

1993-94 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Joint Committee on
Finance (JC-Fi)

Sample:

Record of Comm. Proceedings ... RCP

- 05hrAC-EdR_RCP_pt01a
- 05hrAC-EdR_RCP_pt01b
- 05hrAC-EdR_RCP_pt02

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

➤ **

➤ Committee Hearings ... CH

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Hearing Records ... HR

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➤ Miscellaneous ... Misc

➤ 93hrJC-Fi_Misc_pt30

➤ Record of Comm. Proceedings ... RCP

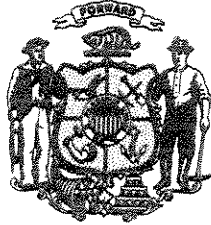
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State of Wisconsin

SENATE CHAIR

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JOINT COMMITTEE ON FINANCE

March 1, 1993

TO: JOINT COMMITTEE ON FINANCE MEMBERS

FROM: Senator Gary R. George
Representative Barbara J. Linton
Co-Chair, Joint Committee on Finance

Attached are copies of requests from the Department of Administration dated February 26, 1993, under s. 16.515/16.505(2) of the statutes.

Please review these items and notify our office not later than Friday, March, 19, 1993, if you have any concerns about the requests or would like the Committee to meet formally to consider them.

Also, please contact us if you need additional information.

GRG:BJL:lmr

Attachments

CORRESPONDENCE/MEMORANDUM

**STATE OF WISCONSIN
Department of Administration**

Date: February 19, 1993
To: Honorable Gary R. George, Co-Chair
Honorable Barbara J. Linton, Co-Chair
From: James R. Klauser
Secretary
Department of Administration
Subject: s. 16.515/16.505(2) Requests

Enclosed are requests which have been approved by this department under the authority granted in s. 16.515 and s. 16.505(2). The explanation for each request is included in the attached materials. Listed below is a summary of each item:

AGENCY	DESCRIPTION	1991-92		1992-93	
		AMOUNT	FTE	AMOUNT	FTE
V.T.A.E. 20.292(1)(gm)	Fire Schools			\$ 76,000	1.00*
H&SS 20.435(1)(i)	Rural Medical Centers Project				1.00**
DNR 20.370(2)(dL)	Waste Tire Removal			\$ 80,600	2.5***
DOJ 20.455(1)(k)	Tire Dump Enforcement				1.5***

* Six-month project
** Project position with ending date of 3/31/96.
***Four-year project positions

As provided in s. 16.515, this request will be approved on March 12, 1993, unless we are notified prior to that time that the Joint Committee on Finance wishes to meet in formal session about this request.

Please contact Roger Grossman at 266-1072, or the analyst who approved the request in the Division of State Executive Budget and Planning, if you have any additional questions.

Attachments:

CORRESPONDENCE MEMORANDUM

STATE OF WISCONSIN
Department of Administration

Date: February 8, 1993

To: James R. Klauser
Secretary

From: Orlando Canto 
Education Team

Subject: S. 16.505/16.515 Request from State Board of Vocational, Technical and Adult Education.

Request:

Under the statutory provisions of s. 16.505 (2) and 16.515 the State Board of Vocational Technical and Adult Education (SBVTAE) is requesting the creation of 1.0 FTE PR-S project position and increased PR-S expenditure authority of \$76,000 in appropriation 292(1)(gm), in FY93 only.

Analysis:

At the conclusion of FY92, the SBVTAE had a PR-S balance of \$76,077 in appropriation s. 20.292(1)(gm) (the fire schools appropriation). Funds from this appropriation are used to operate a training program in fire prevention and protection. Programs are available to members of volunteer and paid fire departments maintained by public and private agencies.

The fire schools appropriation is an annual PR-S appropriation. Funds for the appropriation are generated from the Department of Industry, Labor and Human Relations (DILHR) fire dues distribution appropriation (s. 20.445[1][L]), which requires the set-a-side of 2% of premiums paid to the state fire fund for the certification of fire departments.

The fund surplus was created by the sudden disability and subsequent retirement of the agency's fire service consultant. Further, in the absence of a fire service consultant, several fire schools were canceled and the development of new curriculum was delayed.

The agency is requesting permission to use the FY92 surplus funds in FY93 to advance the purposes of the VTAE fire services program. In particular, the SBVTAE would like to use the funds on the following three projects:

1. Fund a 1.0 FTE PR-S project program assistant position, for the remainder of the fiscal year, to process the backlog of fire fighter course certificates. Approximately 12,000 to 15,000 individuals take courses annually and certificates are awarded upon completion.
Estimated cost \$12,000.

2. Contract with VTAE districts for the development of a new Fire Inspector I course. This course was requested by DILHR and will be in two 30 hour modules. It is expected that one or two firefighters from each local fire department will take this course and large city fire departments may have as many as 10 representatives at these courses. Estimated cost \$45,000.
3. Purchase hardware and software for two additional work stations. The two additional work stations will create a new networked system for the fire fighter certificate program and records. Networking the system will permit both the program assistant and the fire consultant to access and work on the database and certificate records. The new system will facilitate the conversion of the estimated 12,000 to 15,000 annual individual records to the new database system and assist in eliminating the backlog of certificates. Estimated cost \$19,000.

Recommendation:

Approve the request to create 1.0 FTE six month PR-S project position and increase PR-S expenditure authority, in FY93 only, by \$76,000 in appropriation 292 (1) (gm). The unexpected retirement of the fire services consultant created the surplus funding to support this request. Surplus funds in this appropriation cannot be spent for any other program purpose.

Rationale for recommendation:

- The program assistant position was requested in the SBVTAE FY93-95 budget and the Governor's budget recommends its approval.
- The curriculum development is necessary for the new fire inspector course. DILHR requested the course and local fire departments are expected to use it extensively. Once the curriculum is established, it will become an on-going program.
- The additional work stations and network system will help eliminate the backlog of certificates and improve overall management of the fire fighters program database. The existing system is outdated, and a new is needed.

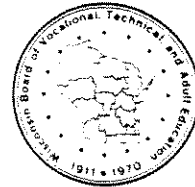
Wisconsin Board of Vocational, Technical and Adult Education

310 Price Place

P.O. Box 7874

Madison, WI 53707

608-266-1207




Dwight A. York
State Director

MEMORANDUM

DATE: December 2, 1992

TO: Orlando Canto
Executive Budget Office, DOA

FROM: Edward Chin, Assistant State Director 
WBVTAE

SUBJECT: Increase Fire Schools State Operations Program Revenue

May we request that the balance in the agency's 1991-92 Fire Schools appropriation be carried forward to 1992-93. This balance was created by the sudden disability and retirement of the agency's Fire Service Consultant. This caused canceling some fire schools and delayed the development of new curriculum.

We are planning to use the carryover funds for these purposes:

- 1) Fund a project position for the balance of the fiscal year. We currently have approximately 12,000 to 15,000 individuals who have taken Fire Fighter I and II courses. Our office must maintain records of all students who take these courses. Certificates are issued to each one who completes the course. In some departments, the firefighter receives additional compensation upon receiving his/her certificate. Currently we have a backlog of certificates and records to process. We have requested this position in the 1993-95 biennial budget. Estimated cost: \$12,000.
- 2) Contract with VTAE districts for writing new curriculum for the Fire Inspector I course. This course will be in two modules of 30 hours each. Depending on the size of the fire departments, it is expected that one or two firefighters from each department will take this course. Large cities like Appleton may have as many as 10 firefighters enrolled. This course was requested by DILHR. Estimated development cost and printing of the materials: \$45,000.
- 3) Two new microcomputers and the necessary software to create a network for the two program assistants and the fire consultant. We are purchasing new data base software and converting the 12,000 to 15,000 individual records to this new software. Estimated cost: \$19,000.

