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Joint Committee on Finance

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State Laboratory of Hygiene Funding (DHS, DNR, UW System)

[LFB 2015-17 Budget Summary: Page 242, #6, and 311, #16]

CURRENT LAW

The State Laboratory of Hygiene (SLH) receives funding through the following three appropriations: (a) a GPR appropriation for general program operations (adjusted base funding of \$10,676,400); (b) a PR appropriation for general program operations (\$21,871,300); and (c) a PR appropriation for OWI testing (\$1,619,200). The duties of SLH include furnishing laboratory service to the Department of Health Services (DHS) and the Department of Natural Resources (DNR) in the areas of water quality, air quality, public health, and contagious diseases.

GOVERNOR

Reduce the SLH's GPR general program operations appropriation by \$6,255,600 in 2016-17. Create an appropriation under DNR to pay SLH for services provided to the Department and provide \$2,662,200 GPR in 2016-17. Provide an additional \$3,593,400 GPR in DHS's general program operations appropriation for public health services planning, regulation, and delivery.

DISCUSSION POINTS

1. Under current law, SLH receives GPR funding through its general program operations appropriation for the laboratory services it provides to DHS and DNR in the areas of water quality, air quality, public health, and contagious diseases. The amounts that SLH allocates to providing these services to DHS and DNR is specified annually in agreements, known as the "basic agreements," between SLH and each of the Departments. The Governor's budget would provide GPR funding for SLH laboratory services to DHS and DNR in the amounts identified in the basic agreements for fiscal year 2014 and reduce the GPR funding provided to SLH by the sum of these

amounts in 2016-17. (Neither DHS nor DNR signed the basic agreements proposed by SLH for fiscal year 2015.) In addition, the Governor's budget would create an all-moneys-received program revenue appropriation under SLH for state agency services in 2016-17 and estimate the level of that appropriation at \$6,295,600, which is equal to the sum of the GPR provided for SLH services to DHS and DNR. Under the Governor's budget, SLH would also receive \$4,812,200 GPR in 2016-17 to support its general program operations.

2. SLH characterizes its current funding model as a capacity model as opposed to the fee-for-service model proposed by the Governor's budget. Under the current funding model, SLH knows how much state GPR it will receive in each year. This allows the SLH to hire the number of employees it estimates it will need to provide services to DHS and DNR and to invest in the equipment, laboratory supplies, space, and training that is needed to provide those services. It is important for SLH to fund this capacity so that it will be able to respond appropriately in the case of an unexpected increase in the need for its services, such as a pandemic or a biological, chemical, or radiological terrorist attack. Under the fee-for-service model, SLH would instead receive payments for the services it provides to DHS and DNR. To the extent that the level of services required by these agencies fluctuates, the level of payments received by SLH would also fluctuate. In addition, funding for SLH laboratory services for DHS would be provided in DHS's general program operations appropriation for public health services planning, regulation, and delivery instead of through a separate appropriation for SLH services as would be created under DNR. This would allow DHS to use these funds for purposes other than payments to SLH. Providing DHS the ability to use these funds for other purposes would further increase the uncertainty regarding the level of funding SLH would receive, which could reduce its ability to invest in its testing capacity.

3. Although direct GPR funding for SLH would be reduced in 2016-17, the Governor's budget would provide \$4.8 million GPR for SLH through its general program operations appropriation in that year. If GPR funding for laboratory services was moved to DHS and DNR, it is possible that SLH could use some portion of these GPR funds to maintain its laboratory capacity.

4. According to DHS budget staff, the primary rationale for the proposed change in the funding mechanism for SLH is to allow the Division of Public Health (DPH) in DHS to decide how the funds provided for laboratory services for DHS should be used to meet public health needs and to build testing capacity. DHS-DPH contends that it is in the best position to make these decisions. It is worth noting that most state public health laboratories are units of the state Department of Health or the equivalent. Wisconsin is somewhat unusual in that its public health laboratory is attached to a university. Iowa and Nevada are examples of other states whose public health laboratory are attached to or organized within a public university.

5. Current law specifies that DHS should serve as the state lead agency for public health. However, it could be argued that the SLH Board, which consists of representatives of various groups involved in public health and consumers of public health testing, may be in a better position than DHS, which is led by a Secretary appointed by the Governor, to determine how the funding provided for public health testing should be used. Under current law, the SLH Board consists of the following members: (a) the UW-Madison Chancellor or his or her designee; (b) the DHS Secretary or his or her designee; (c) the DNR Secretary or his or her designee; (d) the Secretary of the

Department of Agriculture, Trade, and Consumer Protection (DATCP) or his or her designee; (e) a representative of the local health department who is not an employee of the DHS; (f) a physician representing clinical laboratories; (g) a member representing private environmental testing laboratories; (h) a member representing occupational health laboratories; (i) a medical examiner or coroner; and (j) two additional members. The members specified in (e) through (j) are nominated by the Governor and appointed with the advice and consent of the Senate. The SLH Director also serves as a nonvoting member of the Board.

