Legislative Fiscal Bureau

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Transfer from the Public Benefits Fund (DOA -- General Agency Provisions)

[LFB 2005-07 Budget Summary: Page 20, #4]

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.

In addition to these two programs, the utility public benefits fund appropriates $9,232,000 SEG annually as state maintenance of effort funding to the Department of Workforce Development (DWD) for that agency's Wisconsin Works program.

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.

A 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 is 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. The agency is not planning to modify this component of the public benefits program at this time.

These DOA public benefits programs are funded primarily from a segregated public benefits fund, which derives revenues from a 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-type 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

Transfer $18,185,300 SEG in 2005-06 and $16,949,400 SEG in 2006-07 from the utility public benefits fund to the general fund. The transfer would likely be made from the energy conservation and efficiency and renewable resources portion of the public benefits fund. Revenues to this portion of the fund are approximately $62.0 million annually.

Including the ongoing base level commitment of $9,232,000 SEG annually to DWD for the Wisconsin Works program, the bill would allocate or transfer a total of $27,417,300 SEG in 2005-06 and $26,181,400 SEG in 2006-07 from the utility public benefits fund to other purposes.

DISCUSSION POINTS

1. While the Governor's recommendation to transfer $18,185,300 SEG in 2005-06 and $16,949,400 SEG in 2006-07 of utility public benefits funds to the general fund does not specify whether the transfer would be made from monies that would otherwise be allocated to the low-income program component or to the energy conservation program component, DOA's Division of Energy has indicated that all of the recommended transfers would be made from the energy conservation and efficiency and renewable resource program. The $9,232,000 SEG annually appropriated to DWD is also being drawn from the energy conservation and efficiency and renewable resource component of the public benefits program.

2. This paper reviews the revenue stream that is available to the energy conservation and efficiency portion of the public benefits program during the 2005-07 biennium. This discussion

also describes how program administrators anticipate that they will manage the proposed transfer from the fund, indicates the potential consequences of such a diversion, and considers the degree to which additional funds might be available for reallocation.

3. The development of a state-administered 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. Public policymakers also wanted to ensure that these programs that were being operated by public utilities would continue in some fashion in a deregulated utility market. 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.

4. 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.

5. 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-year period. Beginning with the 2003-04 fiscal year, the state receives $67,155,100 annually in transferred utility revenues. Of these amounts, $45,826,000 annually is earmarked for the energy conservation and efficiency and renewable resource component of the public benefits program.

6. Provisions of Act 9 also established a new public benefits fee collected from the customers of all nonmunicipal electric utilities. (Municipal electric utilities and retail electric cooperatives must also collect a fee, but these revenues are general not remitted to DOA for the utility public benefits fund.) 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.

7. These fees have been collected since October 1, 2000. During 2004-05 for residential customers, the fee may not exceed the lesser of 3% of the customer's bill or $1.98 monthly, and for commercial and industrial customers, the fees cannot exceed 3% (equivalent to a monthly maximum that varies between $2.50 and $200 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 a public utility service area. Based on these current rates, fees from utility customers that will be earmarked for the energy conservation and efficiency and renewable resource component of the public benefits program are estimated at $16,083,100 annually.

8. Municipal electric utilities and retail electric cooperatives have the option of either retaining comparable types of fees assessed to their customers for 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. Most municipal electric utilities and retail electric cooperatives retain these fees for their own public benefits programs; however, a few do make payments to the state. The estimated amount of fee revenues from municipal electric utilities and retail electric cooperatives that will be earmarked for the energy conservation and efficiency and renewable resource component of the public benefits program is estimated at $113,100 annually.

9. During both the 2005-06 and the 2006-07 fiscal years, it is anticipated that the energy conservation and efficiency and renewable resource component of the public benefits program will receive an estimated $62,022,200 annually in revenues from transfers from the major energy utilities, the monthly public benefits fees collected from investor-owned electric utility customers; and those fees collected by electric cooperatives and municipal electric that do not operate their own public benefits-type programs utilities and remit their fees instead to DOA.

10. Currently, the energy conservation and efficiency and renewable resource component of the public benefits program supports a wide variety of initiatives. A business and commercial component offers technical and program support to provide an array of energy efficiency services to major Wisconsin industrial, commercial, and agricultural sectors. Programs are designed to include specific energy savings targets, build markets for energy efficient products, and achieve energy savings whose value will exceed the program's costs. A residential program has comparable goals, but is targeted to the residential sector. Projects include rebates for energy efficient appliances, training and construction of more energy efficient housing, and energy rating and inspection services. DOA has negotiated multi-year contracts for the operation of the business and residential programs.

