



## Legislative Fiscal Bureau

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TO: Members  
Joint Finance Committee

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 601: Providing State Matching Funds Under the Help America Vote Act and Creating Appropriations

Assembly Bill 601 (AB 601) would establish a series of new appropriations to fund the state's matching contributions towards certain federally financed election administration costs. The bill was introduced on October 17, 2003, by the Assembly Committee on Campaigns and Elections, at the request of the Elections Board. On October 23, 2003, the Assembly Committee on Campaigns and Elections recommended the bill for passage, on a vote of 6-0. That same day, the bill was referred to the Joint Committee on Finance.

### **BACKGROUND**

On October 29, 2002, the federal Help America Vote Act (HAVA) was signed into law. HAVA establishes a series of new mandates applicable to the states, including: (1) creation of an official centralized computerized statewide voter registration list system; and (2) requirements that all polling stations be equipped with voting systems accessible to individuals with disabilities, including non-visual accessibility for the blind and visually impaired.

HAVA also provides grant funding (primarily in Titles I and II of the Act) for state election administration activities undertaken to meet the requirements of the new legislation. During 2002-03, Wisconsin received \$7,002,900 FED in Title I funds, which require no state match. It is estimated that the state will be eligible to receive \$15,390,000 FED in Title II HAVA funds in 2003-04, subject to a required 5% state match of \$810,000. In addition, it is estimated by Elections Board staff that if the U.S. House of Representatives follows recent action taken by the U.S. Senate, that Wisconsin could be eligible to receive an additional \$26 million

FED in Title II HAVA funds, again subject to a required 5% state match. The ultimate amount of this latter Title II funding, however, remains uncertain.

On July 24, 2003, the Governor signed 2003 Wisconsin Act 35 into law. Act 35 created an Election Administration Fund as a separate, nonlapsible segregated trust fund consisting of all moneys received from the federal government under HAVA. The Act also created a federal aid continuing appropriation under the Elections Board, funded from the Election Administration Fund and consisting of all federal HAVA moneys received by the state.

## **SUMMARY OF BILL**

*New Appropriations.* Assembly Bill 601 (AB 601) would create a new appropriation under Miscellaneous Appropriations to provide the state 5% match for Title II HAVA funds. The bill would also create two new appropriations under the Elections Board to permit the expenditure of these and other state funds for election administration activities.

In order to provide the 5% match funding, a GPR sum sufficient appropriation would be created under Miscellaneous Appropriations. This appropriation would provide the necessary matching funds to a second new SEG continuing appropriation under the Elections Board. The amount of the draw on the GPR sum sufficient appropriation by the new Elections Board SEG continuing appropriation would be limited by the amounts appropriated in the Chapter 20 schedule to meet the 5% match requirement under HAVA for Title II funds. AB 601 would appropriate \$477,000 SEG in 2003-04 and \$0 SEG in 2004-05 under the Board's new SEG appropriation for the state's HAVA contribution, resulting in an associated draw of \$477,000 GPR in 2003-04 under the new Miscellaneous Appropriations GPR sum sufficient appropriation. GPR funds transferred to this new SEG appropriation would be considered a part of the Election Administration Fund and could only be expended to cover elections administration costs addressed with HAVA funding.

AB 601 would also create a new SEG annual appropriation for election administration under the Elections Board. Amounts authorized under this new appropriation could be expended to meet federal requirements for the conduct of federal elections under HAVA. This new appropriation would also be considered a part of the Election Administration Fund and would be available to provide additional state funding to meet HAVA requirements above and beyond the required 5% match for Title II funds. AB 601 does not appropriate any funding for such purposes under this new SEG annual election administration appropriation.

*Aid to Counties and Municipalities.* Under Act 35, the Elections Board may provide financial assistance to eligible counties and municipalities for election administration costs from its federal HAVA appropriation. AB 601 would authorize the Board to provide similar financial assistance to eligible counties and municipalities from its new SEG appropriations created under the bill.

## **FISCAL EFFECT**

In order to receive an estimated \$15,390,000 FED in Title II HAVA funds in 2003-04, the state would be required to appropriate a 5% match totaling \$810,000. AB 601 would transfer \$477,000 GPR to the Election Administration Fund to meet a portion of this match requirement. The remainder of the required 5% state match for this initial Title II HAVA award would be provided from two funding allocations that have previously been earmarked.

