Child Abuse and Neglect Prevention Board

(LFB Budget Summary Document: Page 99)

No Issue Papers Have Been Prepared

Senator George
Representative Coggs
Representative Linton

HEALTH AND FAMILY SERVICES

Adult Entertainment Tax and Domestic Violence Programs

Motion:

Move to provide $744,700 GPR in 1997-98 and $1,489,400 GPR in 1998-99 to the Department of Health and Family Services (DHFS) to: (a) fund grants for local domestic violence programs ($420,000 in 1997-98 and $840,000 in 1998-99); (b) fund grants to establish programs to provide services to children from violent homes ($450,000 in 1997-98 and $900,000 in 1998-99; and (c) delete funds currently allocated to counties and tribes with no local programs (-$125,300 GPR in 1997-98 and -$250,600 GPR in 1998-99).

Adopt the Governor's recommendations to provide $150,000 FED and $90,000 PR annually for DHFS to distribute as grants for local domestic violence programs to fund eight local domestic violence programs. In addition, provide $90,000 PR for DHFS to reflect funding transferred from the Office of Justice Assistance to support three additional local domestic violence programs.

MO# 6031

JENSEN	Y	~~N~~	A
OURADA	Y	~~N~~	A
HARSDORF	Y	~~N~~	A
ALBERS	Y	~~N~~	A
GARD	Y	~~N~~	A
KAUFERT	Y	~~N~~	A
LINTON	~~Y~~	N	A
2 COGGS	~~Y~~	N	A
BURKE	~~Y~~	N	A
DECKER	~~Y~~	N	A
1 GEORGE	~~Y~~	N	A
JAUCH	~~Y~~	N	A
WINEKE	~~Y~~	N	A
SHIBILSKI	Y	~~N~~	A
COWLES	Y	~~N~~	A
PANZER	Y	~~N~~	A

AYE 7 NO 9 ABS ____

FAIL

Motion #6031

Representative Kaufert

HEALTH AND FAMILY SERVICES

Adult Entertainment Tax and Domestic Violence Programs

Motion:

Move to impose a 5% gross receipts tax on the sale of adult entertainment products and services, effective January 1, 1998. Provide that the products and services subject to the tax would generally be the same items that are defined as being harmful to children under current law, except that movies and magazines would not be subject to the tax. Specify that the tax would be imposed on the admittance to a strip club. Direct the Department of Revenue to promulgate administrative rules specifying the products and services that would be subject to the tax.

Provide $744,700 GPR in 1997-98 and $1,489,400 GPR in 1998-99 to the Department of Health and Family Services (DHFS) to: (a) fund grants ~~for local domestic violence~~ programs ($420,000 in 1997-98 and $840,000 in 1998-99); (b) fund grants to establish programs to provide services to children from violent homes ($450,000 in 1997-98 and $900,000 in 1998-99; and (c) delete funds currently allocated to counties and tribes with no local programs (-$125,300 GPR in 1997-98 and -$250,600 GPR in 1998-99).

Adopt the Governor's recommendations to provide $150,000 FED and $90,000 PR annually for DHFS to distribute as grants for local domestic violence programs to fund eight local domestic violence programs. In addition, provide $90,000 PR for DHFS to reflect funding transferred from the Office of Justice Assistance to support three additional local domestic violence programs.

Note:

Adult Entertainment Tax. This motion would impose a 5% gross receipts tax on the sale of adult entertainment products and services. The products and services subject to the tax would be the same items which are defined as being harmful to children under current law (s. 948.11), except the tax would not apply to movies and magazines. This statutory provision is listed in Attachment 1. In addition, the tax would be imposed on the admittance to a strip club. The tax would be assessed and administered in a manner similar to the state's 5% general sales and use tax.

It is estimated that this tax would generate approximately $1.5 million annually. Statistical data on the purchase of items that would be subject to the tax is not available. As a result, the fiscal estimate is based on projections of the amount spent on adult entertainment nationally in 1996, adjusted to reflect Wisconsin's share of national population.

It should be noted that imposing a tax on adult entertainment could be difficult to administer. Specifically, it could be difficult to identify what is and what is not subject to the tax. For example, what is considered "pornography" and what is considered to have legitimate artistic or some other value could be subjective, leaving potential for litigation.

Further, staff at the Attorney General's Office indicate that this tax proposal could be found to violate the First Amendment to the U.S. Constitution (freedom of speech) because it would discriminate based on the content of the material. If imposition of the tax results in litigation, it is possible that no revenues would be collected from the tax.

Domestic Violence Programs. This motion would provide funds to DHFS to establish non-residential local domestic violence programs in each county and tribe that currently do not have a local domestic violence program. Local programs are established at $30,000 each and provide: (a) 24-hour telephone service; (b) advocacy and counseling; (c) referral and follow-up services; and (d) community education. In addition, this motion would adopt the Governor's recommendation to provide $150,000 FED annually and $90,000 PR annually for local domestic violence programs and $90,000 PR annually to reflect the funding transferred from OJA to fund three additional local programs. A total of 39 local domestic violence programs would be established in counties and tribes with no local program.

This motion would also fund the establishment of 30 programs that would provide services to children from violent homes to provide assessments, orientation, individual counseling, age appropriate education (including dating violence), referral, follow-up, support groups, safety planning and community education and outreach. These programs would be established at $30,000 each.

[Change to Bill: $2,250,000 GPR-REV, $2,234,100 GPR and $180,000 PR]

As Amended

MO# 3105

2 JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 12 NO 4 ABS ____

ATTACHMENT 1

Exposing Children to Harmful Material

948.11 Exposing a child to harmful material. (1) (intro.) Definitions. In this section: (a) (intro.) "Harmful material" means:

1. Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body that depicts nudity, sexually explicit conduct, sadomasochistic abuse, physical torture or brutality and that is harmful to children; or

2. Any book, pamphlet, magazine, printed matter however reproduced or sound recording that contains any matter enumerated in subd. 1., or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexually explicit conduct, sadomasochistic abuse, physical torture or brutality and that, taken as a whole, is harmful to children.

(b) (intro.) "Harmful to children" means that quality of any description or representation, in whatever form, of nudity, sexually explicit conduct, sexual excitement, sadomasochistic abuse, physical torture or brutality, when it:

1. Predominantly appeals to the prurient, shameful or morbid interest of children;

2. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for children; and

3. Lacks serious literary, artistic, political, scientific or educational value for children, when taken as a whole.

(c) "Knowledge of the nature of the material" means knowledge of the character and content of any material described herein.

(d) "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

(e) "Person" means any individual, partnership, firm, association, corporation or other legal entity.

(f) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

Senator Burke
Representative Coggs
Representative Jensen

HEALTH AND FAMILY SERVICES

Child Abuse Home Visiting Program and Flexible Grants Programs

Motion:

Move to provide $1,400,000 GPR in 1997-98 in the Committee's supplemental appropriation for the potential enactment of the Legislative Council draft related to a child abuse prevention home visiting program and flexible grant program. This funding would be reserved in the Committee's supplemental appropriation and could be released to DHFS upon enactment of the draft.

Note:

The Legislative Council's draft was prepared for, and recommended for passage by the Joint Legislative Council's Special Committee on Prevention of Child Abuse and Neglect. The draft would provide funding to support: (a) child abuse and neglect prevention grants; (b) medical assistance case management services; and (c) technical assistance training.

[Change to Bill: $1,400,000 GPR]

MO# 6030

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 13 NO 3 ABS ____

Motion #6030

Representative Ourada

HEALTH AND FAMILY SERVICES

Court-Appointed Special Advocates

Motion:

Move to provide $50,000 GPR annually to DHFS to fund grants to local organizations that provide court-appointed special advocate services and are recognized by the county to perform advocacy services for children alleged to be in need of protection and services.

Note:

This motion would create a program to provide grants to court-appointed special advocate programs in the state. Generally, these programs involve volunteers that provide advocacy services to children involved in court proceedings where abuse or neglect has been alleged. These programs supplement services provided by guardians ad litem which are appointed by the juvenile court to advocate on behalf of a child in need of protection or services (CHIPS) proceeding. Costs which would be supported by these grants include training both staff and volunteer advocates, supervising volunteers and administrative costs.

