



Fire Department Dues Program

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Introduction

The state administers a fire department dues program, which uses revenues collected from insurers doing a fire insurance business in the state to fund state and local fire prevention and fire protection programs. The program is often referred to as the "2% fire dues program" because the revenue collected by the state from insurers to support the program is equal to 2% of the fire insurance premiums received by the insurers.

The Department of Commerce (Commerce) distributes most of the 2% fire department dues revenues to each city, village or town maintaining a local fire department that complies with state law. Municipalities must use the fire dues payments they receive from the state only for eligible activities related to operation of a fire department. In addition, state revenues received under the fire dues program are used for Commerce administration of statewide fire prevention and fire protection programs, state administration of fire dues eligibility and payments, and Wisconsin Technical College System (WTCS) support of fire-fighter training programs.

This paper describes fire department dues program revenues collected by the state. It also describes expenditures made from fire department dues revenues, including: (a) Commerce distribution of fire dues payments to local governments that maintain fire departments; (b) Commerce administration of fire prevention and fire protection programs; (c) WTCS administration of fire fighter training programs; and (d) WTCS fire fighter school training program local assistance (tuition payments for fire fighters).

Revenue

Any insurer doing a fire insurance business in Wisconsin must pay to the state, under s. 601.93 of the statutes, fire department dues equal to 2% of the amount of all Wisconsin based premiums paid to the company during the preceding calendar year for insurance against loss by fire, including insurance on property exempt from taxation. In addition, under s. 101.573(1) of the statutes, fire department dues also include 2% of the premiums paid to the local government property insurance fund for the insurance of any public property, other than state property.

Fire department dues revenues are collected by the Office of the Commissioner of Insurance (OCI). Every insurer doing a fire insurance business in the state is required to file a statement with OCI by March 1 each year. The statement must show the amount of premiums for fire insurance for the preceding calendar year. The insurer is required to make quarterly payments for the current calendar year on or before April 15, June 15, September 15 and December 15. The insurer pays any additional amount due for the preceding calendar year when the insurer files the March 1 statement. Any overpayments for the preceding calendar year are credited to the estimated payment due April 15.

Before May 1 of each year, OCI reports to Commerce on the amount of fire department dues received from insurers during the prior calendar year. Table 1 shows the amount of fire department dues reported by OCI to Commerce from fiscal years 1994-95 through 2003-04. Wisconsin domiciled companies are known as "domestic" insurers and account for approximately half of the

Table 1: Fire Department Dues Revenues Reported by the Office of the Commissioner of Insurance

Fiscal Year	Amount	Percent Change
1994-95	\$8,068,100	
1995-96	8,014,400	-0.1%
1996-97	8,280,600	3.3
1997-98	8,300,900	0.2
1998-99	9,587,900	15.5
1999-00	9,554,000	-0.4
2000-01	10,297,900	7.8
2001-02	11,239,600	9.1
2002-03	13,340,000	18.7
2003-04	14,767,800	10.7

total fire insurance coverage in the state, and thus for approximately half of the total fire department dues revenues received by the state. Companies based in other states are termed "nondomestic" or "foreign" companies and pay the remainder of the fire dues.

In addition to the fire dues assessed on insurance companies, Wisconsin imposes taxes on insurance companies. (See the Legislative Fiscal Bureau informational paper entitled, "Taxation of Insurance Companies" for more information.) Wisconsin taxes on insurance premiums employ both "retaliatory" and "reciprocal" provisions, intended to equalize the state tax treatment of insurers operating in more than one state. The 2% fire dues are included in the calculation of retaliatory and reciprocal taxation. Most other states utilize retaliatory taxation but do not provide reciprocity. The retaliatory statute specifies that Wisconsin may impose higher taxes than its statutory rate on a foreign insurer doing business in the state, to the extent that the insurer's home state imposes a tax on Wisconsin firms operating there that is higher than Wisconsin's statutory rate. The reciprocal statute provides that foreign (non-Wisconsin) insurers doing business in the state shall pay no additional and no higher taxes, fees or other charges than their home state imposes on similar Wisconsin insurers operating there. This provision allows a foreign insurer to be taxed at

rates lower than those specified in the Wisconsin statutes, if its home state imposes a lower tax. Under the retaliatory statute, if, for example, the fire dues rate would be increased, it could potentially trigger retaliatory tax provisions in other states that would increase the taxes Wisconsin domiciled insurers pay in the other states. In addition, under the reciprocal statute, a fire dues rate increase levied against foreign insurers in Wisconsin could potentially be offset by lower general fund revenue collections under Wisconsin's other insurance taxes.

