



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

June 9, 2011

TO: Members
Joint Committee on Finance

FROM: Paul Onsager, Fiscal Analyst

SUBJECT: Senate Substitute Amendment ___ (LRB 0135/3) to Senate Bill 93: Permitting Individuals to Carry Concealed Weapons, Possessing or Transporting a Firearm, Bow, or Crossbow under Certain Circumstances, Disorderly Conduct Limitations, and Electric Weapons

Senate Bill 93 (SB 93) would permit individuals to carry concealed weapons, possess or transport a firearm, bow, or crossbow under certain circumstances, permit electric weapons, and amend current law regarding disorderly conduct. On May 10, 2011, SB 93 was introduced and referred to the Senate Committee on Judiciary, Utilities, Commerce, and Government Operations. On May 23, 2011, Senate Substitute Amendment 1 (SSA 1) to SB 93 was offered by the Senate Committee on Judiciary, Utilities, Commerce, and Government Operations. On May 25, 2011, Senate Amendments 3 and 4 were likewise offered by the Senate Committee on Judiciary, Utilities, Commerce, and Government Operations. On May 27, 2011, the Committee recommended adoption of Senate Amendments 3 and 4 to SSA 1 to SB 93, on a vote of 5-0. Further, the Committee recommended adoption of SSA 1 to SB 93 on a vote of 3-2. Finally, on May 27, 2011, the Committee recommended adoption of SB 93, as amended, on a vote of 3-2.

On June 7, 2011, SB 93, as amended, was referred to the Joint Committee on Finance. On June 9, 2011, Senate Substitute Amendment ___ (LRB 0135/3) to SB 93 was offered for introduction.

The memorandum from Legislative Council Staff dated June 9, 2011, summarizes the provisions of the substitute amendment. This memorandum provides information on the fiscal effect of the substitute amendment, as it relates to the Department of Justice (DOJ).

Licensure Process and Associated Licensing and Background Check Fees. Under the substitute amendment, DOJ would be required to design an application, license, and renewal forms for individuals seeking licensure to carry a concealed weapon. An individual could apply for a concealed carry license with DOJ by submitting all of the following: (a) a completed application; (b) a statement that the information provided in the submitted application and any document

submitted with the application is true and complete to the best of the applicant's knowledge; (c) a license fee in an amount, as determined by DOJ rule, that is equal to the cost of issuing the license but does not exceed \$37 (DOJ would be required to determine the costs of issuing a license by using a five-year planning period); (d) a background check fee equal to the fee charged for a firearms restrictions record search (currently \$13); and (e) proof of firearms training.

In order to satisfy the proof of firearms training requirement, among other approved methods, an individual could attend a firearms safety or training course conducted by a firearms instructor who is certified by a national or state organization that certifies firearms instructors or who was certified by DOJ. The Department would be required to maintain a list of instructors that it certifies.

Under 2011 Senate Bill 90 (a concealed carry bill that would likewise require licensure), DOJ estimated that without a proof of training requirement that under that bill it could see 100,000 applications for a concealed carry license in the first year following enactment of the bill into law. If DOJ were to charge the maximum allowable fees, it could collect \$5 million in revenue to process the additional workload in the first year after enactment of the bill into law. However, it is uncertain at this time how many applications the Department would actually receive in the first year following enactment of any legislation.

Under the substitute amendment, DOJ would be required to issue a concealed carry license to an individual unless: (a) the individual was not at least 21 years of age; (b) the individual was prohibited under federal law from possessing a firearm that had been transported in interstate or foreign commerce; (c) the individual was prohibited from possessing a firearm under Wisconsin law; (d) a Wisconsin court under state statute prohibited the individual from possessing a dangerous weapon; (e) a defendant was on release prior to any possible conviction, and as a condition of release the individual was prohibited from possessing a dangerous weapon; (f) the individual was not a Wisconsin resident; or (g) the individual had not provided required proof of firearms training. The Department would have 21 days after receiving a completed application to either issue the license or deny the application.

If a concealed carry license was lost, a licensee no longer had possession of his or her license, or a license document was destroyed, unreadable, or unusable, a licensee could submit to DOJ a statement requesting a replacement concealed carry license along with a \$12 replacement fee. The Department would be required to issue a replacement license document within 14 days of receiving the statement and fee.

