Legislative Fiscal Bureau

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Use of Energy Conservation Public Benefits Funds for State Agency Fuel Costs (DOA, DHFS, Military Affairs and UW System)

[LFB Summary of the Governor's Budget Reform Bill: Page 7, Item #1; Page 56, Item #14; Page 65, Item #3; and Page 103, Item #4]

CURRENT LAW

Under s. 16. 957(2) of the statutes, the Department of Administration (DOA) is required to establish two public benefits programs. One program provides grant assistance to low-income households for weatherization and other energy conservation services, the payment of energy bills and the early identification and prevention of energy crises. The second program awards grants for energy conservation and efficiency services and for renewable resource programs. DOA has promulgated administrative rules governing grant eligibility under each of these programs.

The energy conservation and efficiency services portion of the second program gives priority to proposals directed at: (1) sectors of the energy conservation and efficiency services market that are the least competitive; and (2) promoting environmental protection, electric system reliability or rural economic development. The renewable resources portion of this program focuses specifically on encouraging the development or use of utility customer and electric cooperative member applications of renewable resources, including educating customers about renewable resources, encouraging use of renewable resources by customers or encouraging research technology transfers. The public benefits law requires DOA to expend 4.5% of the public benefits funds allocated for energy conservation activities for the renewable resources portion of the program. DOA is also required to expend 1.75% of the public benefits funds allocated for energy conservation activities for research and development proposals relating to the environmental impacts of the electric industry.

These DOA public benefits programs are funded primarily from a segregated public benefits fund, which derives revenues from a new fee collected by electric utilities from their customers and remitted to DOA. In addition, the public benefits fund receives revenues equal to the amounts that major electric and gas utilities collected from their customers in 1998 for utility-sponsored public benefits programs. Utilities are continuing to collect these amounts and these monies are being transitioned over a three-year period in successively larger annual amounts from the utilities to the state public benefits fund. Federal low-income weatherization assistance funding and federal low-income home energy assistance funding received by the state are figured into an annual formula for setting utility customer fees for the low-income component of the public benefits program. These federal funds, however, are not credited to the public benefits fund but remain a separate program.

Funds to administer DOA's public benefits programs are appropriated under a sum certain general program operations appropriation. This administrative appropriation is funded at $12,384,200 SEG annually during the current biennium. The low-income assistance public benefits grant program is funded from a sum sufficient appropriation from the public benefits fund. Estimated grant expenditures under this appropriation are $20,500,000 SEG annually. The energy conservation and efficiency and renewable resource grant program is funded from a second sum sufficient appropriation from the public benefits fund. Estimated grant expenditures under this appropriation are $16,500,000 SEG annually.

The Departments of Health and Family Services (DHFS) and Military Affairs (DMA) and the University of Wisconsin System all have GPR-funded appropriations that support some or all of each agency's fuel and utility costs. Together, these three agencies are appropriated $55,966,300 GPR in 2001-02 and $54,199,900 GPR in 2002-03 for energy costs.

GOVERNOR

Earmark $4,150,000 SEG in 2001-02 and $18,150,000 SEG in 2002-03 from that portion of the utility public benefits fund that would otherwise be expended under DOA's energy conservation and efficiency and renewable resource grants sum sufficient appropriation and transfer the following amounts to offset appropriated GPR funds for energy costs for the following agencies:

	2001-02	2002-03
University of Wisconsin System	$4,150,000	$17,122,600
Health and Family Services	0	600,000
Military Affairs	0	427,400
Total	$4,150,000	$18,150,000

For each of the above agencies, create an annual SEG-funded energy costs appropriation funded from transfers from DOA's public benefits energy conservation and related programs appropriation. Specify that these three agencies could not encumber or expend an equivalent amount from their GPR-funded energy costs appropriations without the approval of the DOA Secretary. [In the case of the University, only $1,850,000 GPR of the $4,150,000 GPR offset amount in 2001-02 could not be expended without the approval of the DOA Secretary. This adjustment reflects a recent s. 13.10 action authorizing the University to utilize up to $2,505,600 GPR from the amounts appropriated for energy costs in 2001-02 to fund residual 2000-01 GPR-funded energy costs.] The effect of these provisions is to increase GPR lapse amounts by $20,000,000 over the biennium.

Modify the DOA public benefits energy conservation and related programs grant sum sufficient appropriation to permit these transfers during the 2001-03 fiscal biennium. Effective July 1, 2003, repeal and recreate the DOA appropriation to delete the authority to make any further transfers of public benefits funds to the three state agencies' energy costs appropriations.

