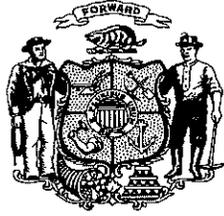


State of Wisconsin

SENATE CHAIR
Alberta Darling

317 East, State Capitol
P.O. Box 7882
Madison, WI 53707-7882
Phone: (608) 266-5830



ASSEMBLY CHAIR
John Nygren

308 East, State Capitol
P.O. Box 8593
Madison, WI 53708-8953
Phone: (608) 266-2343

Joint Committee on Finance

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Alberta Darling
Representative John Nygren

Date: March 17, 2020

Re: s. 16.515/16.505(2), Stats. Request

Attached is a copy of a request from the Department of Administration, received March 17, 2020, pursuant to s. 16.515/16.505(2), Stats., on behalf of the Department of Justice.

Please review the material and notify **Senator Darling** or **Representative Nygren** no later than **Friday, April 3, 2020**, if you have any concerns about the request or if you would like the Committee to meet formally to consider it.

Also, please contact us if you need further information.

Attachments

AD:JN;jm



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Joel Brennan, Secretary

Date: March 17, 2020

MAR 17 2020

To: The Honorable Alberta Darling, Co-Chair
Joint Committee on Finance

St. Finance

The Honorable John Nygren, Co-Chair
Joint Committee on Finance

From: Joel T. Brennan, Secretary
Department of Administration

Joel T. Brennan

Subject: s. 16.515/16.505(2) Request(s)

Enclosed are request(s) that have been approved by this department under the authority granted in s. 16.515 and s. 16.505(2). The explanation for each request is included in the attached materials. Listed below is a summary of each item:

AGENCY	DESCRIPTION	2019-20		2020-21	
		AMOUNT	FTE	AMOUNT	FTE
DOJ 20.455(2)(gr)	Handgun purchaser record checks; checks for licenses or certifications to carry concealed weapons	\$0	8.0	\$0	8.0

As provided in s. 16.515, the request(s) will be approved on April 7, 2020 unless we are notified prior to that time that the Joint Committee on Finance wishes to meet in formal session about any of the requests.

Please contact Kirsten Grinde at 266-1353, or the analyst who reviewed the request in the Division of Executive Budget and Finance, if you have any additional questions.

Attachments

Date: March 16, 2020
To: Brian Pahnke
From: Michael R. Schmidt
Subject: Section 16.505(2) Request

Attached is a s. 16.505(2) request analysis for your approval and processing. Listed below is a summary of each item:

DOA RECOMMENDATION:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2019-20</u>		<u>2020-21</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
DOJ 20.455(2)(gr)	Handgun purchaser record check; checks for licenses or certifications to carry concealed weapons.		8.0		8.0

AGENCY REQUEST:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2019-20</u>		<u>2020-21</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
DOJ 20.455(2)(gr)	Handgun purchaser record check; checks for licenses or certifications to carry concealed weapons.		8.0		8.0

BP APPROVAL  (FORWARD TO GAIL TAPPEN)



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Joel Brennan, Secretary
Brian Pahnke, Administrator

Date: March 16, 2020

To: Joel Brennan, Secretary
Department of Administration

From: Michael R. Schmidt
Executive Policy and Budget Analyst

Subject: Request under s. 16.505(2) from the Department of Justice for position authority to create 8.0 FTE permanent positions to execute the concealed weapon licensing system and perform handgun purchaser record checks.

Request:

The Department of Justice requests the creation of 8.0 FTE permanent positions to continue supporting the issuance of concealed carry licenses within the time limits required by 2011 Wisconsin Act 35 and perform handgun purchaser record checks. The permanent positions would replace 8.0 FTE project positions that are reaching their four-year maximum life.

