



Legislative Fiscal Bureau

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TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 1087 and Senate Bill 658: Prostate Cancer Research -- Income Tax Check-Off and Grant Program

Assembly Bill 1087 and Senate Bill 658 are companion bills that would create an individual income tax check-off for donations for prostate cancer research. Assembly Bill 1087 was introduced on March 2, 2006, and referred to the Joint Committee on Finance. Senate Bill 658 was introduced on March 6, 2006, and referred to the Senate Committee on Health, Children, Families, Aging and Long Term Care. On March 7, Senate Bill 658 was withdrawn from the standing committee and referred to the Joint Committee on Finance.

BACKGROUND AND CURRENT LAW

Prostate Cancer in Wisconsin. The Department of Health and Family Services (DHFS) report, Wisconsin Cancer Incidence and Mortality, 1998-2002, indicates that, during the five-year reporting period, an average of 4,036 men were diagnosed annually with prostate cancer in Wisconsin. While there were few reported cases of prostate cancer in men under the age of 40, the incidence of prostate cancer increased dramatically with age, and peaked for men between the ages of 70 through 74.

Prostate cancer was the most common type of cancer in men in Wisconsin, and, after lung cancer, was the second leading cause of cancer deaths among men in Wisconsin. During this period, an average of 676 men died from prostate cancer each year. Similar to incidence, mortality rates increased significantly for men over the age of 65, and most dramatically for men 75 years of age and older.

Income Tax Check-Offs. Current law provides individual income tax check-off procedures for making donations for use for endangered resources, the operation and maintenance of Lambeau Field in Green Bay, breast cancer research, the Veteran's Trust Fund, and, effective with tax year 2006, programs for people with multiple sclerosis. The income tax check-offs are for the purpose of making donations that either reduce a taxpayer's refund or increase the amount owed. In addition, Wisconsin taxpayers may 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). However, in the case of the election campaign fund, a designation does not affect the amount of tax liability or tax refund.

The Veteran's Trust Fund check-off, which was adopted as part of the 2005-07 biennial budget, appeared for the first time on tax year 2005 tax returns, for which complete information is not yet available. The check-off for programs for people with multiple sclerosis, which was enacted as 2005 Wisconsin Act 71 on December 21, 2005, will first apply with respect to individual income tax forms for tax year 2006.

On individual income tax forms for tax year 2004, 33,000 taxpayers designated a total of \$522,000 for endangered resources and 10,200 taxpayers designated \$84,700 for Lambeau Field. In addition, for the breast cancer research check-off (which first appeared on tax year 2004 individual income tax forms), 27,100 individual taxpayers designated a total of \$330,500.

The revenues from the breast cancer research tax check-off are allocated evenly between the Medical College of Wisconsin and the University of Wisconsin Comprehensive Cancer Center. These are the two institutions in Wisconsin that currently conduct breast cancer research. The Medical College of Wisconsin and the Board of Regents for the University of Wisconsin are required to report annually to the appropriate legislative standing committees and to the Governor on the breast cancer research projects that were conducted in the previous fiscal year and were supported with money from the tax check-off for breast cancer research.

SUMMARY OF BILL

The bill would create the Prostate Cancer Research Board that would select grant recipients for prostate 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.

Prostate Cancer Research Board

The Prostate Cancer Research Board would be attached to DHFS. The Board would include four members, one appointed by each of the majority and minority leaders in both the Senate and Assembly.

The bill would require the Board, annually, to solicit applications from prostate cancer researchers located in the state. Using criteria developed by the Board after consulting with the Wisconsin Prostate Cancer Research Fund (WPCRF), the Board would then be required to select from the applicants the recipients of grants for the performance of prostate cancer research. The bill would require the Board to promptly inform the WPCRF of its grant recipient selections. The bill would also require the WPCRF to award the prostate cancer research grants to the recipients selected by the Board, using the available revenue from the individual income tax check-off for prostate cancer research.

The bill would require the Board to prepare an annual report, beginning no later than the first day of the 12th month after the bill's effective date, detailing the prostate cancer research projects on which the money was spent and distribute the report to the appropriate legislative standing committees and the Governor.

Individual Income Tax Check-Off

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 prostate cancer research program. The administration of the tax check-off for prostate cancer research would operate in the same manner as the administration of other tax check-offs.

If an individual owed any tax, the individual would remit in full the tax due and the amount designated on the return for prostate cancer research when the individual filed a tax return. If an individual were owed a refund, after crediting for any attachments or overpayments, the Department of Revenue (DOR) would deduct the amount designated on the return for the prostate cancer research program from the amount of the refund.

