



Legislative Fiscal Bureau

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February 17, 2004

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 351: Breast Cancer Research -- Income Tax Check-Off and Grant Program

Assembly Bill 351 was introduced on May 20, 2003, and referred to the Committee on Public Health. On October 15, 2003, that Committee recommended passage of AB 351, on a vote of 7 to 0. The bill was referred to the Joint Committee on Finance on October 15, 2003.

CURRENT LAW

According to an American Cancer Society Report, *Wisconsin Cancer Facts and Figures 2003-2004*, breast cancer is the most common type of cancer among women in Wisconsin, accounting for approximately 32% of all new cancer cases reported during the period from 1996 to 2000. After lung cancer, it is the second leading cause of cancer death among women, accounting for 16% of all cancer deaths among women, or an average of 816 deaths per year during this period.

Nationally, cancer research is funded from several sources, including: (a) grants from federal agencies; (b) grants from state, local, or nonprofit agencies; and (c) gifts, donations, and bequests. Wisconsin does not provide state funds specifically to support cancer research. However, state funds provide indirect support for the research activities, including cancer research, conducted at the University of Wisconsin (UW).

The National Cancer Institute (NCI) is the primary source of funding for cancer research. NCI, which is within the National Institutes of Health, coordinates a national research program on cancer causes and prevention, detection and diagnosis, and treatment. In 2003-04, NCI's budget is approximately \$4.8 billion, of which approximately \$584 million is allocated specifically to fund breast cancer research projects. NCI currently funds 2,379 breast cancer research projects, of which 140 are clinical trials.

In Wisconsin, NCI currently funds 37 breast cancer projects. NCI awarded 29 grants to the UW and five grants to the Medical College of Wisconsin (MCW). NCI awarded the other three grants to: (a) Marshfield Clinic; (b) Bioinnovation, LLC; and (c) St. Vincent Hospital.

Most cancer research in Wisconsin is conducted by researchers affiliated with UW and MCW, as described below.

The University of Wisconsin Comprehensive Cancer Center. The UW formed the University of Wisconsin Comprehensive Cancer Center (UWCCC) in 1973. UWCCC is one of 40 cancer centers nationwide designated by the NCI as a "comprehensive cancer center." Comprehensive cancer centers must pass rigorous peer review and must perform research in three areas -- basic research, clinical research, and cancer prevention, control, and population-based research. Comprehensive cancer centers must also have a strong body of interactive research that bridges these research areas and conduct outreach, education, and information activities.

In 2001-02, the UWCCC received approximately \$85.8 million to support cancer research. These funds supported: (a) basic and translational research (\$55.8 million); (b) clinical research (\$7.0 million); (c) tobacco research and control (\$5.9 million); (d) population studies and cancer control (\$4.9 million); (e) UWCCC core grant (\$5.0 million); (f) cancer information service (\$1.0 million); and (g) training and educational grants (\$6.2 million). UWCCC staff indicate that the UWCCC currently receives over \$100 million annually to fund cancer research, of which at least \$12.6 million supports breast cancer research.

The UWCCC receives research funding from: (a) the National Cancer Institute; (b) the National Institute of Health; (c) non peer-reviewed awards; (d) other peer-reviewed awards; (e) the American Cancer Society; and (f) the National Science Foundation. No state funding currently supports these research activities.

In addition, the UW opened the UW Breast Center in October, 2002. The UW Breast Center provides, at a single location, a range of related services, from mammography screenings to the development of care plans for breast problems. The UW Breast Center treats patients through prevention, early detection, diagnosis, and treatment of breast disease through coordinated care. In addition to treatment, the UW Breast Center participates in breast cancer research through clinical trials.

Medical College of Wisconsin. MCW established the Cancer Center in 1984. The Cancer Center conducts basic science and clinical cancer research. Divisions of the Cancer Center include Froedtert & Medical College Cancer Center, the Midwest Children's Cancer Center at Children's Hospital of Wisconsin, and cancer care and research programs at the Zablocki Veterans' Administration Medical Center. MCW received \$9.63 million to support the Cancer Center in 2002-03. Of these funds, the amount that supports breast cancer research is unknown.

Although the Cancer Center does not have a specific center that focuses exclusively on breast cancer, its doctors are also leaders in breast cancer diagnosis and treatment. The Cancer Center performs breast cancer research, as well as research associated with other types of cancer. As a result of its breast cancer research, the Cancer Center: (a) proved that correct mammogram reading improved significantly when two radiologists reviewed the films, which changed the accreditation standards nationally; (b) was first in Milwaukee to use lymph node mapping to target surgical treatment and improve recovery time for patients; and (c) evaluated national trends in breast cancer care.

Private Organizations. In addition to the two medical schools, some private hospitals and other organizations also participate in breast cancer research. However, most breast cancer research is conducted by researchers affiliated with the two medical schools.

