



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #851

Veterans Home at King -- Overtime, Direct Care Staff and Limited-Term Employees (DVA -- Homes and Facilities for Veterans)

Bill Agency

[LFB 2007-09 Budget Summary: Page 586, #2, Page 587, #6, and Page 588, #7]

CURRENT LAW

The Department of Veterans Affairs (DVA) currently operates two veterans homes, the Veterans Home at King in Waupaca County and the Veterans Home at Union Grove in Racine County, which provide residential care, nursing and medical services, food services, and social and counseling opportunities to veterans and dependents.

The Veterans Home at King currently has 721 licensed beds and 28 domiciliary beds. Base funding for the operations of the King Home is \$48,455,900 PR, which includes: (a) \$26,621,500 for salaries; (b) \$12,437,400 for fringe benefits; (c) \$1,031,300 for limited-term employee (LTE) salaries; (d) \$7,446,000 for supplies and services; (e) \$445,000 for permanent property; and (f) \$74,700 for other purposes. The King home is authorized 722.49 PR positions. The source of the program revenue supporting King operations is primarily member contributions, medical assistance (MA) payments, and per diem payments DVA receives from the U.S Department of Veterans Affairs.

GOVERNOR

Direct Care Staff. Provide \$1,085,900 PR in 2007-08 and \$1,447,800 PR in 2008-09 with 30.0 positions, beginning in 2007-08, to increase the number of direct care staff available to serve residents of the Veterans Home at King.

LTE Funding. Provide \$703,700 PR annually to increase funding for limited-term employees (LTEs) at the Veterans Home at King.

Overtime. Provide \$712,100 PR in 2007-08 and \$761,400 PR in 2008-09 to fund projected increases in the cost of holiday and regular overtime pay for staff at the Veterans Home at King (\$689,000 in 2007-08 and \$713,500 in 2008-09) and at the Veterans Home at Union Grove (\$23,100 in 2007-08 and \$47,900 in 2008-09).

DISCUSSION POINTS

1. In a memorandum dated March 19, 2007, from the Secretary of the Department of Administration to the Co-Chairs of the Joint Committee on Finance requesting changes to the bill, Secretary Morgan indicated that it was the Governor's intent to specify that 8.0 of the of the 30.0 direct care positions that would be authorized in the bill be registered nurses (RNs), and requested that the Committee increase funding in the bill by \$210,000 PR in 2007-08 and \$280,000 PR in 2008-09 to fully fund the positions.

2. In its 2007-09 budget submission, DVA requested 48.5 additional direct care staff positions, beginning in 2007-08, based on an assessment provided by an outside accounting firm of current membership levels at King and its balance with available staffing resources, with a goal of achieving full staffing coverage, without relying on LTEs or overtime coverage.

The Governor provided 30.0 positions, and directed the Department to seek surplus or pool positions to address additional staffing needs should they arise. Under current law, and at the request of the Director of the Office of State Employment Relations, the Secretary of Administration may authorize the temporary creation of pool or surplus positions under any source of funds if the Director determines that temporary positions are necessary to maintain adequate staffing levels for high turnover classifications, in anticipation of attrition, or to fill positions for which recruitment is difficult.

3. The Veterans Home at King includes 721 licensed beds located in four separately licensed nursing facilities: Ainsworth Hall (205 beds), MacArthur Hall (116 beds), Olson Hall (200 beds), and Stordock Hall (200 beds). Currently, there are 709 veterans and their dependents residing in these skilled nursing facilities (98.3% occupancy). Occupancy rates at King have historically remained at nearly 100%. The Department anticipated that some veterans who resided at King might transfer to the new Veterans Home at Union Grove when it opened in September, 2006, to be closer to family members. However, few did, and membership at the King home remains high compared to average nursing home occupancy rates statewide (88% statewide average in calendar year 2005).

4. The amount of funding provided under the bill for projected increases in the cost of holiday and regular overtime pay for staff at the Veterans Home at King was determined by recent contract settlements with union staff at the facility. The increase would support the same number of overtime hours previously worked, at the higher negotiated wage rate.