Orlando Canto
Page 2
December 2, 1992

Included are the allotment #10, PMIS 1, and related forms.

If you have any questions, please contact Jim Urness or Ron Braem of our agency.

EC:DJJ
Enclosures

CORRESPONDENCE/MEMORANDUM

STATE OF WISCONSIN
Department of Administration

Date: February 16, 1993

To: James R. Klauser, Secretary
Department of Administration

From: Ann Roth, Budget Analyst *AR*
Division of Executive Budget and Planning

Subject: s. 16.505 Request from the Department of Health and Social Services for Rural Medical Center Grant Project Position

Request

The Department of Health and Social Services (DHSS) requests 1.0 PR-0 three-year project position, funded from s. 20.435 (1)(i), Gifts and grants. The position would have a termination date of March 31, 1996.

Background

DHSS has entered into an agreement with the Rural Wisconsin Hospital Cooperative to define and establish a new designation of health care provider, the "Rural Medical Center" (RMC). Rural hospitals designated as Rural Medical Centers would, in addition to inpatient and outpatient care, offer such services as long term nursing care, home health care and hospice care. It is hoped that diversifying the role of the rural hospital will help to ensure its viability and maintain access to health care in the rural community.

The goal of the project is to define and establish a single set of rules that will allow a single survey process for Rural Medical Centers. Currently, providers must go through a separate survey and certification process for each type of health care service they provide. DHSS hopes to streamline the survey process for RMCs and to reduce the bureaucracy that otherwise would exist for rural hospitals that expand into different service areas. The Rural Medical Centers would continue to be separately licensed and certified for each function as required under federal law; only the survey process would be integrated into one single process.

Analysis

The position requested will review current rules and coordinate the development and promulgation of new rules for a single survey process. The position will be in the Bureau of Quality Compliance which is responsible for survey and certification activities for health care providers. Under an agreement with the rural hospitals, DHSS will receive \$50,000 per year for three years (Federal fiscal years ending September 30, 1993, 1994 and 1995) to fund the position. The agreement may be extended for an additional 6 months, until March 31, 1996. Once administrative rules and the process for the new survey are in place, it is anticipated that existing staff would be able to survey Rural Medical Centers within their current workload.

Recommendation

Approve 1.0 PR-0 FTE project position, with an end date of March 31, 1996, funded under s. 20.435 (1) (i), Gifts and grants. Since the appropriation is continuing, approval of additional expenditure authority is not required.

Tommy G. Thompson
Governor
Gerald Whitburn
Secretary

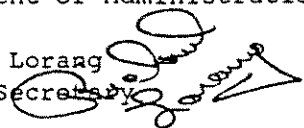


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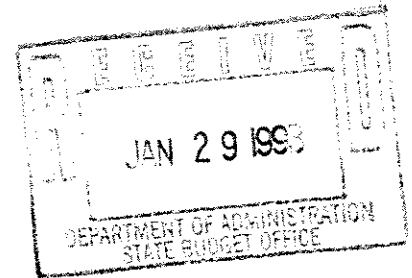
State of Wisconsin Department of Health and Social Services

Date: January 22, 1993

To: Richard Chandler, Budget Director
Department of Administration

From: Richard Lorang
Deputy Secretary 

Re: s. 16.505 Request for Rural Medical Center Grant Project Position



The Department of Health and Social Services requests one PRO FTE project position, under the provisions of s. 16.505, funded from s. 20.435(1)(i) - Gifts and Grants, numeric 133.

The Department has been working with the Wisconsin Hospital Association and the Rural Hospital Cooperative for the last three years to develop and define the concept of a Rural Medical Center (RMC). In Act 250, the Department was directed to continue this process of cooperative development. Since then, the Department has entered into an agreement with three rural hospitals to develop and implement a new state licensure designation for RMCs. The Bureau of Quality Compliance (BQC), on behalf of the Department, will receive \$50,000 per year from the hospitals for three years (October 1, 1992 through September 30, 1995). The contract does contain a provision for one six-month renewal option. Thus, the Department requests a 3/31/96 end-date for this project position. The funding is available to the three hospitals as part of a \$450,000 Rural Health Care Transition Grant awarded to the hospitals by the federal Health Care Financing Administration. The hospitals are providing the \$150,000 to the Department for the explicit purpose of supporting activities within BQC to begin developing the statutory and regulatory framework that will permit the establishment of RMCs. The ultimate goal of the RMC project is to improve access to a range of health care services in rural communities who otherwise would be at risk of losing such services. The balance of the grant will be used by the hospitals themselves to enhance the provision of medical services in their communities.

Small, rural communities are facing an important health care access issue as their traditional hospitals vacate their role as providers of inpatient care. Rural health care traditionally has had five components: the community hospital, the local family physician, the county Public Health nurse, the local Emergency Medical Service (EMS) and the nursing home. Each of these important rural providers is going through difficult transitions. The rural hospitals attempt to broaden their service base to remain competitive, but often close; the individual physician practice is disappearing with the

retirement of the 1950's-trained physicians - being replaced with multi-physician clinics in certain areas; the EMS must fund more complex equipment, training and services within the framework of mostly volunteer services; and nursing homes face more complex residents beyond the traditional geriatric population and an ever-changing reimbursement environment.

The risk for rural communities is that as each of these individual components fail to survive, the access to needed care diminishes. The role of government in the maintenance of rural health care is very important. In the case of rural hospitals, one important barrier to their transition to multiple health services is the impact of state and federal regulation of those services. Currently, each service is separately regulated under both state licensure and federal certification. With this separate regulation come separate administrative rules and surveys. This system can cause an overly burdensome regulatory environment for rural hospitals, the result of which is the closure of the facilities, rather than the expansion of the facilities into other health services.

The goal of the cooperative effort between the Department and the hospital industry is to define and establish a single set of regulations and administrative rules which will permit a single survey process for rural hospitals who wish to expand into multiple service areas. This new, multiple service provider in a rural area would be designated as a Rural Medical Center. It is important to distinguish between licensing, certification and designation. Although RMCs would be defined in statute, they would not be a licensed entity. Similarly, no request would be made to the federal government for a special RMC certification. Instead, the request would be for designated status as an RMC, making the facility eligible for the single survey process.

The project position being requested, a Program and Planning Analyst 4, will serve as project coordinator for the Rural Medical Centers. The functions of this position will include coordination, development and promulgation of administrative rules to implement the licensure of Rural Medical Centers. The position will also conduct program evaluation, project coordination and policy analysis activities.

Since this is a continuing appropriation, no expenditure authority is required.

Thank you for your consideration of this request.

cc: Tilli de Boor, OPB
Ann Haney, DOH

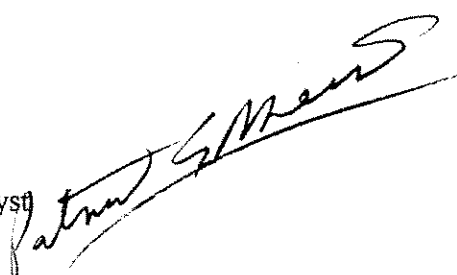
CORRESPONDENCE/MEMORANDUMSTATE OF WISCONSIN
Department of Administration

Date: February 18, 1993

To: James R. Klauser, Secretary
Department of Administration

From: Patrick E. Meier, Policy and Budget Analyst
Department of Administration

Subject: S. 16.505/16.515 Request for Project Positions and Spending Authority for Waste Tire Removal and Recovery Program

**REQUEST**

The Department of Natural Resources (DNR) requests the creation of 4.0 FTE and a spending authority increase of \$117,175 PR in FY93 and \$632,800 PR in FY94 to support the Waste Tire Removal and Recovery Program. The Department of Justice (DOJ) requests authorization for 1.5 FTE and spending authority of \$40,100 PR-S in FY93 and \$70,100 PR-S in FY94 to provide related legal services.

