



Legislative Fiscal Bureau

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

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Joint Committee on Finance

Paper #246

Transfer of Program Revenue Balances to Address a Juvenile Correctional Facilities Deficit (DOC -- Juvenile Corrections)

[LFB 2005-07 Budget Summary: Page 140, #12]

CURRENT LAW

The juvenile correctional services annual PR appropriation [s. 20.410(3)(hm)] funds the operation of secured juvenile correctional facilities and certain aftercare services provided to juveniles following their release from the facilities. The state's three secured juvenile correctional facilities include: the Ethan Allen School and the Lincoln Hills School, for adjudicated males; and the Southern Oaks Girls School, for adjudicated females.

The program revenue credited to this appropriation derives from daily rates charged for facility care that are paid by counties or the state for certain serious juvenile offenders. If moneys generated by the daily rate exceed actual institutional costs in a fiscal year by 2% or more, the amounts in excess of 2% must be remitted to the counties during the subsequent calendar year, or transferred to the general fund during the subsequent fiscal year, in amounts proportionate to the total number of days of juvenile placements at the facilities for each county and for the state. Base funding for the appropriation is \$56,046,600 PR annually, including certain aftercare supervision funding. The average daily population (ADP) for the secured correctional facilities totaled 693 in 2003-04.

The annual PR appropriation for juvenile residential aftercare (alternate care) [s. 20.410(3)(ho)] provides funding for foster care, treatment foster care, group home care and institutional child care to delinquent juveniles. The program revenue credited to this appropriation derives from daily rates charged for these types of care that are paid by counties or the state for certain serious juvenile offenders. If the revenue generated by the daily rate exceeds actual fiscal year alternate care costs by 2% or more, all revenue in excess of 2% must be remitted to the counties during the subsequent calendar year or transferred to the general fund during the subsequent fiscal year. Each county and the general fund receives a proportionate

share of the excess revenue depending on the total number of days of placement of county-paid and state-paid juveniles in each type of alternate care. Counties are required to use the returned funds for purposes of delinquency-related services. In 2003-04, an ADP of 121 juveniles received alternate care services under the appropriation. Base funding for the appropriation is \$11,871,500 PR annually.

An annual PR appropriation [s. 20.410(3)(hr)] provides funding for corrective sanctions services. Under the corrective sanctions program, certain juveniles, following release from a juvenile correctional facility, are placed in the community and provided with intensive surveillance and a range of community-based treatment services. The intensive surveillance component of the program must be available 24 hours-a-day, seven-days-a-week, and DOC may provide electronic monitoring of program participants. The program revenue credited to this appropriation derives from daily rates charged for corrective sanctions services that are paid by counties, or the state for certain serious juvenile offenders. Base funding for the appropriation is \$4,264,700 PR annually. In 2003-04, an ADP of 161 juveniles was under corrective sanctions supervision.

GOVERNOR

Transfer \$2,500,000 in 2005-06 from the balances in the following PR appropriation accounts to the Department's juvenile correctional services appropriation account under s. 20.410(3)(hm): \$90,000 from the available balance in the juvenile residential aftercare appropriation account under s. 20.410(3)(ho), and \$2,410,000 from the available balance in the juvenile corrective sanctions appropriation account under s. 20.410(3)(hr). The transfers would be made to address a portion of a projected 2004-05 deficit of \$3.8 million in the juvenile correctional services appropriation account.

The bill assumes that these transfers will not fully address the projected 2004-05 deficit in the juvenile correctional services appropriation account. Consequently, the calculation of daily rates for secured correctional facility care under the bill includes the addition of \$650,000 annually in 2005-06 and 2006-07 to the daily-rate cost basis to address the remaining \$1.3 million of this 2004-05 deficit carried forward into the 2005-07 biennium.

