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FOR IMMEDIATE RELEASE

Friday, May 11, 2012

Milwaukee and Madison Sue State For Reductions in Recycling Grant Funding and Unconstitutional Taxes

MADISON, WI — Today the City of Milwaukee joined with the City of Madison, as well as Milwaukee taxpayers Aldermen Robert J. Bauman, Willie L. Hines, and Ashanti Hamilton to file a lawsuit in Dane County Circuit Court against the Wisconsin Department of Administration (“DOA”) Secretary Michael Huebsch and Wisconsin Department of Natural Resources (“DNR”) Secretary Cathy Stepp. The complaint alleges that the Secretaries diverted and are diverting money from the state-wide recycling grant program and thereby violated and are violating various provisions of the Wisconsin Constitution. The plaintiffs ask the circuit court to declare the acts of the Secretaries unconstitutional, to restore grant funding, and to enjoin any future unlawful diversion of recycling grant program funds. The plaintiffs also ask for a preliminary injunction to immediately prohibit the Secretaries from using recycling grant funds for any other purpose until the plaintiffs’ case can be heard on its merits.

The complaint alleges that in fiscal year 2010-2011, the DOA and DNR Secretaries diverted \$13.1 million (a 41% cut) from the segregated recycling grant program without any authorization from or oversight by the Legislature, which has the sole authority under Wisconsin's Constitution to budget and spend, subject only to the governor's line item veto. Plaintiffs claim the Secretaries' actions therefore violated the Wisconsin Constitution.

The complaint also alleges that in fiscal year 2010-2011 and on an ongoing basis, the DOA and DNR Secretaries have diverted solid waste dumping or "tipping" fees, specifically designated by the state Legislature for the recycling grant program, to non-recycling uses. By doing so, the Secretaries have allegedly turned an otherwise proper fee into an unconstitutional tax on individuals and municipalities.

The plaintiffs ask for a variety of relief, including that the court declare section 3416d of the 2009 Budget Act, the law which the Secretaries have used to justify their actions, unconstitutional. This provision was used to transfer moneys from a number of appropriations, not just the recycling grants, in fiscal year 2010-2011. The plaintiffs also ask the court to declare that the use of tipping fee revenue for any purpose other than recycling grants creates an unconstitutional tax and that the Secretaries acted beyond the scope of their lawful authority under other state laws. Finally, the plaintiffs seek the restoration of the diverted funds and preliminary and permanent injunctions preventing the use of recycling tipping fees for anything other than recycling grants.

The filing of the complaint and the request for a preliminary injunction coincide with the DNR's May 11, 2012 deadline to respond to its 2012 recycling grant notices,

which were sent to municipalities on April 10, 2012. The 2012 recycling grant award checks will be issued by the DNR before June 1, 2012.

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