Under current law, court-appointed special advocates are recognized as individuals who may participate in a CHIPS proceeding and receive confidential information regarding a child. Currently, no state funding is used to directly fund these programs.

[Change to Bill: $100,000 GPR]

MO# 3106

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 11 NO 5 ABS ____

Motion #3106

CHILD ABUSE AND NEGLECT PREVENTION BOARD

LFB Summary Items for Which No Issue Papers Have Been Prepared

Item #	Title
1	Standard Budget Adjustments
2	Miscellaneous Adjustments
3	Program Revenue and Segregated Revenue Reestimates
4	Federal Revenue Reestimates
5	Information Technology

Administration

General Statutory Provisions

(LFB Budget Summary Document: Page 43)

LFB Summary Items for Which Issue Papers Have Been Prepared

Item #	Title
1	Payment of Stadium District Bills to DOA (Paper #138)
4	Transfer of Surplus Property to Tourism (see Paper #804)
8	State Energy Conservation Audits and Construction Projects (Paper #139)

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Payment of Stadium District Bills to DOA (Administration -- General Statutory Provisions)

[LFB Summary: Page 43, #1]

CURRENT LAW

As part of the Milwaukee Brewers Stadium legislation (1995 Wisconsin Act 56), the Department of Administration (DOA) was authorized to provide services to the Southeastern Wisconsin Professional Baseball Park District for compensation to be agreed upon between DOA and the District, if the District has entered into an agreement with DOA to lease land granted to the state, especially dedicated to use as a baseball stadium. DOA is authorized, upon the request of the District, to take charge of and supervise engineering or architectural services or construction work. In addition, DOA is allowed to furnish engineering, architectural, project management and other building construction services when requested by the District. DOA may also assist, upon request of the District, in letting contracts for engineering, architectural or construction work. Act 56 also authorized all state agencies to provide assistance to the District.

In addition to Act 56, a memorandum of understanding (MOU) related to the stadium was signed by representatives of the State of Wisconsin, Milwaukee County, City of Milwaukee and the Brewers. Although the MOU provides for certain activities to be conducted by or in consultation with DOA, the MOU does not contain any provision regarding compensation for such services.

GOVERNOR

The bill would specify that any District that directly benefits from services provided by DOA or the Building Commission would be liable for the fair market value of those services, as determined by the Secretary of DOA, including services provided before the effective date of the bill. The District would be liable regardless of whether it had been in existence at the time the services were provided or whether the District authorized the services. The bill would also specify that any actions taken by DOA and the Building Commission to provide such services before the effective date of the bill are validated.

The bill provision would require the Secretary of DOA to determine and certify to the Department of Revenue (DOR) any amount that a District would be liable for and remains unpaid. (DOR collects the sales tax on behalf of the District). The amount would be paid on the date specified in the certification from the revenues generated by the District's 0.1% sales tax. The Secretary's certification would apportion the unpaid liability between the DOA appropriation for capital planning and building construction services and the Building Commission's capital improvement fund based on the extent to which the expenditures were made from these appropriations. The certification could provide for a lump sum repayment or for installment payments.

DISCUSSION POINTS

1. The budget bill does not provide an estimate of the amount that would be collected under this provision. However, DOA has since indicated that the state's stadium-related expenses were approximately $916,200. Since that time, the District has made a payment of $158,200 to a consultant that was hired with expertise in stadium construction, which was charged against DOA's expenditures. In addition, a second payment of $394,000 was made by the District to DOA for the reimbursement of stadium-related expenses. In total, the District has reimbursed DOA $552,200 for state activities related to the stadium. District staff have indicated that the Board found that these payments were for activities that were authorized by the District.

2. The payments made by the District to date relate to expenditures that were made from DOA's capital planning and building construction services appropriation. This appropriation was amended in Act 56 to allow DOA to provide services to the District.

3. Of the $916,200 in total stadium-related expenses, $364,000 remains unpaid. The table below shows DOA's estimate of the state's outstanding expenses for the stadium project. The Department has indicated that no further detail regarding the expenses is available.

Financial advisory services: legal advice for drafting the MOU and review of Brewers' financial condition	$305,300
Bond counsel: assistance in writing stadium legislation and legal assistance	29,900
Tax counsel services relating to stadium ownership and tax issues	25,900
Mailing expenses	2,000
Advertising for requests for proposal for District's revenue bond issue	900
Total Unreimbursed Expenses	$364,000

4. The District's position is that it is not liable for the $364,000 in outstanding expenses because these activities took place prior to the District's existence and without its authorization. In a letter sent to the Committee Co-Chairs, dated April 23, 1997, DOA indicated that it will consider the amounts paid by the District to date as payment in full and is willing to remove this provision from the budget bill.

5. It can be argued that, since DOA believes that it has been adequately reimbursed by the District for its previous expenses, the budget provision is no longer needed. On the other hand, if DOA has identified $364,000 in expenses that have not yet been reimbursed, the recommendation of the Governor should remain in the bill and DOA should capture the unreimbursed expenses.

6. Alternatively, the Joint Committee on Audit could be directed to determine if all costs incurred by DOA that could appropriately be charged to the District have been reimbursed. The Governor's recommended language could be left in the bill and used, if necessary, to obtain any additional payment as certified by the Audit Committee.

ALTERNATIVES TO BILL

1. Adopt the Governor's recommendation to specify that any District that directly benefits from services provided by DOA or the Building Commission would be liable for the fair market value of those services and allow DOA to obtain payment for unpaid amounts from the District's 0.1% sales tax.

2. In addition to Alternative 1, direct the Joint Committee on Audit to certify any amount not yet paid to DOA that could appropriately be charged to the District and, upon certification, require DOA to utilize the provision to capture that amount.

3. Delete the Governor's recommendation.

MO# Alt #3

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 16 NO 0 ABS ____

Prepared by: Kelsie Doty

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

State Energy Conservation Audits and Energy Conservation Construction Projects (Administration -- General Statutory Provisions)

[LFB Summary: Page 47, #8]

CURRENT LAW

State agencies may contract with qualified providers to perform energy conservation measures. Providers are required to guarantee a minimum amount of energy and operational cost savings. Conservation measures are repaid using cost savings. State construction projects that are estimated to cost more than $30,000 must be publicly advertised and awarded to the lowest qualified responsible bidder. Projects that are estimated to cost more than $100,000 are subject to Building Commission approval and those over $250,000 must be specifically enumerated in the authorized state building program.

The Building Commission administers the Wisconsin Energy Initiative, an energy conservation program to reduce consumption and achieve optimum energy efficiency in state facilities. In 1995-97, $10,000,000 in "all agency" general fund supported general obligation bonding was authorized to fund cost-effective energy conservation projects. Eligible projects must be beyond the capability of the agency to fund from its operating budget and pay back the state's investment in the project in a reasonable period of time (generally six years under Building Commission guidelines).

GOVERNOR/BUILDING COMMISSION

Allow DOA to contract with a qualified party for an energy conservation audit to be performed at any state-owned building, structure or facility. Specify that after a review of the

energy conservation audit report, and subject to any necessary approval by the Building Commission, DOA may contract for such energy conservation construction work to be performed, if, in the judgment of DOA, the anticipated savings to the state after completion of the work will enable recovery of the costs of the work within a reasonable period of time. Require that any construction work be financed by the contractor and repaid, with finance charges, from agency fuel and utility appropriations. Allow DOA to also charge its costs to negotiate and administer any contract to the agency fuel and utility appropriation. Exempt energy conservation projects from notice and bidding requirements for construction projects and from the requirement that such projects be enumerated in the authorized state building program.

On April 23, 1997, the Building Commission recommend the use of energy conservation audits/energy conservation construction projects provisions in lieu of increased general fund supported borrowing.

