



Legislative Fiscal Bureau

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June 21, 2006

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Administration: Section 13.10 Request to Provide Grant Funds to the City of Milwaukee for Police Overtime Costs -- Agenda Item XI

REQUEST

The Department of Administration (DOA) is requesting that the Joint Committee on Finance, acting under its s. 13.101(4) authority, transfer \$1,000,000 GPR in 2005-06 from the state foster care and adoption services appropriation under the Department of Health and Family Services (DHFS) to the general program operations appropriation for DOA's Office of Justice Assistance (OJA). The purpose of the requested transfer would be to provide OJA with sufficient funding resources to provide a grant to the City of Milwaukee for police overtime costs.

BACKGROUND

City of Milwaukee Law Enforcement Funding Need. The DOA request cites the following rationale for providing funding for additional law enforcement resources to the City of Milwaukee: "[o]ver this past Memorial Day weekend, the state witnessed significantly heightened incidence of violent crimes in the [C]ity of Milwaukee with 28 separate shootings in the city, resulting in four fatalities and 24 individuals wounded." Consequently, "[s]afeguarding Wisconsin's citizens, businesses and visitors is paramount to a high quality of life and a prosperous economy. Milwaukee, as the state's largest city, faces unique challenges. Recent events have demonstrated that additional enforcement resources are necessary to protect families and business[es] in Milwaukee's neighborhoods and parks." To this end, the Governor announced on Friday June 2, 2006, that: (1) \$500,000 FED in Workforce Investment Act funding for a summer youth jobs program and \$200,000 FED in Byrne funding for additional police would be immediately provided to the City of Milwaukee; and (2) an additional \$1,000,000 GPR would be requested from the Joint

Committee on Finance for police overtime costs in the City of Milwaukee. On June 12, 2006, the Finance Committee received this formal request to transfer \$1,000,000 GPR to OJA for the purpose of supporting additional City of Milwaukee police overtime costs.

The City of Milwaukee police budget for calendar year 2006 totals \$207 million. This level of funding represents 23.1% of the City's total governmental funds appropriations, budgeted at \$897.1 million. Major funding sources for these expenditures include \$213.1 million in property tax levies and \$272.2 million in intergovernmental revenues. At \$230.6 million, the shared revenue program provides the largest source of the intergovernmental revenue. The City will receive an additional \$9.1 million in 2006 under the expenditure restraint program.

The police department is currently authorized 2,154 law enforcement positions and 807 civilian positions. DOA indicates that if the current funding transfer request is approved, the increased resources for overtime costs would support the equivalent of 45 additional officers over a four-month period. DOA further advises that the additional funding amount of \$1,000,000 GPR for police overtime costs was arrived at on the basis of discussions with Milwaukee officials as to the local need, balanced with the state's ability to provide additional assistance.

In addition to this possible state funding, the City of Milwaukee appears to be moving forward with a plan to expand the number of new officers being trained by its police academy by 40 recruits in 2006 at a cost of \$750,000. On June 8, 2006, the City Public Safety Committee approved a resolution providing this additional funding, on a vote of 3-1. This resolution was considered by the City Finance and Personnel Committee on June 19, 2006, and was also endorsed on a vote of 3-1. It is anticipated that the proposal will be considered by the City of Milwaukee Common Council before the end of June.

A proposal has also been made by the City of Milwaukee supplement the current s. 13.10 request by providing an additional \$750,000 for police overtime from \$5.5 million budgeted in 2006 under the City's "contingent fund." This fund is used to provide funding for unforeseen events and for items that had an uncertain cost at the time the budget was adopted. The City's Finance Committee and Common Council must approve expenditures from the fund. At this writing, \$400,000 has been appropriated from the fund for the remission of taxes to resolve a legal decision requiring a tax refund. Relative to 2005, the City increased the contingent fund by \$500,000 to accommodate higher fuel costs. Although no amounts have yet been appropriated for this purpose, fuel costs remain higher than their budgeted amounts, and the City anticipates using the additional amounts in the fund for this intended purpose. The \$750,000 to train 40 additional police recruits in 2006 was to have been funded from the contingent fund, but the City Finance and Personnel Committee has now recommended that these costs be funded from elsewhere in the police department's budget. An additional \$4 million will be required to settle a court decision (*Alexander v. Milwaukee*) that was adverse to the City, and much of this amount will likely be paid in 2006 from the contingent fund.