DISCUSSION POINTS

The Development of a Juvenile Correctional Facilities Deficit

1. The recommended PR transfers are in response to a directive adopted by the Joint Committee on Finance at its June 30, 2004, meeting under s. 13.10. As part of the Committee's review of a PR deficit reduction plan submitted under s. 16.513 of the statutes to address a deficit in the appropriation account for facility operations, the Departments of Administration (DOA) and Corrections (DOC) were directed to develop legislation for introduction in the 2005 Legislature to transfer PR account balances from the alternate care appropriation account and the corrective

sanctions appropriation account in amounts sufficient to liquidate a projected deficit resulting from 2004-05 operations of the juvenile facilities.

2. At that time, the Committee also approved a one-time transfer of \$2,952,400 GPR in 2003-04 from the Department's serious juvenile offenders biennial appropriation to the agency's general program operations appropriation for juvenile correctional services to offset a 2003-04 deficit in the juvenile correctional services appropriation account.

3. Payments by counties and the state to the juvenile correctional services appropriation are based on statutory daily rates established in each biennial budget process. Daily rates are calculated on the basis of budgeted costs for facility care in each fiscal year and estimates of the average daily population (ADP) of juveniles placed in the facilities in each fiscal year. As a result, revenue generated in a given fiscal year is determined by the established daily rate and the actual number of juveniles placed in the facilities.

4. Generally, through fiscal year 1999-00, the year-end balance in the appropriation account varied, but was consistently positive. Since 2000-01, however, expenditures have generally exceeded program revenue credited to the appropriation, resulting in year-end deficits.

5. To some extent, these recurring deficits relate to unanticipated and unbudgeted increases in personnel costs. For example, collective bargaining agreements signed late in 1999-00 resulted in unbudgeted costs for the Department in 2000-01. In 2002-03, fringe benefits were mistakenly budgeted at the wrong rate, again resulting in unbudgeted expenses. However, the primary reason that revenue has proven insufficient to support costs since 2000-01 is that receipts have been less than projected due to an unanticipated decline in juvenile populations at the facilities. [Current population trends are discussed in Paper #240.]

6. In those cases where unbudgeted costs emerge or revenues drop significantly, the Department must attempt to reduce operating expenditures. To reduce operating costs in recent years, DOC closed two housing units and one cottage at the Ethan Allen School in 2001-02, the Sunset House facility at the Southern Oaks Girls School in 2002-03, and one cottage at the Lincoln Hills School in 2003-04. Position vacancies have generally not been filled, and some authorized positions have been eliminated. Under the 2003-05 biennial budget act, 46.04 PR positions were eliminated because of the decline of juvenile populations. Under AB 100, an additional 144.24 PR positions annually would be eliminated to further reduce operating costs. [These position reductions are discussed in Paper #242.]

7. The 2003-04 deficit in the appropriation account totaled nearly \$3.0 million and was previously addressed by the Committee by a GPR transfer from the serious juvenile offender appropriation. Under the 2003-05 biennial budget act, the 2003-04 ADP was projected at 800 juveniles; however, the actual 2003-04 ADP totaled only 693 juveniles. This difference of 107 juveniles over the course of the year resulted in a revenue reduction of \$7.3 million, or 13.6% of the \$53.6 million, including all reserves, for juvenile institutional care in 2003-04. The difference between the \$7.3 million in unrealized revenue and the \$3.0 million deficit (\$4.3 million, or 8.0% of

the institutional budget) represents the budget reductions made by the Department in 2003-04. As in past years, these reductions were made through creating and then maintaining vacancies and by reducing other operating costs.

8. While expenditures for institutional care can be controlled to some extent, the operation of large facilities includes certain minimum fixed costs that cannot be reduced beyond a certain point, and the Department has not been able to liquidate the deficit solely through operating cost reductions.

9. Against this background on the development of the juvenile correctional facilities deficit, two issues need to be addressed by the Committee: (a) the PR transfers under the bill; and (b) the daily rate cost basis adjustment made to address the remaining portion of the projected 2004-05 deficit.

