



Legislative Fiscal Bureau

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

June 6, 2007

Joint Committee on Finance

Paper #250

Juvenile Correctional Services Appropriation Deficit (Corrections -- Juvenile Corrections)

Bill Agency

CURRENT LAW

Under current law, statutory provisions provide that "program revenues" consist of revenues paid to the general fund, which are credited to an appropriation to finance a specified program or state agency. For any program revenue appropriation which is limited to the amounts in the appropriation schedule, no expenditures may be made exceeding the amounts in the schedule.

The juvenile correctional services program revenue appropriation [s. 20.410(3)(hm)] funds the operation of juvenile correctional facilities and certain aftercare services provided to juveniles following release from the facilities. The state's three juvenile correctional facilities include: for adjudicated males, the Ethan Allen School and the Lincoln Hills School, and for adjudicated females, and the Southern Oaks Girls School. Base funding for the appropriation is \$51,298,900 PR annually.

The program revenue credited to this appropriation derives from daily rates charged for facility care that are paid by counties or the state for certain serious juvenile offenders. If moneys generated by the daily rate exceed actual institutional costs in a fiscal year by 2% or more, the amounts in excess of 2% must be remitted to the counties during the subsequent fiscal year, in amounts proportionate to the total number of days of juvenile placements at the facilities for each county and for the state.

The juvenile correctional services appropriation is estimated to have a deficit of \$10.8 million by the end of the 2006-07 fiscal year.

GOVERNOR

No provision.

DISCUSSION POINTS

Juvenile Correctional Services Appropriation Deficit

1. Under the Department of Corrections, the program revenue appropriation for juvenile correctional services receives revenue from payments by counties and the state based on statutory daily rates established in each biennial budget process. Daily rates are calculated on the basis of budgeted costs for facility care and the projected average daily population (ADP) of juveniles placed in the facilities in each fiscal year. As a result, the revenue generated in a given fiscal year is determined by the established daily rate and the actual number of juveniles placed in the facilities.

2. Since the 2000-01 fiscal year, expenditures in the appropriation have generally exceeded revenue, resulting in year-end deficits. The recurring deficits are the result of insufficient revenue to support costs, generally as a result of unanticipated declines in juvenile populations. For example, under the 2003-05 biennial budget act, the ADP for juvenile correctional facilities was estimated to be 800 annually. This estimate was used to establish the daily rates for that biennium. The actual ADP for 2003-04 totaled only 693 juveniles.

3. One way the Department has attempted to address the deficit is by reducing operating expenditures. Over the past several biennia, the Department has closed juvenile housing units, avoided filling position vacancies, and eliminated long-term vacant positions and associated funding. Under the 2003-05 budget act, \$7,182,400 PR and 46.04 PR positions were eliminated. Under the 2005-07 budget act, \$17,929,800 and 169.24 PR positions were deleted. The current budget bill would delete \$3,117,400 PR and 29.92 PR positions.

4. Reducing costs for the juvenile correctional facilities, however, can be difficult because a large proportion of total expenditures are attributable to fixed operational costs, such as necessary minimum staffing requirements and ongoing infrastructure costs. These types of fixed costs do not vary substantially due to a moderate increase or decrease of juvenile populations, and costs can only be reduced to a certain point.

5. In June, 2004, under s. 13.10 of statutes, the Joint Committee on Finance approved the transfer of GPR funding from the serious juvenile offender appropriation to address the 2003-04 deficit. Further, the Committee directed the Departments of Administration (DOA) and Corrections to develop legislation, for introduction in the 2005 legislative session, to transfer PR account balances from the juvenile residential care and corrective sanctions appropriations in amounts sufficient to liquidate the projected deficit in 2003-04 or 2004-05.

6. As a result of the directive, the Governor's 2005-07 budget recommendations

proposed transferring available PR balances from the juvenile residential aftercare and corrective sanctions appropriations. Assuming that the PR transfers would be insufficient to wholly address the deficit, however, the bill also proposed raising the daily rate amounts to generate revenue sufficient to liquidate the deficit.

7. The Legislature adopted the provision to transfer available PR balances to address the deficit, but deleted the provision to increase the daily rates. Instead, the Legislature approved the creation of a statutory mechanism to address the current deficit as well as provide a permanent procedure to manage any future deficits.

