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Fire Department Dues Program

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Fire Department Dues Program

Introduction

The state administers a fire department dues program using revenues collected from fire insurance companies in the state. The dues program funds state and local fire prevention and fire protection programs. It is often referred to as the "2% fire dues program" because the revenue collected from insurers is equal to 2% of the fire insurance premiums received by the insurers.

The Department of Safety and Professional Services (DPS) distributes most of the 2% fire department dues revenues to each city, village, and town that maintains a local fire department that complies with state law. Municipalities must use the fire dues payments they receive only for eligible activities related to operation of a fire department. In addition, state revenues received under the fire dues program are used for DPS administration of statewide fire prevention and fire protection programs, state administration of fire dues eligibility and payments, and Wisconsin Technical College System (WTCS) firefighter training programs.

This paper describes fire department dues program revenues collected by the state. It also describes expenditures made from fire department dues revenues, including: (a) DPS distribution of fire dues payments to local governments that maintain fire departments; (b) DPS administration of fire prevention and fire protection programs; (c) WTCS administration of firefighter training programs; and (d) WTCS firefighter school training program local assistance (tuition payments for firefighters).

The DPS fire prevention program is authorized under section 101.14 of the statutes, and the fire dues program is authorized under ss.

101.573 and 101.575 of the statutes. DPS administers the fire prevention and fire dues programs under administrative rules in Chapter SPS 314 of the Wisconsin Administrative Code.

Revenue

All fire insurance companies in Wisconsin must pay to the state, under s. 601.93 of the statutes, fire department dues equal to 2% of the amount of all Wisconsin-based premiums paid to the company during the preceding calendar year for insurance against loss by fire, including insurance on property exempt from taxation.

Fire department dues revenues are collected by the Office of the Commissioner of Insurance (OCI). Every fire insurance business in the state is required to file a statement with OCI by March 1 each year. The statement must show the amount of premiums for fire insurance for the preceding calendar year. Before May 1 of each year, OCI reports to DPS on the amount of fire department dues received from insurers during the prior calendar year. Table 1 shows the amount of fire department dues reported by OCI to DPS for the past 10 fiscal years. Wisconsin-domiciled companies are known as "domestic" insurers and accounted for between 33% (2020-21) to 48% (2012-13 and 2013-14) of the total fire insurance coverage in the state during the years shown. Companies based in other states are termed "nondomestic" or "foreign" companies and pay substantially all of the remaining fire dues.

In addition to the fire dues assessed on insurance companies, Wisconsin imposes taxes on insurance companies. (See the Legislative Fiscal

Table 1: Fire Department Dues Revenues Reported by the Office of the Commissioner of Insurance

Fiscal Year	Amount	% Change
2012-13	\$17,434,600*	-1.4%
2013-14	19,736,700	13.2
2014-15	18,717,500*	-5.2
2015-16	20,239,500	8.1
2016-17	21,824,900	7.8
2017-18	21,548,600	-1.3
2018-19	23,396,800	8.6
2019-20	24,133,200	3.2
2020-21	25,477,500	5.6
2021-22	26,450,200	3.8

* 2012-13 and 2014-15 figures include adjustments to correct overpayments or reporting errors in the previous years.

Bureau's informational paper entitled, "Taxation of Insurance Companies" for more information.) Wisconsin taxes on insurance premiums employ both "retaliatory" and "reciprocal" provisions, intended to equalize the state tax treatment of insurers operating in more than one state. The 2% fire dues are included in the calculation of retaliatory and reciprocal taxation. Most other states utilize retaliatory taxation but do not provide reciprocity.

The retaliatory statute specifies that Wisconsin may impose higher taxes than its statutory rate on a foreign insurer doing business in the state, to the extent that the insurer's home state imposes a tax on Wisconsin firms operating there that is higher than Wisconsin's statutory rate. The reciprocal statute provides that foreign (non-Wisconsin) insurers doing business in the state shall pay no additional and no higher taxes, fees, or other charges than their home state imposes on similar Wisconsin insurers operating there. This provision allows a foreign insurer to be taxed at rates lower than those specified in the Wisconsin statutes, if its home state imposes a lower tax. If Wisconsin fire dues rates were to be increased under the retaliatory statute, other states could impose retaliatory tax provisions that would increase the

taxes Wisconsin-domiciled insurers pay in the other states.