Summary of Expenditures

Commerce is required to calculate, by May 1 each year, the proper amount of fire dues to be paid to each qualifying city, village or town. The statutes direct Commerce to calculate this by adding unexpended funds from the prior year to the fire department dues revenues reported by OCI. Then Commerce subtracts the appropriated amounts for the Commerce administrative appropriation and the two WTCS fire fighter training appropriations. Finally, Commerce withholds 0.5% of the remaining fire dues funds. The resulting amount is distributed to municipalities. The 0.5% of fire dues funds that is withheld from distribution is disbursed in the following fiscal year if needed to correct errors of Commerce or OCI, or to correct payments to municipalities. Any of the 0.5% of revenues that is withheld but not distributed is added to the revenue available in the subsequent year for distribution to municipalities. Any unencumbered funds at the end of the fiscal year in the annual Commerce administrative appropriation or the WTCS fire fighter school training program local assistance appropriation are available for distribution to municipalities in the subsequent year. Table 2 illustrates the calculation made by Commerce of the fire department dues revenues available for distribution to municipalities in 2003-04.

Table 2: Fire Dues Revenues Available for Distribution to Fire Departments, Calculation on May 1, 2004 for 2003-04 Distribution

Revenues	
Remaining 0.5% funds withheld in the prior year	\$44,077.47
Prior year unexpended administrative funds - Commerce	40,033.93
Refund of prior year administrative expenditures	143.95
Prior year unexpended funds - WTCS	70.49
Fire Department Dues Reported by OCI	<u>14,767,761.54</u>
Total Program Revenue	\$14,852,087.38
 Less Program Expenditures	
Commerce fire prevention and fire dues administration	- \$656,000.00
WTCS fire schools local assistance	- 600,000.00
WTCS fire schools administration	<u>- 392,700.00</u>
Total Program Expenditures	- \$1,648,700.00
 Gross Amount Available for Distribution	 \$13,203,387.38
 Less 0.5% Withheld	 - \$66,016.94
 Final Amount Available for Distribution to Municipalities	 \$13,137,370.44

Table 3 shows the actual expenditures of fire dues revenues for the four appropriations from fiscal years 1994-95 through 2003-04. The annual expenditures differ from the revenues reported by OCI in Table 1 because of the impact of withholding 0.5% of revenue each year for subsequent corrections of expenditure and expending prior year's unspent funds.

Fire Dues Distribution to Municipalities

Commerce is responsible for the distribution of fire department dues under ss. 101.563, 101.573 and 101.575 of the statutes to cities, villages and towns that maintain fire departments or contract for fire protection if the municipalities meet specific criteria. The Department of Commerce distributes a proportionate share of the revenues based on the equalized valuation of real property improvements

on land within the qualifying towns, villages and cities. If a municipality had 1% of the equalized value of real property improvements in the state, the municipality would receive 1% of the fire dues distributed in that year. However, qualified municipalities may not receive less than they received in fiscal year 1978-79 for calendar year 1978 (a total of \$3.5 million statewide).

OCI reported to Commerce by May 1, 2004, on the amount of 2003 fire dues paid by insurers. Commerce then calculated the fire dues distribution to municipalities to be paid in 2003-04. The January 1, 2003, equalized valuation was used to calculate the fire dues distributed from the 2003-04 appropriation. The Department of Administration paid the amounts determined by Commerce by August 1. Fire dues payments to local governments

for calendar year 2003 were compiled in May, 2004, and paid in June, 2004, from the 2003-04 appropriation. The distribution of 2003-04 (calendar year 2003) fire dues to 1,850 municipalities was \$13.1 million.