The Department of Justice would also be required to design a notice of expiration form. Under the substitute amendment, a concealed carry license would generally be valid for a period of five years from the date on which the license was issued unless the license was suspended or revoked. At least 90 days before the expiration date of a concealed carry license, DOJ would be required to mail to the licensee a notice of expiration form and a form for renewing the license. The Department would be required to renew the license if, no later than 90 days after the expiration date of the license, the licensee did all of the following: (a) submitted the renewal application; (b)

submitted a statement reporting that the information provided in the renewal application is true and complete to the best of the applicant's knowledge and that the applicant is not disqualified from being licensed under the criteria outlined above; (c) paid a renewal fee in an amount, as determined by DOJ by rule, that is equal to the cost of renewing the license but does not exceed \$12 (the Department would be required to determine the costs of renewing a license by using a five-year planning period); and (d) a background check fee equal to the fee charged for a firearms restrictions record search (currently \$13). Within 21 days of a licensee satisfying these requirements, DOJ would be required to issue a renewal license by 1st class mail.

These licensing and background check fees would be deposited to a new PR continuing background checks for licenses to carry concealed weapons appropriation. The Department could utilize this funding to provide services associated with issuing concealed carry licenses.

Certification Cards for Former Law Enforcement Officers and Associated Certification Fees. The Department of Justice would be required to design a certification card to be issued by the Department to eligible former federal law enforcement officers seeking to carry concealed weapons. These certification cards would be valid for 12 months from the date on which it was determined that the officer met the standards for qualification in firearms training for active law enforcement officers for the firearm for which the officer would be certified. Upon the request of a former federal law enforcement officer and at the former federal law enforcement officer's expense, DOJ could issue the officer a certification card to carry a concealed weapon provided that the Department first verified all of the following: (a) the officer separated from service as a law enforcement officer with the law enforcement agency in good standing; (b) the officer served as a law enforcement officer for an aggregate of at least 10 years, or the officer separated from service due to a service-connected disability after completing any applicable probationary period; (c) the officer is not prohibited under federal law from possessing a firearm as indicated by a search of the transaction information for management of enforcement (TIME) system and the national criminal background check system; and (d) the officer, during the previous 12 months has been found by the state or by a certified firearms instructor (if such an instructor is qualified to conduct a firearms qualification test) to meet the standards for qualification in firearms training for active law enforcement officers to carry a firearm of the type for which the officer would be certified (which could not include a machine gun, a firearm silencer, or a destructive device). Before issuing a former federal law enforcement officer a certification card to carry a concealed weapon, DOJ would also be required to verify that: (a) a qualified medical professional employed by the law enforcement agency from which the officer separated had not found the officer to be unqualified to be a law enforcement officer for reasons related to the officer's mental health; and (b) the officer had not entered into an agreement with the law enforcement agency from which he or she separated from service in which the officer acknowledged that he or she was not qualified to be a law enforcement officer for reasons related to his or her mental health.

The Department of Justice could charge a fee to verify eligibility for a certification card, for the issuance of a certification card, or for the renewal of a certification card, but the fee could not exceed the costs the Department incurred to carry out these activities. These fees would be deposited to a new PR continuing certification cards for carrying concealed weapons appropriation.

This fee revenue could be utilized by DOJ to verify eligibility of, and to issue certification cards to, former federal law enforcement officers seeking to carry concealed weapons.

Background Checks and License Processing. Based on Department estimates developed in conjunction with SB 90 (the concealed carry bill that would likewise require licensure), it is estimated that the Department would need an additional 7.0 criminal history record specialists to process the increased number of background checks associated with concealed carry licenses, and 5.0 office associates and 1.0 program supervisor to oversee and process the remaining work associated with receiving and reviewing concealed carry applications, and ultimately approving or denying the applications and producing any approved concealed carry licenses. The Department estimates it could receive 100,000 applications in the first year of the program. It further estimates that it could continue to receive a high volume of applications in future years, although the ongoing need for resources could be reevaluated by the Legislature in the future based on actual volume. Based on SB 90, the Department would estimate first-year staffing costs of \$789,300, and ongoing staffing costs of \$685,300 annually.