5. Base funding for LTEs at King is \$1,031,300 annually. Under the bill, the amount of available funding would increase to \$1,735,000 annually, an increase of over 68%. During the past several years, DVA has funded LTE costs in excess of base funding through a series of s. 16.515 requests for supplemental program revenue expenditure authority.

DVA indicates that the funding is necessary to maintain the number of hours of LTE support that may be provided, given the increasing wage rates of LTE staff. While LTEs are generally paid at the minimum of the range for their classification, increases negotiated as part of labor settlements have raised wage rates for all employees. For example, based on the most recent contract settlements, DVA expects hourly wages for LTE nursing assistants to increase from a minimum of \$10.84 per hour to \$12.22 per hour (a 13% increase) and rates for LTE food service assistants to increase from \$10.10 per hour to \$11.54 per hour (a 14% increase).

The following table shows actual expenditures for LTE salaries for 2002-03 through 2005-06, and estimates for 2006-07 and the amounts that would be provided under SB 40 in 2007-08 and 2008-09. The bill would provide annual increases in 2007-08 and 2008-09 to support 2% annual increases, an approximation of the expected growth in the consumer price index (CPI) for that time period.

TABLE 1

**Limited -Term Employee Salary Expenditures
Fiscal Years 2002-03 through 2008-09**

	<u>Expenditure</u>	<u>Change</u>
2002-03	\$1,203,700	
2003-04	1,347,400	11.9%
2004-05	1,373,500	1.9
2005-06	1,784,700	29.9
2006-07*	2,016,700	13.0
2007-08 (SB 40)	2,057,000	2.0
2008-09 (SB 40)	2,098,100	2.0

*Estimated

6. While LTEs provide a variety of services (including security, transportation, laundry service, housekeeping, maintenance, data processing, and building and grounds work) in addition to direct care, most LTE costs are attributable to supporting care for members. Of the \$1.8 million spent on LTE services at King in 2005-06, approximately \$1.1 million (or 62%) was care-related (including dietary, lab, radiology, and dental services as well as nursing assistants). Although the additional funding provided under the bill for LTEs would provide a significant increase over the base, it would not fully fund estimated LTE costs to maintain the number of hours of service provided in 2005-06 for the biennium. However, since most LTE costs are related to direct care coverage, the provision of additional direct care positions may reduce some of the reliance on LTE

coverage for these services to members.

7. The King campus has base staffing of 722.49 full-time equivalent authorized positions for the 2007-09 biennium. Of these positions, 390 have direct care nursing responsibilities (including registered nurses (RNs), licensed practical nurses (LPNs), and certified nursing assistants (CNAs)). Previously, increased costs for the King campus relating to overtime and LTE support were attributed, in part, to the difficulty in staffing the facility 24 hours per day, seven days per week, with high vacancy rates for direct care nursing positions on that campus (almost 12% vacancy overall, with approximately 21% of the RN positions vacant in February, 2005). The Department has taken steps to address this concern in the current biennium, decreasing overall vacancy rates by half, and reducing the vacancy rates for registered nurses to below 1%.

The following table shows the budgeted positions for each nursing position category, as well as the vacancy rates for each from the first March, 2007 pay period report.

TABLE 2

**Nurse and Nurse Aide Staffing at King
As of March, 2007**

	<u>RNs*</u>	<u>LPNs</u>	<u>CNAs</u>	<u>Total</u>
Budgeted Positions	59.5	64.0	266.5	390.0
Vacant Positions	0.5	6.0	17.5	24.0
Vacancy Rates	0.8%	9.4%	6.6%	6.2%

*Includes nurses with supervisory responsibilities

8. Under state law, nursing homes that do not primarily serve individuals with developmental disabilities are required to provide a minimum number of hours of care by registered nurses (RNs), licensed practical nurses (LPNs), and certified nurse's assistants (CNAs). These standards, which vary based on level of care, are as follows: (a) 3.25 hours per day (0.65 of which must be provided by an RN or LPN) for residents at the intensive skilled nursing (ISN) level of care; (b) 2.5 hours per day (0.5 of which must be provided by an RN or LPN) for residents at the SNF level of care; and (c) 2.0 hours per day (0.4 of which must be provided by an RN or LPN) for residents at the intermediate care facility (ICF) 1 or 2 levels of care. The Department has argued that these requirements, combined with the increasing acuity of the members served at King, necessitate the addition of staffing resources (including direct care staff positions, LTE hours, and overtime allotments) to meet the needs of the resident members.