Table 4 shows the fire dues payments distributed in every county in the three most recent fiscal years of 2001-02 (calendar year 2001 dues), 2002-03 (calendar year 2002) and 2003-04 (calendar year 2003). The table shows the number of towns, villages and cities in every county that received fire dues payments in 2003-04, and the total amount of payments distributed.

Eligibility Requirements

Every city, village or town that maintains a fire department that complies with statutory requirements is entitled to receive a proportionate share of fire department dues. Commerce is responsible for determining whether a local government is entitled to receive a fire dues payment. However, under 2001 Act 109,

Table 3: Expenditures of Fire Department Dues Revenues

Fiscal Year	Fire Dues Distribution to Municipalities*	Percent Change in Distribution	Commerce Fire Prevention and Fire Dues Administration	WTCS Fire Schools Local Assistance	WTCS Fire Schools Administration	Lapse to General Fund	Total Fire Dues Expenditures
1994-95	\$6,838,700		\$510,200	\$431,000	\$236,900		\$8,016,800
1995-96	6,773,900	-0.9%	529,400	306,900	216,200		7,826,400
1996-97	7,240,700	6.9%	480,500	440,800	262,700		8,424,700
1997-98	7,084,800	-2.2%	598,500	445,400	222,600		8,351,300
1998-99	8,215,300	16.0%	593,500	473,200	304,800		9,586,800
1999-00	8,224,900	0.1%	622,100	418,500	369,100		9,634,600
2000-01	8,964,400	9.0%	623,200	432,700	302,400		10,322,700
2001-02	9,970,300	11.2%	455,700	499,200	303,700		11,228,900
2002-03	12,016,300	20.5%	552,800	499,900	245,800	\$700 **	13,315,500
2003-04	13,137,400	9.3%	717,000	599,800	269,700	12,500 ***	14,736,400

* Fire Dues are distributed for municipality eligibility in the preceding calendar year. For example, the 2003-04 fire dues were distributed for calendar year 2003 activities.

** \$700 was lapsed from the Commerce administrative appropriation to the general fund under 2001 Act 25, which required agencies to lapse certain amounts related to membership dues to the general fund.

*** \$12,500 was lapsed from the Commerce administrative appropriation to the general fund under 2003 Act 33 provisions for allocation of state operations reductions related to information technology cost savings, state employee health insurance costs and other compensation costs.

Commerce was directed to make the fire dues distribution without regard to eligibility for calendar years 2000 (fiscal year 2000-01) through 2004 (fiscal year 2004-05). On August 1, 2005, the eligibility requirements will apply again. This section describes the eligibility requirements that will exist after calendar year 2004, and notes a few changes from the requirements that existed before calendar year 2000.

Any city, village or town may receive fire dues if it has a fire department which meets all of the following requirements:

- a. Is organized to provide continuous fire protection in the city, village or town and has a designated chief;
- b. Singly, or in combination with another fire department under a mutual aid agreement, can ensure the response of at least four fire fighters, none of whom is the chief, to a first alarm for a building;

- c. Provides a training program in accordance with Commerce rules;
- d. Provides facilities capable, without delay, of receiving an alarm and dispatching fire fighters and apparatus; and
- e. Maintains either a voluntary fire department that holds a meeting at least once each month or a paid or partly paid fire department with sufficient personnel ready for service at all times.

