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Joint Committee on Finance

Paper #114

Office of Government Continuity (DOA -- Transfers)

[LFB 2015-17 Budget Summary: Page 38, #11; Page 249, #7;
Page 254, #6; and Page 397, #6]

CURRENT LAW

Under state statute, the Governor is responsible for reviewing state emergency management plans and modifications to the plans. The Governor determines the responsibilities of state departments and independent agencies with respect to emergency management and is responsible for directing agencies in utilizing personnel, facilities, supplies, and equipment before and during a state of emergency.

GOVERNOR

Create an Office of Government Continuity under the Department of Administration (DOA). Provide \$314,000 PR in 2015-16, \$362,500 PR in 2016-17, and 3.0 PR positions annually. Funding would be provided for: (a) salaries (\$105,000 in 2015-16 and \$140,100 in 2016-17); (b) fringe benefits (\$40,200 in 2015-16 and \$53,600 in 2016-17); and (c) supplies and services (\$168,800 annually). Require the Office to establish and administer a continuity of government program in consultation with the administrator of the Division of Emergency Management in the Department of Military Affairs to ensure the continuity of state government operations during a disaster. Further, require the Office to establish and periodically update a continuity of operations plan for each executive branch state agency and administer the plan in cooperation with each agency. Require DOA to annually assess each executive branch state agency an amount equal to that agency's share of DOA's costs incurred in the operation of the Office, by a method of apportionment determined by DOA.

Delete 1.0 position from each of the following agencies and reallocate funding associated

with the deleted positions from salaries and fringe benefits to supplies and services, associated with the creation of the Office of Government Continuity: (a) the Department of Health Services (DHS, 1.0 PR position and \$66,500 PR annually); (b) the Wisconsin Historical Society (1.0 FED position and \$53,000 FED annually); and (c) the Department of Safety and Professional Services, or its successor agency (DSPS, 1.0 PR position and \$79,100 PR annually).

DISCUSSION POINTS

1. In general, continuity planning in state government is undertaken to ensure that, in the event of an emergency or disaster that may disrupt governmental operations, essential functions and services are restored to the public in a timely manner, law and order are maintained to protect public safety, critical infrastructure is protected, and economic stability is maintained.

2. Currently, DOA supports the responsibility of the Governor under statute to review state emergency management plans and modifications to the plans. The Department employs a director of continuity of government, which administers the state's continuity of government program, and a continuity of operations manager, which administers DOA's own continuity of operations program for the agency's operational subunits. Both positions are funded from general administrative assessments to state agencies.

3. The Department of Military Affairs, Division of Emergency Management coordinates disaster response and recovery efforts in support of local governments. The Division of Emergency Management focuses on responding to disaster situations affecting counties, municipalities, and residents of the state by coordinating emergency funding, emergency personnel, and other resources necessary to protect life and property.

4. The director of continuity of government at DOA is responsible for managing and supervising the state's continuity of government program for all executive branch agencies. Duties of the director include: (a) setting the standards and plan development methodology for state agencies to follow in preparing continuity of operations plans; (b) providing training and assistance to executive branch agencies relating to continuity planning; and (c) tracking and monitoring the development, maintenance, testing, and continual improvement of continuity of operations plans.

5. The Department's continuity of operations manager is responsible for researching, consulting, evaluating, recommending, and assuring DOA's continuity of operations program compliance by providing policy development and implementation of initiatives. The position directs the continuity of operations program for DOA-specific programs and agency operations in accordance with standards established by the state's continuity of government program and continuity of operations guidance issued by the Federal Emergency Management Agency. The continuity of operations manager develops and maintains emergency and pandemic plans, provides training and consultation to DOA personnel, maintains alternate sites of operation, conducts plan exercises, and continually reviews and updates plans.

