



Legislative Fiscal Bureau

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TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Transportation: Section 13.10 Request for Funding to Comply with the Federal Real ID Act -- Agenda Item VII

REQUEST

The Department of Transportation (DOT) requests \$19,989,300 SEG in 2008-09 for the Division of Motor Vehicles (DMV) for various costs related to compliance with the federal Real ID Act, including data processing changes, equipment procurement, reconfiguring of DMV service centers, and filling authorized positions.

BACKGROUND

The federal Real ID Act, which was signed into law on May 11, 2005, specifies that federal agencies will not accept a state-issued driver's license or identification card as proof of identity for official purposes, such as passing through airport security, entering a nuclear power plant, or accessing federal facilities that require identity checks, unless the state that issued the license or identification card is in compliance with the Act's issuance standards. Specifically, the Act establishes minimum standards relating to the following: (a) the personal identification that must be submitted before a state issues a driver's license or identification card; (b) the procedures that states use to verify the authenticity of the documents presented in the application process and the storage of copies of those documents; (c) the information appearing on the card and the machine readable format used for storing that information on the card; (d) the physical security features of the cards designed to prevent fraudulent tampering or counterfeiting; (e) the procedures related to the issuance of licenses or cards to persons who are not U.S. citizens; (f) the procedures used to safeguard the security of the card stock and the equipment used to make cards; and (g) the procedures used to screen employees and other parties who have access to card stock, issuance equipment, and driver information.

The Governor's 2007-09 budget bill included statutory provisions needed to comply with the federal Real ID Act and \$9,805,300 SEG in 2007-08 and \$12,184,000 SEG in 2008-09, or a total of \$21,989,300 over the biennium, for implementation. However, at the time of introduction and throughout the Legislature's budget deliberations, the federal Department of Homeland Security had not issued the final administrative rules outlining specific implementation requirements, making it difficult to develop an accurate estimate of the cost of implementation. The funding included in the Governor's bill was DOT's preliminary estimate of the costs, based on various assumptions on what the final requirements might be. Given this uncertainty, the Legislature placed the implementation funding in the Committee's appropriation instead of DOT's appropriation for DMV, allowing the Committee to have oversight over the disbursement of those funds once more complete information was available. On January 29, 2008, the federal Department of Homeland Security issued final administrative rules for the Real ID Act, allowing DOT to more accurately assess the implementation costs and submit a request for funding.

One significant aspect of the final rules is a provision that allows states to delay initial implementation until January 1, 2010, from the original date in the Act of May 11, 2008. All states have requested and have been granted this extension, even some states that have indicated that they do not intend to comply with the Real ID Act provisions.

Although 2007 Act 20 split the funding for Real ID Act implementation between the two years of the biennium in accordance with the Department's original assumptions for how the money would need to be spent to comply with the Real ID Act, the Department's request for the funding would provide all of the implementation funds in 2008-09 to reflect revised assumptions. In particular, the delay in the issuance of the final federal rules and the resulting delay in scheduled full compliance means that implementation activities would be conducted later than had been anticipated.

The Department's request of \$19,989,300 for implementation costs is \$2,000,000 less than the amount set aside by Act 20 for Real ID Act implementation. 2007 Act 226 transfers \$2,000,000 of the amount of funding set aside for Real ID compliance from the transportation fund to the general fund, so the Department's request would use all available funding following that transfer.

SUMMARY OF REQUEST

The Department's request can generally be classified in three categories: (a) data processing and equipment changes needed to comply with the new federal procedures and requirements; (b) physical, electronic, and personnel security measures to protect against data theft and fraud; and (c) space configuration and staffing changes to respond to the anticipated increased workload. The Real ID Act requires each license or identification card applicant to be photographed as a first step in the process (even if no license or card is issued). Then, the applicant must present various identification documents that must be scanned and checked for authenticity. Finally, the card must be printed according to federal security standards. Because of the time required for document verification and the physical security required for the card production process, the Department will

issue a temporary license or identification certificate and then later print the actual license or identification card at a central location, to be mailed to the applicant.

Overall workload at the DMV service centers is expected to increase for two reasons. First, the need to collect and scan the identity and other documents is expected to add to the amount of time required for each license transaction. Furthermore, it is expected that some applicants will require more than one visit since many will be unfamiliar with the document requirements, which, in effect, increases the volume of service center transactions. Second, certain individuals whose license does not expire prior to the federal deadlines (December 1, 2014, for persons under age 50 on that date and December 1, 2017, for individuals over 50), will need to go to a DMV service center to have a Real ID-compliant license issued prior to the expiration date if they want to be able to use the license for official federal purposes. The Department indicates that approximately 800,000 individuals may need to be issued a new license prior to expiration.