9. There are several ways to evaluate the effect of the overall acuity of the members served at King on the appropriate level of direct care staffing. The Department points to documented changes within the member population over time to support its requests for additional staffing. However, another way to evaluate staffing needs might be to consider how the acuity of the members of the King home and their direct care staffing levels compare to the documented

acuity of residents of other nursing homes, and those homes' staffing levels, as a way to evaluate the efficiency of direct care services at King compared to other nursing homes..

10. DVA asserts that the increased acuity of the membership at King can be demonstrated by the overall decrease in the level of independence of the residents, as measured by their ability to complete activities of daily living (ADLs) on their own, and by a demonstrated increase in higher numbers of residents classified as requiring "intensive" and "skilled" levels of nursing care.

The following table shows the percentage of King residents who were independent in completing activities of daily living, by activity over time, for the three most recent calendar years for which the data is available (as compiled in the annual nursing home survey conducted by the Department of Health and Family Services).

TABLE 3
**Percentage of King Residents Independent for Activities of Daily Living
By Category**

<u>ADL</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
Bathing	11.3%	11.6%	13.6%
Dressing	45.2	43.5	42.5
Transferring	65.1	63.1	64.2
Toilet Use	57.8	56.4	58.1
Eating	63.9	64.8	67.9

11. The data suggest that changes in the percentages of the number of members of the veterans home at King who do not require assistance with activities of daily living has remained fairly constant over the last three years. Further, the percentage of individuals who are independent in three of the categories (bathing, toilet use, and eating) have increased over time, indicating a slight reduced demand for staff assistance. A fourth category (transferring) has remained relatively constant, while the fifth (dressing) demonstrates a small increase in the percentage of members who would require assistance with this activity.

12. The Department's second assertion, that the increased acuity of the membership at King can be demonstrated by the change in numbers of residents classified as requiring "intensive" and "skilled" levels of nursing care, is shown in the following table.

TABLE 4

**King Membership Totals, by Level of Care Needs
Calendar Years 2003 through 2005**

<u>Level of Care</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>Change in Minimum Required Hours of Care 2003 to 2005</u>	
Intensive Skilled Care	1	16	20	61.75	Hours per day
Skilled Care	484	506	510	65	Hours per day
Intermediate Care	204	172	151	-106	Hours per day
Limited Care	22	23	31	No Minimum Required	
Personal Care	3	1	1	No Minimum Required	
Total	714	718	713	20.75	Hours per day
				7,573.75	Hours per year
				4.63	FTE

13. The data suggest that, all other factors being equal, the increase in the number of members at King with higher level-of-care needs over the last three years would increase the minimum number of hours of care per day required under state law to equal approximately 4.63 additional full time equivalent direct care nursing positions more than what was needed in 2003. The position calculation assumes that each position has 1,637 available hours per year, after vacation, sick leave, training, and compensatory time allotments are taken into account.

14. As 33 direct care nursing staff positions were provided under 2005 Act 25 (the 2005-07 biennial budget bill) to address anticipated increased staffing needs at King as a result of the increased acuity of its membership, it could be argued that this need was met for the 2005-07 biennium. If the Committee wished to ensure that similar changes in acuity were addressed proactively for the 2007-09 biennium, 5.0 direct care positions (1.0 RN and 4.0 CNAs) could be added to account for staffing needs related to changes in resident acuity levels. If these positions were funded at 5% above the minimum to aid recruitment, the cost to add the positions would total approximately \$257,200 annually.