Revenue Sources for Appropriation(s):

The revenue source that supports the positions is firearm restriction record search and concealed carry licensing fee revenues from the handgun purchaser record check; checks for licenses or certifications to carry concealed weapons appropriation under s. 20.455(2)(gr). The appropriation is a program revenue (PR), all moneys received appropriation, and any expenditure authority adjustments would be handled administratively. Under current law, the department is required to charge \$10 for handgun purchaser record checks. For new concealed carry license applications, current law requires the department to charge \$10 as a background check fee and the department may charge a maximum application fee of \$37. By administrative rule, the department has set the concealed carry license application fee at \$30. For lost, destroyed or unreadable concealed carry licenses, current law requires the department to charge a \$12 replacement fee. For concealed carry license renewal applications, the department is required to charge the \$10 background check fee and may charge a maximum of \$12 for the renewal application. By administrative rule, the department has set the renewal concealed carry application fee at \$12.

Background:

On July 8, 2011, Governor Walker signed Act 35 into law creating a process for eligible residents to obtain a license to carry a concealed weapon. Effective November 1, 2011, Wisconsin residents could begin applying for a license to carry a concealed weapon. Each approved applicant must receive a department-issued license, which contains information specified in the act, within statutorily required time frames. Act 35 requires the department to review and either deny or issue a new or renewal license within 21 days of

receipt, and a replacement license within 14 days. Once approved, the licenses are renewable every five years for a fee of \$22 per applicant (i.e., \$10 statutorily required background check fee, plus \$12 statutorily required renewal fee). For handgun purchaser record checks, the department is required to notify a dealer as soon as practicable.

The department's Firearms Unit personnel perform all the operational functions for the statutorily prescribed background checks, including handgun purchase record checks and concealed carry background checks. The processing of applications is performed by justice program associates. Prior to May 2017, justice program associates were known as license permit program associates.

Act 35 authorized \$236,700 in fiscal year 2011-12 for salaries and fringe benefits to fill 1.0 FTE PR permanent position and 10.0 six-month LTE positions. The Firearms Unit also has 6.0 FTE permanent justice program associates created in separate legislation. To meet the statutorily required processing time frames and consistently high volume of concealed carry applications, the department submitted various s. 16.505/515 requests for additional PR permanent positions and PR project positions. Table 1 below illustrates the position history for the unit and relevant Act 35 and s. 16.505/515 source:

Table 1: Position History Related to Act 35

Approval Date	Method	Positions
July 8, 2011	Act 35	<ul style="list-style-type: none"> • 1.0 FTE PR permanent license permit associate created. • 10.0 LTE six-month positions created until mid-March 2012.
December 14, 2011	16.505/515	<ul style="list-style-type: none"> • 8.5 FTE PR permanent positions created (6.0 license permit associates, 1.0 justice records supervisor, 1.0 information system specialist and 0.5 attorney). • 6.0 FTE PR project positions created with flexible titles until June 30, 2013.
July 3, 2012	16.505/515	<ul style="list-style-type: none"> • 8.0 FTE PR project license permit associate positions created until July 3, 2014.
July 2, 2013	16.505/515	<ul style="list-style-type: none"> • 5.0 FTE PR project positions created on December 14, 2011, extended one year until June 30, 2014. • 1.0 FTE PR permanent operations program associate created. • 1.0 FTE PR project information systems specialist created until June 30, 2015.
July 7, 2014	16.505/515	<ul style="list-style-type: none"> • 2.0 FTE project positions created on December 14, 2011, extended one year until June 30, 2015. • 3.0 FTE project positions created July 3, 2012, extended one year until July 3, 2015.
August 24, 2015	16.505/515	<ul style="list-style-type: none"> • 3.0 FTE project positions created July 3, 2012, extended one year until July 3, 2016.
April 1, 2016	16.505/515	<ul style="list-style-type: none"> • 3.0 FTE permanent license permit associates created. • 8.0 FTE project positions created until April 17, 2018.
May 14, 2018	16.505/515	<ul style="list-style-type: none"> • 8.0 FTE project positions created April 1, 2016, extended two years until April 17, 2020.

Initial concealed carry licenses began expiring on November 1, 2016. Because licensees are eligible to renew their licenses up to 120 days prior to expiration, the department began receiving renewals in July 2016. In addition to a concealed carry weapon license being eligible for renewal up to 120 days prior to the expiration of the license, licensees are eligible to renew their licenses up to 90 days after they expire.

