

Study Committee on Occupational Licenses

Overview of DSPS Funding and Staffing

Legislative Fiscal Bureau
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Background

The Department of Safety and Professional Services (DSPS) was created in 2011 Wisconsin Act 32 (the 2011-13 biennial budget act). It includes functions previously conducted by the Department of Regulation and Licensing and the Division of Safety and Buildings in the former Department of Commerce.

DSPS and its boards, councils, and affiliated credentialing boards and examining boards are responsible for ensuring the safe and competent practice of a wide range of health, business, and building trades professions. Occupational regulation by DSPS falls into three categories: (a) occupations regulated by independent examining boards attached to DSPS or by affiliated credentialing boards attached to those boards; (b) occupations regulated by semi-autonomous boards that share authority with DSPS; and (c) occupations directly regulated by DSPS, which include all of the building trades professions. DSPS provides administrative, legal and enforcement services, assistance in rule making and examinations for the credentialed professions, and assistance to the boards in developing regulatory policies that protect the broad public interest.

The Department consists of the Office of the Secretary and five divisions -- Policy Development, Professional Credential Processing, Industry Services, Legal Services and Compliance, and Management Services. Staff in the Division of Professional Credential Processing develop credential applications and process credential requests for some 400,000 credential holders in the health and business professions and some 83,000 credential holders in the industry and trades profession.

Relevant Budget Procedures

Funding

DSPS is not funded by state general purpose revenues (GPR), which include mostly tax collections from such sources as individual and corporate income, sales, and excise taxes. Rather, DSPS is almost entirely funded by fees collected from its credentialing, licensing, and examination activities. These fee collections are known for state budgeting purposes as program revenue (PR) and are tracked and administered separately from other programs funded by the state general fund.

The majority of funding for state agencies is provided in biennial budget acts. Funding is provided in 'appropriations,' which are authorizations by the Legislature for an agency to commit funding and make expenditures from a specific fund for specific purposes. The authorization is

usually limited in amount and time in which the expenditures can be made and obligations incurred.

There are four primary types of appropriations: (1) annual appropriations, which are expendable only up to the amount appropriated by the Legislature and only for the fiscal year for which they are appropriated, and from which any unspent or unencumbered funds lapse to the fund from which they are appropriated at the end of the fiscal year; (2) biennial appropriations, which are expendable only during the biennium for which they are provided, and from which unspent or unencumbered funds, similar to annual appropriations, generally lapse if unspent; (3) continuing appropriations, which are authorizations that are expendable until fully depleted or repealed by subsequent act of the Legislature; and (4) sum-sufficient appropriations, which are authorizations expendable from a specifically indicated source in the amounts necessary to accomplish the purpose. Generally, sum-sufficient appropriations are utilized for expenditures that may fluctuate and require frequent reestimates.

Wisconsin's biennial budget, once adopted, provides spending authority (by fiscal year) for a two-year period. The budget may be modified by: (1) separate legislation authorizing an additional appropriation or eliminating or modifying an existing appropriation; (2) a budget adjustment bill; and (3) the authorization of limited emergency changes to existing appropriations at the request of state agencies with the approval of the Joint Committee on Finance.

Program revenue appropriations, such as those that comprise the majority of DSPS funding sources, may be supplemented by the Joint Finance Committee under what is known as a "passive review" process. For any proposed supplement of a program revenue appropriation, an agency must first request approval of such supplementation from the Secretary of the Department of Administration. If the Secretary recommends a supplementation, the Secretary must notify the Joint Committee on Finance of the proposed amount. The Committee has 14 working days after notification to schedule a meeting to consider the matter. If the Committee does not act within that time to schedule a meeting, the proposed action is approved. If, on the other hand, a meeting is scheduled, the Committee must meet and vote to approve the supplement. This Committee passive review approval process is authorized under s. 16.515 of the statutes.

The majority of the revenues DSPS receives for regulation of professions is deposited in annual and biennial appropriations. Therefore, agency operational funding in most instances cannot be altered unless the Legislature approves a change to agency expenditure authority under the processes described previously. In other words, although DSPS may otherwise have available cash balances or revenues from credentialing fees to support additional expenditures, any exceedance of previously established budget authority would require legislative approval.