11. 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 initiatives funded through public benefits. A program evaluation component provides DOA with an independent evaluation of these programs' results. A marketing component includes program information and promotional efforts associated with the core components of the energy conservation program.

12. In general, the rationale for undertaking 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 the reduction of electric consumption.

13. The following table summarizes DOA's current projections of revenues and program

expenditures for the energy conservation component of the utility public benefits program for 2004-05 and for each fiscal year of the 2005-07 biennium.

Energy Conservation and Efficiency Public Benefits Program Projected Fund Balances (2005-07)

	2004-05	AB 100 2005-06	AB 100 2006-07
Beginning Balance	$9,334,500	$5,943,400	$3,074,100
Revenues			
Fees from Utility Customers	$17,585,200	$16,083,100	$16,083,100
Utility Transition Funds	45,826,600	45,826,000	45,826,000
Cooperative and Municipal Utility Fees	151,600	113,100	113,100
Earnings on Investment Pool	434,800	0	0
Total	$63,998,200	$62,022,200	$62,022,200
Total Available	$73,332,700	$67,965,600	$65,096,300
Expenditures and Allocations			
Residential Programs	$18,238,900	$17,430,200	$17,261,000
Business Programs	14,792,400	14,732,500	14,732,500
Administration, Compliance & Evaluation	1,909,100	2,542,400	2,172,300
Renewable Energy	2,270,100	2,163,500	2,212,800
Environmental Research	710,000	605,600	627,200
Wisconsin Works Funding	9,232,000	9,232,000	9,232,000
Transfer to the General Fund	20,236,800	18,185,300	16,949,400
Total	$67,389,300	$64,891,500	$63,187,200
Ending Balance	$5,943,400	$3,074,100	$1,909,100

14. The Legislature has previously directed transfers from the utility public benefits fund during each of the last three fiscal years. In 2002-03, provisions of 2003 Wisconsin Act 1 directed that $8,365,600 SEG be transferred to the general fund. In 2003-04, provisions of 2003 Wisconsin Act 33 directed the transfer of $17,600,000 SEG in 2003-04 to supplement county and municipal aid payments, thereby freeing GPR funding for other purposes. In 2004-05, Act 33 also directed the transfer of $29,468,800 SEG for a variety of purposes (a one-time allocation of $20,000,000 SEG to be used in lieu of GPR for county and municipal aid payments, $236,800 SEG to offset GPR for earned income tax credits, and on-going payments of $9,323,000 SEG to DWD's Wisconsin Works program). All of these transfers have been made from the energy conservation and efficiency and renewable resource component of the public benefits program.

15. Because the energy conservation and efficiency and renewable resource component of the public benefits program has been subject to these transfer requirements in each of the last three fiscal years, a number of the program elements have not been fully implemented as originally

planned. This fact has enabled the Department to allocate the reductions in such a manner as to minimize disruptions to its operating programs. Of the $29,468,800 SEG in 2004-05 being transferred by Act 33 to other purposes, $10,733,500 was reallocated from amounts that otherwise would have been used for the business-related energy conservation programs, $6,261,500 was reallocated from amounts that otherwise would have been used for residential sector energy conservation programs, $6,520,800 was reallocated from evaluation, marketing, compliance and other administrative functions, $5,040,800 was reallocated from unprogrammed funding, $532,400 was reallocated from environmental research projects, and $379,800 was reallocated from renewable resource programs.

16. The Department advises that the Governor's recommendations for new transfers to the general fund ($18,185,300 SEG in 2005-06 and $16,949,400 SEG in 2006-07) where developed by estimating the total funding (net of these transfers and the ongoing DWD allocation of $9,232,000 SEG annually) that would be required to continue the currently-funded and operating energy conservation programs.

17. DOA has indicated that the total amounts transferred or appropriated to other purposes in each fiscal year under the bill ($27,417,300 SEG in 2005-06 and $26,181,400 SEG in 2006-07) are comparable to the total amounts transferred to other purposes in 2004-05. The agency's Division of Energy believes that it could continue to operate its current complement of energy conservation programs at virtually the same funding levels as during the 2003-05 biennium with minimal additional program disruption. However, DOA indicates that additional significant transfers would likely require it to curtail or eliminate some on-going program activity. In such a situation, it would be expected that any remaining funding would be targeted only to those programs deemed the most cost-effective.

