



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #1101

Security Initiative (DOA)

[LFB Summary of the Governor's Budget Reform Bill: Page 8, #3 and Page 12, #13]

CURRENT LAW

Terrorism Preparation and Response. Under current law, the Office of Justice Assistance (OJA), in the Department of Administration (DOA): (a) serves as the state planning agency under the federal Juvenile Justice and Delinquency Prevention Act of 1974 and prepares a state comprehensive juvenile justice improvement plan on behalf of the Governor; (b) recommends appropriate legislation in the criminal and juvenile justice field to the Governor and the Legislature; (c) cooperates with and renders technical assistance to state agencies and units of local government and public or private agencies relating to the criminal and juvenile justice system; (d) administers justice-related grant programs; and (e) maintains a statistical analysis center to serve as a clearing house of justice system data and information and conduct justice system research and data analysis.

The Adjutant General of the Department of Military Affairs must: (a) subject to approval by the Governor, develop and promulgate a state plan of emergency management for the security of persons and property which shall be mandatory during a state of emergency; (b) prescribe and carry out statewide training programs and exercises to develop emergency management proficiency, disseminate information including warnings of enemy action, serve as the principal assistant to the Governor in the direction of emergency management activities and coordinate emergency management programs between counties; (c) furnish guidance and develop and promulgate standards for emergency management programs for counties, towns and municipalities, and prescribe standard terminology for all levels of emergency management; (d) withhold grant funding from any political subdivision of the state that has failed to comply with the requirement to establish and maintain an operating emergency management organization; and (e) provide assistance to the Wisconsin wing of the civil air patrol for the purpose of enabling the patrol to perform its assigned missions and duties as prescribed by U.S. Air Force regulations.

In carrying out the emergency management duties of the Adjutant General, the Division of Emergency Management (DEM) has been created within the Department of Military Affairs. State and local government response to natural or man-made disasters, including the threat of chemical or biological weapons of mass destruction, are guided by the emergency management system developed in Chapter 166 of the statutes. DEM has developed the Wisconsin Emergency Operations Plan, which establishes the responsibilities of various governmental units in the event of a natural or man-made disaster.

A local emergency planning committee is appointed by the county board of supervisors in each county to facilitate the preparation and implementation of an emergency response plan for responding to the release of a hazardous substance. At least annually, county boards submit to DEM a list of the members of the local emergency planning committee appointed by the board, including the agency, organization or profession that each member represents.

State Capitol Police Staffing. DOA's Bureau of Capitol Police is responsible for protecting state buildings and property, providing security for the Governor and other dignitaries and enforcing state parking regulations. The Bureau is budgeted \$5,040,800 PR annually and is authorized 61.5 PR positions (49.0 FTE law enforcement personnel and 12.5 FTE communications and support personnel) in Madison and Milwaukee. Bureau operations are funded from charges assessed against the appropriations that finance the operation of the properties protected by the State Capitol police.

GOVERNOR

Terrorism Preparation and Response Grant Program. Provide \$3,600,000 GPR in 2001-02, in one-time funding in a newly-created biennial appropriation for a terrorism preparation and response grant program administered by OJA. Require OJA to provide grants to local emergency planning committees to purchase materials and services for use in investigating, preventing, or responding to acts of terrorism. Provide that materials and services that could be purchased with these funds would include any of the following: (a) communications equipment; (b) safety or protective equipment for law enforcement officers, fire fighters, emergency medical technicians, first responders, or local emergency response team members who respond to emergencies; (c) training related to investigation or prevention of, or response to, acts of terrorism that pose a threat to the environment; and (d) information systems, software, or computer equipment for investigating acts of terrorism that pose a threat to the environment. Repeal the terrorism preparation and response grant program, effective July 1, 2003.

Define "act of terrorism" as a felony under the criminal penalty chapters, excluding the uniform controlled substances act chapter, that would be committed with an intent to terrorize and would be committed under any of the following circumstances: (a) the person committing the felony caused bodily harm, great bodily harm, or death to another; (b) the person committing the felony caused damage to the property of another and the total property damaged was reduced in value by \$25,000 or more (property would be considered reduced in value by the amount that

it would cost to either repair or replace it, whichever would be less); or (c) the person committing the felony used force or violence, or the threat of force or violence.

