



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #705

### Appropriation Lapses and Reestimates (Circuit Courts, Court of Appeals, and Supreme Court)

[LFB 2003-05 Budget Summary: Page 96, #4, Page 131, #3 and Page 395, #2]

#### CURRENT LAW

The adjusted base budget for state operations appropriations for the Courts is as follows:

	2002-03 <u>Adjusted Base</u>
Circuit Courts	\$50,010,800
Court of Appeals	7,659,700
Supreme Court	
Court Operations	4,085,600
Director of State Courts	5,176,800
Law Library	<u>1,837,000</u>
TOTAL	\$68,769,900

#### GOVERNOR

Specify that the Chief Justice of the Supreme Court, acting as the administrative head of the judicial system, take actions during the 2003-05 fiscal biennium to ensure that from GPR state operations appropriations for the Circuit Courts, Court of Appeals, and Supreme Court, \$750,000 annually is lapsed from sum certain appropriations or is subtracted from expenditure estimates for any other type of appropriation, or both.

## DISCUSSION POINTS

1. The \$750,000 GPR annual adjustment in SB 44 represents 1.1% of the adjusted base budget for state operations of the Circuit Courts, Court of Appeals, and the Supreme Court. In addition, certain court fees are increased by 30% under the bill in order to: (a) offset GPR funding increases of approximately \$12.3 million over the 2003-05 biennium provided in SB 44; and (b) provide an increase in revenue to the general fund of 5% of the court system base budget.

2. Under SB 44, most state agency, state operations GPR appropriations would be reduced. Although the annual percentage reduction varies, a number of agencies would realize reductions of 10% annually. For some agencies, the reduction would be greater than 10%.

3. With the exception of the Courts, all agency reductions would be implemented by decreasing the appropriation level. The Courts appropriations, however, would not be reduced but rather, the Chief Justice would be required to ensure that the \$750,000 annually would lapse to the general fund.

4. For the 2001-03 biennium, the three branches, like state agencies, were subjected to reductions in their GPR-supported state operations appropriations. Reductions occurred in 2001 Act 16 (the biennial budget), 2001 Act 109 (the 2001-03 budget adjustment act) and 2003 Act 1 (the 2002-03 budget adjustment act). The following table shows the budget reduction percentage for the three branches for 2001-02 and 2002-03.

	<u>Act 16 Reduction %</u>		<u>Act 109 Reduction %</u>		<u>Act 1</u>
	<u>2001-02</u>	<u>2002-03</u>	<u>2001-02</u>	<u>2002-03</u>	<u>Reduction %</u> <u>2002-03</u>
Office of the Governor	5.0%	5.0%	5.0%	10.5%	6.0%
Legislature (including service agencies)	5.0	5.0	3.5	6.5	6.0
Court of Appeals	4.0	4.0	3.5	2.75	6.0
Circuit Courts	4.0	4.0	3.5	2.75	1.0
Supreme Court					
Court Operations	4.0	4.0	3.5	2.75	6.0
Director of State Courts	4.0	4.0	3.5	6.25	6.0
Law Library	4.0	4.0	3.5	6.25	6.0

5. The reductions shown for the Legislature are typical of the percentage reductions experienced by most agencies. As shown, the reductions for the Office of the Governor under Act 109 were greater than those of the Legislature. The reductions for the Courts were somewhat less

than those of the Office of the Governor and the Legislature under each of the three acts.

6. The following table shows the cumulative reduction for the three branches for 2002-03 (the base year for the 2003-05 biennium). [It should be noted that the reduction percentages shown in the table are arrived at by adding the 2002-03 percentages from the preceding table but differ slightly from the figures shown due to interaction effects.]