DISCUSSION POINTS

1. Under the bill the following provisions would be created related to energy conservation audits and construction projects:

- DOA would be allowed to contract with a qualified party for an energy conservation audit to be performed at any state-owned building, structure or facility. Under the contract, the contractor would be required to: (a) prepare a report containing a description of the physical modifications to the building, structure or facility that are required to achieve specific future energy savings within a specified period; and (b) determine the minimum savings in energy usage that would be realized by the state from making any modifications.

- After a review of the energy conservation audit report, DOA, subject to any necessary approval by the Building Commission, could contract for energy conservation construction work to be performed, if, in the judgment of DOA, the anticipated savings to the state after completion of the work will enable recovery of the costs of the work within a reasonable period of time.

- The contractor would be required to undertake the construction work at the contractor's own expense.

- The contract would provide for the state to pay a specific amount, including any financing costs incurred by the contractor, but not to exceed the minimum savings determined under the audit. Payments under the contract would be made as the savings in energy costs identified in the audit are actually realized by the state. Further, payments under the contract would be contingent upon available appropriations.

- DOA would be required to pay the construction costs from individual agency energy costs appropriations.

- DOA would be allowed to charge its costs for negotiation and administration of the construction contract to the agency energy cost appropriations.

- Energy conservation projects would be exempt from notice and bidding requirements for construction projects and from the requirement that such projects be enumerated in the authorized state building program.

2. The Attachment provides a comparison between current law energy savings performance contracting provisions and the energy conservation audit and construction projects program created in the bill. No projects have been implemented under the provisions in current law.

3. On April 23, 1997, the Building Commission recommended, on a 6 to 2 vote, that the energy conservation audit and construction project provisions of SB 77 be utilized in lieu of providing $1,521,600 in general fund supported borrowing for four proposed energy conservation projects: (a) UW-Madison, Charter St. heating plant motor replacement ($147,000); (b) UW-Madison, Walnut St. heating plant motor replacement ($265,000); (c) Fox Lake Correctional Institution, vocational school building energy conservation ($1,009,600); and (d) UW-La Crosse, Cowley Hall Vestibule ($100,000). The Commission's recommendation also indicated that other miscellaneous energy conservation projects could be funded from residual energy or other all-agency funding sources or from agency operating budgets.

4. Using provisions in the bill, DOA could have a qualified contractor perform an energy audit on any state-owned building, structure or facility, at no cost to the state. It is DOA's intent that these audits would be performed on large complexes of building, such as a campus, not just on individual buildings. DOA indicates that it would then review the audit, and if it agreed with the audit results, could contract to have work performed. The Department intends that the company performing the audit would bid out portions of the entire project to other contractors and pay for the costs of the projects. The contractor would then be repaid for the costs of the project from agency fuel and utilities appropriations as savings accrued, in an amount not to exceed the minimum savings specified in the audit. The Department plans that state payments to the contractor would only last as long as the savings recovery period identified in the audit. If savings were less than estimated over the period, DOA intends that the state would not be required to pay for the remaining project costs at the end of the period. If savings were more than estimated, the state would only be required to pay the estimated minimum savings.

5. DOA argues that the provisions created in SB 77 would allow the Department to utilize the expertise of the Division of Facilities Development in planning, designing and evaluating proposed energy conservation projects and to also manage any project. Under the current law program, individual agencies may enter into energy savings performance contracts

without DOA oversight or approval of projects. Current law, does, however, require that projects over $100,000 be approved by the Building Commission and any project over $250,000 be enumerated in the state building program. The Department further argues that since fuel and utilities appropriations are the appropriations most likely to directly benefit from energy conservation projects, repayments of these projects from an agency's fuel and utilities appropriation is appropriate. Under the current program, any agency appropriation could be used for repayment.

6. At the April, 1997, Building Commission meeting, concerns were raised regarding the ability of small contractors to provide the financing for state projects necessary to participate in the program. DOA indicated that while larger firms would most likely be the providers of financing under the program, smaller companies could participate as subcontractors.

7. While DOA indicates that its intention is that the state not be responsible for any project costs occurring after the period specified in the audit, statutory language in the bill is unclear in this regard. The Committee could consider adding statutory language specifying that the state is only responsible for the repayment of project costs during the time period specified in the energy audit.

8. Under the bill, an agency's fuel and utilities appropriation would be charged for the costs of repayments as cost savings identified in the energy audit are realized. No reduction in an agency's appropriation would occur until a contractor is repaid for an energy savings construction project or after the time period specified in the energy audit. As a result, no actual savings to the state will occur until the project has been repaid or the time period expired. In order to ensure that actual cost reductions are made, the Committee could require that DOA annually, by January 1, report to the Joint Committee on Finance on any energy conservation projects financed under this provision, its estimated savings and repayment date. This alternative would give the Committee the ability to monitor actual savings and know when actual cost reductions could be made.

9. The bill allows DOA to undertake energy conservation audits and construction projects without the approval of an affected state agency, but charge the agency for the costs of the project and DOA's administration. The Committee could consider modifying the provision to specify that energy audits and construction projects could only be undertaken with the approval of the affected agency.

10. The Wisconsin Energy Initiative (WEI) program makes use of state general obligation bonding to fund energy conservation projects in new and existing state facilities. As a result, such projects are financed by lower cost tax exempt bonds. One of the concerns related to the Governor/Building Commission proposal is that the projects undertaken initially at private contract financing would not be eligible for federally tax exempt financing and therefore, could result in higher financing costs. However, to the extent that the projects would be paid off over

a shorter time period than that of the existing WEI projects, the difference in financing costs between the two programs could be reduced.

11. If the Committee does not create the energy conservation audits and construction projects provisions, it could be argued that the four projects that were not funded by the Building Commission in lieu of funding the projects under provision of the bill, should be funded. Under this alternative, $1,521,600 in general fund supported borrowing could be provided, the projects enumerated as all agency projects--Wisconsin energy initiative and a corresponding increase made to the Building Commission's general fund supported, other public purposes bonding authorization.

12. If the energy conservation audits and construction projects provisions are not adopted and additional funding is not provided, funding for the projects recommended by the Commission to be funded under energy performance contracting would have to come from the $105 million in all agency bonding authority recommended under the amendment. However, funding the projects from the funding provided for all agency projects would require the Building Commission and DOA to reprioritize the all agency projects recommended for funding.

13. The question could be raised as to the necessity of having two separate energy performance contracting programs in the statutes. If the Committee agrees that DOA should administer such a program, rather than allowing state agencies, individually, to contract with providers, it could repeal the current law program in order to eliminate the presence of two programs with similar goals, but dissimilar approaches.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to allow DOA to contract with a qualified party for an energy conservation audit to be performed at any state-owned building, structure or facility. Specify that after a review of the energy conservation audit report, and subject to any necessary approval by the Building Commission, DOA may contract for such energy conservation construction work to be performed, if, in the judgment of DOA, the anticipated savings to the state after completion of the work will enable recovery of the costs of the work within a reasonable period of time. Require that any construction work be financed by the contractor and repaid, with finance charges, from agency fuel and utility appropriations. Allow DOA to charge its costs to negotiate and administer any contract to the agency fuel and utility appropriation. Exempt energy conservation projects from notice and bidding requirements for construction projects and from the requirement that such projects be enumerated in the authorized state building program.

2. Modify the Governor's recommendation by adopting one or more of the following changes:

a. Specify that the state is only responsible for the repayment of project costs during the period specified in the required energy conservation audit;

b. Require DOA to annually, by January 1, report to the Joint Committee on Finance regarding any energy conservation project financed under the energy conservation audit and construction projects provision, its estimated annual savings and the final project repayment date.

c. Specify that energy audits and construction projects may only be undertaken with the approval of the affected agency.

d. Repeal the current energy savings performance contracting provisions.

3. Maintain current law.

4. In addition to alternative 3, provide $1,521,600 in general fund supported borrowing for energy conservation projects, enumerate the projects as all agency projects--Wisconsin energy initiative and increase the Building Commission's all agency, other public purposes bonding authorization by a corresponding amount.

