



## Legislation Text

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**File #:** 24332, **Version:** 1

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### Fiscal Note

Under 2007 Wisconsin Act 20 and 2009 Wisconsin Acts 2 and 28, the Legislature directed the state Department of Administration to lapse a total of \$641.8 million from unencumbered balances of certain state appropriations to the state's general fund during the 2009-11 fiscal biennium. These lapses were part of the overall plan adopted in the 2009-11 state budget to address a deficit in excess of \$6 billion. Approximately \$300 million of the total was lapsed in state fiscal year 2009-10, with approximately \$341.8 million, scheduled to be lapsed in state fiscal year 2010-11. Under 2011 Wisconsin Acts 13 and 27, the required lapse amount was reduced by \$133 million, for a total two-year amount of \$508.8 million (with a total of \$208.8 million in state fiscal year 2010-11).

One of the appropriations affected by this directive funds the program administered by the Department of Natural Resources that awards grants to local communities to help defray the cost of recycling programs. These programs are made necessary by state-mandated bans on landfilling of certain recyclable materials. In state fiscal year 2009-10, the amount available for recycling grants was reduced by \$1,803,900 (from \$31,098,100 to \$28,294,200) due to the lapse directive. In state fiscal year 2010-11, the amount available for recycling grants was reduced by \$13,098,100 (from \$32,098,100 to \$19,000,000). The lapse from this appropriation in state fiscal year 2010-11, resulted in a reduction in recycling grants to the City of \$405,102, in 2011, compared with estimates included in the 2011 Adopted Budget.

The City could incur additional costs associated with any litigation that may commence as a result of this resolution.

### Title

Resolution authorizing the City Attorney to commence legal action against the State and its officers regarding the lapse or transfer of about \$400,000 in recycling grant funds.

### Body

The State of Wisconsin's Departments of Administration and Natural Resources reduced the City's 2011 recycling grant by about \$400,000. The office of the City Attorney has already begun an investigation into the legality of this decision. This resolution authorizes the office of the City Attorney, if it determines a lawsuit to be "justifiable and viable", to proceed with a lawsuit as soon as is reasonably possible, and to coordinate any such legal action with the City of Milwaukee or others who challenge the state's actions.

WHEREAS, the Secretaries of the Wisconsin Department of Administration (DOA) and the Wisconsin Department of Natural Resources (DNR) have cut the City's 2011 annual recycling grant by approximately \$400,000; and

WHEREAS, the City has already budgeted this money for its 2011 recycling program and the loss of these funds will cause the City substantial budgetary hardship; and

WHEREAS, the City has written to the Secretaries to question the legal propriety of these cuts; and

WHEREAS, the Secretaries have replied and have not set forth a complete legal justification for their actions; and

WHEREAS, the City Attorney has begun a thorough investigation of the City's ability to bring suit against the Secretaries and any other necessary parties in order to compel payment of these previously promised monies; and

WHEREAS, the City of Milwaukee and others have also questioned the legality of the actions by the State; and

WHEREAS, representatives of the City of Madison and the City of Milwaukee have met with staff of the DNR and DOA in an attempt to resolve this dispute;

NOW, THEREFORE, BE IT RESOLVED By the Common Council of the City of Madison that, if the office of the City Attorney determines that a lawsuit to compel payment of these monies is justified and viable, it is authorized to bring suit as soon as is reasonably possible; and

BE IT FURTHER RESOLVED, that the City Attorney is authorized to coordinate any legal action with the City of Milwaukee or any others who challenge the legality of this action by the State.