Summary of Expenditures

The Department of Safety and Professional Services is required to calculate, by May 1 each year, the proper amount of fire dues to be paid to each qualifying city, village or town. The statutes direct DSPS to calculate this by adding unexpended funds from the prior year to the fire department dues revenues reported by OCI. Then, DSPS subtracts the appropriated amounts for the DSPS administrative appropriation and the two WTCS firefighter training appropriations. Finally, DSPS withholds 0.5% of the remaining fire dues funds. The resulting amount is distributed to municipalities. The 0.5% of fire dues funds that is withheld from distribution is disbursed in the following fiscal year if needed to correct errors of DSPS or OCI, or to correct payments to municipalities. Any of the 0.5% of revenues that is withheld but not distributed is added to the revenue available in the subsequent year for distribution to municipalities.

Any unencumbered funds at the end of the fiscal year in the annual DSPS administrative appropriation, WTCS operations appropriation, or the WTCS firefighter school training program local assistance appropriation revert to the fire dues distribution continuing appropriation and are available for distribution to municipalities in the subsequent year.

Table 2 illustrates the calculation made by DSPS of the fire department dues revenues available for distribution to municipalities in 2021-22.

Table 3 shows the actual expenditures of fire dues revenues for the four appropriations from fiscal years 2012-13 through 2021-22. Table 3

Table 2: Fire Dues Revenues Available for Distribution to Fire Departments, Calculation on May 1, 2022, for 2021-22 Distribution

Revenues	
Remaining 0.5% funds withheld in the prior year	\$119,389.88
Prior year unexpended administrative funds - DSPS	241,608.36
Prior year unexpended funds - WTCS	0.00
Correction for prior year fire dues payment	0.00
Fire Department Dues Reported by OCI	<u>26,450,161.65</u>
Total Program Revenue	\$26,811,159.89
Less Program Appropriations	
DSPS fire prevention and fire dues administration	- \$765,300.00
WTCS fire schools local assistance	- 600,000.00
WTCS fire schools administration	<u>- 475,700.00</u>
Total Program Appropriations	- \$1,841,000.00
Gross Amount Available for Distribution	\$24,970,159.89
Less Adjustments	
Less 0.5% Withheld	- \$124,850.80
Less Aid Payments Made to Date	0.00
Plus Refunds of Prior Year Payments	<u>1,395.55</u>
Total Adjustments	- \$123,455.25
Final Amount Available for Distribution to Municipalities	\$24,846,704.64

also shows the appropriated amounts for 2022-23 for the DSPS and the two WTCS appropriations, and the budgeted amount available for distribution to municipalities. The annual expenditures differ

from the revenues reported by OCI in Table 1 because of the impact of withholding 0.5% of revenue each year for subsequent corrections and for the expenditure of the prior year's committed, but unspent, funds.

Fire Dues Distribution to Municipalities

The Department of Safety and Professional Services is responsible for the distribution of fire department dues under ss. 101.573 and 101.575 of the statutes to cities, villages, and towns that maintain fire departments or contract for fire protection if the municipalities meet specific criteria. DSPS distributes a proportionate share of the revenues based on the equalized valuation of real property improvements on land within the qualifying municipalities. If a municipality had 1% of the equalized value of real property improvements in the state, the municipality would receive 1% of the fire dues distributed in that year. However, qualified municipalities may not receive less than they received in fiscal year 1978-79 for calendar year 1978 (a total of \$3.5 million statewide). In 2021-22, \$12,800 was distributed to eight municipalities under the provision.