18. Thus, while it would appear that the Governor's recommended transfers could be accommodated by the energy conservation and efficiency and renewable resource component of the public benefits program with minimal additional disruption to currently operating programs, it may be noted that based on estimated public benefits fund revenues and expenditures (including the transfers and appropriations to other purposes) summarized in the above table, an unobligated balance of $1,909,100 is projected to be available at the end of the 2006-07 fiscal year. The Committee could also consider transferring these unobligated funds to the general fund. Since the projected general fund shortage is greatest for the 2005-06 fiscal year, the Committee could direct that the transfer occur during that fiscal year.

19. The transfer of additional funds could be justified on the grounds that the total of all such transfers and appropriations to other purposes would at most involve $55.5 million over the biennium, while total revenues of over $124.0 million are anticipated. Further, it appears that these transfers could be accomplished with minimal additional disruption to existing energy conservation programs.

20. Opponents of any additional diversion would 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, it is unknown whether any utilities would question, before the PSC, the appropriateness of further diversions to the general fund from a portion their transferred public benefits monies to DOA.

21. If the Committee is concerned that public utility rate payers continue to pay fees for energy conservation and related programs that DOA's Division of Energy has not been able to implement because of directed transfers from this component of the utility public benefits fund to the general fund, the Committee could sunset the collection of such fees from customers of investor-owned electric utilities, beginning July 1, 2007. Such an action would reduce annual revenues to the energy conservation and efficiency and renewable resources component of the public benefits program by an estimated $16,083,100 annually.

22. The energy conservation and efficiency and renewable resources component of the public benefits program would continue to receive $45,826,000 annually in utility transfer payments during the 2007-09 biennium, as well as modest amounts of fees remitted from municipal electric utilities and retail electric cooperatives that do not operate their own energy conservation programs. These receipts should be sufficient to operate the existing energy conservation and related programs at their current levels, but would preclude the development of further fund balances that might be subject to a future transfer to the general fund.

23. The Committee would have the further option of accomplishing the same result in the 2005-07 biennium by deleting the Governor's proposed transfer of $18,185,300 SEG in 2005-06 and $16,949,400 SEG in 2006-07 from the utility public benefits fund to the general fund and also immediately sunsetting the collection of fees for the energy conservation and efficiency and renewable resources component of the public benefits program (estimated at $16,083,100 annually) from customers of investor-owned utilities, effective July 1, 2005. Such an action would reduce revenues to the general fund by $35,134,700 and revenues to the utility public benefits fund by $32,166,200 during the biennium.

24. However, opponents of either approach to sunset these fee collections could argue that such an action would deprive the energy conservation and efficiency and renewable resources component of the public benefits program of revenues that might also be used for future energy conservation and related program expansion and development as originally intended for the program.

ALTERNATIVES

1. Approve the Governor's recommendation to transfer $18,185,300 in 2005-06 and $16,949,400 in 2006-07 from the utility public benefits fund to the general fund.

2. Modify the Governor's recommendation by transferring an additional $1,909,100 SEG in 2005-06 from the utility public benefits fund to the general fund. [Total transfers to the general fund would equal $20,094,400 in 2005-06 and $16,949,400 in 2006-07.]

Alternative 2	GPR-REV
2005-07 REVENUE (Change to Bill)	$1,909,100

3. *In addition to Alternatives 1 or 2,* modify the Governor's recommendation by sunsetting the collection of fees for the energy conservation and efficiency and renewable resources component of the public benefits program from customers of investor-owned electric utilities, beginning July 1, 2007.

4. Delete the Governor's recommendation. In addition, sunset the collection the collection of fees for the energy conservation and efficiency and renewable resources component of the public benefits program from customers of investor-owned electric utilities beginning July 1, 2005. Reduce revenues to the utility public benefits fund by $16,083,100 annually and decrease agency general fund revenues by $18,185,300 in 2005-06 and $16,949,400 in 2006-07.

Alternative 4	GPR-REV	SEG-REV
2005-07 REVENUE (Change to Bill)	-$35,134,700	- $32,166,200

5. Delete the Governors recommendation.

Alternative 5	GPR-REV
2005-07 REVENUE (Change to Bill)	- $35,134,700

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