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May 14, 2015

Joint Committee on Finance

Paper #126

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

[LFB 2015-17 Budget Summary: Page 43, #2]

CURRENT LAW

The Department of Administration (DOA) provides information technology (IT) security and desktop management services for many state agencies. State agencies are permitted to employ staff and manage their own equipment relating to IT security and desktop management services.

GOVERNOR

Provide DOA with the authority to, in consultation with an executive branch agency that has a Secretary serving at the pleasure of the Governor, transfer any full-time equivalent position that is related to the provision of IT security or desktop management services from that agency to DOA. In addition, permit DOA to transfer any incumbent employee occupying the transferred position. Require DOA to assess "the appropriate executive branch agency appropriation account" for the costs to pay salary and fringe benefits associated with the position.

Specify that the probationary status of an incumbent employee transferred under the provision would be determined by DOA, except that the employee 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.

Permit the Department to transfer IT equipment or systems in addition to any transferred IT security or desktop management services positions, if the equipment or system is required by DOA to carry out IT security or desktop management services for the agency. Under the bill, the Department may assess the agency for the provision of such services to that agency.

Create a continuing PR appropriation for the receipt of assessments paid by agencies for the purpose of funding transferred positions, employees, and equipment related to IT security or desktop management services.

DISCUSSION POINTS

1. According to the administration, the provision is intended to apply to the following executive branch agencies: (a) Agriculture, Trade and Consumer Protection; (b) Children and Families; (c) Corrections; (d) Financial Institutions; (e) Office of the Commissioner of Insurance; (f) Health Services; (g) Military Affairs; (h) Natural Resources; (i) Revenue; (j) Office of State Employment Relations; (k) Tourism; (l) Transportation; and (m) Workforce Development. The Department indicates that the purpose of the provision is to "achieve efficiencies in desktop management services and improve data security" by expanding the resources of DOA's Division of Enterprise Technology (DET) through an increase in the number of staff and variety of skills in serving the state's overall IT security and desktop management needs. Further, the administration indicates that, "In addition to the ability to increase the numbers of staff, DET would have the ability to transfer qualified, existing staff to fulfill expanded roles."

2. In general, under state statute, no position, regardless of funding source or type, may be created or abolished unless authorized by: (a) the Legislature through legislative enactment; (b) the Joint Committee on Finance under the process specified under s. 13.10 of the statutes for GPR- or SEG-funded positions, which requires approval at a meeting of the Committee; or (c) the Governor in creating or abolishing federally-funded positions. The creation or elimination of positions funded from program revenue can be requested by the administration to the Joint Committee on Finance under the 14-day passive review process specified under s. 16.505 of the statutes.

3. Under the Governor's 2013-15 recommended budget (2013 AB 40), a provision was included which would have provided the Governor with the authority to transfer IT positions and equipment relating to IT infrastructure services. The Finance Committee deleted the provision and instead specified a process by which agencies could jointly request the transfer of any positions, IT equipment, or IT systems associated with IT infrastructure services to DOA under terms specified in a 14-day passive review request to the Committee. Terms specified would have included: (a) payment of salaries and fringe benefits; (b) payment for IT equipment or systems; (c) payment for IT infrastructure services; and (d) addressing of any privacy concerns in transferring any data. In addition, an annual appropriation would have been created for assessments received from transferring agencies for the provision of IT services.

4. The specified passive review process for transferring IT positions was deleted in the Governor's partial veto of 2013 Act 20. According to the veto message, the provision and specified process were deleted because "they are unnecessary and will impede the ability of the executive branch to manage state government operations in the most efficient and effective way possible." In addition, the Governor indicated that "The Division of Enterprise Technology already provides services to over 21,000 users and will use this expertise, as well as the ability to leverage economies of scale on hardware and software purchases and enterprisewide licensing. I will direct the

department, in consultation with the information technology executive steering committee, to proceed with the information technology infrastructure services consolidation through memoranda of understanding with additional executive branch agencies. The department can include a request to formalize those agreements in the 2015-17 biennial budget." In accordance with the 2013 Act 20 veto message, under another 2015-17 recommended budget provision, the Governor proposes the transfer of 5.0 positions from the Department of Workforce Development (DWD) to DOA associated with IT infrastructure services. In addition, the budget recommendations include the deletion of 5.0 additional positions from DWD, 2.0 positions from the Department of Transportation, and 2.0 positions from the Department of Revenue "to reflect infrastructure functions that have already transitioned" to DOA.

5. The bill does not specifically define IT security or desktop management services. In addition, DOA indicates that because the state civil service system does not have position classifications specifically identified as related to IT security or desktop management, positions subject to transfer under the provision could vary. Examples of position classifications which would qualify as relating to IT security or desktop management were not provided. The Department indicates it would consult with agencies to determine which positions perform these functions.

6. 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 security or desktop management services. If a position were transferred to DOA under the provision, the agency would effectively lose control over that portion of its budget. In essence, DOA would be funding its staff on an ongoing basis directly from the appropriations of another agency. Transferred positions could be funded from GPR, PR, or SEG program fees or federal revenue. Further, 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).

7. Positions in state agencies from which positions could be transferred are funded from various sources, including GPR, SEG, FED, and PR. The salaries and fringe benefits of most IT 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 security or desktop management services to the transferring agency. In addition, according to the administration, if the provision is approved, DOA's Division of Enterprise Technology (DET) can "identify positions currently performing security functions at agencies that can augment DET security staffing as the division's security services offerings expand." Further, the administration indicates that, "As with any other DOA service, transferring staff from other agencies to provide more central services does not mean the transferred positions will serve only the agencies from which they are transferred."

8. With regard to the funding of transferred positions, it could be argued that the provision would: (a) reduce the incentive to minimize inefficient use of resources by placing

budgetary decision-making authority (such as recruitment and hiring practices to fill vacant positions) 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 security and desktop management 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.

9. 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.

10. The Committee could choose to approve the Governor's recommendation. Under this alternative, DOA would be allowed to transfer any full-time equivalent IT position, equipment, or systems relating to IT security or desktop management services, 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]

11. However, it could be argued that providing this authority would result in a reallocation of legislatively enacted position authority and funding provided by the Legislature for specific agencies, programs, and purposes. To the extent that positions and funding are reallocated without legislative oversight, the functions of state government could be modified by the administration in a manner contrary to legislative intent. In addition, given that the Governor indicated through the 2013 Act 20 veto message that existing statutory authority provided to DOA was sufficient to accomplish the purpose of the provision when it was included in the 2013-15 recommended budget, the Committee could choose to delete the provision. As noted in the Governor's 2013 Act 20 veto message regarding the partial veto of the provision (item #21 of the veto message, "Information Technology Infrastructure Transfers"), the consolidation of IT services can be accomplished through memoranda of understanding with executive branch agencies, which can be formalized in subsequent budget proposals. [Alternative 2]

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 security or desktop management 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. Delete provision.

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