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fire department dues program

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Fire Department Dues Program

Introduction

The state administers a fire department dues program using revenues collected from fire insurance companies in the state. The dues program funds state and local fire prevention and fire protection programs. It is often referred to as the "2% fire dues program" because the revenue collected from insurers is equal to 2% of the fire insurance premiums received by the insurers.

The Department of Safety and Professional Services (DSPS) distributes most of the 2% fire department dues revenues to each city, village, and town that maintain a local fire department that complies with state law. Municipalities must use the fire dues payments they receive only for eligible activities related to operation of a fire department. In addition, state revenues received under the fire dues program are used for DSPS 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 firefighter 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) DSPS distribution of fire dues payments to local governments that maintain fire departments; (b) DSPS administration of fire prevention and fire protection programs; (c) WTCS administration of firefighter training programs; and (d) WTCS firefighter school training program local assistance (tuition payments for firefighters).

The DSPS fire prevention program is authorized under section 101.14 of the statutes,

and the fire dues program is authorized under ss. 101.573 and 101.575 of the statutes. DSPS administers the fire prevention and fire dues programs under administrative rules in Chapter SPS 314 of the Wisconsin Administrative Code.

Revenue

All fire insurance companies 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.

Fire department dues revenues are collected by the Office of the Commissioner of Insurance (OCI). Every 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. Before May 1 of each year, OCI reports to DSPS 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 DSPS for the past 10 fiscal years. Wisconsin-domiciled companies are known as "domestic" insurers and accounted for approximately 42 to 48% of the total fire insurance coverage in the state during recent years, varying by year, and thus accounted for approximately 42 to 48% 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.

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

Fiscal Year	Amount	% Change
2010-11	\$16,549,600	2.4%
2011-12	17,675,700	6.8
2012-13	17,434,600*	-1.4
2013-14	19,736,700	13.2
2014-15	18,717,500*	-5.2
2015-16	20,239,500	8.1
2016-17	21,824,900	7.8
2017-18	21,548,600	-1.3
2018-19	23,396,800	8.6
2019-20	24,133,200	3.2

* 2012-13 and 2014-15 figures include adjustments to correct overpayments or reporting errors in the previous years.

In addition to the fire dues assessed on insurance companies, Wisconsin imposes taxes on insurance companies. (See the Legislative Fiscal Bureau's 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. If Wisconsin fire dues rates were to be increased under the retaliatory statute, other states could impose retaliatory tax provisions that would

increase the taxes Wisconsin-domiciled insurers pay in the other states.

Summary of Expenditures

The Department of Safety and Professional Services 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 DSPS to calculate this by adding unexpended funds from the prior year to the fire department dues revenues reported by OCI. Then, DSPS subtracts the appropriated amounts for the DSPS administrative appropriation and the two WTCS firefighter training appropriations. Finally, DSPS 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 DSPS 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 DSPS administrative appropriation, WTCS operations appropriation, or the WTCS firefighter school training program local assistance appropriation revert to the fire dues distribution continuing appropriation and are available for distribution to municipalities in the subsequent year.

Table 2 illustrates the calculation made by DSPS of the fire department dues revenues available for distribution to municipalities in 2019-20. (While the fire dues distribution calculation yields an amount of \$22.2 million to distribute, a deviation in the calculation for 2019-20 resulted in distributions being calculated for \$22.4 million in aids, as shown in Tables 3 and 4.