The city, village or town maintaining a fire department may only use fire dues for the direct provision of the following four activities:

- a. The purchase of fire protection equipment;
- b. Fire inspection and public education;
- c. Training of fire fighters and fire inspectors performing public fire education and fire inspection duties; and

Table 4: Fire Dues Payments to Municipalities, by County (Fiscal Years 2001-02 through 2003-04)

County	Number of 2003-04 Recipient Municipalities			2003-04 (CY 2003)	County	Number of 2003-04 Recipient Municipalities			2003-04 (CY 2003)
	2001-02 (CY 2001)	2002-03 (CY 2002)	2003-04 (CY 2003)			2001-02 (CY 2001)	2002-03 (CY 2002)	2003-04 (CY 2003)	
Adams	19	\$38,506	\$47,533	\$52,740	Manitowoc	30	\$137,627	\$165,152	\$174,645
Ashland	16	21,781	25,368	27,667	Marathon	57	217,061	255,807	271,272
Barron	35	73,465	90,173	100,267	Marinette	25	67,562	81,697	88,758
Bayfield	28	34,471	43,910	49,041	Marquette	19	28,417	34,097	37,656
Brown	24	417,327	486,994	547,136	Milwaukee	19	1,417,090	1,692,989	1,846,075
Buffalo	23	16,814	19,750	21,657	Monroe	34	48,064	58,900	64,537
Burnett	24	39,754	50,400	58,772	Oconto	28	67,389	81,776	90,389
Calumet	16	50,466	63,720	71,062	Oneida	21	114,296	138,409	147,554
Chippewa	30	89,738	104,534	113,505	Outagamie	31	313,107	379,165	412,961
Clark	44	39,490	48,278	50,985	Ozaukee	14	229,082	277,682	299,777
Columbia	34	101,432	121,282	130,441	Pepin	11	10,374	12,318	13,874
Crawford	21	20,366	24,835	26,697	Pierce	25	66,501	80,922	93,434
Dane	59	940,646	1,148,377	1,252,606	Polk	35	83,064	102,645	115,238
Dodge	41	131,676	152,797	164,429	Portage	27	115,921	135,174	143,819
Door	19	126,363	152,374	164,122	Price	22	24,610	29,211	32,411
Douglas	22	63,771	77,730	84,813	Racine	18	324,941	393,458	424,461
Dunn	30	57,334	70,543	80,801	Richland	22	21,437	26,262	28,468
Eau Claire	18	157,404	185,693	204,469	Rock	28	236,193	280,129	298,465
Florence	8	9,433	11,582	12,252	Rusk	33	18,575	22,579	24,352
Fond du Lac	32	157,876	186,509	200,157	St. Croix	33	139,009	177,893	204,734
Forest	15	18,306	21,836	23,090	Sauk	37	118,567	144,473	159,134
Grant	52	56,040	67,620	72,696	Sawyer	21	40,909	51,405	58,988
Green	23	57,549	68,779	73,320	Shawano	36	59,339	70,615	76,615
Green Lake	16	41,177	49,873	54,426	Sheboygan	28	203,941	243,130	260,767
Iowa	25	39,007	46,182	49,320	Taylor	27	25,395	31,332	33,716
Iron	12	13,342	15,853	17,533	Trempealeau	26	33,626	40,201	42,559
Jackson	27	22,719	27,282	30,082	Vernon	32	30,480	37,128	40,665
Jefferson	24	150,176	178,803	190,220	Vilas	15	99,127	119,787	132,970
Juneau	28	33,480	42,925	46,033	Walworth	27	234,670	287,786	320,984
Kenosha	12	280,515	346,159	383,633	Washburn	25	34,861	42,735	47,472
Kewaunee	14	33,560	41,059	44,820	Washington	20	273,184	325,958	361,145
La Crosse	18	154,965	190,040	206,576	Waukesha	37	1,019,975	1,239,416	1,376,022
Lafayette	26	21,047	23,726	24,627	Waupaca	34	84,356	101,557	111,282
Langlade	19	34,313	41,438	44,959	Waushara	25	45,930	55,628	61,021
Lincoln	18	48,008	56,101	62,112	Winnebago	21	272,591	326,278	353,433
					Wood	34	115,443	135,533	142,859
					Menominee	1	5,279	6,994	7,794
						1,850	\$9,970,309	\$12,016,274	\$13,137,370

d. Whole or partial funding of fire fighters' pension funds or other special funds for the benefit of disabled or retired fire fighters.