Alternative 4	BR
1997-99 FUNDING (Change to Bill)	$1,521,600

Prepared by: Jere Bauer

MO# Alt #2 a b & d

1 JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
2 BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 16 NO 0 ABS ____

ATTACHMENT

Energy Conservation Contracting
Current Law Program and Senate Bill 77 Provisions

	Current Law Energy Savings Performance Contracting	Senate Bill 77 Energy Conservation Audit and Construction Projects
Administering Agency	Any state agency	DOA
Definition of a "Qualified Provider"	Person who is experienced in the design, implementation and installation of energy conservation and facility improvement measures.	None
Energy Savings Report	Prepared prior to entering into an energy savings performance contract.	Must enter into a contract to perform energy audit.
Report Contents	Cost estimate of installation, modifications or remodeling and a guarantee of a minimum amount that energy or operating costs will be reduced.	Description of the work to be performed to realize specific energy savings and an identification of the minimum amount that would be saved by the state.
Project Requirements	1. Costs in excess of $30,000 must be publicly advertised and awarded to the lowest bidder.	1. Energy conservation projects exempted from current law.
	2. Projects estimated to cost more than $250,000 must be specifically enumerated by the Legislature.	2. Energy conservation projects exempted from current law.
Project Approval	For projects over $100,000, Building Commission.	Same
Requirements to Enter into a Contract	Agency reviews energy savings report and finds that the energy savings measures recommended are not likely to exceed the amount saved in energy and operational costs over the remaining useful life of the facility.	DOA reviews report and determines that the anticipated savings to the state after completion of the project will enable the recovery of the costs of the work to be made within a reasonable amount of time.
Payment for Projects	Agency payments (in installments or through a lease-purchase agreement) shall be made as savings are achieved, with a minimum level of savings guaranteed by the provider. Payment may be made from any operating or capital appropriation.	Agency payments not to exceed the minimum amount of determined savings, as savings are realized. Payments are made from the appropriate fuel and utilities appropriation.
DOA Administrative Costs	None.	DOA may charge for its costs of negotiating contracts and administering the contracts. Costs

	Current Law Energy Savings Performance Contracting	Senate Bill 77 Energy Conservation Audit and Construction Projects
		are recovered from the appropriate fuel and utilities appropriation.
Performance Bonds	Each qualified provider is required to provide labor and material payment and performance bonds in an amount equal to the maximum amount of any payment under the contract.	None.
Monitoring Reports	During the term of the contract a provider is required to monitor the reductions in energy consumption and costs savings attributable to the energy savings project, and report these findings to the agency.	None.
Definition of Energy Conservation Measures	1. Insulation of a building structure or systems within a building. 2. Modifications to window and door systems. 3. Automated or computerized energy control and facility management systems or computerized maintenance management systems. 4. Heating, ventilating or air conditioning system modifications or replacements. 5. Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system. 6. Energy recovery systems. 7. Utility management systems and services. 8. Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings. 9. Lifesafety systems. 10. Any other facility improvement measure that is designed to provide long-term energy or operating cost reductions or compliance with state or local building codes.	None.

ADMINISTRATION

General Statutory Provisions

LFB Summary Items for Introduction as Separate Legislation

Item #	Title
2	Temporary Staffing Authority
3	DOA Approval of Settlement Agreements Made by the Attorney General
5	Personally Identifiable Information in State Records
6	Public Records Board Membership
7	Agency Records Management Reports
9	Reporting Requirements -- Energy and Recycling
10	Optical Disk and Electronic Records Storage Administrative Rules

Land Information Board

Land Information Program (Paper #140)
Land Information Board Grant Process (Paper #141)

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Land Information Program (Administration -- Transfers and Modifications of Functions)

[LFB Summary: Page 49, #1 and Page 51, #3]

CURRENT LAW

The 13-member Land Information Board, attached to DOA under s. 15.03 for administrative purposes, is responsible for directing and supervising the state land information program and serving as the state clearinghouse for access to land information. In addition, the Board provides grants to counties for projects involving the design, development and implementation of land information systems, preparation of certain maps and integrated land information systems.

Base level funding for the Land Information Board is $2,021,600 PR ($222,600 PR for Board operations and $1,799,000 for grants to counties) with 2.5 PR positions. Funding for Board operations and county grants is provided from a $2 portion of a $10 fee charged for the recording of the first page of certain documents with each county registrar of deeds (the remainder of the $10 fee is retained by the county).

GOVERNOR

Repeal the Land Information Board and shift the current duties and responsibilities of the Board to a new land information program within DOA. Transfer $2,007,400 PR annually ($208,400 PR for program operations and $1,799,000 PR for grants) and 2.5 PR positions to DOA (this represents the Board's base budget plus standard budget adjustments).

In addition, provide increased funding of $601,800 PR and $275,000 SEG in 1997-98 and $434,500 PR and $225,000 SEG in 1998-99 and 5.5 PR positions for: (a) establishment of a modified land information program in DOA; (b) functions of a new Wisconsin Land Council (this provision has been removed from the bill); and (c) development and maintenance of geographic information systems (GIS) for the state that could be used by state and local governmental agencies and the public. Create a continuing, program revenue appropriation, funded from charges to state agencies for DOA local information functions, to provide additional funds to support the land information program. Also, create a segregated appropriation, funded from the recycling fund, for the development and maintenance of GIS.

INTRODUCTION

Senate Bill 77 would eliminate the Land Information Board (LIB), transfer the responsibility for the current land information program from the LIB to DOA, provide increased staffing for the land information program, create a fee to be assessed state agencies for DOA land information functions, create a requirement that the land information program develop and maintain geographic information systems (GIS) and provide funding for GIS from the recycling fund. The first decision that the Committee must make is whether to retain the Land Information Board and land information program as a separate organization as presently structured or to eliminate the Board and transfer the functions of the Board to DOA. The second decision to be made, regardless of whether the program is retained in the LIB or transferred to DOA, is whether to make any modification to the program. The third decision concerns what level of resources to provide for the state land information program.

This paper is divided into three sections: (a) repeal of the Land Information Board and transfer to the land information program; (b) modifications to the operation of the land information program; and (c) staffing and funding for the land information program. Each of these sections is identified and discussed below. At the end of each section is a series of alternatives related to that section.

A. REPEAL OF THE LAND INFORMATION BOARD

Discussion Points

1. The Land Information Board is composed of the following 13 members: (a) the Secretaries (or their designees) of four state agencies (Administration, Agriculture, Trade and Consumer Protection, Natural Resources and Transportation); (b) the State Cartographer; (c) four representatives from county and municipal government selected from various geographical regions of the state, including at least one member of a county board, one member of a city council, village board or town board and one person who is a county officer active in land information management; and (d) four representatives from public utilities and private businesses

selected from various geographical regions of the state, including at least one public utility representative and at least one representative of a professional land information organization. The non-ex officio members are appointed, with the advice and consent of the Senate, by the Governor to six-year terms.

2. The Board is responsible for: (a) directing and supervising the state land information program; (b) serving as the state clearinghouse for access to land records; (c) providing technical assistance and advice to state agencies and local governments with land information responsibilities; (d) maintaining and distributing an inventory of available land information; (e) preparing guidelines to coordinate the modernization of land records and land information systems; (f) reviewing and approving grants to local governmental units; and (g) reviewing and approving countywide plans for land records modernization.

3. The bill would repeal the Board and transfer its responsibilities along with existing funding and positions to DOA.

4. The Department of Administration argues that by consolidating the functions of the Board into DOA, the state could better coordinate the land records and information functions of state agencies (DNR, DOT, DATCP, Commerce, DOR and DOA). DOA indicates that since the majority of the Board's current duties are administrative, these functions could be addressed as well by an administrative agency with more support staff than the Board with its small support staff (2.5 positions). The Department states that program continuity would be maintained because current employes of the Board would be transferred to DOA and existing rules for distributing grants to counties would continue to be used. DOA further argues that by eliminating the LIB and transferring the program to DOA, under the Governor's proposal the current staff, in conjunction with an additional 5.5 PR positions recommended by the Governor, would be able to provide technical and administrative support to both a Wisconsin Land Council as well as work for the existing land information program. However, creation of a Wisconsin Land Council has been removed from the bill for separate legislative consideration.