15. Alternatively, another way to evaluate staffing needs might be to consider how the acuity of the members of the King home and their direct care staffing levels compare to the documented acuity of residents of other nursing homes, and those homes' staffing levels.

16. In determining reimbursement rates for nursing homes statewide, the Department of Health and Family Services uses the Resources Utilization Groups (RUGs) index to express a calculation of the average acuity of the individuals served at a given facility. RUGs is the acuity measure used for all Medicare nursing home reimbursement and by approximately half of the states for their MA payment system. Beginning in 2006, DHFS began transitioning from the "level of

care" system, which is considered limited in its ability to express acuity, to the RUGs system for determining MA nursing home reimbursement. The RUGs system used by DHFS has 53 acuity classifications – 23 classifications that are primarily based on the amount of therapy and rehabilitative services received by the individual, and 30 classifications that use clinical conditions, nursing services, behavior, cognitive impairment, restorative nursing services, and functional status as measured by ADLs as indicators of relative acuity. These 30 groups are used to categorize the acuity of residents receiving long-term, non-rehabilitative care, and provide a better acuity-based MA payment calculation than the previous "level of care" classification system.

17. A review of the case mix index at King, under Wisconsin's MA reimbursement methods using the RUGs index, shows that while statewide the case mix index increased slightly from June 30, 2003 to June 30, 2006, the case mix index for King residents remained relatively constant over the last three years, with approximately one tenth of one percent change over that time period. The following table shows the case mix index for members of the King home compared to the statewide average for 2003 through 2006.

TABLE 5

RUGs Case Mix Index

	<u>2003*</u>	<u>Change</u>	<u>2004*</u>	<u>Change</u>	<u>2005*</u>	<u>Change</u>	<u>2006*</u>	<u>Avg. Chg. From 2003-06</u>
King	0.815	-0.9%	0.808	1.1%	0.817	-0.4%	0.814	-0.12%
Statewide Average	0.969	0.8%	0.977	1.1%	0.988	0.3%	0.991	2.27%

*As of June 30th of each year.

18. DVA staff have questioned the accuracy of using the RUGs index to compare the acuity of the membership at King to the average acuity of residents in other nursing homes statewide, noting that 23 of the 53 classification groups are primarily based on the amount of therapy and rehabilitative services received. As most of the residents at King are stable, long-term members (83.2% of the December 31, 2005, census at King had resided there more than one year), rehabilitative classifications are rarely relevant. However, this concern would not prohibit using the RUGs index to evaluate changes in the acuity of the King membership compared to itself over several years, to evaluate whether the population of the facility as a whole were increasing in acuity relative to its own population. When the RUGs case mix index for King is viewed over time, it appears that the acuity levels at King have not risen from June, 2003, thru June, 2006, when a comprehensive perspective of relative care factors is considered.

19. While it would seem that the acuity level of King's membership has remained relatively stable since 2003, the Committee may wish to consider whether the number of full-time direct care staff budgeted for King operations are sufficient to provide a minimum number of hours of care as specified under current law. Every nine to 15 months, DHFS' Bureau of Quality

Assurance (BQA) is required to survey all licensed nursing homes. Part of the survey process includes a report on the number of nursing staff hours provided over the two-week period just prior to when the survey was conducted. These surveys include a check to determine whether or not the reported hours meet the state's minimum required hours for staffing. In total, the nursing facilities at King had a nurse staffing percentage equal to 111% of the state's minimum requirements in BQA's 2005 summary report (the most recent available), compared to a statewide average of 145% for nursing facilities of similar size. The nursing facilities at King have historically had nurse staffing percentages below the statewide average, in part due to the lower relative acuity of the facility's membership.

20. Based on independent estimates showing a relatively stable average acuity rate among King residents over time, and BQA's documentation that the skilled nursing facility at King has been able to meet statutory requirements for the state's minimum care requirements with current staffing levels, it could be argued that the Veterans Home at King possesses adequate position authority to serve its members without the increased positions provided under the bill. If the Committee wished to make a proactive adjustment in staffing to anticipate an increase in the acuity of King residents over the upcoming biennium, five additional positions could be provided if there was concern that the trend of more individuals requiring intensive or skilled levels of nursing care over time might continue at a similar rate in 2007-08 and 2008-09.