DISCUSSION POINTS

1. Historically, a variety of public benefits has been produced by the electric power industry and made available to the public at least, in part, as a result of government regulation. In the general context of recent efforts in Wisconsin to deregulate and restructure electric utilities, "public benefits" have come to refer to certain activities that have been performed by electric and natural gas utilities for the public good under PSC direction or oversight. These activities have included: (a) helping to make energy affordable to low-income households; (b) promoting energy conservation through reducing customer demand, encouraging the use of more energy-efficient products and installing renewable energy equipment; and (c) evaluating and mitigating the environmental impacts of energy production and use.

2. With efforts to restructure the electric utility industry into separate generation, transmission and distribution entities, it has been viewed by some in the industry as desirable from a competitive standpoint to shift responsibility for such functions as public benefits activities from the utilities to another entity. In Wisconsin, with the enactment of 1999 Wisconsin Act 9 containing what was known as "Reliability 2000" legislation, the state and the utilities agreed that these public benefits functions should be transferred to DOA and that the funds being used by utilities for these public benefits programs would be paid instead to the state.

3. The Act 9 provisions also required DOA to contract with community action agencies, nonprofit corporations and local units of government to provide low-income public benefits services. DOA was also required by Act 9 to contract with one or more nonprofit corporations to administer the energy conservation and related grant programs.

4. Revenues credited to the public benefits fund support these contracted public benefits programs and DOA's administrative costs. These revenues derive primarily from the following sources:

- Amounts that each major investor-owned electric or gas utility had been collecting through rates to pay for public benefits programs under PSC oversight or direction. The amounts spent by the utilities in 1998, as determined by the PSC, were established as the base year for this calculation. These base year amounts are being transitioned to the state public benefits fund; however, the utilities continue to collect these amounts through rates. The funds are being phased out of the utilities' public benefits program and into programs administered by DOA over a three-year period. By calendar year 2003, utilities must contribute the entire amount to the DOA public benefits programs.

- New fees collected from customers of investor-owned utilities. The fees are flat fees and do not vary based on electricity usage. For customers of investor-owned utilities, 70% of the fees is collected from residential customers and 30% is collected from nonresidential customers. Through June 30, 2008, monthly fees cannot exceed the lesser of 3% of the customer's electric charges or $750. The average residential customer charge in 2001-02 is $1.54 per month.

- A fee that averages $16 per meter per year collected from municipal utility and retail electric cooperative customers. These fees are also subject to the same 3%/$750 per month limitations. The fees collected by municipal utilities and retail electric cooperatives remain with the public benefits programs operated by those entities, unless they choose to participate under the DOA-sponsored public benefits program. In such a case, the municipal utility and cooperative-collected fees are then remitted to the state's public benefits fund. Further, if a municipal electric utility or electric cooperative opts into the DOA programs, then their customers become eligible for state public benefits fund support.

5. DOA's Division of Energy estimates that the following revenues will be available in the public benefits fund from the above sources to support energy conservation and efficiency and renewable resource grants during 2001-02 and 2002-03:

Projected Revenues Earmarked for Public Benefits Energy Efficiency Programs

Type of Revenue	2001-02	2002-03
Public Utility Energy Conservation Transition Funds	$23,171,400	$36,566,800
Public Utility Customer Fees	16,368,800	16,368,800
Customer Fees from Municipal and Cooperative Utilities	81,600	81,600
Prior Year Carryover Funding	5,723,200	0
Total	$45,345,000	$53,017,200

6. Based on this revenue stream, the Division of Energy has budgeted the following amounts for energy conservation and efficiency and renewable resource activities during the current biennium.

Current Public Benefits Energy Efficiency Program Budget

Budgeted Activity	2001-02 Budgeted	2002-03 Budgeted
Major Markets Program	$18,275,200	$18,188,400
Residential Program	16,000,000	20,500,000
Renewable Energy Promotion	2,602,200	2,385,700
Environmental Research and Development	1,012,000	927,800
Baseline Research, Evaluation and Marketing	6,602,800	8,593,800
Program Administration	822,800	830,400
Contingencies	30,000	311,500
Unbudgeted	0	1,349,600
Total	$45,345,000	$53,017,200

