



## Legislative Fiscal Bureau

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April 21, 2009

Joint Committee on Finance

Paper #666

### **Disbursement of Wireless 911 Fund Balance (Public Service Commission)**

[LFB 2009-11 Budget Summary: Page 546, #12]

### **Wireless 911 Fund Payments for County and Municipal Aid (Shared Revenue and Tax Relief -- Direct Aid Payments)**

[LFB 2009-11 Budget Summary: Page 568, #2]

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#### **CURRENT LAW**

In 2003, the Legislature created a three-year grant program to reimburse local units of government and wireless telecommunications providers for costs related to tracking the telephone number and the location of callers using wireless telephones to make emergency calls. The grant program was funded through surcharges on consumers' wireless telecommunications bills. The Public Service Commission (PSC) promulgated rules requiring wireless telecommunications providers to impose a surcharge on their customers' bills based on the Commission's estimate of the costs of providing grants to local governments and wireless telecommunications providers. State law sunset the grants and other program expenditures on April 1, 2009.

The county and municipal aid program provides unrestricted state aid payments to each of the state's 72 counties and 1,851 municipalities. Total funding for the program has been set at \$859,703,124 since 2004 (2004-05). Payments for 2009 will be made in July and November of the 2009-10 fiscal year. To assist in setting their 2009 budgets, the Department of Revenue provided estimates of 2009 payment amounts to local governments in September, 2008. Payments are funded from a sum-sufficient, GPR appropriation.

#### **GOVERNOR**

Prohibit the PSC from making distributions from the wireless 911 fund to any person,

except for grants and supplemental grants authorized under current law provisions. Provide \$25,000,000 SEG in 2009-10 in a newly-created, annual appropriation from the wireless 911 fund for county and municipal aid, and reduce the GPR appropriation for county and municipal aid by \$25,000,000 in 2009-10. Specify that no moneys may be encumbered or expended from the new SEG appropriation after December 31, 2012.

## DISCUSSION POINTS

1. On April 1, 2009, the wireless 911 fund had a balance of \$20,280,000. The balance resulted because budgeted costs exceeded actual expenditures and because more surcharges were imposed than were needed.

2. **Projected costs exceeded actual costs:** Within three months after the PSC promulgated administrative rules regarding operation of the wireless 911 program, wireless providers and local governments were required to report estimates of their prospective costs for facilities, equipment, software, and training that would be eligible for reimbursement. As providers and local governments incurred these costs, they submitted requests for reimbursement, and the PSC distributed grants on a quarterly basis. Each recipient's grant amount was limited to the lesser of actual expenses or their initial estimates of prospective costs. This limitation led some recipients to overestimate their initial costs and to include some items in their initial estimates that they did not eventually obtain.

3. **More surcharges were imposed than needed:** State law exempts commercial mobile radio service (wireless) providers from PSC regulation under chapter 196 of the statutes, so the Commission did not have a database to assist in its calculation of the initial surcharge. In response, the PSC adopted an administrative rule requiring wireless providers to submit that information to the Commission. Over the life of the surcharge, the Commission set the initial surcharge at 83 cents per month, subsequently increased it to 92 cents per month, and then decreased it to 43 cents per month. On July 1, 2008, five months before the surcharge was set to expire, the Commission realized that sufficient revenues had been assessed, and it reduced the surcharge to zero. The decrease and early elimination of the surcharge was made possible by growth in the number of cell phone users during the life of the surcharge. Statistics compiled by the Federal Communications Commission indicate that there were 2,997,029 Wisconsin cell phone subscribers in December, 2004, when the Commission's administrative rules were adopted. As of December, 2007, that number had increased by 28% to 3,841,745.

4. Based on an administrative rule, the PSC intends to distribute the closing balance in the fund to wireless providers for redistribution to consumers. Instead, the bill would prohibit the PSC distribution to wireless providers, as required by rule, and would transfer the fund balance to the general fund to supplement funding for 2009 aid payments under the county and municipal aid program. State law requires county and municipal aid to be paid in two installments with 15% of the payments made on the fourth Monday in July (July 27, 2009) and the balance paid on the third Monday in November (November 16, 2009). Due to the state's historic cash flow position in July, it would be beneficial to the general fund to use the wireless 911 funding in July, as opposed to November.

5. Although the Governor estimated \$25.0 million would be available for transfer from the wireless 911 fund, on March 19, 2009, DOA reestimated the available funding at \$20.0 million and recommended that the transfer be reduced by \$5.0 million. Based on the fund's April 1, 2009 balance and assuming interest earnings of \$60,000, the wireless 911 fund would have an estimated balance of \$20,340,000 on July 27, 2009. This would result in a reduction of \$4,660,000, relative to the amount originally included in AB 75.

6. If the Committee does not approve the Governor's recommendation to transfer the wireless 911 fund balance to the county and municipal aid program, the wireless 911 fund would be discontinued under administrative rule provisions adopted by the PSC. Under the rule, \$20,280,000 plus any interest earnings would be returned to wireless providers for redistribution to customers. This would result in an average, one-time credit on customers' cell phone bills estimated at \$5.

7. Funding in 2009-10 for 2009 county and municipal aid payments must be reestimated regardless of the alternative that the Committee adopts. If the Committee adopts the Governor's recommendation, SEG funding from the wireless 911 fund would be reduced by \$4,660,000 and GPR funding would be increased by a corresponding amount. If the Committee deletes the Governor's recommendation, SEG funding would be decreased and GPR funding would be increased by \$25,000,000 in 2009-10.

**ALTERNATIVES**

1. Approve the Governor's recommendation to prohibit the PSC from making distributions from the wireless 911 fund to any person, except for grants and supplemental grants authorized under current law provisions, and, instead, transfer the balance in the fund to a newly-created, annual appropriation for county and municipal aid in 2009-10. Reduce the amount of the transferred funding to reflect the estimated balance in the fund as of July 27, 2009, thereby decreasing the SEG appropriation by \$4,660,000 and increasing the GPR appropriation by \$4,660,000 for the county and municipal aid program in 2009-10.

<b>ALT 1</b>	<b>Change to Bill Funding</b>
GPR	\$4,660,000
SEG	<u>- 4,660,000</u>
Total	\$0

2. Delete provision. Decrease expenditures by \$25,000,000 SEG and increase expenditures by \$25,000,000 GPR for the county and municipal aid program in 2009-10.

<b>ALT 2</b>	<b>Change to Bill Funding</b>
GPR	\$25,000,000
SEG	<u>- 25,000,000</u>
Total	\$0

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