Table 2: Fire Dues Revenues Available for Distribution to Fire Departments, Calculation on May 1, 2020, for 2019-20 Distribution

Revenues	
Remaining 0.5% funds withheld in the prior year	\$51,663.44
Prior year unexpended administrative funds - DSPS	0.00
Prior year unexpended funds - WTCS	2,065.80
Correction for prior year fire dues payment	- 57,726.17
Fire Department Dues Reported by OCI	<u>24,133,232.69</u>
Total Program Revenue	<u>\$24,129,235.76</u>
Less Program Appropriations	
DSPS fire prevention and fire dues administration	- \$769,300.00
WTCS fire schools local assistance	- 600,000.00
WTCS fire schools administration	<u>- 411,200.00</u>
Total Program Appropriations	<u>- \$1,780,500.00</u>
Gross Amount Available for Distribution	\$22,348,735.76
Less Adjustments	
Less 0.5% Withheld	- \$111,743.68
Less Aid Payments Made to Date	- 928.06
Plus Refunds of Prior Year Payments	<u>11,659.93</u>
Total Adjustments	<u>- \$101,011.81</u>
Final Amount Available for Distribution to Municipalities	\$22,247,723.95

Any excess distributions would be offset from future fire dues revenues.)

Table 3 shows the actual expenditures of fire dues revenues for the four appropriations from fiscal years 2010-11 through 2019-20. Table 3 also shows the appropriated amounts for 2020-21 for the DSPS and the two WTCS appropriations, and the estimated amount available for distribution to municipalities. 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 and for the expenditure of the prior year's committed, but unspent, funds.

Fire Dues Distribution to Municipalities

The Department of Safety and Professional Services is responsible for the distribution of fire department dues under ss. 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. DSPS distributes a proportionate share of the revenues

Table 3: Expenditures of Fire Department Dues Revenues

Fiscal Year	Fire Dues Distribution to Municipalities (1)	Percent Change in Distribution	Fire Prevention and Fire Dues Administration	WTCS Fire Schools Local Assistance	WTCS Fire Schools Administration	Total Fire Dues Expenditures
2010-11	\$14,840,600	0.9	\$626,900	\$600,000	\$437,900	\$16,505,400
2011-12	16,098,600	8.5	540,500	600,000	406,200	17,645,300
2012-13	15,889,100	-1.3	534,900	600,000	406,200	17,430,200
2013-14	17,977,500	13.1	571,300	600,000	413,900	19,562,700
2014-15	17,136,100	-4.7	707,400	600,000	409,500	18,853,000
2015-16	18,575,100	8.4	660,200	600,000	422,900	20,258,200
2016-17	20,134,000	8.4	610,400	600,000	418,600	21,763,000
2017-18	19,919,600	-1.1	633,200	600,000	400,000	21,552,800
2018-19	22,038,000	10.6	588,200	600,000	400,900	23,627,100
2019-20	22,449,700	1.9	553,300	600,000	411,200	24,014,200
2020-21 est.	22,560,000	0.5	769,300	600,000	412,600	24,341,900

(1) Fire dues are distributed for municipality eligibility in the preceding calendar year. For example, the 2019-20 fire dues were distributed for calendar year 2019 activities.

based on the equalized valuation of real property improvements on land within the qualifying municipalities. 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). In 2019-20, \$13,800 was distributed to nine municipalities under the provision.

OCI reported to DSPS by May 1, 2020, on the amount of 2019 fire dues paid by insurers. DSPS then calculated the fire dues distribution to municipalities to be paid in 2019-20 based on the January 1, 2019, equalized valuation. Payments to local governments for calendar year 2019 fire dues were compiled in May, 2020, and paid in July, 2020, from the 2019-20 appropriation. The distribution of 2019-20 (calendar year 2019) fire dues to 1,830 municipalities was \$22.4 million.

Table 4 shows the fire dues payments distributed in every county in the three most recent fiscal years of 2017-18 (calendar year 2017 dues), 2018-19 (calendar year 2018) and 2019-20 (calendar year 2019, paid to the municipality in July, 2020). The table shows the number of towns, villages, and cities in every county that received fire dues payments in 2019-20, 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. DSPS is responsible for determining whether a local government is entitled to receive a fire dues payment.