Table 3: Expenditures of Fire Department Dues Revenues

Fiscal Year	Fire Dues Distribution to Municipalities (1)	Percent Change in Distribution	Fire Prevention and Fire Dues Administration	WTCS Fire Schools Local Assistance	WTCS Fire Schools Administration	Total Fire Dues Expenditures
2012-13	\$15,889,100	-1.3%	\$534,900	\$600,000	\$406,200	\$17,430,200
2013-14	17,977,500	13.1	571,300	600,000	413,900	19,562,700
2014-15	17,136,100	-4.7	707,400	600,000	409,500	18,853,000
2015-16	18,575,100	8.4	660,200	600,000	422,900	20,258,200
2016-17	20,134,000	8.4	610,400	600,000	418,600	21,763,000
2017-18	19,919,600	-1.1	633,200	600,000	400,000	21,552,800
2018-19	22,038,000	10.6	588,200	600,000	400,900	23,627,100
2019-20	22,449,700	1.9	553,300	600,000	411,200	24,014,200
2020-21	23,758,600	5.8	527,700	600,000	398,200	25,284,500
2021-22	24,846,700	4.6	460,200	600,000	468,700	26,375,600
2022-23	24,720,000	-0.5	765,300	600,000	475,700	26,561,000

(1) Fire dues are distributed for municipality eligibility in the preceding calendar year. For example, the 2021-22 fire dues were distributed for calendar year 2021 activities.

OCI reported to DSPS by May 1, 2022, on the amount of 2021 fire dues paid by insurers. DSPS then calculated the fire dues distribution to municipalities to be paid in 2021-22 based on the January 1, 2021, equalized valuation. Payments to local governments for calendar year 2021 fire dues were compiled in May, 2022, and paid in July, 2022, from the 2021-22 appropriation. The distribution of 2021-22 (calendar year 2021) fire dues to 1,841 municipalities was \$24.8 million.

Table 4 shows the fire dues payments distributed in every county in the three most recent fiscal years of 2019-20 (calendar year 2019 dues), 2020-21 (calendar year 2020) and 2021-22 (calendar year 2021, paid to the municipality in July, 2022). The table shows the number of towns, villages, and cities in every county that received fire dues payments in 2021-22, and the total amount of payments distributed.

Eligibility Requirements

Every city, village, or town that maintains a fire department that complies with statutory requirements is entitled to receive a proportionate share of fire department dues. DSPS is responsible for determining whether a local government is entitled to receive a fire dues payment.

Any city, village, or town may receive fire dues if it has a fire department that meets all of the following requirements:

- a. Is organized to provide continuous fire protection in the city, village, or town and has a designated chief;
- b. Singly, or in combination with another fire department under a mutual aid agreement, can ensure the response of at least four firefighters, none of whom is the chief, to a first alarm for a building;
- c. Provides a training program in accordance with DSPS rules;

- d. Provides facilities capable, without delay, of receiving an alarm and dispatching firefighters and apparatus; and

- e. Maintains either a voluntary fire department that holds a meeting at least once each month or a paid or partly paid fire department with sufficient personnel ready for service at all times.

The city, village, or town maintaining a fire department may only use fire dues for the direct provision of the following four activities:

- a. The purchase of fire protection equipment;
- b. Fire inspection and public education;
- c. Training of firefighters and fire inspectors performing public fire education and fire inspection duties; and
- d. Whole or partial funding of firefighters' pension funds or other special funds for the benefit of disabled or retired firefighters.

In order for any city, village, or town that contracts with another municipality for fire protection to be eligible for fire dues payments, the contract with the other municipality must be sufficient to provide fire protection to the entire city, village, or town. Any city, village, or town that contracts for fire protection service must give the fire department dues payments received from the state to the municipality or fire department providing the fire protection service, and that municipality or fire department must use those payments only for the four eligible activities specified above.