8. The statutory mechanism would require that the Department, on or before March 15th of each odd-numbered year, estimate unexpended revenues, less encumbrances, that would remain in the juvenile correctional services appropriation as of June 30th and provide this estimate to DOA and to the Joint Committee on Finance. If the estimated balance was projected to be negative (as determined by the Committee), that deficit amount was to be included in the cost basis for calculating the juvenile correctional facilities daily rates for the subsequent biennium. Under the mechanism, 50% of the deficit amount would be added to the cost basis for the calculation of daily rates for the first year of the subsequent biennium and 50% of the deficit amount would be added to the cost basis for the calculation of daily rates for the second year of the subsequent biennium.

9. Further, the proposed mechanism provided that the Department's share of the daily rate revenues attributable to eliminating the deficit would be reserved solely to liquidate the deficit. Any revenue reserved for this purpose that exceeded the amount of the deficit on June 30th of the odd-numbered year of the subsequent biennium, would then be reimbursed to the counties and the state by the following September 30th in a manner proportionate to the total number of days of juvenile placements at the facilities for each county and the state.

10. The above provision was developed in recognition of the fact that projecting any year-end deficit when establishing daily rates during the budget process could be difficult and could overstate the actual deficit. An overstatement of the deficit would result in higher daily rates than necessary. Under the proposed mechanism, if this type of situation occurred, any revenue reserves for the deficit that exceeded the actual amount of the deficit would be reimbursed proportionately to the counties and state.

11. The Governor deleted the adopted mechanism through a partial veto. According to his veto message, the partial veto was necessary to "maintain the department's flexibility to effectively manage juvenile programs. These provisions would place an undue burden on counties by requiring the Department of Corrections to charge counties to recover deficits in the appropriation." Despite this rationale, the Governor's original budget recommendation to increase daily rates to cover the deficit could be viewed similarly - charging counties to recover the deficit.

12. Senate Bill 40 does not include any provision to address the current deficit in the juvenile correctional services appropriation, estimated by the Department to be approximately \$10.8 million in 2006-07. To address this deficit and potential future deficits, the Committee may wish to

adopt similar provisions as provided in the 2005-07 budget bill, as follows:

Provide that all available PR balances in the juvenile residential aftercare and corrective sanctions appropriations be transferred to the juvenile correctional services appropriation on June 30, 2007. Further, authorize the Department and DOA, prior to the end of each odd-numbered year to: (a) estimate unexpended revenues, less encumbrances, that will remain in the juvenile correctional services appropriation as of June 30th of that year; and (b) if the estimated balance is projected to be negative, include the amount of the estimated deficit in the cost basis for the calculation of the proposed daily rates for juvenile correctional facilities for the subsequent biennium. Require that the share of the daily rate revenue that is proportionate to the share of the increased rate amount associated with the estimated deficit be reserved for the purpose of liquidating the deficit. Provide that any revenue reserved for this purpose that exceeds the amount of the deficit on June 30th, of the odd-numbered year of the subsequent biennium, be reimbursed to the counties and the state on before September 30th, of that calendar year, proportionate to the total number of days of juvenile placements at the facilities for each county and the state.

13. Alternatively, the Committee could provide for the transfer of available PR balances from the juvenile residential aftercare and corrective sanctions appropriations without the mechanism to address future deficits. For the 2006-07 fiscal year, the Department estimates that the corrective sanctions appropriation will have an available balance of \$1.75 million. While the Department does not estimate that the juvenile residential aftercare appropriation will have any remaining funding at the end of 2006-07, if circumstances change and funding is available, these amounts could be transferred toward the deficit.

Department Report on Cost Effectiveness of Juvenile Correctional Institutions

14. Act 25, the 2005-07 budget act, required the Department to submit a plan to the Committee under a 14-day passive review process either to: (a) close one juvenile correctional facility; or (b) achieve operational savings in the costs of operating juvenile correctional facilities. The plan was required to include any proposed legislation necessary to implement the plan.

15. The Department submitted its plan in March, 2007. The plan discussed funding of juvenile correctional services, trends in juvenile populations, and options to address increasing daily rates. Regarding options to address the increases in daily rates, the plan included the recommendation to provide additional funding for youth aids allocations to counties. This proposal would assist counties in paying increases to the daily rate. It may be noted that the Governor's budget recommendations included a provision for an additional \$27.7 million for increase youth aids funding. The Committee adopted this recommendation at its May 3, 2007 executive session.