6. According to the administration, the purpose in creating the Office of Government Continuity within DOA is to standardize continuity planning for state agencies and to ensure that all

agencies have continuity plans that are systematically updated and accurate. The Department indicates that the office would provide needed resources for the state's continuity of government program to address the following issues the program currently faces: (a) many agencies do not have continuity of operations plans; (b) continuity planning and collaboration lack a statewide "enterprise approach;" (c) minimal compliance with continuity planning requirements; (d) a lack of trained continuity managers and planners; (e) a lack of standardized continuity methodologies for planning, training, and exercising (practicing); (f) unpredictable agency compliance capability regarding essential functions in the event of an emergency or disaster; (g) potential agency disinterest in or de-prioritization of continuity program requirements; and (h) outdated continuity of operations plans without current standard operating procedures.

7. The proposed Office of Government Continuity would be staffed by 5.0 PR positions: (a) the director of continuity of government (1.0 PR position at DOA); (b) a continuity of operations manager (1.0 PR position at DOA); and (c) 3.0 PR program and policy analyst positions provided to DOA in association with position reductions in DSPS, DHS, and the Historical Society. Although the Executive Budget Book indicates that the provision would transfer each position, no transfer of incumbent employees is provided for under the bill. Further, the positions that would be removed from DSPS and the Historical Society are not classified as program and policy analysts, and the position at the Historical Society is a grant funded FED position. The three positions provided to DOA would be classified as program and policy analysts and would be funded from program revenue.

8. Currently, the director of continuity of government in DOA is funded from two appropriations: (a) materials and services to state agencies (\$93,500 PR annually for salary and fringe benefits); and (b) facility operations and maintenance, police and protection functions (\$31,200 PR annually for salary and fringe benefits). Additionally, the agency's continuity of operations manager is funded from DOA's materials and services to state agencies appropriation (\$105,500 PR annually for salary and fringe benefits). Funding for both appropriations is derived from assessments to state agencies.

9. Under the bill, the office would be statutorily required to: (a) establish and administer a continuity of government program to ensure the continuity of state government operations during a disaster (currently a function DOA performs), in consultation with the administrator of the Division of Emergency Management in the Department of Military Affairs; (b) establish and periodically update for each executive branch agency a continuity of operations plan; and (c) cooperate with each executive branch agency to administer that agency's implementation of the continuity plan.

10. However, DOA indicates that agencies with dedicated continuity of operations planning personnel to carry out continuity programs that conform to DOA's standards would be delegated responsibility for establishing, maintaining, and administering continuity plans. According to DOA, all executive branch state agencies would be assessed for the costs of the office proportionate to the services provided. Delegated agencies would be assessed only for a share of the state's director of government continuity position expenses. Other executive branch agencies, which would not be delegated continuity planning responsibilities and would receive continuity of operations planning services, would be assessed for a share of the cost of the director of government

continuity as well as the other positions and expenses of the office.

11. Under the bill, only executive branch agencies are specified with respect to services of the Office of Government Continuity and assessments associated with the costs of the office. However, the administration indicates that legislative and judicial branch agencies would have the option to consult with the office on continuity of operations planning matters.

12. The attachment to this paper lists agencies to which the administration would intend to delegate planning responsibilities. According to DOA, these agencies have current, viable continuity plans and dedicated staff to maintain continuity programs. The Department indicates that delegated agencies would only be assessed for a share of the cost of the director of government continuity because they would require minimal supervision and assistance from the office. Other executive branch agencies listed would be assessed for each agency's share of the total costs of the office, which would be based in part on the number of FTE positions in the agency. It should be noted that two of the three agencies from which positions would be deleted are listed as agencies for which DOA would provide continuity planning services (DSPS and the Historical Society). The Department of Health Services, however, would be a delegated agency.