Foster Care and Adoption Assistance Payments. The state budgets GPR and FED funds received by DHFS under Title IV-E of the Social Security Act to: (1) support out-of-home care costs for children who are under the guardianship of the state; and (2) provide adoption assistance payments to families who adopt children with special needs. Funding to support such payments on behalf of children in Milwaukee County is included as part of the budget for the Bureau of Milwaukee Child Welfare. Funding to support such payments on behalf of children in the state's other 71 counties is budgeted in separate GPR and FED appropriations that DHFS may use only to support these aid payments. DHFS may not use funds budgeted to support foster care and adoption assistance payments to support its general child welfare activities, including operations of the Bureau of Milwaukee Child Welfare.

Currently, DHFS makes monthly adoption assistance payments to the adoptive (or proposed adoptive parents) of a child after an adoption agreement has been signed and the child is placed in the home of an adoptive parent. When the state gains legal custody of a child and the child is in a foster care placement, the state assumes responsibility for the monthly foster care payments to the foster parent or, if the child is in a group home or a residential care complex, the cost of the care to the care provider. [Counties are responsible for making foster care and adoption assistance payments for children in foster care who are not under the guardianship of the state.]

The following table identifies the amounts budgeted for these payments under 2005 Wisconsin Act 25 (the 2005-07 biennial budget act), current estimates of payments, and the amounts that are currently expected to lapse from the GPR appropriation in 2005-06 and in 2006-07.

**Funding for State-Funded Adoption Assistance and Foster Care Payments
to Families and Providers on Behalf of Children Outside of Milwaukee County
(Act 25 Budgeted Amounts Compared to Current Estimates)**

	2005-06			2006-07		
	<u>Act 25 Budgeted</u>	<u>Current Estimate</u>	<u>Difference</u>	<u>Act 25 Budgeted</u>	<u>Current Estimate</u>	<u>Difference</u>
GPR*	\$43,780,400	\$42,191,500	-\$1,588,900	\$48,053,900	\$45,715,000	-\$2,338,900
FED	<u>40,525,000</u>	<u>39,427,500</u>	<u>-1,097,500</u>	<u>44,709,800</u>	<u>43,672,000</u>	<u>-1,037,800</u>
Total	\$84,305,400	\$81,619,000	-\$2,686,400	\$92,763,700	\$89,387,000	-\$3,376,700

*Includes \$14,000 in 2005-06 and \$13,300 in 2006-07 of income augmentation funds that are used to match Federal Title IV-E funds.

Based on actual payments through March 31, 2006, the table indicates that the estimated GPR cost of state-funded adoption assistance and foster care payments for children in counties other than Milwaukee County is expected to be less than the amounts budgeted under Act 25 for these payments by approximately \$1.6 million in 2005-06 and \$2.3 million in 2006-07. These amounts are expected to lapse to the general fund at the end of each fiscal year.

ANALYSIS

Committee Authority to Transfer Funds Between Appropriations. Under s. 13.101(4) of the statutes, the Joint Committee on Finance may transfer funds appropriated in the current biennium between appropriations and programs in the same agency or in different agencies. Such transfers may be made between fiscal years but may not be made from a sum sufficient appropriation to another type of appropriation. Appropriation transfers made under s. 13.101(4) are authorized only if the Committee finds that as a result of the transfer: (1) unnecessary duplication of functions can be eliminated, more efficient and effective methods for performing programs will result, or legislative intent will be more effectively carried out; (2) legislative intent will not be changed as a result of the transfer; and (3) the purposes for which the transfer is requested have been authorized or directed by the Legislature.

The following discussion reviews the current request in light of the statutory directives that Finance Committee-approved transfers between appropriations should serve to eliminate unnecessary duplication of program functions and be consistent with any current expressions of legislative intent.

Currently, there are two statutory local assistance grant appropriations designed to provide assistance to cities for the purpose of addressing broad law enforcement needs. The first program is the law enforcement officer supplement grant program, established under s. 16.964(5) of the statutes, and administered by OJA. The second program is the law enforcement community policing grants program, established under s. 165.984 of the statutes, and administered by the Department of Justice (DOJ).

Law Enforcement Officer Supplement Grant Program. Under 1993 Wisconsin Act 193, the Legislature created a law enforcement officer supplement grants program under OJA. Act 193 initially appropriated \$1,000,000 GPR in 1994-95 to fund grants under the new program. This annual level of grant funding has been maintained in each succeeding fiscal year since 1994-95. Under this program, OJA must provide grants from this appropriation to cities to employ additional uniformed law enforcement officers whose primary duty is beat patrolling.