Table 2 below illustrates the number of new, renewal and issued concealed carry licenses since the program went into effect:

Table 2: Concealed Carry License Applications and Issuance

Calendar Year	New Applications	Renewal Applications	Licenses Issued
2011	65,921	Not Applicable	39,664
2012	101,047	Not Applicable	109,730
2013	68,759	Not Applicable	61,394
2014	37,550	Not Applicable	33,691
2015	45,549	Not Applicable	40,452
2016	52,022	67,003	109,701
2017	36,249	67,394	96,561
2018	34,551	34,236	64,296
2019	32,714	21,062	49,537

The department estimates that it will receive 34,000 new concealed carry permit applications in fiscal years 2019-20 and 2020-21. Using a renewal rate of 79 percent, based on the current renewal rate, the department estimates that it will receive 27,000 renewal applications in fiscal year 2019-20 and 38,000 in fiscal year 2020-21. The department also estimates that it will receive 135,000 handgun purchase record check requests in fiscal years 2019-20 and 2020-21 and approximately 2,800 maintenance transactions.

Analysis:

The unit is administered by 1.0 FTE justice program supervisor position and includes: 16.0 FTE permanent justice program associate positions, 8.0 FTE project justice program associate positions and 1.0 FTE permanent office associate position. To continue meeting the statutory requirements of the concealed carry program, the department is requesting to create 8.0 FTE permanent justice program associate positions to replace 8.0 FTE project positions which expire on April 17, 2020, and reach their four-year maximum duration under s. 230.27(1).

The department receives large volumes of conviction and other court firearm restriction related information. This information must be cross-checked against the application database and, if a match is found, the appropriate suspension or revocation action must be taken. The department is also responsible for reissuing suspended licenses once a court restriction has been lifted, and for fixing address changes and replacement licenses for those that have been stolen or lost.

New concealed carry permit applications appear to have peaked at approximately 2,000 applications per week for the 24-month period immediately after the concealed carry

permit program was created. Due to a lower volume of applications, the department declined to renew several project positions, which expired in 2014 and 2015. The department anticipated a renewal influx mirroring the initial application period as the first concealed weapon licensees became eligible for renewal in July 2016. The 8.0 FTE project positions that this request would replace were provided to address that renewal influx, together with 3.0 FTE permanent positions approved with them, for anticipated ongoing workload. Based on the five-year renewal period, the next anticipated renewal influx is expected in July 2021.

In 2019, the department conducted a staffing need study for the Firearms Unit. The study analyzed each task to be performed, the amount of time required to perform the task and aggregated that amount based on the number of requests. The analysis then considered the total amount of time needed to perform the tasks compared to staff hours available and leave time (e.g., vacation, holiday and sick). The department's analysis concluded that the amount of staff needed for the unit is 27.3 FTE positions. According to the department, with the expiring project positions, it currently has 25.0 FTE front-line staff positions and utilizes five limited term employees to supplement for annual and seasonal workloads.

The department suggests that permanent positions would aid in retention because there has been higher turnover in the project positions than permanent positions. Since June 2016, when the positions were first filled, the 8.0 FTE project positions have had a vacancy rate of approximately 18.21 percent. As of March 2, 2020, two of the positions are vacant, one since September 6, 2019, and the other since February 16, 2020. In that same period, the vacancy rate for permanent justice program associates and license program associates was approximately 6.25 percent, and there are currently no vacancies in those positions. It should be noted that there have been instances where vacancies in the permanent positions have been filled by individuals formerly in the project positions.

The department indicates that its request would have no fiscal impact because the permanent positions would be replacing an equal number of expiring project positions that are subject to similar pay rates and benefits. Assuming similar pay rates as the project positions, if 8.0 FTE permanent positions are created and the project positions expire, the estimated net remaining costs for fiscal year 2019-20 would be \$90,700 for salaries, fringe benefits, and supplies and services. These costs are estimated to be \$457,000 in fiscal year 2020-21 and \$460,900 on an ongoing basis. These estimates assume no vacancies and assume a general wage adjustment on January 5, 2021, pursuant to the 2019-2021 State of Wisconsin Compensation Plan. The estimates also use the department's agency fringe rate that was included in the 2019-21 biennial budget instructions. The department further notes that it is implementing a departmentwide information technology modernization project, which it estimates would decline expenses in the appropriation by at least \$250,000.

