



## Legislative Fiscal Bureau

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February 16, 2010

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 689: Public Service Commission Intervenor Grants

Assembly Bill 689 would require the Public Service Commission (PSC) to provide \$300,000 annually in grants to certain nonprofit groups through the intervenor financing program. AB 689 was introduced on January 25, 2010, and was referred to the Joint Committee on Finance.

### **CURRENT LAW**

The PSC's intervenor financing appropriation provides financial assistance for organizations and individuals who participate in PSC rate cases. To receive funding, an organization or individual must first request and be granted intervenor status in a specific case. As a party to the case, the intervenor is required to appear at technical hearings on the case and be available for cross-examination by other parties to the case. In addition, the intervenor may offer testimony and evidence. Compensation is limited to expenses related to participation in the rate case and includes:

- attorney fees;
- expert witness fees;
- cost of clerical services;
- preparation of studies, displays, and exhibits;
- travel and subsistence costs; and
- other costs that are incurred and are associated with the intervention.

Intervenor financing is funded through assessments against the utility subject to the rate claim. Intervenor financing is funded through assessments against the utility subject to the rate claim. Intervenor financing is funded through assessments against the utility subject to the rate claim. Intervenor financing is funded through assessments against the utility subject to the rate claim.

proceeding under the PSC's "direct assessment" authorization [s. 196.85(1) of the statutes]. In addition, the PSC may assess other utilities for costs under the "remainder assessment" authorization [s. 196.85(2) of the statutes] if the Commission determines that the information provided by an intervenor relates to a general issue of utility regulation. The intervenor compensation program was created by the Legislature in 1983.

Last year, 2009 Wisconsin Act 28, the 2009-11 biennial budget act, set the intervenor financing appropriation at \$742,500 in each year of the 2009-11 biennium. That amount reflects annual reductions of \$7,500 relative to 2008-09 under a 1% across-the-board reduction recommended by the Governor and adopted by the Legislature.

## **SUMMARY OF BILL**

The bill would change the authorization and appropriation for the intervenor financing program. The program's authorization would be amended by the bill to require the PSC to make an annual grant to a corporation that has a history of advocating on behalf of residential ratepayers for affordable rates and that is organized on a nonstock, nonprofit basis, as described under section 501 (c) (3) of the Internal Revenue Code. The grant could be used to offset the general expenses of the corporation, including salary, benefits, rent, and utility expenses. The bill establishes \$300,000 as the grant amount.

The bill would increase the intervenor financing appropriation by \$300,000 annually and change the appropriation from an annual appropriation to a biennial appropriation. As a result, unused appropriation authority could be carried-over from one year to the next within the same biennium.

Through item veto, the Governor removed a similar provision from Act 28.

## **FISCAL EFFECT**

The bill would increase expenditures under the intervenor financing appropriation by \$300,000 PR annually. Those increases would be funded with additional revenues raised through PSC assessments on public utilities. For the five-year period from 2004-05 through 2008-09, \$750,000 annually was authorized for expenditure under intervenor financing, and actual expenditures ranged from \$517,251 in 2006-07 to \$750,000 in 2008-09. The Commission underspent the appropriation in four of the five years. Through January 5<sup>th</sup> of the 2009-10 fiscal year, the PSC has approved expenditures of \$339,966, and budget authority of \$402,534 remains.

Since 2004-05, the PSC has distributed \$3.5 million through the intervenor financing program. Of the 11 organizations receiving payments, the Citizens Utility Board (CUB) has received more payments (\$2.6 million) than any other organization, and CUB is the only organization that has received payments in each of the six years. The following table reports the program's distribution history since 2004-05.

**Distributions Under the Intervenor Financing Program,  
2004-05 through 2009-10\***

<u>Organization</u>	<u>Amount</u>	<u>Percent</u>
Citizens Utility Board	\$2,604,646	74.1%
Clean Wisconsin	332,385	9.5
Sierra Club	315,669	9.0
RENEW Wisconsin	61,016	1.7
HMS Advocates	59,825	1.7
Protect Our Rural Landscape	36,000	1.0
Audubon Society	32,194	0.9
Citizens for Responsible Energy	30,000	0.9
Other Organizations (3)	<u>42,775</u>	<u>1.2</u>
Total	\$3,514,510	100.0%

\* As of January 5, 2010.

While many or all of the preceding organizations could qualify for the grant under the bill, the bill would limit the grant to a single organization, and the PSC would have no discretion over the payment amount.

Prepared by: Rick Olin