Legislative Fiscal Bureau

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Reimbursement of Risk Management Claims Payments from the General Fund (Administration – General Programs)

[LFB 2003-05 Budget Summary: Page 21, #5]

CURRENT LAW

The state operates a self-funded risk management program to insure against liability, property, and worker's compensation losses. In addition, the state's risk management program has established a related program to insure against potential losses related to the state's responsibility for the hazardous waste cleanups. The state's risk management function is administered by the Bureau of State Risk Management in DOA's Division of State Agency Services. Base level funding for claims payments and reinsurance premium payments is $20,895,000 PR annually.

DOA allocates an annual charge to state agencies for the estimated costs attributable to each risk management program, as follows:

Property. Each agency is assessed different rates, based on six different property classes used in the program. These rates are applied to the property values to generate premium amounts. Credit or surcharge adjustments are applied to adjust for actual agency loss experience. The total premium or assessment is based on expected losses, administrative expenses and excess insurance costs.

Liability. Each agency is assessed its proportionate share of costs based on the preceding eight years of loss data. Medical malpractice liability insurance for physicians at the University of Wisconsin, University of Wisconsin Hospitals and Clinics, and the Departments of Health and Family Services, Corrections and Veterans Affairs are calculated separately from other liability premiums. The total premium or assessment is based on expected losses, administrative expenses and excess insurance costs.

Worker's Compensation. Each agency is assessed its proportionate share of costs based on claims experience during the preceding three years. Both experience and exposure data are used to calculate rates for smaller state agencies. This procedure is used to stabilize premium changes from year-to-year for small agencies. The total premium or assessment is based on expected losses and administrative expenses.

Hazardous Waste. Only those state agencies with potential exposure are assessed for this program, if at all. A relatively modest program balance is reserved for potential future claims.

Annual agency charges are credited to DOA's risk management costs appropriation [s. 20.505(2)(k) of the statutes] from which claims payments and reinsurance costs are paid. This appropriation also transfers an annual amount to a separate risk management administration appropriation to support operational costs. Lapsing balances from the administration appropriation at the end of each fiscal year revert to the risk management costs appropriation.

To the extent that losses exceed the amounts available in the PR balances for all of the risk management programs, a GPR-funded sum sufficient appropriation is available to pay the losses.

GOVERNOR

Provide increased expenditure authority for risk management claims payment and reinsurance costs of $3,824,100 PR in 2003-04 and $5,529,400 PR in 2004-05. These amounts include $1,856,800 PR in 2003-04 and $3,215,100 in 2004-05 for increased claims payment costs and an additional $1,967,300 PR in 2003-04 and $2,314,300 PR in 2004-05 for excess insurance premiums due to the increased value of insured state properties and higher reinsurance market premium costs.

DISCUSSION POINTS

1. Prior to the 1991-92 fiscal year, costs for property, liability, and worker's compensation losses and associated administrative expenses were paid from a GPR sum sufficient appropriation. Agencies partially or wholly funded from non-GPR appropriations were assessed charges on a proportional basis against their non-GPR funded programs. The revenues from these assessments were then used to reimburse the general fund for the non-GPR agencies' risk management costs that had initially been paid from GPR.

2. Under provisions of 1991 Wisconsin Act 39, the risk management program was converted to PR funding, and DOA was required to develop a methodology for assessing state agencies for the total costs of the program. Agencies were thus responsible for funding risk management costs from both their GPR and non-GPR operating budgets.

3. The previously existing GPR sum sufficient appropriation was retained to fund any loss payments that might exceed the actual amount of revenues available from premium

assessments. Currently, no expenditure amounts are estimated under this GPR sum sufficient appropriation. In fact, since the conversion of the risk management program to a PR funding basis in 1991-92, there has never been a draw from this GPR appropriation.

4. The Department estimates that the total risk management program fund balance at the end of 2002-03, will total $3,945,600 PR, which includes: (a) $1,221,000 PR for property claims; (b) $1,644,900 PR for liability claims; (c) $400,000 PR for worker's compensation claims; and (d) $674,700 PR for the environmental fund claims. This projected year-end fund balance would be the lowest reserve level since the program's conversion entirely to PR funding.

5. The following table shows the ending fund balances over the last ten years for each of the state's risk management program categories.