Funds to support this request would come from the licensing fee revenue received from the concealed carry permit applications and handgun purchaser record checks. The department estimates that revenue for the appropriation is expected to generate \$3.3 million in fiscal year 2019-20 and \$3.6 million in fiscal year 2020-21. The department based its revenue projections on the number of applications that it estimates it will receive multiplied by the respective application or renewal fee. According to PeopleSoft, as of

Joel Brennan, Secretary

Page 5

March 16, 2020

March 2, 2020, the recognized revenue in the appropriation is approximately \$2.1 million, and it currently has a cash balance of approximately \$938,000. Also, the appropriation closed the respective fiscal year with the following cash balances: \$2.2 million in 2016-17, \$1.8 million in 2017-18, \$1.3 million in 2018-19. The department estimates that the appropriation will close with a balance of \$1.3 million in fiscal year 2019-20 and \$1.4 million in fiscal year 2020-21.

As the concealed weapons program enters its ninth year, new and renewal applications have been relatively consistent and cyclical. Revenues and closing balances for the appropriation have demonstrated that it can support 8.0 FTE position authority. Therefore, it appears reasonable to approve the request to create 8.0 FTE permanent positions that would replace an equal number of expiring project positions reaching their four-year maximum and enable the department to continue issuing concealed carry license permits and perform handgun purchaser record checks in a timely manner and within statutorily required time frames.

Recommendation:

Approve the request to create 8.0 FTE permanent positions.



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

Josh Kaul
Attorney General

Room 114 East, State Capitol
PO Box 7857
Madison WI 53707-7857
(608) 266-1221
TTY 1-800-947-3529

January 24, 2020

SENT VIA US MAIL

Brian D. Pahnke, Administrator
Division of Executive Budget and Finance
Department of Administration
101 E. Wilson Street, 10th Floor
Madison WI 53702

Re: Request for Program Revenue-Funded Position Authority

Dear Administrator Pahnke:

Pursuant to Wis. Stat. § 16.505 (2), the Department of Justice respectfully requests the creation of 8.0 full-time equivalent (FTE) permanent positions funded by program revenues received for processing handgun background checks and concealed carry licenses in the handgun purchaser record check, checks for licenses or certifications to carry concealed weapons appropriation under § 20.455 (2)(gr).

The positions will replace 8.0 FTE project positions expiring April 17, 2020, funded by the same appropriation.

Background

In July 2011, 2011 Wisconsin Act 35 was enacted, which required the Department of Justice to implement a concealed carry license issuance process effective November 1, 2011. The act provided 1.0 FTE permanent position and funding for additional limited-term employees. In December 2011, the Joint Committee on Finance approved the creation of an additional 8.5 FTE permanent positions and 6.0 FTE project positions, expiring June 2013, to support the operations of the concealed carry license program. As the workload of the concealed carry program continued to grow, the Committee approved the creation of an additional 8.0 FTE project positions in July 2012 and 1.0 FTE permanent position in July 2013, in addition to extending the previously created 6.0 FTE project positions.

Under § 230.27, no project position may exist for more than four years. The original blocks of project positions reached their maximum term dates in 2015 and 2016. In April 2016, the Joint Committee on Finance approved the creation of 3.0 FTE permanent and 8.0 FTE two-year project positions to replace the expiring project positions. In May 2018, the 8.0 FTE project positions were extended to their maximum term date of April 17, 2020.

Following the passage of 2011 Act 35, the Division of Law Enforcement Services assigned responsibility for the issuance of concealed carry licenses to the Firearms Unit in the Crime Information Bureau (CIB), which already had responsibility for performing firearms background checks for handgun purchases. 2011 Act 35 created a new appropriation for concealed carry applications and renewal requests. Under 2013 Act 20, the appropriations for the concealed carry and handgun purchaser record check programs were combined into a single appropriation. All of the operations of the handgun purchaser background check and concealed carry programs are supported by revenues in this appropriation.

