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Allocation of Utility Public Benefits Funds (Administration -- Transfers from the Department to Other Agencies)

[LFB 2003-05 Budget Summary: Page 35, #1; Page 182, #3; and Page 382, #3]

CURRENT LAW

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 and encourages initiatives 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 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. Commencing with the 2004-05 fiscal year, DOA will be required to determine each year whether to continue, discontinue or reduce any of the public benefits programs relating to energy conservation and efficiency and renewable resources.

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 transfer these monies to the 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.

GOVERNOR

Allocate $27,100,000 SEG in 2004-05 from the public benefits fund to supplement: (1) county and municipal aid payments ($20,000,000 SEG in 2004-05); and (2) earned income tax credits ($7,100,000 SEG in 2004-05). The county and municipal aid payment appropriation would be repealed on July 1, 2005. The Governor's intent is that the funding be allocated from the energy conservation and efficiency portion of the public benefits program.

In a March 17, 2003, letter to the Co-chairs of the Joint Committee on Finance, the Secretary of DOA requested that the $7,100,000 SEG allocation from public benefits proposed for the earned income tax credit be replaced with a like amount from TANF revenues and that an additional $7,100,000 GPR budgeted for shared revenue payments in 2004-05 be funded instead with public benefits monies. The net effect of these proposed modifications is to provide a total of $27,100,000 SEG of public benefits funds in 2004-05 for shared revenue payments.

DISCUSSION POINTS

1. This paper discusses the revenue stream that will to be credited to the energy conservation and efficiency portion of the public benefits program during the 2003-05 biennium. This discussion describes how program administrators anticipate that they will manage the proposed $27.1 million diversion from the fund in 2004-05, reviews the potential consequences of such a diversion, and considers the degree to which additional funds could be reallocated. The issues of whether or not to make the specific diversion of public benefits funds to support county and municipal aid payments and earned income tax credits are addressed in separate papers on each of those proposals.

2. The development of a state-run public benefits program began with efforts to restructure the electric utility industry in the state into separate generation, transmission and distribution entities. It was viewed by some in the industry as desirable from a competitive standpoint to shift responsibility for utility-operated low-income programs and energy conservation public benefits programs from the utilities to another entity. In Wisconsin, with the enactment of 1999 Wisconsin Act 9 (the 1999-01 biennial budget), 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. Provisions of Act 9 created the current public benefits program. Act 9 established the following revenue stream for the public benefits segregated fund: (a) transfers from major energy utilities of the public benefits funding amounts collected from their customers, as determined by the PSC for a baseline period (calendar year 1998); (b) monthly public benefits fees collected from investor-owned electric utility customers; and (c) public benefits fees collected by electric cooperatives and municipal electric utilities, if these utilities do not offer their own programs (termed "commitment to community" programs) but instead participate in DOA's public benefits programs.

4. With respect to the amounts transferred from the major utilities in the state, increasingly larger proportions of these utilities' public benefits provider functions and associated baseline funding were phased over to DOA during a three calendar year transition period (2000 through 2002). Starting in 2002-03, all such utility funding, $67,155,100, is now being credited each year to the public benefits fund under DOA.

5. These annual transfer amounts were determined under a PSC order that identified $99,684,500 of public benefits-type expenditures by Wisconsin investor-owned electric utilities for the 1998 base year. Of this total, $32,529,400 annually was identified by the PSC for retention by the utilities and $67,155,100 annually was identified for transfer to the state public benefits fund.

6. In each case where monies are retained by the utilities, they are required to maintain those retained funding levels for the in-house programs. The following table summarizes the types of major utility public benefits base year funding commitments identified by the PSC order for transfer each year to the state public benefits program.

Utility Public Benefits Base Year Funding Commitments and Transfer Requirements
(1998 Expenditures as Identified by the PSC)

Low-Income Programs	Base Year Expenditures	Annual Amounts to be Transferred
Low-Income Weatherization	$8,503,500	$8,503,500
Low-Income Uncollectables and Arrearages	16,927,700	11,823,200
Early Identification Program	2,341,100	1,002,400
Low-Income Total	$27,772,300	$21,329,100
Energy Conservation and Efficiency Programs		
Energy Conservation and Efficiency	$69,697,400	$45,110,400
Environmental Research and Development	1,721,100	624,500
Renewable Resources	493,700	91,100
Energy Conservation Total	$71,912,200	$45,826,000
All Public Benefits Total	$99,684,500	$67,155,100

7. Provisions of Act 9 also established a new public benefits fee collected from the customers of all electric utilities (including municipal utilities) and the members of retail electric cooperatives. The fees are established annually by DOA by rule and are set at a level sufficient to generate $20 million per year for energy conservation and efficiency and renewable resources programs and $24 million per year for low-income public benefits services. These new fees are remitted to DOA for crediting to the public benefits fund.

8. These new fees have been collected since October 1, 2000. For residential customers in 2002-03, the fee may not exceed the lesser of 3% of the customer's bill or $1.85 monthly. On July 1, 2003, this fee amount will drop to $1.50 per month. For commercial and industrial customers in 2002-03, the fees cannot exceed 3% (equivalent to a monthly maximum that varies between $2.75 and $112 per meter depending on the class of service). Commercial and industrial customers may also request a rebate of any fees that exceed $750 annually in any public utility operational area.

9. Municipal electric utilities and retail electric cooperatives have the option either of retaining fees assessed to their customers in order to support public benefits-type programs in their service areas, or of forwarding these collections to DOA, in which case the customers of the municipal electric utility or retail electric cooperative would be eligible for state public benefits program funds.