The request contains three elements:

1. Create 4.0 program revenue, four-year-project positions and increase expenditure authority by \$77,075 PR in FY93 and \$162,000 PR in FY93. This will expand the department's existing capabilities related to licensing, enforcement and clean-up management and also central office grant administration and policy development functions.
2. Increase expenditure authority by \$400,000 PR in FY94 to enable the department to expand two existing grant programs
3. Increase DNR expenditure authority by \$40,100 PR in FY93 and \$70,100 PR in FY94 to fund a DNR contract with DOJ to provide increased tire dump enforcement and cost-recovery actions. Concurrently, provide PR-S spending authority in that amount to DOJ and approve 1.5 PR-S four-year project positions.

BACKGROUND

The Waste Tire Removal and Recovery Program was created by the 1987-88 Legislature to address the environmental and public health concerns presented by existing stockpiles of 20 million waste tires and the 5 million waste tires generated each year. The program operates on two fronts. First, it regulates the handling of waste tires, mandates and supervises the clean-up of existing tire stockpiles and seeks cost recovery from owners of stockpiles cleaned up at state expense. Second, it works to develop new markets for waste tires and subsidizes existing users to enable them to absorb waste tires supplies.

The program is budgeted at \$3,014,100 PR and 3.0 FTE in FY93. One central office manager oversees the program and administers the waste tire management or recovery grant program and the reimbursement grant program. Two field office staff are responsible for licensing, enforcement and clean-up management throughout the state.

Four issues must be addressed at this time, each of which impacts the effectiveness of the

program.

1. Illegal dumping of waste tires has become an increasing problem, due in part to the cost of legal disposal. Waste tire haulers, who collect a fee from waste tire generators, must pay a tipping fee to processors who use the tires for energy conversion or product manufacture. It is cheaper, albeit illegal, for the hauler to collect the fee from the generator and then dispose of the tires by simply dumping them out of sight or even in another state. Lack of DNR enforcement ability makes detection of these illegal operations unlikely while tipping fees contribute to their profitability. This portion of the request was originally submitted by the DNR as part of its 1993-95 biennial budget request but withdrawn with the intention of bringing added resources to bear on the illegal dumping issue more quickly through the s. 16.505/16.515 process.
2. The federal Intermodal Surface Transportation Efficiency Act (ISTEA) has mandated the use of waste tires in up to 20% of federally funded asphalt paving projects by 1997. Current technology makes this a very expensive alternative use of waste tires. DNR estimates that, employing current technology, the cost to reuse a tire in this manner exceeds \$25, which would represent a substantial, and uneconomic, increase in the cost of paving projects. However, federal law provides an exemption from this ISTEA mandate for states which demonstrate an effective program for the alternative reuse of waste tires.
3. Private industry has made substantial investments to be able to reuse waste tires, primarily as an energy source. When used in this manner, the cost of disposal is approximately \$1, the least expensive alternative currently available. Established energy recovery operations in Wisconsin currently have the capacity to handle all waste tires generated in the state. Ironically, businesses which have invested in this technology now face a shortage of tires due to the less expensive option of illegal dumping.
4. The department chose to concentrate first on the largest of the waste tire stockpiles in the state and has made substantial progress in cleaning up those stockpiles. As attention shifts to smaller stockpiles, the department projects a workload increase. This is because the administrative, oversight, legal and cost recovery activities involved are essentially the same, regardless of the size of the tire pile. Thus, in order to maintain the established pace of cleaning up 2 million stockpiled tires each year, more stockpiles will need to be cleaned up in each year, and more staff will be required to accomplish this.

ANALYSIS

The current problem is two-fold. First, there is a need to divert waste tires from illegal dumps to existing, environmentally sound disposal processes. Second, the DNR request seeks to maintain the current level of effort in cleaning up existing waste tire dumps. The DNR request addresses these objectives in several ways.

1. **Licensing and Enforcement** - The department proposes to visit each storage and processing facility three to four times annually to assure that acceptable procedures

are being followed. Additionally, the department plans to more strictly enforce existing rules requiring waste tire generators to use licensed haulers to transport tires to licensed disposal facilities. It is anticipated that better enforcement of waste tire hauler licenses will reduce the problem of illegal dumping. The department also proposes to inspect as many as 20% of the 3,000 generators in the state each year, spending 1.25 days at each one. This effort, if carried out, would require at least 3.0 FTE. There is, however, little indication that illegal dumping problems are created by the waste tire generators, 83% of which are tire retailers who simply hire a hauling firm to take away tires. While the increased efforts to enforce licensing provisions for waste tire haulers and increase compliance on the part of salvage yard operators appears appropriate, concentration on waste tire generators as a group appears to be a questionable use of resources. Staffing for this function could be reduced by 1.5 FTE with no loss of program effectiveness.

2. **Contract with Department of Justice** - A significant part of the expanded enforcement activity will be a contract with the Department of Justice (DOJ) to handle tire dump enforcement and cost recovery actions. Lack of staffing at the Department of Justice has contributed to a poor cost recovery record to this point. Only four cost recovery actions have actually been pursued, recovering only \$50,000. While all funds received from these cost recovery actions go to the general fund, this recovery is far below the actual cost of cleanup in each case. By increasing the likelihood of successful cost recovery action, DNR hopes to encourage responsible parties to take action on their own. Further, the viable threat of legal proceedings will help DNR avoid much of the legal delay and noncompliance now experienced in the operation of the waste tire program. Because the DOJ appropriation for this purpose is continuing, it is only necessary to act on the position request at this point.
3. **Enhanced Rebate Programs** - DNR operates two grant programs to encourage environmentally sound reuse or disposal of waste tires. The processor rebate program makes \$750,000 available annually to subsidize waste tire processors and reduce the tipping fees charged to waste tire generators. The end user rebate program provides \$250,000 annually to encourage development of additional economically feasible alternatives for waste tire disposal. This request seeks to enhance each grant program by \$200,000 annually starting in FY94. The s. 16.515 process is not intended to supplement appropriations in other than emergency situations or for future biennia. Further, this appropriation is also continuing and additional allotment authority may be approved by the Department of Administration as necessary.
4. **Increased Grant Program Staffing** - In addition to grant program expansions, the DNR is requesting central office staff to assist in development of program changes and new administrative rules and eventually to administer the grant programs and allow the current program manager to spend more time on clean-up and enforcement activities and general management of the overall program.
5. **Increased Clean-up Staffing** - There remain approximately 500 waste tire stockpiles in the state. Most of these contain less than 100,000 tires. Because

workload is related to legal proceedings, administrative requirements, the bid letting process and cost recovery attempts, smaller tire stockpiles generate a disproportionate workload. The department estimates 1,600 hours will be expended by field staff in FY93 to clean up 16 sites, or 100 field staff hours per site. Because of the smaller number of tires at remaining sites, 26 sites will be required to be cleaned up in FY94 to meet the goal of 2.0 million tires annually. Using the same 100 hour per site figure, an additional 1,000 hours or .5 FTE will be necessary to meet this objective.

