



## Legislative Fiscal Bureau

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April 15, 2015

Joint Committee on Finance

Paper #225

### **Transfer of Court Reporters; Consolidation of Circuit Court Support Payments, Guardian Ad Litem Costs, Court Interpreter Fees (Circuit Courts)**

[LFB 2015-17 Budget Summary: Page 114, #2]

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#### **CURRENT LAW**

##### **Court Reporters**

Under current law, the Circuit Courts sum sufficient general program operations appropriation supports the salaries and expenses of circuit court judges and court reporters. Base funding for the appropriation is \$70,926,700 GPR and 527 positions.

##### **State Funding to Counties for Circuit Court Operations**

Under current law, the state administers the following appropriations to support county circuit court costs: (a) circuit court support payments (\$18,552,200 GPR annually); (b) guardian ad litem costs (\$4,691,100 GPR annually); and court interpreter fees (\$1,433,500 GPR annually). The current law definition of "circuit court costs" includes: (a) juror fees; (b) certain witness and expert witness fees; (c) salary and fringe benefits for judicial assistants for circuit court judges; and (d) any other circuit court costs, except costs related to courtroom security, including security personnel, and costs related to rent, utilities, maintenance, rehabilitation and construction of circuit court facilities.

#### **GOVERNOR**

Create a new biennial local assistance appropriation from which to make payments to counties for circuit court costs. Delete the appropriations and all statutory language associated with the circuit court support payments, guardian ad litem costs, and court interpreter fees. Delete the current law definition of "circuit court costs," instead authorizing the Director of State Courts to define circuit court costs for the purpose of making payments from the new

appropriation.

In addition, transfer funding and position authority for circuit court reporters from the sum sufficient general program operations appropriation to the new circuit court costs appropriation (\$23,326,000 GPR and 278 GPR positions annually). Total funding under the new appropriation would be \$48,002,800 GPR annually with 278.0 GPR positions.

## **DISCUSSION POINTS**

### **Court Reporters**

1. The state currently supports the salary and expenses of circuit court reporters under the Circuit Courts' sum sufficient general program operations appropriation, which also supports the salaries and expenses of circuit court judges. Judges are authorized to appoint a court reporter to record and transcribe testimony in court proceedings. Tasks of court reporters include: (a) verbatim reporting of all court proceedings; (b) typing and certifying transcripts, correspondence, instructions, verdicts, and notices; and (c) maintaining and organizing materials and calendaring schedules.

2. The bill would transfer \$23,326,000 GPR annually and 278 court reporter positions from the Circuit Courts' general program operations appropriation to the newly created circuit court costs appropriation.

3. It should be noted that the bill would transfer only base funding associated with the salary and fringe benefits of the court reporter positions. As a result, full funding amounts provided under standard budget adjustments were not transferred, nor were base funding amounts associated with other court reporter costs, including limited-term employees (LTEs) and transcript expenses, travel, and overtime. Further, it is unclear if the new appropriation's language providing the Courts to "make payments to counties for circuit court costs" would authorize the Courts to make payments for salaries and expenses of state employees. On April 8, 2015, an errata from the Department of Administration was received indicating that the appropriation language should "explicitly include court reporters and assistant reporters as an eligible cost in the block grant."

4. As such, if the Committee wished to support the Governor's recommendation to transfer the court reporter positions to the new appropriation, the bill could be modified to: (a) transfer an additional \$1,097,600 GPR annually from the Circuit Courts' general program operations appropriation to the new circuit court costs appropriation to fully support court reporter costs (including \$460,400 for full funding of salaries and fringe benefits, and \$637,200 for LTEs, overtime, travel, and transcript costs); and (b) as suggested by the DOA errata, authorize the Court to make payments for salaries and expenses of court reporters from the new appropriation, in addition to payments to counties for circuit court costs. [Alternative A2]

5. Alternatively, the Committee may wish to implement an alternative raised by the Supreme Court Chief Justice in her remarks to the Committee on March 2, 2015, to instead transfer the court reporters to the Director of State Courts and Law Library appropriation consolidated under

the bill (addressed in a separate budget paper). The Chief Justice noted, however: "This option poses its own set of significant problems. Any shortfall in the appropriation for court reporters will come from the operations of the director's office and the law library, both of which are underfunded." [Alternative A3]