The funding in the request is generally one-time in nature, allowing the Department to meet the initial compliance requirements, but the Department indicates that additional, ongoing funding would be required in the 2009-11 biennium to begin issuance of Real ID-compliant licenses and cards. The additional funding would be for items such as the higher cost of the card stock (intended to make counterfeiting more difficult), postage for mailing finished licenses to applicants, and the transaction costs for document verification.

The following table provides a breakdown of how the funding in the Department's request would be utilized. Following the table is a brief description of each item.

Real ID Act Implementation Request By Item

<u>Item</u>	<u>2008-09 Cost</u>
Data Processing on Driver License Issuance System	\$5,322,200
Expansion and Remodeling of Selected Service Centers	3,688,000
Service Center Reconfiguration and Security	2,679,500
Document Verification Equipment and Software	2,405,200
Workstation Computer Upgrade	1,569,300
Automated Queuing System	1,444,400
Staffing and Training	1,372,800
Mobile Service Centers	1,005,000
Public Education and Outreach	263,000
Hill Farms Office Building Security	186,600
Employee Fingerprint Checks	<u>53,300</u>
 Total	 \$19,989,300

Data Processing on Driver License Issuance System. The Department estimates the cost to upgrade the driver licensing computer system to accommodate the Real ID Act changes at \$5,322,200. Among the changes are modifications to: (a) allow scanned identity documents to be stored with the driver record; (b) develop linkages to document verification systems; (c) allow the

full legal name to be printed on the license or card and be stored in the driver record; and (d) change the order of the driver license application procedure to accommodate the federal document verification and photograph requirements.

Expansion and Remodeling of Selected Service Centers. The Department indicates that \$3,688,000 would be used to expand and remodel certain high-volume service centers, primarily to accommodate an expected need to increase the capacity of waiting areas. Other anticipated improvements are related to security and handicapped accessibility.

Service Center Reconfiguration and Security. Most DMV service centers would be reconfigured to facilitate the changed application and issuance procedures. Since the Department must take a photograph of all applicants, even those who are not eligible for a license or identification card, the Department believes the photo station must be moved to facilitate the efficient flow of applicants through the application process. In addition, work centers would need to be widened to accommodate scanners and other equipment and some centers will require data line upgrades to allow for the more intensive electronic communications involved in storing electronic copies of documents and verifying their authenticity. Finally, various modifications are required to comply with security requirements, including exterior building security and interior work area security. The Department estimates the total cost of these upgrades at \$2,679,500. In addition, the Department's request includes \$186,600 for physical and electronic security measures at the Hill Farms Office Building, where the card stock and production equipment will be kept.

Document Verification Equipment and Software. The Department indicates that every service center workstation would be equipped with a document scanner to make electronic copies of identity documents. Each service center would also be equipped with a separate scanner designed to handle fragile or irregular sized documents. This equipment, including imaging software to electronically store the scanned documents, is estimated to cost \$2,405,200.

Workstation Computer Upgrade. The Department indicates that the document scanning, electronic storage, and verification functions under the new licensing procedures cannot be done efficiently with the current DMV personal computer equipment. Under the Department's expenditure plan, the current workstation computers, which are about six years old, would be replaced with new computers with faster processing capability, at an estimated cost of \$1,569,300.

Automated Queuing System. The Department's expenditure plan would upgrade the automated queuing system ("take-a-number" system) in 17 service centers where an automated system currently is installed, and install a new system in 16 centers where no such system is currently utilized. The current automated systems are used in high volume centers to allow applicants to remain seated while waiting their turn for service, but are not able to accommodate the multiple-stage application process that would be needed under the Real ID Act procedure. The upgraded system would track applicants through each stage of the process (photograph, document presentation, application processing, etc.) without requiring a new number to be taken. Under the Department's plan, the existing systems would be upgraded and new systems would be installed in all centers that have at least three windows. In addition, the Department indicates that the new

systems would allow for the development of a web-based reservation system, designed to help reduce wait times. The total cost of these upgrades is estimated at \$1,444,400.

Staffing and Training. Act 20 authorized 25.9 positions in the Division of Motor Vehicles to accommodate the projected increased service center workload. The Department's request includes \$1,372,800 for a full year of salary and fringe benefits and one-time start-up costs for these positions, plus funding related to training new and current employees on the new licensing procedures and equipment. The Department's request also includes \$53,300 for costs related to fingerprinting of new and existing employees and contractors with access to data, which is required as part of criminal background checks for these persons.