6. The funding specified in the basic agreement between SLH and DHS includes funding for tests performed by SLH for DHS-DPH but also for tests performed by SLH for the Department of Corrections and for local health departments. Based on fiscal year 2015 data, 43% of the testing services provided under the basic agreement between SLH and DHS were performed for DHS-DPH. An additional 30% of the testing performed under the basic agreement was performed for local health departments, who are exempt from SLH fees under current law, and another 22% was performed for the Department of Corrections. The remaining 5% of tests were performed for treatment facilities and tribal governments. Because more than 50% of the funding identified in the basic agreement with DHS is used to provide services for organizations other than DHS-DPH, it may be inappropriate to transfer this funding to DHS.

7. On April 27, 2015, the Co-Presidents of the Wisconsin Association of Local Health Departments and Boards and the Executive Director of the Wisconsin Public Health Association sent a letter to Joint Finance Committee members indicating that they do not support the transfer of GPR funds from SLH to DHS-DPH and DNR. According to the letter, the reduction in funding for SLH would result in "a significant loss of capacity for local communities" and "impact the ability of state and local agencies to respond to biological, chemical, and radiological emergencies."

8. A secondary problem identified by DHS-DPH staff regarding the current arrangement with SLH is that DHS-DPH staff have limited access to SLH clinical data as DHS-DPH does not have direct access to the SLH's laboratory information management system (LIMS) where that data is stored. According to the SLH Director, SLH does not provide direct access to its LIMS system to DHS-DPH, DNR, or any of its other customers for data security reasons. Instead, SLH creates a copy of its database for use by DHS-DPH staff on a daily basis. Because of network issues at the DHS building, DHS-DPH employees are unable to access this database on their desktop computers and must instead use laptop computers provided by SLH to access the data. While access to clinical data by DHS-DPH staff is a valid concern, it is unclear how providing the GPR funding for services provided by SLH to DHS through an appropriation under DHS would remedy DHS-DPH's data access issues, as modifying the appropriation structure would not ameliorate SLH's data security concerns nor address the network issues at the DHS building.

9. In addition to providing DHS-DPH a copy of its database, SLH notifies DHS-DPH of the results of certain tests via telephone and electronically. For example, SLH notifies DHS-DPH immediately of a positive result on a tuberculosis (TB) test and, more recently, notified DHS-DPH of a negative result on an ebola test.

10. The SLH Director has expressed concern that if the funding for SLH laboratory services is provided to DHS, DHS may delay payments to SLH. Indeed, DHS staff have cited the

ability to withhold payments in the case of unsatisfactory performance by SLH as one of the benefits of moving the GPR funding for SLH laboratory services to DHS. In this case, SLH would be required to fund the costs of laboratory services provided through the basic agreement with DHS-DPH until payments are received. Another drawback of the proposed change in funding for SLH identified by the SLH Director would be an increased administrative burden for SLH, DHS, and DNR as SLH would have to bill DHS and DNR for its services and those Departments would have to make payments to SLH.

11. DNR staff did not identify any problems with the current funding mechanism for services provided to it by SLH or with the Governor's proposal.

12. The table below shows the value of services provided by SLH to DHS and DNR under the basic agreements in each of the five most recent fiscal years. As shown in the table, the value of services provided by SLH to DNR under the basic agreement has been less than the amount specified in the agreement (\$2,662,200) in each of the most recent five years. Similarly, the value of services provided by SLH to DHS under the basic agreement has been less than the amount specified in the agreement (\$3,593,400) in each of the most recent three years. Based on this data, the Committee may wish to reduce the amount of GPR provided for SLH laboratory services for DHS and DNR whether that funding is provided through appropriations under DHS and DNR or through an appropriation or appropriations under the UW System. As an alternative, the Committee could provide \$2,202,200 GPR annually for services provided by SLH to DNR, instead of \$2,662,200 under the Governor's budget, and \$3,475,000 GPR annually for services provided by SLH to DHS, instead of \$3,593,400 under the Governor's budget. These amounts would be equal to the average amount of services provided by SLH to DNR and DHS under the basic agreements in the most recent five years.

