2013 DRAFTING REQUEST

Assembly Amendment (AA-AB40)

Received:	**5/30/2013**	Received By:	**rchampag**
Wanted:	**Today**	Same as LRB:	
For:	**Legislative Fiscal Bureau**	By/Representing:	**Carmichael**
May Contact:		Drafter:	**rchampag**
Subject:	**State Finance - bud generally**	Addl. Drafters:	
		Extra Copies:	

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

Pre Topic:

LFB:.....Carmichael -

Topic:

2013-15 Supreme Court Lapse

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/1	rchampag 5/30/2013	jdyer 5/30/2013	rschluet 5/30/2013	_____ _____	mbarman 5/30/2013		

FE Sent For:

<END>

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Legislative Fiscal Bureau
One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: http://legis.wisconsin.gov/lfb

May 29, 2013 | Joint Committee on Finance | Paper #625

2011 Act 32 2013-15 Courts Lapse Requirement (Supreme Court)

[LFB 2013-15 Budget Summary: Page 123, #1, Page 138, #1, Page 444, #1, and Page 445, #3]

CURRENT LAW

Under the 2011-13 biennial budget act, 2011 Act 32, the Chief Justice of the Supreme Court must take action in both the 2011-13 and 2013-15 biennia to ensure that $16,960,400 from the appropriations under the Supreme Court, Court of Appeals and Circuit Courts be lapsed to the general fund.

GOVERNOR

As part of the 2013-15 budget instructions, standard budget adjustments are defined as "a category of cost changes common across all agencies that are considered "housekeeping" in nature and are required to continue a base level of services into the next biennium." Among the standard budget adjustments is an item for the full funding of continuing position salaries and fringe benefits. The purpose of full funding of salaries and fringe benefits is to provide the funding adjustment needed to bring the salary levels for base level positions to levels as the July of the even-numbered year. New agency fringe benefit rates are also used.

For 2013-15, the total annual adjustments of -$2,993,700 for full funding of salaries and fringe benefits for the Courts are: (a) -$1,846,500 GPR for the Circuit Courts; (b) -$250,700 GPR for the Court of Appeals; and (c) -$534,300 GPR, -$18,900 FED, -$318,500 PR, and -$24,800 SEG for the Supreme Court.

Of the above amounts, the annual adjustments associated solely with fringe benefits are -$2,755,500: (a) -$1,822,000 GPR for the Circuit Courts; (b) -$217,200 GPR for the Court of Appeals; and (c) -$716,300 for the Supreme Court (-$419,300 GPR, -$13,100 FED, -$271,300 PR, and -$12,600 SEG).

No provision is included in the 2013-15 biennial budget bill associated with the 2011 Act

32 lapse requirement. As such, the court system is still required to lapse $16,960,400 from its appropriations to the general fund in the 2013-15 biennium.

DISCUSSION POINTS

2011-13

1. In the Governor's budget recommendations for the 2011-13 biennium, standard budget adjustments for the full funding of salary and fringe benefits were provided to state agencies. Adjustments of $2,477,400 associated solely with fringe benefit funding for the court system included the following increases: (a) $1,481,700 GPR for the Circuit Courts; (b) $327,600 GPR for the Court of Appeals; and (c) $668,100 for the Supreme Court ($402,400 GPR, $6,000 FED, $253,500 PR, and $6,200 SEG). As a result, base funding for the court system's fringe benefit amounts in 2011-13 increased by $2,477,400, from $28,277,200 to $30,754,600.

2. Separate from the standard budget adjustments, the Governor proposed two items reducing funding in state agency budgets: (a) the deletion of funding to reflect fringe benefit cost reductions associated with increased state employee contributions for Wisconsin Retirement System (WRS) benefits and health insurance coverage; and (b) the deletion of funding associated with a 10% reduction to supplies and other non-personnel costs. Table 1 below identifies the reductions to the court system under these two provisions.

TABLE 1

2011-13 Court System Annual Funding Reductions
All Funds, Annual Amounts

	Increased Employee Contributions	Appropriation Reductions	Total Reduction
Circuit Courts	$3,632,400	$2,467,700	$6,100,100
Court of Appeals	460,600	0	460,600
Supreme Court	1,113,000	859,500	1,972,500
Total	$5,206,000*	$3,327,200	$8,533,200

*Includes $53,000 of FED, SEG, and gift funding.