Program Revenue Transfers

10. The revenue balance transfers recommended under the bill (\$90,000 from the alternate care appropriation account available balance, and \$2,410,000 from the corrective sanctions appropriation account available balance) represent projections of the unobligated amounts that would be available for transfer following the close of the 2004-05 fiscal year. In the case of the alternate care appropriation account, the \$90,000 represents the estimated total revenue remaining after the required return of any balance in excess of 2% to the counties or to the general fund. The \$2,410,000 from the unobligated balance in the corrective sanctions appropriation account constitutes the entire projected balance at the end of 2004-05. There is no requirement that any excess revenues in this latter appropriation account be returned to the counties or the state's general fund.

11. More recent projections of the likely unobligated balances in these appropriation accounts indicate that the \$90,000 projected balance in the alternate care appropriation account should be lowered to \$80,000 and that the balance in the corrective sanctions appropriation may be higher than the \$2,410,000 balance originally estimated for the bill.

12. Any projection of the available PR balances in these appropriation accounts is subject to some degree of error because revenues and expenditures cannot be precisely estimated for the remainder of the fiscal year. Specifying the exact amounts to be transferred from each appropriation account following the close of the fiscal year carries the risk that the actual available balance will be insufficient to support the specified transfer amount. Similarly, if a higher unobligated balance is available in the sending appropriation account or if a higher than expected deficit has developed in the receiving appropriation account, specifying the exact amount of any transfers may limit the Department's ability to liquidate the deficit.

13. The Committee could consider fashioning language for inclusion in the bill that would address these uncertainties. Such language would specify that that all available PR balances in the two appropriation accounts be transferred to the juvenile correctional services appropriation

account up to the amount of any deficit in that appropriation following the close of the 2004-05 fiscal year. However, if the total operations deficit is less than the combined available PR balances in the alternate care and corrective sanctions accounts, the amounts transferred from the alternate care and corrective sanctions accounts would equal the amount of the deficit, and the amounts transferred from each appropriation would be proportional to the respective available balances in the two appropriation accounts.

Adjusted Cost Basis for Daily Rates

14. The bill assumes that the PR transfers from the alternate care and corrective sanctions accounts will not fully address the projected \$3.8 million 2004-05 deficit in the juvenile facility operations appropriation account. Following the PR balance transfers of \$2.5 million under the bill, the remaining deficit carried forward into the 2005-07 biennium is estimated at \$1.3 million.

15. Under the bill, the calculation of daily rates for secured correctional facility care includes the addition of \$650,000 in 2005-06 and in 2006-07 to the daily-rate cost basis to liquidate the remaining \$1.3 million deficit from 2004-05. The inclusion of these amounts in the cost basis for daily rates has the effect of increasing these rates by about \$2.75 per day through the next biennium, based on the population projections made under the bill. As a result of factoring, these costs into the daily rates, enough additional revenue should be collected by June 30, 2007, to liquidate the remaining 2004-05 deficit.

16. DOC has been asked to review its 2004-05 deficit projections for the facilities operations appropriation account, and the Department now advises that the projected deficit at the end of 2004-05 will be approximately \$2.5 million. The reasons for the smaller projected deficit include lower than anticipated personnel-related expenditures due to delays in finalizing certain state employee collective bargaining agreements, and higher than expected revenues due to an increase in ADP in recent weeks at the juvenile facilities.

17. The revised deficit estimate of \$2.5 million is the same as the amount of the PR balance transfers proposed under the bill. Consequently, these transfers would liquidate the deficit, and there would be no deficit carry-forward into the 2005-07 biennium. As a result of this revised deficit projection, the Committee could also reduce the daily rates for facility care by deleting the addition of \$650,000 annually in 2005-06 and 2006-07 to the daily-rate cost basis contained in the AB 100 calculations. This action would reduce the daily rates for facility care by about \$2.75 in both years.

