



Legislative Fiscal Bureau

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

May 31, 2011

Joint Committee on Finance

Paper #255

Standard Budget Adjustments - Overtime (Corrections -- Departmentwide)

[LFB 2011-13 Budget Summary: Page 141, #1]

CURRENT LAW

Under the Department of Administration's 2011-13 budget instructions to state agencies, standard budget adjustments are defined as "a category of cost changes common across all agencies that are considered 'housekeeping' in nature and are required to continue a base level of services into the next biennium." Among the standard budget adjustments is an item for the funding of overtime costs. Since overtime costs are removed from an agency's base budget when calculating the full funding of salaries and fringe benefits in the upcoming biennium, an agency's overtime calculation represents an agency's total estimate for overtime funding.

Section 16.50(3)(f) of the statutes provides that, at the request of the Office of State Employment Relations, the Department of Administration Secretary may authorize the temporary creation of pool or surplus positions under any source of funds if the Director determines that temporary positions are necessary to maintain adequate staffing levels for high turnover classifications, in anticipation of attrition, or to fill positions for which recruitment is difficult. Surplus or pool positions authorized by the secretary must be reported quarterly to the Joint Committee on Finance.

GOVERNOR

Provide total overtime funding of \$38,889,400 GPR and \$2,876,900 PR annually for the Department of Corrections.

DISCUSSION POINTS

1. Current base funding for correctional overtime costs is \$31,678,700 (\$29,616,200 GPR, \$2,056,400 PR, and \$6,100 SEG). The bill would provide overtime funding of \$38,889,400 GPR and \$2,876,900 PR annually for the 2011-13 biennium (SEG funding would be deleted). The following table provides a breakout of overtime funding in the bill:

Corrections Overtime

<u>Program</u>	<u>Annually</u>	
	<u>GPR</u>	<u>PR</u>
Management Services	\$1,800	
Adult Institutions	35,065,500	\$233,800
Probation, Parole and Extended Supervision	3,813,100	42,000
Secretary's Office	9,000	0
Juvenile Corrections	<u>0</u>	<u>2,601,100</u>
Total	\$38,889,400	\$2,876,900

2. Section 301.03(6t) of the statutes requires the Department to annually "submit a report to the joint committee on finance and to the chief clerk of each house of the legislature on the use of overtime in the state correctional institutions, identifying the state correctional institution, and, for each correctional institution, the amount and costs of overtime and the reason for the overtime at that correctional institution." On January 3, 2011, the Department submitted its overtime report, which identified total overtime expenditures of \$27.7 million for the adult institutions in 2009-10.

3. On May 19, 2011, the Legislative Audit Bureau submitted a letter report to the Joint Legislative Audit Committee, "Overtime in State Agencies and UW System." Points raised in the report included:

- Corrections pays overtime primarily to correctional officers and sergeants, probation and parole agents, youth counselors, and nursing staff.

- There was an increase in overtime payments from 2009 to 2010, affected at least in part by: (a) 16 mandatory furlough days required of nearly all state employees in the 2009-11 biennium; and (b) a 2% increase in salaries for represented employees, which took effect in June, 2009.

- Overtime expenditures for Corrections totaled \$29,787,500 in 2008-09 and \$30,365,900 in 2009-10, including the adult institutions, the center system, the Wisconsin Resources Center, and the juvenile schools.

- State agencies have been increasingly relying on surplus positions to control overtime costs and address staffing needs. Related to surplus positions, the Audit Bureau's report indicated:

"Surplus positions are intended to be temporary, and s. 16.50(3)(f), Wis. Stats., authorizes their use when 'necessary to maintain adequate staffing levels for high turnover classifications, in anticipation of attrition, to fill positions for which recruitment is difficult.' Surplus positions are generally filled by individuals who are hired as permanent employees with the expectation that they will be transferred to vacant authorized positions after they are trained. No additional spending authority accompanies surplus positions: they are expected to be funded by existing agency resources or savings generated by position vacancies.

Typically, state agencies request authorization for surplus positions from the Department of Administration (DOA) for a specified time period, and subsequent approvals are needed to extend this time period. Legislative approval is not required, although s. 16.50(3)(f), Wis. Stats., does require DOA to report quarterly to the Joint Committee on Finance on surplus positions created. . .

We are concerned that agencies' increasing reliance on surplus positions to address overtime costs may have limited the Legislature's awareness of their staffing levels and circumvented its oversight authority under s. 16.505, Wis. Stats., which with limited exceptions restricts the granting of position authority to law enacted by the Legislature and actions of the Joint Committee on Finance under s. 13.10, Wis. Stats. . .

In four of the past six years, DOC has [...] employed more correctional officers in surplus positions than it has vacancies for authorized permanent positions[.] Moreover, the average time that correctional officers spent in surplus positions increased from 30 days in June 2005 to 260 days in June 2009. . .

If surplus positions are used as intended--that is, they are filled on a temporary basis and funded with existing agency resources or savings generated by position vacancies--they do not increase agencies' salary and fringe benefit costs and may help to reduce staffing costs by controlling overtime spending. However, the increased use of surplus positions in both DHS and DOC has had the negative effect of increasing expenditures in other budget categories. For example: DOC spent approximately \$5.2 million in FY 2008-09 and again in FY 2009-10 on surplus positions that were funded with general program revenue (GPR) and program revenue from penalty surcharges on court fines and forfeitures, which statutes permit to be used for correctional officer training. . .

