



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

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May 13, 2003

Joint Committee on Finance

Paper #285

### **Earmark of Certain Standard Budget Adjustments and Other Funding as Federal Help America Vote Act Matching Funds (Elections Board)**

[LFB 2003-05 Budget Summary: Page 141, #1(c)]

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#### **CURRENT LAW**

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

#### **GOVERNOR**

Delete \$18,600 GPR annually and 2.0 GPR positions (1.0 campaign finance investigator and 1.0 auditor) provided under the campaign finance provisions of 2001 Wisconsin Act 109 (the 2001-03 budget adjustment act).

#### **DISCUSSION POINTS**

##### **Standard Budget Adjustments**

1. Under 2001 Wisconsin Act 109 (the 2001-03 budget adjustment act), the Legislature made significant changes to Wisconsin's campaign finance laws. Two additional GPR positions (1.0 campaign finance investigator and 1.0 auditor) and associated funding of \$85,100 GPR annually were provided to the Elections Board (Board) to help carry out the agency's new responsibilities under Act 109.

2. On December 11, 2002, the United States District Court for the Western District of

Wisconsin struck down most of the Act 109 campaign finance changes, including the new positions.

3. As a result, SB 44 deletes the position authority for these positions and \$18,600 GPR annually that was provided for fringe benefit costs for the two positions. The salary funding (\$47,500 GPR annually) and supplies and services funding (\$19,000 GPR annually) associated with these positions was not deleted.

4. The Committee could, therefore, delete an additional \$66,500 GPR annually from the Board's budget to remove these unbudgeted amounts. Alternatively, the Committee could consider reserving these funds to apply towards future federal match requirements under HAVA.

### **Federal Help America Vote Act Match Funding**

5. *Requirements for a Statewide Voter Registration System.* 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.

6. The required statewide voter registration system must: (a) contain the name and registration information of every legally registered voter in the state; (b) assign a unique identifier to each legally registered voter; (c) serve as the statewide single system for storing and managing the official list of registered voters; (d) permit any state or local election official in the state to obtain immediate electronic access to the information or list; (e) permit all voter registration information obtained by a local election official to be electronically entered into the database on an expedited basis at the time the information is provided to the local official; and (f) coordinate with other state agency databases (in particular those of the Department of Transportation) to verify the accuracy of the information provided on applications for voter registration.

7. *Status of the Wisconsin Statewide Voter Registration System Implementation Plan.* On December 17, 2002, Joint 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, including software development. The Board anticipates that the implementation plan will include: (a) a statement of all the federal, state, and Board statutory and regulatory requirements for the system that will govern software development; (b) a comprehensive, five-year total cost projection based on vendor finalists' cost estimates; (c) draft enabling legislation; and (d) a report to the Legislature explaining the issues studied and why certain statutory and system operations options were either rejected or recommended by the Board.

8. Board staff anticipate that this report will be submitted to the Legislature by May 15, 2003. Board staff indicate that while this estimate is very preliminary, development of a statewide voter registration system could cost as much as \$16 million.

9. *Other HAVA Requirements.* HAVA will also require all polling stations to be equipped with voting systems accessible to individuals with disabilities, including nonvisual

accessibility for the blind and visually impaired by January 1, 2006. Depending on how the state proceeds to meet this requirement, Board staff have estimated that this requirement may require \$8.2 million to \$16.4 million to complete.

10. *Federal Funding Available to Wisconsin.* The primary grant funds for state election administration activities under HAVA are contained in Titles I and II of the Act. Wisconsin is expected to receive \$7,115,000 FED in Title I funds during 2002-03. These Title I funds require no state match. The \$200,000 GPR one-time supplement provided to the Board in December, 2002, could be reimbursed from Title I monies.

11. It is estimated that the state could also receive \$23,390,000 FED in Title II HAVA funds in 2003-04, if the state: (a) files with the federal Election Assistance Commission a required state plan covering the current federal fiscal year; (b) files with the same Commission a plan for the implementation of the uniform, nondiscriminatory administrative complaint procedure required under HAVA; and (c) provides a required 5% state match (\$1,231,100). The state could potentially receive additional Title II HAVA funding in 2004-05 if the federal government provides additional funding under its 2005 budget.

