2013 DRAFTING REQUEST

Assembly Amendment (AA-AB40)

Received:	**5/26/2013**	Received By:	**jkuesel**
Wanted:	**Soon**	Same as LRB:	
For:	**Legislative Fiscal Bureau 6-3847**	By/Representing:	**Johnson**
May Contact:		Drafter:	**jkuesel**
Subject:	**State Govt - miscellaneous**	Addl. Drafters:	
		Extra Copies:	**EVM - 1**

Submit via email: **YES**
Requester's email: **Legislative Fiscal Bureau**
Carbon copy (CC) to:

Pre Topic:

LFB:.....Johnson -

Topic:

Division of Facilities Development fee assessments

Instructions:

Motion #121, alternative 4.

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	jkuesel 5/27/2013	wjackson 5/27/2013	phenry 5/28/2013	_____ _____			
/1	jkuesel 5/28/2013			_____ _____	mbarman 5/28/2013		
/2		wjackson 5/28/2013	rschluet 5/28/2013	_____ _____	srose 5/28/2013		

FE Sent For:

<END>

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FE Sent For:

<END>

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

May 13, 2013 | Joint Committee on Finance | Paper #121

Capital Planning and Building Construction Expenditure Authority (DOA -- Facilities Management and Facilities Development)

[LFB 2013-15 Budget Summary: Page 39, #4]

CURRENT LAW

Base funding for the Department of Administration (DOA) capital planning and building construction services appropriation is $12,170,800 PR. The services are provided through DOA's Division of Facilities Development (DFD), which staffs the State Building Commission. The Division manages approximately 2,000 state building program construction projects. The appropriation is funded with program revenue derived from a 4% fee assessed on most state building project budgets.

GOVERNOR

Provide $2,000,000 PR annually to the Department's capital planning and building construction services appropriation. Expenditure authority would be used for the following purposes: (a) contractual services ($1,200,000 in 2013-14 and $1,400,000 in 2014-15); and (b) technology improvements ($800,000 in 2013-14 and $600,000 in 2014-15).

DISCUSSION POINTS

1. The Division reports that over the past three years, revenue to the appropriation has ranged between $14.0 million and $17.7 million annually, while expenditures have ranged from $10.7 million to $11.2 million. Because revenue consistently exceeds expenditure authority for the appropriation, lapses to the general fund have been made on an annual basis from the accumulation of unexpended revenue. From 2007 through 2012, lapses to the general fund from the appropriation averaged $4.4 million. In 2012-13, the currently estimated lapse for the appropriation is $2,439,200.

Based on information provided by DOA for the appropriation since 2006-07, the following table identifies revenues, expenditures, lapses, and cash balances associated with the building program.

Capital Construction Revenues and Expenditures
2006-07 to 2012-13

Fiscal Year	Revenue	Expenditures	Balance After Exp.	Lapse Amount	Ending Balance
2006-07	$13,303,421	$10,692,207	$2,611,214	$4,134,000	$5,318,155
2007-08	13,533,289	10,960,909	2,572,380	4,600,000	3,290,535
2008-09	12,756,414	10,925,751	1,830,663	3,159,500	1,961,698
2009-10	17,363,298	11,229,124	6,134,174	2,867,500	5,228,372
2010-11	17,683,070	11,049,599	6,633,471	6,641,800	5,220,043
2011-12	14,017,600	10,690,091	3,327,509	4,979,875	3,567,677
2012-13	17,000,000	11,833,342	5,166,658	TBD	8,734,335
Average	$15,093,870	$11,054,432	$4,039,438	$4,397,113	$4,097,747

2. As shown above, over the seven-year period, revenues have exceeded expenditures in every year. On average over the seven years, revenues exceeded expenditures by $4.0 million. In essence, with the assessment fee set at 4%, agencies are being charged for DFD's costs and the amount that DOA lapses to the general fund to meet its lapse requirements.

3. The administration argues that an increase in expenditure authority would allow the Division of Facilities Development to improve the quality of currently provided capital planning and building construction services. The recommended funding can be broadly divided into contractual services and technology improvements. The Division notes that a detailed breakdown of the $2 million in funding would not be precise because "the price of these initiatives would be determined through competitive request for information, bids or proposals (RFI/RFB/RFP) processes." However, the administration was able to provide general estimates of the cost for each initiative, as shown in the table below. It should be noted that although the itemized cost estimates of technology improvements in 2014-15 total to $50,000 more than would be provided under the bill, expenditures would not be permitted to exceed the limits authorized under statute for the year.