A city is eligible to apply for a grant under this program if it has a population of at least 25,000. OJA must make grant awards to the 10 eligible cities 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.

A city applying for a grant under the program must include a proposed plan for expenditure of the grant moneys. Such funding may be utilized only for salary and fringe benefits costs; further, the grantee must provide a 25% local match to any grant funds received under the program. Cities may generally not utilize the grant funding to pay for overtime costs (except in the first year of a city's initial grant under the program), and the grant funding must result in a net increase in the

number of uniformed law enforcement officers assigned to beat patrol duties. Under 2005 Wisconsin Act 25, base level funding for the grant program was maintained at \$1,000,000 GPR annually. For the 2005-06 fiscal year, the City of Milwaukee has received a maximum \$150,000 grant under the program.

Law Enforcement Community Policing Grants Program. Also under the provisions of 1993 Wisconsin Act 193, the community policing grants program was established under DOJ and was provided \$500,000 GPR in 1993-94 under a new biennial appropriation. Since funding for the program was budgeted only in the first fiscal year of the biennial appropriation, there was no base funding level to carry forward into the next biennium. The program has not been appropriated any additional funding by the Legislature since the 1993-95 fiscal biennium.

Under this program, DOJ is required to provide grants to the City of Milwaukee for activities related to decentralized law enforcement and crime prevention in targeted neighborhoods that suffer from high levels of violent and drug-related crime. If the City of Milwaukee applies for a grant under the program, the city must include a proposed plan of expenditure of the grant funds. DOJ is required to review any such application and plan and must provide the grant to the City of Milwaukee if the submitted materials meet the requirements of the program. Under 2005 Wisconsin Act 25, the community policing program appropriation is budgeted at \$0 GPR annually.

Rather than utilizing either of these current statutory law enforcement grant programs, the current request would instead transfer \$1,000,000 GPR in 2005-06 from the DHFS state foster care and adoption services appropriation to the OJA general program operations appropriation for the purpose of making a grant through that appropriation to the City of Milwaukee.

In addition to the question of whether the current request would serve to eliminate unnecessary duplication of program functions, a proposed transfer between appropriations must also be consistent with any current expressions of legislative intent.

When the Legislature established the current law enforcement officer supplement grant program under OJA, statutory directives were enacted regarding how OJA was to provide state funding to cities for the purpose of expanding police presence in these communities. Based on the current program requirements under s. 16.964(5) of the statutes, concerns may be raised with respect to how the proposed \$1,000,000 allocation to the City of Milwaukee conforms to current statutory directives regarding the operation of local law enforcement officer supplemental grants. Contrary to the statutory restrictions and conditions imposed on OJA under this grant program, the current request would: (1) only consider the City of Milwaukee for funding; (2) enable the City of Milwaukee to receive additional funding above the annual grant maximum of \$150,000; (3) not hold the City of Milwaukee to the requirement that it provide a 25% local match (as noted above, City officials have indicated an intent to provide additional city-funded police resources in response to the Memorial Day incidents); (4) not require the City of Milwaukee to submit a proposed plan for expenditure of the additional funds (although it is anticipated that OJA would informally require the city to submit a grant application); (5) permit Milwaukee to utilize the funding to pay for police

overtime costs; and (6) not require the City of Milwaukee to increase the number of uniformed law enforcement officers assigned to beat patrol duties.

Rather than be subject to the statutory restrictions under the current law enforcement officer supplement grant program, the proposed request, if approved, would instead fund the grant to the City of Milwaukee through OJA's general program operations appropriation. This appropriation is a state operations appropriation that supports the general administrative functions of the Office and is not a local assistance appropriation as are both the OJA law enforcement officer supplement grant program appropriation and the DOJ law enforcement community policing grants program appropriation. In general, appropriated funds may only be expended from an appropriation consistent with its statutory program purposes. OJA's general program operations appropriation does not appear to authorize the Office to make grants to the City of Milwaukee for an expanded police presence.

However, DOA states that the current request would be consistent with OJA's statutory duty under s. 16.964(1)(d) to, "cooperate with and render technical assistance to ... units of local government and public or private agencies relating to the criminal and juvenile justice system." DOA indicates that this statutory language provides the needed legal authority for OJA to grant \$1,000,000 GPR through a state operations appropriation to the City of Milwaukee for police overtime costs. Under this interpretation, OJA would appear to have the authority to utilize its state general program operations appropriation to make grants not only to units of local government, but also to state agencies and private entities, if such grants would be consistent with an existing statutory duty of the Office.