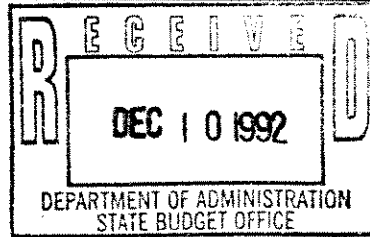
6. **Funding** - The waste tire removal and recovery program is funded by a charge of \$10 on each automobile registered for the first time in Wisconsin. This fee generates approximately \$2.7 million annually. At the end of FY92, the fund carried an unencumbered closing balance of \$4,607,899. The additional funding requested here will draw on the closing balance and existing revenue authority with no increase in fees for the life of the project positions created.

RECOMMENDATION

1. Approve 2.0 four-year project FTE and \$46,800 PR in FY93 in s. 20.370 (2) (dL) to enhance the licensing and enforcement functions, generate caseload to fully utilize additional resources at the Department of Justice and compensate for additional workload associated with the declining size of waste tire dumps and for other enforcement duties. For FY94, \$82,200 PR should be approved under provisions of s. 16.517. These positions should also be available to assist central office staff with the temporary duties of revising administrative rules and making modifications to the existing grant programs.
2. Approve .5 four-year project FTE and \$6,900 PR in FY93 in s. 20.370 (2) (dL) to bolster central office staffing and help administer the grant programs. In FY94, \$19,700 PR should be approved under provisions of s. 16.517. Because DNR will not be able to fill these positions as early as anticipated, FY93 spending authority should be reduced by approximately one-third from the request.
3. Deny the request for an additional \$400,000 PR in s. 20.370 (2) (dj) because appropriation increases for future biennia are not properly dealt with through the s. 16.515 process. In addition, since s. 20.370 (2) (dj) is a continuing appropriation, necessary increases in spending authority for this appropriation should be addressed by DOA as needs arise.
4. Approve \$26,900 PR in FY93 in s. 20.370 (2) (dL) for contract funding with the Department of Justice. Also, approve 1.5 FTE four-year PR-S project positions in s. 20.455 (1) (k). Additional funding of \$70,100 PR in FY94 in s. 20.370 (2) (dL) should be approved in FY94 under the provisions of s. 16.517. Necessary funding increases in s. 20.455 (1) (k), which is a continuing appropriation, should be handled by DOA through the allotment process. Because this contract is unlikely to be implemented as quickly as the DNR request envisioned, the FY93 appropriation should be reduced from the request.

CORRESPONDENCE/MEMORANDUM

State of Wisconsin



FILE REF: 9310

DATE: December 8, 1992
TO: Pat Meier - DOA/7
FROM: Joe Polasek - DNR/5
SUBJECT: S. 16.505/16.515 Request to Create 4.0 PR 4-Year Project Positions and Expenditure Authority for the Waste Tire Program

REQUEST

The Department requests the creation of 4.0 PR 4-year project positions for the waste tire removal and recovery program and an increase in expenditure authority of \$77,075 for FY93 and \$162,700 for FY94 under appropriation s. 20.370(2)(dL), Stats. The Department also requests an increase in expenditure authority of \$400,000 under appropriation s. 20.370(2)(dj). An analysis of the waste tire account and the budget calculations for these positions are included as appendices to this request.

Three (3.0) FTE are needed to bolster the existing 2.0 field FTE responsible for licensing, enforcement and clean-up management. One (1.0) FTE is needed in the central office to help the existing 1.0 FTE manage clean-up contracts, to develop and implement an expanded reimbursement grant program and the waste tire management and recovery grant program, to develop new administrative rules to implement a redesign of the licensing program for waste tire haulers and to address new issues with respect to the program mandated by federal law.

The Department also requests an additional increase in expenditure authority of \$40,100 in FY93 and \$70,100 in FY94 under appropriation s. 20.370(2)(dL), Stats., to fund a contract with the Department of Justice for tire dump enforcement and cost recovery positions and activities. It is our understanding that a request from the Department of Justice for 1.5 project FTE was delivered to the Department of Administration on December 1, 1992. In requesting the expenditure authority for these positions, the Department is expressing its full support for the Department of Justice's request.

BACKGROUND

The Waste Tire Removal and Recovery Program was created during the 1987-88 Legislative session to clean-up and/or recover waste tires. This includes an existing 20 million waste tires stockpiled in Wisconsin, plus 5 million waste tires that are generated annually.

- 1. Program Requirements - The Legislation was designed to address three major issues:
a. The mitigation of environmental and public health issues with regard to existing nuisance waste tire stockpiles.
b. The development of reliable markets for environmentally sound disposal.

- c. Continued illegal dumping and stockpiling of tires generated on an annual basis.

In order to address these problems, the law authorized cleaning-up stockpiles, taking enforcement actions, recovering enforcement costs and providing economic incentives for reuse through a grant program to research new uses and a reimbursement program for persons using tires for energy or other products.

In addition to the mandates of state legislation, recent federal law has mandated the use of waste tires in a percentage of federally funded paving projects using asphalt beginning on January 1, 1994. The Intermodal Surface Transportation Efficiency Act (ISTEA) enacted in November, 1991, could double the cost of paving those highway projects which are subject to the new requirements unless the state can demonstrate it has an effective program to manage the reuse of waste tires or can rapidly develop the technology to lower these costs. This new and unanticipated mandate will require considerable attention by both the Department of Natural Resources and Transportation and could substantially increase the cost of paving highways in Wisconsin.

2. Program Staffing - The Department has 3.0 existing staff in the waste tire removal and recovery program: 2.0 field staff and 1.0 central office staff. The 2.0 existing field staff are located in the Southern and Western District Offices and are responsible for licensing, enforcement and clean-up management activities in assigned areas of the state. The central office position is responsible for overall program coordination and management, as well as, administration of the two waste tire related grant programs.

ANALYSIS OF NEED

There are between 500-700 waste tire stockpiles in the state requiring clean-up. Each clean-up requires a substantial amount of time to identify the stockpile, legally secure the stockpile for clean-up, arrange for clean-up and manage it.

With current staffing, a maximum of eight clean-ups per year at large sites can be handled. With the completion of large stockpiles (over 1.0 million), staff would have to manage 20 clean-ups per year of piles over 100,000 in order to maintain our goal of cleaning up two million tires per year over the next ten years. However, since most of the stockpiles (greater than 500) are less than 100,000, 40-50 clean-ups would need to occur each year to meet our goals.

An additional problem - illegal dumping - has surfaced as a major unanticipated problem for the waste tire removal and recovery program. Existing field staff spend over 75% of their time attempting to rectify illegal hauling, transportation and disposal of waste tires. Regardless of their efforts, the Department estimates that more than half of the 5.0 million waste tires generated each year in Wisconsin are illegally disposed. Recent data submitted by Waste Management, Inc., (WMI) supports this estimate. WMI operates the only legal waste tire disposal facility in seven southeastern counties in Wisconsin. In 1989, approximately 650,000 tires were brought to the WMI facility while over 1,750,000 waste tires are generated in this geographical area.

A more detailed analysis of the needs related to the waste tire removal and recovery program is provided below:

1. **Licensing** - The waste tire removal and recovery program reviews plans of operation (PO'S) for waste tire storage and processing facilities in accordance with NR 502. In addition, approvals are given to collectors and transporters of waste tires. Since the program began, 12 PO's have been reviewed for storage and processing facilities and 50 collector and transporter licenses issued. The table listed below provides a breakdown of the time required to issue licenses for these types of operations.