Both DHS and DOC will continue to face challenges in containing salary and overtime costs in future years and, based on current budget proposals for the 2011-13 biennium, compensation reserve funding may not be available to fully address salary and fringe benefit funding shortfalls, as has occurred in the past."

4. The Audit Bureau's report recommended that state agencies continue monitoring to ensure overtime costs are adequately managed. Further, the report stated that:

"The Legislature may also wish to consider clarifying the appropriate use of surplus positions in statute by, for example, limiting the number that may be created or specifying for how long they may be filled. In addition, the quarterly reports required under s. 16.50(3)(f), Wis. Stats., which DOA prepares for the Joint Committee on Finance, currently identify only changes in the number of surplus positions state agencies have created, not base amounts. The Legislature may therefore wish to consider statutory changes that would require the Department of Administration to provide more meaningful quarterly reporting to increase transparency and Legislative oversight of surplus position use."

5. On May 20, 2011, the Department of Corrections submitted a response to the Audit Bureau's report:

"We recognize that use of overtime is an effective and often fiscally responsible management tool to keep prisons and other Corrections' activities operating in a manner consistent with public safety in response to a variety of issues including emergency situations (operational and medical), provision of appropriate training and reacting to public safety situations. We also recognize that when our dedicated staff perform overtime efforts, they deserve to be fairly compensated. However, the ability for the administration to manage overtime within the Department is hampered by provisions within numerous collective bargaining agreements that restrict management discretion in determining which circumstances merit the use of overtime, and which employees may be utilized when overtime is appropriate. When that discretion is restored to managers with the implementation of certain provisions of 2001 Wis. Act 10, we believe that overtime costs can and will be further reduced.

It is also the belief of this administration that a need continues to allow flexibility in managing surplus positions referred to in the paper. In calendar years 2005 and 2006, the Department experiences turnover in security staff at or above 12% per year in a workforce of approximately 4600. In the period of 2008 through 2010 this turnover rate has held relatively stable at about 6%. We can reasonably predict a stable need for approximately 275 new security personnel each year to replace those leaving by retirement, transfer and other reasons. The Department develops and trains surplus positions in anticipation of this relatively constant turnover. A secondary benefit realized through the effective management of these positions is the ability to utilize these pool officers to fill temporary anticipated long term absences such as extended vacation or family medical leave without resorting to overtime while providing valuable on the job training to entry level security personnel."

6. The bill would provide \$41,766,300 for correctional overtime annually, including \$38,889,400 GPR and \$2,876,900 PR. According to Corrections, the increase of \$9,273,200 GPR and \$820,500 PR from the current base is generally a result of updating the methodology for calculating overtime. In prior budgets, overtime funding was calculated based on an historic average number of hours for a position type, multiplied by the number of positions, then multiplied by the average salary for the position. For 2011-13 overtime calculations, Corrections utilized the actual number of hours of overtime in calendar year 2009 for a position, multiplied by the number of positions, then multiplied by the average salary. Since actual hours of overtime were higher than the average number of hours, the calculations indicate increased funding is necessary. It could be argued that funding based on actual hours of overtime, rather than an average, is a better representation for determining future costs. Considering that funding in the bill is based on actual 2009 hours of overtime, and the Audit Bureau's report identifying increased use of surplus positions by agencies to contain overtime costs, the Committee may wish to approve the Governor's recommendation.

7. The Committee may, however, wish to modify statutory language related to s. 16.50(3)(f), as suggested by the Audit Bureau, to require that the quarterly reports on surplus positions include: (a) the base number of existing surplus positions in an agency; (b) the number of surplus positions each agency has created; and (c) the amounts spent on surplus positions. [Alternative 2]

8. Alternatively, balancing the concerns of: (a) increases in overtime expenditures in recent years; (b) the increased use of surplus positions to contain overtime; (c) the Audit Bureau's recommendation to monitor overtime costs; (d) providing sufficient funding to cover overtime costs; and (d) the overall fiscal concerns of the state, the Committee could place a portion of overtime funding in the Committee's supplemental appropriation (\$9,273,200 GPR and \$820,500 PR annually, the increase to base funding in the bill). In the January, 2011, overtime report to the Committee, Corrections identified approximately \$468,900 spent in 2009-10 as a result of furlough days. Further, as indicated in the Audit Bureau's report and Corrections' response to the report, it is unknown what effect the recent provisions related to collective bargaining may have on overtime expenditures. As such, the Committee may wish for the Department to return with a request for release of the additional overtime funding. Such a request would provide the Committee an opportunity to review the Department's overtime expenditures and the Department's efforts to contain costs. [Alternative 3]

ALTERNATIVES

1. Approve the Governor's recommendation to provide overtime funding of \$38,889,400 GPR and \$2,876,900 PR annually for the Department of Corrections.

2. Approve the Governor's recommendation. In addition, modify s. 16.50(3)(f) to require that the Department of Administration Secretary quarterly report to the Joint Committee on Finance: (a) the base number of existing surplus positions in an agency; (b) the number of surplus positions each agency has created; and (c) the amounts spent on surplus positions.

3. Modify the Governor's recommendation to specify that \$9,273,200 GPR and \$820,500 PR annually be placed in the Joint Committee on Finance's supplemental appropriation for the Department to submit a request for release. [This amount represents the increase for overtime over base funding in the bill.]

Prepared by: Chris Carmichael