Any city, village, or town may receive fire dues if it has a fire department that 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 firefighters, none of whom is the chief, to a first alarm for a building;
- c. Provides a training program in accordance with DSPS rules;
- d. Provides facilities capable, without delay, of receiving an alarm and dispatching firefighters 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 firefighters and fire inspectors performing public fire education and fire inspection duties; and
- d. Whole or partial funding of firefighters' pension funds or other special funds for the benefit of disabled or retired firefighters.

In order for any city, village, or town that 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

Table 4: Fire Dues Payments to Municipalities, by County (Fiscal Years 2017-18 through 2019-20)

County	Number of 2019-20 Recipient Municipalities	2017-18 (CY2017)	2018-19 (CY2018)	2019-20 (CY2019)	County	Number of 2019-20 Recipient Municipalities	2017-18 (CY2017)	2018-19 (CY2018)	2019-20 (CY2019)
Adams	19	\$78,981	\$87,481	\$91,146	Manitowoc	30	\$220,704	\$239,516	\$242,712
Ashland	15	40,970	44,498	42,836	Marathon	56	419,177	460,202	466,681
Barron	32	152,308	167,623	165,321	Marinette	25	135,674	146,834	144,999
Bayfield	28	68,559	75,474	78,494	Marquette	19	54,410	57,876	57,648
Brown	24	852,211	943,564	964,094	Menominee	1	8,448	8,617	9,241
Buffalo	20	40,715	44,605	40,022	Milwaukee	19	2,441,030	2,692,632	2,726,859
Burnett	21	77,225	83,400	78,165	Monroe	34	131,610	147,510	149,683
Calumet	16	124,769	140,303	140,772	Oconto	28	135,031	149,597	149,908
Chippewa	31	202,974	224,568	235,217	Oneida	21	201,671	215,628	216,520
Clark	44	83,983	92,184	95,454	Outagamie	31	648,246	718,326	735,462
Columbia	34	207,517	226,432	229,675	Ozaukee	14	426,464	471,314	479,461
Crawford	21	45,598	49,821	48,627	Pepin	11	23,781	25,506	25,317
Dane	59	2,329,295	2,635,002	2,733,236	Pierce	25	142,720	158,427	161,779
Dodge	40	245,038	268,154	271,829	Polk	35	158,117	175,056	181,004
Door	19	222,863	238,429	240,157	Portage	27	232,134	254,627	261,680
Douglas	20	129,267	137,451	132,333	Price	22	44,314	47,295	47,191
Dunn	29	124,073	138,794	139,296	Racine	17	585,709	646,582	666,651
Eau Claire	18	338,442	382,660	387,431	Richland	22	45,003	47,952	48,244
Florence	8	19,227	20,337	20,162	Rock	28	443,361	495,851	512,497
Fond du Lac	32	296,475	325,016	328,539	Rusk	33	37,708	40,376	41,172
Forest	15	33,032	36,814	35,886	Saint Croix	33	350,263	389,170	411,085
Grant	52	132,606	144,249	143,892	Sauk	37	268,412	297,661	303,719
Green	23	122,517	134,633	138,351	Sawyer	21	86,902	93,740	94,374
Green Lake	16	70,924	75,641	75,415	Shawano	36	113,005	122,890	121,893
Iowa	25	77,847	85,662	86,619	Sheboygan	28	371,403	411,198	414,084
Iron	9	25,260	23,402	23,325	Taylor	27	52,033	52,917	55,550
Jackson	24	57,331	62,222	55,431	Trempealeau	26	87,795	97,376	97,708
Jefferson	24	283,107	311,911	319,081	Vernon	32	74,751	84,482	84,486
Juneau	28	75,795	81,872	85,373	Vilas	15	173,204	187,443	187,214
Kenosha	12	541,089	618,152	654,214	Walworth	28	481,799	529,454	542,711
Kewaunee	14	69,347	75,001	75,749	Washburn	25	63,417	81,861	82,955
La Crosse	18	392,618	433,299	439,073	Washington	20	552,562	613,474	624,866
Lafayette	26	45,679	49,927	49,325	Waukesha	37	1,970,798	2,178,337	2,207,593
Langlade	19	59,929	65,305	65,412	Waupaca	34	162,285	173,553	172,513
Lincoln	18	84,845	93,148	92,684	Waushara	25	82,020	88,811	89,608
					Winnebago	21	530,071	584,923	592,979
					Wood	34	211,106	233,908	239,067
					Total	1,830	\$19,919,555	\$22,037,952	\$22,449,747

