



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #122

### **Administration of State Grant Programs (DOA -- Office of Justice Assistance)**

#### *Bill Section*

[LFB 2007-09 Budget Summary: Page 39, #3]

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#### **CURRENT LAW**

The primary responsibility of the Department of Administration's Office of Justice Assistance (OJA) is to administer federal criminal justice and homeland security funding. Under current law, OJA also administers three state-funded grant programs.

The Legislature originally created the law enforcement officer supplement grant program under 1993 Wisconsin Act 193, and since the 1994-95 state fiscal year has provided \$1,000,000 GPR annually for this grant program. Under this program, OJA provides supplemental grants to cities to employ additional uniformed officers whose primary duty is beat patrolling. OJA must make grant awards to the ten eligible cities (with populations of 25,000 or more) submitting applications that have the highest rates of violent crime index offenses in the most recent full calendar year for which data is available from the Federal Bureau of Investigation's uniform crime reporting system. OJA may not award an annual grant in excess of \$150,000 to any one city. The program operates on a three-year grant cycle, as a city may receive a grant for three consecutive years without submitting a new application each year.

Under 2005 Wisconsin Act 25, the Legislature created the treatment alternatives and diversion grant program. This program is intended to provide grants to counties to enable them to establish and operate programs, including suspended and deferred prosecution programs and programs based on principles of restorative justice, which provide alternatives to prosecution and incarceration for criminal offenders who abuse alcohol or other drugs. This program is funded with program revenue through the drug abuse program improvement surcharge and through the \$10 drug offender diversion surcharge.

Under 2005 Wisconsin Act 60, the Legislature created the grants for digital recording of custodial interrogations by law enforcement grant program with base funding of \$750,000 PR annually. The program is intended to provide grants to law enforcement agencies for equipment or training used to digitally record custodial interrogations. This program is funded with program revenue through the penalty surcharge.

The Office is provided the following base funding and position authority in 2006-07: (a) \$1,230,600 GPR and 2.42 GPR positions; (b) \$1,666,900 PR and 1.40 PR positions; and (c) \$57,959,600 FED and 32.18 FED positions.

## **GOVERNOR**

Provide \$139,400 GPR in 2007-08, and \$135,500 GPR in 2008-09, and 1.53 GPR-funded positions annually (0.85 FTE grants specialist, 0.38 FTE research analyst, and 0.30 FTE grants supervisor) to provide staffing and supplies and services funding to OJA to administer its state grant programs. The funding would be provided as follows: (a) \$118,200 annually for salary and fringe benefits costs; and (b) \$21,200 in 2007-08, and \$17,300 in 2008-09, for supplies and services costs.

## **DISCUSSION POINTS**

1. Under current law, OJA administers three state-funded grant programs: (a) the law enforcement officer supplement grant program; (b) the treatment alternatives and diversion grant program; and (c) the digital recording of custodial interrogations by law enforcement grant program. The law enforcement officer supplement grant program operates on a three-grant cycle and has been administered by the Office since 1994-95, while the remaining two programs were created and added to the Office's duties to administer during 2005-07. Under SB 40, OJA would continue to administer the treatment alternatives and diversion grant program, while the provisions of the bill would delete the digital recording of custodial interrogations by law enforcement grant program.

2. The treatment alternatives and diversion grant program was originally introduced as 2005 Senate Bill 142 and 2005 Assembly Bill 275 before being included in the 2005-07 biennial budget bill. In its fiscal estimate, DOA identified that the Office would require additional staffing of 0.60 FTE position (including parts of a grant specialist, program and planning analyst, and community services technician) and associated supplies and services funding to administer the program. The grant program was added to the Office under 2005 Wisconsin Act 25, but the Legislature did not provide additional resources to OJA to administer the program. As a result, during the current biennium, the Office has administered the program from base resources.

3. The digital recording of custodial interrogations by law enforcement grant program was introduced under 2005 Assembly Bill 648 and 2005 Senate Bill 315. The grant program was created in response to the Supreme Court decision in *State v. Jerrell* that custodial interrogations of juveniles by law enforcement must be electronically recorded when feasible, and when the

investigation occurs in a place of detention, must be recorded without exception. Under the program, OJA must provide grants to law enforcement agencies for the purchase, installation, or maintenance of digital recording equipment for making recordings of custodial interrogations or for training personnel to use such equipment. During legislative debate regarding the creation of the grant program, OJA indicated that start-up resources of 1.0 FTE for the first year of the grant program would be required. Following the first year, the Office indicated that a 0.5 FTE ongoing position would be required to administer the program. Under 2005 Wisconsin Act 60, the Legislature created the grant program, but did not provide additional resources to OJA to administer the program. As a result, during the current biennium the Office has administered the program from base resources.