5. By transferring the land information activities from the separate Board to DOA, DOA would have direct authority over all of the land information activities that the Board currently oversees. Further, as a result of the transfer the following provisions that are currently applicable to the Land Information Board, would instead be made applicable to DOA: (a) DOA could seek advice and assistance from the UW, state agencies, local units of government and experts involved in collecting and managing land information; (b) state agencies would be required to cooperate with DOA in the coordination of land information collection; (c) DNR would be required to cooperate with DOA in conducting wetlands mapping activities or any related land information collection activities and to consult with DOA in determining the scope and character of aerial photographic surveys; (d) DATCP would be required to cooperate with DOA in developing a methodology to collect and organize soil erosion data; and (e) the UW Board of Regents would have to consult with DOA regarding the appointment of the State Cartographer and the cartographer's exercise of his or her duties.

6. During public hearings on the budget, numerous local officials testified regarding the land information program. In general, these officials indicated their opposition to the elimination of the Land Information Board and the transfer of the land information program to DOA. Officials expressed concerns that by eliminating the Board and transferring the program into DOA, land information issues would lose an independent and balanced multimember body designed to address land information issues. A concern was expressed that land information issues of importance to local governments would not be as well addressed by DOA because of the "state" focus of the Department and the loss of local representation that the Board provides.

7. If the Committee feels that the broad membership of the current Board, its distinct status and mission of being responsible only for the state land information program, having a separate staff responsible only for those specific functions and having a Board -- rather than having a single agency head or division administrator -- determine the parameters of the grant program to counties for land information projects is vital, then it may want to retain the Board, its attached status to DOA and its current statutory functions as is provided for under current law.

8. Alternatively, the Committee may feel that combining the land information program responsibilities into DOA as a regular operating program would allow the wider resources of the Department to be harnessed with the relatively small staff of the Land Information Board to provide enhanced services under a DOA-operated land information program and the land information projects grant program.

9. The alternatives below are intended to allow the Committee to first decide on the basic question of whether the Land Information Board and the land information program should be continued as under current law or whether the Board should be eliminated and the land information program and grant program instead managed by DOA.

Alternatives to Bill

A1. Approve the Governor's recommendation to repeal the Land Information Board and transfer the current land information program responsibilities to the Department of Administration.

A2. Retain the Land Information Board and its responsibilities as under current law.

B. LAND INFORMATION PROGRAM MODIFICATIONS

Discussion Points

1. In addition to transferring the land information program from the Land Information Board into DOA, the bill would modify the current land information program to specify that

DOA would facilitate (rather than "provide") the following activities: (a) the review of counties' applications for grants for land information projects; (b) the review of countywide plans for land records modernization; and (c) the provision of technical assistance and advice to state agencies and local governmental units with land information responsibilities. The Department would also be given the added responsibility of preparing guidelines for the integration of records and land information systems between and among state agencies and local units of government and for determining which countywide plans for land records modernization are approved.

2. The Department indicates that the change in statutory language to have DOA "facilitate" certain aspects of the land information program activities as outlined above are intended to place DOA in the role as a coordinator of land information activities, rather than as a provider of land information. Under this modification, it is argued that DOA would be the agency designated to lead land information efforts for the state in concert with other agencies. As such, DOA could on its own, or with the assistance of other state agencies, review and approve grant applications, review and approve countywide plans for land records modernization and provide technical assistance and advice to state agencies and local governmental units. It has not yet been determined exactly how DOA would facilitate these activities. If, however, the Committee decides to eliminate the Land Information Board and transfer the land information program to DOA, it could be argued that directing DOA to pursue a facilitative role rather than that of a provider of service may allow other state agencies and local units of government to have more input into land information activities.

3. It could be argued that regardless of whether the land information program is transferred to DOA or remains with the LIB, it is desirable when providing technical assistance to state agencies and local governments regarding land information to maximize the utilization of resources by having those activities coordinated by the entity responsible for administration of the land information program. As such, the Committee could modify the bill to provide that either the Board or the Department "coordinate" the provisions of technical assistance activities rather than "facilitate" or directly "provide" such services.

4. Under current law, the LIB is required to prepare guidelines to coordinate the modernization of land records and land information systems. The bill would modify current law to include integration of land records and information systems, and specify that the modernization and integration would be in and among local units of government and state agencies. The current law provisions are applied when LIB approves a countywide land record modernization plans and when grants are approved.

5. Since the Board currently provides grants to counties for modernization and integration of land records and information systems, the inclusion of "integration" may be viewed as relatively minor. However, the inclusion of the phrase "in and among local units of government and state agencies" could be viewed to imply that the land information program (whether it remains with the LIB or is transferred to DOA) would be able to require local governments and state agencies to begin to adopt specific standards for modernization and

integration. It is unknown how this expansion of the Board's current duties might be utilized or what purpose is intended. The Committee could delete this program language.

Alternatives to Bill

B1. Approve the Governor's recommendation to modify the land information program to specify that, either the Board or DOA facilitate: (a) review of counties' applications for grants for land information projects; (b) review of countywide plans for land records modernization; and (c) provision of technical assistance and advice to state agencies and local governmental units with land information responsibilities and that either DOA or the Board would have the additional responsibility of preparing guidelines for the integration of land records and land information systems between and among state agencies and local units of government.

B2. Same as Alternative B1, except delete the provision that guidelines for land records and land information systems integration be developed for coordination in and among local units of government and state agencies.

B3. In addition to Alternative B1 or B2, modify the bill to specify that the land information program "coordinate" rather "facilitate" the provision of technical assistance and advise to state agencies and local governments regarding land information.

B4. Maintain current law.

C. STAFFING AND FUNDING FOR THE LAND INFORMATION PROGRAM

Discussion Points

1. Under current law, the Land Information Board (LIB) is responsible for directing and supervising the state land information program and for serving as the state clearinghouse for access to land information. The LIB also provides grants to counties. Funding for Board operations and grants is provided from a $2 fee for the recording of the first page of certain documents with the county registrar of deeds. Monies from the fee are deposited in the continuing appropriation for grants to counties. Funding for program administration is drawn from the grants appropriation in the amount specified in the appropriations schedule. Increased administrative funding results in less funding being available for grants by the Board.

2. The LIB is currently staffed with 2.5 permanent positions (an executive director, a community services specialist and 0.5 administrative assistant). These positions provide staff support to the Board, review and administer grants to counties, and provide technical support to state agencies and local governments. The bill expands the duties of the land information program staff to include: (a) staffing studies and activities of the Wisconsin Land Council

(removed as a policy item from the bill); (b) developing and maintaining geographic information systems (GIS); and (c) preparing guidelines for the integration of land records and land information systems in and among local units of government and state agencies. In order to accomplish these expanded duties, the Governor recommended an additional 5.5 PR positions (2.5 permanent positions funded from the current land information fee and 3.0 project positions funded from a new land information fee assessed against state agencies).

3. As originally submitted, funding under the bill for the Land Council activities, new GIS activities and for the current budget and requests for the Land Information Board activities was not separately identified. Subsequently, a division of these costs has been determined as identified in the following table.

