend repeal of the CPO process. *All of the reasons cited in 2007 continue to apply to this legislation in 2014!*

Our efforts to pass 2007 Act 84 should not be seen as a judgment about the worthiness of CPOs in general or any organization in particular. Most of the non-profit organizations that received funding were worthwhile organizations.

Last session, there was a bill introduced would have reinstated the exact provisions that were repealed by 2007 Act 84. We strongly opposed reinstatement of the CPO legislation. We urge you to reject the alternative approach that is before you today.

We recognize that AB 74 does eliminate one of our main objections to the previous CPO legislative scheme: the discretion it gave judges to impose the CPO surcharge. Our objection then was that it was inappropriate to have the court system serve as a “fund-raising mechanism” for nonprofit organizations. Judges had found themselves being lobbied by various groups that were seeking funds, asking the judges to impose the CPO surcharge in order to help the groups raise money. Judges are strictly forbidden from fundraising for any organization on their own time under the Code of Judicial Conduct, and it certainly appeared questionable that they could use their role as judicial officers to be involved in fundraising for CPOs. In addition, it created the perception that those with the ability to pay the contribution were treated differently.

AB 74, while taking a different approach to funding crime prevention organizations, comes with its own difficulties. The bill provides a seat for the presiding judge of the circuit court or his or her designee on the new Crime Prevention Funding Board (CPFBoard). We are concerned that this participation creates the same kind of ethical conflict for the presiding judge that existed under the old CPO statutory scheme. The judge is placed in the situation of being lobbied by organizations and others for a favorable funding decision.

Besides the inherent ethical conflict for judges, AB 74 presents some of the same practical difficulties that were present in the old CPO statutory scheme. These include the following:

- The definition of a crime prevention organization has never been fully clarified. It has always been difficult to clearly identify what constitutes a “crime prevention organization.” The lack of clarity in the previous statute led to litigation challenging some CPO contributions. In 2005 we requested an opinion from the Attorney General about this and other CPO issues. I would be happy to supply committee members with a copy of the opinion. The opinion outlines some of the definitional and practical problems of CPOs, many of which will again be relevant if AB 74 becomes law.
- The collection process in most counties is already strained from efforts to collect the statutorily-mandated restitution, fines, forfeitures and surcharges. As the Chief Justice has noted in past budget presentations, the continued proliferation of surcharges jeopardizes access to the court system and significantly increases the amount of money a violator must pay. The statutes already contain 35 different court-imposed surcharges, 24 of which are applicable in criminal cases.
- The Legislative Audit Bureau (LAB) released an August 2012 audit of the crime victim and witness assistance surcharge revenue. Questions had been raised regarding the reasons surcharge revenue had declined, despite a \$7.00 increase to the surcharge. The LAB report noted that the decreased number of convictions, the extent of unpaid surcharges, and statewide economic trends helped explain the decline. An additional \$20.00 would make it more difficult for individuals to pay.

- The potential for abuse or questionable practices involving CPOs can be avoided. We were fortunate that no major abuses of the previous CPO process were uncovered, but we did find questionable expenditures as we studied that system.

Earlier this year, the Legislature added a new CPO surcharge to the proposed state budget, essentially adding AB 74 to the budget. We agree with Governor Walker's reason for vetoing this provision, when he said:

I am vetoing these sections because I object to the creation of an additional surcharge and an additional board, which may have no demonstrated effectiveness. There are already numerous surcharges on felony and misdemeanor convictions, and adding an additional surcharge will detract surcharge revenue from many other proven and worthwhile crime victim services and law enforcement programs.

The Governor's conclusion mirrored the same point made by the Chief Judges in their 2007 letter: "Although the concept of 'making the criminals pay' for CPOs is a worthy one, in this time of economic difficulties the taxpayers are better served by the increased collection of fines and forfeitures which directly fund county and state budgets."

