



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #394

Pooling of Concealed Weapons Licensure Program and Handgun Purchaser Record Check Program Revenue (Justice -- General Agency Provisions)

[LFB 2013-15 Budget Summary: Page 273, #7]

CURRENT LAW

Handgun purchaser record check program. Under s. 175.35 of the statutes, when a firearms dealer sells a handgun in Wisconsin, the dealer may not transfer possession of that handgun until all of the following events occur: (a) the dealer has inspected photographic identification from the purchaser; (b) the purchaser has completed a notification form with the purchaser's name, date of birth, gender, race, and social security number so that the Department of Justice (DOJ) may perform an accurate record search; (c) the dealer has submitted the information to DOJ and has requested a firearms restrictions record search; and (d) 48 hours have lapsed (subject to certain extensions) and DOJ has not notified the dealer that the transfer would be a violation of state or federal law.

A \$13 handgun purchaser record check fee is assessed on the dealer (who may pass the charge on to the purchaser) for each background check. These fee revenues are remitted to DOJ and are intended to fund the cost of operating the record check program.

Concealed weapons licensure program. The provisions of 2011 Act 35 permit Wisconsin residents to carry concealed and dangerous weapons in public if they qualify for licensure and are licensed by DOJ. Act 35 also permits qualified out-of-state licensees to carry concealed and dangerous weapons in public in Wisconsin. Finally, Act 35 permits qualified out-of-state law enforcement officers and former law enforcement officers to carry concealed and dangerous weapons. Wisconsin residents applying for a concealed weapons license are assessed a \$37 license fee and a \$13 background check fee. These fees are intended to support the operation of the concealed weapons licensure program.

GOVERNOR

Make the following changes to appropriations that receive revenue for and authorize expenditures to administer the concealed weapons licensure program and the handgun purchaser record check program: (a) delete the PR annual background check for licenses to carry concealed weapons appropriation which receives concealed weapons license application and background check fees to fund the administration of the concealed weapons licensure program along with its base funding and position authority of \$62,300 PR and 9.5 PR positions annually; (b) delete the PR continuing certification cards for carrying concealed weapons appropriation which receives certification card application and background check fees to fund the administration of issuance of certification cards to carry concealed firearms to former federal law enforcement officers; (c) amend the PR continuing handgun purchaser record check appropriation which receives handgun purchaser record check fees to fund DOJ's administration of the handgun purchaser record check program, to provide that this appropriation could also receive revenue from and make expenditures for the concealed weapons licensure program (including revenue from and expenditures for the issuance of certification cards to former federal law enforcement officers); (d) amend the title of the PR continuing handgun purchaser record check appropriation to handgun purchaser record check; checks for licenses or certifications to carry concealed weapons; and (e) provide \$62,300 PR and 9.5 PR positions annually in base resources for the concealed weapons licensure program to the PR continuing handgun purchaser record check; checks for licenses or certifications to carry concealed weapons appropriation.

DISCUSSION POINTS

1. Until 2011-12, since its creation under 1991 Act 11, the handgun purchaser record check program had ended each state fiscal year in deficit. However, under 2009 Act 28 the handgun purchaser record check fee was increased from \$8 to \$13. In recent years, the program has also seen a substantial increase in handgun purchaser record checks associated with increased handgun sales. The program began 2011-12 with a deficit of \$613,700 PR. However, during 2011-12, the program received \$1,560,800 PR in handgun purchaser record check fees and expended \$492,900 PR. As a result, the program concluded 2011-12 with a positive balance of \$454,200 PR.

2. It is estimated that the handgun purchaser record check program will receive revenue totaling \$1,882,400 PR and make expenditures totaling \$493,000 PR in 2012-13. As a result, it is estimated that the handgun purchaser record check program will conclude 2012-13 with a positive closing balance of \$1,843,600 PR.

3. Under AB 40, the handgun purchaser record check program and the concealed carry program would be consolidated for budgetary purposes. All revenues from both programs would be deposited to the amended PR continuing handgun purchaser record check; checks for licenses or certifications to carry concealed weapons appropriation. The expenditure authority for both programs would be provided to this amended appropriation.

4. The Department indicates that the advantage to combining the programs for budgetary purposes is that the tasks and some of the expenses for the programs "significantly

overlap." Department staff indicates that, "It is currently difficult to fully distinguish expenses what may pertain to either program." As there are overlapping duties in both programs, in particular completing background checks of individuals seeking to purchase a firearm or to be issued a concealed weapons license, the Committee could consider approving the Governor's recommendation. [Alternative 1]

5. In addition to consolidating the programs for budgetary purposes, under AB 40, the remaining appropriation for the programs would be a continuing appropriation. Department staff indicates that, "The benefit of having a PR-continuing appropriation is that DOJ can more readily access available cash for expenditures, which may fluctuate. If the appropriation were combined to be PR-annual appropriation, DOJ would not be able to access needed cash to operate the program, without preparing a formal request." In order to provide DOJ more flexibility to make expenditures from revenues received under the handgun purchaser record check program and the concealed carry program to carry out its responsibilities under these programs, the Committee could consider approving the Governor's recommendation. [Alternative 1]