	Current Fee		Agency Fee		Recycling Fund	
	1997-98	1998-99	1997-98	1998-99	1997-98	1998-99
Land Council Staff						
Staff Costs	$38,100	$55,800	$49,300	$67,300	$0	$0
(FTE)	(2.00)	(2.00)	(2.00)	(2.00)	0	0
Supplies and Services	14,300	6,600	88,100	25,900	0	0
Land Council Activities	0	0	187,000	146,600	0	0
Total	$52,400	$62,400	$324,400	$239,800	0	0
Geographic Information Systems						
Staff Costs	$0	$0	$28,900	$39,300	$0	$0
(FTE)			(1.00)	(1.00)		
Supplies and Services	0	0	82,500	13,400	0	0
System Development and Maintenance	0	0	0	0	275,000	225,000
Total	$0	$0	$111,400	$52,700	$275,000	$225,000
Current Board Activities						
Staff Costs	$139,000	$139,700	$0	$0	$0	$0
(FTE)	(2.50)	(2.50)				
Existing Supplies and Services	97,900	97,100	0	0	0	0
Additional Staff Costs	21,600	19,700	0	0	0	0
(FTE)	(0.50)	(0.50)				
State Cartographer Clearinghouse Contract	75,000	60,000	0	0	0	0
Electronic Forms and Annual Report	0	0	25,000	8,000	0	0
Total	$333,500	$316,500	$25,000	$8,000	$0	$0
GRAND TOTAL	$385,900	$378,900	$460,800	$300,500	$275,000	$225,000

4. The issues in this area may be addressed in the following way. First, should funding be provided for any of the following three items as recommended by the Governor: (a) staff for a Wisconsin Land Council; (b) funds for development and maintenance of geographic information systems; or (c) funds for an additional 0.5 PR position in the LIB, a contract with the State Cartographer and development of forms to allow electronic submission of land information? Second, if funding is to be provided for any of these new activities, should the funds come the existing source that currently funds both the land information program and the county grant program or should funds come from the proposed new state agency fee and/or the recycling fund? If the Committee decided that none of the above activities should be funded,

there would be no need for creation of the additional fee. Alternatively, if funding is provided for one or more of the above activities, then a decision on the funding source for those expenditures needs to be made.

5. *Land Council staff.* As indicated above, the bill provides funding from the agency land information fee for positions to staff a Wisconsin Land Council. Given that the proposed creation of the Land Council has been removed from the bill, the Committee could remove the funding and positions that have now been identified as associated under the Governor's recommendations with the proposed Land Council.

6. *Geographic information systems.* Under the bill, the duties of the land information program are expanded to include the development and maintenance of geographic information systems (GIS). The bill does not define GIS, but it can be generally described as the graphical representation of land information displaying such items as jurisdictional boundaries, property lines and watershed boundaries. Other information, such as property easements, zoning restrictions, economic data, and the placement of utilities, can then be superimposed on boundary maps. In addition to the expanded duty for the land information program, the bill provides funding from two new sources for the proposed GIS activities: (a) $111,400 PR in 1997-98 and $52,700 PR in 1998-99 and 1.0 PR position funded from a land information fee to be assessed state agencies; and (b) $275,000 SEG in 1997-98 and $225,000 SEG in 1998-99 for development and maintenance of GIS in a new separate appropriation funded from the recycling fund.

7. The Department of Administration indicates that the goal is to have the land information program coordinate GIS activities and standards. As a result, GIS data from agencies would be compatible and could be combined when necessary. Further, the staff position provided in the bill is also intended to provide staff support for the Land Council.

8. DOA currently has a GIS service center in its Division of Technology Management and has also developed statewide GIS standards. The service center provides GIS consultation, training, support and installation and set-up. Further, DOA's current statutory authority regarding information technology services already appears to be broad enough to allow the Department to coordinate GIS activities in executive branch agencies.

9. The first issue related to GIS the Committee needs to address is the creation of the new GIS duty for the land information program. The Land Information Board's strategic business and information technology plan indicates that the LIB plans to rely on the GIS service center for GIS staff support. Further, the plan indicates that the LIB intends to work with DOA's State Budget Office and Division of Technology Management, and the state's GIS Manager's Council to facilitate the integration of agency land information plans and agency information technology plans among agencies and local units of government.

10. In view of DOA's current statutory authority and its GIS service center, and the LIB's indication that GIS activities should be addressed by DOA, it could be argued that the

proposed expansion of the land information program's duties to include GIS could be deleted. Likewise, since the DOA currently performs activities related to GIS and the Land Council was removed from the budget, the Committee could delete the increased GIS support staff (-$164,000 PR and -1.0 position).

11. Alternatively, the Committee could add the new statutory responsibility for development and maintenance of GIS for the use of governmental and Wisconsin government units as a specific responsibility of the Division of Technology Management. Under the bill, $275,000 SEG in 1997-98 and $225,000 SEG in 1998-99 are provided for GIS development and maintenance from the recycling fund. The Department indicates that the funds would be used to contract with programmers to create a central repository of GIS data under a uniform standard and provide state agency access to GIS data.

12. Data that could be integrated under the GIS proposal includes: (a) prior uses of land; (b) existing development; (c) size and address of land parcels; (d) contamination history; (e) soil information; (f) assessment and tax information; (f) street, road and railroad access; (g) fiber optic communication cables; (h) University of Wisconsin campus and technical college information; (i) PECFA sites; (j) wetlands and forests; (k) location of current industry in the state; (l) business and parcel addresses; (m) telephone exchange boundaries; and (n) gas, electric and water utilities boundaries. DOA indicates that the data could be used by state and local governments, and "external customers" for land use planning, environmental protection, project siting and development and economic development decisions.

13. The Governor's recommendations also includes $55,000 SEG in the Department of Commerce for related GIS data collection activities. DOA indicates that the remaining GIS funds ($50,200 SEG) for DOA would be used to enhance state agency access to GIS information. In addition to the funds recommended for DOA for this purpose, the Governor's recommendations also includes $50,000 SEG in the Department of Commerce and $103,500 SEG in the Department of Natural Resources for providing those agencies with enhanced access capability to GIS information.

14. The recycling surcharge is scheduled to end in 1999. In the bill, SEG funding for the DOA GIS activities is placed on the supplies and services line, and would therefore, be included in DOA's 1999-2001 base budget. According to DOA, these funds were supposed to be placed in one-time funding. If the Committee wishes to fund DOA's GIS activities during the 1997-99 biennium, funds could be placed in one-time funding and the appropriation sunsetted effective July 1, 1999.

15. It could be argued that the intent of the legislation creating the recycling surcharge was that revenues generated were to be spent on recycling collection programs and recycling market development. Under this view, recycling surcharge revenues and any recycling fund balance should be used only for recycling programs. The Committee could decide that this proposed use of recycling funds is inappropriate and not provide the recommended funding.

16. *LIB current budget and new activities.* The bill also provides $96,600 PR in 1997-98 and $79,700 PR in 1998-99 and 0.5 PR position from the current fee to support additional activities of the current land information program. Funding would support: (a) 0.5 PR position to increase the existing 0.5 administrative assistant position to full-time ($21,600 PR in 1997-98 and $19,700 PR in 1998-99); and (b) a contract with the State Cartographer to develop an expanded land information clearinghouse which would use the Internet to link state and local land information resources. The bill also provides $25,000 PR in 1997-98 and $8,000 PR in 1998-99 from the new state agency land information fee for the development of electronic reporting forms which would allow local governments and state agencies to submit required annual data electronically and to support technical improvements to the annual report development process.

17. The Governor's recommended funding in this area corresponds to the Board's original budget request except that lower levels of funding are provided for the state cartographer contract and for the development of electronic form filings. Also, under the Governor's recommendation, the funds for the electronic form filing development would come from the new state agency land information fee.

18. If the Committee decides to retain the Land Information Board, it could approve these additions to the Board's budget as recommended by the Governor with the exception of specifying that the costs for development of the electronic form filings come the existing fee which supports all of the rest of the Board's current operations.

19. If the Committee decides to fund any land information program activities from the agency land information fee, the following changes could be considered:

- Although DOA indicates that the interest is that the agency land information fee would only be assessed against six agencies (DNR, DOT, DATCP, Commerce, DOR and DOA), nothing in the bill establishes any limitation. As a result, DOA would have the authority to charge any state agency (including the Legislature and the Courts), for land information activities. If the new fee is to be created, the Committee could modify the language to have it to apply only to the identified six agencies. As a result, no other state agency could be charged.

- Under the bill, the new agency land information fee would be deposited to a new continuing appropriation. Under a continuing appropriation, an agency may expend all revenues that are received. Further, no legislative control over the level of these expenditures is provided. The bill would thus allow DOA to charge any agency any amount it determined was required for land information activities, and expend whatever revenues were received. If the Committee chooses to create the state agency land information fee, it could make the appropriation an annual appropriation to allow the Legislature to set the expenditure level as part of the budget process.