Under § 175.35 (2i) the fee for a handgun transfer search is \$10. Since its inception in 1991 until state fiscal year 2011, the handgun purchaser record check appropriation ended each fiscal year with a cash deficit. 2009 Act 28 increased the fee from \$8 to \$13, which was later reduced to \$10 by 2013 Act 20.

The department may set fees for initial applications and renewals of concealed carry licenses by administrative rule up to maximums set in state law under § 175.60 (7)(c) and § 175.60 (15)(b). As a result of reductions in the concealed carry license application fee and background check fees, the total cost per application has decreased from \$50 in 2011 to \$40 currently.

- The maximum application fee for a concealed carry license is \$37 plus the \$10 background check fee set under § 175.35 (2i). The department originally set the fee at \$37 when the program began in 2011 but it was reduced to \$30 beginning June 1, 2013.
- The maximum fee for renewal of a concealed carry license is \$12 plus the \$10 background check fee set under § 175.35 (2i). The current fee is \$12.
- The fee for replacement of a lost or damaged concealed carry license is \$12 under § 175.60 (13).

Justification

The CIB Firearms Unit operates 360 days per year, seven days a week, from 9 A.M. to 9 P.M. Monday through Friday and from 9 A.M. to 5 P.M. on Saturday and Sundays. Applications for new concealed carry licenses as well as renewals are received via the online portal and through the mail. Firearms dealers may submit handgun background check requests via a toll-free 800 number or online.

The primary responsibility of the Firearms Unit is processing firearms eligibility background checks for both concealed carry license issuance and renewal and for the transfer (purchase) of handguns subject to tight statutory deadlines.

- Under § 175.35 (2g), the department is required to report the results of handgun background checks to the requesting firearms dealer as soon as practicable after receiving the purchaser's information, but no later than five working days after

the search was requested. Currently, 91 percent of handgun background checks are completed within five minutes.

- Under § 175.60 (9), the department is required to issue a concealed carry license or deny the application within 21 days of receiving a completed concealed carry application.

In addition to the applications for new concealed carry licenses, renewal concealed carry licenses, and handgun transfer background checks, the Firearms Unit processes maintenance transactions which trigger firearms eligibility background check requirements:

- Concealed carry change of name request
- Concealed carry replacement license request
- Concealed carry suspension, reinstatement and revocation actions

TASK	ACTUAL		PROJECTED	
	FY 2018	FY 2019	FY 2020	FY 2021
New concealed carry applications	33,292	34,119	34,000	34,000
Concealed carry renewals	52,277	22,508	27,000	38,000
Maintenance transactions	2,981	2,787	2,800	2,800
Handgun background checks	135,265	133,560	135,000	135,000
Total background checks	223,815	192,974	198,800	209,800

As of July 1, 2019, there were over 425,000 individual concealed carry license numbers issued since licenses were first issued in 2011. The concealed carry database includes over 450,000 applications and 370,000 currently valid licenses, which results in increasing numbers of maintenance transactions over time.

Concealed carry licenses are valid for a five-year period. This creates a five-year renewal demand cycle which began in 2016 and 2017 when the first concealed carry licenses issued in 2011 and 2012 began to expire. The department projects that the number of applications for new concealed carry licenses will remain stable at 34,000 per year but that the number of renewals will increase to 27,000 in fiscal year 2020 and 38,000 in fiscal year 2021 based on a 79 percent renewal rate of licenses issued five years prior, based on the current renewal rate.

The department projects that handgun transfer background requests will remain steady at 135,000 per year and that maintenance transactions will average 2,800 per year.

In 2019, the Firearms Unit completed a detailed and comprehensive work study which covered the daily and weekly workloads as well as monthly and annual tasks performed by the Justice Program Associates and Office Associate in the unit. The work study concluded the unit requires 27.3 FTE positions to meet mandatory deadlines for the projected workloads in fiscal years 2020 and 2021. The unit is currently staffed with 25.0 FTE front-line permanent and project staff positions comprised of:

- 16.0 FTE permanent Justice Program Associate positions
- 8.0 FTE project Justice Program Associate positions
- 1.0 FTE permanent Office Associate position

The unit has 5 limited term employees to supplement the permanent and project positions, ensuring the unit is able to meet seasonal and annual demand cycles and adequately cover staffed hours. This request will maintain the same level of staffing based on the results of the work study and the stable to growing workload projected over the next two years.