<u>Activity</u>	<u>Field Time</u>	<u>Dist. Office</u>	<u>Central Office</u>
Storage and Processing	80 hrs/site	8 hrs/site	16 hrs/site
Collection/Transportation	2 hrs/hauler	.5 hrs/hauler	----

Thus, storage and processing Pos average a total 104 hours of staff effort/site and collection & transportation licenses average a total 2.5 hours of staff effort/site. Based upon previous years, six Pos are anticipated to be reviewed per year for storage and processing and 20 licenses per year for collection and transportation. This equates to an average annual workload of:

$$\begin{aligned}
 6 \text{ sites} \times 104 \text{ hrs} &= 624 \text{ hours} \\
 20 \text{ licenses} \times 2.5 \text{ hrs} &= 50 \text{ hours} \\
 674 \text{ hours or } &.37 \text{ FTE}
 \end{aligned}$$

2. **Cleanup Activities** - The goal of the waste tire removal and recovery program is to clean up 2 million waste tires stockpiled per year in order to clean up the estimated 20 million stockpiled prior to January, 1988. Roughly, the 20 million waste tires currently stockpiled are segregated into the following size categories.

<u>Size</u>	<u>Number</u>
> 1,000,000	7
> 100,000 - < 1,000,000	33
< 100,000	500 - 600

A copy of the Department's recent progress report on our clean-ups and a table which summarizes our cost recovery efforts to date are attached.

Activities of the waste tire staff for cleanup activities include specific site identification of smaller piles, responsible party determination, nuisance determination, administrative order issuance, proposal review, contractor site visits, proposal award, site management, coordination with local officials, site closeout inspection, billing verifications, and cost recovery. Other district staff activities include order issuance and approval and proposal review and selection of contractor. The breakdown of field staff hours per site for these activities are detailed below:

<u>Activity</u>	<u>Hours</u>
a. Site identification, responsible party determination, nuisance request and administrative order issuance;	40 hrs/site
b. Proposal review, contractor site visit, contractor award;	24 hrs/site
c. Site management:	
50,000 tire site	24 hrs/site
100,000 tire site	32 hrs/site
250,000 tire site	80 hrs/site
500,000 tire site	160 hrs/site
d. Close-out inspection and billing verification;	16 hrs/site
e. Cost Recovery.	40 hrs/site

Using this schedule of work hours, field staff in FY93 will expend approximately 1,600 hours on site clean-ups to keep up with our goal of cleaning up 2 million waste tires per year. As the piles become smaller and more numerous, however, the total time spent on work items 1, 2, 4, and 5 increase. For example, in FY93, the Department will need to clean-up 16 sites of approximately 125,000 tires. In FY94, 26 clean-up sites of approximately 75,000 tires each will be needed to maintain the 2 million tire clean-up goal.

Using the above time estimates, cleaning up 16 sites in FY93 would require 2,560 hours of field staff time; in FY94, this workload increases to 3,760 hours. The table below summarizes the impact of the Department's clean-up schedule as piles become smaller and more numerous:

<u>FY</u>	<u># Sites Cleaned-up With:</u>		<u># Tires Cleaned-up With:</u>	
	<u>Existing Staff</u>	<u>Additional Staff</u>	<u>Existing Staff</u>	<u>Additional Staff</u>
1993	8	25	1,250,000	3,125,000
1994	12	30	900,000	2,250,000

This schedule would allow us to clean-up the 20 million waste tires which were stock piled prior to January, 1988 in approximately eight years. After FY94, the number of sites and number of tires cleaned-ups would be maintained for an approximate six year period.

3. **Enforcement** - Work activities in this area can be subdivided into two general categories:

- a. Compliance associated with licensed storage and processing activities and license collection and transportation operation and;
- b. Compliance associated with waste tire generators (salvage yards and tire retailers) unlicensed storage areas, and unlicensed waste tire haulers.

Section NR 502.06(6) requires that generators of waste (in this case waste tires) hire licensed haulers to transport their waste to a licensed disposal facility. Prior to the passage of the waste tire law, licensing of haulers and ensuring that generators of waste tires used a licensed service was not complied with and therefore the state's tires accumulated in illegal stockpiles. There are nearly 3,000 businesses (2,500 or so tire retailers and nearly 500 salvage yards) which handle waste tires on a day-to-day basis.

Rough estimates are that one-half or 2.5 million of our waste tires are illegally disposed of. The table below provides a breakdown of time required to ensure compliance in these two areas.

<u>Activity</u>	<u>Field Time</u>	<u>Dist. Office</u>	<u>Central Office</u>
Compliance - Licensed Storage Processing and CNT	16 hrs/site*	16 hrs/site**	20 hrs/site**
Compliance - Tire dealers, salvage yards, and unlicensed haulers	8 hrs/site	2 hrs/site**	.25 hrs/site

* No enforcement

** Enforcement results

Thus, compliance activities for tire dealers, salvage yards and haulers alone average 10.25 hours of staff effort/site. This equates to a total workload of 3,000 businesses X 10.25 hrs = 30,750 hours. Conducting compliance activities on only 20 percentage of the total universe of sites would consume all of the requested 3.0 field FTE's work effort.

4. Grants - The waste tire program has 2 grant programs. The waste tire management or recovery grant program provides a \$250,000 annually to develop new markets for waste tires and is intended to ensure that the waste tire stream is diverted from illegal disposal or land filling. The reimbursement grant program provides financial rebates to people who use waste tires for energy recovery, products, or highway improvement projects on an as used basis. The reimbursement grant provides up to \$750,000 annually. Over 20 applications for the waste tire management or recovery grant program were reviewed last year. A total of 15 reimbursement applications for rebates have been filed. The table below provides the breakdown of the time required to carry out this activity.

<u>Activity</u>	<u>Field Time</u>	<u>Dist. Office</u>	<u>Central Office</u>
Management or Recovery	10 hrs/grant*	-----	40 hrs/grant**
Reimbursement	8 hrs/grant*	_____	20 hrs/grant**

* Grant application received

** Grant awarded


The existing grant and rebate program administered by the Department has been extremely successful in developing businesses in the state as processors and end users of waste tires. Attached is a summary of projects receiving funding under our grant program. In fact this public private partnership has established energy recovery markets in the state capable of handling all of the waste tires generated in the state annually. Processors in particular who have made considerable investments are now threatened by the lack of tires coming into their operations as a result of illegal dumping and disposal. One noteworthy example is Wisconsin Power and Light which invested \$2,000,000 into new waste tire shredding facility at the Rock River generating station. The direct economic loss to Wisconsin businesses of this illegal dumping is \$2,000,000 annually not counting what the cost would be to clean these up if all the dumping was done in Wisconsin.

To address this problem economic incentives in the current rebate program must be expanded to waste tire processors. These incentives would be designed to allow Wisconsin's waste tire businesses to economically compete with unsound environmentally threatening, and cheap disposal practices by lowering the cost of tire processing faced by those businesses who must address the disposal or reuse of waste tires. Expansion of the rebate program would require the development of Administrative Rules and additional administrative support for implementation. In addition, modification to the existing rebate program for end users of waste tires must be developed. As pointed out earlier the rebate program has attracted considerable attention. The Department must, however, develop a broader market base for waste tires and a higher market value for the end product other than as a fuel.

