



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

October 19, 2005

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 152: Collection of Fines and Forfeitures by Counties

On March 3, 2005, Assembly Bill 152 (AB 152) was introduced and referred to the Assembly Committee on Urban and Local Affairs. On March 28, 2005, that Committee recommended passage of the bill by a vote of 5 to 3 and the bill was referred to the Joint Committee on Finance.

CURRENT LAW

Fines are levied in criminal actions while forfeitures are imposed in civil enforcement actions (such as most traffic violations). Fine and forfeiture amounts vary depending on the specific violation. Article X, Section 2, of the Wisconsin Constitution, requires that the clear proceeds from fines and forfeitures collected by counties be deposited to the state's common school fund. In addition to fines and forfeitures, the common school fund receives revenues from unclaimed property, and land and timber sales. Principal in the common school fund is invested in various statutorily authorized manners and the interest earning from these investments is provided to school districts for school libraries.

Under current law, the Legislature has authorized counties to retain, as an administrative fee, 10% of state fines and forfeitures, except for the following: (a) 50% of motor vehicle forfeitures and fines (excluding state motor vehicle size, weight and load forfeitures and fines, for which counties retain 10%); and (b) 50% of occupational driver's license fees.

SUMMARY OF BILL

Assembly Bill 152 would modify current law to allow counties to retain 20% of state fines and forfeitures that are collected within 120 days of being imposed, and 30% if collected after 120 days of being imposed. The bill would first apply to fine and forfeiture amounts imposed on the effective date, which would be the first day of the fourth month beginning after publication. Under AB 152, current law would be maintained for fines and forfeitures where counties are allowed to retain 50% of the state fines and forfeitures.

ASSEMBLY AMENDMENT 1 TO AB 152

On March 22, 2005, Assembly Amendment 1 to AB 152 was offered. The amendment would provide that the bill would first apply to fine and forfeiture amounts that are uncollected as of the effective date of the bill, rather than fines and forfeitures that are imposed on the effective date. No action was taken on the amendment.

FISCAL EFFECT

Under the bill, counties would retain an increased portion of collected fines and forfeitures, with a corresponding decrease in the amounts deposited into the common school fund. Three fiscal estimates for the bill have been submitted.

Court System. According to the fiscal estimate submitted by the Wisconsin court system, clerks of circuit court collected \$9,865,400 in applicable fines and forfeitures during the 2003-04 fiscal year. Of that amount, the counties retained \$986,500 as administrative fees, while \$8,878,900 was deposited into the common school fund. Under AB 152, if the \$9,865,400 in fines and forfeitures were collected within 120 days of being imposed, \$1,973,100 would be retained by the counties, and \$7,892,300 would be deposited into the common school fund. If the fines and forfeitures were collected after 120 days of being imposed, counties would retain \$2,959,600 and \$9,905,800 would be deposited into the common school fund.

Board of Commissioners of Public Lands. As with the Court System, the Board of Commissioners of Public Lands (BCPL) indicates that in 2003-04, the common school fund received \$8.8 million in revenues from fines and forfeitures. The Board indicates that under provisions of AB 152, revenue to the Fund would decrease by \$1.0 million if all fines and forfeitures were collected within 120 days or by \$2.1 million if collected after 120 days. The Board notes, however, that it "is impossible to determine the exact fiscal impact of this bill because we do not know the amount of fines and forfeitures that are collected within 120 days and we do not know the amount of fines and forfeitures collected after 120 days of being imposed."

As identified in the fiscal estimate submitted by BCPL, the long-range fiscal implication of AB 152 is that "Common School Fund earnings would be less, therefore aid to K-12 libraries would be reduced."

Department of Revenue. The Department of Revenue indicates that "to the extent counties retain the higher percentage of fines and forfeitures, the state share of these fines and forfeitures will decline by an equal amount. Data collected by the Department of Revenue contain no information on when fines and forfeitures are paid versus when the fines and forfeitures are imposed. The Department is therefore unable to estimate the increase in county revenue and decrease in state revenue that the bill could engender."

Prepared by: Chris Carmichael and Jere Bauer