21. While the care needs of current population of the King home appear to be relatively stable, the current level of staffing requires significant LTE and overtime support to ensure around-the-clock coverage, even with the facility's lowered vacancy rate in direct care nursing positions. Further, while the home at King meets the state's minimum care requirements, the statewide average percentage of the minimum nursing staffing hours were 145% in 2005, or 34% higher than at the King campus. These lower staffing percentages can be explained, in part, by the lower acuity level of residents at the King home than in nursing homes statewide. However, additional staff could be provided to allow the home at King to provide nursing staff resources to residents at a greater level above the state specified minimum. The following table lists the number of nurses and nurse's aides hours per resident per day for each of the four facilities at King and provides a comparison to the average statewide and the average nationwide. The nursing staff to resident ratios in each veterans nursing facility are considerably lower in every category than both the statewide and the nationwide averages. Again, these lower staffing ratios can be explained, in part, by the lower acuity level of residents at King.

TABLE 6

**Number of Nurse and Nurse Aide Hours per Resident per Day
As Reported through March, 2007**

<u>Number of Nursing Facility</u>	<u>Residents</u>	<u>RN</u>	<u>LPN</u>	<u>CNA</u>	<u>Total</u>
Ainsworth	195.0	0.42	0.37	2.22	3.01
MacArthur	110.0	0.57	0.70	2.50	3.77
Olson	193.0	0.48	0.40	2.12	3.00
Stordock	193.0	0.43	0.42	2.07	2.92
Statewide Average	88.0	0.60	0.60	2.40	3.60
National Average	95.9	0.50	0.70	2.30	3.50

22. Under the bill, the Governor recommends providing an additional 30.0 positions (including eight registered nurses) to increase the number of direct care staff available to serve residents of the King home. This would increase the staffing ratio at King to approximately 118% of the state's minimum direct care requirement, based on current member case mix. Filling existing vacancies in direct care nursing positions would increase staffing ratios at the King home to approximately 125% of the state's minimum direct care requirement. If an interim level of support was desired, the Committee could chose to provide half of the number of direct care staff included in the bill. Providing 15 positions would increase the staffing ratio at King to approximately 115% of the state's minimum direct care requirement.

23. Aside from questions of staff to resident ratios, the administration also indicates the need for additional staff in order to reduce forced overtime. Overtime hours at King for direct care nursing staff totaled 3,013 hours in 2005-06, including 4,600 LPN overtime hours, 4,359 RN overtime hours, and 21,054 CNA overtime hours. The number of overtime hours equal approximately 2.7 full-time RNs, 2.8 LPNs, and 12.4 full-time CNAs. The amount of overtime funding that supported these direct care costs totaled \$888,300 in 2005-06. When recently negotiated pay increases totaling 13% are included, DVA estimates that the increased cost of providing this same number of direct care overtime hours will be \$689,000 in 2007-08 and \$713,500 in 2008-09 above base funding.

24. The Committee could instead address these overtime concerns by providing \$228,700 annually to support 2.7 RN positions, funded at 5% above the minimum pay range to aid recruitment. The King home already has full funding and position authority to fill the 2.8 LPN positions and the 12.4 CNA positions it would need to fully staff this amount of overtime coverage. (As previously shown in Table 2, the home has 6.0 vacant LPN positions and 17.5 vacant CNA positions authorized.) The increase in overtime funding included under the bill could be deleted to reflect the addition of staff and the available funding to support limited-term employees to address staffing concerns as needed. Base overtime funding would remain available to support limited

amounts of direct care overtime, as well as overtime in other areas (such as food service, security, housekeeping, transportation, and buildings and grounds workers). While some overtime funding is necessary to ensure coverage for unexpected leave, addressing the long-term staffing issues may stabilize and reduce demand for overtime. Funding the additional 2.7 RN positions and deleting the increase in the overtime allotment would save the King operations appropriation \$460,300 in 2007-08 and \$484,800 in 2008-09.