4. The provisions of the bill would delete the digital recording of custodial interrogations by law enforcement grant program, but would also add the following grant responsibilities to the Office: (a) an annual \$750,000 GPR non-competitive grant to the City of Milwaukee to employ additional uniformed law enforcement officers; (b) beginning in 2008-09 an annual non-competitive payment of \$1,000,000 GPR to the Wisconsin Trust Account Foundation, Inc., to permit the Foundation to make grants to programs that provide civil legal services to the indigent; (c) a non-competitive grant of \$250,000 GPR in 2007-08, and \$500,000 GPR in 2008-09, to Milwaukee County to fund the preparation of presentencing assessments of convicted misdemeanants and felons; (d) a non-competitive grant of \$250,000 GPR in 2007-08, and \$500,000 GPR in 2008-09, to Milwaukee County under the treatment alternatives and diversion grant program; and (e) a non-competitive, one-time grant of \$25,000 GPR in 2007-08, to the Milwaukee County District Attorney's Office to support the development of case management processes.

5. Since 1994-95, OJA has administered the law enforcement officer supplement grant program from base resources. While OJA identified a need for additional resources to administer the treatment alternatives and diversion grant program, the Office has administered the program with base resources during 2005-07. There are approximately 640 law enforcement agencies across the state subject to the recording requirements of *State v. Jerrell*, and potentially eligible to participate in the digital recording grant program. Under the bill, this grant program responsibility for OJA would be deleted which required base resources to administer during the current biennium. In addition, it could be argued that the additional grant responsibilities created under SB 40 are modest as they involve five non-competitive awards to identified recipients. As a result, the Committee could conclude that OJA has sufficient base resources to administer these programs and not provide additional resources for the Office to administer state-funded grant programs during 2007-09.

On the other hand, OJA cannot utilize federal funds to administer state-funded grant programs and each additional grant program creates additional workload for the office, including possible grant application reviews, fiscal accounting of grant awards, and administrative workload associated with its contacts with applicants and grantees. In addition, if the Legislature maintains the digital recording grant program, this grant administration responsibility would not be reduced. As a result, the Committee could consider providing the additional administrative resources recommended in the bill.

[On May 30, 2007, the Joint Committee on Finance maintained the digital recording grant program, with base funding of \$750,000 PR annually.]

6. In the past, the federal government required states to provide a 25% match for grant funding received under the federal Byrne grant program. This match requirement also applied to Byrne grant dollars utilized by OJA for administrative costs of the program. OJA historically utilized 3% to 4% of the Byrne grant award to cover its administrative costs and the associated match dollars were provided to the Office's law enforcement programs-administration appropriation. This appropriation is a PR annual appropriation funded by the penalty surcharge. While funding provided to the appropriation is primarily for state match funding for the Byrne program, approximately \$5,000 PR annually is also provided to the appropriation to provide state match funding for administrative dollars utilized by the Office to administer the federal Juvenile Accountability Block Grant (JABG) Program.

7. Setting aside amounts budgeted for state match dollars for the federal JABG program, base resources (including standard budget adjustments) of \$165,600 PR and 1.4 PR positions in 2007-08, and \$174,700 PR and 1.4 PR positions in 2008-09, remain in the law enforcement programs-administration appropriation as state match resources that have been provided in prior biennia to administer the federal Byrne program. As the federal government no longer requires the states to provide state matching funds for the federal Byrne program, and as the Office has increased the amount of each Byrne award that it utilizes for administrative costs to 10% (consistent with federal rules governing the program), it could be argued that these resources are no longer required to administer the federal Byrne program. Office staff indicates that in lieu of the recommendation under SB 40 it could utilize these resources to now administer its state-funded grant programs.

8. If, however, the Committee concludes that the Office can continue to administer these state-funded grant programs utilizing its base GPR administrative resources (including standard budget adjustments) of \$240,600 GPR and 2.42 GPR positions annually, the Committee could delete these PR resources previously provided to permit OJA to administer the federal Byrne grant program. Office staff would indicate, however, that these GPR resources are also required to provide required matches for and administer other federal grant programs, as well as carrying out broad administrative duties that are required in operating an office.

**ALTERNATIVES TO BILL**

1. Approve the Governor's recommendation to provide \$139,400 GPR in 2007-08, and \$135,500 GPR in 2008-09, and 1.53 GPR-funded positions annually to provide staffing and supplies and services funding to the Department of Administration's Office of Justice Assistance (OJA) to administer its state grant programs.

ALT 1	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	\$0	0.00	\$274,900	1.53

2. Delete \$165,600 PR and 1.4 PR positions in 2007-08, and \$174,700 PR and 1.4 PR positions in 2008-09, under the law enforcement programs, administration appropriation. These resources have been provided to administer the federal Byrne Justice Assistance Grant Program.

ALT 2	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
PR	-\$340,300	- 1.40	-\$340,300	- 1.40

3. Delete provision. [*Alternative 3 may be selected in addition to Alternative 2.*]

ALT 3	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	-\$274,900	- 1.53	\$0	0.00

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