	<u>Cumulative % Reduction for 2002-03</u>
Office of the Governor	21.50%
Legislature (including service agencies)	17.50
Court of Appeals	12.75
Circuit Courts	7.75
Supreme Court	
Court Operations	12.75
Director of State Courts	16.25
Law Library	16.25

7. Although the percentage reductions for the three branches varied in 2001-03, they were treated uniformly in the implementation of the reduction. Under Act 16, the appropriations of all three were reduced. Under Act 109 and Act 1, the appropriations were not reduced but the Governor, Chief Justice and presiding officers of the Legislature were required to ensure that the amounts generated by the reductions would lapse to the general fund for their respective branch.

8. Under SB 44, the budget of the Office of the Governor is reduced by \$666,800 GPR annually (a 19.0% reduction) and the operations of the Legislature are reduced by \$5,920,000 GPR annually (a 10.0% annual reduction). Specifically:

- *Office of the Governor.* Base reductions would be accomplished by a reduction of \$571,800 from salary and fringe benefit costs, \$95,000 from supplies and services and the deletion of 8.0 GPR existing positions in the Governor's Office.

- *Legislature.* Senate Bill 44 would consolidate all state operations GPR appropriations into a single, sum sufficient appropriation. This would encompass the current GPR appropriations for the following: (a) Assembly; (b) Senate; (c) Legislative Documents; (d) Memberships in National Associations; (e) Retirement Committees and retirement actuarial studies; (f) Revisor of Statutes Bureau; (g) Legislative Audit Bureau; (h) Legislature Council; (i) Legislative Fiscal Bureau; (j) Legislative Reference Bureau; and (k) Legislative Technology Services Bureau. The appropriation level in this new sum sufficient appropriation would be established by totaling the adjusted base for each of these entities, plus the standard budget adjustments as approved by the Governor for each entity, then reducing that total by an amount equal to 10% of the total adjusted base and placing that resultant total dollar figure in the new, consolidated appropriation for each fiscal year of the 2003-05 fiscal biennium.

The current separate appropriation line for each of these separate entities would be set at zero for each fiscal year of the 2003-05 fiscal biennium. The Joint Committee on Legislative Organization would be required, before the effective date of 2005-07 biennial budget act, to allocate the monies within this new appropriation for each of the purposes authorized under the current appropriation language for the existing GPR appropriations. [The attachment provides a detailed description of the SB 44 provision on the Legislature.]

9. An argument could be made that any across-the-board reduction imposed on the Courts should recognize the elected nature of the members of the judicial branch. And, although not expressly stated, this may account for the reason that the reduction for the Courts was not as great as those of other agencies in 2001-03. Conversely, the Office of the Governor and Legislature also have elected and statutorily authorized positions and that was not a factor in the reductions made to those branches.

10. The state's 241.0 Circuit Court judges, 16.0 Court of Appeal judges and the 7.0 justices of the Supreme Court are all elected officials. In addition, the statutes authorize each circuit court judge to appoint a court reporter, and each Court of Appeals judge and Supreme Court Justice to appoint a secretary and a law clerk. Further, the Wisconsin Constitution authorizes the clerk of the Supreme Court position. Base level salary and fringe benefits associated with these positions are \$51,342,600 GPR annually. Given the magnitude of these costs, it could be argued that, in considering any across-the-board reductions, salary and fringe benefit costs for elected officials and/or statutorily authorized employees should be excluded from the calculation of base costs. If costs of elected officials are excluded, remaining base funding would be \$33,201,700; if statutorily authorized positions are also excluded, remaining base funding would be \$17,427,300 GPR. If these amounts were excluded, the lapse under SB 44 would be a 2.3% base reduction without elected officials or a 4.3% base reduction if statutorily authorized positions are also excluded.

11. Salaries and fringe benefits account for 89.7% (\$61,674,800 GPR) of the Courts base budget. The GPR state operations appropriations support a total of 698.0 GPR positions. As a point of comparison, salaries and fringe benefits account for 75.7% (\$2,659,500 GPR) of the base budget for the Office of the Governor (47.75 GPR positions), and 73.5% (\$44,630,500 GPR) of the base budget for the Legislature (830.97 GPR positions).