State Capitol Police Staffing Increase. Provide \$79,600 PR in 2001-02 and \$238,400 PR in 2002-03 and authorize 5.0 PR police officer positions annually for increased State Capitol police staffing.

DISCUSSION POINTS

Terrorism Preparation and Response Grant Program

1. Under the terrorism grant program, the Office of Justice Assistance (OJA) would be directed to provide local emergency planning committees with grant funds to purchase materials and services for use in investigating, preventing or responding to acts of terrorism. According to DOA, local emergency planning committees were selected as the program grantees as these committees: (a) are required to be created by the county board of supervisors in each county; (b) are responsible for preparing and implementing an emergency response plan for responding to the release of a hazardous substance, and the program targets, in part, terrorist acts that pose a threat to the environment; and (c) have developed relationships with local fire, law enforcement and other departments with whom they could coordinate in making materials and services purchases under the grant program.

2. Materials and services that could be purchased under the grant program would include any of the following: (a) communications equipment; (b) safety or protective equipment for law enforcement officers, fire fighters, emergency medical technicians, first responders, or local emergency response team members who respond to emergencies; (c) training related to investigation or prevention of, or response to, acts of terrorism that pose a threat to the environment; and (d) information systems, software, or computer equipment for investigating acts of terrorism that pose a threat to the environment. A survey of responses provided to the Governor's Terrorism Task Force from both state and local governmental units was used in identifying needs under the terrorism grant program.

3. The bill does not specify how OJA is to distribute the funds. According to DOA, as the budget reform bill was being drafted, there was uncertainty as to what, if any, future federal grant funds might become available for similar purposes and what, if any, conditions the federal government might place on such money. In order to allow the terrorism grant program to coordinate with any federal grant program, the program was drafted to provide flexibility to avoid conflict with a federal grant program.

4. The terrorism grant program would receive one-time funding and would sunset on July 1, 2003. Again, not knowing whether and how much future federal grant funding might become available, the terrorism grant program was developed to provide short-term state help.

5. The terrorism grant program funding of \$3.6 million is not tied to the cost of meeting specified short-term goals. As a result, the Joint Committee on Finance could consider

providing a lesser amount of funding that would allow the program to meet the state's most pressing local terrorism preparation and response needs, as determined by the agency administering the program.

6. The terrorism grant program would provide emergency management resources: (a) to combat terrorism that poses a threat to the environment; and (b) for safety or protective equipment to law enforcement officers, fire fighters, emergency medical technicians, first responders and local emergency response team members. OJA administers a variety of federal and state justice-related grant programs and has indicated that it is able and willing to run the program. Placing the terrorism grant program in OJA could be seen, however, as broadening the mission of OJA beyond its justice assistance function. On the other hand, OJA is an agency experienced in grant administration.

7. OJA has indicated that without additional administrative resources, it would likely operate the program as a pass-through grant program (that is, distributed on some formula basis), and not as a needs-based grant program (under which potential grantees submit proposals demonstrating need, which are ranked and awarded based on specified needs criteria developed by the granting agency). OJA indicates that a needs-based program would likely require 1.5 additional staff positions for fiscal (0.5 fiscal specialist) and program administration (1.0 program specialist/planning analyst).

8. The terrorism grant program could be seen as part of an emergency management effort. The Division of Emergency Management (DEM), in the Department of Military Affairs, has developed the Wisconsin Emergency Operations Plan, which establishes the responsibilities of state and local government in the event of natural or man-made disasters, including terrorism. DEM has participated in terrorism preparedness and response efforts at the state level through the Interagency Working Group on Terrorism and more recently through the Governor's Task Force on Domestic Preparedness.

9. DEM administers two federal grant programs that provide money to the states to assist in planning, training and responding to terrorism. Under the Terrorism Consequence Management Preparedness Assistance (TCMPA) Grant Program, DEM has provided grants to counties to enhance their terrorism preparedness through planning, training and exercises. DEM also administers the State Domestic Preparedness Equipment (SDPE) Grant Program, through which it provides funds to state and local governments to support the purchase of specialized equipment to enhance state and local ability to respond to weapons of mass destruction and terrorist incidents involving the use of chemical or biological agents, radiological explosives and incendiary devices.