In order for any city, village or town which

contracts with another municipality for fire protection to be eligible for fire dues payments, the contract with the other municipality must be sufficient to provide fire protection to the entire city, village or town. Any city, village or town that

contracts for fire protection service must give the fire department dues payments received from the state to the municipality or fire department providing the fire protection service, and that municipality or fire department must use those payments only for the four eligible activities specified above.

In addition to these requirements, the municipality must be in substantial compliance with all program requirements. Before Commerce pays fire department dues to a city, village or town, the Department is required to determine that the city, village, town or fire department is in substantial compliance with the program requirements to: (a) spend fire dues only on permitted uses; (b) comply with program requirements; and (c) provide for fire inspections of every public building and place of employment in the fire department's territory, generally at least once every six months, except in the City of Milwaukee, which establishes its own inspection schedule. Annually, the city, village or town is required to submit a form to Commerce that is signed by the clerk of the municipality and by the chief of the fire department providing fire protection to the municipality, and which certifies that the fire department is in substantial compliance with the program requirements or that Commerce has audited the city, village, town or fire department and determined that it is in substantial compliance.

The requirement of "substantial compliance" was established by 2003 Act 219 and went into effect December 1, 2004. Prior to December 1, 2004, Commerce was required to determine that the city, village, town or fire department "has complied" instead of "is in substantial compliance." In addition, prior to December 1, 2004, when the city, village or town submits the required self-certification, it would certify that the fire department "has complied" with the requirements. Finally, when the Department audited the city, village, town or fire department prior to December 1, 2004, it was required to determine that the

municipality or fire department "has complied" with the requirements.

Under 2003 Act 219, Commerce was required to establish by rule the meaning of "substantial compliance" for these provisions. Commerce promulgated administrative rule changes that completed the legislative review process in October, 2004, and the rules went into effect on January 1, 2005. The administrative rule changes include the following definition of "substantial compliance" in Comm 14.02 of the administrative code:

"(2) "Substantial compliance," means an ample amount of the required activity was performed through a concerted effort aimed at total compliance. A determination of substantial compliance is obtained through a common-sense approach to evaluating whether enough effort was made to comply with the applicable statute or code requirements. Substantial compliance is not a specific number or percent of compliance. A determination of substantial compliance in any one year or regulatory standard does not mean that the same amount of compliance or effort in the following year or in another area of the code automatically equals substantial compliance."

Determination of Substantial Compliance

The statutory requirements and procedures for Commerce determination of substantial compliance will apply again beginning August 1, 2005. If Commerce determines that a city, village or town does not meet the eligibility requirements, Commerce pays the fire dues to the municipality for that calendar year and issues a notice of noncompliance to the chief of the fire department, the governing body and the highest elected official of the municipality. If the municipality does not meet the requirements within one year after receipt of the notice or prior to the next audit by Commerce, whichever is later, the city, village or

town will not be entitled to fire dues for that year and for all subsequent calendar years until the requirements are met.

As of January 1, 2005, Commerce is not auditing municipalities and fire departments for determination of eligibility for fire dues payments and is not withholding fire dues payments to municipalities. Effective August 1, 2005, Commerce staff is required to resume following statutory and administrative rule procedures related to issuing notices of noncompliance and performing audits of municipalities and local fire departments.

Commerce plans to resume performing on-site audits of fire departments in January, 2006, for review of calendar year 2005 fire department records. Commerce fire prevention staff would make on-site visits to review fire department records and review findings with the fire department chief. Commerce would conduct on-site audits on a regular five-year rotation, and would perform follow-up audits for municipalities identified as noncompliant.

The earliest that Commerce would issue a notice of noncompliance would be in 2005-06 for calendar 2005 fire dues. In 2005-06, Commerce would pay all eligible municipalities and would also pay any municipality that Commerce issues a notice of noncompliance to. The earliest that Commerce would withhold payment of fire dues to a municipality would be 2006-07 for calendar year 2006 fire dues, if the municipality has not corrected any areas of noncompliance that were identified in 2005-06 for calendar year 2005.