Risk Management Fund Ending Balances by Program Category
(1993-94 through 2002-03)

Fiscal Year	Property	Liability	Worker's Compensation	Environmental Fund	Total
1993-94	$2,292,246	$141,429	$2,157,543	$781,500	$5,372,718
1994-95	3,083,591	2,703,276	3,161,419	2,660,900	11,609,186
1995-96	2,666,890	3,571,813	5,797,643	3,825,200	15,861,546
1996-97	3,258,919	4,215,984	7,068,056	1,003,400	15,546,359
1997-98	1,890,069	4,087,572	6,515,723	821,400	13,314,764
1998-99	1,911,154	5,721,659	5,034,970	761,900	13,429,683
1999-00	1,549,180	5,351,881	4,376,180	704,400	11,981,641
2000-01	1,267,838	6,239,559	3,131,344	694,400	11,333,141
2001-02	2,493,000	5,179,000	1,784,000	690,400	10,146,400
2002-03*	1,221,000	1,644,900	400,000	674,700	3,940,600

*Estimated

6. If any of the four fund balances would become fully depleted because of claims payments, program administrators would first draw from the remaining PR fund balances before authorizing an expenditure from the GPR sum sufficient appropriation. For example, if the worker's compensation reserves were fully expended, DOA would first draw on funds that are reserved for property, liability, and environmental claims. In such a case, future year assessments for worker's compensation would be increased and the other fund reserves would be replenished over a several-year period from these increased assessments.

7. Currently, there is no statutory language in regards to whether the general fund should be repaid by the risk management program in the event that a payment would be required from the GPR sum sufficient appropriation. Currently, when losses under one program are such that the balances available to the other risk management programs are tapped, these other programs

are ultimately made whole in future years. It could be argued that, in analogous fashion, any draw on the GPR sum sufficient appropriation should also be repaid.

8. Currently, at least three significant claims against the state are proceeding in several agencies, and it is anticipated that the state will not be able to avoid one or more substantial settlement payments. It is likely that these payments will not occur in the current fiscal year, but are a distinct possibility in 2003-04. These potential payments are of sufficient magnitude that all remaining PR balances available under the state's risk management program could be depleted. This situation would trigger a payment from the GPR sum sufficient appropriation.

9. In order to ensure that the general fund would ultimately be made whole for any such payment from the sum sufficient appropriation, the Committee may wish to require the Secretary of the DOA to lapse amounts to the general fund from the future available PR balances in the state's risk management costs appropriation [s. 20.505(2)(k) of the statutes] sufficient to make the general fund whole as a result of payments made under the s. 20.505(2)(a) sum sufficient risk management claims appropriation. These lapses would be made on a schedule determined by the Secretary of DOA (but not to exceed six years) and would include interest based on the rate earned on balances in the State Investment Fund for the period between the initial draw from the general fund and the date on which each repayment is made.

10. Alternatively, it could be argued that since the risk management program is self-funded, provides coverage for all state agencies and programs, and to date has never been required to utilize the sum sufficient appropriation to pay for extraordinary losses, the general fund is an appropriate source of excess costs under such circumstances and current law should be maintained.

11. Whether or not the Committee chooses to establish a mechanism to repay the general fund in the event that claims payments must be made from the risk management GPR sum sufficient appropriation, the amounts recommended for the risk management program for anticipated claims payments and excess insurance costs for 2003-04 and 2004-05 appear reasonable and are supported by appropriate documentation. The Committee may wish to approve this recommended increased expenditure authority.

ALTERNATIVES

1. Approve the Governor's recommendation to provide increased expenditure authority for risk management claims payment and reinsurance costs of $3,824,100 PR in 2003-04 and $5,529,400 PR in 2004-05.

2. *In addition to Alternative 1,* require the Secretary of DOA to lapse amounts to the general fund from the future available PR balances in the state's risk management costs appropriation [s. 20.505(2)(k) of the statutes] sufficient to make the general fund whole as a result of payments made under the s. 20.505(2)(a) sum sufficient risk management claims appropriation. Specify that these lapses be made on a schedule determined by the Secretary of DOA (but not to exceed six years) and include interest based on the rate earned on balances in the State Investment

Fund for the period between the initial draw from the s. 20.505(2)(a) appropriation and the date on which each repayment is made.

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