BILL SUMMARY

The bill would create a program under which the Department of Health and Family Services (DHFS) would distribute grants for breast cancer research projects. The program would be funded from a new income tax check-off, which would enable individual income tax filers to voluntarily contribute to this new program in the same way individual income tax filers can currently support the Department of Natural Resources endangered species program and the maintenance and operating costs of Lambeau Field in Green Bay.

Research Grants

The bill would require DHFS to award grants to eligible persons, including physicians, hospitals, clinical laboratories, and institutions of higher education, to conduct breast cancer research projects. "Breast cancer research projects" would include projects to develop and advance the understanding of the techniques and modalities that are effective in the early detection, prevention, cure, screening, and treatment of breast cancer, and could include projects that involve clinical trials

Under the bill, the DHFS Secretary would appoint a Breast Cancer Advisory Committee and consult with the advisory committee before awarding any grant. The advisory committee would include representatives from the American Cancer Society. Members of the advisory committee could not receive compensation for serving on the committee, but would be reimbursed for expenses actually and necessarily incurred in the performance of their duties.

DHFS would promulgate rules specifying the eligibility criteria and procedures for awarding breast cancer research grants after consulting with the Breast Cancer Advisory Committee. These rules would be submitted in proposed form to the Legislative Council Staff no later than the 4th month beginning after the bill's effective date.

The breast cancer research program would take effect on the first day of the 3rd month beginning after the date on which the DOR Secretary first credits the new DHFS breast cancer research grants appropriation.

Individual Income Tax Check-Off

Wisconsin taxpayers may currently designate on the individual income tax form that \$1 is to go to the State Election Campaign Fund. For a married couple filing a joint return, each spouse may designate \$1 to the fund. The election campaign fund check-off does not affect the amount of tax liability or tax refund. In calendar year 2003, individual income tax filers designated approximately \$191,700 for deposit to the State Election Campaign Fund. There are also two individual income tax check-off procedures (one for endangered species and the other for the operation and maintenance of Lambeau Field in Green Bay) through which taxpayers may make designations. However, these check-offs are for the purpose of indicating a donation that either reduces a taxpayer's refund or increases the amount owed.

The bill would permit every individual filing an income tax return who has a tax liability or is entitled to a tax refund to designate on the return any amount of additional payment or any amount of a refund due that individual for the breast cancer research program. The administration of the tax check-off for the breast cancer research program would operate in the same manner as the administration of the tax check-offs that support endangered resources and maintenance and operations costs of Lambeau Field in Green Bay.

If an individual would owe any tax, the individual would remit in full the tax due and the amount designated on the return for the breast cancer research program when the individual files a tax return. If an individual is owed a refund, after crediting for any attachments or overpayments, DOR would deduct the amount designated on the return for the breast cancer research program from the amount of the refund.

The bill would address the failure to remit the correct amount of taxes owed. First, if an individual who owes taxes fails to remit an amount equal to or in excess of the total of the actual tax due, after error corrections, and the amount designated on the return for the breast cancer research program, then DOR would reduce the designation for the breast cancer research program to reflect the amount remitted in excess of the actual tax due, after error corrections, if the individual remitted an amount in excess of the actual tax due, after error corrections, and the amount originally designated on the return for the breast cancer research program. However, the designation for the breast cancer research program is void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

Second, if an individual is owed a refund which does not equal or exceed the amount designated on the return for the breast cancer research program, after crediting for any attachments or overpayments and after error corrections, DOR would reduce the designation for the breast

cancer research program to reflect the actual amount of the refund that the individual is otherwise owed, after crediting for any attachments or overpayments and after error corrections.

The bill would specify that if an individual places any conditions on a designation for the breast cancer research program, the designation would be void. In addition, if a designation for the breast cancer research program is void, DOR would disregard the designation and determine amounts due, owed, refunded, and received without regard to the void designation.

The bill would direct the DOR Secretary to provide a place for the designations on the individual income tax return.

The bill would require the DOR Secretary to certify annually, on or before September 15, to DHFS, the Department of Administration, and the State Treasurer: (a) the total amount of the administrative costs, including data processing costs, incurred by DOR in administering the individual income tax check-off for the breast cancer research program during the previous fiscal year; (b) the total amount received from all designations for the breast cancer research program made by taxpayers during the previous fiscal year; and (c) the net amount remaining after the administrative costs, including data processing costs, under (a) are subtracted from the total received under (b).

The bill would deposit from the moneys received from designations for the breast cancer research program, an amount equal to the sum of administrative expenses, including data processing costs, as certified by DOR, in the general fund and credited to the administration of endangered resources; professional football district; breast cancer research voluntary payments appropriation in DOR. The net amount remaining, as certified by DOR, would be credited to a continuing appropriation in DHFS for breast cancer research grants, which the bill creates.

