



Legislative Fiscal Bureau

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May, 2019

Joint Committee on Finance

Paper #173

Compensation for Certain State Crime Lab Positions (Budget Management and Compensation Reserves)

[LFB 2019-21 Budget Summary: Page 54, #1]

CURRENT LAW

For the 2017-19 biennium, all funds compensation reserves total \$6,818,700 in 2017-18 (\$3,080,500 GPR and \$3,738,200 other funds) and \$117,167,500 in 2018-19 (\$52,081,600 GPR and \$65,085,900 other funds). These funds are reserved for cost increases related to state and University of Wisconsin (UW) System employee salaries and fringe benefits.

GOVERNOR

Provide to compensation reserves \$48,100 GPR (\$97,900 all funds) in 2020-21 to institute a pay progression system for the professional forensic science staff at the State Crime Labs in the Department of Justice to address recruitment and retention issues.

DISCUSSION POINTS

Background

1. The state crime laboratories ("State Crime Labs") are administered under the Division of Forensic Sciences of the Department of Justice (DOJ) and include facilities in Madison, Milwaukee, and Wausau. The State Crime Labs provide testing and analysis of evidence for communities throughout the state. The Madison lab serves 24 counties in southern Wisconsin, the Milwaukee lab serves eight counties in the metropolitan area, and the Wausau lab serves 40 counties in northern Wisconsin.

2. Staff of the State Crime Labs test evidence submitted by law enforcement agencies, coroners, medical examiners, District Attorneys, state correctional facilities, state agencies, the Attorney General, and the Governor. Additionally, the State Crime Labs conduct analysis upon the request of a defendant in felony cases when approved by the presiding judge. Services provided by the State Crime Labs include crime scene response, toxicology, drug identification, DNA analysis, firearms and tool marks analysis, fingerprint and footwear analysis, comparison of fingerprint sets, photographic analysis, and forensic imaging.

3. Performance of these services results in a final report where the analyst renders an expert opinion on the evidence analyzed. Depending on proceedings in the court, an analyst may be required to testify at hearings and trials upon the request of either the defense or prosecution on their report and about their expert opinion.

4. In September, 2018, the National Forensic Science Technology Center at Florida International University delivered a needs assessment report regarding the State Crime Labs under a contract with DOJ. The report addressed subjects such as autonomy of the labs, advancement opportunities and compensation of staff, work scheduling, communication, and quality of work. With regard to compensation of the professional forensic science staff, the report observed pay differences between newer employees and those with substantially more experience, such that experienced employee compensation is perceived to be low relative to pay for newer employees. The report indicated that the pay compression issue "has caused strife between staff members and has lowered morale within the individual units." The report also indicated "a high rate of turnover attributed to the pay issue resulting in a trickle-down effect to productivity because the laboratory is in a constant state of training." The Center recommended that the pay structure be reviewed and adjusted as soon as possible.

5. In its response to the compensation recommendation, DOJ indicated that it has limited discretion in setting pay, such as pay on transfer, sign-on bonuses, and assigning positions to pay schedules and ranges. The Department noted that it has attempted to correct inequities through merit and retention awards, but that it is restricted in the number and size of awards. The Department further indicated that it would propose "a statutory, merit-based pay progression that gives DOJ the autonomy to give pay increases according to market forces and the performance of our employees."

6. It should be noted that, as a general rule, compensation for the State Crime Lab positions targeted by the proposal at the senior and advanced level is higher for employees with more years of experience and lower for employees with fewer years of experience. However, a review of position compensation confirms the perception that, for entry level positions in particular, certain employees with many years of experience earn less than certain other employees in the same position classification who have less experience. While some of these pay differences may be based upon merit, DOJ indicates that the primary reason for the differences is that recent hires must be appointed at higher rates due to labor market conditions and that the agency is limited in the extent to which it can give longer-tenured employees raises sufficient to meet the pay level of newer hires.

7. In its 2019-21 agency budget request, DOJ requested unspecified statutory changes "to establish a progressive pay structure and adjust current pay rates for science and technical staff of the state crime laboratories." The budget request did not provide additional details regarding the nature

of the pay structure or changes to pay rates. Further, DOJ did not request funding for the changes. Rather, the agency indicated in its request that the cost of the pay adjustments would be absorbed within its base budget.

8. It should be noted that at the time of the agency budget request, DOJ used funding from the discretionary settlement fund to support the cost of pay progression for assistant attorneys general. Under 2017 Act 369, enacted subsequent to the agency request, all settlement funds are required to be deposited in the general fund. The act additionally reduced the discretionary settlement appropriation expenditure authority to \$0 annually. Therefore, this is no longer a potential source of funding for pay progression for the State Crime Labs. [The Act 369 provision is currently the subject of litigation.]

Pay Proposal

9. The state's biennial compensation plan, prepared by the Department of Administration's Division of Personnel Management (DPM) and approved by the Legislature's Joint Committee on Employment Relations (JCOER), establishes the compensation levels and various other pay, benefit, and work conditions for most state employees.

10. Under the bill, amounts budgeted to compensation reserves include \$48,100 GPR in 2020-21 to implement a pay progression system for certain professional forensic science staff of the State Crime Labs. The administration initially indicated that the proposal would target the following position classification series in pay ranges 15-03 and 15-04: controlled substance analyst; DNA analyst; fingerprint and footwear examiner; firearms and toolmark examiner; forensic imaging specialist; forensic science training coordinator; toxicologist; and trace evidence examiner. Additionally, the proposal would include several supervisory staff.