3. During budget deliberations, the Joint Committee on Finance modified the Governor's two provisions related to the Courts by converting these items to lapse requirements. Legislative Fiscal Bureau Budget Paper #626, dated June 2, 2011, stated:

> "Based on the prior treatment of reductions for the three branches, and as requested by the Chief Justice, the Committee may wish to convert the appropriation reductions under the Circuit Courts, the Court of Appeals and Supreme Court to a lapse requirement, and make the lapse applicable to both the 2011-13 and 2013-15 biennia. In order to be consistent with

other current and past lapse requirements, the total lapse amounts could exclude FED and SEG funding. Likewise, gifts and grants lapse ($16,600 PR annually) [...] could be excluded."

4. The Committee's modifications were approved by the Legislature and enacted in 2011 Act 32. Table 2 identifies the lapses to the court system under 2011 Act 32, which excluded the $53,000 of FED, SEG, and gifts and grants funding.

TABLE 2

Act 32 Annual Court Lapse Requirements

	Increased Employee Contributions	Appropriation Reductions	Total Reduction
Circuit Courts	$3,632,400	$2,467,700	$6,100,100
Court of Appeals	460,600	0	460,600
Supreme Court	1,060,000	859,500	1,919,500
Total	$5,153,000	$3,327,200	$8,480,200

5. Table 3 shows the overall impact of Act 32 on the court system's fringe benefit funding in 2011-13 as a result of: (a) the standard budget adjustment increases; and (b) the lapse requirements associated with increased employee contributions. [Table 3 excludes the lapse amounts associated with the appropriation reductions, because that item reduced funding for supplies and non-personnel costs, not fringe benefits.] As indicated previously, base funding for the court system's fringe benefit amounts in 2011-13 increased from $28,277,200 to $30,754,600. Further, with the $5,153,000 lapse, remaining fringe benefit funding came to $25,601,600.

TABLE 3

2011-13 Annual Fringe Benefit Funding

	Adjusted Base	Standard Budget Adjustments	Base Plus Standard Budget Adjustments	Lapse Amount	Total Fringe Benefit Funding
Circuit Courts	$19,941,900	$1,481,700	$21,423,600	-$3,632,400	$17,791,200
Court of Appeals	2,370,500	327,600	2,698,100	-460,600	2,237,500
Supreme Court	5,964,800	668,100	6,632,900	-1,060,000	5,572,900
Total	$28,277,200	$2,477,400	$30,754,600	-$5,153,000	$25,601,600

2013-15

6. Unlike the 2011-13 budget, where standard budget adjustments provided increased funding for fringe benefits, before reducing the funding associated with increased employee

contributions, the 2013-15 budget already assumed increased employee contributions as a factor in the standard budget adjustments. For the Courts, however, the lapse requirement amounts associated with the increased employee contributions still remains for 2013-15. Table 4 shows the overall impact on the court system's fringe benefit funding in 2013-15 under the bill, as a result of: (a) standard budget adjustment decreases, associated with increased employee contributions; and (b) the 2011 Act 32 lapse requirements associated with increased employee contributions carried over into the 2013-15 biennium. Thus, under the bill, base funding for the court system's fringe benefit amounts in 2013-15 would decrease from $30,754,600 to $27,999,100. Further, with the lapse of $5,153,000, remaining fringe benefit funding would be $22,846,100.

TABLE 4

AB 40
2013-15 Fringe Benefit Annual Funding

	Adjusted Base	Standard Budget Adjustments	Base Plus Standard Budget Adjustments	Lapse Amount	Total Fringe Benefit Funding
Circuit Courts	$21,423,600	-$1,822,000	$19,601,600	-$3,632,400	$15,969,200
Court of Appeals	2,698,100	-217,200	2,480,900	-460,600	2,020,300
Supreme Court	6,632,900	-716,300	5,916,600	-1,060,000	4,856,400
Total	$30,754,600	-$2,755,500	$27,999,100	-$5,153,000	$22,846,100

7. As a point of comparison, Table 5 shows what the overall impact on the 2013-15 fringe benefit funding would have been had the Act 32 lapse requirement instead been an appropriation reduction. Because appropriation reductions would have reduced the amount of base funding available under the court system, the resulting fringe benefit calculations under the 2013-15 standard budget adjustments would have provided increased funding for fringe benefits, instead of decreasing funding. As such, the base funding for fringe benefits in 2013-15 would have been $25,601,600. With a lower base amount, the standard budget adjustments for fringe benefits in 2013-15, based upon the application of published fringe benefit rates, would be an increase of $2,407,100 annually (as opposed to the bill's decrease of $2,755,500). With no lapse requirement, remaining fringe benefit funding would be $28,008,700; a difference of $5,162,600 from remaining fringe benefit funding under the current provisions of the bill.