The department is requesting permanent positions instead of new project position terms to reduce turnover and training costs and because the workload is steady and well established over the last eight years.

In FY 2019, total background checks were at the low point between the workload spikes that occur during the five-year anniversaries of the initial concealed carry license issuance in 2011 and 2012. The total workload is projected to continue to increase over the next few years based on the number of licenses that are due for renewal while demand for new concealed carry licenses and handgun transfers remains stable. The need for staffing is not projected to decrease below the 27.3 FTE indicated by the work study.

The turnover among project positions is higher than for permanent positions, with 75 percent of the project positions in the Firearms Unit turning over in 2018 and 2019, compared to 41 percent of the permanent positions. The higher turnover rate results in project positions being less cost effective for the unit than permanent positions due to the level of training required to conduct and adjudicate firearms background checks.

The initial on-the-job training of a new Justice Program Associate takes approximately six months as new staff must become proficient with both the technical and policy components of the position. Staff must learn multiple systems used to query eleven state and national databases used in performing firearms-level background checks and must be able to accurately apply state and federal laws related to the possession and purchase of firearms to the information returned from the queries.

As a reflection of the complexity of the job, a classification and compensation survey completed in 2017 resulted in the reallocation of the Firearms Unit staff from a single License and Permit Program Associate classification in pay range 02-11 to a progressive series of Justice Program Associate classifications in pay ranges 02-11 through 02-13.

Failing to maintain an appropriate level of staffing in the Firearms Unit may make it difficult for staff to perform the research necessary to conduct a complete and thorough firearms background check. The unit will need to prioritize work subject to statutory deadlines which will result in other tasks receiving a lower priority, but which have significant negative consequences. For example, inadequate staffing may result in backlogs in updating the "Indicator for Firearms Sales" flags with the National Instant Criminal Background Check System (NICS) section of the FBI, completing the reciprocity survey of

other states' concealed carry programs, promptly and effectively handling daily telephone calls from customers, dealers and the public, and addressing errors encountered in the automated updates of mental health firearms prohibition reports.

Revenue Source

The department is requesting to maintain the same level of staffing in the Firearms Unit and there will be no fiscal impact to the program of replacing project positions with permanent positions, as project employees are eligible for the same pay rates and benefits as permanent employees.

Handgun Purchaser Record Check/Carry Concealed Weapons Appropriation Fund Condition

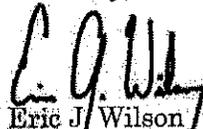
TASK	ACTUAL			PROJECTED	
	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Opening Balance	\$1,104,037	\$2,224,747	\$1,765,046	\$1,346,518	\$1,250,518
Revenue	\$5,717,327	\$3,933,631	\$3,193,754	\$3,304,000	\$3,556,000
Expenditures	\$4,596,617	\$4,393,332	\$3,612,282	\$3,400,000	\$3,400,000
Ending Balance	\$2,224,747	\$1,765,046	\$1,346,518	\$1,250,518	\$1,406,518

Revenue will remain stable over the next two years with an available balance of over \$1 million at the end of each fiscal year.

The majority of spending from the handgun background check and concealed carry appropriation is for the operation and maintenance of online information technology systems and databases. Following the completion of a department-wide information technology modernization project and computer refresh in 2019, these expenses are expected to decline by at least \$250,000 per year while funding for personnel will increase for general wage adjustments and projected changes in fringe costs.

Thank you for your review and consideration of this request. Should you have questions or require additional information, please contact Michelle Gauger, Director of the Bureau of Budget and Finance, directly at (608) 267-6714 or gaugerme@doj.state.wi.us.

Sincerely,


Eric J. Wilson
Deputy Attorney General

EJW:MCG:alm

✓ cc: Gail Tappen, Department of Administration