12. *HAVA Match Funding.* Senate bill 44 does not provide dedicated state match funding for Title II HAVA funds. Board staff advise that if Title II HAVA funds are not matched by Wisconsin in 2003-04, the state's share of federal funds could be lost to other states that do provide the required 5% match.

13. Regardless of whether the state matches any Title II HAVA funding available to the state, Wisconsin will still have to meet the new statewide voter registration system and disability voting requirements by January 1, 2006.

14. When the Committee provided a one-time \$200,000 GPR supplement to the Board in December to retain a consultant to develop an implementation plan for the statewide voter registration system, the Committee provided that the Department of Administration (DOA) would administer and seek reimbursement for these funds from federal funding provided under HAVA.

15. Board staff indicate that if these funds are not reimbursed, they could instead serve as Title II matching funds in 2003-04.

16. Thus, in order to maximize the leveraging of federal HAVA funding, the Committee could direct DOA not to seek reimbursement under Title I of HAVA for the one-time \$200,000 GPR funding supplement provided to the Board in December, 2002. Since the supplemental funding was provided to the Board after the date of enactment of HAVA and the funds will be used for a statewide voter registration system, they may be used more appropriately to meet part of the state's Title II match requirement. Utilizing these s. 13.10 funds in this manner could reduce the state's total Title II match requirement from \$1,231,100 to \$1,031,100 in 2003-04.

17. The Committee could also transfer \$66,500 GPR annually identified above associated with the 2.0 deleted Act 109 positions from the Board's general program operations GPR

appropriation to the Committee's GPR supplemental appropriation in 2003-04. This funding could further reduce the need for new GPR funding for Title II matching funds in 2003-04 by \$133,000 GPR.

18. An additional \$898,100 GPR would be needed to fully match projected Title II funding to be received by the state during 2003-04. The Committee could reserve an additional \$898,100 GPR in 2003-04 under its GPR supplementation appropriation to provide the anticipated funding needed to fully match Title II HAVA awards.

19. Placing possible match funding in reserve would permit the Committee to review the actual need for matching funding later when the actual size of the federal Title II HAVA award is known. In addition, placing the funding in reserve would give the Committee the opportunity to review Board plans concerning how it proposes to meet HAVA requirements for a statewide voter registration system and voting access for the disabled.

20. There may be opportunities to reduce required cash match amounts for federal HAVA funds in the upcoming biennium, 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 effort requirements under HAVA will be applied to the states (states are not allowed to simply replace state funding with federal HAVA funding), placing possible HAVA match funds in the Committee's appropriation will permit it and the Legislature to review this issue at a later date.

## ALTERNATIVES

### A. Standard Budget Adjustments

1. Approve the Governor's recommendation to delete \$18,600 GPR annually and 2.0 GPR positions (1.0 campaign finance investigator position and 1.0 auditor position) provided under the campaign finance provisions under 2001 Wisconsin Act 109 (the 2001-03 budget adjustment act).

2. *In addition to Alternative A1*, transfer \$66,500 GPR annually associated with the 2.0 deleted Act 109 positions from the Board's general program operations GPR appropriation to the Committee's GPR supplemental appropriation in 2003-04, for possible future release to the Board to match federal funding under the Help America Vote.

3. *In addition to Alternative A1*, delete \$66,500 GPR annually associated with the 2.0 deleted Act 109 positions from the Board's general program operations GPR appropriation.

<b>Alternative A3</b>	<b>GPR</b>
<b>2003-05 FUNDING</b> (Change to Bill)	- \$133,000

**B. Federal Help America Vote Act Match Funding**

1. Direct DOA not to seek reimbursement under HAVA for the one-time \$200,000 GPR funding supplement provided to the Board in December, 2002. [The funds would be applied instead towards the state's cash match requirement under the Help America Vote Act.]

2. *In addition to Alternative B1*, provide \$898,100 GPR in 2003-04 reserved under the Committee's GPR supplemental appropriation for possible future release to the Board to match federal funding under the Help America Vote Act.

<u>Alternative B2</u>	<u>GPR</u>
<b>2003-05 FUNDING</b> (Change to Bill)	\$898,100

Prepared by: Paul Onsager