When AB 74 was heard by the Assembly Committee on Judiciary, the same point was made by the Department of Justice when it recommended the committee vote *against* passage. A copy of the DOJ memo is attached. The memo includes the following; "While crime prevention efforts are a vital element of public safety, recent revenue collection history suggests the funding mechanism contemplated in the Bill is likely to create an uncertain revenue stream for the newly created grant program. . . ."

To give you more information on the cumulative effect of creating these numerous surcharges, I have included a table with some examples of the impact of the various surcharges in typical forfeiture and criminal cases. I have also used one example of a \$200 fine for shoplifting to show how the total charged -- \$715.00 -- is distributed.

Assuming all of the \$715.00 is collected by the Clerk of Circuit Courts office, only \$19.99 stays with the county government -- \$10.00 for the jail and \$9.99 for the county treasury. That means the county supplies the staff and office to collect the funds but keeps only 2.8% of the funds collected.

Two large portions of these surcharges and costs are relatively new. In 2009 Wisconsin Act 100, the Legislature added \$143.00 to the clerk's fee to fund prosecution of and services for operating while intoxicated (drunk driving). Those funds go to the state general fund. In this most recent state budget, the Legislature added the DNA surcharge of \$200.00 for each misdemeanor and \$250.00 for each felony. Those funds go to DOJ for use in supporting the DNA databank.

For these policy and administrative reasons, we urge you to reject AB 740. We would be happy to discuss more of the history of our experience with the previous CPO statutory scheme, and our reasons for questioning the new approach taken by this bill. Thank you.

Attachments

Certain Fines and Forfeitures as a Percentage of Total Financial Penalties

<u>Fine or forfeiture amount</u>	<u>Costs, fees, surcharges</u>	<u>Total financial penalty</u>	<u>Fine/forfeiture as a % of total financial penalty</u>
\$30 forfeiture Speeding 10 mph over limit 346.57(4)(a)	+ \$145.30 civil offense	\$175.30	17%
\$150 forfeiture OWI 1 st offense 346.63(1)(a)	+ \$611.50 civil offense includes \$435 driver improvement surcharge	\$761.50	20%
\$0 fine	+ \$443.00 misdemeanor	\$443.00	0%
\$200 fine Shoplifting 943.50(4)(a)	+ \$515.00 misdemeanor	\$715.00	28%
\$400 fine OWI 2 nd offense 346.63(1)(a)	+ \$1,042.00 misdemeanor includes \$435 driver improvement surcharge	\$1,442.00	28%
\$2000 fine Possess cocaine 2 nd offense 961.41(3g)(c)	+ \$2,948.00 felony includes \$1890 drug abuse program surcharge	\$4,948.00	40%

**Distribution of \$715 Penalty Based on \$200 Fine For Shoplifting
(Payments are applied in the following order, per s. 973.05(2m))**

- \$ 52.00 penalty surcharge – to DOJ for law enforcement training
- \$ 10.00 jail surcharge – to the county to maintain its jail
- \$ 13.00 crime lab and drug surcharge – to DOJ for the crime lab
- \$ 67.00 crime victim and witness surcharge – to DOJ to support victim-witness assistance and services
- \$200.00 DNA surcharge – to DOJ to support the DNA database
- \$ 10.00 drug abuse offender diversion surcharge – to DOJ for grants to counties for substance abuse diversion programs (TAD grants)
- \$200.00 fine – to the common school fund
- \$163.00 clerks fee -- \$9.99 to the county and \$153.01 to the state general fund (includes \$143 imposed to pay for 2009 Act 100 re OWI enforcement)



Supreme Court of Wisconsin

DIRECTOR OF STATE COURTS

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Patience D. Roggensack
Chief Justice

16 East State Capitol
Telephone 608-266-6828
Fax 608-267-0980

J. Denis Moran
Director of State Courts

Written Testimony
Of
J. Denis Moran
Director of State Courts

For Information Only
2015 Assembly Bill 885

Department of Revenue Collection of Milwaukee County Debt

Assembly Committee on State Affairs and Government Operations
Representative Rob Swearingen, Chair
February 16, 2016

