



Legislative Fiscal Bureau

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June 21, 2006

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Natural Resources: Local Highway Project Review -- Agenda Item X

REQUEST

On June 1, 2006, the Secretary of DOA submitted a request under s. 16.505 of the statutes on behalf of the Department of Natural Resources (DNR) for 4.0 PR permanent positions for the appropriation under s. 20.370 (3)(mk) related to an effort to streamline the environmental review of local transportation projects. On June 7, 2006, the Co-Chairs of the Joint Committee on Finance notified the DOA Secretary that a meeting would be scheduled to review the request.

BACKGROUND

On February 6, 2006, the Department of Natural Resources (DNR) and the Department of Transportation (DOT) amended their supplementary funding agreement for DOT/DNR roadway review "liaison" activities. Under the prior cooperative agreement with DOT, DNR had devoted approximately 17.0 full-time equivalent (FTE) positions toward a streamlined state highway project review process. Staffing includes 7.0 permanent positions (4.0 funded by DOT and 3.0 by DNR), a contract for 1.0 conservation biologist and the equivalent of 9.0 FTE of limited-term employees (approximately 18 one-half time LTEs). These staff perform environmental reviews (erosion, waterway, and wetland regulations, and environmental assessments, as needed) of state roadway projects in the DNR regions; expedite testing, review and cleanup of transportation sites contaminated by petroleum tank or other spills; and conduct endangered and threatened species reviews. The 17.0 FTE are currently funded as follows: up to 14.0 PR by agreement from DOT and at least 3.0 GPR in DNR. The funding for the DOT-supported positions is provided to DNR on an annual basis from the state highway rehabilitation appropriation.

ANALYSIS

Under the request, total staff effort for the state and local roads initiatives would increase by three to approximately 20.0 FTE, with DOT funding the additional 3.0 PR positions for the remainder of the biennium. DOT has agreed to fund the additional three staff through June 30, 2007, to perform state transportation project reviews and thereby allow DNR to reallocate 3.0 existing GPR positions to a local road review streamlining project. The three requested staff would be placed in the regions DNR deems most in need of additional staff (the North East, South Central, and West Central regions appear to lead the priority list). DNR would then provide a single point of contact to municipal governments in each county. Long-term funding for the 3.0 PR positions would be addressed through the 2007-09 biennial budget (the Governor did not include a DOT request to fund the 3.0 DNR positions through the DOT local road improvements aids appropriation in the 2005-07 budget). In addition, the existing conservation biologist position would be converted from a contract to 1.0 permanent DNR position to reflect the expected termination of this contract. This person analyzes endangered and threatened species impacts and reviews certain conservation aspects of other environmental assessments.

The funding for the additional DOT-supported positions would be provided through the state highway rehabilitation SEG (transportation fund) appropriation, which is the same source of funding for the current DOT-supported positions. On June 14, this office provided a memorandum to the Committee indicating that there is an estimated \$68.1 million biennium-ending deficit in the transportation fund, primarily due to declines in fuel consumption and vehicle registrations. The Department has indicated that it is addressing the projected deficit through a combination of two actions. First, through measures such as maintaining higher vacancy rates and other expenditure reductions in the Department's administrative appropriations, DOT intends to increase year-end lapses from annual appropriations, which have the effect of reducing the budgetary deficit. Since the amount of funding in DOT appropriations that can lapse at the end of the fiscal year (annual appropriations) is limited, these actions are not sufficient to eliminate the projected budgetary deficit. Consequently, the Department also intends to generate savings in continuing appropriations, such as the highway program, so that there will be enough unencumbered funds in those appropriations at the end of the year to equal the remaining budgetary deficit. These unencumbered funds could then, in principle, be lapsed through legislation to eliminate the deficit.

Since the funding for the additional positions would be provided from an existing DOT appropriation, the approval of the request would not result in an increase in the projected transportation fund deficit. Approval of the request could, however, have a slight impact on the Department's ability to generate additional unencumbered balances in the state highway rehabilitation appropriation through expenditure reductions in that program.

The cooperative agreement between DNR and DOT aims to facilitate DNR's review of state-funded transportation projects. For projects that fall under the DNR-DOT cooperative agreement, a single DNR employee serves as the contact point for all of the permits required for a given highway project. Beyond the funding and positions provided by DOT that are specified in the

cooperative agreement, local projects that are administered by the DOT are not charged fees for waterway and wetland permits. Further, DOT does not attempt to recoup the costs of the cooperative agreement with DNR or otherwise charge a fee to projects for the services they receive.

