



Legislative Fiscal Bureau

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December 12, 2007

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Corrections: Section 13.10 for Probation and Parole Hold Reimbursements to Counties -- Agenda Item IV

REQUEST

The Department of Corrections requests a transfer of \$587,800 GPR in 2007-08 from the Department's contract beds appropriation [s.20.410(1)(ab)] to increase monies for probation and parole hold payments to counties [s. 20.410(1)(bn)].

BACKGROUND

Under s. 302.33 of the statutes, the Department is required to pay for the maintenance of any individual in its custody who is placed in a county jail pending the disposition of parole, extended supervision, or probation revocation proceedings. The statutes specify that the Department's reimbursement is subject to the following conditions:

a. The Department is not required to pay for persons who have pending criminal charges, whether or not a departmental hold has been placed on the person. Payment for maintenance by the Department is limited to confinements where an offender is held solely because of conduct that violates the offender's supervision and which would not otherwise constitute a criminal offense.

b. Pursuant only to such a departmental hold, the Department is required to make payments beginning when an offender is detained in a county jail or other county facility, or in a tribal jail, and ending when the revocation process is completed and a final order of the Department or the Division of Hearings and Appeals in the Department of Administration has been entered.

c. After verification by the Department, counties or tribal governing bodies are reimbursed at a rate of \$40 per person per day, unless the amount provided in the reimbursement appropriation for any fiscal year is insufficient to provide complete reimbursement at that rate. If funds are insufficient, the Department must prorate the payments for that fiscal year. The statutes specify that Corrections is not required to reimburse a county or tribal governing body unless it is informed of the amount of reimbursement no later than September 1st of the fiscal year following the fiscal year for which reimbursement is requested.

d. Reimbursement is only provided for felony probationers or parolees or felons on extended supervision.

The appropriation for probation and parole hold payments to counties is \$4,935,100 GPR. As indicated above, the reimbursement rate is targeted at \$40 per day, but if funding is insufficient, the reimbursement amount is prorated. The below table identifies, for the past five fiscal years, the number of holds the Department reimbursed counties for and the daily rate paid for those holds.

**Probation and Parole Hold Reimbursements
2000-01 to 2006-07**

<u>Fiscal Year</u>	<u>Appropriation Amount</u>	<u>County Hold Days</u>	<u>Daily Rate Paid</u>
2000-01	\$4,486,400	121,255	\$37.00
2001-02	4,935,100	133,308	37.02
2002-03	4,935,100	133,804	36.88
2003-04	4,935,100	118,762	40.00
2004-05	4,935,100	136,015	36.28
2005-06	4,935,100	154,479	31.94
2006-07	4,935,100	172,589	28.59

ANALYSIS

Under the request, \$587,800 GPR in 2007-08 would be transferred from the Department's contract beds appropriation to the appropriation for probation and parole hold payments to counties. Current funding for contract beds is \$24,829,500 GPR. As a result of the transfer, funding for contract beds would be \$24,241,700 GPR while funding for the probation and parole hold payment would be \$5,522,900 GPR. This transfer would be a one-time in nature.

As indicated in the above table, the reimbursement rate to counties for 2006-07 holds is currently \$28.59. Under the request, the additional funding would allow the Department to reimburse counties at \$32 per day, approximately the same rate for 2005-06 holds. According to the Department,

"Given the critical partnership the Department has with counties for housing felony offenders pending disposition of their cases, the Department feels that P&P

hold reimbursement at the \$28.59 level is low by historical standards and places an unfair financial burden on counties."

In its December 7, 2007, memorandum related to this request, the Department of Administration (DOA) indicated that the reimbursement amounts were not addressed in the 2007-09 biennial budget because, "given the scarcity of resources, the priority was given to fully funding the contract beds appropriation in order to control overcrowding of the institutions."

Corrections indicates that additional funding is available from the contract beds appropriation as a result in the delay of the enactment of the biennial budget: "the Department was not able to move additional inmates into county jail beds until the budget was signed. As a result, the Department projects a surplus" in the contract bed appropriation of \$7,284,000 GPR for 2007-08. The Department indicates that the balance remaining after removing \$587,800 GPR for county hold reimbursements (\$6,696,200 GPR) "will be considered by the Department of Administration as part of the Department of Corrections' portion of the \$100 million lapse requirement contained in 2007 Wisconsin Act 20." Act 20 requires DOA to lapse \$200 million biennially to the general fund from unencumbered balances of executive branch agencies. The required amounts from each agency, however, have not yet been determined.

Since additional funding from the contract bed appropriation is available, and since DOA has not yet specified the amount Corrections will be required to lapse to the general fund, the Committee could transfer additional monies to the probation and parole hold appropriation to reimburse counties at the full \$40 per day rate, rather than at the 2005-06 rate of \$32. Under this alternative, funding of \$1,968,500 GPR could be transferred to the probation and parole hold appropriation. As a result, \$5,315,500 GPR would remain of the estimated \$7,284,000 GPR surplus from the contract bed appropriation to apply to Corrections' lapse requirement. To the extent that DOA determines a higher lapse requirement from Corrections, Corrections would need to review other appropriations for available balances.

Under s. 13.101(4), the Joint Finance Committee may transfer funding between appropriations, if the Committee finds: (a) unnecessary duplication of functions can be eliminated; (b) transfer would result in more efficient and effective methods for performing programs or legislative intent will be more effectively carried out; (c) legislative intent will not change as a result of the transfer; and (d) the purposes for which the transfer is requested have been authorized by the Legislature. Transfer between appropriations is expressly permitted between two fiscal years of the same biennium, between two appropriations in the same agency, and between appropriations in different agencies. Funding may not, however, be transferred to offset deficiencies arising from the lack of adequate expenditure controls by an agency.