Alternatives to Bill

Staffing and Operations

1. Approve the Governor's recommendation to provide $601,800 PR and $275,000 SEG in 1997-98 and $434,500 PR and $225,000 SEG in 1998-99 and 5.5 PR positions for: (a) establishment of a modified land information program in the Department instead of in the Land Information Board; (b) functions of a Wisconsin Land Council; and (c) a new requirement that DOA develop and maintain geographic information systems (GIS) relating to land in Wisconsin for use by state and local governments and the public. Further, reduce DOA's printing, document sales, mail distribution and record services appropriation by $36,500 PR annually as a result of the transfer. Create a SEG appropriation, funded from the recycling fund, for development and maintenance of geographic information systems related to land in the state. Also, create a program revenue appropriation, funded by fees assessed by DOA against state agencies for the Department's land information functions and the functions of a Land Council.

2. Modify the Governor's recommendation by adopting one or more of the following alternatives:

a. Delete funding and positions associated with staffing of the Land Council ($52,400 PR in 1997-98 and $62,400 PR in 1998-99 and 2.0 positions from current Board fee, and $324,400 PR in 1997-98 and $239,800 PR in 1998-99 and 2.0 PR positions from the proposed agency fee).

Alternative 2a	PR
1997-99 FUNDING (Change to Bill)	- $679,000
1998-99 POSITIONS (Change to Bill)	- 4.00

b. Delete $111,400 PR in 1997-98 and $52,700 PR in 1998-99 and 1.0 PR position annually for GIS development and staff support of the Land Council which were to be funded from the agency land information fee.

Alternative 2b	PR
1997-99 FUNDING (Change to Bill)	- $164,100
1998-99 POSITIONS (Change to Bill)	- 1.00

c. Place the requirement that DOA develop and maintain geographic information systems for the use of governmental and nongovernmental units with DOA's Division of Technology Management instead of with the land information program. Further, provide that

SEG funding for DOA's GIS activities be one-time funding and that the SEG appropriation have a sunset date of July 1, 1999.

d. Delete the requirement that the state land information program be given the added responsibility for developing and maintaining geographic information systems for the use of governmental and nongovernmental units. Also, delete funding provided from the recycling fund associated with the maintenance and development of geographic information systems ($275,000 SEG in 1997-98 and $225,000 SEG in 1998-99).

Alternative 2d	SEG
1997-99 FUNDING (Change to Bill)	- $500,000

Agency Land Information Fee

1. Approve the Governor's recommendation to establish a land information fee to be charged state agencies to support the land information function.

2. Modify the Governor's recommendation to allow the land information program to only charge the agency land information fee to DOA, DATCP, Commerce, DNR, DOR and DOT.

3. Modify the Governor's recommendation to create the agency land information fee appropriation as an annual appropriation rather than as a continuing appropriation.

4. Maintain current law.

Prepared by: Jere Bauer

MO#_____

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE_____ NO _____ ABS_____

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Land Information Board Grant Process (Administration--Transfers and Modifications of Functions)

CURRENT LAW

The Land Information Board (LIB) is required to review and approve county grant applications for land records modernization and integration. Estimated expenditures from the continuing appropriation provided for this purpose is $1,799,000 PR annually. Revenue for the grants appropriation is generated from a $2 land information fee charged by county registrars' of deeds for copying the first page of certain land records.

GOVERNOR

No provision.

DISCUSSION POINTS

1. State and county land information activities are supported by a $6 portion of the $10 fee charged by county registrars' of deeds for copying the first page of certain land related documents deposited with each county. Of the total fee, $8 is retained by the counties (of which $4 is intended to be used for county land information modernization activities) and $2 is provided to the Land Information Board for state land information activities. The revenues the state receives from the $2 fee is used to support the cost of the Board's operations and fund land information project grants to the counties. Base level funding for Board operations is $222,600 PR with 2.5 PR positions; base funding for county grants is $1,799,000 PR annually.

2. County boards may apply to the Land Information Board for a grant on behalf of any local unit of government for projects to do any of the four following activities: (a) the design, development and implementation of a land information system that contains and integrates, at a minimum, property and ownership records with boundary information, including a parcel identifier referenced to the U.S. Public Land Survey; tax and assessment information; soil surveys, if available; wetlands identified by the Department of Natural Resources; a modern geodetic reference system; current zoning restrictions; and restrictive covenants; (b) the preparation of parcel property maps that refer boundaries to the public land survey system and are suitable for use by local governmental units for accurate land title boundary line or land survey line information; (c) the preparation of maps that include a statement documenting accuracy if the maps do not refer boundaries to the public land survey system and that are suitable for use by local governmental units for planning purposes; and (d) systems integration projects (systems integration is defined as land information that is housed in one jurisdiction or jurisdictional subunit and is available to other jurisdictions, jurisdictional subunits, public utilities and other private sector interests). Grants made to counties may not exceed $100,000, but the Board may award more than one grant to a county board.

3. Under current LIB administrative rules, individual grant applications have been received and grants awarded on a twice per year cycle. Competitive grant awards have been made based on an analysis of grants using specific evaluation criteria. Grant requests were reviewed and scored by an evaluation committee comprised of Board members and other authorized evaluators selected by the Board. Scored applications were then submitted for consideration by the full Board and final grants made on the basis of a majority vote of the Board.

4. The evaluation criteria used for the awarding of grants are ranked, in priority order, as follows:

a. Integration and cooperation, where integration means the coordination of land records modernization to ensure that land information can be shared, distributed and used within and between governments at all levels, the private sector and citizens; and cooperation means explicit relationships within and between public entities and public entities and private entities to share land information or collaboratively pursue land records modernization.

b. The extent to which projects meet or exceed all relevant statutory requirements and standards. The degree to which the grant application focuses on foundational elements, where foundational element means any of the following: (1) geographic frameworks, including base and imaging mapping, geodetic reference frameworks, public land survey monumentation and geographic control data; (2) parcels, including parcel mapping, parcel identification and parcel administration; (3) wetlands mapping; (4) soils mapping; and (5) zoning mapping.

c. Consistency with the countywide plan for land records modernization.

d. First-time grant applications, meaning a grant request by an eligible applicant where there has not been a previous grant award under the land information program to the county or any eligible applicant within the county.

e. The likelihood of success of the proposed project based upon all of the following factors: (1) the economic viability of a proposed project; (2) that the project can be completed on time and within budget; (3) the extent of financial participation by the grant applicant; (4) the grant applicant's previous experience and success with similar projects; and (5) the extent that preliminary work on the grant project has been completed.

f. Specific and tangible products, meaning a grant proposal that identifies a plan for the completion of specific project activities with tangible products.

5. On February 18, 1997, the Land Information Board terminated the competitive grant program. Instead, the Board indicated that it would develop a new initiative-based grant program for the funding of land information projects under a modified process for the awarding of grants that would: (a) create a simplified grant scoring process; (b) establish, on an annual or bi-annual cycle, a budget for grants and administration of the land information program, and a list of grant initiatives that could be funded; (c) establish grant categories for each grant cycle; (d) allow counties to apply for grants in specific grant categories; and (e) provide that if grant applications are acceptable but not awarded funding during a grant cycle, those grants would move to the top of the list for subsequent grant award cycles.

6. Proposed rules to implement the new grant procedures were presented to the Board at its April 9, 1997, meeting, but it was decided that adoption should be postponed until a later time. The Board has subsequently indicated that awards under the new grant process are not expected to be made until January, 1998, and also that there will not be a July, 1997, grant cycle as had previously been anticipated.

7. At its April 9, 1997, meeting, the LIB also approved a new grants-in-aid to local governments program, which the Board terms an annual subsidy for eligible county land information programs. The Board established this new grant program to provide a base budget for the creation of a minimum basic land information infrastructure in each county land information office. A total of $233,015 was awarded to 27 counties. These grants were not based on any specific projects and were automatically provided to any county (without application) that had an annual average of retained fees (from the $4 "dedicated" portion of the county's share of the $10 county registrar of deeds copying fee) of less than $25,000. The award amount was based on the difference between the actual annual average of retained fees and $25,000. The LIB has indicated to counties receiving the base budget grant, that the funds are to be used to purchase any of the following:

a. Hardware/Software Acquisition
   1. Computer
   2. Internet connection, training and support
   3. Subscription to Internet technical assistance
   4. Training for land information system design and implementation
   5. Geographic information system software, training and support

b. Digital Mapping Coverage Acquisition
   1. Parcels
   2. Geographic reference framework
   3. Wetlands
   4. Soils
   5. Zoning

c. Staff
   1. Funding for minimum of 0.5 staff position to provide support for the activities in sections a and/or b.

