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May 29, 2001 Joint Committee on Finance Paper #785

Railroad Safety Analyst Salary Funding
(PSC -- Office of the Commissioner of Railroads)

[LFB 2001-03 Budget Summary: Page 577, #2]

CURRENT LAW

The Office of the Commissioner of Railroads (OCR) regulates railroads and monitors the safety of railroad crossings. Investigations of railroad crossings are conducted by the Office's railroad safety analysts, who file reports on the conditions at the crossing. The Commissioner may order improvements at the crossing, including the installation of signal lights or gates, or may order that the crossing be closed, based on the reports filed by the safety analysts.

The Office has 7.0 FTE positions, including 1.0 program assistant, 4.0 railroad safety analysts, 1.0 attorney, who serves as the hearing examiner for the Office, and the Railroad Commissioner, who is appointed by the Governor for a six-year term.

The operations of the Office are funded through direct and remainder assessments on railroads. Assessments are limited to 1.75% of railroad companies' revenues derived from intrastate operations. Base funding for the Office is $504,900 PR.

GOVERNOR

Provide $22,500 PR annually to increase the salary and fringe benefits for the Office's railroad safety analysts to improve the Office's ability to recruit and retain safety analysts.

DISCUSSION POINTS

1. The proposed funding would allow the wages of the Office's four safety analyst positions to be increased by $2.00 per hour. The current starting salary for these positions is

$15.138 per hour, or about $31,500 annually. The current maximum salary for these positions, corresponding with 22 or more years of experience, is $20.287 per hour, or about $42,200 annually. An increase of $2.00 per hour would increase the annual salary range to $35,600 to $46,400.

2. Of the four safety analyst positions, one has been vacant for about seven months and the other has been vacant for about eight months. One of these positions was created in October, 1997, as part of the 1997-99 budget, but remained vacant for 28 months. It was filled in March of 2000, but became vacant again in August of 2000 and has remained vacant since. The other vacancy was the result of a retirement. OCR argues that these positions have been vacant for long periods because the salary is not competitive with similar positions in the railroad industry.

3. OCR argues that the long periods of vacancy among these positions has had a negative impact on the ability of the Office to complete its statutory duties. For instance, the Office indicates that there are about 150 outstanding petitions for the review of railroad crossings, but that the Office can only investigate about 35 petitions per year with existing staff.

4. The position advertisement for the railroad safety analysts indicates that these positions require an advanced knowledge of signal systems and maintenance requirements as well as railroad operating practices and track and bridge construction requirements. In addition, the position requires the ability to collect, analyze and evaluate technical information relating to railroad safety and the ability to present this information orally and in writing.

5. Although the salary for these positions may be low in relation to what a person with similar skills could be paid in DOT or in the railroad industry, the current collective bargaining agreement for these positions does not allow a person to be hired above the minimum salary or for a person to be advanced through the pay grid other than by seniority. Therefore, the funding provided by the bill could not be used to increase either the starting salary of these positions or increase the salary of the current incumbents unless the collective bargaining agreement were amended to allow this or the positions were moved to a different bargaining unit that allows more flexibility on pay issues.

6. DOA indicates that the funding was included in the budget to allow for wage flexibility in the event that the contract for these positions could be modified to allow for such an increase. It was determined, in addition, that because OCR is a small agency, these costs could not be absorbed and, therefore, additional funding would be needed in the event that contract modifications are negotiated.

7. There is a possibility that the negotiations between the state and the union representing these positions would not allow wage flexibility, in which case no funding would be needed for additional salary. Furthermore, if a new contract does allow wage flexibility, the amount needed for a pay increase is uncertain, since the contract may allow more or less of an increase than the funding provided would allow. One alternative would be to delete the proposed funding and specify that a request may be submitted under s. 16.515 of the statutes to supplement OCR's appropriation by an amount necessary to provide for any pay increases following the completion of

contract negotiations.

8. Although an increase in the salary for the railroad safety analysts may increase the likelihood that these positions are filled, the Office may not be able to generate enough revenue through railroad assessments to pay for its operations if the positions are filled, due to the statutory cap on assessments. OCR's total assessment, plus an additional 10% surcharge that is deposited in the general fund, may not exceed 1.75% of railroads' prior year gross operating revenues derived from intrastate operations. The trend in the railroad industry has been an increase in long-haul operations and a decline in shorter-haul operations, which has resulted in a decline in intrastate revenues. Since OCR has had vacant positions, this has not been a problem because the Office's expenditures have been below its budget authority. However, if OCR's budget remains at the base level in the 2001-03 biennium and the Office expends that amount, the total assessment would equal 1.91% of intrastate revenues, assuming that intrastate revenues remain at the 1999 level in 2001 and 2002. If the increases for additional salary were to be provided or if intrastate revenues decline below the 1999 level, the Office would further exceed the cap.

9. Under current law, an agency with a projected PR appropriation deficit is required to submit a plan under s. 16.513 of the statutes to DOA for assuring that there are sufficient moneys to meet projected expenditures. If DOA approves or modifies and approves the plan, the Department is required to submit the plan to the Joint Committee on Finance for approval under a 14-day passive review process. OCR's assessments, however, are made following the fiscal year in which the expenditures occurred and are based on intrastate revenues in the prior calendar year. Consequently, any PR appropriation deficit would not be apparent until after expenditures are made. One alternative would be to require OCR to submit a plan under s. 16.513, in the event that expenditures exceed the 1.75% cap, that allows the Office to assess railroads for an amount that exceeds 1.75% of intrastate revenues. As under current law, any plan that DOA approves would be required to be submitted to the Joint Committee on Finance for approval under a passive review process. Although this alternative would allow OCR to assess railroads above the 1.75% cap, it would not allow the Office to exceed the amounts in the Chapter 20 appropriation schedule.

10. Although allowing OCR to assess railroads above the 1.75% cap may allow the Office to fund its expenses during the 2001-03 biennium, funding the ongoing expenses of the Office could be a problem if intrastate revenues continue to decline. A different basis may be needed to assess railroads in the future, given the long-haul trends in the railroad industry. An additional alternative would be to require OCR to submit recommendations for changing the assessment mechanism in its 2003-05 budget request.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to provide $22,500 PR annually to increase the salary and fringe benefits for the Office's railroad safety analysts.

2. Delete the Governor's recommendation and adopt one or more of the following:

a. Specify that OCR may submit a request under s. 16.515 of the statutes during the 2001-03 biennium for increasing the budget authority of the Office to provide wage increases for the Office's railroad safety analysts commensurate with the contract agreement negotiated for those positions.

b. Specify that OCR's assessment for the cost of its operations plus the required 10% surcharge may exceed 1.75% of revenues derived from railroads' intrastate operations if OCR submits a plan under s. 16.513 of the statutes and DOA and the Joint Committee on Finance approve such a plan.

c. Require OCR to submit recommendations for changing the basis for assessing railroads for the Office's cost of operations with its 2003-05 budget request.

Alternative 2	PR
2001-03 FUNDING (Change to Base)	$0
[Change to Bill	*- $45,000]*

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