The bill would prohibit amounts designated for the breast cancer research program from being subject to refund to the taxpayer unless the taxpayer submits information to the satisfaction of DOR, within 18 months after the date on which the taxes are due or the date on which the return is filed, whichever is later, that the amount designated is clearly in error. Any such refund granted by DOR would be deducted from the moneys received from designations for the breast cancer research program in the fiscal year for which the refund is certified.

The bill would modify a current DOR program revenue appropriation for the administration of endangered resources and Lambeau Field voluntary payments to include the administration of breast cancer research voluntary payments. The administration of the new endangered resources, Lambeau Field, and breast cancer research voluntary payments appropriation would consist of moneys specified for deposit in this appropriation for the payments of all administrative costs, including data processing costs, incurred in administering designations for these programs.

The bill would create a continuing appropriation in DHFS, the breast cancer research grants appropriation, to fund the breast cancer research grants awarded by DHFS to eligible persons, including physicians, hospitals, clinical laboratories, and institutions of higher education to conduct breast cancer research projects. This appropriation would consist of program revenue generated by the individual income tax check-off for the breast cancer research program established in the bill, less any administrative expenses, including data processing costs, that are deposited in the general fund and credited to the DOR appropriation.

FISCAL EFFECT

Revenue from Check-Off

In its fiscal note to the bill, DOR estimated that the check-off for the breast cancer research program would generate \$690,600 annually. This estimate is based on the amount received from the donations to the endangered resources program in 2001. In 2001, there were 2,556,000 tax filers. Of this number, 46,400 tax filers contributed to the endangered resources program. Therefore, 1.8% of the tax filers contributed an average of \$14.88. In 2002, a total of \$658,800 was received for the endangered resources program. Of 2,698,500 tax filers, 41,400 (1.5%) contributed an average of \$15.90.

The Lambeau Field check-off is the only other tax check-off in Wisconsin. In 2001, the first year the option was available, 22,335 tax filers contributed a total of \$225,500, for an average donation of \$10.10. In that year, approximately 0.8% of tax filers contributed to the professional football district. In 2002, 17,100 (0.6%) of the tax filers contributed \$168,700, an average of \$9.87 per contributor.

At least ten other states have some form of individual income tax check-off for breast cancer research. However, these states have at least four other tax check-offs, which compete for donations. It is unclear whether adding a breast cancer research check-off to the Wisconsin individual income tax form would increase total contributions received through the check-offs, reduce contributions that would otherwise be made to the two current check-off programs, or both.

The experience of other states is instructive. Generally, among the states that this office contacted, the overall percentage of tax filers that donate to tax check-off programs was relatively constant, regardless of the number of check-off options that these states offered tax filers. Based on these states' experiences, the total revenue generated by tax check-offs did not significantly increase after new check-offs were added. Rather, the donations were redistributed among the tax check-offs offered.

New York has a tax check-off for a breast cancer research and education fund. New York also has tax check-offs for: (a) gift for wildlife; (b) Lake Placid Olympic training center fund; (c) missing and exploited children clearinghouse fund; and (d) Alzheimer's fund. In 2003, the breast

cancer research and education fund received an average donation of \$11.50 from 45,900 filers. By comparison, the wildlife fund received an average of \$11.70 from 44,500 filers. The breast cancer research and education fund received the most number of donations, with the wildlife fund receiving the second most donations. Of New York's total tax filers, almost 2.0% contributed to at least one of the tax check-off programs, and 0.5% contributed to the breast cancer research and education fund.

Connecticut has a tax check-off for a breast cancer research and education fund. Connecticut also has tax check-offs for: (a) wildlife; (b) AIDS; (c) organ transplants; and (d) safety net services for individuals transitioning from welfare services. The breast cancer research and education fund generally has between 12,000 and 14,500 tax filers annually contribute an average donation between \$6.90 and \$8.30. The breast cancer research and education fund receives the most donations. The wildlife fund receives the second-most donations -- an average of approximately \$6.15 from 13,000 taxpayers annually. Of Connecticut's total tax filers, approximately 3.5% contributed to at least one of the tax check-off programs, and 0.9% contributed to the breast cancer research and education fund.

In Wisconsin, the Lambeau Field check-off was added in 2001. The number of donors increased from 46,500 in 2000 to 68,700 in 2001. However, the total decreased in 2002 to 58,400. The following table shows the percentage of tax filers who donated to at least one of the tax check-offs from 1998 to 2002.

**Percentage of Tax Filers in Wisconsin Who Contributed to Tax Check-Offs
Years 1998 Through 2002**

<u>Year</u>	<u>Percentage</u>
1998	1.7%
1999	1.5
2000	1.7
2001	2.5
2002	2.2

In 2001, the number of tax filers who donated to the endangered resources program decreased by 20, while tax filers who donated to Lambeau Field totaled 22,335, for a gain of 22,315 new donations. Participation in both check-offs decreased in 2002.