TABLE 5

2013-15 Annual Fringe Benefit Funding
If 2011 Act 32 Court Lapses Had Instead Been Appropriation Reductions

	Adjusted Base	Standard Budget Adjustments	Base Plus Standard Budget Adjustments	Lapse Amount	Total Fringe Benefit Funding
Circuit Courts	$17,791,200	$1,810,400	$19,601,600	$0	$19,601,600
Court of Appeals	2,237,500	243,400	2,480,900	0	2,480,900
Supreme Court	5,572,900	353,300	5,926,200	0	5,926,200
Total	$25,601,600	$2,407,100	$28,008,700	$0	$28,008,700

In essence, AB 40 affects the Courts' budget for fringe benefits in two steps. First, the Courts' appropriation is reduced to account for contributions that employees are making for retirement contributions and health insurance premiums. Second, AB 40 requires the Courts to lapse the amounts that have already been subject to the reduction of the first step. Essentially, AB 40 cuts the same amount twice.

8. In order to mitigate the impact of the lapse requirement and standard budget adjustments in 2013-15, the Courts' September, 2012, biennial budget recommendations to the Governor requested that the lapse requirement be reduced by $10,306,000. This recommendation was not included in the Governor's budget bill.

9. Considering the combined fiscal impact imposed on the court system as a result of the standard budget adjustment reduction and the lapse requirement associated with increased employee contributions, the Committee may wish to delete the 2013-15 lapse requirement of $10,306,000 ($5,153,000 annually). Under this alternative, the Courts would still have the standard budget adjustments (-$2,755,500 annually), as well as lapsing amounts associated with supplies and non-personnel costs ($6.7 million over the biennium). [Alternative 1]

10. Alternatively, the Committee could retain the 2013-15 lapse requirement, and instead, delete the increased employee contribution amounts under the court system's standard budget adjustments. Under this alternative, the Courts' budget would be treated similarly to what is described above in point 7: the Courts would receive an increase of $2,407,100 annually for fringe benefits, increasing their fringe benefit funding from $30,754,600 to $33,161,700. Applying the annual lapse of $5,153,000, remaining funding for fringe benefits would be $28,008,700. The Courts would also still be required to lapse the $6.7 million associated with supplies and non-personnel costs. [The biennial change-to-base funding would be $4,814,200, but because AB 40 reduces fringe benefits by -$5,511,000 over the biennium, the change-to-bill funding would be an increase of $10,325,200.] [Alternative 2]

11. If required to lapse funding in 2013-15 associated with 2011-13 increased fringe benefit contributions, and simultaneously apply the standard budget adjustment reductions recommended by the Governor in AB 40, the Courts have indicated that budget reductions would be

necessary in non-fringe benefit areas of its operations. In her March 21, 2013, remarks to the Committee, the Chief Justice cited a number of potential impacts on court proceedings including cases delayed, reductions in the collection of court fees and surcharges, reductions in information technology systems, and affects on administration of the court system.

12. According to the Department of Administration, the Courts have "had sum sufficient appropriations for over twenty years to ensure responsibilities are fulfilled even if unforeseen circumstances occur. Also, the lapse does not preclude either from receiving pay plan supplements to cover actual fringe costs." Further, the Department states:

> "The overall impact to the Courts from reductions and lapses in 2013-15 is proportionate to other state agencies in similar situations. The Courts' lapse equates to approximately 6 percent of the funding allocated in the Governor's budget...
>
> Most state agencies are subject to multiple reductions and lapses in 2013-15, and in this respect the Courts are treated in a similar fashion."

13. In response to DOA's statement that the reductions and lapses are proportional to state agencies, the Director of State Courts indicates that DOA's "analysis appears to have attributes of proportionality but it does not take into account the differences in the funding structures of the branches. As a result, the court system's 2013-2015 lapse requirement cannot be considered proportional with the other branches:

- A significant portion of court system funding is for elected officials' and statutory positions' salaries and fringe benefits, leaving little flexibility for assigning lapses.

