



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #247

Reallocation of Funds within DSPS (Commerce and Safety and Professional Services)

[LFB 2011-13 Budget Summary: Page 130, #11 (part, see page 135)]

CURRENT LAW

Transfer of monies between appropriations requires legislation, or the approval of the Joint Committee on Finance under s. 13.10 (for GPR or SEG appropriations) or s. 16.515 (for PR appropriations).

GOVERNOR

Authorize the Secretary of DOA to reallocate funding within DSPS by transferring moneys from any DSPS appropriation to any other DSPS appropriation before July 1, 2013. Authorize the Secretary to increase or decrease the amounts for any appropriation in the appropriations schedule under section 20.165 (DSPS), if necessary to reallocate funding in accordance with the transfer of functions or personnel from Commerce to DSPS. Prohibit the DOA Secretary from adjusting the appropriation amounts in a way that increases the total amounts appropriated to exceed the totals in the appropriation schedule for DSPS on the effective date of the bill. Require the DOA Secretary to submit a report to the Joint Committee on Finance before July 1, 2013, that identifies the actions taken by the Secretary under this provision.

DISCUSSION POINTS

1. The administration indicates the provision was included in the bill to allow DSPS flexibility during the 2011-13 biennium in reorganizing or consolidating after the Division of Safety and Buildings, Division of Environmental Regulatory Services, and some administrative services and economic development functions are transferred from Commerce to DSPS.

2. Allowing the transfer of funds between any appropriations in DSPS means the Secretary of DOA would have the authority to transfer between fund sources, such as from PR to GPR, SEG to GPR, or GPR to SEG. This could result in appropriation totals for fund sources that differ from the amounts authorized under the biennial budget act. For example, this could result in an increase in GPR appropriation totals that exceed the amount approved by the Legislature. The provision would also authorize the Secretary of DOA to transfer funds from administrative to grant appropriations or from grant to administrative appropriations.

3. Administration officials indicate the intent was to allow the Secretary of DOA to transfer funds between appropriations within the same fund source, but not between fund sources, and to allow transfers between administrative appropriations where it would make sense for program administration. Administration officials also indicated they did not intend to use the provision to shift between grant and administrative appropriations. The bill could be amended to accomplish this intent [Alternative #2].

4. The DOA Secretary is currently authorized to increase federal appropriation and position authority under s. 16.54 without separate legislative approval. Further, federal funds received by the state can only be used for the purposes authorized by the granting federal agency. Thus, it would be inappropriate to authorize the transfer of funds between FED and GPR, SEG or PR appropriations. The bill could be amended to exempt FED appropriations from the provision [Alternative #2].

5. While the provision includes a requirement that the DOA Secretary report to the Joint Committee on Finance on the actions taken under the provision, the bill would allow the DOA Secretary to submit the report as late as June 30, 2013. This means the Legislature would potentially have finished its work on the 2013-15 biennial budget before receiving any report of DOA action taken during the 2011-13 biennium to transfer funds within DSPS appropriations.

6. If the Committee wishes to allow the DOA Secretary to transfer funds within DSPS appropriations without prior legislative approval it could consider requiring DOA to report at an earlier date than required under the bill, regarding actions taken under the provision. It is likely that the administration would be able to determine any transfers it wants to make between DSPS appropriations by the end of the first year of the biennium (June 30, 2012). The bill could be amended to require the DOA Secretary to submit the report to the Committee on actions taken, before July 31, 2012, [Alternative #3] instead of before July 1, 2013. This would also allow any changes to be reflected in the base budget levels for the 2013-15 biennial budget.

7. While the bill would authorize the DOA Secretary to transfer funds between DSPS appropriations, the creation or transfer of positions would still require legislative approval.

8. It could be argued that the Legislature should retain the ability to review proposed expenditure authority modifications in order to manage the budget of the state. In setting the budget and position authorization for each state agency, the Legislature is expressing its intent with respect to how state resources will be distributed to support the various policies of the state. Under this argument, the provision could be deleted and DOA and DSPS could use the normal statutory procedures under s. 13.10 and s. 16.505/515 to seek approval of transfers of funds between

appropriations [Alternative #4]. This has been the procedure typically used by the Legislature when creating new state agencies or transferring functions among agencies.

ALTERNATIVES

1. Authorize the Secretary of DOA to reallocate funding within DSPTS by transferring moneys from any DSPTS appropriation to any other DSPTS appropriation before July 1, 2013. Authorize the Secretary to increase or decrease the amounts for any appropriation in the appropriations schedule under section 20.165 (DSPTS), if necessary to reallocate funding in accordance with the transfer of functions or personnel from Commerce to DSPTS. Prohibit the DOA Secretary from adjusting the appropriation amounts in a way that increases the total amounts appropriated to exceed the totals in the appropriation schedule for DSPTS on the effective date of the bill. Require the DOA Secretary to submit a report to the Joint Committee on Finance before July 1, 2013, that identifies the actions taken by the Secretary under this provision.

2. Approve the provision in the bill, as modified to: (a) allow the transfer of funds between appropriations within the same fund source but not between fund sources; (b) allow the transfer of funds between administrative appropriations but not from administrative to grant appropriations; and (c) prohibit the reallocation of funds from grant appropriations to administrative appropriations, or from one grant appropriation to another grant appropriation, except under the standard procedures for requesting legislative approval under s. 13.10 and s. 16.515.

3. In addition to approving Alternative 1 or 2, limit the authority through June 30, 2012, and require that the Secretary of DOA submit the report to the Joint Committee on Finance, that identifies the actions taken by the Secretary to transfer funds between DSPTS appropriations, by July 31, 2012 (instead of before July 1, 2013).

4. Delete provision. DSPTS and DOA could submit one or more requests, as needed, for changes in expenditure authority under s. 13.10 or s. 16.515.

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