In summary, it is anticipated that the breast cancer research check-off would draw some new donors, but would likely cause some of the tax filers who donate to the endangered species program or Lambeau Field operations and maintenance to instead donate to the breast cancer

research program. It is estimated that the enactment of AB 351 would generate between \$400,000 and \$600,000 annually in gross contributions for the breast cancer research program.

Administrative Issues

Department of Revenue. The bill would authorize DOR to retain, from total annual breast cancer research designations, the annual amount necessary to administer the check-off program. These amounts would be placed in the appropriation that is used to fund administration of the endangered resources and Lambeau Field check-offs. Under current law, annual expenditure authority of \$35,600 PR is provided for 2003-04 and 2004-05. DOR estimates that it would incur one-time system development costs of \$83,800 and annual costs of \$15,900 to administer the new check-off program. No additional expenditure authority is provided under the bill. However, DOR could request the necessary expenditure authority under s. 16.515 of the statutes.

Department of Health and Family Services. In its fiscal note to the bill, DHFS indicates that it would need 1.0 program and planning analyst position, with \$34,600 PR in the first year and \$35,900 PR in subsequent years, to administer the breast cancer research grants. However, DHFS currently operates a cancer control and prevention grant program with the use of two federally funded positions that dedicate only 3% to 5% of their time to awarding grants that total approximately \$400,000 annually. Adding 1.0 FTE position to award grants may be unnecessary to administer this program. The ongoing staff time involved in administering the proposed breast cancer research grant program would depend primarily on the number of grant applications DHFS receives, and the level of review DHFS provides to each grant application. Any costs to administer the grants could be deducted from the income received from the tax check-off for the breast cancer research program before grants are awarded.

DHFS also estimates that \$5,000 annually would be needed to reimburse members of the advisory committee. Under the bill, the members receive no compensation, but are entitled to reimbursement for expenses actually incurred. The costs would depend on the number of members on the committee and how often the committee would meet. The bill does not provide for additional expenditure authority. However, DHFS could seek additional PR position and funding authority under s. 16.515 to support these costs.

In reviewing the bill, the Committee may wish to consider whether it is desirable to create a grant program administered by DHFS, or whether revenue from the check-off should instead be directed to institutions that currently conduct breast cancer research. DHFS currently has no staff expertise in cancer research projects. The agency does not conduct research, nor do staff review or monitor research activities conducted by UW, MCW, and other facilities. Further, it is not clear that DHFS staff, with the assistance of an advisory committee (including representatives of the American Cancer Society) would be qualified to review, evaluate, and rank applications that would be similar to the types of grant requests NCI currently receives. In addition, members of the advisory committee who would have the expertise may have conflicts of interest if they are reviewing grant applications submitted by their colleagues.

Both New York and Connecticut distribute their breast cancer and education fund revenue to their state health departments. However, as part of the state health department, New York has a laboratory and research center. The New York state health department oversees centers that perform research, including breast cancer research. DHFS, on the other hand, funds grants and programs to control and prevent cancer.

UW and MCW have established research programs dedicated to breast cancer research. Both of these medical schools receive federal funding for research purposes. Because the bill dedicates the funds received from the breast cancer research tax check-off specifically for research, the bill could be amended to distribute the net funds, after the deduction for expenses incurred by DOR, directly to one or both of the two medical schools through their cancer centers. This option would significantly reduce administrative costs by eliminating the new grant application procedure that would be created in the bill and the need to address DHFS staffing issues. Administrative costs incurred with either of the schools could be minimal because they already have established breast cancer research programs.

The UWCCC currently has a process to distribute funds for research purposes. The UWCCC receives gifts and bequests for specific research purposes. The UWCCC then makes their members aware of the funds, determines how to use the funds in accordance with their stated purpose, and has a review process to report on the use of the funds. As part of its designation as a national comprehensive cancer center, the UWCCC must meet reporting and oversight requirements, so they report annually on their research projects. Likewise, MCW receives funds specifically designated for breast cancer research through donations from various organizations, such as Boston Store. MCW also has an established internal process to determine how to fund breast cancer research when the funds are undesignated, as opposed to having the funds assigned to a specific project through a grant award.

In addition, either or both of the medical schools could confer with the American Cancer Society and other interested parties in determining how to use the funds. Eliminating DHFS from the grant process would eliminate the need for DHFS to confer with an advisory committee. Therefore, funding to reimburse members of the proposed advisory committee would be unnecessary. Alternatively, the Legislature could have oversight over the research projects by requiring one or both of the medical schools to report annually to the Legislature on the research projects that the funds support and on how the funds are used for those projects.

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