In addition to these requirements, the municipality must be in substantial compliance with all program requirements. Before DSPS pays fire department dues to a city, village, or town, the Department is required to determine that the city, village, town, or fire department is in substantial

Table 4: Fire Dues Payments to Municipalities, by County (Fiscal Years 2019-20 through 2021-22)

County	Number of 2021-22 Recipient Municipalities	2019-20 (CY2019)	2020-21 (CY2020)	2021-22 (CY2021)	County	Number of 2021-22 Recipient Municipalities	2019-20 (CY2019)	2020-21 (CY2020)	2021-22 (CY2021)
Adams	19	\$91,146	\$95,901	\$96,336	Manitowoc	30	242,712	254,737	263,971
Ashland	15	42,836	43,532	42,914	Marathon	56	466,681	496,807	500,106
Barron	35	165,321	180,498	189,389	Marinette	25	144,999	151,183	156,605
Bayfield	28	78,494	79,480	83,026	Marquette	19	57,648	60,146	63,620
Brown	24	964,094	1,025,543	1,084,469	Menominee	1	9,241	10,024	10,847
Buffalo	23	40,022	44,769	46,670	Milwaukee	19	2,726,859	2,884,231	3,100,267
Burnett	24	78,165	88,470	92,105	Monroe	34	149,683	157,888	160,934
Calumet	16	140,772	147,156	153,337	Oconto	28	149,908	155,228	162,837
Chippewa	31	235,217	252,668	268,485	Oneida	21	216,520	225,883	231,057
Clark	43	95,454	95,082	97,279	Outagamie	32	735,462	787,763	825,508
Columbia	34	229,675	238,913	249,945	Ozaukee	14	479,461	502,334	517,346
Crawford	20	48,627	50,159	49,843	Pepin	11	25,317	26,759	27,641
Dane	59	2,733,236	2,907,089	2,931,160	Pierce	25	161,779	174,338	182,642
Dodge	40	271,829	284,630	293,306	Polk	35	181,004	193,386	206,398
Door	19	240,157	250,891	274,107	Portage	27	261,680	274,156	285,292
Douglas	22	132,333	147,641	155,297	Price	22	47,191	48,588	49,107
Dunn	30	139,296	149,671	156,708	Racine	17	666,651	727,202	783,873
Eau Claire	18	387,431	419,888	439,340	Richland	22	48,244	50,484	52,262
Florence	8	20,162	21,128	22,858	Rock	28	512,497	545,116	592,396
Fond du Lac	32	328,539	344,451	353,926	Rusk	33	41,172	29,257	42,171
Forest	15	35,886	37,118	37,763	St. Croix	33	411,085	445,852	470,705
Grant	52	143,892	157,536	160,746	Sauk	37	303,719	315,935	331,259
Green	23	138,351	144,343	152,709	Sawyer	17	94,374	96,144	96,886
Green Lake	16	75,415	77,883	80,152	Shawano	36	121,893	127,034	132,285
Iowa	25	86,619	93,033	96,405	Sheboygan	28	414,084	443,611	459,466
Iron	11	23,325	22,201	16,014	Taylor	27	55,550	57,720	57,758
Jackson	26	55,431	62,900	64,941	Trempealeau	26	97,708	102,226	106,075
Jefferson	24	319,081	337,907	350,622	Vernon	32	84,486	89,265	93,720
Juneau	28	85,373	89,285	95,585	Vilas	15	187,214	193,301	204,916
Kenosha	12	654,214	701,092	755,425	Walworth	28	542,711	578,611	614,055
Kewaunee	14	75,749	76,788	78,307	Washburn	25	82,955	86,027	93,000
La Crosse	18	439,073	465,318	492,011	Washington	20	624,866	656,721	686,395
Lafayette	26	49,325	50,794	53,924	Waukesha	37	2,207,593	2,322,842	2,418,209
Langlade	19	65,412	67,012	66,327	Waupaca	34	172,513	177,485	187,247
Lincoln	18	92,684	97,004	100,875	Waushara	25	89,608	94,470	98,688
					Winnebago	21	592,979	621,927	643,116
					Wood	34	239,067	246,131	255,738
					Total	1,841	\$22,449,747	\$23,758,587	\$24,846,705

compliance with the program requirements to: (a) spend fire dues only on permitted uses; (b) comply with program requirements; and (c) provide for fire inspections of every public building and place of employment in the fire department's territory, generally at least once in each non-overlapping six-month period per calendar year, or two inspections per year, except in the City of Milwaukee,

which establishes its own inspection schedule.