18. While an addition to the cost basis for daily rates during the 2005-07 biennium does not appear to be required to address a carryover 2004-05 deficit, a formal mechanism for liquidating any future deficit could be considered by the Committee for inclusion in the bill. A similar approach was recommended by this Committee during deliberations on the 2003-05 biennial budget, but the proposal to create such a procedure to address future deficits in the appropriation was vetoed by the Governor.

19. Under 2003 Enrolled SB 44, a statutory mechanism was created to address potential deficit situations in this appropriation. The mechanism required that, on or before March 15 of each odd-numbered year, the DOC estimate the unexpended revenues, less encumbrances, that will remain in the appropriation account for juvenile correctional services on June 30 and provide this estimate to DOA and to this Committee. If the estimated balance was projected to be negative (as determined by the Committee), that deficit amount was to be included in the cost basis for calculating the secured correctional facilities daily rates for the subsequent biennium. Under the mechanism, 50% of the deficit amount would be added to the cost basis for the calculation of daily rates for the first year of the subsequent biennium and 50% of the deficit amount would be added to the cost basis for the calculation of daily rates for the second year of the subsequent biennium.

20. Further, Enrolled SB 44 would have required that the Department's share of the daily rate revenues attributable to eliminating the deficit be reserved solely to retire the deficit. Any revenue reserved for this purpose that exceeded the amount of the deficit on June 30, of the odd-numbered year of the subsequent biennium, would then be reimbursed to the counties and the state by the following September 30 in a manner proportionate to the total number of days of juvenile placements at the facilities for each county and the state.

21. The Governor deleted these provisions through a partial veto. The Governor's stated rationale in the veto message was "to maintain the Department's flexibility to effectively manage juvenile programs." The Governor also stated: "I object to the reporting requirements and deadlines because they impose a burdensome work load at a time when agency budgets are limited. Further, these provisions would place an undue burden on counties by requiring the Department of Corrections to charge counties to recover deficits in the appropriation."

22. Despite this position, the Governor's recommendation now applies an increase in the cost basis for daily rates in 2005-06 and 2006-07 that is analogous to the mechanism that would have been created under Enrolled SB 44. [That is, the deficit was projected by the DOC and the amount of the estimated deficit has been included in the cost basis, with 50% of the deficit amount added to the cost basis in 2005-06 and 50% of the deficit amount added to the cost basis in 2006-07.]

23. While the bill would utilize the basic Enrolled SB 44 approach to address the deficit, important statutory requirements included in the provisions two years ago are not provided under the AB 100 procedures. These missing elements are those provisions that: (a) the share of the daily rate revenue that is proportionate to the share of the increased cost basis associated with the estimated deficit be reserved to retire the deficit; and (b) that any revenue reserved for this purpose exceeding the amount of the deficit on June 30, of the odd-numbered year of the subsequent biennium, be reimbursed to the counties and the state by September 30 of that calendar year, in proportion to the total number of days of juvenile placements at the facilities for each county and the state.

24. These specific statutory provisions were developed in recognition of the fact that projecting any year-end deficit when establishing daily rates during the budget process could be

difficult and could overstate the actual deficit. An overstatement of the deficit would result in a greater addition to the daily rate than necessary. Under the Enrolled SB 44 provisions, if this type of situation had occurred, any revenue reserved for the deficit that exceeded the actual amount of the deficit would have been reimbursed proportionately to the counties and the state.

25. Further, the projection and reporting of the year-end deficit in the facilities operations appropriation, as would have been required under Enrolled SB 44, would not appear to impose a burdensome workload on DOC. The Department routinely calculates the status of this appropriation on a quarterly basis for its own internal control purposes. In the preparation of AB 100, DOC was required to project the year-end deficit and to report that calculation to DOA. Subsequent to the bill's introduction, the Department reestimated the year-end 2004-05 deficit in the appropriation.

26. Since these calculations are routinely undertaken by the Department, the formal inclusion of this reporting requirement in any statutory deficit reduction mechanism (as was the case under the Enrolled SB 44 provision) would not now appear to be required.

