



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #230

### **Court Interpreter Reimbursement (DOA-- Justice Information System Surcharge and Circuit Courts)**

[LFB 2011-13 Budget Summary: Page 36, #1; Page 111, #3; and Page 112, #4]

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#### **CURRENT LAW**

In all criminal and civil proceedings, if a court determines that the person has limited English proficiency and that an interpreter is necessary, the court must advise the person of their right to a qualified interpreter at the public's expense. Counties pay the expenses for interpreters and the state reimburses counties for interpreter costs at the rate of \$40 per hour for certified interpreters and \$30 per hour for qualified interpreters. State reimbursement is paid from the Circuit Court's GPR court interpreter fees appropriation. Base funding for the appropriation is \$1,433,500 GPR.

#### **GOVERNOR**

Create a program revenue appropriation and authorize expenditure of \$134,000 PR in 2011-12 and \$232,700 PR in 2012-13 for state reimbursement payments to counties for court interpreter services, as follows: (a) \$57,300 in 2011-12 and \$117,000 in 2012-13 for projected increased caseload; and (b) \$76,700 in 2011-12 and \$115,700 in 2012-13 for projected increased use of certified court interpreters. Funding for the new appropriation would come from the justice information system surcharge fee receipts appropriation, a new appropriation under the Office of Justice Assistance (OJA) to receive justice information surcharge revenue.

Further, reduce funding by \$143,400 in the Circuit Court's GPR court interpreter fees appropriation associated with a 10% reduction to supplies and other non-personnel costs.

## DISCUSSION POINTS

1. Under current law, the state reimburses counties for circuit court costs associated with interpreters for persons with Limited English Proficiency. "Limited English Proficiency" (LEP) is defined as the inability to adequately hear, understand or communicate effectively in English due to either: (a) use of a language other than English; or (b) a speech impairment, hearing loss, deafness, deaf-blindness, or other disability. If the court determines that a person has LEP and that an interpreter is necessary, the court is required to advise the person that he or she has the right to a qualified interpreter at the public's expense, if the person is one of the following:

- a. a party of interest;
- b. a witness, while testifying in a court proceeding;
- c. an alleged victim, as defined by statute;
- d. a parent or legal guardian of a minor party in interest or the legal guardian of a party in interest; or
- e. another person affected by the proceedings, if the court determines that the appointment is necessary and appropriate.

2. If a person with a hearing impairment is part of a jury panel, the court must appoint a qualified interpreter for that person. In addition, statutory provisions authorize the use of interpreters in the following circumstances:

- a. if the person with LEP requests assistance of the clerk of circuit courts regarding a legal proceeding, the clerk may provide the assistance of a qualified interpreter to respond to the person's inquiry;
- b. with approval of the court, interpreter services outside the courtroom that are related to the court proceedings, including court-ordered psychiatric or medical exams or mediation;
- c. in other actions or proceedings authorized by the court; and
- d. the court may appoint more than one qualified interpreter in a court proceeding when necessary.

3. Counties are required to pay interpreter expenses in all proceedings before the circuit court and when the clerk of circuit courts uses a qualified interpreter. To receive state reimbursement, counties must submit forms to the Director of State Courts accounting for interpreter expenses for the preceding three-month period. The Director of State Courts then reimburses for the interpreter expenses at the following rates: (a) \$40 for the first hour and \$20 for each additional 0.5 hour for qualified interpreters certified under the requirements and procedures approved by the Supreme Court; (b) \$30 for the first hour and \$15 for each additional 0.5 hour for qualified interpreters; and (c) for mileage, 20 cents per mile.

4. As of April, 2011, there are 108 court interpreters certified by the Supreme Court (77 in Spanish, 14 in American Sign Language, five in Russian, four Deaf Relay, two in Hmong, one in German, one in Mandarin, one in Vietnamese, one in French, one in Laotian, and one in Somali).