Under 2013 Act 20, municipalities must be in substantial compliance with the s. 101.141 requirements to keep records of fires and submit the reports of fires to the U.S. Fire Administration for inclusion in the National Fire Incident Reporting System. Prior to enactment of 2013 Act 20,

fire departments were required to comply with the fire incident reporting requirements, but the receipt of fire dues was not conditioned upon compliance with the reporting requirements.

Under s. SPS 314.01 (13)(b) 7. of the administrative code, municipalities may pass an ordinance under which the municipality conducts one fire inspection per calendar year instead of two, provided the interval between those inspections does not exceed 15 months. DSPS does not keep records of which municipalities have adopted such an ordinance.

DSPS utilizes an online self-certification process whereby, on or before April 1 of every year, the city, village, or town clerk, and the chief of the fire department providing fire protection to the municipality, must complete an online registration and certification process. The officials must certify that the fire department is in substantial compliance with the fire dues program requirements, including compliance with the fire incident reporting requirements.

Determination of Substantial Compliance

Under statutorily-required administrative rules, SPS 314.03 (1)(i) defines "substantial compliance" as:

"Substantial compliance," for the purposes of s. 101.575 (4)(a)1. and 2., Stats., means an ample amount of the required activity was performed through a concerted effort aimed at total compliance. A determination of substantial compliance is obtained through a common-sense approach to evaluating whether enough effort was made to comply with the applicable statute or code requirements. Substantial compliance is not a specific number or percent of compliance. A determination of substantial compliance in any one year or regulatory standard does not mean that the same amount of compliance or effort in the following year or in another area of the code automatically equals substantial compliance."

If DSPS determines that a city, village, or town does not meet the "substantial compliance" eligibility requirements, DSPS pays the fire dues to the municipality for that calendar year and issues a notice of noncompliance to the chief of the fire department, the governing body, and the highest elected official of the municipality. If the municipality does not meet the requirements within one year after receipt of the notice or prior to the next audit by DSPS, whichever is later, the city, village, or town will not be entitled to fire dues for that year and for all subsequent calendar years until the requirements are met.

DSPS issues a notice of noncompliance based on one or more of the following reasons: (a) the municipality fails to self-certify compliance; (b) the municipality self-certifies noncompliance; (c) the municipality returns an incomplete self-certification form; (d) the municipality is not compliant with fire incident reporting requirements; (e) the municipality has incomplete records regarding such matters as training, use of fire dues funds, or fire inspections; or (f) an audit by DSPS results in failure. Table 5 includes information about noncompliance with fire dues requirements from 2020 through 2022. The table shows the number of municipalities that received notices of noncompliance. Table 5 also shows the number of onsite audits performed by DSPS, and the number of municipalities that did not receive fire dues payments due to noncompliance.

In 2021, DSPS issued notices of noncompliance to 25 municipalities. Fourteen municipalities did not receive fire dues payments due to noncompliance. In 2022, DSPS issued notices of noncompliance to 59 municipalities. Nine municipalities did not receive a fire dues payment due to noncompliance. DSPS fire prevention coordinators performed 32 onsite audits in 2020, 106 in 2021, and 159 in 2022.

Section SPS 314.01 of the administrative code establishes an appeals process to be followed if

Table 5: Municipalities Determined to be Noncompliant with Fire Dues Requirements

	2020	2021	2022
Number of Noncompliant Municipalities	37	25	59
Onsite Audits Performed by DSPS	32	106	159
Number of Municipalities That Did Not Receive Payment Due to Noncompliance	19	14	9

DSPS determines a municipality is not in substantial compliance with the fire dues requirements. The appeals process does not apply in situations where the noncompliance is based on the self-certification by the fire department and municipality. A fire department or a municipality served by the fire department may submit an appeal within 30 days after DSPS's determination of ineligibility. An appeals board appointed by DSPS would consider the appeal and forward its findings to the Secretary of DSPS within 30 days. The DSPS Secretary would uphold or overturn the Department's initial determination of failure. This appeals procedure has not been used. DSPS indicates that most determinations of noncompliance have been based on the municipality failing the onsite audit.