6. On the other hand, if the Legislature approved this remaining appropriation as a continuing appropriation, the Legislature would not retain the same budgetary oversight authority over the programs as it would if the appropriation were an annual appropriation. If the appropriation were an annual appropriation, the Department could not make expenditures from the appropriation in excess of the amounts in the Chapter 20 schedule without the approval of the Legislature under separate legislation or of the Joint Committee on Finance under passive review. As an annual appropriation, the Legislature could more closely monitor expenditures and ensure that the relevant fees for the programs were set at a level necessary to cover approved expenditure levels. As a result, if the Committee elected to consolidate the programs for budgetary purposes, the Committee could nonetheless consolidate the revenue and expenditures for the programs under the current law PR annual background check for licenses to carry concealed weapons appropriation, so that the remaining appropriation for the programs would be a PR annual appropriation. [Alternative 2]

7. The Committee could also consider consolidating the revenue and expenditures for the programs under the current law PR annual background check for licenses to carry concealed weapons appropriation, but amend the appropriation to make it a biennial appropriation. Under this alternative, DOJ would have more flexibility to adjust spending between fiscal years of the biennium, but still could not make expenditures above appropriated amounts for the biennium without the approval of the Legislature. [Alternative 3]

8. Under the Governor's recommendation the appropriation for both programs would be provided \$1,776,500 PR and 17.5 PR positions in 2013-14, and \$1,262,500 PR and 17.5 PR positions in 2014-15. Under AB 40, if the appropriation for both programs remained a continuing appropriation, DOJ could increase expenditures above these amounts without the approval of the Legislature.

9. When the Legislature created the concealed weapons licensure program last session under 2011 Act 35, it created the program with a separate appropriation. Likewise, when the Legislature created the handgun purchaser record check program under 1991 Act 11, it created the

program with a separate appropriation.

10. An advantage to separately budgeting each program is that it affords the Legislature more insight as to the budgetary functioning of each program. For example, as the handgun purchaser record check program is still a separate program, the Legislature can compare and analyze the revenue collected from the program specific fee (the \$13 handgun purchaser record check fee) with the expenditures incurred by DOJ to operate the program. The Legislature could lose the ability to adjust fees under each program to reflect individual program expenditures if the programs were to be budgetarily consolidated. If revenues and expenditures for the programs were consolidated in one appropriation, the Department would no longer have a budgetary reason to separately track revenues and expenditures for each program. In order to mitigate the potential loss of detailed budgetary information, the Committee could consider deleting the provisions under AB 40, and maintain the programs as separate programs as is done under current law. [Alternative 4]

11. The handgun purchaser record check program is estimated to conclude the current fiscal year with a positive balance of \$1,843,600 PR. During 2011-13, revenue collections under the program have outpaced costs to operate the program. Based on recent handgun purchaser record check fee collections under the program, it is estimated that this balance will not be needed to operate the program during 2013-15. As a result, the Committee could consider lapsing this balance to the general fund as GPR-Earned. In addition, even if fee collections were to decline during 2013-15 from current levels, it is estimated that the Legislature could reduce the handgun purchaser record check fee to \$8 (the amount charged prior to the adoption of 2009 Act 28), and the fee revenue from the reduced fee would still generate sufficient revenues to support budgeted program expenditures for 2013-15. As a result, the Committee could also consider reducing the handgun purchaser record check fee to \$8. [Alternative 5]

ALTERNATIVES

1. Approve the Governor's recommendation to make the following changes to appropriations that receive revenue for and authorize expenditures to administer the concealed weapons licensure program and the handgun purchaser record check program: (a) delete the PR annual background check for licenses to carry concealed weapons appropriation which receives concealed weapons license application and background check fees to fund the administration of the concealed weapons licensure program along with its base funding and position authority of \$62,300 PR and 9.5 PR positions annually; (b) delete the PR continuing certification cards for carrying concealed weapons appropriation which receives certification card application and background check fees to fund the administration of issuance of certification cards to carry concealed firearms to former federal law enforcement officers; (c) amend the PR continuing handgun purchaser record check appropriation which receives handgun purchaser record check fees to fund DOJ's administration of the handgun purchaser record check program, to provide that this appropriation could also receive revenue from and make expenditures for the concealed weapons licensure program (including revenue from and expenditures for the issuance of certification cards to former federal law enforcement officers); (d) amend the title of the PR continuing handgun purchaser record check appropriation to handgun purchaser record check; checks for licenses or certifications to carry concealed weapons; and (e) provide \$62,300 PR and 9.5 PR positions annually in base

resources for the concealed weapons licensure program to the PR continuing handgun purchaser record check; checks for licenses or certifications to carry concealed weapons appropriation.

2. Modify the Governor's recommendation by providing that the remaining appropriation for the programs be the PR annual background check for licenses to carry concealed weapons appropriation (modified to reflect that revenues and expenditures from both programs would now be deposited to and expended from this appropriation).

3. Modify the Governor's recommendation by providing that the remaining appropriation for the programs be the PR annual background check for licenses to carry concealed weapons appropriation (modified to reflect that revenues and expenditures from both programs would now be deposited to and expended from this appropriation), but amend the appropriation to make it a biennial appropriation.

4. Delete provision. [This alternative would not delete expenditure authority provided to either program under AB 40. Rather, under this alternative, the handgun purchaser record check program and the concealed weapons licensure program would continue to be separately budgeted.]

5. *This alternative may be adopted with either Alternative 1 or 3.* Lapse \$1,843,600 PR in handgun purchaser record check fees to the general fund. Reduce the handgun purchaser record check fee from \$13 to \$8.

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| ALT 5 | Change to Bill |
| | Revenue |
| GPR-Earned | \$1,843,600 |

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