16. As indicated previously in this paper, the primary cause for the reoccurring deficit has been the general decline in juvenile populations (although populations have appeared to stabilize in the past year). The plan submitted by the Department included discussion of adding populations to the juvenile schools by modifying Wisconsin statutes to provide juvenile court jurisdiction to individuals who are 17 years of age or younger. Points raised regarding this proposal

included:

- Recent research on adolescent brain development has led advocacy groups to support raising the age for criminal prosecutions to 18 and older.

- "An unknown number of youth would return to the jurisdiction of county human services agencies and the juvenile court when they break the law. Supervision and dispositional services for these youth would be funded by the counties and would draw on Youth Aids. A subgroup of 17-year-olds would be transferred to the criminal system via waiver for serious crimes. Admissions to the state JCI's would likely increase, due to additional youth being under juvenile court jurisdiction. Increases in the average daily population at state JCI's decrease the daily rate due to efficiencies of scale. However, this change would also substantially increase the number of youth for whom the county is providing supervision and other juvenile correctional services."

- While there are questions about the impact of raising the age for prosecution on youth aids allocations, the Wisconsin Counties Association and Wisconsin County Human Service Association support the modification.

- According to the plan, the fiscal impact is unknown: "Important unknown factors in determining the impact are the numbers of youth retained in the adult system through waiver, the numbers placed in state JCI's who otherwise would have received adult correctional services, the number of youth placed in county secure detention who otherwise would have been in county jail, and the number of youth placed on county juvenile supervision and treatment instead of adult probation."

17. It should be noted that on March 8, 2007, the Joint Legislative Audit Committee unanimously recommended an audit on the effects of criminal court jurisdiction on 17 year-olds. The audit, currently in progress by the Legislative Audit Bureau, will attempt to identify: (a) the number of 17 year-old currently in the adult criminal court system; (b) the categorization of offenses for which 17 year-olds have been convicted; (c) an analysis of costs of confinement of 17 year-olds; (d) rehabilitative programming available to 17-year olds; (e) recidivism rates of 17 year-olds; and (f) current systems for 17 year-olds in other states. The anticipated completion of the audit is in the fall of 2007.

18. Given the potential impact that increasing the number of juveniles in juvenile correctional facilities might have on daily rates and the reoccurring deficit, the Committee may wish for the Department to pursue this proposal. However, it may be appropriate to await the findings of the Legislative Audit Bureau's audit. As such, the Committee could direct the Department to submit a response to audit to both the Joint Legislative Audit Committee and Joint Committee on Finance by March, 2008. The audit and Corrections' response would provide the Legislature with constructive resources to consider in evaluating any proposed modifications to current law relating to prosecution of 17 year-olds.

ALTERNATIVES TO BILL

1. Provide that all available program revenue balances in the juvenile residential aftercare and corrective sanctions appropriations be transferred to the juvenile correctional services appropriation on June 30, 2007.

2. In addition to Alternative 1, create a statutory mechanism to authorize the Departments of Administration and Corrections, prior to the end of each odd-numbered year, to: (a) estimate the unexpended revenues, less encumbrances, that will remain in the juvenile correctional services appropriation on June 30th of that year; and (b) if the estimated balance is projected to be negative, include the amount of the estimated deficit in the cost basis for the calculation of the proposed secured correctional facilities daily rates for the subsequent biennium. Require that 50% of the deficit amount be added to the cost basis for the calculation of daily rates for the first year of the subsequent biennium and 50% of the deficit amount be added to the cost basis for the calculation of daily rates for the second year of the subsequent biennium. Require that the share of the daily rate revenue that is proportionate to the share of the increased cost basis associated with the estimated deficit be reserved for the purpose of retiring the deficit. Provide that any revenue reserved for this purpose that exceeds the amount of the deficit on June 30th, of the odd-numbered year of the subsequent biennium, be reimbursed to the counties and the state, on before September 30, of that calendar year, in a manner proportionate to the total number of days of juvenile placements at the facilities for each county and the state.

3. Direct the Department to submit a response to the audit of the effect of providing juvenile court jurisdiction for 17 year-olds to the Joint Legislative Audit Committee and Joint Committee on Finance by March, 2008.

4. Take no action.

Prepared by: Chris Carmichael