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 DSPS 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 in each non-overlapping six-month period per calendar year, or two inspections per year, except in the City of Milwaukee, which establishes its own inspection schedule.

Under 2013 Act 20, municipalities must be in substantial compliance with the s. 101.141 requirements to keep records of fires and submit the reports of fires to the U.S. Fire Administration for inclusion in the National Fire Incident Reporting System. Prior to enactment of 2013 Act 20, fire departments were required to comply with the fire incident reporting requirements, but the receipt of fire dues was not conditioned upon compliance with the reporting requirements.

Under statutorily-authorized administrative rules, SPS 314.01 (13)(b) 7., authorizes municipalities to pass an ordinance under which the municipality conducts one fire inspection per calendar year instead of two, provided the interval between those inspections does not exceed 15 months. DSPS does not keep records of which municipalities have adopted such an ordinance.

DSPS utilizes an online self-certification process whereby, on or before April 1 of every year, the city, village, or town clerk, and the chief of the fire department providing fire protection to the municipality, must complete an online registration and certification process. The officials must certify that the fire department is in substantial compliance with the fire dues program requirements, including compliance with the fire incident reporting requirements.

Determination of Substantial Compliance

Under statutorily-required administrative rules, SPS 314.03 (1)(i) defines "substantial compliance" as:

""Substantial compliance," for the purposes of s. 101.575 (4)(a)1. and 2., Stats., 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."

If DSPS determines that a city, village, or town does not meet the "substantial compliance" eligibility requirements, DSPS 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 DSPS, 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.

DSPS issues a notice of noncompliance based on one or more of the following reasons: (a) the municipality fails to self-certify compliance; (b) the municipality self-certifies noncompliance; (c) the municipality returns an incomplete self-certification form; (d) the municipality is not compliant with fire incident reporting requirements; (e) the municipality has incomplete records regarding such matters as training, use of fire dues funds or fire inspections; or (f) an audit by DSPS results in failure. Table 5 includes information about non-compliance with fire dues requirements from 2014-15 through 2019-20. The table shows the number of municipalities that received notices of noncompliance.

Table 5 also shows the number of onsite audits performed by DSPS, and the number of municipalities that did not receive fire dues payments due to noncompliance.

Table 5: Municipalities Determined to be Noncompliant with Fire Dues Requirements

	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Number of Noncompliant Municipalities	37	19	53	58	32	38
Onsite Audits Performed by DSPS	187	233	249	123	289	71
Number of Municipalities That Did Not Receive Payment Due to Noncompliance	5	7	8	10	3	18

In 2018-19, DSPS issued notices of noncompliance for 32 municipalities. Three municipalities did not receive fire dues payments due to noncompliance. These included: (a) the Town of Sherman in Iron County; (b) the Town of Westboro in Taylor County; and (c) the Town of Summit in Douglas County.

In 2019-20, DSPS issued notices of noncompliance to 38 municipalities. The reasons for the notices included three for failure to self-certify, two that self-certified as noncompliant, and 36 incomplete self-certifications. Eighteen municipalities did not receive a fire dues payment due to noncompliance, including: (a) the Towns of Modena and Nelson, and the Village of Nelson in Buffalo County; (b) the Towns of Oakland and Summit in Douglas County; (c) the Towns of Dewey, La Follette, and Sand Lake in Burnett County; (d) the Town of Alma and the Village of Merrilan in Jackson County, (e) the Towns of Sherman, Gurney, and Saxon in Iron County; (f) the Town of Sanborn in Ashland County; (g) the Towns of Prairie Farm, Vance Creek, and Village of Prairie Farm in Barron County; and (h) the Town of Sheridan in Dunn County.