27. Deficits in the facility operations appropriation may develop in those fiscal years when the ADP for institutional care falls below the estimates used in the biennial budget process. While it may be possible to transfer unobligated PR balances in related juvenile care appropriations, if available, it can also be argued that having a statutory mechanism to make the daily rate adjustment (as would have been permanently provided in Enrolled SB 44 and is included on a one-time basis in AB 100) is a practical and fair mechanism to address current and future deficits.

28. If the Committee wishes to adopt the mechanism in the bill for addressing the current deficit in the facilities operations appropriation account but also provide a permanent procedure to manage any future deficits, it may again wish to advance the approach developed in the 2003-05 budget. Statutory requirements for DOC to formally develop and report the deficit on or before a specific date would not be necessary since the Department is already engaging in this activity. Under this approach, the Committee would utilize the deficit-related costs when making the final budget determinations in setting the statutory daily rates for the care of juveniles in secured correctional facilities.

ALTERNATIVES

1. Approve the Governor's recommendation to transfer \$2,500,000 of PR balances to the Department's juvenile correctional services appropriation account under s. 20.410(3)(hm) in 2005-06, as follows: (a) \$90,000 from the available balance in the juvenile residential aftercare appropriation account under s. 20.410(3)(ho); and (b) \$2,410,000 from the available balance in the juvenile corrective sanctions appropriation account under s. 20.410(3)(hr).

2. Delete the Governor's provision. Instead, provide that that all available PR balances in the juvenile residential aftercare appropriation account under s. 20.410(3)(ho), and in the juvenile corrective sanctions appropriation account under s. 20.410(3)(hr), be transferred to the juvenile

correctional services appropriation account under s. 20.410(3)(hm) up to the amount of any deficit in s. 20.410(3)(hm) following the close of the 2004-05 fiscal year. In addition, specify that, if the deficit in s. 20.410(3)(hm) is less than the combined available PR balances in the juvenile residential aftercare appropriation account and in the juvenile corrective sanctions appropriation account, the amounts transferred from these appropriation accounts would equal the deficit, and be proportional to the respective available balances in the two appropriation accounts.

3. *In addition to Alternative 1 or Alternative 2*, delete \$650,000 annually from the cost basis used to calculate the daily rates in 2005-06 and 2006-07 for juvenile care in a secured correctional facility (reducing daily rates by \$2.75 in each year).

4. *In addition to Alternative 1 or Alternative 2*, delete \$650,000 annually from the cost basis used to calculate the daily rates in 2005-06 and 2006-07 for juvenile care in a secured correctional facility (reducing daily rates by \$2.75 in each year) and establish the following statutory procedure to address a deficit in s. 20.410(3)(hm):

Create a statutory mechanism to authorize the Department of Corrections and the Department of Administration, prior to the end of each odd-numbered year, to: (a) estimate the unexpended revenues, less encumbrances, that will remain in the appropriation account s. 20.410(3)(hm) on June 30 of that year; and (b) if the estimated balance is projected to be negative, include the amount of the estimated deficit in the cost basis for the calculation of the proposed secured correctional facilities daily rates for the subsequent biennium. Require that 50% of the deficit amount be added to the cost basis for the calculation of daily rates for the first year of the subsequent biennium and 50% of the deficit amount be added to the cost basis for the calculation of daily rates for the second year of the subsequent biennium. Require that the share of the daily rate revenue that is proportionate to the share of the increased cost basis associated with the estimated deficit be reserved for the purpose of retiring the deficit. Provide that any revenue reserved for this purpose that exceeds the amount of the deficit on June 30, of the odd-numbered year of the subsequent biennium, be reimbursed to the counties and the state, on before September 30, of that calendar year, in a manner proportionate to the total number of days of juvenile placements at the facilities for each county and the state.

Prepared by: Art Zimmerman