6. The Department of Administration indicates that the goal of the consolidation provision was to increase flexibility for the court system, as well as to pay for court reporters. However, it could be argued that transferring the court reporters from a sum sufficient appropriation to a sum certain appropriation would provide less flexibility for the Courts to support the positions. Further, concerns may be raised as to funding 278 state positions from a local aids appropriation, since any increases in costs for court reporters would result in less funding for local court assistance payments. As such, the Committee may wish to delete the transfer of the court reporters to the new appropriation, and retain current law with court reporters continuing to be supported under the Circuit Courts' general program operations appropriation. [Alternative A4]

### **Consolidation of Appropriations**

7. The state currently administers three appropriations supporting circuit court costs of counties, described below. The attachment identifies state payments to counties for calendar year 2014 for circuit court support payments, guardian ad litem costs, and court interpreter fees.

*a. Circuit Court Support Payments.* Under current law, the Director of State Courts makes payments to counties of \$18,552,200 GPR each year under a biennial appropriation for circuit court costs as follows: (a) each county receives a base payment of \$42,275 per judge (or a proportional amount of \$42,275 based on caseload if two counties share a branch.); (b) each county with one or fewer circuit court branches receives an additional \$10,000; and (c) counties with more than one circuit court branch receive an additional payments equal to the county's proportion of the state population times the amount remaining after funding for base payments and payments to counties with one or fewer branches have been allocated.

"Circuit court costs" are specified to include one or more of the following costs: (a) juror fees; (b) certain witness and expert witness fees; (c) salary and fringe benefits for judicial assistants for circuit court judges; and (d) any other circuit court costs, except costs related to courtroom security, including security personnel, and costs related to rent, utilities, maintenance, rehabilitation and construction of circuit court facilities.

*b. Guardian Ad Litem Costs.* Under current law, the Director of State Courts provides funding to counties to offset the costs of guardian ad litem services. A guardian ad litem (GAL) is an attorney appointed by the court for persons (usually minor children) in certain proceedings, who is an advocate for the best interests of the person. Payments are distributed based on each county's proportion of: (a) court branches; (b) revenue generated by the court support services fee; (c) and cases that would likely involve GAL services as determined by the Director of State Courts. No county may receive a GAL payment in an amount exceeding the total cost of GAL compensation that the county incurred under family, child and juvenile proceedings in the previous calendar year. Base funding for GAL payments is \$4,691,100 GPR annually under an annual appropriation.

c. *Court Interpreter Fees.* The state reimburses counties for the circuit court costs associated with interpreters for persons with limited English proficiency under an annual appropriation. To receive reimbursement, counties must submit forms to the Director of State Courts accounting for interpreter expenses for the preceding three-month period. Reimbursements for interpreter expenses are: (a) \$40 for the first hour and \$20 for each additional 0.5 hour for qualified interpreters certified under the requirements and procedures approved by the Supreme Court; (b) \$30 for the first hour and \$15 for each additional 0.5 hour for qualified interpreters; and (c) for mileage, 51 cents per mile. Base GPR funding for court interpreters is \$1,433,500 annually.

8. The bill would delete the above appropriations and statutory language, instead creating a new circuit court costs biennial appropriation from which to make payments to counties. The Director of State Courts would define "circuit court costs" for the purpose of making payments from the new appropriation. The current funding amounts associated with the above appropriations would be transferred to the new appropriation (\$24,676,800 GPR annually).

9. The Director of State Courts Office did not include the appropriation consolidation in their budget request and has indicated they have not yet determined how funding would be administered under the new appropriation:

"Because the proposed circuit court costs appropriation is general, the court will have to adopt rules and procedures about payments to the counties. A question is how long it will take for the court to formulate these rules. It is assumed the counties would like to have an opportunity to speak to the rules and procedures before they are adopted by the court. If payment to the counties is to be made on July 1, the first day of the fiscal year, as in prior years, so that counties can do their fiscal planning, the Director of State Courts Office will have little time to change distributions, accounting codes, reporting requirements, and related aspects of payments to counties. As a result, it is likely, but by no means certain, that the director's office will follow current law until the court has the opportunity to adopt a new way of proceeding. If the Legislature adopts the Governor's proposal as is without a later effective date, the court may have to adopt some temporary rules to allow for payments."