5. The bill would provide \$134,000 PR in 2011-12 and \$232,700 PR in 2012-13 for court interpreter fees, deposited into a new program revenue appropriation for state reimbursement payments to counties for court interpreter services. The increased funding includes: (a) \$57,300 in 2011-12 and \$117,000 in 2012-13 for projected increased caseload; and (b) \$76,700 in 2011-12 and \$115,700 in 2012-13 for projected increased use of certified court interpreters. Funding for the projected increase in interpreter caseload is based on U.S. Census Bureau projections on LEP populations in Wisconsin, which have been increasing by approximately 4% annually. Funding for the projected increased use of certified court interpreters assumes seven additional court interpreters will be certified in 2011-12 and 14 additional interpreters in 2012-13. The funding calculations are similar to prior budget calculations and appear appropriate given population trends.

6. In addition to providing funding for projected increased court interpreter costs, the bill would reduce the GPR court interpreter appropriation by \$143,400 GPR annually associated with the 10% reduction to supplies and other non-personnel costs. As a result, total funding for state reimbursement to counties for court interpreter reimbursement would be \$1,424,100 in 2011-12 (\$1,290,100 GPR and \$134,000 PR) and \$1,522,800 in 2012-13 (\$1,290,100 GPR and \$232,700 PR). Regarding the reductions to GPR, the Director of State Courts Office indicates that since they are required to reimburse counties for interpreter costs, to the extent that funding is insufficient, the Courts would need to submit a request under s. 13.10. As such, the Committee may wish to restore the funding reduction to prevent a possible shortfall, an increase of \$286,800 GPR to the bill. [Alternative 2]

7. Court interpreter reimbursements are currently funded through one general purpose revenue appropriation under the Circuit Courts. The bill would create a second appropriation, funded through PR revenue transfers from a new appropriation under OJA. Although the bill provides the additional funding projected for increased court interpreter reimbursements, it could be argued that by creating a new appropriation and funding source for the additional costs, administration of court interpreter reimbursements would be more complicated. Further, funding of court interpreters is not a historic use of justice information system surcharge revenues. If the Committee wished to provide the additional funding, but maintain the funding structure of the current GPR appropriation for reimbursements, the bill could be modified by deleting the language and funding associated with the new appropriation and instead provide \$134,000 GPR in 2011-12 and \$232,700 GPR in 2012-13 for court interpreter fees. [Alternative 3]

## **ALTERNATIVES**

1. Approve the Governor's recommendation to create a program revenue appropriation and authorize expenditure of \$134,000 PR in 2011-12 and \$232,700 PR in 2012-13 for state reimbursement payments to counties for court interpreter services, as follows: (a) \$57,300 in 2011-12 and \$117,000 in 2012-13 for projected increased caseload; and (b) \$76,700 in 2011-12 and

\$115,700 in 2012-13 for projected increased use of certified court interpreters. Funding for the new appropriation would come from revenue from the justice information system surcharge, deposited into a new appropriation under OJA. In addition, reduce funding by \$143,400 GPR in the Circuit Court's GPR court interpreter fees appropriation associated with a 10% reduction to supplies and other non-personnel costs.

2. Delete the Governor's recommendation to reduce the Circuit Court's GPR court interpreter fees appropriation associated with a 10% reduction to supplies and other non-personnel costs. [This alternative may be adopted with Alternatives 1 or 3.]

<b>ALT 2</b>	<b>Change to Bill Funding</b>
GPR	\$286,800

3. Delete the Governor's recommendation to create a program revenue appropriation and provide court interpreter funding from the justice information system surcharge revenue. Instead, provide \$134,000 GPR in 2011-12 and \$232,700 GPR in 2012-13 for state reimbursement payments to counties for court interpreter services, as follows: (a) \$57,300 in 2011-12 and \$117,000 in 2012-13 for projected increased caseload; and (b) \$76,700 in 2011-12 and \$115,700 in 2012-13 for projected increased use of certified court interpreters. [This alternative would retain the 10% reduction to the Circuit Court's current GPR court interpreter appropriation.]

<b>ALT 3</b>	<b>Change to Bill Funding</b>
GPR	\$366,700
PR	<u>-366,700</u>
Total	\$0

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