8. The Board's intention is that base budget grants provide basic land information resources to all counties. The LIB believes that if a county does not receive at least $25,000 per year from the county share ($4) of the $6 land information fee, it will not be able to acquire equipment that is necessary for adequate land information office activities. The Board has indicated that these base budget grants may only be used for the items identified by the Board, and will only be provided as long as it takes for counties to purchase the necessary items. However, the only specific item limit would appear to be funding for a single computer. Also, staff support purchase is presumably on-going. Since there is no application process, the Board has informed counties that acceptance of base budget grant funding constitutes the county's agreement to follow Board's directives on grant usage.

9. The LIB staff argue that base budget grants are appropriate under the statutes because grants are provided for the design, development and implementation of a land information system. However, neither the statutes nor the LIB current administrative rules specifically provide for base grants to counties. Further, the current rules indicate that counties are required to apply for grants, not automatically be awarded a grant. Finally, the fiscal prudence of automatically awarding grants to counties without a review of specific infrastructure needs could be questioned.

10. If the Committee believes that both this new grant program and the proposed new initiative-base grant program should be authorized by rule before any future grant awards are made, it could require that the LIB have administrative rules promulgated for these programs before any further grant awards are made.

11. The Board has suspended the grant process until January, 1998. Based on current estimates of expenditures in 1996-97 and outstanding commitments from previous grant awards, the opening balance in 1997-98 for land information grants will be approximately $32,000. Until recently, the Board did not encumber funds that were provided as grant awards at the time the awards were made. As a result, the appropriation balance for land information grants appeared higher because grant obligations were not accounted for until expenditures were actually made. Given that grants awards are made for an 18-month period, actual expenditures of grant funds may occur over two fiscal years and may actually cover two fiscal biennia (last year of one fiscal biennium and the first year of the next fiscal biennium).

12. The grant appropriation is currently a continuing appropriation. As such, the Board may expend as much for grants as it expects to receive in revenues. Expenditure levels for continuing appropriations are only estimates of amounts expected to be expended and provide no limit. No legislative approval of actual expenditure levels is necessary. In view of the recent changes in the LIB grants process and the current status of the PR account balance, the Committee could choose to modify current law to provide greater legislative oversight of Board expenditures.

13. The Committee could take three steps in this regard:

- First, it could change the grant appropriation from a continuing appropriation to an annual appropriation and provide that all encumbered funds transfer to the new appropriation.

- Second, the Committee could specify that all grant award monies shall be encumbered upon announcement of award and that encumbered award monies must be expended or liquidated (where funds are returned to the Board's appropriation for re-award) within 24 months of the award date.

- Third, given that the Board expects that no further grants will be made until January, 1998, the Committee could transfer the funds budgeted in the bill in the continuing grant appropriation ($1,799,000 PR in each year) to the Committee's PR supplemental appropriation for subsequent release to the Board's new sum certain appropriation. Once new administrative rules have been reviewed and approved by the appropriate legislative committees, the Board could then seek increased expenditure authority for the grant appropriation under s. 16.515. Under this alternative, expenditures could be made for previously approved grants for which funds have been encumbered, but expenditures for new grants could not be made until additional expenditure authority was provided.

ALTERNATIVES TO BILL

1. Create session law language requiring the Board to have administrative rules promulgated for any new grant program before any further grant awards are made.

2. Convert the Land Information Board grant appropriation from a continuing appropriation to an annual appropriation. Provide that all funds encumbered under the current appropriation fee carried into the new appropriation and be available for expenditure. Transfer funding of $1,799,000 PR annually from this appropriation to the Committee's PR supplemental appropriation for future release to the Board after new administrative rules have been promulgated. Provide that all new grant award funds must be encumbered by the Board upon award and that DOA shall ensure that such encumbered funds are either expended for the purpose for which encumbered or liquidated (by return to the PR account balance) within 24 months of the award date.

3. Maintain current law.

Prepared by: Jere Bauer

MO#_____

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE_____ NO _____ ABS_____

Representative Harsdorf
Senator Wineke

ADMINISTRATION

Land Information Board/Land Council

Motion:

Move to amend Senate Bill 77 as follows:

(a) Restore the provisions, previously removed from the budget, to create a Wisconsin Land Council;

(b) Modify the appropriation created in the bill for "land information; state agency support", to specify that the appropriation is only for costs related to support of the Wisconsin Land Council. Delete the language allowing the appropriation's use for support of the land information program;

(c) Retain the separate Wisconsin Land Information Board, with its current powers and duties;

(d) Create a combined Land Information Board and Land Council staff in DOA, with the positions funded as follows between the current Land Information Board appropriation and the new Land Council appropriation: (1) Land Information Board appropriation: 0.5 director, 1.0 management information specialist, 1.5 community support specialists, 0.5 program and planning specialist and 0.5 program assistant; and (2) Land Council appropriation: 0.5 director, 1.0 management information specialist, 0.5 community support specialist, 1.5 program and planning analysts and 0.5 program assistant;

(e) Increase funding provided in the Land Information Board appropriation by $15,800 PR in 1997-98 and $3,800 PR in 1998-99 and transfer 1.0 PR position [0.5 executive director and 0.5 community support specialist] from the Land Information Board appropriation to the Land Council appropriation;

(f) Decrease the Land Council appropriation funding by $50,900 PR in 1997-98 and increase funding by $22,900 PR in 1998-99;

(g) Require the Land Information Board and the Land Council to enter into a memorandum of understanding to ensure cooperation between the organizations and avoid duplication of functions;

(h) Require the Land Information Board and the Land Council to provide an evaluation, including recommendations, on how best to continue their activities, including the feasibility of combining their functions, to the Governor and the Legislature no later than September 1, 2002;

(i) Provide a sunset date for the Land Information Board and the Land Council of September 1, 2003, unless action is taken by the Legislature and Governor based on the recommendations of the Board and Council; and

(j) Delete $275,000 SEG in 1997-98 and $225,000 SEG in 1998-99 for GIS activities in DOA funded from the recycling fund and associated statutory language. Instead, authorize DOA to develop and maintain geographic information systems relating to land for use by governmental and nongovernmental units, but provide that such authority would not become effective until: (1) DOA has submitted a report, for approval under a 14-day passive review process, to the Joint Committee on Finance detailing how the new GIS authority will be utilized and proposing a funding mechanism for the GIS authority; and (2) any additional legislation necessary to fund the GIS activity has been enacted.

Note:

This motion would restore the policy item removed from the budget related to the creation of a Wisconsin Land Council. The motion would also: (a) retain the current Land Information Board; (b) provide for common staff of 8.0 total positions (consisting of 2.5 existing Land Information Board positions and the 5.5 new positions recommended by the Governor), located within DOA, to be funded from both the Land Information Board and the Land Council appropriations; (c) require that the Land Information Board and the new Land Council enter into a memorandum of understanding related to cooperation between the Board and Council and the avoidance of the duplication of functions; (d) establish an evaluation process of the activities of the Board and the Council, to be jointly conducted by the Board and the Council; (e) establish a concurrent sunset date of September 1, 2003, for both the Board and the Council; (f) provide authority for DOA to develop and maintain geographic information systems, but only after a report has been submitted and approved by the Joint Committee on Finance regarding DOA's proposed GIS activities and a funding source to support these activities, and any necessary legislation has been enacted; and (g) delete SEG funding for GIS activities support from the recycling fund.

[Change to Bill: -$8,400 PR and -$500,000 SEG]

Motion #1736

MO# 1736

JENSEN	Y	N	A
OURADA	Y	N	A
1 HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
2 WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 13 NO 3 ABS