If DSPS withholds payments of any fire dues to a municipality that would have used the dues for payments into any firefighter's pension fund or other special funds for disabled or retired firefighters, the municipality would be required to make a payment to the pension fund or other special fund from any other available fund of the municipality. If no other fund would be available, the municipality would be required to make the payment from the taxes levied and collected for the city, village, or town.

DSPS Administrative Appropriation

DSPS is responsible for administering a statewide fire prevention program. DSPS is appropriated \$765,300 each year in the 2021-23 biennium from fire dues revenues with 5.5

positions. The Department uses the administrative funds for activities such as: (a) conducting annual training sessions for local fire inspectors; (b) providing onsite consultations and technical assistance to fire department officials and inspectors related to fire prevention and fire safety elements of the state building and fire prevention codes; (c) administering code provisions related to fire prevention; (d) determining eligibility of municipalities to receive fire dues distribution; (e) calculating payments of fire dues; (f) verifying compliance of municipalities with the fire dues program criteria; (g) maintaining a database of fire incident reporting records of all fires occurring in the state; and (h) providing information related to fire safety.

The 5.5 full-time DSPS positions include: (a) 4.0 fire prevention coordinators whose duties include auditing municipalities for fire dues grant eligibility, assisting municipalities and local fire departments in meeting state requirements, and providing technical support, onsite consultations and audits, and training regarding fire prevention; (b) 1.0 program support position responsible for entering fire prevention data into databases, providing information related to fire prevention programs, and managing the fire incident reporting and self-certification activities of the fire prevention program; and (c) 0.5 position divided among several DSPS budget, finance, and management staff.

During the 2021-23 biennium, specific duties of the four fire prevention coordinators have included: (a) consulting with local fire department and municipal officials regarding fire dues

compliance requirements, and regarding the fire prevention code and commercial building code requirements for new buildings and changes of use in existing buildings; (b) providing onsite consultations and training for municipal fire departments; and (c) performing onsite audits of fire departments and associated follow-up audits. Two of the four fire prevention coordinators are trained to review fire alarm plans in addition to their aforementioned duties.

Under statutorily-required administrative rules in SPS 314.03 (1), "administrative expenses" under the administrative appropriation are defined as expenditures for the direct costs and indirect costs of administering s. 101.14 (fire inspections, prevention, detection and suppression), s. 101.141 (record keeping of fires) and s. 101.573 (fire dues distribution) of the statutes. In general, the provisions allow for costs of employee compensation, a proportionate share of management and administrative services, and related equipment, rent, publications, or ancillary services.

In 2015, DSPS contracted with a private vendor to provide software, technical assistance, and training to local fire departments to help them meet the statutory requirement to report every fire involving a building to the U.S. Fire Administration for inclusion in the National Fire Incident Reporting System. As of September,

2022, DSPS estimates that 190 fire departments are actively using the service. Other fire departments use other types of software to report fire incidents.

Wisconsin Technical College System Programs

The Wisconsin Technical College System (WTCS) is responsible for firefighter training programs in the WTCS districts. In each of 2021-22 and 2022-23, \$600,000 of fire dues revenues is appropriated for tuition for members of volunteer and paid fire departments to attend firefighter training programs. WTCS reimburses technical college districts for their training costs. In 2021-22, funding supported training for 5,034 firefighters in programs conducted by WTCS districts.

In addition, the WTCS is appropriated \$475,700 in both years of the 2021-23 biennium from fire dues revenues with 3.0 permanent positions for: (a) development and purchase of curriculum materials; (b) workshops for firefighters; (c) an annual workshop for WTCS firefighter instructors and trainers from fire departments; (d) technical assistance to WTCS districts; and (e) testing and certification of firefighters.