



Legislative Fiscal Bureau

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June 21, 2006

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Corrections: Section 13.10 Request for 45.0 GPR Correctional Institutional Positions
-- Agenda Item IV

REQUEST

The Department of Corrections requests an increase in position authority in its general program operations appropriation [s. 20.410(1)(a)] of 45.0 GPR positions. The request would restore positions deleted under the 2005-07 biennial budget (Act 25).

BACKGROUND

During the 2005-07 biennial budget deliberations, the Legislature passed a provision to delete \$3,324,100 GPR and 45.0 GPR positions annually associated with unit supervisor and assistant unit supervisor positions. The Office of State Employment Relations provides the following description of correctional unit supervisors:

"Positions provide direct supervision to security and treatment staff and may supervise subordinate supervisory positions (e.g. Supervising Youth Counselor, Assistant Corrections Unit Supervisor or Assistant Institution Unit Supervisor). Positions are responsible for the programmatic and administrative supervision of assigned staff; provide feedback to the technical supervisors of employees in disciplines where technical supervision must be exercised by an individual who possesses the same base knowledge (i.e. Nursing Supervisor of Nurse Clinician); manage unit resources, including staff and budget; and are responsible for accomplishing unit objectives. Positions direct, coordinate and supervise unit activities and staff to provide quality offender programming and security and to

assure compliance of areas of responsibility with institution and departmental policies. Positions develop, prepare and implement the mission, goals, policies and procedures of the institution as part of the management team. Positions may function as the administrator on duty as assigned."

In addition to deleting funding and positions, the Legislature included a provision that would have prohibited the Department from creating or employing any corrections unit supervisors or similar positions to supervise correctional institution security staff if that position did not directly report to the institution's security director. The Governor vetoed the provision. The deleted funding and positions could not be restored through the partial veto. In his veto message, the Governor indicated that "Corrections will have the flexibility to substitute other positions in place of the corrections unit supervisor and assistant unit supervisor positions deleted in the Joint Committee on Finance motion."

The attached table identifies the positions that were eliminated in place of the unit supervisor positions and the funding associated with those positions. According to Corrections, all of the identified positions were vacant at the time of deletion. Positions include: 27.0 correctional officers, 11.0 correctional sergeants, 1.0 teacher, 3.0 teacher assistants, 1.0 client services assistant, 0.5 program assistant, 0.5 recreational leader, 0.5 financial specialist, and 0.5 document production assistant. The Department requests the restoration of these positions.

The Committee should note that there have been efforts prior to the 2005-07 biennial budget to eliminate correctional unit supervisors. In the 2001-03 budget adjustment bill, Act 109, 53.0 GPR unit supervisor positions were eliminated by the Legislature, and in the 2003-05 biennial budget, Act 33, 57.0 GPR unit supervisor positions were deleted. As with the provisions in Act 25, in each of the previous incidences the Department was allowed to substitute other positions for deletion.

In August, 2003, the Secretary of Corrections and the Executive Director of AFSCME Council 24 announced the appointment of a committee to examine the use of unit management in the prison system and to find "mutual solutions to this long-standing issue, which will strengthen the Department as well as the relationships between staff." The eight-person committee included one warden, one deputy warden, four union presidents, and two unit supervisors. The committee met several times to work through unit management issues, and issued recommendations in May 2004.

Recommendations addressed issues related to the training and qualifications of unit supervisors, availability of unit supervisors, and providing a system review of unit supervisor positions. In addition, the recommendations provided for unit supervisors to hold monthly multi-disciplinary team meetings to discuss unit issues and case management. Further, a new labor-management committee would meet quarterly to monitor and track the implementation of the recommendations. While many of the recommendations were implemented, the recommendations for monthly team meetings and quarterly committee meetings were not implemented.

ANALYSIS

In order to restore positions deleted in Act 25, the Department is requesting that the Joint Committee on Finance create 45.0 GPR positions under the Committee's s. 13.101(2) authority. This provision authorizes the Committee to create or abolish state agency positions. The Committee also has authority under s. 13.101(2) to approve a different number of authorized positions than is requested.

In general, the Finance Committee has always applied the statutory criteria under s. 13.101(3) of the statutes (governing requests for appropriation supplementations) to requests for additional agency position authority. These criteria require that the Committee make the following findings in determining whether or not the request should be granted: (a) an emergency exists; (b) no funds are available for such purposes; and (c) the request does not violate legislative intent.

With respect to the emergency standard, the Department indicates that the decline in prison populations has not been as significant as originally estimated under the biennial budget act. As a result, the Department has been utilizing more county contract beds and increasing the number of inmates in correctional institutions. The Department indicates that the need to maintain staffing levels has increased "in order to assist the Department in managing the institutions and maintaining the safety of staff and inmates." It could be argued that Corrections' request does not rise to level of an emergency under the provisions of s. 13.101(3) since the positions that are being requested were originally proposed for elimination by the administration. On the other hand, the Department indicates that the additional positions would assist in maintaining institutional safety, arguably satisfying the emergency requirement.