If Commerce withholds payments of any fire dues to a municipality that would have used the dues for payments into any fire fighter's pension fund or other special funds for disabled or retired fire fighters, the municipality would be required to make a payment to the pension fund or other special fund from any other available fund of the municipality. If no other fund would be available, the municipality would be required to make the

payment from the next taxes levied and collected for the city, village or town.

Commerce Administrative Appropriation

The Department of Commerce (Commerce) is responsible for administering a statewide fire prevention program. In each of 2003-04 and 2004-05, Commerce is appropriated \$656,000 from fire dues revenues with 7.6 positions. (The 2003-04 expenditures shown in Table 3 are higher because of supplements provided for pay plan increases.) Commerce uses the funds for activities such as: (a) conducting annual training sessions for local fire inspectors; (b) providing technical assistance to fire department officials and inspectors related to fire prevention and fire safety elements of the state building and fire prevention codes; (c) administering code provisions related to fire prevention; (d) determining eligibility of municipalities to receive fire dues distribution; (e) calculating payments of fire dues; (f) verifying compliance of fire municipalities with the fire dues program criteria; (g) maintaining a database of fire incident reporting records of all fires occurring in the state; and (h) providing information related to fire safety.

The 7.6 Commerce positions include: (a) 5.0 fire prevention coordinators who audit municipalities for fire dues grant eligibility, assist municipalities and local fire departments to meet state requirements and provide technical support and training regarding fire prevention; (b) 1.0 fire prevention section chief who is responsible for fire prevention, inspection and audit; and (c) 1.6 program assistants who enter fire prevention data into databases, provide information related to fire prevention programs, and manage the fire incident and self-certification activities of the fire prevention program.

In 2003 Act 219, Commerce was directed to

promulgate an administrative rule that defines "administrative expenses" for expenditures under the administrative appropriation. The state budgetary tracking system categorizes budget authority in several broad categories of expenditures. These include permanent and project position salaries, limited-term employee (LTE) salaries, fringe benefits, supplies and services and permanent property. Biennially, agencies submit budget requests, the Governor proposes a budget, and the Legislature approves a list of appropriations that comprise the budget authority of an agency. In general, the Legislature establishes the overall amount that can be expended from an annual appropriation in any given year. However, the agency, with the approval of the Department of Administration, may transfer funds from one budget line to another (for example, from LTE salaries to supplies) in a given year.

Commerce promulgated administrative rule changes to implement the requirements of 2003 Act 219. The Legislature finished its review of the changes in October, 2004, and the changes were effective December 1, 2004. Administrative rule changes in Comm 14.50 of the administrative code define "administrative expenses" as expenditures for the direct costs and indirect costs of administering s. 101.14 (fire inspections, prevention, detection and suppression), s. 101.141 (record keeping of fires) and s. 101.573 (fire dues distribution) of the statutes. The rule changes include the following definitions:

a. "Direct costs" mean the cost of salaries, limited-term employees, fringe benefits and supplies to administer the three statutes.

b. "Indirect costs" mean the cost, determined on a pro rata basis, of management and administrative services provided to administer the three statutes.

c. "Supplies" means equipment, memberships, postage, printing, rent, subscriptions, telecommunications, travel, utilities and similar outfitting and services, directly related to administering the three statutes.

Wisconsin Technical College System Programs

The Wisconsin Technical College System (WTCS) is responsible for fire fighter training programs in the WTCS districts. In each of 2003-04 and 2004-05, \$600,000 of fire dues revenues was appropriated for tuition for members of volunteer and paid fire departments to attend fire fighter training programs. WTCS reimburses technical college districts for their training costs. In 2003-04, funding supported training for 5,161 firefighters in programs conducted by WTCS districts.

In addition, the WTCS was appropriated \$392,700 with 3.0 positions from fire dues revenues in each of 2003-04 and 2004-05 for: (a) development and purchase of curriculum materials; (b) workshops for fire fighters; (c) an annual workshop for WTCS fire fighter instructors and trainers from fire departments; and (d) technical assistance to WTCS districts.