Mobile Service Centers. The Department's request includes \$1,005,000 for the purchase and storage costs of three vehicles to serve as mobile service centers. The vehicles could be used in areas where there is no current service center or to supplement current centers in order to manage increased workload.

Public Education and Outreach. The Department's plan includes the expenditure of \$263,000 prior to the end of the fiscal year for public education measures, designed to inform license and identification card applicants of the new identity document requirements and other Real ID Act changes. The Department indicates that additional expenses would be incurred in subsequent years to continue public outreach efforts.

ANALYSIS

In evaluating the Department's request for Real ID Act compliance funding, the Committee may need to consider the impact of various alternative funding scenarios, ranging from rejecting the request, to providing a portion of the requested funding, to approving the request in full.

Although the deadline for compliance with the principal elements of the Real ID Act, January 1, 2010, falls six months into the next fiscal biennium, it is unlikely that the Department would be able to comply unless additional funding is provided in the current fiscal year. The Department indicates that the goal is to be substantially in compliance by the end of fiscal year 2008-09 in order to allow several months prior to the mandatory deadline to address any remaining compliance issues. If compliance is achieved prior to the federal deadline, the Department indicates that the issuance of Real ID-compliant licenses would begin prior to the deadline. This would reduce the number of people with non-compliant licenses that expire after the final federal deadlines (2014 or 2017, depending upon age) who have to come to a service center to get a compliant license early, prior to their regular expiration date. Furthermore, the Department notes that applicants are already paying an additional \$10 fee to receive a license or identification card (created by Act 20 to support the additional costs to comply with the Real ID Act), so issuing Real ID-compliant licenses early would reduce the number of people who are paying the additional fee, but who are not actually receiving a compliant license.

Under the Act, a failure to comply carries no sanction for the state per se. Instead, it is the

residents of the state who would be affected, since, beginning on January 1, 2010, they would be unable to use a state-issued driver's license or identification card to board a commercial airplane or for other official federal purposes. Despite these potential impacts, some opponents of the law have urged states to reject the law, arguing that the Real ID Act places a costly burden on individuals and states, violates individual privacy, poses a threat to identity security, and is unnecessarily punitive to noncitizens. At least seven states have passed laws that specifically prohibit state licensing agencies from taking steps to comply with the law (Idaho, Maine, Montana, New Hampshire, Oklahoma, South Carolina, and Washington), and several others are considering such measures or have passed legislative resolutions urging Congress to repeal or modify the Act. However, although there has been some interest in repealing the Act, extending the compliance deadlines, or replacing it with alternative legislation (something the National Conference of State Legislatures continues to advocate, in the absence of full federal funding of implementation costs), it is unclear whether there is enough support in Congress for this effort to lead to significant changes at the federal level. Consequently, failure to approve the Department's request, in part or in full, would pose some degree of risk that Wisconsin residents could be negatively impacted by the state's noncompliance. For both opponents and proponents of the law, this risk can be weighed against the cost, the potential negative consequences and, for most residents, the personal inconvenience that would be associated with compliance.

If the request is rejected in full, the Department indicates that it would not take steps toward compliance with the Real ID Act. However, approval of a portion of the funding could allow the Department to proceed with implementation, while requiring modifications to its current expenditure plan. As noted in the previous section, some elements of the Department's plan relate to mandatory data processing and security measures, while others are related to managing increased workload. If the Committee approves only a portion of the Department's requested funding, it is likely that the Department would scale back its efforts to manage the increased workload, which may increase the inconvenience to license and identification card applicants.

As an example of an alternative funding plan, the Committee could reduce the requested funding by \$3.0 million, which would be consistent with the amount of funding that the Governor's budget adjustment bill would have reserved for Real ID Act implementation. The Governor's initial proposal for addressing the general fund deficit in his budget adjustment bill would have transferred \$5.0 million from the Real ID Act compliance funding to the general fund. The final act, Act 226, transfers \$2.0 million of this amount, leaving \$3.0 million more for compliance than the administration initially believed was needed. If the Governor's original proposal had been approved, the expenditure plan likely would have been scaled back to eliminate or reduce elements that are not essential for compliance, but instead are intended to address increased workload associated with new license issuing procedures. The Committee could decide to decrease the amount of the Department's request by \$3.0 million to provide the same amount for Real ID Act implementation that would have been available under the Governor's budget adjustment bill proposal. Any improvements designed to address workload that would be eliminated under this alternative could be considered during the 2009-11 budget deliberations in the context of a full review of the biennial budget for the Division of Motor Vehicles. However, in this case, these improvements may not be ready at the time that the Division begins issuing Real ID Act compliant

licenses, perhaps increasing the applicant wait times and inconvenience at certain service centers.