25. Funding for operations at the veterans homes is primarily supported by member contributions, MA payments, and United States Department of Veterans Affairs (USDVA) per diem payments. Approximately 85% of the residents at King are MA recipients. MA funding is composed of approximately 42% state and 58% federal funds. However, changes in staffing or funding levels in this item will not result in changes in the amount of MA payments that will be made to the Veterans Home at King. This is because, in the MA base reestimate of SB 40, it is already assumed that DHFS will make payments to the veterans homes and make federal claims up to the maximum amount allowed under federal law (the upper payment limit) based, in part, on projected patient days at these homes. Since this item will not change the number of projected patient days at King, the amount of funding that DHFS will claim and pay to the veterans homes will not be affected by this item. Any increases or decreases in funding provided under this item would affect the projected ending balance in the PR appropriation that supports the operations of the veterans' homes.

ALTERNATIVES TO BILL

A. Direct Care Staffing

1. Approve the Governor's recommendation to provide \$1,085,900 PR in 2007-08 and \$1,447,800 PR in 2008-09 with 30.0 positions, beginning in 2007-08, to increase the number of direct care staff available to serve residents of the Veterans Home at King.

ALT A1	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
PR	\$0	0.00	\$2,533,700	30.00

2. Approve the Governor's request as modified to specify that eight of the 30.0 direct care positions provided be registered nurses (RNs), and provide an additional \$210,000 PR in 2007-08 and \$280,000 PR in 2008-09 to fully fund the positions.

ALT A2	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
PR	\$490,000	0.00	\$3,023,700	30.00

3. Do not approve the Governor's recommendation. Rather, provide \$648,000 PR in 2007-08 and \$863,900 PR in 2008-09 with 15.0 PR positions beginning in 2007-08 to increase the number of direct care staff available to serve residents of the Veterans Home at King. Specify that four of the 15 direct care positions provided be registered nurses (RN), and increase funding for those positions accordingly.

ALT A3	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
PR	-\$1,021,800	- 15.00	\$1,511,900	15.00

4. Do not approve the Governor's recommendation. Rather, provide \$257,200 PR and 5.0 PR positions (1.0 RN and 4.0 CNA positions), beginning in 2007-08, to address potential increases in staffing needs due to member acuity.

ALT A4	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
PR	-\$2,019,300	- 25.00	\$514,400	5.00

5. Delete provision.

ALT A5	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
PR	-\$2,533,700	- 30.00	\$0	0.00

B. Limited-Term Employees

1. Approve the Governor's recommendation to provide \$703,700 PR annually to increase funding for LTEs at the Veterans Home at King.

ALT B1	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
PR	\$0		\$1,407,400	

2. Delete provision.

ALT B2	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
PR	-\$1,407,400		\$0	

C. Overtime and Holiday Pay Adjustments

1. Approve the Governor's recommendation to provide \$712,100 PR in 2007-08 and \$761,400 PR in 2008-09 to fund projected increases in the cost of holiday and regular overtime pay for staff at the Veterans Home at King (\$689,000 in 2007-08 and \$713,500 in 2008-09) and at the Veterans Home at Union Grove (\$23,100 in 2007-08 and \$47,900 in 2008-09).

ALT C1	Change to Bill	Change to Base
	Funding	Funding
PR	\$0	\$1,473,500

2. Do not approve the Governor's recommendation to increase overtime allotments for the staff at King. Rather, provide \$228,700 PR and 2.7 RN positions annually to decrease reliance on overtime. Provide \$23,100 in 2007-08 and \$47,900 in 2008-09 to increase funding for overtime for the Veterans Home at Union Grove.

ALT C2	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
PR	-\$945,100	0.00	\$528,400	2.70

3. Delete provision.

ALT C3	Change to Bill	Change to Base
	Funding	Funding
PR	-\$1,473,500	\$0

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