



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873  
Email: [fiscal.bureau@legis.wisconsin.gov](mailto:fiscal.bureau@legis.wisconsin.gov) • Website: <http://legis.wisconsin.gov/lfb>

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Joint Committee on Finance

Paper #119

### **Information Technology Positions and Equipment Transfer Authority (DOA -- Information Technology)**

[LFB 2013-15 Budget Summary: Page 38, #7]

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#### **CURRENT LAW**

The Department of Administration (DOA) operates information technology (IT) infrastructure services for several state agencies. State agencies are permitted to maintain and operate their own IT infrastructure, including but not limited to: network management, server management, storage management, backup management, database management, web application hosting, and web application management.

#### **GOVERNOR**

Provide DOA with the authority to, in consultation with an executive branch agency, transfer any full-time equivalent position that is related to the provision of IT infrastructure services from that agency to DOA. Require DOA to assess the executive branch agency from which it transferred the positions for the costs to pay salary and fringe benefits associated with the positions.

Under the bill, the probationary status of the positions would be determined by DOA, except that the employees would receive credit towards any probationary period for the time that the employee had been employed in any unclassified position immediately prior to the appointment.

Specify that IT infrastructure services positions would not be transferrable from the Board of Regents of the University of Wisconsin (UW) System.

Permit DOA to transfer IT equipment or systems in addition to any transferred IT infrastructure services positions, if the equipment or system is necessary for DOA to carry out IT

services for the agency. Under the bill, DOA may assess the agency for the provision of IT services to that agency.

Create a continuing PR appropriation for the receipt of assessments to agencies for the purpose of funding transferred positions, employees, and equipment related to IT infrastructure services.

## **DISCUSSION POINTS**

1. According to DOA, in its State of Wisconsin 2012 Strategic Plan, the administration believes that the consolidation of IT infrastructure is a priority for several reasons: (a) a central hosted data center can provide superior cyber (online) security for all state agencies; (b) leveraging shared physical capital and staff resources can lower costs through economies of scale; and (c) smaller agencies can purchase advanced IT services without major investments in staff or physical equipment.

2. Regarding the provision in the Governor's budget, the administration argues that the consolidation of IT infrastructure staff would create a larger pool of staff skills and talent provided through DOA's Division of Enterprise Technology (DET), which "will enable an agency to lower their cost since they will not be responsible for research, procurement, configuration, training on new versions," and establishing a disaster recovery plan. According to the administration, hardware and software costs could be lowered through utilization of DET's enterprise licensing and "economies of scale in hardware and software capital costs." It should be noted that savings were not identified through a reduction in expenditure in the budget.

3. The administration indicates that DET currently provides IT infrastructure support for the following agencies: the Department of Health Services; Department of Natural Resources; Department of Corrections; Department of Safety and Professional Services; Government Accountability Board; Office of the Commissioner of Insurance; and several smaller agencies. Services include network management, server management, storage management, backup management, database management, web application hosting, and web application management. On its internal website, DET offers state agencies a catalog of services, including IT infrastructure services, with rates advertised for a given fiscal year. Rates depend on the service provided. For example, data storage is charged on a monthly basis per gigabyte of data. In most cases, state agencies are able to purchase services from DET on a fiscal year basis (July 1 through June 30) and have the option to renew annually.

4. Personnel transfers between agencies are permitted under s. 230.047 of the statutes on a temporary basis through a "temporary interchange of employees." The Administrative Code states that the purpose of such arrangements is to "facilitate the use of the specialized knowledge and experience of skilled people to address state and local problems, improve the delivery of government services, enhance the career development of governmental employees, strengthen intergovernmental understanding, and increase the capacity of personnel resources" [ER 47.01]. An assignment may not begin until both parties (sending and receiving) have signed a written agreement. Under current law, other transfers of employees are not permitted unless authorized by the Office of State Employment Relations (s. 230.29).

5. In general, the Legislature restricts the powers of the executive branch with regard to personnel decisions and decisions that have a budgetary impact. Outside of the legislative bill process, if an agency (including DOA) needs an increase in GPR or SEG position authority, a s. 13.10 request must be approved at a meeting of the Committee. For PR positions, the administration must request, on behalf of the agency, the additional positions through the s. 16.505 14-day passive review process. The Committee may raise an objection to the request, in which case the matter may be taken up at a 13.10 meeting. Increases in PR budget authority must also be approved by the Committee. These procedures provide a legislative check on executive decision-making powers.

6. It should be noted that the IT infrastructure position and equipment transfer authority provision in the bill would be an exception to the authorities normally reserved for the Legislature, and would expand the powers of current and future administrations with respect to personnel (and to some extent budgetary) decision-making. Specifically, the creation of a continuing appropriation would allow DOA to expend any amount of revenue received in the appropriation without further legislative approval.