	2013-14	2014-15
Contractual Services		
Real Estate	$250,000	$300,000
Financial Advisement	250,000	300,000
Construction Oversight	600,000	700,000
Legal	100,000	100,000
Total	$1,200,000	$1,400,000
Technology Improvements		
WisBuild Replacement	$450,000	$450,000
Electronic Bidding	250,000	100,000
BIM Software	100,000	100,000
Total	$800,000	$650,000

4. The administration indicates that the highest priority for the Division at this time is obtaining certain contractual services. Regarding several larger real estate development projects that have been included in recent capital budgets, the administration believes that DOA "does not employ staff with the requisite expertise in real estate and financial advisement to oversee and complete these important deals." According to the administration, the state could be at a disadvantage in negotiations without this expertise. Specifically, "DOA would be required to implement real estate transactions with limited knowledge of industry trends and assistance with developing and implementing consistent processes that work within the state system." In particular, the 2011-13 and 2013-15 capital budgets include potentially complex real estate developments that incorporate a public-private partnership model and numerous transfers of property ownership. The administration notes the following as examples of public-private partnerships and complex real estate developments: (a) Hill Farms Buildings A and B replacement; (b) the new Historical Society and Veterans museum complex; (c) UW-Platteville Residence Hall and Dining Facility purchase; (d) UW-Milwaukee Kenilworth Place purchase; and (e) Femrite Drive Data Center purchase. The administration estimates the cost of real estate services and financial advisement at $500,000 to $600,000 annually ($250,000 to $300,000 annually each).

5. In addition, the Division wishes to contract for construction oversight services, estimated at $600,000 to $700,000 annually. Construction oversight consultants would provide quality control and quality assurance services for contract documents and project design. Consultants would have managerial responsibilities as well, including: (a) approval or denial of business solicitations for supplier information, construction bulletins, and change orders; and (b) conflict resolution (to mitigate or eliminate costly change orders and claims). The Division notes that fewer construction oversight consultants may be needed if all 10.0 construction field staff positions (addressed in a separate LFB issue paper) are approved. According to the administration, without additional construction oversight field staff or consultants, state construction projects "would have limited quality control and quality assurance of the contract documents and project design" due to heavy workloads.

6. Contractual services funding would also provide for legal services (estimated at $100,000 annually), including: (a) updating and rewriting state design and construction contracts; (b) development of contractor certification and debarment processes; (c) development of alternative construction project delivery method policies, procedures, and contracts; and (d) legal assistance with real estate and financial transactions. The administration adds that the services could provide DOA with contracts that "better protect the state's best interests, assist with the negotiation and settlement of construction claims, and potentially avoid costly legal action." The administration argues that without the legal services, the Division would "continue to use out-of-date contracts that could expose the state to costly changes and claims" and would "continue to have limited access to expertise in the negotiation and settlement of construction claims."

7. Regarding the recommended technology improvements, the administration indicates that the Division uses older software that does not meet current construction industry standards and expectations. According to the Division, funding provided in 2013-14 ($800,000) would provide for initial configuration and implementation of the improvements, while funding in 2014-15 ($600,000)

would pay for ongoing license fees, implementation costs, and training. Funding for technology improvements would be used for three specific initiatives, listed in order of designated importance: (a) replacement of the WisBuild system (a web-based building project management system for state facilities); (b) the development and implementation of electronic (online) bidding; and (c) advancements in Building Information Modeling (BIM).

8. The WisBuild system was developed in 1998 by internal DOA programmers. According to the Division, because of the age of the program, WisBuild does not integrate with current systems, databases, and other technologies, resulting in costly and time-consuming short-term, customized special processes and code development to bridge gaps between WisBuild and systems released after the year 2000. The Division describes the system as "inflexible, especially to process and policy changes such as change orders, alternative delivery methods, and any other process or mechanism that was not hard coded in the original build." In addition, the system is limited in its ability to communicate with other systems and databases (such as Outlook, SharePoint, building modeling software, and building inventory). According to the administration, "the longer the upgrade is delayed, the more DFD and its customers and partners will struggle with the use of technology to manage state building projects." Further, if the replacement were not funded, the Division "would continue to rely on incomplete and inaccurate project data and reports." At this time, DOA is considering whether the system should be replaced with a system developed internally or with software purchased from an outside vendor. The administration indicates that a system developed in-house might be lower in cost, but could take longer to implement. The estimated cost to replace WisBuild is $450,000 annually.

9. The second technology improvement relates to bidding. Currently, the entire state bidding process utilizes paper and manual processes. According to the Division, bids are handwritten or typed on a paper form and mailed or hand-delivered to the Division's office. Bids are then manually opened and manually tabulated. According to the administration, continuing to use manual and paper bidding processes is "cumbersome and results in numerous errors that ultimately could cost the state more money." An electronic bidding system could automate or digitize the following paper and manual processes: (a) development of bid forms; (b) accessibility of bid forms; (c) data entry; (d) submission of the forms; (e) form processing; (f) form review and error detection; (g) bid tabulation; (h) posting of bid results; (i) entering of bid information into subsequent contracts; (j) contract processing; and (k) submitting and processing of bid bonds and other required supplementary bid information. The administration estimates a transition to electronic bidding would cost $100,000 to $250,000 annually.

10. The final technology need that the administration identifies is continued advancements in Building Information Modeling (BIM). Architect and engineer consultants currently are required to use BIM software for all projects with budgets exceeding $5 million (new construction and renovation) as well as for new construction projects with budgets exceeding $2.5 million. The Division's construction project managers also use the program. The software uses project information to help the user design a complex 3D model of a structure that incorporates a broad array of information, including mechanical and electrical systems, building automation systems, construction phase information, and sustainability guidelines. The Division would use a portion of the total annual expenditure authority increase to fund improvements and training in the software. According to the administration, without improvements in BIM software, not all project

managers would have access to the software and be able to view spatial relationships of major systems and overall building design, which can help prevent constructability conflicts. The administration estimates BIM improvements would cost $100,000 annually.