13. Under the bill, funding provided for the three program and policy analyst positions includes nine months of salaries and fringe benefits funding in 2015-16 (\$145,200 PR), to account for the time to hire and recruit, and full funding for salaries and fringe benefits in 2016-17 (\$193,700 PR). According to DOA, funding of \$168,800 PR annually for supplies and services provided is based on the following estimated expenses: (a) continuity planning software and maintenance of data processing equipment (\$60,000); (b) general materials and supplies (\$28,000); (c) data processing (\$26,200); (d) in-state travel and training (\$13,000); (e) other travel and training (\$12,500); (f) rent and lease of equipment (\$11,950); (g) minor equipment and software (\$5,000); (h) dues and subscriptions (\$4,200); (i) other administrative and operating expenses (\$3,700); (j) telecommunications (\$2,000); and (k) other miscellaneous expenses (\$2,250). Subsequent to the introduction of the budget, DOA reestimated the cost of continuity planning software and maintenance of data processing equipment at \$33,500 in 2016-17 (a reduction of \$26,500) due to setup costs for the software and database in 2015-16 being one-time in nature.

14. Regarding the positions that would be deleted from DHS, the Historical Society, and DSPS, the administration did not indicate that the positions were related to continuity of operations planning, that the incumbents would be transferred, or that the positions would no longer be needed as a result of the services provided under the initiative.

15. The position that would be removed from DHS is classified as a program and policy analyst and was filled as of January, 2015. The position was vacated on February 27, 2015. As noted previously, the administration intends to delegate responsibility for continuity of operations planning to DHS. As a result, the agency would not receive planning services from DOA under the proposal. The position identified for removal from DSPS was filled as of April 19, 2015, and is classified as an employment relations specialist.

16. The position that would be deleted from the Historical Society under the bill is funded with a federal grant from the National Park Service that is restricted to historic preservation

activities authorized under the federal Historic Preservation Act of 1966. Historical Society staff indicate that the position was vacant at the time the budget was released, but has since been filled. The federal grant's requirements restrict the use of these funds such that they could not be used to pay Office of Government Continuity charges assessed by DOA. In addition, the identified position is classified as a historic preservation specialist and is responsible for administering the national register of historic places and state register of historic places in Wisconsin. The position is responsible for the following: (a) preparing and submitting nominations for the registers; (b) working with applicants, property and business owners, government officials, and developers to list properties on the registers and ensure that all statutory procedures and requirements are followed; and (c) supporting state and federal programs that use eligibility for or listing on the registers as a requirement, such as the historic preservation tax credit.

17. The administration argues that a separate office is needed to provide clear leadership to agencies, which would reduce risks associated with a lack of interest or engagement in emergency planning. Therefore, the Committee could approve the Governor's recommendation to: (a) create an Office of Government Continuity that would prepare and maintain individual agency continuity of operations plans, funded from agency assessments; (b) provide \$314,000 PR in 2015-16 and \$336,000 in 2016-17 (as reestimated by DOA) and 3.0 PR positions annually for the office; and (c) delete 1.0 PR position from DHS, 1.0 FED position from the Historical Society, and 1.0 PR position from DSPPS and reallocate funding associated with the positions from salaries and fringe benefits to supplies and services. [Alternative 1]

18. However, given that the DSPPS and Historical Society positions that would be deleted are filled by positions of a classification other than program and policy analyst, that the position at DHS was filled and only recently vacated, and that DOA did not indicate that any of the positions are directly related to continuity of operations planning, it could be argued that the position reductions to other agencies are unrelated to the provision and appear to have been included so that no change in authorized positions under the provision would occur.

19. In addition, as of April 19, 2015, DOA has 1.5 classified PR positions in the agency's materials and services to state agencies appropriation that have been vacant for 12 months or more and were not identified for elimination under the separate budget provision that would delete long-term vacancies. It is possible that DOA could use existing position authority of 1.5 positions in the appropriation for the initiative by reclassifying the vacant positions, which are currently classified as: (a) financial manager (0.5 position); and (b) employment relations program coordinator (1.0 position). The vacant positions are currently funded a total of \$117,300 PR annually.