**Value of the Services Provided by the State Laboratory of Hygiene
to the Departments of Health Services and Natural
Resources under the Basic Agreements**

	<u>Department of Health Services</u>	<u>Department of Natural Resources</u>
2009-10	\$3,705,504	\$2,480,257
2010-11	3,688,583	2,493,789
2011-12	3,325,396	2,202,558
2012-13	3,473,022	1,708,728
2013-14	3,182,230	2,125,770
Average	\$3,474,947	\$2,202,220

13. According to SLH, the data shown in the table reflects the total value of tests performed by SLH in each fiscal year under its basic agreements with DHS and DNR. Those amounts do not reflect the total value of services provided to DHS and DNR as they exclude costs that are not factored into the costs of each test, such as preparation and attendance at agency meetings, reporting, infrastructure and technology to support transmission of information,

equipment readiness and maintenance, and staff training. When the value of tests performed under the basic agreements is less than the amounts specified in those agreements, SLH does not lapse the difference between the value of those tests and the GPR amounts specified in the agreements to the general fund. Rather, SLH is able to reallocate those amounts to other purposes such as its TB lab and operating while impaired (OWI) testing for local law enforcement agencies.

14. One alternative to the Governor's proposal could be to create a separate appropriation under DHS for services provided by SLH to DHS-DPH, the Department of Corrections, local health boards, treatment and care facilities, and tribal governments, instead of providing this funding through DHS's GPR general program operations appropriation for public health services planning, regulation, and delivery. This would be consistent with the provision of the Governor's budget that would create an appropriation under DNR for services provided to that department by SLH. Creating an appropriation for this purpose would prohibit DHS-DPH from using these funds for other purposes, including contracting for laboratory services with other entities, which would provide SLH with a greater level of certainty regarding the level of funds it would receive from DHS-DPH. This would also mean that if the value of the tests performed by SLH for DHS-DPH, the Department of Corrections, local health boards, treatment and care facilities, and tribal governments was less than the amount provided, DHS-DPH would be unable to use the remaining funds for other purposes and they would lapse to the general fund at the end of each fiscal year.

15. Another alternative could be to create two new appropriations under the UW System: one for the services provided by SLH to DHS-DPH, the Department of Corrections, local health boards, treatment and care facilities, and tribal governments and one for services provided by SLH to DNR. Similar to creating appropriations for these purposes under DHS and DNR, this would mean that if the value of the tests performed by SLH for DHS-DPH, the Department of Corrections, local health boards, treatment and care facilities, and tribal governments and for DNR were less than the amounts provided, SLH would be unable to use the remaining funds for other purposes and they would lapse to the general fund at the end of each fiscal year. However, creating the appropriations under the UW System instead of DHS and DNR would provide SLH with an even greater level of certainty regarding the level of funds it would receive and would not increase administrative burden, as SLH would not have to bill DHS and DNR for its services. Under this alternative, DHS would not have the ability to withhold payments in the case of unsatisfactory performance by SLH.

ALTERNATIVES

A. Appropriations

1. Approve the Governor's recommendation. This would create an appropriation under DNR to pay for services provided to the Department in 2106-17. No such appropriation would be created under DHS.

2. Modify the Governor's recommendation to create a separate GPR appropriation under the Department of Health Services in 2016-17 to pay the state laboratory of hygiene for services provided to the Department of Health Services, the Department of Corrections, local health boards, treatment and care facilities, and tribal governments.

3. Modify the Governor's recommendation to create two new GPR appropriations under the UW System in 2016-17: one for services provided by the SLH to Department of Health Services, the Department of Corrections, local health boards, treatment and care facilities, and tribal governments; and one for services provided by SLH to Department of Natural Resources.

ALT A3	Change to Bill
GPR-SLH	\$6,255,600
GPR-DHS	- 3,593,400
GPR-DNR	<u>- 2,662,200</u>
Total GPR	\$0
PR-SLH	- \$6,295,600

4. Delete provision. Under this alternative, the State Laboratory of Hygiene would continue to receive GPR funding for services provided to the Department of Health Services and the Department of Natural Resources through its general program operations appropriation.

ALT A4	Change to Bill
GPR-SLH	\$6,255,600
GPR-DHS	- 3,593,400
GPR-DNR	<u>- 2,662,200</u>
Total GPR	\$0
PR-SLH	- \$6,295,600

B. Funding

1. Approve the Governor's recommendation.

2. Provide \$3,475,000 annually for State Laboratory of Hygiene services provided to the Department of Health Services and \$2,202,200 annually for State Laboratory of Hygiene services provided to the Department of Natural Resources. This would be \$118,400 and \$460,000 less than would be provided under the Governor's budget for these services. These amounts are based on the average amount of services provided to DHS and DNR by SLH under the basic agreements over the most recent five year period.

ALT B2	Change to Bill
GPR	- \$1,156,800

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