10. In order to qualify for SDPE federal funding, states were required to conduct statewide needs, capabilities, and threat and vulnerability assessments to assess risks and capabilities to respond to a terrorist incident, and develop a state strategy. As a part of the state effort to qualify for this funding, 53 Wisconsin counties conducted threat and vulnerability assessments for their jurisdictions. They also assessed their capabilities to meet those threats and identified future equipment needs. For those counties that did not participate, DEM assumed the

responsibility for completing their county analysis. DEM also completed this analysis for the state and forwarded the information to the Office of Justice Programs in the federal Department of Justice. As a result, Wisconsin recently qualified for \$2.6 million in federal funds under this program that were distributed to all 72 Wisconsin counties. While the exact amount of funding is not yet known, it is anticipated that Wisconsin will qualify for \$1.4 million or more under this federal program for federal fiscal year 2001-02.

11. Under current law, DEM administers a state emergency planning grant program for the purpose of assisting local emergency planning committees comply with s. 166.20 (hazardous substances information and emergency planning) and applicable federal law. Under the terrorism grant program, the agency administering the program would work with and issue grants to local emergency planning committees. As DEM has an existing grant program relationship with local emergency planning committees, it could be argued that DEM might be suited to administer a one-time grant program to provide grants to these committees.

12. The terrorism grant program would assist local emergency planning committees to purchase materials and services for use in investigating, preventing, or responding to terrorism. Through the federal SDPE grant program, DEM has a methodology for identifying needs and threats in the context of terrorism grants at the local level, which the grant program would target. Finally, DEM has indicated that they would be willing to, and could, operate a needs-based grant program within existing resources.

13. The Committee could consider placing the state terrorism grant program under DEM, rather than OJA. DEM has more direct experience in terrorism preparation and response than does OJA, and already administers a federal program that distributes funding for a purpose similar to the proposed state program. Placing the program in DEM could allow DEM to coordinate this grant program with the two federal grant programs that DEM currently administers.

14. As the state already receives grant funds under two federal terrorism programs administered by DEM, the Committee may wish to delete the provision to create a one-time state grant program.

State Capitol Police Staffing Increase

15. Currently, State Capitol police personnel provide a wide variety of security-related services (active patrols and monitoring; securing building access; building lock-up and opening; parking patrol and enforcement and responding to complaints) at 20 state-owned, and 23 leased buildings in Madison.

16. Historically, there has always been a certain amount of overtime required for the police assigned to the State Capitol. Additional overtime staffing has been due to the need for increased security or crowd management associated with scheduled public events at the Capitol, scheduled and unscheduled rallies and demonstrations, late-night sessions of the Legislature or of legislative committees and the presence of various national and international dignitaries who visit the building. Funding for this overtime staffing is typically budgeted as a standard budget

adjustment item. Actual base year overtime expenditures are used for budgeting purposes. The 2001-03 biennial budget included \$283,000 PR annually under the appropriation supporting the State Capitol police function for overtime staffing. Most of this budgeted overtime funding is attributable to additional hours associated with Bureau of Capitol Police protective functions.

17. Additional State Capitol police staffing has been recommended by the Governor to address a sharp increase in the amount of overtime that has been required of Bureau personnel since heightened security measures were instituted at state facilities following the September 11 terrorist attacks. DOA indicates that prior to September 11, there was one officer normally assigned to the State Capitol during the workweek. Since September 11, the staffing level at the Capitol has increased to five. There has also been an increase in the amount of staffing during non-business hours and on weekends.

18. The additional positions would all be assigned primarily around the State Capitol and would generally perform the same types of monitoring and security functions undertaken by current State Capitol police officers. It is anticipated that the new staff would receive anti-terrorist response training by the Department of Military Affairs' Division of Emergency Management.

19. DOA has also indicated that there are currently sufficient reserves in the space rental account so that no additional agency charges would be required during the current biennium to fund the recommended new positions.

20. In order to assess the need for 5.0 PR additional police officer positions, the average number of hours of overtime incurred by State Capitol police and the total amount of overtime salaries and fringe benefits paid were examined. This review compared the overtime records for those biweekly pay periods during calendar year 2001 that fell before the September 11 attacks with those of the biweekly pay periods that fell during and after the attacks. The results of this review are summarized below.