At present, there can be confusion among the DNR, DOT, local governments, and contractors over the definition of a "DOT-administered project," who at DNR is responsible for overseeing a particular project, and the specific regulations that apply to the project. Local road projects are subject to several types of DNR regulations, depending on the type of the project. If the project is a Wisconsin DOT-administered project affecting a waterway, it is covered under the DOT-DNR interagency agreement to minimize adverse environmental impacts and is not subject to certain waterway and wetland permit and approval requirements under s. 30.2022 of the statutes. Local transportation projects not administered by DOT may require additional waterway or wetland review under state statutes and administrative rules. Also, with the implementation of 2003 Act 118, which took effect in February, 2004, projects meeting certain criteria that are not located in areas identified by the Department as an "area of special natural resource interest" may be designated as exempt from permit requirements. However, local transportation projects do not generally fall into this category. Local transportation projects not designated as exempt may be determined to need a general or an individual permit.

In March, 2003, the DNR sponsored a workshop that included representation from, among others, 17 local governments, DNR, DOT, Trout Unlimited, and the Wisconsin Transportation Builders Association (WTBA) to address concerns with the local road project review process. The result of this workshop was "The Local Roads Initiative," a collaborative effort between the DNR, the DOT and the Local Roads and Streets Council (LRSC) (which includes towns and counties associations and regional planning organizations) to streamline the process. The initiative's goal is to provide a single point of contact in DNR for local projects in each county (same as the state-funded projects under the DNR-DOT cooperative agreement), as well as a corresponding stable funding mechanism. This request includes three additional permanent regional transportation liaisons to act as points of contact to coordinate state and local projects. Currently, DOT funds 4.0 permanent positions, one contract person, and up to nine FTEs of limited-term employees (equivalent to 18 LTEs). However, LTE positions may experience high turnover rates and each new hire involves time and resources to train. Therefore, as the initiative's goal is to provide stable, single points of contact for local governments to work with, DNR staff indicate LTEs may not lend themselves well to this purpose. Therefore, permanent positions are sought.

Under the request, each local government road project manager would have one DNR contact person for all wetland, waterway and other environmental permits. DNR indicates the additional positions would allow the agency to designate additional staff throughout the state in a manner that would allow all state and local transportation projects (not just those that fall under the cooperative agreement) to have one regionally-located DNR contact for all required reviews, which would result in a quicker and more efficient permitting process.

The initiative would be expected to eliminate confusion among local officials over whom to contact and would have the DNR liaison coordinate what permits to obtain for the project. Second, Department staff indicate they often do not see local transportation project designs until the local government has submitted a permit application and is ready to begin construction on the project. However, these designs may require revisions or complex permits, which serve to delay construction and lengthen the amount of time required to complete the project. Under the request, DNR officials envision local governments would contact their DNR representative prior to the design phase of a project. This would allow DNR to provide advice for the design of the project that, taking into account the project site, would minimize the project's environmental impact and the corresponding complexity of the required permit, ultimately eliminating potential delays in the permitting process.

Under the request, DNR would be provided 4.0 PR positions, but no expenditure authority related to these positions. DOA and DNR indicate no expenditure authority was requested since the appropriation is continuing. As a continuing appropriation, DNR, with the approval of DOA, may expend all monies received by the appropriation. However, since the appropriations schedule under chapter 20 of the statutes is intended to represent the best estimate of expenditures for a continuing appropriation, if the Committee chooses to approve the request, associated authority could also be provided in 2006-07 in order to reflect anticipated expenditures.

While the request identifies funding of \$261,500 PR annually for the four DNR staff, the request assumes these positions are funded at the advanced or senior level. However, if some of these positions were funded at the entry level, the required expenditure authority would be lower. As the conservation biologist position already exists, it is likely that the person hired by DNR would be hired at the advanced level. It is also possible that some of the three environmental review and analysis specialist review positions would be filled with advanced or senior level DNR staff. One alternative would be to fund one environmental review and analysis specialist at the advanced level and the remaining two at the entry level with an annualized cost of \$229,600. Due to the timing involved in filling the positions, an average of nine months of funding is anticipated to be needed for 2006-07 (\$172,200).

As the long-term funding source for these staff is uncertain, another alternative would be to provide 1.0 permanent conservation biologist, but 3.0 environmental analysis and review specialists as project positions for one year. The project positions would then end September 30, 2007. This would allow time for the Legislature to consider the continuation of the positions through 2007-09 biennial budget deliberations.

If the request for the 3.0 PR environmental analysis positions is denied, DNR could either continue the current review process for local road projects or try to use additional LTEs to streamline the process for the remainder of the biennium. If the 1.0 conservation biologist is denied, DOT and DNR would need to locate a new contractor or provide this service through the use of LTEs, if available.

ALTERNATIVES

1. Approve the Department's request for 4.0 PR positions and \$261,500 PR annually for the appropriation under s. 20.370(3) (mk) primarily related to DNR review of local roadway projects.
2. Provide \$172,200 PR and 4.0 PR positions in 2006-07 under s. 20.370(3)(mk) primarily related to DNR review of local roadway projects.
3. Provide one, or both, of the following:
 - a. \$48,300 in 2006-07 and 1.0 PR permanent conservation biologist;
 - b. \$123,900 in 2006-07 and 3.0 PR project positions expiring on September 30, 2007, related to DNR review of local roadway projects.
4. Deny the request.

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