I regret I will not be available to testify in person this morning, but I hope the committee will accept this information on behalf of my office. I am Denis Moran. I am the Director of State Courts, the chief non-judicial officer of the court system in the state. My testimony is for information only. Court personnel and staff have studied Assembly Bill 885 and have sought answers to how the bill would be implemented. We remain troubled by the lack of clarity of the bill's provisions, by the restrictions placed on the courts in Milwaukee County and by possible unintended consequences of the structure of the bill.

We recognize that various forms of debt owed to Milwaukee County are covered by the bill, but my written comments will address only the debt that is the responsibility of the court system. That debt is collected by the Clerk of Circuit Court.

First, the bill is silent on how debts owed to the courts that are collected by the Department of Revenue (DOR) will be credited to the individual cases from which they arise. Will the funds actually flow through the accounts of the Clerk of Circuit Court or will there simply be a report of the amounts collected from particular cases? How will the Clerk record the payments for the fees, surcharges and other statutory court-ordered amounts that are collected? There are currently approximately 50 different accounts that we track and report on every month. Different types of cases are responsible for some surcharges and not others. These are all defined by statute. How does the procedure created by AB 885 fit into the existing statutory framework?

Second, will the required payment of \$1,000,000 by Milwaukee County to a local workforce development board that is to come "from the revenue received under subd.2," result in collections of court debt being diverted from their designated statutory purposes? (See page 7, lines 9-12)

Third, does the bill restrict the ability of judges and clerks to negotiate payment plans? Payment plans are not just about collecting the maximum amount for the state and county coffers; they are also important tools for enforcing court orders. Judges often have to balance a party's resources against obligations for child support, substance abuse treatment, family counseling, attorney fees, and other costs associated with the case. Courts need the ability to set the terms of any repayment plan, and that need continues well after the judgment is entered. Will judges and clerks be constrained in what they can agree to by the requirement of certifying all debt "more than 90 days past due?" (See page 5, lines 14-16)

Fourth, we do not understand the meaning of the proposed s. 59.67(3), which includes the phrase "and no other person shall have any claim to the amounts?" Who does it apply to? (See page 5, lines 21-24)

Fifth, will there be a significant reduction in funds available to the Milwaukee County Clerk of Court's office because of the language penalizing a county department that fails to certify its debts "to the fullest extent possible," as determined by DOR? If that happens, there is the potential to cripple our largest court, a court that handles more than 100,000 cases every year. Personnel from the Clerk's office serve in courtrooms every day, whether the court is hearing criminal cases, small claims, contract cases, probate, family law or juvenile cases. Their services are essential to a properly-functioning, efficient court system. (See page 7, lines 13-20)

Sixth, will it be feasible for the Milwaukee courts to transfer their debts electronically without a CCAP-DOR interface? No such interface currently exists, and we do not know the cost or the length of time it would take to build such an interface. That is a cost that would be borne by the state court system through its CCAP program. CCAP has already suffered from declining program revenues over the last several years, and this would add to the current strain on its resources. (See page 5, line 12)

And finally, does AB 885 set a precedent that will hurt other clerks of court if they choose to use DOR debt collection? Will it be forced upon them, as this bill does to Milwaukee County?

There is nothing inherently wrong with any county using the DOR debt collection process; some counties already have agreements with DOR to use that service for court-related debts. But those counties have entered into agreements voluntarily and have had an opportunity to work out each party's responsibilities.

What is worrisome about AB 885 – and which we sincerely hope this committee will inquire into – is the number of unanswered questions relating to implementation of this proposal. If a proposal of this kind is to be forced on a county, then all parties should be fully aware of how the program is to work in order to avoid unintended consequences.

Thank you for holding this public hearing today and accepting this written testimony.