

State of Wisconsin\Government Accountability Board

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KEVIN J. KENNEDY
Director and General Counsel

February 27, 2012

The Honorable Alberta Darling, Senate Co-Chair
Joint Committee on Finance
Room 317 East, State Capitol
PO Box 7882
Madison, WI 53707-7882

The Honorable Robin Vos, Assembly Co-Chair
Joint Committee on Finance
Room 309 East, State Capitol
PO Box 8952
Madison, WI 53708-8952

Dear Senator Darling and Representative Vos:

The Government Accountability Board (G.A.B.) requests the Joint Committee on Finance (JCF) approve a request to transfer \$404,500 in GPR funds from the Committee's supplemental appropriation [s.20.865(4)(a)] to the agency's GPR general operations appropriation [§20.511 (1)(a)] in order to enable the agency to fund its current expenditures and encumbrances to date used to process the 2012 Recall Petitions for Statewide and Senate District offices (Governor, Lieutenant Governor and four State Senators). Board staff estimates the total cost of administratively processing the Recall Petitions to be approximately \$975,000. As Director and General Counsel of the Government Accountability Board, I will represent the agency at the quarterly meeting of the Joint Committee on Finance.

Summary of Request

Pursuant to §13.101(4), Wis. Stats., the Government Accountability Board requests the JCF transfer \$404,500 to the GPR general operations appropriation to enable the agency to recover the current expenditures and encumbrances necessary to analyze and determine the sufficiency of the Governor, Lieutenant Governor and four State Senator recall petitions.

Background

On November 15, 2011, six separate committees registered their intent to begin a recall effort targeting the Governor, Lieutenant Governor and four state senators. Additional recall committees registered before and after that date. In anticipation of this initiative, the Government Accountability Board began developing an action plan to address this unprecedented situation. The agency drew on its experience administering the filing of nine recall petitions targeting state senators in the spring of 2011.

The agency submitted an informational letter to the Committee on November 17, 2011, providing an estimated set of costs in excess of the agency's budget that we believed necessary to process, review and administer the anticipated recalls. Much has changed since that original estimate was shared with the Committee. For example:

On January 5, 2012, a Waukesha Circuit Court ordered the G.A.B. to expand its scope of review to search proactively for duplicate signatures on any recall petitions offered for filing with the agency.

This required the agency staff to evaluate methods of identifying duplicate signatures among an extraordinary large amount of possible signatures. This decision was challenged by the petitioners and remains unresolved. However, the G.A.B. has committed to implementing the Court's order as part of its statutorily required careful examination of the face of the petitions to determine its sufficiency.

On January 17, 2012, six recall petitions were offered for filing with the G.A.B. The reported number of signatures and petition pages greatly exceeded the agency's estimates used for planning and the development of the November 17, 2011 correspondence to the Committee. The recall petitioners reported offering more than 1.931 million signatures on more than 250,000 petition pages. The submission of the petitions was a highly orchestrated media event that required security and support from the Capitol Police and other law enforcement agencies.

The G.A.B. secured an offsite location to process this unprecedented number of petition pages. The G.A.B. worked with the Capitol Police to develop and implement security procedures for the submission of the petitions, as well as the review at the offsite location. The location was kept confidential until the agency could scan copies of the petition pages and make them available to the officeholders. More than 50 temporary staff were hired through state contracts. In addition several agency staff were redeployed to work on processing, reviewing and documenting the recall petitions. This has required a shifting of payroll funding strings and significant overtime for line staff working on the recall.

On January 25, 2012, a Dane County Circuit Court granted an extension of 30 days for the G.A. B. to complete its careful examination of the petitions to determine its sufficiency. Additional time was also given to the officeholders to file challenges. The G.A.B. is currently required to complete its examination and determination of the sufficiency of the petitions no later than March 19, 2012. The agency anticipates requesting additional time in order to complete the duplicate signature analysis and to ensure if recall elections are ordered, the recall election events are consolidated and do not conflict with existing election events or holidays.

Challenges to the four senate recall petitions were offered by the officeholders. Rebuttals were filed by the petitioners and subsequent replies were filed by the officeholders. The G.A.B. has scheduled a March 12, 2012 meeting to address preliminary issues raised by challenges.

On February 27, 2012, the date of this letter, the Governor announced he will not file any challenges to the recall other than to request the G.A.B. to comply with the Waukesha Court order and incorporate any objections raised by third parties to the recall as his challenge. The Lieutenant Governor has until March 5, 2012 to file challenges.