The potential to use waste tires for manufactured products and highway pavement material is promising but the cost is high. The cost of reusing tires for manufactured products and pavement material is estimated to be \$2.00 to \$3.00 per tire and \$25.00 per tire, respectively, compared to reusing tires for their energy value at \$1.00 per tire. Restructuring the rebate program to accommodate these changes would require the development of Administrative Rules and additional administrative support for implementation.

If you have any questions regarding this request, please call Al Shea at 267-2759 or Paul Koziar at 267-9388.

APPROVED:



Lyman F. Wible, Administrator
Division for Environmental Quality

12-8-92
Date

cc: Edie Grossen - FN/1
Paul Koziar - SW/3
Esther Chapman - SW/3
Al Shea - MB/5

Paul Willihnganz - PE/5
Jack Benjamin - DOJ
Shari Eggleston - DOJ

APPENDIX 1. BUDGET FOR DNR FTE AND REBATE PROGRAM

A. BUDGET FOR NEW FTE:

1. Assumptions

Salary - Waste Mgmt-Specialist @ \$12.390/hr x 2,080 hrs	= \$25,800
Fringe Benefits - 34.6% of \$25,770	= 8,900
Supplies/Services - District FTE	= 6,400
Supplies/Services - Central Office FTE	= 4,700
One-time Costs - First year only (Office Related)	= 1,650
One-time Costs - First year only (2 Vehicles @ \$14,900 each)	= 28,900

2. FY93 Costs

- a. District FTE: \$41,100/FTE X 3 FTE = \$123,300 X 3 months = \$30,825 + \$34,750 One-time Costs (\$28,900 + \$4,950) = \$65,575
- b. Central Office FTE: \$39,400/FTE X 1 FTE = \$39,400 X 3 months = \$9,850 + \$1,650 One-time Costs (\$1,650/FTE) = \$11,500
- c. Total Staff Costs - \$65,575 + \$11,500 = \$77,075

3. FY94 Costs

- a. District FTE: \$41,100/FTE X 3 FTE = \$123,300
- b. Central Office FTE: \$39,400/FTE X 1 FTE = \$39,400
- c. Total Staff Costs - \$123,300 + \$39,400 = \$162,700

B. BUDGET FOR NEW REBATE PROGRAM:

New Processor Rebate*	= \$200,000 for FY94
New End User Rebate**	= <u>\$200,000</u> for FY94
Total Rebate Cost	= \$400,000

* Processor rebate is designed to lower the tipping fee in Wisconsin to reuse a tire by 20 cents. Current fees range from \$0.75 to \$1.00.

** End user rebate is designed to give more rebates to businesses who produced products rather than combust for energy recovery.

C. TOTAL INCREASED EXPENDITURE AUTHORITY NEEDED FOR DNR:

1. FY93 - \$77,075 + \$0 = \$77,075
2. FY94 - \$162,700 + \$400,000 = \$562,700

APPENDIX 2. WASTE TIRE FUND CONDITION ANALYSIS

Revenue to support the waste tire clean-up program is generated by a \$2.00/tire fee on new cars purchased (\$10/car). Fees are collected by the Department of Transportation and deposited in the Department's account on a monthly basis. Currently, the fee is generating \$200,000 - \$225,000/month. A history of the annual revenues and closing unencumbered balance in the waste tire account is provided below:

<u>FY</u>	<u>REVENUES</u>	<u>CLOSING UNENCUMBERED BALANCE</u>
1988	\$250,072	\$250,072
1989	2,921,251	2,653,084
1990	2,792,291	4,399,773
1991	2,261,995	4,537,778
1992	<u>2,733,468</u>	4,607,899
	\$10,959,077	

Average Annual Revenue for FY89-92: \$2,677,251

Current Appropriation Authority:

Administration (2)(dL):	\$210,000
Program Activities (2)(dj):	<u>\$2,775,000</u>
Total Existing Authority:	\$2,985,000

Add. FY93 Authority Requested for DOJ:	\$40,100
Add. FY93 Authority Requested for DNR:	<u>77,075</u>
Total Add. FY93 Authority Needed:	\$117,175

Add. Annual Authority Requested for DOJ:	\$70,100
Add. Annual Authority Requested for DNR:	<u>562,700</u>
Total Add. Annual Authority Needed:	\$632,800

Total Authority Needed for FY93:	\$3,102,175 (FTE X 3 months/no grants)
Total Authority Needed for FY94-96:	\$10,853,400 (\$2,985,000 + \$632,800) X 3
Total Authority Needed for FY97:	\$3,507,025 (FTE X 9 months + grants)

As shown below, the estimated average annual revenues plus a large opening cash balance for FY93 is sufficient to cover the total increased expenditure authority of requested over the life of the four year projects:

FY92 Closing Unincumbered Balance:	\$4,607,899
FY93 Transfer to Env. Repair Acc't:	\$469,400
FY92 Effective Closing Balance:	\$4,138,499
FY93-97 Anticipated Revenues:	<u>\$13,386,255</u>
FY93-97 Total Available Revenue:	\$17,524,754
Total Authority Needed in FY93-97:	<u>\$17,462,600</u>
FY97 Estimated Closing Balance:	\$62,154

08-Dec-92

WASTE TIRE FUND CONDITION ANALYSIS

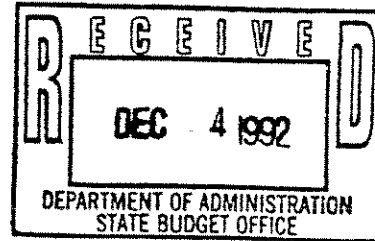
FY92 Closing Bal.	\$4,607,899	
FY93 Revenues (Est.)	\$2,677,251	
FY93 Total Revenues	\$7,285,150	
FY93 Transfer	\$469,400	
FY93 Effective Rev.	\$6,815,750	
FY93 Expenditures	\$3,102,175	(\$2,985,000 + \$117,175)
FY93 Closing Bal.	\$3,713,575	
FY94 Revenues (Est.)	\$2,677,251	
FY94 Total Revenues	\$6,390,826	
FY94 Expenditures	\$3,617,800	(\$2,985,000 + \$632,800)
FY94 Closing Bal.	\$2,773,026	
FY95 Revenues (Est.)	\$2,677,251	
FY95 Total Revenues	\$5,450,277	
FY95 Expenditures	\$3,617,800	
FY95 Closing Bal.	\$1,832,477	
FY96 Revenues (Est.)	\$2,677,251	
FY96 Total Revenues	\$4,509,728	
FY96 Expenditures	\$3,617,800	
FY96 Closing Bal.	\$891,928	
FY97 Revenues (Est.)	\$2,677,251	
FY97 Total Revenues	\$3,569,179	
FY97 Expenditures	\$3,507,025	(\$2,985,000 + \$522,025)
FY97 Closing Bal.	\$62,154	

Date: December 1, 1992

To: Cindy Archer
Department of Administration

From: Jack Benjamin
Department of Justice

Subject: TIRE DUMP ENFORCEMENT REQUEST UNDER S. 16.505/.515--
ADDITIONAL INFORMATION



The Department has previously requested PR-S expenditure and position authority for tire dump enforcement activities to be funded by the Department of Natural Resources, in correspondence dated May 15, June 26 and August 27, 1992. This request has been discussed with DNR budget staff, and is compatible with their companion request. My hope is that this memorandum will provide the last of the information you need, and that our request can now receive your prompt approval.