- When looking at supplies and services funding for the three branches, the area that provides most flexibility for lapses, startling differences can be seen: With lease costs (fixed expense) subtracted, 3.7% of the court system's budget is supplies and services funding, compared with 30.2% for the Governor's Office and 15.0% of the Legislature's budget...

- The reason for the large supplies and services discrepancy between the court system and the other branches is the fact that circuit court operations rely on a unique state-county funding structure to function. The circuit courts' budget makes up 70% of the state court system budget, while counties provide about $181 million annually for circuit court operations. Most circuit court supplies and services are provided by the counties. This statutory funding arrangement significantly reduces the court system's ability to lapse from the state appropriations, and this distinction has been taken into account with past lapse calculations."

ALTERNATIVES

1. Delete $10,306,000 of the 2013-15 lapse requirement enacted under 2011 Act 32, associated with increased employee contributions ($5,153,000 annually).

ALT 1	Change to Bill
GPR-Lapse	- $10,306,000

2. Modify the bill by deleting the funding reductions under standard budget adjustments associated with increased employee contributions. Instead provide the modified fringe benefit amounts annually of: (a) $1,810,400 GPR for the Circuit Courts; (b) $243,400 GPR for the Court of Appeals; (c) $208,100 GPR and $170,900 PR for the Supreme Court (FED and SEG fringe benefit amounts would not change from the bill). Under this alternative, the 2013-15 lapse requirement enacted under 2011 Act 32 would remain.

ALT 2	Change to Bill Funding
GPR	$9,440,800
PR	884,400
Total	$10,325,200

3. Maintain current law. [No action necessary since the lapse requirement was enacted under 2011 Act 32.]

Prepared by: Chris Carmichael

Representative Nygren
Senator Darling

SUPREME COURT

2011 Act 32 2013-15 Court Lapse Requirement
[LFB Paper #625, Substitute Amendment]

06

Motion:

Move to reduce the 2013-15 lapse requirement enacted under 2011 Act 32 ($16,960,400) by $5,153,000 over the biennium.

Note:

Under 2011 Act 32, the Courts were required to lapse a total of $16,960,400 in the 2011-13 biennium, including: (a) $5,153,000 annually associated with fringe benefit funding for increased employee contributions for the Wisconsin Retirement System and health insurance ($10,306,000 biennial); and (b) $3,327,200 annually associated with 10% reduction to supplies and other non-personnel costs ($6,654,400). Act 32 further required the lapse apply in the 2013-15 biennium.

This motion would delete a portion of lapse requirement associated with fringe benefit funding for increased employee contributions for the Wisconsin Retirement System and health insurance ($5,153,000).

[Change to Bill: -$5,153,000 GPR Net Effect on General Fund Balance]

State of Wisconsin
2013 - 2014 LEGISLATURE

LRBb0267/1
RAC:.....

LFB:.....Carmichael – 2013–15 Supreme Court Lapse

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY BILL 40

At the locations indicated, amend the bill as follows:

1. Page 1009, line 22: after that line insert:

"**SECTION 2364m.** 2011 Wisconsin Act 32, section 9245 (2f) is amended to read:

[2011 Wisconsin Act 32] Section 9245 (2f) APPROPRIATION LAPSES AND REESTIMATES. The chief justice of the supreme court, acting as administrative head of the judicial system, shall take actions during the 2011–13 and 2013–15 fiscal biennia to ensure that from general purpose revenue and program revenue appropriations to the circuit courts under section 20.625 of the statutes, to the court of appeals under section 20.660 of the statutes, and to the supreme court under 20.680 of the statutes an amount equal to $16,960,400 is lapsed from sum certain appropriation accounts or is subtracted from the expenditure estimates for any other

1 types of appropriations, or both, in ~~each~~ the 2011–13 fiscal biennium, and an amount
2 equal to $11,807,400 is lapsed from sum certain appropriation accounts or is
3 subtracted from the expenditure estimates for any other types of appropriations, or
4 both, in the 2013–15 fiscal biennium.".
5 **(END)**

State of Wisconsin
2013 – 2014 LEGISLATURE

LRBb0267/1
RAC:jld:rs

LFB:.....Carmichael – 2013–15 Supreme Court Lapse

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

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2 equal to $11,807,400 is lapsed from sum certain appropriation accounts or is
3 subtracted from the expenditure estimates for any other types of appropriations, or
4 both, in the 2013–15 fiscal biennium.".
5 **(END)**