Alternatively, the Committee could decide to eliminate all the funding for elements of the plan that are designed to address workload issues at particular locations, so that these improvements can be considered in the context of the Department's 2009-11 budget. For instance, the Department's proposal for service center expansion and remodeling (\$3,688,000) and for the purchase of mobile service center vehicles (\$1,005,000) could be characterized as limited improvements to address workload issues. If the Committee were to eliminate funding for one or both of these items, decisions on these improvements could be considered during 2009-11 budget deliberations, although, again, this may mean that the proposed improvements would occur after the Department begins the new licensing procedures.

Another element of the Department's expenditure plan that the Committee could modify to reduce the total cost of compliance in 2008-09 is the requested funding for salary and fringe benefits to fill the positions authorized by Act 20. As noted above, Act 20 authorized 25.9 positions of various classifications. Most of these positions are frontline service center personnel, but also included are supervisory positions and others related to fraud prevention. Initially, these positions were authorized in the expectation that the issuance of Real ID-compliant licenses would begin on May 11, 2008, with partial funding in fiscal year 2007-08 and a full year of salary and fringe benefits funding in 2008-09. However, as also noted, the delay allowed by the federal rules will mean that the substantive changes to the application process, and the resultant increase in workload, will not begin in 2008-09. Nevertheless, the Department indicates that its request includes salary and fringe benefits funding for a full year to allow the positions to be filled early in 2008-09. This would permit the new employees to complete the Department's 35-week training course (typically 10 weeks of classroom instruction interspersed with 25 weeks of closely-supervised service center work) and still have several months of frontline experience prior to the time when new license application procedures are begun. The Department also believes that this additional time would be necessary to allow the state to begin issuing Real ID-compliant licenses prior to the initial federal deadline of January 1, 2010, if compliance is achieved early.

Even if the Committee agrees with the Department's efforts to begin compliance as soon as possible and the request for salary and fringe benefits funding is approved, it is unlikely that the positions would be filled for an entire year. If the Department's request is approved, it would likely be two months into the fiscal year before the positions could be filled. Consequently, funding for salary and fringe benefits could be reduced by \$191,500 to reflect the savings associated with this two-month delay.

As another alternative, the Committee could approve funding for three months of salary and fringe benefits, instead of 12 full months (or 10 months). This would still allow the full 35 weeks of training and supervised service center work prior to the federal deadline of January 1, 2010, but would not provide any additional experience for these employees and would not have them available for any early start to the issuance of complaint licenses. This alternative would result in savings of \$861,600, relative to the Department's request. To ensure that these positions are fully funded in the 2009-11 biennium, the Committee could direct DOT and the Department of

Administration to include the full funding of salary and fringe benefits in DOT's standard budget adjustments for the 2009-11 budget.

Any savings associated with a partial approval could, under Act 20, be provided to other DOT programs. Alternatively, these amounts could be allowed to lapse back to the transportation fund to provide insurance against potential decreases in transportation fund revenue collections.

ALTERNATIVES

1. Approve the Department's request for \$19,989,300 SEG in 2008-09 for the Division of Motor Vehicles to begin implementation of provisions to comply with the federal Real ID Act.

2. Modify the Department's request by adopting one or more of the following alternatives:

a. Reduce the requested funding by \$3,000,000 SEG, to provide the same level of funding for Real ID Act implementation that would have been available under the Governor's proposed budget adjustment bill.

b. Reduce the requested funding by \$3,688,000 SEG, to eliminate funding in the Department's request for the expansion and remodeling of selected DMV service centers.

c. Reduce the requested funding by \$1,005,000 SEG, to eliminate funding in the Department's request for the procurement and storage cost of three mobile service center vehicles.

d. Reduce the requested funding by \$191,500 SEG, to reflect the salary and fringe benefits savings associated with a delay of two months in filling 25.9 positions. Direct the Department of Transportation and the Department of Administration to include the full funding of salary and fringe benefits for these positions in the standard budget adjustments for DOT's 2009-11 budget.

e. Reduce the requested funding by \$861,600 SEG, to provide three months of salary and fringe benefits for 25.9 positions, instead of twelve months of salary and fringe benefit funding. Direct the Department of Transportation and the Department of Administration to include the full funding of salary and fringe benefits for these positions in the standard budget adjustments for DOT's 2009-11 budget.

3. Deny the request.

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