The Department requests 1.0 FTE project Attorney and 0.5 FTE project Legal Secretary; and, \$40,100 in PR-S expenditure authority in SFY 1993 and \$70,100 in SFY 1994 and SFY 1995. Position and expenditure authority is requested for our numeric appropriation 132, project 700. (I assume that position authority and some amount of expenditure authority will be addressed next July under s. 16.517, but I am concerned that the annualized amount be provided then.) As reflected in the attached allotment request, the amounts needed are:

	<u>SFY 1993</u>	<u>SFY 1994</u>
Attorney Salary (1.0)	\$14,442	\$34,015
Legal Secretary (0.5)	4,947	11,026
Fringe Benefits	6,010	14,818
Supplies and Services	5,100	10,200
Permanent Property	<u>9,600</u>	<u>0</u>
Total	\$40,099	\$70,059

Notes

1. SFY 1993 costs assume positions are filled 1/1/93.
2. SFY 1994 figures show annualized costs which will continue into the future, at levels which take into account some increase in salaries and related fringe benefits.

Fire Dump Enforcement Request
December 1, 1992
Page 2

3. Fringe benefits are calculated as 31% of salaries in SFY 1993 and 32.9% in SFY 1994 and thereafter, consistent with our DOA-assigned rates.

Although the funding source is permanent and an ongoing program is anticipated, we are requesting project position authority at this time. We will reevaluate this aspect of the program in a subsequent budget process.

Please call with any other questions.

cc: Andy Cohn
Gary Martinelli
Dan Oakland
Bob Selk
Shari Eggleston
Bob Hillner
Allen Shea (DNR)

CORRESPONDENCE/MEMORANDUM

STATE OF WISCONSIN

Date: February 15, 1993

To: Cindy Archer
Department of Administration

From: Jack Benjamin
Department of Justice

Subject: TIRE DUMP ENFORCEMENT REQUEST UNDER S. 16.505/.515--
CASELOAD INFORMATION

This morning you requested caseload information that would support our request for 1.0 FTE Attorney and 0.5 FTE Legal Secretary to handle workload associated with tire dump enforcement activities. We have reviewed the information which was submitted to you on June 15, 1992, and find that it is still appropriate. I have attached another copy of that material, for your files. The key points remain:

1. DNR anticipates conducting 500 to 700 tire dump clean-ups over the next 5 years or so.
2. DNR plans to send Justice 25 to 35 new tire dump cases per year if we get a new attorney and secretarial support to handle them. Otherwise, we expect DNR to submit very few, if any, tire dump cases for fear that they would displace other environmental enforcement cases which DNR does not want to see deferred.
3. Cases referred to Justice will be those where: (a) the responsible party exercises the right to appeal a DNR abatement order; (b) the property owner has filed an action for some sort of order precluding DNR from proceeding with clean-up; (c) abatement actions must be filed in circuit court, pursuant to sec. 144.449 (2r), Stats., where the responsible party is refusing to clean up the tire dump but is capable of doing so; or (d) cost recovery actions must be filed in instances in which DNR has proceeded with the clean-up itself or by its contractors. These are all responsibilities of Justice, which must be addressed if certain cases are to go forward.
4. There are more than enough potential cases requiring the attention of Justice, to justify the attorney and related secretarial support. Depending on the complexity, etc. of the specific cases referred, 30 tire dump cases would be a full-time caseload for an attorney and secretarial complement. If DNR wished to refer more than 30 or so cases per year, then Justice would require more than the 1.0 FTE attorney and 0.5 FTE legal secretary.

5. To be clear, the requested attorney position, by itself, will not be enough to process tire dump workload without the requested secretarial complement. The Environmental Protection Unit in the Legal Services Division is unable to absorb any additional workload, including clerical work, and there are no resources which could be transferred from another unit in the division.
6. One significant result of providing the requested resources for tire dump enforcement would be that some clean-up costs would be recovered and returned to the tire removal and recovery appropriation under sec. 20.370 (2)(dj). If recovery does not occur, for lack of staff resources at Justice, then Wisconsin drivers will continue to pick up the full tab for tire dump clean-ups.

DNR has identified numerous tire dumps which need to be cleaned up, they have funding, they have tire removal/processing contractors lined up, and they need legal representation to proceed in many cases. Without the staff resources which we have requested and which DNR supports, tire dump enforcement will not occur to the extent that it could or should under the program authorized by sec. 144.449 and 159.17, Stats.

Please call ~~Shari Eggleston~~ with any questions regarding the work of her Environmental Protection Unit in this area. I expect that this information will enable our needs to be addressed in the request to be submitted to the Joint Committee on Finance.

cc: Andy Cohn
Bob Selk
Shari Eggleston
Bob Hillner
Allen Shea (DNR)

CORRESPONDENCE/MEMORANDUM

STATE OF WISCONSIN

Date: June 26, 1992

To: Cindy Archer
Department of Administration

From: Andrew Cohn, Executive Assistant *Andy*
Department of Justice

Subject: REQUEST UNDER S. 16.505/.515 REGARDING TIRE DUMP
ENFORCEMENT

The Department of Justice requests 1.0 FTE attorney, 0.5 FTE legal secretary, and \$67,100 PR-S expenditure authority for tire dump enforcement activities to be funded by the Department of Natural Resources. As described in detail in the attached memo, if this request is approved, DNR plans to refer 25 to 35 cases per year to the Legal Services Division. The requested staff would be paid for from monies collected under s. 342.14(lm) as a surcharge on motor vehicle registrations.

The Department requests 1.0 FTE Attorney 15, 0.5 FTE Legal Secretary 1, and \$67,100 in new expenditure authority in SFY 1993 for the appropriation under s. 20.455(1)(k). The dollar amounts are based on the following:

Attorney Salary (1.0 FTE)	\$28,596
Legal Secretary Salary (0.5 FTE)	9,696
Fringe Benefits (31%)	11,871
Supplies and Services	6,950
Permanent Property (1-time)	9,900
Total	\$67,013

The attached memo provides background information and justification. Please call Jack Benjamin with any questions.

cc: Jack Benjamin
Gary Martinelli
Dan Oakland
Bob Selk
Shari Eggleston
Bob Hillner

CORRESPONDENCE/MEMORANDUM

DEPARTMENT OF JUSTICE

cc: June 15, 1992

To: Jack Benjamin

From: Shari Eggleston

Subject: Proposed new positions to handle tire dump enforcement

DNR has indicated that they would like to make a grant to us to enable us to hire an attorney to handle waste tire law enforcement. The waste tire program, created in 1987-88, is funded by a surcharge on motor vehicle registrations under sec. 342.14(1m), Stats., which has generated approximately \$2.75 million/year. These funds are to be used, under sec. 20.370(2)(dj) and (dL) "for the waste tire removal and recovery programs under ss. 144.449 and 159.17," and "for the administration of the waste tire removal and recovery programs under (those sections)."

Section 144.449(2), Stats., declares tire dumps to be public nuisances¹, and authorizes DNR, where the owner or other responsible party fails or refuses to clean them up, to "take any action necessary to abate the nuisance, including entering the property where the tire dump is located and confiscating the waste tires, or arranging to have the waste tires processed or removed." Subsec. (2r) authorizes DNR, in order "to carry out a nuisance abatement under sub.(2). . . to refer a nuisance abatement to the attorney general for enforcement action." Subsec. (5) authorizes DNR to "ask the attorney general to initiate a civil action to recover from the person responsible for the nuisance the reasonable and necessary costs incurred by the department for its nuisance abatement activities and its administrative and legal expenses related to the abatement." Finally, sec. 144.449 also gives DNR authority to issue abatement orders, and under ch. 227, Stats., those orders are subject to judicial review. DOJ provides representation on these petitions for judicial review.