11. The administration argues that a pay progression system for these positions should be instituted because:

"DOJ invests significant resources in the necessary training and certifications required for its employees to be able to complete their duties and to provide expert testimony. As the field grows and as DOJ's need for these employees grows, competition for this limited resource has also grown. As staff expertise and knowledge expands with more seniority (time doing these duties), so too grows their ability to offer credible, defensible work products that can be relied upon in the criminal justice process."

12. The bill also includes funding in compensation reserves for two general wage adjustments of 2% each, which would be provided to most state employees. The administration indicates that the affected positions of the State Crime Labs would be eligible for the first 2% general wage adjustment on January 1, 2020. The administration indicated that the planned implementation date of the pay progression proposal for the positions would coincide with the second proposed general wage adjustment, on January 1, 2021. The administration indicates that the positions would not be eligible for the second general wage adjustment due to the implementation of the pay progression proposal.

13. With regard to the details of the proposal, such as the basis upon which different amounts

of pay increases may be provided to individuals, the administration indicates that DPM is still working with DOJ "to actualize their pay progression system. Full details will be provided in the Compensation Plan upon presentation to JCOER." Therefore, specific features of the proposal as it might appear in the 2019-21 compensation plan, such as how the proposal might address pay compression or whether seniority would be a consideration, are unknown at this time.

14. Funding of \$48,100 GPR for the pay progression proposal was calculated based on a 2% salary increase for all affected employees, including the associated cost of variable fringe benefits. With regard to the Governor's recommendation, the administration indicated that any costs that may be incurred due to the pay progression proposal above the amount equivalent to a 2% raise would be funded by DOJ within the agency's budgeted appropriations.

15. Subsequent to introduction of the Governor's recommended 2019-21 budget, DOJ prepared materials outlining a State Crime Lab pay progression plan developed by the agency for submission to DPM and, ultimately, JCOER for approval. In addition to the position classifications noted above in pay ranges 15-03 and 15-04 and certain supervisory staff, the plan would include technicians in pay range 06-13 that are classified as laboratory technician 2 and fingerprint technician-entry. The proposal outlined by DOJ would establish a six step pay progression for affected positions, and would include provisions for hourly add-on pay. Further, DOJ would request that DPM create position classifications for forensic sciences technical unit leader and forensic sciences technician leadworker. The Department requests that the proposal be funded through compensation reserves, or through a direct increase to its general program operations appropriation. The Department estimates the GPR cost of the proposal at \$291,800 GPR in 2020-21.

16. It should be noted that the administration's calculations, which were intended to reflect a 2% salary increase on January 1, 2021, were based on prior pay rates of several affected positions; did not account for pay increases associated with the first proposed general wage adjustment; and did not include several position classifications that would be eligible for a pay increase under DOJ's proposal. However, because the administration proposes that funding for the 2% raises for affected State Crime Lab employees be funded through a reallocation of funds budgeted for general wage adjustments, correcting these discrepancies would have a net effect of \$0 GPR in 2020-21.

17. Given that the September, 2018, report prepared for DOJ documented a potential need to address issues relating to compensation of certain State Crime Lab positions to improve recruitment and retention, the Committee could approve the Governor's recommendation to provide \$48,100 GPR in 2020-21 (\$97,900 all funds) for the pay progression proposal. [Alternative 1] Under this alternative, if the actual cost of 2% raises for affected State Crime Lab positions were greater than \$48,100 GPR in 2020-21 and the Committee separately approves funding for general wage adjustments, the administration could reallocate funding from the amount approved for general wage adjustments.

18. On the other hand, 2% salary increases do not constitute a pay progression system. Further, DOJ has indicated that it believes it will not be able to fund its pay progression plan without additional GPR funding. Given that the needs assessment documented challenges relating to compensation of State Crime Lab employees, and that it can take several years to train skilled employees who perform essential services such as crime scene response, toxicology, DNA analysis, and preparation of expert testimony for the state in court cases, the Committee could modify the

provision and instead fund the proposal \$291,800 GPR in 2020-21. [Alternative 2] Under this alternative, the details of the proposal would be included in the 2019-21 state compensation plan as recommended by DPM, and would be subject to JCOER approval.

19. If funding is not provided for the proposal, the administration indicates that the pay system may possibly still be implemented in the 2019-21 state compensation plan "as long as DOJ verified to DPM that it would cover the full cost of the implementation." Therefore, the Committee could take no action. [Alternative 3] If DOJ is not able to cover the full cost of implementing the plan, the proposed amounts to be provided to employees under the plan as currently constructed may be reduced, or the pay progression plan may be eliminated.

ALTERNATIVES

1. Approve the Governor's recommendation to provide \$48,100 GPR in 2020-21 (\$97,900 all funds) for the State Crime Labs pay progression proposal.

ALT 1	Change to	
	Base	Bill
GPR	\$48,100	\$0

2. Modify the proposal to instead provide \$291,800 GPR in 2020-21 to compensation reserves for DOJ's State Crime Lab pay progression proposal. The details of the proposal would be included in the 2019-21 state compensation plan as recommended by DPM, and would be subject to JCOER approval.

ALT 2	Change to	
	Base	Bill
GPR	\$291,800	\$243,700

3. Take no action.

ALT 3	Change to	
	Base	Bill
GPR	\$0	- \$48,100

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