7. In the 2009-11 biennial budget process, a broader version of this provision was included in the Governor's recommendations. That provision would have allowed DOA to reassign employees among state agencies if the Secretary of DOA determined state operations would be performed more efficiently and effectively. As with the IT infrastructure provision under AB 40, the transferring agency would have been required to pay for the salaries and fringe benefits of any transferred employee. Under the provision, an appropriation was not created for funding purposes. The Committee deleted the provision as a non-fiscal policy item because of its broad application to all executive branch positions.

8. Currently, the powers of DOA relating to IT services and planning outlined under s. 16.972(2) exclude the UW System Board of Regents. The exclusion of the Board of Regents under the bill is consistent with the other IT powers of DOA under state statute.

9. The bill does not specifically define IT infrastructure. In addition, "infrastructure" as it relates to IT services is not defined elsewhere under state statute. However, the administration indicates that the following three classification series (as currently defined by the Office of State Employment Relations) are intended to be included under provisions of the bill: (a) Information Systems Network Services; (b) Information Systems Network Support Technician; and (c) Information Systems Technical Services. The administration reports identifying approximately 384 positions that fall within these classifications (outside of DOA), of which 54 are vacant. According to DOA, "DET estimates that it already manages and provides services for over 21,000 users, out of an estimated 33,000 total users in state government not including the UW. Assuming the responsibility for the remaining 12,000 devices were to be transferred, DET estimates that only a small fraction of the 384 positions would be required, given the number of devices already managed by DET."

10. The administration reports that it has engaged in discussions with management at the Department of Corrections, Department of Transportation, Department of Workforce Development, Department of Revenue, and Department of Children and Families regarding "development of an inventory of specific state positions and contract staff, as well as potential processes by which IT

infrastructure, services and positions could be transferred." However, it should be noted that the bill does not provide agencies any independent decision-making powers in the consultation process, including the authority to deny a transfer.

11. Under the bill, the transferring agency would continue to pay the salaries and fringe benefits of any positions transferred. Further, DOA could assess the agency for the provision of IT infrastructure services. If a position were transferred to DOA under the provision, the agency would effectively lose control over that portion of its budget. In the absence of statutory language regarding position vacancies, it appears that the agency could be required to pay for the cost of the position until DOA makes the decision to eliminate it. Under current law, an agency can choose not to fill a position once it has been vacated. For example, an agency may choose not to fill a vacant position if the work the position provided is no longer necessary. It could be argued that the provision in the bill reduces the incentive to minimize inefficient use of resources by placing budgetary decision-making authority with an entity (DOA) that is not responsible for the cost of the decision (borne by the transferring agency).

12. The positions identified by the administration as potentially transferable are funded from various sources, including GPR, SEG, FED, and PR. The salaries and fringe benefits of most IT infrastructure positions currently employed by DOA are funded from an annual program revenue appropriation from assessments to state agencies. Under the bill, a separate continuing appropriation would be created to fund the transferred positions. Transferring agencies would continue to fund the positions from the positions' current sources of funding. The bill does not specify that the transferred positions would serve only the transferring agency, nor does it guarantee any minimum level of IT infrastructure services to the transferring agency.

13. The provision also allows DOA to require an agency that is subject to a position transfer to transfer to DOA any IT equipment or systems required to carry out IT services for the transferring agency. The bill does not specify that the transferring agency must be reimbursed for the depreciated value of these assets. Further, the bill does not specify that DOA will assume payment responsibilities for any related debt or for equipment or systems that are being leased.

14. The Committee could choose to approve the Governor's recommendation. Under this alternative, DOA would be allowed to transfer any full-time equivalent IT infrastructure position, equipment, or systems, as defined by DOA, and would require the transferring agency to pay DOA for the cost of salaries and fringe benefits for the transferred position. [Alternative 1] The administration argues that infrastructure services "have become commodities over the last several years as the technologies have become more standardized, and the service provider does not need to be as knowledgeable about the organization's business."

15. However, in consideration of the issues outlined above, the Committee could modify the proposal in several different ways (separately or in combination with one another).

16. In order to provide for legislative involvement, the Committee could choose to specify that any transfer of IT infrastructure positions, equipment, or systems must be approved by the Committee under a 14-day passive review process. [Alternative 2a]

17. Similarly, the Committee could delete the continuing appropriation, replace it with

an annual PR appropriation funded \$0 annually, and specify that the assessment would be for the provision of IT services. Under this alternative, the administration would need to request an increase in expenditure authority to fund any transferred positions from the newly created appropriation. Specifying that the assessment would be for the provision of services, rather than salaries and fringe benefits, may also guarantee some minimum level of service provided to the transferring agency. [Alternative 2b] It should be noted, however, that modifying the newly created appropriation would not prevent DOA from transferring a position and funding it from an already existing appropriation that has sufficient expenditure authority.

