2013 DRAFTING REQUEST

Assembly Amendment (AA-AB40)

Received:	**5/23/2013**	Received By:	**phurley**
Wanted:	**As time permits**	Same as LRB:	
For:	**Legislative Fiscal Bureau**	By/Representing:	**Onsager**
May Contact:		Drafter:	**phurley**
Subject:	**Criminal Law - miscellaneous**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email: **Legislative Fiscal Bureau**
Carbon copy (CC) to:

Pre Topic:

LFB:.....Onsager -

Topic:

Delete Department of Justice Appropriation Conversion

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/P1	phurley 5/24/2013	kfollett 5/24/2013	phenry 5/24/2013	_____ _____	lparisi 5/24/2013		

FE Sent For:

<END>

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/P1	phurley	/P1 lsf 5/29	5/31 phx	_____ _____			

FE Sent For:

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Legislative Fiscal Bureau
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Email: fiscal.bureau@legis.wisconsin.gov • Website: http://legis.wisconsin.gov/lfb

50181

#2 PJK

May 23, 2013 | Joint Committee on Finance | Paper #395

Revenue from Delinquent Obligation Collections (Justice -- General Agency Provisions)

[LFB 2013-15 Budget Summary: Page 275, #9]

20.455 (1)(gs)

CURRENT LAW

The Department of Justice (DOJ) is required under state law to represent the state in bankruptcy cases. From amounts payable to the state and collected by DOJ in such actions, the Secretary of the Department of Administration must credit an amount equal to the reasonable and necessary expenses incurred by DOJ related to collecting amounts owed to the state to the DOJ PR annual delinquent obligation collection appropriation. The annual expenditure authority provided to this appropriation is $0.

GOVERNOR

Convert DOJ's PR annual delinquent obligation collection appropriation to a continuing appropriation.

DISCUSSION POINTS

1. As the following table indicates, since 2003-04, no expenditures have been made by DOJ from its PR annual delinquent obligation collection appropriation. Including receipts through April, 2013, for the last 10 fiscal years DOJ has received revenue totaling $681,500 PR to this appropriation as reimbursement to DOJ for the representation it provided in state bankruptcy cases. As with other balances in recent years, DOJ is planning to lapse the revenues received by the appropriation during 2012-13 to the general fund.

Delinquent Obligation Revenue and Expenditures

Fiscal Year	Revenue	Expenditures
2003-04	$45,500	$0
2004-05	33,600	0
2005-06	150,200	0
2006-07	27,900	0
2007-08	3,000	0
2008-09	21,100	0
2009-10	2,300	0
2010-11	3,100	0
2011-12	5,300	0
2012-13 Est.	389,500	0
Total	$681,500	$0

2. Over the years, the administration has developed a fee to assess to agencies to permit DOJ to recover its costs in bankruptcy proceedings. The fee is applied to the amounts recovered by DOJ and is currently set at 16%. By way of comparison, in recovering debts owed to state agencies under s. 71.93(5) of the statutes, the Department of Revenue assesses a 15% fee. As a result, 16% of all amounts recovered by DOJ in bankruptcy cases are deposited to the Department's PR annual delinquent obligation collection appropriation. The remaining amounts recovered in these bankruptcy proceedings are returned to the relevant agency.

3. Department of Justice staff indicates that the frequency and type of bankruptcy cases handled by the Department varies. By way of example, of the $389,500 in revenue from bankruptcy cases received by DOJ through April, 2013, of the current fiscal year, $384,100 is attributable to a single case from the Department of Transportation, *Olson Brothers Enterprises*. This case involved the state recovering on amounts owed to it under a revolving loan program.

4. As the table indicates, revenues received by DOJ from bankruptcy cases can vary substantially from year to year. In recognition of this variable revenue stream, and in recognition that these sums are received to reimburse DOJ for its costs in providing representation in these cases, the Committee could convert the PR annual delinquent obligation collection appropriation to a continuing appropriation. [Alternative 1] As a continuing appropriation, authorized expenditure levels from the appropriation could be modified without legislative approval to reflect available balances in a given year.

5. On the other hand, this same volatility in revenue receipts from year to year might lead the Legislature to conclude that it should delete the provision and maintain current law. [Alternative 2] The Legislature might believe that it should retain more oversight over the Department's utilization of funding to the appropriation, particularly in those years in which one or more cases may lead to substantial revenue deposits to the appropriation. If the appropriation is maintained as an annual appropriation, the Department would not be authorized to make expenditures above appropriated amounts unless authorized by the Legislature through separate

legislation or authorized by the Joint Committee on Finance under s. 16.515 of the statutes.

6. Finally, based on revenue receipts received to the appropriation over the last five completed state fiscal years, the Committee could consider providing $7,000 PR annually in expenditure authority to the current law appropriation. [Alternative 3] This alternative would provide DOJ modest expenditure authority to address some of its expenses incurred in bankruptcy cases, but still permit the Legislature to exercise oversight of the utilization of larger recoveries deposited to the appropriation.

ALTERNATIVES

1. Convert the PR annual delinquent obligation collection appropriation under the Department of Justice from an annual appropriation to a continuing appropriation.

2. Delete provision.

3. *This alternative may be adopted in addition to Alternative 2.* Provide $7,000 PR annually in expenditure authority to the PR annual delinquent obligation collection appropriation based on revenue receipts received to the appropriation over the last five completed state fiscal years.

ALT 3	**Change to Bill** Funding
PR	$14,000

Prepared by: Paul Onsager

State of Wisconsin
2013 – 2014 LEGISLATURE

LRB–0341/P1
PJH:wlj:ph

DOA:.....Kirby, BB0085 – Convert Department of Justice Appropriation

FOR 2013–2015 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

This bill changes, from annual to continuing, the appropriation to DOJ for expenses related to its collection of delinquent obligations payable to the state.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 **SECTION 1.** 20.455 (1) (gs) of the statutes is amended to read:

3 20.455 **(1)** (gs) *Delinquent obligation collection.* ~~From~~ As a continuing
4 appropriation, from the moneys received under s. 165.30 (3) (b), the amounts in the
5 schedule for expenses related to the collection of delinquent obligations under s.
6 165.30.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

1 **(END)**

State of Wisconsin
2013 – 2014 LEGISLATURE

LRBb0181/P1
PJH:.....

LFB:.....Onsager – Delete Department of Justice Appropriation Conversion

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY BILL 40

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 375, line 14: delete lines 14 to 18.

3 **(END)**

State of Wisconsin
2013 – 2014 LEGISLATURE

LRBb0181/P1
PJH:kjf:ph

LFB:.....Onsager – Delete Department of Justice Appropriation Conversion

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

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(END)