7. With respect to these budgeted activities, the purpose of the major markets program is to provide technical and program support to provide an array of energy efficiency services to major Wisconsin commercial, industrial and agricultural sectors. Programs are being designed to include specific energy savings targets, build markets for energy efficient products and achieve energy savings whose value will exceed the program's cost. The residential program has comparable goals, but is targeted to the residential sector. Projects include rebates for energy efficient appliances, training in the construction of more energy efficient housing, and energy rating and inspection services. DOA's Division of Energy has negotiated multi-year contracts for the operation of the major markets and residential program undertakings. Renewable energy and environmental research initiatives primarily support grants for demonstration projects. Baseline research is focused on gathering current energy use data in order to assess the ultimate impact of various energy conservation interventions funded through public benefits. The evaluation component of the budget provides DOA with an independent evaluation of contract administrators' performance. Marketing activities include public information and promotional efforts associated with the core components of the energy conservation program. Funds budgeted for DOA administration support such staff as an evaluation coordinator, major markets analyst, environmental analyst, residential analyst and policy staff.

8. In order the accommodate the diversion of $4,150,000 SEG in 2001-02 and $18,150,000 SEG in 2002-03 of public benefits revenues that would otherwise be allocated for energy conservation activities to instead fund energy costs in three state agencies, DOA's Division of Energy has developed the following proposed reallocation plan for each fiscal year:

Proposed Reallocations of Energy Efficiency Public Benefits Funds

Budgeted Activity	2001-02 Current Allocations	Proposed Reallocations	Revised Allocation
Major Markets Program	$18,275,200	-$575,000	$17,700,200
Residential Program	16,000,000	-1,725,000	14,275,000
Renewable Energy Promotion	2,602,200	0	2,602,200
Environmental Research and Development	1,012,000	0	1,012,000
Baseline Research, Evaluation and Marketing	6,602,800	-1,800,000	4,802,800
Program Administration	822,800	0	822,800
Contingencies	30,000	0	30,000
Unbudgeted	0	0	0
Reallocation To Be Determined	0	-50,000	-50,000
Total	$45,345,000	-$4,150,000	$41,195,000

Budgeted Activity	2002-03 Current Allocations	Proposed Reallocations	Revised
Major Markets Program	18,118,400	-300,000	17,818,400
Residential Program	20,500,000	-5,200,000	15,300,000
Renewable Energy Promotion	2,385,700	0	2,385,700
Environmental Research and Development	927,800	0	927,800
Baseline Research, Evaluation and Marketing	8,593,800	-4,141,000	4,452,800
Program Administration	830,400	-7,600	822,800
Contingencies	311,500	-311,500	0
Unbudgeted	1,349,600	-1,349,600	0
Reallocation To Be Determined	0	-6,840,300	-6,840,300
Total	$53,017,200	-$18,150,000	$34,867,200

9. The proposed reallocations would not be applied to renewable energy or to research and development components because current law directs that a fixed percentage of public benefits funds be expended for these activities.

10. Most of the reallocations would be taken against planned program expansions that would have occurred during the 2002-03 fiscal year, primarily in the residential program and under baseline research, evaluation and marketing. It should be noted that over $6.8 million in reallocations in 2002-03 must still be identified by the Division. Most of the programs to which reallocations are proposed during the second year are planned activities that would have been funded through an increased flow of utility transitional funding into the public benefits fund.

11. The most likely adverse impact from these reallocations will be delaying of currently

planned expansions to existing energy conservation and related programs.

12. The rationale for proposing the diversion of public benefits monies that would otherwise have gone to support energy conservation and related programs is that the transfer will involve only a portion ($22.3 million) of the anticipated total revenues for the biennium ($98.3 million) for these purposes. The diversion will not actually eliminate any existing energy conservation public benefits program, rather it will only delay by one or two years at most the implementation of planned program expansions. Additionally, the diversions are proposed for the 2001-03 biennium only, after which the transfer authority will be repealed. The diverted funds will be used to support state agency energy costs and will allow at least $20 million GPR to be lapsed at a time the state is confronted by a significant deficit.

13. If the Committee believes that these considerations have merit, it could adopt the Governor's recommendation.

14. Opponents of the proposed diversion would argue that public utility customers have been paying monthly public benefit fees to DOA with the expectation that these funds would be used in the furtherance of the public benefits energy conservation and related purposes. In addition, public utility rate payers who continue to fund additional public benefits program base year costs that are now being transitioned by the utilities to DOA have a similar expectation. Further, beginning in 2004-05, DOA is required to determine whether to continue, discontinue or reduce the energy conservation and related public benefits programs. DOA must determine the amount of funding necessary for the programs that are continued or reduced and to reduce the relevant public benefits fees accordingly. To the extent that the proposed diversion of funds would delay DOA's ability to accurately assess the success (or failure) of operating energy conservation public benefits programs, this determination date could be delayed. Finally, the proposed diversion would tend to fund energy usage rather than energy conservation costs at the three state agencies receiving funds.