10. Fees in the amount of $16 per year are collected from residential municipal electric utility and retail electric cooperative customers for these utilities' programs. DOA estimates that approximately $7.4 million annually is collected by these types of utilities for their public benefits programs. Of these amounts, an estimated $926,900 annually is currently expected to be remitted to DOA in the next biennium by municipal electric utilities or retail electric cooperatives that participate in the DOA public benefits programs.

11. The following table summarizes DOA's current projections of likely revenues and expenditures under both the energy conservation and development component of the public benefits program during the 2003-05 biennium. The table shows the projected impact of the allocation of $27.1 million in 2004-05 from the energy conservation and development portion of the public benefits program.

Energy Conservation and Efficiency Public Benefits Program Projected Fund Balances (2003-05)

	2003-04	2004-05
Beginning Balance	-$686,400	$0
Revenues		
Fees from Utility Customers	$16,295,400	$16,295,400
Utility Transition Funds	45,826,000	45,826,000
Cooperative and Municipal Utility Fees	146,700	146,700
Total	$62,268,100	$62,268,100
Total Available	$61,581,700	$62,268,100
Expenditures and Allocations		
Program Administration	$992,700	$992,700
Evaluation, Marketing and Compliance Contracts	7,493,800	0
Contracted Program Delivery	55,238,200	0
To Be Committed to Current Programs	0	34,175,400
Senate Bill 44 Allocation	0	27,100,000
Total	$63,724,700	$62,268,100
Ending Balance	-$2,143,000	$0

12. Two comments may be made concerning the above revenue and expenditure projections for the energy conservation and efficiency program during the 2003-05 biennium. First, DOA program staff advise that the projected deficit of $2,143,000 at the end of the 2003-04 fiscal year will likely be liquidated through adjustments to administrative or program delivery contracts in order to decrease total program obligations. The Department intends to ensure that the program ends the 2003-04 fiscal year with no program deficit.

13. Second, during the 2004-05 fiscal year, program staff have made allowances for the proposed diversion of $27.1 million from the energy conservation and efficiency public benefits fund. The remaining balance of approximately $34.2 million in 2004-05 will be allocated among current evaluation, marketing and compliance contracts and current energy conservation programs, based on a system of priorities that program administrators have yet to determine.

14. Currently, the energy conservation and efficiency program supports a wide variety of initiatives. A major markets program offers 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. A 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 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. A program evaluation component provides DOA with an independent evaluation of contract administrators' performance. A marketing component includes public information and promotional efforts associated with the core components of the energy conservation program.

15. In general, the rationale of these types of energy conservation and efficiency activities is that it is far more cost-effective to manage the need for future power plant construction through reducing electric consumption.

16. DOA has indicated that these current administrative and program delivery contracts would be reviewed to determine which programs were the most cost-effective or had the best long-range energy savings potential. The agency would also determine which programs are better suited to being ramped down for one year without creating the potential that current participants would no longer participate in the program if funding was restored after 2004-05. It is expected that all remaining available funds would be targeted in 2004-05 only to those programs deemed the most cost-effective and least likely to be adversely affected by defunding.

17. The Governor's recommendation transfers public benefits funding to other purposes only in the second year of the 2003-05 biennium. Program staff advise that the program can likely accommodate a diversion of this magnitude. Further, the reallocation of all of the funding from only one program year is preferable to taking smaller amounts over two years. The Department cites two reasons for this: (a) applying the reductions in the second year fiscal year would allow the agency to complete current contracts that end on June 30, 2004; and (b) if there are any savings associated with program activities in 2003-04, those amounts could be carried into 2004-05 to help cover portions of the required transfers.

18. The most likely adverse impact of the current proposed reallocations will be delaying currently planned expansions to existing energy conservation and related programs. 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 ($27.1 million) of the anticipated total revenues for the biennium ($124.5 million) for these purposes. Including the projected program deficit in 2003-04 of $2.1 million, a total of $95.3 million would still be available to the program during the 2003-05 biennium. The diversion of $27.1 million will likely not 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 2003-04 only, after which only $7,000,000 annually would still be subject to annual transfer. The diverted funds will be used to replace GPR funding at a time when the state is confronted by a significant deficit.

19. Given that the Governor has already recommended diverting $27.1 million from the

program in 2004-05, the Committee could choose to lapse to the general fund the remaining $34.2 million of program funds in that year. 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 all of the 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.

20. Opponents of any additional diversion would also 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.

21. However, 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 2003-05 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 $3,848,900 SEG in 2003-04 and $2,198,000 SEG in 2004-05 could be diverted and credited to the general fund as a one-time revenue.

22. In the event of further significant diversions or program termination, the Division of Energy has identified costs in 2003-04 of $1,558,000 SEG that would still have to be paid to terminate office space leases, terminate contracts, and provide committed matching incentive program funds.

23. Finally, it should be noted that while there is a precedent for transferring public benefits monies to other purposes (2003 Wisconsin Act 1 directed that $8,365,600 SEG be lapsed to the general fund in 2002-03 from the public benefits fund), it is unknown whether any utilities would question, before the PSC, the appropriateness a further, more significant diversion to the general fund.

ALTERNATIVES

Alternatives relating to the diversion of $20,000,000 SEG of public benefits funds in 2004-05 for county and municipal aid payments and $7,100,000 SEG in 2004-05 of public benefits funds for the payment of earned income tax credits will be separately addressed in separate papers on those topics.

1. Modify the Governor's recommendation by suspending through June 30, 2005, 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 and lapse $3,848,900 SEG in 2003-04 and $2,198,000 SEG in 2004-05 of public benefits funds to the general fund.

Alternative 1	GPR
2003-05 REVENUE (Change to Bill)	$6,046,900

2. Modify the Governor's recommendation by lapsing an additional $34,175,400 SEG in 2004-05 from the public benefits fund to the general fund.

Alternative 2	GPR
2003-05 REVENUE (Change to Bill)	$34,175,400

3. Take no action.

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