<u>Pay Periods</u>	<u>Average Biweekly Hours of Overtime</u>	<u>Average Biweekly Overtime Paid</u>
Prior to September 9 [1 thru 19]	252	\$8,630
September 9 thru December 29 [20 thru 26]	885	30,085
Amount of Increase	633	\$21,455

21. Annualizing the average number of additional overtime hours incurred during the biweekly pay periods since September 11 (633 hours), a total of 16,458 additional overtime hours are indicated for the year. This level of overtime is equivalent to approximately 7.9 FTEs.

22. However, in reviewing the actual number of overtime hours incurred during each of the biweekly pay period since September 11, the number of overtime hours has ranged from a high of 1,313 hours between October 7 and 20, to a low of 293 hours between September 23 and October 6. Since the maximum of 1,313 hours of overtime was incurred in mid-October, there has been a

general downward trend in the total number of overtime hours incurred during the pay period.

23. Based on the amount of overtime hours being incurred by current State Capitol police personnel, additional staffing could be justified, provided the recent overtime workload increase proves to be permanent in nature. The Committee could address this situation in one of two ways.

24. First, the Bureau of Capitol Police appears to have an underlying basic overtime workload requirement averaging at least 252 hours per pay period, or 6,552 hours annually. This need is equivalent to approximately 3.1 FTE positions. The Bureau currently has additional post-September 11 staffing needs, but it is not known how long the current heightened security requirements will continue or whether such mitigating factors as possible changed building entry points, revised building access hours or redeployment of existing staff might serve to reduce the increased need for overtime staffing.

25. The Committee could choose to authorize 3.0 PR officer positions on a permanent basis to address the Bureau's historic overtime hour workload and provide the additional 2.0 PR positions on a project basis through June 30, 2003. At that time the Bureau's overtime workload could be reviewed and the continuing need for these project positions could be reassessed as part of the biennial budget process.

26. Second, the Committee could defer authorizing any additional positions at this time. The Bureau of Capitol Police was able to operate until September 11 at currently authorized staffing levels with an on-going, basic overtime requirement averaging 252 hours per pay period. The Bureau has already budgeted sufficient overtime funding to support this level of additional workload. As discussed above, it is not known how long current increased security needs at the Capitol will continue or whether they can be addressed, in part, through procedural and organizational changes. Consequently, the Committee could deny the Governor's recommended State Capitol police staffing increase at this time and review the matter again in the context of the 2003-05 biennial budget process, once longer term, post-September 11 staffing data is available.

ALTERNATIVES TO BILL

A. Terrorism Preparation and Response Grant Program

1. Approve the Governor's recommendation to provide \$3,600,000 GPR in 2001-02, in a newly-created biennial appropriation, for a terrorism preparation and response grant program administered by the Office of Justice Assistance to provide grants to local emergency planning committees to purchase materials and services for use in investigating, preventing, or responding to acts of terrorism. Provide that the following materials and services that could be purchased with these funds would include any of the following: (a) communications equipment; (b) safety or protective equipment for law enforcement officers, fire fighters, emergency medical technicians, first responders, or local emergency response team members who respond to emergencies; (c) training related to investigation or prevention of, or response to, acts of terrorism that pose a threat to the environment; and (d) information systems, software, or computer equipment for investigating

acts of terrorism that pose a threat to the environment. Repeal the terrorism preparation and response grant program, effective July 1, 2003.

2. Modify alternative A1 to provide that the Division of Emergency Management in the Department of Military Affairs administer the grant program instead of OJA.

3. Modify alternative A1 or A2 to provide the following level of grant funding:

	<u>Level of Funding</u>	<u>Change to Bill</u>
a.	\$3,000,000 GPR	-\$600,000
b.	\$2,500,000 GPR	-\$1,100,000
c.	\$2,000,000 GPR	-\$1,600,000
d.	\$1,500,000 GPR	-\$2,100,000
e.	\$1,000,000 GPR	-\$2,600,000
f.	\$500,000 GPR	-\$3,100,000

4. Delete the Governor's recommendation.

<u>Alternative A4</u>	<u>GPR</u>
2001-03 FUNDING	-\$3,600,000

B. State Capitol Police Staffing Increase

1. Approve the Governor's recommendation.

2. Modify the Governor's recommendation by authorizing 2.0 PR of the 5.0 PR police officer positions as project positions through June 30, 2003.

3. Delete the Governor's recommendation.

<u>Alternative B3</u>	<u>PR</u>
2001-03 FUNDING	-\$318,000
2002-03 POSITIONS	- 5.00

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