11. The Division indicates that, after the three technology improvements outlined above are implemented and maintenance costs for the systems are covered, "in future years, remaining expenditure authority would be used for continuous enhancements and future technology upgrades related to these three core upgrades."

12. The Committee could choose to approve the Governor's recommendation to provide $2.0 million PR annually in increased expenditure authority for contractual services and technology improvements. The administration argues that the services and technology improvements would protect the interests of the state through informed decisions and efficient use of staff time. Currently, revenue is sufficient to fund the increase. [Alternative 1]

13. The Department has identified some general areas for the use of the $2.0 million annual increase in expenditure authority, and divided the recommendation into broad expenditure categories. However, the Committee should note that the identified allocations are not specifically associated with particular budget expenditures. As a result, if increased funding is authorized as proposed under the bill, the Department would have the ability, subsequent to approval of the budget bill, to utilize the funding in any manner authorized by law.

14. While an argument may be made for some level of increased expenditures, the Committee could choose to provide a lower amount of increased expenditure authority at this time. Under this alternative, the Division would use the authority to fund the administration's highest-priority items. According to the administration, $1,000,000 PR annually would provide: (a) limited real estate and financial advisement on public-private partnerships and complex real estate transactions; (b) limited or no construction oversight consultants; (c) limited or no legal consultants; (d) limited or no WisBuild replacement; and (e) no electronic bidding or BIM improvements. [Alternative 2a] The administration indicates that if $500,000 PR annually were provided, the consequences "would impact both the contractual services expertise and technology improvements" to a greater degree. [Alternative 2b]

15. If an increase in expenditure authority were not approved, the revenue would remain in the appropriation and be available for future use. If the workload of the Division were to increase, or another pressing need became apparent, DOA could request an increase in expenditure authority under a 14-day passive review process. [Alternative 3]

16. Finally, as indicated in Discussion Point #2, revenue from the 4% fee that DOA charges state agencies for services consistently exceeds the cost of those services. To more closely align revenues and expenditures, DOA could be directed to set the fee based upon the amount needed to meet the program's budgeted expenditures. [Alternative 4]

ALTERNATIVES

1. Approve the Governor's recommendation to provide $2,000,000 PR annually to the

Department's capital planning and building construction services appropriation.

LPB

2. Modify the Governor's recommendation to provide the following additional annual expenditure authority to the appropriation:

a. $1,000,000

ALT 2a	Change to Bill Funding
PR	- $2,000,000

b. $500,000

ALT 2b	Change to Bill Funding
PR	- $3,000,000

3. Delete the provision.

ALT 3	Change to Bill Funding
PR	- $4,000,000

4. Direct DOA to annually assess the Division of Facilities Development fee charged to state agencies based upon the program's budgeted expenditures. [This alternative can be selected with any of the other alternatives.]

Charging 4% fee since 1972

Prepared by: Rachel Johnson

draft

[assess fee based on actual expenditures

20.505 (1) (Kc)

State of Wisconsin
2013 – 2014 LEGISLATURE

LRBb0225/1
JTK:..:..:...

Soon

LFB:.....Johnson – Division of Facilities Development fee assessments

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY BILL 40

At the locations indicated, amend the bill as follows:

1. Page 109, line 7: after that line insert:

"**SECTION 155m?.** 16.88 of the statutes is amended to read:

16.88 Charges against projects. The cost of services furnished pursuant to s. 16.85 (2) to (4), (6) and (7) shall be charged to and paid out of available funds for the respective projects, whenever in the judgment of the secretary the charges are warranted and the cost of the services can be ascertained with reasonable accuracy. STET The costs assessed to any project may not exceed the actual expenditures of the department for services performed by the department related to that project.".

(END)

Kuesel, Jeffery

From: Johnson, Rachel
Sent: Tuesday, May 28, 2013 9:40 AM
To: Kuesel, Jeffery
Subject: RE: LRB Draft: 13b0225/1 Division of Facilities Development fee assessments

Jeff,

Could you replace the underlined text with the following?

Charges shall be based upon budgeted expenditures under s. 20.505(1)(kc).

Let me know if that works.

Rachel

From: Henry, Patty
Sent: Tuesday, May 28, 2013 9:29 AM
To: Johnson, Rachel
Cc: Bauer Jr., Jere; Hanaman, Cathlene; Holten, Vicki
Subject: LRB Draft: 13b0225/1 Division of Facilities Development fee assessments

Following is the PDF version of draft 13b0225/1.

State of Wisconsin
2013 – 2014 LEGISLATURE

LRBb0225/1 2
JTK:wlj:ph
stay

LFB:.....Johnson – Division of Facilities Development fee assessments

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

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(END)

State of Wisconsin
2013 – 2014 LEGISLATURE

LRBb0225/2
JTK:wlj:wj

LFB:.....Johnson – Division of Facilities Development fee assessments

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(END)