First, on December 17, 2002, the Joint Committee on Finance provided the Board with one-time funding of \$200,000 GPR for consultant services to develop an implementation plan for the required statewide voter registration system under HAVA. Initially, the Committee directed the Department of Administration (DOA) to seek reimbursement for these funds from federal HAVA monies. Subsequently, Elections Board staff indicated that in lieu of seeking reimbursement for these amounts, the state could apply them instead as part of the required 5% HAVA Title II match. Under 2003 Wisconsin Act 33 (the 2003-05 biennial budget act), DOA was directed not to seek reimbursement under HAVA for this one-time funding supplement; consequently, these funds may be used to help meet the \$810,000 match requirement.

Second, Act 33 also reallocated residual salary and fringe benefits base level funding under the Elections Board to the Joint Committee on Finance GPR supplemental appropriation for possible future use as part of the required 5% HAVA Title II match. A total of \$133,000 GPR in 2003-04 was reserved for this purpose in the Committee's appropriation. These funds had originally been appropriated to the Elections Board under 2001 Wisconsin Act 109 (the 2001-03 budget adjustment act), as part of significant changes to Wisconsin's campaign finance laws. These changes were subsequently found unconstitutional; however, the base budget reconciliation process inadvertently left a portion of additional Act 109 resources in the agency's base.

The \$200,000 GPR previously provided for the implementation plan for the required statewide voter registration system under HAVA, and the \$133,000 GPR reserved in the Committee's supplemental appropriation are sufficient to provide \$333,000 of the state's \$810,000 required match. AB 601 would provide the remaining \$477,000.

The state will face significant costs to meet the new federal election administration requirements under HAVA. Every state must have an official centralized computerized statewide voter registration list system with interactive capability in place by January 1, 2004. This deadline may be extended to January 1, 2006, provided the state certifies, before January 1, 2004, that it will not meet the deadline for good cause and certifies the reasons for that failure. Based on the statewide voter registration system study prepared for the Board, the five-year cost of ownership of such a system is expected to range from \$21.2 million to \$42.9 million.

HAVA will also require all polling stations to be equipped with voting systems accessible to individuals with disabilities, including non-visual accessibility for the blind and visually

impaired by January 1, 2006. Depending on how the state proceeds to meet this requirement, Board staff have indicated in the past that this could require \$8.2 million to \$16.4 million to complete.

Wisconsin must meet these HAVA requirements regardless of whether or not it matches Title II HAVA grant funds. While it is not clear that the state would lose an estimated \$15.4 million in federal fiscal year 2003 Title II funds if it does provide the necessary match by a date certain, Board staff advise that they believe Wisconsin will likely need to match the federal funding by December, 2003.

There may be opportunities to reduce the required state cash match amounts for federal HAVA funds depending on whether in-kind matching (such as staff salaries) is authorized. However, until there is guidance from the federal government with respect to how maintenance of efforts requirements under HAVA will be applied to the states (states are not allowed to simply replace state funding with federal HAVA funding), the extent to which the Elections Board will be able to utilize in-kind matching is unknown.

Given the scope of the required undertakings under HAVA for a small agency and given the unknowns regarding in-kind matching, the Committee may conclude that any additional funding provided at this time should be placed in the Committee's GPR supplemental appropriation for possible future release to the Elections Board. The Committee previously provided under Act 33 that state HAVA match funding would be reserved in this manner. By placing match funding under AB 601 (\$477,000 GPR) in reserve, the Committee would have the opportunity to review the Election Board's plans concerning how it proposes to meet HAVA requirements for a statewide voter registration system and voting access for the disabled. In addition, placing the funds in reserve would give the Committee the opportunity to review the extent to which state GPR funds could be saved through the use of in-kind matching.

Regardless of whether the Committee chooses to place HAVA match funding under AB 601 in reserve, the GPR sum sufficient appropriation under Miscellaneous Appropriations to fund the state's match could be eliminated. Instead, the Committee could replace the Board's SEG continuing state matching contribution appropriation with a GPR annual appropriation for the same purpose. If the Committee chooses to reserve the additional state matching funds in its GPR supplemental appropriation, the Elections Board appropriation would be funded at \$0 in both fiscal years. The Committee could supplement the appropriation from the reserved funds, once the Elections Board submits a HAVA implementation plan and funding transfer request. Alternatively, the necessary funding could be provided at this time to the new appropriation. Funds appropriated would be transferred to the Elections Administration Fund where they could be available to support the authorized purposes of that fund.

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