DSPS fire prevention coordinators performed 123 onsite audits in 2017-18, 289 in 2018-19, and 71 in 2019-20.

Section SPS 314.01 of the administration code establishes an appeals process to be followed if DSPS determines a municipality is not in substantial compliance with the fire dues requirements. The appeals process does not apply in situations where the noncompliance is based on the self-certification by the fire department and

municipality. A fire department or a municipality served by the fire department may submit an appeal within 30 days after DSPS's determination of ineligibility. An appeals board appointed by DSPS would consider the appeal and forward its findings to the Secretary of DSPS within 30 days. The DSPS Secretary would uphold or overturn the Department's initial determination of failure. This appeals procedure has not been used. DSPS indicates that most determinations of noncompliance have been based on the municipality failing the onsite audit.

If DSPS withholds payments of any fire dues to a municipality that would have used the dues for payments into any firefighter's pension fund or other special funds for disabled or retired firefighters, 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 taxes levied and collected for the city, village, or town.

DSPS Administrative Appropriation

DSPS is responsible for administering a statewide fire prevention program. DSPS is appropriated \$769,300 each year in the 2019-21 biennium from fire dues revenues with 5.5 positions. The Department uses the administrative funds for activities such as: (a) conducting annual training sessions for local fire inspectors; (b)

providing onsite consultations and 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 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 5.5 full-time equivalent (FTE) DSPS positions include: (a) 4.0 FTE fire prevention coordinators whose duties include auditing municipalities for fire dues grant eligibility, assisting municipalities and local fire departments in meeting state requirements, and providing technical support, onsite consultations and audits, and training regarding fire prevention; (b) 1.0 FTE program support position responsible for entering fire prevention data into databases, providing information related to fire prevention programs, and managing the fire incident reporting and self-certification activities of the fire prevention program; and (c) 0.5 position divided among several DSPS budget, finance, and management staff.

During the 2019-21 biennium, specific duties of the four fire prevention coordinators have included: (a) consulting with local fire department and municipal officials regarding fire dues compliance requirements, and regarding the fire prevention code and commercial building code requirements for new buildings and changes of use in existing buildings; (b) providing onsite consultations and training for municipal fire departments; and (c) performing onsite audits of fire departments and associated follow-up audits.

Under statutorily-required administrative rules in SPS 314.03 (1), "administrative expenses" under the administrative appropriation are defined 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. In general, the provisions allow for costs of employee compensation, a proportionate share of management and administrative services, and related equipment, rent, publications, or ancillary services.

In 2015, DSPS contracted with a private vendor to provide software, technical assistance, and training to local fire departments to help them meet the statutory requirement to report every fire involving a building to the U.S. Fire Administration for inclusion in the National Fire Incident Reporting System. As of July, 2020, DSPS estimates that 105 fire departments are actively using the service. Other fire departments use other types of software to report fire incidents.

Wisconsin Technical College System Programs

The Wisconsin Technical College System (WTCS) is responsible for firefighter training programs in the WTCS districts. In each of 2019-20 and 2020-21, \$600,000 of fire dues revenues is appropriated for tuition for members of volunteer and paid fire departments to attend firefighter training programs. WTCS reimburses technical college districts for their training costs. In 2019-20, funding supported training for 6,379 firefighters in programs conducted by WTCS districts.

In addition, the WTCS is appropriated \$411,200 in 2019-20 and \$412,600 in 2020-21 from fire dues revenues with 3.0 permanent positions for: (a) development and purchase of curriculum materials; (b) workshops for firefighters; (c) an annual workshop for WTCS firefighter instructors and trainers from fire departments; (d) technical assistance to WTCS districts; and (e) testing and certification of firefighters.