12. The reductions under SB 44 for the Office of the Governor and the Legislature are reductions to the agencies' funding. The reduction for the Courts is a required lapse during the biennium. Under a lapse requirement, an agency's base budget remains, but the agency is required to reduce expenditures by the directed amount, thereby creating a lapse to the general fund.

13. Given the state's current fiscal condition and that the other two branches of government are taking reductions of 10% or more, it can be argued that the Courts should also be subject to reductions greater than that provided in SB 44. The following table identifies the base GPR state operations appropriations for the Circuit Courts, Court of Appeals and the Supreme Court, the annual reduction currently in SB 44, the percentage the SB 44 reduction represents of the base, and alternative annual reduction percentages.

	(Alternative 2) State Operations <u>Appropriations</u>	(Alternative 3) State Operations Appropriations, Excluding <u>Elected Officials</u>	(Alternative 4) State Operations Appropriations, Excluding Elected Officials and Other <u>Statutory Employees</u>
Base Funding	\$68,769,900	\$33,201,700	\$17,427,300
SB 44 Reduction	750,000	750,000	750,000
Percent Reduction	1.1%	2.3%	4.3%

<u>Annual Reduction Percentage</u>	<u>Annual Change to SB 44</u>	<u>Annual Change to SB 44</u>	<u>Annual Change to SB 44</u>
0%	\$750,000	\$750,000	\$750,000
1	62,300	418,000	575,700
2	-625,400	86,000	401,500
3	-1,313,100	-246,100	227,200
4	-2,000,800	-578,100	52,900
5	-2,688,500	-910,100	-121,400
6	-3,376,200	-1,242,100	-295,600
7	-4,063,900	-1,574,100	-469,900
8	-4,751,600	-1,906,100	-644,200
9	-5,439,300	-2,238,200	-818,500
10	-6,127,000	-2,570,200	-992,700

14. If the Committee wishes, the lapse provision for the Courts could be converted to a budget reduction provision similar to that for the Legislature. Under this alternative, the following provisions could apply:

- GPR state operations appropriations for the Courts would be retained and set at zero in 2003-04 and 2004-05 as follows: (a) Circuit Courts (s. 20.625 (1) (a)); (b) permanent reserve judges (s. 20.625(1)(b)); (c) Court of Appeals general program operations (s. 20.660 (1)(a)); (d) Supreme Court general program operations (s. 20.680 (1)(a)); (e) Director of State Courts general program operations (s. 20.680(2)(a)); (f) judicial planning and research (s. 20.680(2)(b)); and (g) State Law Library general program operations (s. 20.680(4)(a)).

- A single sum sufficient GPR appropriation would be created for 2003-05 only under the Supreme Court to support the operations of the court system. The appropriation would encompass the existing appropriations identified above. The appropriation level in the new sum sufficient appropriation would be established by totaling the adjusted base for each of these entities, then reducing that total by an amount equal to the total percentage set by the Committee of the total adjusted base and placing that resultant total dollar figure in the new consolidated appropriation for each fiscal year of the 2003-05 fiscal biennium.

- The Chief Justice of the Supreme Court, acting as the administrative head of the judicial system, would be required, before the effective date of 2005-07 biennial budget act, to allocate the monies within the new appropriation for each of the purposes authorized under the current appropriation language for the existing GPR appropriations.

15. On March 20, 2003, in testimony before the Committee, the Chief Justice of the Supreme Court indicated that the SB 44 lapse requirements for the Courts would provide flexibility to meet the reduction requirements. "That flexibility is crucial to our efforts to balance cuts with our constitutional responsibilities." According to the Chief Justice, the "judicial budget represents predominately fixed, non-discretionary costs. The budget provides funding, most of it from general purpose revenues, for 264 elected officials..." Further, it was indicated that the Courts have taken the following actions to reduce non-discretionary expenditures: frozen positions, reduced in-state travel, eliminated state funded out-of-state travel, reduced the use of reserve judges, reduced the use of freelance court reporters, reduced the frequency and costs of committee meetings, reduced office space, eliminated the purchase of some legal resource materials, reduced supplies and services and equipment expenditures, and reduced judicial education offerings. Specifically, with regard to the budget reductions, the Chief Justice stated instead of seeking additional resources for the Courts, "I ask that no cuts be made to our budgets beyond those that have been proposed."

