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Joint Committee on Finance

Paper #310

Extend 2011 Act 23 Voter Identification Project Positions (Government Accountability Board)

[LFB 2013-15 Budget Summary: Page 192, #3]

CURRENT LAW

On June 9, 2011, 2011 Assembly Bill 7 related to requiring photo identification in order to vote, and making other election administration changes, was published as 2011 Act 23. Act 23 did not provide additional funding or positions to the Government Accountability Board (GAB) to carry out its responsibilities under Act 23.

Under the 2011-13 biennial budget act, the Legislature provided GAB \$1,800,000 in 2011-12, and 5.0 two-year project positions to the Board's GPR biennial general program operations appropriation to implement the provisions of 2011 Act 23. The funding and positions were intended to be utilized for public outreach and information, modification of the Statewide Voter Registration System, training of election officials, support of the Board's Help Desk, and forms and materials revision.

In March and July of 2012, two separate circuit court branches in separate actions granted permanent injunctions against the enforcement of the photo identification requirements of Act 23. The courts found the photo identification requirements to violate Article III of the Wisconsin Constitution. Both state court actions are currently on appeal to the Wisconsin Court of Appeals. In addition to the litigation in state court, two additional legal challenges to the provisions of Act 23 have also been filed in federal court.

GOVERNOR

Extend 5.0 two-year GPR project positions and associated funding that was originally provided on a one-time basis under the 2011-13 budget act to the Board for an additional two

years to implement Act 23 voter identification provisions.

DISCUSSION POINTS

1. As these two-year project positions and the associated funding were provided on a one-time basis to implement the voter identification requirements of Act 23 during the current biennium, the project positions and the associated funding would typically have been removed from the Board's budget as noncontinuing elements as a standards budget adjustment. This was not done, and, as a result, the additional funding and position authority for these project positions are already included in the agency's base budget. Base funding for these GPR-funded project positions includes: (a) \$165,700 annually for project position salaries; and (b) \$64,700 annually for fringe benefit costs.

2. The administration indicates that the Governor recommended extending the project positions as "the agency will need the positions to continue to implement voter identification provisions" if the law is allowed to take effect. Similarly, GAB staff has indicated that, "If the Legislature deleted the extension of the 5.0 positions and the attached funding then we would not be in a position to train local election officials on voter ID, revise manuals and publications as necessary, conduct a voter information campaign or have sufficient staff to address voter identification inquiries if the injunctions are lifted."

3. In order to provide resources to implement the photo identification provisions of Act 23, the Committee could consider extending the 5.0 project positions for an additional two years. [Alternative 1] On the other hand, the photo identification provisions of Act 23 are permanently enjoined by multiple court orders and it is unclear if or when these injunctions may be lifted. In addition, if the state is successful on appeal in lifting the state injunctions enjoining the enforcement of Act 23, litigation in federal court may once again lead to an injunction of the photo identification provisions.

4. As a result, the Committee could also consider: (a) deleting \$230,400 GPR annually in base resources for the 5.0 voter identification project positions from the Board's GPR biennial general program operations appropriation (\$165,700 annually for project position salaries and \$64,700 annually for fringe benefit costs); and (b) providing \$230,400 GPR annually to the Joint Committee on Finance's GPR supplemental appropriation. Under this alternative, the Committee would approve the extension of the 5.0 project positions for an additional two years, but transfer the funding for these positions to the Committee's GPR supplemental appropriation. If the state succeeds in establishing the constitutionality of Act 23 in court, GAB could seek the funding for the positions from the Committee under s. 13.10 to permit it to carry out its responsibilities under Act 23. Under this alternative, funding for the positions would not be provided unless and until the permanent injunctions relating to the photo identification provisions were lifted. [Alternative 2] On the other hand, it could be argued that this alternative would create an additional administrative step that could slow the Board's ability to provide services and meet its obligations under Act 23 if the permanent injunctions are lifted.

5. Finally, as it is not known under what timeline these positions may be needed, the

Committee could also consider deleting the Governor's recommendation to extend the 5.0 voter identification project positions and delete \$230,400 GPR annually in base funding for these positions from the Board's GPR biennial general program operations appropriation. [Alternative 3]

ALTERNATIVES

1. Approve the Governor's recommendation to extend 5.0 two-year GPR project positions and associated funding that was originally provided on a one-time basis under the 2011-13 budget act to the Government Accountability Board for an additional two years to implement Act 23 voter identification provisions.

2. Approve the Governor's recommendation to extend 5.0 two-year GPR project positions provided under the 2011-13 budget act for an additional two-years to implement Act 23 voter identification provisions. Delete \$230,400 GPR annually in base resources (\$165,700 annually for project position salaries and \$64,700 annually for fringe benefit costs) from the Board's GPR biennial general program operations appropriation that was provided to the Board to fund these positions. Instead, provide \$230,400 GPR annually to the Joint Committee on Finance's GPR supplemental appropriation. If the courts lift the permanent injunctions against the enforcement of the Act 23 photo identification provisions during 2013-15, the Board could file a s. 13.10 request to seek release of this funding in order to fill the 5.0 project positions to assist in the implementation of Act 23.

3. Delete the provision. In addition, delete \$230,400 GPR annually in base resources (\$165,700 annually for project position salaries and \$64,700 annually for fringe benefit costs) from the Board's GPR biennial general program operations appropriation that was provided to the Board to fund the 5.0 voter identification project positions.

ALT 3	Change to Bill	
	Funding	Positions
GPR	- \$460,800	- 5.00

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