The bill would address the failure to remit the correct amount of taxes owed. If, after error corrections, an individual who owed taxes failed to remit an amount equal to or in excess of the total of the actual tax due and the amount designated on the return for prostate cancer research, then DOR would reduce the designation to reflect the amount remitted in excess of the actual tax due (as long as the individual remitted an amount in excess of the actual tax due but less than the total amount due plus the amount originally designated). However, the designation for prostate cancer research would be void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

In addition, if an individual were owed a refund that did not equal or exceed the amount designated on the return for prostate cancer research, after crediting for any attachments or overpayments and after error corrections, DOR would reduce the designation to reflect the actual amount of the refund that the individual would otherwise be 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 prostate cancer research, the designation would be void. In addition, if a designation for prostate cancer research 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 Secretary of DOR to provide a place for the designation on the individual income tax return. The bill would also require the Secretary to certify annually, on or before September 15, to the president of the WPCRF, 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 prostate cancer research program during the previous fiscal year; (b) the total amount received from all designations for prostate cancer research 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 modify a current DOR program revenue appropriation for the administration of other income tax check-off programs to include the administration of prostate cancer research voluntary payments.

Under the bill, amounts designated for prostate cancer research would not be 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 prostate cancer research in the fiscal year for which the refund is certified.

The bill would create a continuing appropriation in DHFS to fund the prostate cancer research grants to recipients selected by the Board. This appropriation would consist of program revenue generated by the individual income tax check-off for prostate cancer research established in the bill, less administrative expenses that are credited to the DOR appropriation described above.

The bill would first apply to taxable years beginning January 1 of the year in which the bill takes effect, unless the bill takes effect after July 31, in which case the provisions would first apply to taxable years beginning January 1 of the following year. The bill would take effect on the day after publication.

FISCAL EFFECT

As the proposed check-off for prostate cancer research would result in taxpayers who make such designations either receiving reduced tax refunds or making larger tax payments to the state, the bill would have no effect on state tax revenues.

Based on designations for the breast cancer research check-off on tax year 2004 individual income tax returns, DOR has estimated that approximately 27,000 tax filers would voluntarily designate a total of \$331,000 to fund prostate cancer research grants. However, the number of tax check-offs has been increasing in recent years (with two additional tax check-off options enacted since tax year 2004), while the designations per tax check-off have been decreasing. It is unclear whether the increased number of check-off options is having an effect on the amount designated per check-off. Therefore, it is uncertain how much revenue would be available for prostate cancer research through the proposed income tax check-off.

In its fiscal note to the bill, DHFS indicated a need for 1.0 program and planning analyst position, at an annual cost of \$63,400 GPR, to administer the program and to staff the Board's meetings. In addition, DHFS estimated that approximately \$5,000 GPR annually would be needed to support the Board's meeting expenses. Since the bill would provide no additional funding or position authority for DHFS, the Department would absorb these costs within its current budget. However, it is not clear how much staff time DHFS would need to reallocate to administer the program, since it would depend on the amount of work the Board requires of DHFS in reviewing grant applications, monitoring grantees, and supporting the Board's meetings.

POSSIBLE MODIFICATIONS TO THE BILL

The bill requires the WPCRF to award prostate cancer research grants to the recipients selected by the Board. The revenue for the grants would be supported with moneys received from the prostate cancer research tax check-off and deposited in a continuing appropriation, as created in the bill, in DHFS. However, the bill does not grant DHFS the authority to allocate the revenues from the tax check-off to the WPCRF to support the grants. The Committee could amend the bill to authorize DHFS to provide this funding to the WPCRF to award the grants.

Alternatively, the Committee could amend the bill to permit the Board to allocate the grants and delete provisions that specify that WPCRF award the grants.

In reviewing the bill, the Committee may wish to consider whether it is desirable to create a grant program administered by a four-member Board whose members are appointed by legislative leaders, or whether revenue from the check-off should instead be directed to institutions that currently conduct prostate cancer research. Since the bill does not require that the Board members have certain qualifications, it is not clear whether the Board would be qualified to review, evaluate, and rank applications. In addition, if appointed members of the Board have expertise in the area of cancer research, they may have conflicts of interest if they are reviewing grant applications submitted by their colleagues.

The University of Wisconsin and the Medical College of Wisconsin have established cancer research programs, which include research on prostate cancer. Both of these medical schools receive federal funding for research purposes. Because the bill dedicates the funds received from

the prostate 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 eliminate the Board created under the bill, while providing funding directly to the two institutions in Wisconsin that conduct research on prostate cancer. In addition, this would allocate the net revenue from the prostate cancer research tax check-off in a similar manner to the revenue from the breast cancer research check-off (50% to the Medical College of Wisconsin and 50% to the University of Wisconsin Comprehensive Cancer Center). This option would eliminate DHFS' responsibilities relating to the program.

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.

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