10. Given the short time line for making payments to the counties and the uncertainty in how the Circuit Courts would modify and administer funding under the provision of the bill, the Committee may wish to delay implementation of the changes until the second year of the biennium. The delay would address the timing concerns raised by the Director of State Courts Office. [Alternative B2]

11. The consolidation of the Circuit Courts' appropriations is one of several consolidations under the bill. The Department of Administration has indicated that these consolidations would provide agencies flexibility in administering funding and programming. In addition to consolidating the appropriations, the bill would make the new appropriation a biennial appropriation. As a result, the Courts would have authority to spend the amounts appropriated throughout the biennium, rather than unencumbered balances in the first year reverting to the general fund. Generally, biennial appropriations provide agencies more flexibility to determine how to expend funding over the biennium, rather than for each year.

12. If the Committee wishes to support the concept of providing increased flexibility, but also balancing the Legislature's interest in maintaining a level of legislative oversight of expenditures, the Committee could modify the Governor's recommendation to do one or both of the following: (a) approve the consolidation of the appropriations, but retain the current statutory language regarding how the funding is distributed for circuit court support payments, guardian ad litem costs, and court interpreter fees; and/or (b) modify the new appropriation to an annual appropriation rather than biennial appropriation. [Alternatives B3a and/or B3b]

13. Alternatively, the Committee may wish to maintain the Legislature's current level of oversight over each of the programs and their expenditures. As such, the Committee could delete the provision. [Alternative B4]

## **ALTERNATIVES**

### **A. Court Reporters**

1. Approve the Governor's recommendation to transfer funding and position authority for circuit court reporters to the new circuit court costs appropriation (\$23,326,000 GPR and 278 GPR positions annually).

2. Approve the Governor's recommendation to transfer funding and position authority for circuit court reporters, but with the following modifications: (a) transfer an additional \$1,097,600 GPR annually from the Circuit Courts' general program operations appropriation to the new circuit court costs appropriation to fully support court reporter costs; and (b) authorize the Courts to make payments for salaries and expenses of court reporters from the new appropriation, in addition to payments to counties for circuit court costs.

3. Modify the Governor's recommendation to transfer funding and position authority for circuit court reporters to the Supreme Court's consolidated Director of State Courts and Law Library (addressed in a separate budget paper), rather than to the consolidated circuit court costs appropriation. This alternative would include the modifications to funding addressed under Alternative 2.

4. Delete provision and maintain current law, with funding and position authority for court reporters under the Circuit Court's general program operations sum sufficient appropriation.

### **B. Consolidation of Appropriations**

1. Approve the Governor's recommendation to create a new biennial local assistance appropriation from which to make payments to counties for circuit court costs. Delete the appropriations and statutory language associated with the circuit court support payments, guardian ad litem costs, and court interpreter fees. Delete the current law definition of "circuit court costs," and instead authorize the Director of State Courts to define circuit court costs for the purpose of making payments from the new appropriation.

2. Approve the Governor's recommendation but delay the consolidation until the second year of the biennium to provide the Director of State Courts time to determine how to implement the changes.

3. Approve the Governor's recommendation to create a new circuit court costs appropriation from which to make payments to counties for circuit courts costs and to delete the current appropriations, with the following modifications (may be selected separately or together):

a. Retain current statutory language on how payments are made for circuit court support payments, guardian ad litem costs, and court interpreter fees [Under this alternative, a new consolidated appropriation would be created, but the current statutory distribution for how payments are made would be retained.]

b. Provide that the new circuit court costs appropriation be an annual, rather than biennial appropriation.

4. Delete provision, and maintain current law related to the appropriations and funding for the circuit court support payments, guardian ad litem costs, and court interpreter fees.