Statutory language contains an explicit provision as to how to address situations where the probation and parole hold appropriation is not sufficient to fully fund reimbursements at \$40 per day. As such, it could be argued, the Legislature's intent related to the appropriation is clear. While funding hold days at \$40 per day may be a goal of the statute, the appropriation anticipates the issue

of limited funding for reimbursing counties for holds. As a result, while increased funding would be necessary to reimburse counties at more than \$28.59 per day, some might suggest that separate legislation would be a more appropriate mechanism for increased funding. On the other hand, as Corrections has indicated, providing increased funding would address the low reimbursement rate for 2006-07 which may pose an unfair financial burden on counties.

The attachment to this paper identifies reimbursement amounts by county at \$28.59, \$32, and \$40 per day.

ALTERNATIVES

1. Approve the Department's request for a one-time transfer of \$587,800 GPR in 2007-08 from the Department's contract bed appropriation [s.20.410(1)(ab)] to the probation and parole hold reimbursement appropriation [s. 20.410(1)(bn)] to increase the reimbursement rate for 2006-07 holds from \$28.59 to \$32 per day.

2. Modify the Department's request and provide a one-time transfer of \$1,968,500 GPR in 2007-08 from the Department's contract bed appropriation [s.20.410(1)(ab)] to the probation and parole hold reimbursement appropriation [s. 20.410(1)(bn)] to increase the reimbursement rate for 2006-07 holds from \$28.59 to \$40 per day.

3. Deny the request.

Prepared by: Chris Carmichael
Attachment

ATTACHMENT

2006-07 Probation and Parole Hold Reimbursements

<u>County</u>	<u>Hold Days</u>	<u>Reimbursement Rates</u>		
		<u>\$28.59 per day</u>	<u>\$32 per day</u>	<u>\$40 per day</u>
Adams	578	\$16,535	\$18,496	\$23,120
Ashland	995	28,457	31,840	39,800
Barron	1,715	49,042	54,880	68,600
Bayfield	352	10,074	11,264	14,080
Brown	13,472	385,174	431,104	538,880
Buffalo	190	5,442	6,080	7,600
Burnett	1,027	29,372	32,864	41,080
Calumet	173	4,956	5,536	6,920
Chippewa	1,432	40,951	45,824	57,280
Clark	451	12,904	14,432	18,040
Columbia	3,002	85,837	96,064	120,080
Crawford	491	14,048	15,712	19,640
Dane	12,040	344,234	385,280	481,600
Dodge	3,070	87,781	98,240	122,800
Door	1,211	34,632	38,752	48,440
Douglas	1,655	47,326	52,960	66,200
Dunn	760	21,738	24,320	30,400
Eau Claire	6,357	181,757	203,424	254,280
Florence	68	1,954	2,176	2,720
Fond du Lac	6,573	187,932	210,336	262,920
Forest	859	24,569	27,488	34,360
Grant	922	26,370	29,504	36,880
Green	545	15,592	17,440	21,800
Green Lake	577	16,506	18,464	23,080
Iowa	226	6,471	7,232	9,040
Iron	45	1,297	1,440	1,800
Jackson	600	17,164	19,200	24,000
Jefferson	1,592	45,525	50,944	63,680
Juneau	1,924	55,017	61,568	76,960
Kenosha	8,850	253,032	283,200	354,000
Kewaunee	540	15,449	17,280	21,600
La Crosse	2,338	66,853	74,816	93,520
LaFayette	104	2,983	3,328	4,160
Langlade	1,179	33,718	37,728	47,160
Lincoln	1,640	46,898	52,480	65,600

County	Hold Days	Reimbursement Rates		
		\$28.59 per day	\$32 per day	\$40 per day
Manitowoc	2,391	\$68,369	\$76,512	\$95,640
Marathon	6,005	171,693	192,160	240,200
Marinette	1,792	51,243	57,344	71,680
Marquette	412	11,789	13,184	16,480
Menominee	0	0	0	0
Milwaukee	2,588	74,001	82,816	103,520
Monroe	745	21,310	23,840	29,800
Oconto	1,572	44,953	50,304	62,880
Oneida	1,436	41,065	45,952	57,440
Outagamie	12,405	354,669	396,960	496,200
Ozaukee	2,119	60,592	67,808	84,760
Pepin	118	3,384	3,776	4,720
Pierce	712	20,366	22,784	28,480
Polk	1,534	43,867	49,088	61,360
Portage	2,112	60,392	67,584	84,480
Price	398	11,389	12,736	15,920
Racine	6,461	184,730	206,752	258,440
Richland	248	7,100	7,936	9,920
Rock	5,339	152,652	170,848	213,560
Rusk	237	6,786	7,584	9,480
Sauk	2,549	72,886	81,568	101,960
Sawyer	1,155	33,031	36,960	46,200
Shawano	5,784	165,375	185,088	231,360
Sheboygan	4,058	116,028	129,856	162,320
St. Croix	2,616	74,801	83,712	104,640
Taylor	283	8,101	9,056	11,320
Trempealeau	584	16,707	18,688	23,360
Vernon	1,073	30,687	34,336	42,920
Vilas	1,268	36,262	40,576	50,720
Walworth	4,079	116,629	130,528	163,160
Washburn	378	10,817	12,096	15,120
Washington	2,790	79,776	89,280	111,600
Waukesha	4,358	124,605	139,456	174,320
Waupaca	3,330	95,215	106,560	133,200
Waushara	1,318	37,692	42,176	52,720
Winnebago	9,463	270,557	302,816	378,520
Wood	<u>1,326</u>	<u>37,920</u>	<u>42,432</u>	<u>53,040</u>
Total	172,589	\$4,935,030	\$5,522,848	\$6,903,560
Difference from Base Funding (\$4,935,100)			\$587,800	\$1,968,500