15. If the Committee believes that these considerations have merit, it could deny the Governor's recommendation.

16. However, if the Committee adopts the Governor's recommendation it could consider modifying the proposal to specify that any public benefits energy conservation funds transferred to the three agencies first be used to support master lease payments related to the installation of energy conservation equipment at agency facilities. Currently, these types of expenditures are funded from agency energy costs appropriations. For example, DHFS will make energy conservation equipment master lease payments of $370,700 in 2002-03 and DMA will make payments of $8,400 in 2002-03. The University of Wisconsin will make payments of $4,460,400 in 2001-02 and $5,122,600 in 2002-03. Under this alternative, the transferred public benefits funds could be used first to fund these types of costs, which are at least energy conservation related, and then to fund energy cost expenditures.

17. If the Committee chooses to approve the diversion of $22.3 million of energy conservation and related public benefits monies, the question may be raised whether additional

funds could be diverted without seriously compromising the on-going operation of basic core elements of the program.

18. The Division of Energy has advised that additional, significant reductions to the program above the levels recommended by the Governor would most likely result in the shutdown of statewide contracted programs for the major markets (industrial, commercial and agricultural) energy conservation initiatives and for the residential energy conservation initiatives. Once the programs were suspended, the Division would have to restart the process in the future of requesting, reviewing and approving vendor proposals, long-term planning would be interrupted and duplicative expenditures would be incurred. Further, the Division believes that it would also have difficulty reestablishing ties to previous vendors and contractors following a suspension.

19. Notwithstanding these concerns, it is the case under the Governor's recommendation that a total of $604,600 more of new energy conservation-related revenues flow to the program in the 2001-02 fiscal year than flow to the program in the 2002-03 fiscal year following the Governor's proposed cuts. If an additional amount of revenues can be diverted from the program in 2002-03, it would appear reasonable that at least the same amount of revenues can also be diverted from the program in the 2001-02 fiscal year as well. This would suggest that an additional $604,600 in 2001-02 could be diverted.

20. Furthermore, if the Committee views additional diversions of public benefits monies as desirable, it would appear to be less disruptive to the overall program to include language suspending for the remainder of the biennium the current statutory allocation of 4.5% of public benefits revenues to renewable resource demonstration projects and 1.75% of such revenues for research and development projects. Under this scenario, an additional $903,500 in 2001-02 and $3,313,500 in 2002-03 could also be diverted.

21. These additional diversions would yield $1,508,100 in 2001-02 and $3,313,500 in 2002-03 that could be credited to the new public benefits-funded energy costs appropriation under the University of Wisconsin System. The amount of GPR funding already appropriated to the University for energy costs that could not be encumbered or expended without the approval of the Secretary of DOA would be increased by an equivalent amount, thereby increasing GPR lapse amounts by a corresponding $1,508,100 in 2001-02 and $3,313,500 in 2002-03.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation

2. Modify the Governor's recommendation by specifying that the public benefits funds transferred to the Department of Health and Family Services, the Department of Military Affairs and the University of Wisconsin System be used first to make master lease or similar payments related to the installation of energy conservation equipment at agency facilities and then to fund energy cost expenditures.

3. Modify the Governors recommendation by suspending through June 30, 2003, the current statutory requirements that 1.75% of the energy conservation and efficiency and renewable resource grants appropriation be used for research and development projects and that 4.5% of the appropriation be used for renewable resources projects. Provide an additional $1,508,100 SEG in 2001-02 and $3,313,500 SEG in 2002-03 for energy costs at the University of Wisconsin System and increase the amount of GPR-funded energy costs that the University of Wisconsin cannot encumber or expend without the approval of the Secretary of DOA by $1,508,100 GPR in 2001-02 and $3,313,500 GPR in 2002-03. Increase GPR lapse amounts by $1,508,100 in 2001-02 and $3,313,500 in 2002-03.

Alternative 3	**GPR**	**SEG**
2001-03 REVENUE	$4,821,600	$0
2001-03 FUNDING	$0	$4,821,600

4. Delete the Governor's Recommendation

Alternative 4	**GPR**	**SEG**
2001-03 REVENUE	- $20,000,000	$0
2001-03 FUNDING	$0	- $22,300,000

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