Prepared by: Chris Carmichael  
Attachment

## ATTACHMENT

### Circuit Court Support Payments, Guardian Ad Litem Costs, Court Interpreter Fees 2014

<u>County</u>	<u>Circuit Court Support Payments</u>	<u>Guardian Ad Litem Cost Payments</u>	<u>Court Interpreter Fee Reimbursement</u>	<u>Total</u>
Adams	\$52,275	\$19,515	\$1,752	\$73,542
Ashland	52,275	15,589	0	67,864
Barron	179,512	43,726	2,951	226,189
Bayfield	52,275	14,499	0	66,774
Brown	625,314	150,996	58,953	835,263
Buffalo	39,529	10,854	798	51,181
Burnett	52,275	15,030	0	67,305
Calumet	52,275	22,153	3,942	78,370
Chippewa	198,841	48,398	1,589	248,828
Clark	52,275	22,564	6,607	81,446
Columbia	192,024	49,252	10,724	252,000
Crawford	52,275	15,109	100	67,484
Dane	1,282,571	286,471	87,341	1,656,383
Dodge	270,845	69,106	17,762	357,713
Door	116,518	25,851	4,156	146,525
Douglas	135,245	28,356	224	163,825
Dunn	134,857	41,621	4,119	180,597
Eau Claire	325,243	82,419	16,647	424,309
Florence	21,075	3,963	0	25,038
Fond Du Lac	328,335	85,328	20,426	434,089
Forest	41,200	10,534	0	51,734
Grant	143,556	34,820	2,908	181,284
Green	126,838	29,339	4,236	160,413
Green Lake	52,275	14,271	1,163	67,709
Iowa	52,275	16,647	1,818	70,740
Iron	52,275	9,382	0	61,657
Jackson	52,275	23,157	4,155	79,587
Jefferson	265,298	63,812	20,691	349,801
Juneau	115,384	31,536	1,317	148,237
Kenosha	529,574	150,168	60,385	740,127
Kewaunee	52,275	13,156	217	65,648
La Crosse	343,961	75,337	8,428	427,726
Lafayette	52,275	15,930	4,044	72,249
Langlade	52,275	17,278	577	70,130
Lincoln	117,653	25,519	676	143,848

<u>County</u>	<u>Circuit Court Support Payments</u>	<u>Guardian Ad Litem Cost Payments</u>	<u>Court Interpreter Fee Reimbursement</u>	<u>Total</u>
Manitowoc	\$220,247	\$53,720	\$10,821	\$284,788
Marathon	365,697	84,456	24,656	474,809
Marinette	132,408	30,613	290	163,311
Marquette	52,275	16,249	1,584	70,108
Menominee	10,781	0	384	11,165
Milwaukee	3,074,809	833,742	419,310	4,327,861
Monroe	178,512	41,142	7,380	227,034
Oconto	127,946	28,337	1,135	157,418
Oneida	125,913	35,256	570	161,739
Outagamie	500,293	119,383	20,576	640,252
Ozaukee	226,210	44,603	2,941	273,754
Pepin	22,746	4,642	1,240	28,628
Pierce	52,275	17,628	63	69,966
Polk	135,302	34,256	2,403	171,961
Portage	208,051	48,605	14,877	271,533
Price	52,275	12,860	0	65,135
Racine	646,891	180,924	77,235	905,050
Richland	52,275	15,258	1,327	68,860
Rock	479,620	127,643	34,449	641,712
Rusk	52,275	13,465	476	66,216
Sauk	197,943	58,670	20,218	276,831
Sawyer	52,275	15,052	5,008	72,335
Shawano	131,857	36,290	3,538	171,685
Sheboygan	343,929	76,706	14,622	435,257
St Croix	266,444	60,183	2,323	328,950
Taylor	52,275	15,042	1,965	69,282
Trempealeau	52,275	19,779	5,877	77,931
Vernon	52,275	16,464	1,433	70,172
Vilas	52,275	15,545	0	67,820
Walworth	286,719	70,395	19,601	376,715
Washburn	52,275	15,437	0	67,712
Washington	321,079	66,314	12,326	399,719
Waukesha	955,744	190,686	59,503	1,205,933
Waupaca	186,915	44,115	4,343	235,373
Waushara	52,275	20,055	3,114	75,444
Winnebago	446,032	125,987	13,299	585,318
Wood	<u>212,389</u>	<u>50,812</u>	<u>1,763</u>	<u>264,964</u>
Totals*	\$16,697,000	\$4,222,000	\$1,139,356	\$22,058,356

\*The totals are lower than base funding at the result of a 10% reduction implemented in the 2013-15 biennial budget act for a biennial lapse requirement.