16. The Courts argue that over the 2003-05 biennium, the 30% increase in certain court fees proposed under SB 44 plus the required \$750,000 lapse, generates revenue to the general fund equal to 16.1% of the Courts' adjusted base. It should be noted, however, that the 30% fee increase in SB 44 was intended not only to generate additional revenue to the general fund but to also offset increased costs in the Courts.

**ALTERNATIVES**

**A. Governor's Recommendation**

1. Approve the Governor's recommendation to specify that the Chief Justice of the Supreme Court, acting as the administrative head of the judicial system, take actions during the 2003-05 fiscal biennium to ensure that from GPR state operations appropriations for the Circuit Courts, Court of Appeals, and Supreme Court, \$750,000 annually is lapsed from sum certain appropriations or is subtracted from expenditure estimates for any other type of appropriation, or both.

2. Delete provision.

<b><u>Alternative A2</u></b>	<b><u>GPR-Lapse</u></b>
<b>2003-05 REVENUE</b> (Change to Bill)	- \$1,500,000

**B. Alternative Reduction Amounts**

1. Using the Courts' base GPR state operations appropriations, modify the Courts reduction requirement to one of the following percentages:

	<u>Annual Reduction Percentage</u>	<u>Annual Change to SB 44</u>	<u>Biennial Change to SB 44</u>
a.	0%	\$750,000	\$1,500,000
b.	1%	62,300	124,600
c.	2%	-625,400	-1,250,800
d.	3%	-1,313,100	-2,626,200
e.	4%	-2,000,800	-4,001,600
f.	5%	-2,688,500	-5,377,000
g.	6%	-3,376,200	-6,752,400
h.	7%	-4,063,900	-8,127,800
i.	8%	-4,751,600	-9,503,200
j.	9%	-5,439,300	-10,878,600
k.	10%	-6,127,000	-12,254,000

2. Using the Courts' base GPR state operations appropriations less the salary and fringe benefit costs of elected court officials modify the Courts' lapse requirement to one of the following percentages:

	<u>Annual Reduction Percentage</u>	<u>Annual Change to SB 44</u>	<u>Biennial Change to SB 44</u>
a.	0%	\$750,000	\$1,500,000
b.	1%	418,000	836,000
c.	2%	86,000	172,000
d.	3%	-246,100	-492,200
e.	4%	-578,100	-1,156,200
f.	5%	-910,100	-1,820,200
g.	6%	-1,242,100	-2,484,200
h.	7%	-1,574,100	-3,148,200
i.	8%	-1,906,100	-3,812,200
j.	9%	-2,238,200	-4,476,400
k.	10%	-2,570,200	-5,140,400

3. Using the Courts' base GPR state operations appropriations less the salary and fringe benefit costs of elected court officials and statutorily authorized employees, modify the Courts lapse requirement to one of the following percentages:

	<u>Annual Reduction Percentage</u>	<u>Annual Change to SB 44</u>	<u>Biennial Change to SB 44</u>
a.	0%	\$750,000	\$1,500,000
b.	1%	575,700	1,151,400
c.	2%	401,500	803,000
d.	3%	227,200	454,400
e.	4%	52,900	105,800
f.	5%	-121,400	-242,800
g.	6%	-295,600	-591,200
h.	7%	-469,900	-939,800
i.	8%	-644,200	-1,288,400
j.	9%	-818,500	-1,637,000
k.	10%	-992,700	-1,985,400

**C. Reduction Implementation**

1. Specify that any reduction identified under Alternative B1, B2, or B3 be a lapse to the general fund rather than a reduction in the Courts appropriations.