We have received a few of these cases from time to time, which we have done our best to work into our caseload. We have nine tire

¹Tire dumps are generally considered nuisances a) because they are a visual blight, b) because of the risk they will catch fire, releasing toxic substances into the environment (as in the case of the Sampair tire fire in St. Croix County in 1986), and c) because the standing water which accumulates inside the tires is an ideal breeding ground for a type of mosquito which carries encephalitis.

Jack Benjamin
June 15, 1992
Page 2

cases pending at this time, which represents approximately .25 FTE attorney.²

DNR tells us that they have a backlog of these cases, i.e., they have identified numerous tire dumps which need to be cleaned up³, they have the funds necessary, and have tire removal/processing contractors lined up (and, in some instances, working), but are in need of legal representation in several areas:

1. to represent DNR in cases in which the responsible party exercises his right to appeal a DNR abatement order,
2. to defend the agency in cases in which the property owner has file an action for some sort of order precluding DNR from proceeding with clean-up;
3. to file abatement actions in circuit court, pursuant to sec. 144.449(2r) where the responsible party is refusing to clean up his tire dump but is, it seems, capable of doing to, and
4. to file cost recovery actions in those instances in which DNR has proceeded with the clean-up itself (or by its contractor).

Unless and until the necessary legal representation is available, DNR's hands are tied. As I understand it, DNR would like to send us approximately 25-35 new tire cases/year, but have been holding off, for fear that the cases would either not get prosecuted, or would "bump" other, very important environmental enforcement work which they do not want to see us defer or decline.

We do not have the staff to do this work at this time. Our attorneys have already absorbed a 35% caseload increase over the past 10 years, with no additional staff. Of the nine tire dump cases we have now, two have not yet been filed due to conflicting demands on our prosecutors' time--and one of those was referred to us over a year ago.

Hiring an additional prosecutor should result in net gains, from a state revenue perspective. Tire dump clean-ups are not an inexpensive proposition. I'm told they typically cost anywhere

²Each attorney in the unit handles, on the average, 35 cases.

³I'm told DNR anticipates conducting 500-700 tire dump clean-ups over the course of the next 5 or so years.

Jack Benjamin
June 15, 1992
Page 3

from \$50,000 to \$1 million. While many of these are owned/operated by insolvent, judgment-proof individuals, some are not, and if we had the staff to file cost recovery actions, we should be able to recover and return to the state coffers a significant portion of the funds paid out of the state tire fund. If we are unable to do so, the state's drivers will continue to pick up the full tab for these clean-ups, while the responsible parties pocket the profits and abandon the dumps. In short, without legal services, the tire dump program may be unable to proceed with the clean-up of these sites, or, in instances where they can, will be unable to recover the costs from the parties responsible.

I estimate that taking on 30 more tire cases per year would require 1 FTE attorney and .5 FTE secretary here. I believe DNR is willing to commit to the necessary funding, if we can create the positions.

Please let me know what additional information you need. I'd like to get this going as soon as we possibly can. Thank you.

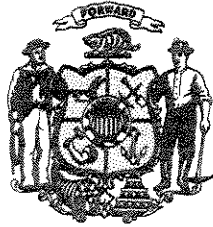
cc: Bob Selk

State of Wisconsin

SENATE CHAIR

GARY R. GEORGE

Room 119 South
State Capitol
P.O. Box 7882
Madison, WI 53707-7882
Phone: 266-2500



ASSEMBLY CHAIR

BARBARA J. LINTON

Room 127 South
State Capitol
P.O. Box 8952
Madison, WI 53708-8952
Phone: 266-7690

JOINT COMMITTEE ON FINANCE

February 19, 1993

TO: JOINT COMMITTEE ON FINANCE MEMBERS

FROM: Senator Gary R. George
Representative Barbara J. Linton
Co-Chair, Joint Committee on Finance

Attached are copies of requests from the Department of Administration dated February 19, 1993, under s. 16.515/16.505(2) of the statutes.

Please review these items and notify our office not later than Thursday, March 11, 1993, if you have any concerns about the requests or would like the Committee to meet formally to consider them.

Also, please contact us if you need additional information.

GRG:BJL:lmr

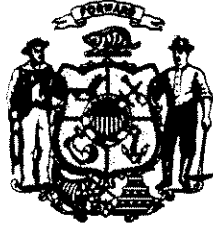
Attachments

State of Wisconsin

SENATE CHAIR

GARY R. GEORGE

Room 119 South
State Capitol
P.O. Box 7882
Madison, WI 53707-7882
Phone: 266-2500



ASSEMBLY CHAIR

BARBARA J. LINTON

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Madison, WI 53708-8952
Phone: 266-7690

JOINT COMMITTEE ON FINANCE

March 12, 1993

Secretary James R. Klauser
Department of Administration
110 East Wilson Street
Madison, WI 53702

Dear Secretary Klauser:

On February 19, 1993, ss. 16.505/16.515 requests relating to the State Board of Vocational, Technical and Adult Education (VTAE), the Department of Health and Social Services (H&SS), the Department of Natural Resources and the Department of Justice were forwarded to the Joint Committee on Finance for approval.

We have no objections to the requests from VTAE and H&SS, and therefore, these items are approved. However, we have several concerns regarding DOA's recommendations for waste tire removal and tire dump enforcement activities in the Department of Natural Resources and Department of Justice.

It is our understanding that similar requests from DNR were denied by DOA over the last eighteen months under s. 16.505/515 and in developing the 1991-93 budget adjustment bill (1991 Act 269). This item was also included in DNR's 1993-95 biennial budget request and not approved in the Governor's budget recommendations. Apparently, this was with the understanding that DNR would again pursue this matter under s. 16.505/515.

It is difficult to understand the process that the administration has followed in bringing this matter before the Committee. We are concerned that it has resulted in delays that have limited the state's ability to address ongoing and new problems with waste tire disposal.

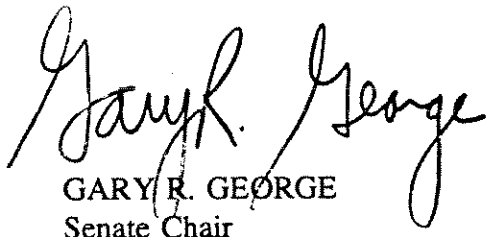
In its December 8, 1992, letter to DOA under s. 16.505/515, DNR requested authorization and funding for 4.0 four-year project positions for licensing, enforcement and administration for the waste tire programs. DOA instead recommended 2.5 four-year project

Secretary James R. Klauser
March 12, 1993
Page 2

positions. We will approve the DOA recommendation with the modification that the 2.5 positions be authorized and filled as permanent positions. At this level of additional staff, program workload could extend beyond the four-year project period. If the workload is completed earlier, position levels can be adjusted at that time.

We will approve the DOA recommendation to provide 1.5 additional positions for enforcement activities in the Department of Justice, with the modification that the positions be provided and filled as permanent rather than on a four-year project basis. Workload resulting from a current backlog of waste tire cases and new cases referred by DNR is likely to extend well beyond four years.

With these conditions, we have no objections to the remainder of the request. We will consider that you concur with these conditions unless you notify us by March 19, 1993 that you wish us to schedule a meeting of the Committee under s. 13.101 to consider this item. letter.


GARY R. GEORGE
Senate Chair

Sincerely,



BARBARA J. LINTON
Assembly Chair

GRG/BJL/lmr

cc: Members
Joint Committee on Finance