20. If the Committee wishes to delete changes that would be made to funding and positions in other agencies (DHS, the Historical Society, and DSPPS), which appear to be unrelated to continuity of operations planning in general, and provide to DOA only funding and position authority needed to account for the difference between the resources DOA currently has and the funding and position authority the Governor recommended as reestimated, it could provide \$196,700 PR in 2015-16 and \$218,700 in 2016-17 and an additional 1.5 PR positions annually. The net change to the bill would be -\$117,300 PR in 2015-16 and -\$143,800 PR in 2016-17 and 0.5 PR position and 1.0 FED position annually. [Alternative 2]

21. On the other hand, it could be argued that DOA has demonstrated it is capable of managing the state's continuity of government program without additional expenditure authority, positions, specific statutory authority to assess for the cost to provide continuity of operation planning services, or an organizational subunit devoted to the continuity of government program. In addition, the administration did not provide specific examples of agencies without plans, plans that are out of date, or any adverse consequences that have resulted from insufficient planning. Therefore, the Committee could delete the provision. Under this alternative, DOA would continue to administer the state continuity of government program and could assess state agencies for the cost of staff and supplies and services as it does currently. If the administration wishes to prioritize continuity planning, it could reallocate existing resources to do so. [Alternative 3]

ALTERNATIVES

1. Approve the Governor's recommendation to delete 1.0 PR position from DHS, 1.0 FED position from the Historical Society, and 1.0 PR position from DSPS and reallocate funding associated with the positions from salaries and fringe benefits to supplies and services. In addition, provide to DOA funding of \$314,000 PR in 2015-16 and \$336,000 PR in 2016-17 (reestimated by DOA at -\$26,500 PR in 2016-17) and 3.0 PR positions annually for the Office of Government Continuity. Require the office to administer the state's continuity of government planning for executive branch agencies and authorize DOA to assess executive branch agencies for the cost of the office.

ALT 1	Change to Bill
PR	- \$26,500

2. Delete provisions relating to changes to position authority and funding at DOA, DHS, the Historical Society, and DSPS. Instead, provide \$196,700 PR in 2015-16 and \$218,700 PR in 2016-17 and 1.5 PR positions annually to DOA's materials and services to state agencies appropriation for the cost of staff and supplies and services for the Office of Government Continuity. Maintain statutory provisions that would create an Office of Government Continuity and permit DOA to assess executive branch agencies for the cost of services provided. [Net change to bill would be -\$117,300 PR in 2015-16 and -\$143,800 PR in 2016-17 and 0.5 PR position and 1.0 FED position annually.]

	ALT 2		Change to Bill	
	Funding	Positions		
PR	- \$261,100	0.50		
FED	<u>0</u>	<u>1.00</u>		
Total	- \$261,100	1.50		

3. Delete provision.

ALT 3	Change to Bill	
	Funding	Positions
PR	- \$676,500	- 1.00
FED	<u>0</u>	<u>1.00</u>
Total	- \$676,500	0.00

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Attachment

ATTACHMENT

Department of Administration Office of Government Continuity Continuity Planning Services (Proposed)

Delegated Agencies

Administration
Agriculture Trade and Consumer Protection
Children and Families
Corrections
Educational Communications Board
Health Services
Investment Board
Justice
Military Affairs
Natural Resources
Public Instruction
State Fair Park
State Laboratory of Hygiene
Transportation
Veterans Affairs
Workforce Development

Other Agencies

Board for People with Developmental Disabilities
Board of Commissioners of Public Lands
Board on Aging and Long-Term Care
Child Abuse and Neglect Prevention Board
District Attorneys
Employee Trust Funds
Employment Relations Commission
Financial Institutions
Government Accountability Board
Governor
Higher Educational Aids Board
Historical Society
Insurance
Legislature (Assembly and Senate)*
Lieutenant Governor
Lower WI State Riverway Board
Office of State Employment Relations**
Public Defender
Public Service Commission
Revenue
Safety and Professional Services
Secretary of State
State Treasurer
Supreme Court*
Tourism
Wisconsin Technical College System

*Under the bill, only executive branch agencies are specified with respect to services of the Office of Government Continuity and assessments associated with the costs of the office. However, the administration indicates that legislative and judicial branch agencies would have the option to consult with the office on continuity of operations planning matters.

**The Committee acted in executive session on May 12, 2015, to approve the Governor's recommendation to transfer the Office of State Employment Relations to DOA.