This funding request covers expenditures and encumbrances through Friday, February 24, 2012. These costs include G.A.B. staffing costs, facility rental costs, supplies and services and contractual services, primarily for staff hired through temporary staffing agencies. A summary of those costs accompanies this request.

This request does not include costs for services from the Capitol Police, additional G.A.B. staff costs for the balance of the review period, litigation costs and other administrative costs not yet incurred related to the continuing review of the petitions. This request also does not include any costs associated with conducting a public education campaign for the new Voter Photo ID Law in the event recall elections are ordered.

Request Meets Statutory Criteria of §13.101(4), Wis. Stats.

The agency request meets the criteria for supplementing our general operations funding set out in Wis. Stats. §13.101 (3)(a). The filing of multiple recall petitions within a relatively short window creates an

emergency because the agency lacks the physical and fiscal resources to copy, review, analyze and evaluate the sufficiency of the petitions within the statutory time period. The officeholders as well as the petitioners and the public are entitled to a thorough, accurate, and transparent determination of the sufficiency of the recall petitions.

The agency is in the final three months of the fiscal year. It has been operating with significantly reduced resources for the past several budget cycles in response to austere economic times. Additionally, the agency was required to prepare for its portion of Act 32's \$174.3 million lapse which is \$227,335. The agency's GPR funding is allocated to ongoing operating expenses including staffing, rent and computer hosting. The lobby program revenue account may not be used for non-lobby activity based on court cases restricting the use of those funds. There is no surplus funding in other agency program revenue accounts that can be released. Since the recall involves state officeholders, the agency's federal account cannot be utilized. In addition, under federal law unless such activity had been included in the agency's HAVA plan federal money may not be used for undesignated activities.

The purpose for which the funds would be used has been specifically and clearly authorized by the Legislature. Wisconsin statutes vest the responsibility for determining the sufficiency of recall petitions against state and federal officeholders with the Government Accountability Board. Wis. Stats. §§9.10; 11.02.

The agency believes it is essential to address the funding issue as it arises. The amount requested represents the agency's current expenditures and encumbrances to date. As described earlier, there is additional work to do. The agency will seek additional funding following the completion of the work on the recall initiatives.

Request

The Government Accountability Board requests the following action: That the Joint Committee on Finance transfer \$404,500 from the Committee's supplemental appropriation [s.20.865(4)(a)] to the agency's GPR general operations appropriation to enable the agency to fund its current expenditures and encumbrances to date used to process the 2012 Recall Petitions for Statewide and Senate District offices.

Thank you for your consideration of this request.

Sincerely,

Government Accountability Board



Kevin J. Kennedy
Director and General Counsel

Attachment

cc: Legislative Fiscal Bureau (2)
Department of Administration (45)
Government Accountability Board Members
Nathaniel E. Robinson, Elections Division Administrator

Recalls Budget								
Fiscal Year-to-Date at 2/24/2012								
	Original		Revised		Current			
	Preliminary		Preliminary		Budget on	(+)	(+)	(=)
Budget Item	Budget on	Ref	Budget on	Ref	Budget on	Expenditures	Encumbrances	Requested
	11/17/2011		1/6/2012		2/24/2012			
Personnel Costs	\$ 252,814	[a]	\$ 88,898		\$ 140,398	\$ 51,741	\$ -	\$ 51,741
Additional Office Space	\$ 25,135		\$ 33,785		\$ 24,650	\$ 3,118	\$ -	\$ 3,118
Supplies & Equipment	\$ 40,033		\$ 40,033		\$ 40,033	\$ 6,043	\$ 2,463	\$ 8,506
Contractual Services	\$ 334,717		\$ 678,633	[b]	\$ 768,406	\$ 71,797	\$ 269,333	\$ 341,130
Total	\$ 652,699		\$ 841,349		\$ 973,487	\$ 132,699	\$ 271,796	\$ 404,495
Personnel Costs include wages & benefits for all existing staff, additional board member expenses, and LTE Attorney time.								
Additional Office Space includes rental charges for the leased space, site preparation, and remodeling costs.								
Supplies and Equipment includes the scanner rental charges, filing cabinets, office furniture, office supplies, and leased PC's.								
Contractual Services include database support tools, technology infrastructure, board & litigation materials, capitol police security & surveillance, voter photo id public education, data entry services, along with the temporary staffing expense & encumbrances								
Footnotes:								
[a] Temporary staffing costs presented in original budget have been reclassified to the Contractual Services category below.								
[b] Temporary staffing expenses were reclassified to Contractual Services for the 1/06/12 revised budget presentation.								