18. To address funding source and other budgetary issues, the Committee could specify that the transferring agency must agree to the transfer of any positions, IT equipment, or systems, under terms specified in a memorandum of understanding with DOA. It is common for agencies to enter into such an agreement to guarantee mutual satisfaction with an interagency arrangement. The Committee could specify that the agreement must include terms such as: (a) payment of salaries and fringe benefits; (b) payment for IT equipment or systems; and (c) payment for IT infrastructure services. [Alternative 2c]

19. If the Committee wishes to narrow the consideration of position transfers, it could specify that only positions in the following classification series may be transferred under the provision: (a) Information Systems Network Services; (b) Information Systems Network Support Technician; and (c) Information Systems Technical Services. It should be noted that even with this limitation, the administration identified 384 positions that would qualify, including 54 vacant positions. Further, classification series definitions change over time. Therefore, the position types identified in statute may need to periodically be modified. [Alternative 2d]

20. In addition, the funding sources for the positions may raise concerns. Under the bill, transferred positions would continue to be funded from the original sources of funding. It could be argued that the transfer would: (a) reduce the incentive to minimize inefficient use of resources by placing budgetary decision-making authority with an entity that is not responsible for the cost of the decision; (b) distort the appearance of the budgets of both the transferring agency and DOA; and (c) subsidize the provision of IT infrastructure services to other state agencies from the original funding sources (which include GPR, SEG, FED, and PR). Depending on the circumstances, in some cases this method of funding may run contrary to original legislative intent. The Committee could choose to address these issues by eliminating the requirement to assess the transferring agency for the cost of salaries and fringe benefits for a transferred position. Under this alternative, DOA could fund transferred positions in the same manner in which it funds other IT infrastructure positions it employs, with PR derived from assessments to state agencies for IT services provided. [Alternative 2e]

21. Regarding the transfer of IT infrastructure equipment and systems, which are also not defined under the bill, the Committee could require DOA to reimburse the transferring agency for the depreciated value of the assets. [Alternative 2f] However, the method for determining the value could present a challenge if the two agencies cannot come to an agreement. The Committee may wish to address the issue instead by deleting language that allows DOA to transfer the equipment or systems. The two alternatives would be mutually exclusive. [Alternative 2g]

22. Finally, the Committee could choose to delete the provision. This alternative would maintain the Legislature's role in position authorization and budgetary decision-making. Further, as identified above, there are several means by which the administration can accomplish its goals. Agencies have the option to contract with DET for their IT infrastructure needs. If the administration is able to convince a particular agency that contracting with DET would be less expensive or would provide higher quality services, the agency can transition from operating its own IT infrastructure to contracting with DET. In addition, DOA can enter into a personnel agreement with any agency under a memorandum of understanding. [Alternative 3]

## **ALTERNATIVES**

1. Approve the Governor's recommendation to: (a) provide DOA with the authority to transfer any full-time equivalent position and IT equipment or systems that are related to the provision of IT infrastructure services from an executive branch agency to DOA; and (b) require DOA to assess the agency from which it transferred the positions for the costs to pay salary and fringe benefits associated with the positions.

2. Modify the provision by adopting any of the following:

a. Specify that any transfer of IT infrastructure positions, equipment, or systems must be approved by the Committee under a 14-day passive review process.

b. Create an annual appropriation for assessments received from transferring agencies for the provision of IT services, and provide \$0 PR annually. Delete the continuing appropriation.

c. Specify that the transferring agency must agree to the transfer of any positions, IT equipment, or IT systems, under terms specified in a memorandum of understanding with DOA regarding: (a) payment of salaries and fringe benefits; (b) payment for IT equipment or systems; and (c) payment for IT infrastructure services.

d. Specify that only positions in the following job classification series may be transferred under the provision: (a) information systems network services; (b) information systems network support technician; and (c) information systems technical services.

e. Delete language that requires DOA to assess the transferring agency for the cost of salaries and fringe benefits for a transferred position. Delete the continuing appropriation.

f. Require DOA to reimburse the transferring agency for the depreciated value of any IT equipment or systems transferred. [Cannot be selected with Alternative 2g.]

g. Delete language that allows DOA to transfer IT equipment or systems. [Cannot be selected with Alternative 2f.]

3. Delete provision.

Prepared by: Rachel Johnson