The Department has raised concerns that, particularly with any initial influx of applications for concealed carry licenses, it could be problematic to require that all applications be approved or denied within 21 days of receipt. However, under the substitute amendment, for the first month in which individuals could submit concealed weapons license applications, the Department would be required to process the applications as soon as practicable and without delay but not longer than 45 days.

Under SB 90, the Department also identified costs associated with producing and mailing the physical license document of \$60,800 in the first year, and \$103,500 annually thereafter. In lieu of producing the licenses internally, the substitute amendment would also permit DOJ to contract with the Department of Transportation to produce and issue the license documents.

Concealed Carry Licensee Database. Every concealed carry license would be required to contain the following information: (a) the full name, date of birth, and residence address of the licensee; (b) a physical description of the licensee, including sex, height, and eye color; (c) the date on which the license was issued; (d) the date on which the license expires; (e) the name of the state; and (f) a unique identification number for each licensee. The Department would be required to maintain a computer database containing this information for all individuals issued a concealed carry license, as well as listing of all former federal law enforcement officers issued certification cards to carry a concealed weapon.

The Department would be required to provide this information to law enforcement officers for the following purposes: (a) to confirm that a license or certification card produced by an individual at the request of a law enforcement officer is valid; and (b) to confirm that an individual holds a valid license or certification card if an officer found the individual carrying a concealed weapon but the individual was not carrying his or her license document or certification card. To facilitate providing this information to law enforcement officers in the field, the Department would create interfaces between the new concealed carry database and the TIME system and federal law

enforcement databases. The TIME system, administered by DOJ, provides law enforcement agencies across the state access to a variety of law enforcement related databases, including state and national criminal history information, and driver and vehicle registration files. The TIME system consists of over 10,000 terminals located in over 600 local, state and federal law enforcement agencies in Wisconsin. Approximately 5,000 of these terminals are mobile units that provide information directly to the patrol officer.

The Consolidated Court Automation Program (CCAP) is used by the circuit court system to track civil, criminal and delinquency court actions. The Circuit Court system is a state-funded program under the Supreme Court's Director of State Courts Office. Under the substitute amendment, CCAP (or the clerk or register in probate if the information was not contained in or could not be transmitted by CCAP) would be required to promptly notify DOJ of the name of any individual with respect to whom any of the following occurred and the specific reason for the notification: (a) the individual was convicted of a felony or any other crime that would disqualify the individual from possessing a concealed carry license; (b) the individual was found to be incompetent; (c) the individual was found not guilty of any crime by reason of mental disease or defect; (d) the individual was involuntarily committed for treatment; (e) the individual became subject to a domestic abuse or child abuse injunction; (f) the individual was ordered to not possess a firearm as a part of a harassment injunction; (g) a Wisconsin court prohibited the individual from possessing a dangerous weapon or firearm; or (h) a defendant was on release prior to any possible conviction, and as a condition of release the individual was prohibited from possessing a dangerous weapon. Upon receiving this information, the Department would be required to immediately determine if the individual who was the subject of the notice was a licensee. If the individual was a licensee and was no longer eligible to carry a concealed carry license, DOJ would be required to seek revocation or suspension of the license. In order to carry out these provisions, the Department would seek to develop an interface between CCAP and the concealed carry database.

In order to develop the required computer database and the associated interfaces with the TIME and CCAP systems and federal law enforcement databases, DOJ staff indicates that a year of time would likely be required. This would involve identifying the required functionality for the new system, developing a request for proposal for a private vendor to develop the new system, reviewing the various proposals submitted by the private vendors and selecting a vendor to develop the project, project development, project testing, and final roll-out of the new system. Under the substitute amendment, this system would need to be functional on the first day of the fourth month after the enactment of the bill into law. Assuming that the Department would have a year to develop the new system, under SB 90 (the concealed carry bill that would likewise require licensure) DOJ estimated first year costs to develop the system of \$1,256,000, and ongoing annual costs of \$300,000 to maintain the system. While the substitute amendment provides fee revenue to the Department to implement the program, these revenues would not be available to the Department during any initial IT development as these revenues will not be received by the Department until individuals begin to submit concealed carry applications with the associated fees.