2. Specify that any reduction identified under Alternative B1, B2, or B3 be implemented in a similar fashion to that of the Legislature which would: (a) retain and set at zero in 2003-04 and 2004-05 all GPR state operations appropriations for the Courts; (b) create a single sum sufficient GPR appropriation for 2003-05 only under the Supreme Court to support the operations of the court system; and (c) specify that the Chief Justice of the Supreme Court, acting as the administrative head of the judicial system, be required, before the effective date of 2005-07 biennial budget act, to allocate the monies within the new appropriation for each of the purposes authorized under the current appropriation language for the existing GPR appropriations.

3. Specify that any reduction identified under Alternative B1, B2, or B3 be implemented by modifying each of the Courts state operations appropriations.

Prepared by: Jere Bauer  
Attachment

## ATTACHMENT

### Senate Bill 44 GPR Base Budget Reduction Provisions for the Legislature [LFB 2003-05 Budget Summary: Page 292, #2]

**Governor:** Reduce base level funding for the total GPR-supported operations of the Legislature by \$5,920,000 annually and delete the total number of authorized positions for the Legislature by 60.0 FTE. The dollar reduction amount equals 10.0% of the total GPR adjusted base for the Legislature. This reduction would be accomplished by the establishment and operation of a single GPR appropriation for the Legislature for the 2003-05 biennium, as described below.

*Consolidated single GPR appropriation for all legislative operations.* Under the Governor's recommendation, as a part of making the 10% reduction in legislative appropriations, there would be established (for the 2003-05 biennium only), a single, sum sufficient GPR appropriation from which all the GPR-supported operations of the Legislature would be funded. This would encompass the current GPR appropriations for the following entities or purposes: (a) Assembly; (b) Senate; (c) Legislative Documents; (d) Memberships in National Associations; (e) Retirement Committees and retirement actuarial studies; (f) Revisor of Statutes Bureau; (g) Legislative Audit Bureau; (h) Legislature Council; (i) Legislative Fiscal Bureau; (j) Legislative Reference Bureau; and (k) Legislative Technology Services Bureau. The appropriation level in this new sum sufficient appropriation would be established by totaling the adjusted base for each of these entities, plus the standard budget adjustments as approved by the Governor for each entity, then reducing that total by an amount equal to 10% of the total adjusted base and placing that resultant total dollar figure in the new consolidated appropriation for each fiscal year of the 2003-05 fiscal biennium.

*Zero-fund existing appropriations.* The current separate appropriation line for each of these separate entities would be set at zero for each fiscal year of the 2003-05 fiscal biennium. Further, any expenditures from the existing sum sufficient appropriations would be prohibited from the effective date of the bill until the effective date of the 2005-07 biennial budget act, except for any funds that are encumbered in those appropriations prior to the effective date of the bill. The new sum sufficient appropriation would be available to fund expenditures for any of the purposes currently authorized under the separate GPR appropriations for the cost of operations of the Legislature.

*Allocation of funding to purposes.* The Joint Committee on Legislative Organization (JLO) would be required, before the effective date of 2005-07 biennial budget act, to allocate the monies within this new appropriation for each of the purposes authorized under the current appropriation language for the existing GPR appropriations. Further, in the event JLO that

has not acted to fully allocate these funds among those purposes, the individual officers who have authority under current law to make expenditures under the current law appropriations would be authorized to make expenditures for those same purposes from the new appropriation, except that each officer could not make any such expenditure that would result in the total authorized expenditures by that officer exceeding 90% of the total amount available for expenditure by that officer in the 2001-03 fiscal biennium.

*Sunset of new appropriation.* No expenditures from this new, consolidated GPR sum sufficient appropriation would be permitted after the effective date of the 2005-07 biennial act, except for any funds that have been encumbered in that appropriation prior to that effective date.