Some of these concerns relating to whether or not the proposed transfer would be consistent with legislative intent might be lessened if the Committee considered, as an alternative, transferring \$1,000,000 GPR in 2005-06 from the DHFS state foster care and adoption services appropriation to DOJ's law enforcement community policing grants biennial appropriation. Such a transfer to this grant program would permit the Committee to provide funding to the City of Milwaukee for activities related to decentralized law enforcement and crime prevention in targeted neighborhoods that suffer from high levels of violent and drug-related crime. In addition, nothing in the statutes governing DOJ's administration of this program would appear to preclude the use of any grant funding provided through this appropriation to pay for police overtime costs. Further, there would not be any statutory limitation on the amount of funds that could be provided to the city. Finally, the use of this program as the funding mechanism for the City of Milwaukee would appear to be more consistent with the s. 13.101(4) directive that an appropriation transfer eliminate unnecessary duplication of functions and promote a more efficient and effective method of program operations. However, it must be noted that the Legislature has not budgeted funding under this appropriation since the 1993-94 fiscal year, and any transfer of funds to this appropriation at this time could be viewed as being inconsistent with a long-standing legislative intent regarding the level of funding that the Legislature wished to provide to this program.

City of Milwaukee Plan for Overtime Policing. City of Milwaukee staff indicates that any

funding received from the state under this request would be utilized to cover police overtime costs. The funding would be utilized in support of a two-part law enforcement approach.

First, in order to expand the number of law enforcement officers available during peak times for police services, the funding would be utilized to bring in officers two hours early for the midnight to 8 a.m. shift and to keep officers two hours later for the 4 p.m. to midnight shift. This staffing pattern would permit the police department to expand officer presence in the City of Milwaukee between the hours of 10 p.m. to 2 a.m. This additional law enforcement coverage would be implemented on weekends and as circumstances dictate. Police overtime would also be utilized to increase the number of officers available to respond to police assistance calls during periods of hot summer weather. These types of activities would be given priority in the use of the requested funds.

Second, the funding would be utilized to support overtime costs for added squad car-based patrols in conjunction with bicycle and foot patrols detailed to City "hotspots." This type of additional patrolling would emphasize longer term efforts to build community relations and deter criminal activity through an expanded police presence.

City staff indicates that if the requested amount of state funding were reduced (or increased), such a funding change would directly affect the level of community relations-building patrolling that could be undertaken in City "hotspots" under the second component of Milwaukee's two-part approach described above. City staff further indicates that at this point it is not known how any approved funding would actually be split between these two additional staffing approaches.

FISCAL EFFECT

In January, 2006, this office estimated that the GPR appropriation for state-funded adoption assistance and foster care payments would lapse \$1.7 million in 2005-06 and \$2.0 million in 2006-07. Those estimates were incorporated into the Legislative Fiscal Bureau's January, 2006, general fund condition statement. Currently, the estimated GPR cost of state-funded adoption assistance and foster care payments for children in counties other than Milwaukee County is expected to be less than the amounts budgeted under Act 25 for these payments by approximately \$1.6 million in 2005-06 and \$2.3 million in 2006-07. Consequently, the effect of approving a request to transfer \$1,000,000 GPR from the state foster care and adoption services appropriation to an appropriation of the Committee's choosing would be to reduce the estimated general fund balance by approximately \$0.8 million, compared to the January, 2006 estimate.

ALTERNATIVES

1. Approve the Department of Administration's request to transfer \$1,000,000 GPR in 2005-06 from the Department of Health and Family Services state foster care and adoption services

appropriation to the Office of Justice Assistance general program operations appropriation in 2005-06 to provide grants to the City of Milwaukee for police overtime costs.

2. Transfer \$1,000,000 GPR in 2005-06 from the Department of Health and Family Services state foster care and adoption services appropriation to the Department of Justice law enforcement community policing grants appropriation in 2005-06 to permit the Department of Justice to make a grant to the City of Milwaukee for decentralized law enforcement and crime prevention in targeted neighborhoods that suffer from high levels of violent and drug-related crime.

3. Deny the request.

Prepared by: Paul Onsager and Charlie Morgan