With respect to the funding requirement, the Department is currently not requesting funding for the positions. It should be noted, however, that unless the Department reduces funding in the 2007-09 biennium by an amount equal to the full funding cost of the 45.0 positions (\$2.1 million), budgeting conversions would result in the positions being funded as a standard budget adjustment in the 2007-09 biennial budget. As a result, creation of the positions would result in increased costs in 2007-08 and 2008-09. Since the Department would need to request full funding of the positions in the budget process if the positions were created, the Committee could delay consideration of restoring the positions until that time.

With respect to the standard that the request does not violate legislative intent, the Legislature acted to delete the 45.0 positions and eliminate unit supervisors within Corrections. The Governor item vetoed the statutory language provisions relating to unit supervisor positions. Although the Governor could not veto the deletion of the 45.0 positions, he could have indicated in his veto message that the Department could pursue restoration of the positions through procedures authorized under current law. This is the manner in which the Governor indicated his interest in restoration of the 270.92 positions associated with state power plants [Agenda Item VII]. Instead, the Governor explicitly indicated that Corrections would "have the flexibility to substitute other positions" for the deleted positions. As a result, the position reductions approved by the Legislature

would be maintained.

Given the Legislature's and the Governor's stated intent that Corrections reduce the number of positions in 2005-07 by 45.0 GPR, it could be argued that restoring these positions would be counter to that intent. Thus, any necessary increase in staffing due to changes in inmate populations and institutional operating procedures could be addressed with other departmental needs in conjunction with the 2007-09 biennial budget.

However, as indicated in Corrections' request, the actual male inmate population is currently higher than estimated in Act 25. Under Act 25, it was estimated that the average daily male population for the fiscal year by the end of May, 2006, would be 20,343; the actual average population as of that date was 20,490 (147 higher than estimated). Further, as of the end of May, 2006, the actual population on that date exceeded the estimated population for that date by approximately 500.

The higher populations appear to be part of a trend Corrections has identified during the previous six months. Although the Department is uncertain whether the high number of admissions will continue, Corrections indicates that even if populations stabilize, they will continue to remain higher than estimated in Act 25. Population estimates in the 2005-07 budget assumed that institutional populations reduction measures by Corrections would mitigate the growth in populations.

Given the security concerns cited in the Department's request, the Committee may wish to provide the 38.0 security positions (correctional officers and sergeants) requested by Corrections. Any additional positions could be requested in conjunction with the 2007-09 biennial budget.

Given the uncertainty of whether increased populations will continue and the point at which the populations may stabilize, if the Committee creates positions, it may wish to make the positions project positions, to expire on June 30, 2007. If the Department determines the need to continue the positions, this issue can be reviewed during the 2007-09 biennial budget process. In addition, providing the positions as project positions that would terminate on June 30, 2007, would arguably be in accordance with the intent of Act 25 in that the positions would be deleted in the 2005-07 biennium.

As passed by the Legislature, the 2005-07 biennial budget would have directed the State Building Commission and Corrections to prepare a 10-year strategic plan. The Governor vetoed this provision, indicating that it was unnecessary as Corrections and the Department of Administration were already working on a strategic plan. Corrections indicates that work on the plan is continuing although there is no specific deadline for completion of the plan. Since prison populations may continue to increase, the Committee may wish to direct the Department to submit a status report on the 10-year strategic plan for state correctional facilities to the Committee by January 1, 2007.

ALTERNATIVES

A. Positions

1. Approve the Department's request for position authority for 45.0 GPR positions in Corrections' general program operations appropriation [s. 20.410(1)(a)], restoring the positions deleted under Act 25.

2. Provide 38.0 GPR security positions in Corrections' general program operations appropriation [s. 20.410(1)(a)].

3. In addition to Alternative A1 or Alternative A2, provide that the positions be classified as project positions to expire on June 30, 2007.

4. Deny the request.

B. Report

1. Direct the Department to submit a status report by January 1, 2007, on the status of the 10-year strategic plan for state correctional facilities.

2. Take no action.

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Attachment

ATTACHMENT

Positions Deleted Instead of Unit Supervisors By Institution

2005 Act 25

<u>Correctional Institution</u>	<u>Position Title</u>	<u>FTE</u>
Columbia Correctional Institution	Correctional Officer	1.00
Dodge Correctional Institution	Correctional Officer Program Assistant	1.00 0.50
Green Bay Correctional Institution	Teacher Assistant	1.00
Jackson Correctional Institution	Correctional Sergeant Teacher Assistant	1.00 1.00
Kettle Moraine Correctional Institution	Correctional Sergeant	1.00
Milwaukee Secure Detention Facility	Correctional Officers	3.00
New Lisbon Correctional Institution	Correctional Officers	16.00
Oakhill Correctional Institution	Correctional Sergeants Recreational Leader	2.00 0.50
Oshkosh Correctional Institution	Correctional Officer Correctional Sergeant Document Production Assistant Financial Specialist	1.00 3.00 0.50 0.50
Racine Correctional Institution	Correctional Sergeants Client Services Assistant	2.00 1.00
Redgranite Correctional Institution	Correctional Officers	3.00
Racine Youthful Offenders Correctional Facility	Correctional Officer Teacher	1.00 1.00
Stanley Correctional Institution	Teacher Assistant	1.00
Waupun Correctional Institution	Correctional Sergeant	1.00
Wisconsin Secure Program Facility	Correctional Officer	1.00
Black River Correctional Center	Correctional Sergeant	<u>1.00</u>
Total GPR Positions		45.00