Positions

Similar to funding, staffing levels for state agencies generally must be approved by the Legislature. Authorized positions are largely provided through the biennial budget act. There are, however, additional methods by which agencies' position authority may change. Generally, positions may only be authorized for agencies in one of three ways: (1) by the Legislature as part of budget enactments or by other separate legislation; (2) by the Joint Finance Committee; and (3) by the

Governor for federally-funded (FED) positions. The Joint Committee on Finance is authorized to act upon agency requests for changes in an agency's authorized level of positions. This power is used to address situations similar to those for which supplemental funding may be provided by the Committee.

The Committee is authorized under s. 16.505 of the statutes to approve requested changes in an agency's number of authorized PR-funded positions using a passive review. However, the agency must first obtain approval of the requested program revenue position change from the Governor. If the Governor recommends a position change, the Governor must then notify the Committee of the proposed change. The Committee has 14 working days after the date of notification to schedule a meeting to consider the Governor's proposed change. If the Committee does not act within that time to schedule a meeting, the proposed position change is approved. However, if a meeting is scheduled, the Committee must meet and vote to approve the position change.

Positions authorized by the Legislature may be on a permanent or project basis. Most full-time state positions are authorized on a permanent basis. These positions remain available for the agency to fill and staff unless eliminated by subsequent legislative action. Positions authorized on a project basis are approved for a predetermined period not to exceed four years.

Funding for the Department of Safety and Professional Services

In 2022-23, DSPS is authorized \$62.5 million, including \$62.0 million PR and \$0.5 million FED. Of the \$62.0 million in PR funding, \$24.8 million is budgeted for grant and aids programs, almost all of which is for the 2% fire dues program that provides aids to municipal fire departments. The remaining \$37.2 million is budgeted for DSPS operations. Currently, DSPS is authorized 256.14 positions, which includes 242.44 PR-funded positions and 13.7 FED positions. Of the PR-funded positions, 238.44 are permanent positions, and 4.0 are project positions expiring on either June 30, 2023, or September 30, 2023. FED positions include 1.7 permanent positions and 12.0 project positions expiring December 31, 2022.

Tables 1 and 2 show PR funding and positions from fiscal year 2013-14 to 2022-23 for the respective DSPS appropriations primarily associated with regulation of health and business professions and building trades professions. (DSPS activities for the regulation of health and business professions are mostly budgeted separately from the funding for building trades professions.) Not included in Tables 1 and 2 are: (1) amounts for certain agency administrative appropriations, which are mostly funded from transfers of funding from the other appropriations listed; (2) grant and aid appropriations; (3) amounts for the Educational Approval Program, which was transferred to DSPS beginning in 2018 for state regulation of certain private, for-profit educational institutions; and (4) amounts for DSPS fire safety program administration.

TABLE 1

Department of Safety and Professional Services PR Operations Funding and Staffing for the Regulation of Health and Business Professions [s. 20.165 (1)(g), (1)(gm), (1)(hg), (1)(i), and (1)(jm)]

<u>Fiscal Year</u>	<u>Total Funding</u>	<u>Total Positions</u>
2013-14	\$13,832,500	112.70
2014-15	13,818,900	112.70
2015-16	14,117,900	107.50
2016-17	14,117,900	107.50
2017-18	14,151,200	108.50
2018-19	14,296,200	107.50
2019-20	14,623,800	109.50
2020-21	14,327,500	104.50
2021-22	15,874,900	102.80
2022-23	15,200,300	99.80

TABLE 2

Department of Safety and Professional Services PR Operations Funding and Staffing for the Regulation of Building and Trades Professions [s. 20.165 (2)(j)]

<u>Fiscal Year</u>	<u>Total Funding</u>	<u>Total Positions</u>
2013-14	\$14,276,000	120.14
2014-15	14,291,200	120.14
2015-16	13,812,400	115.14
2016-17	13,830,800	115.14
2017-18	16,201,600	105.14
2018-19	16,259,400	106.14
2019-20	17,555,200	110.64
2020-21	16,693,500	110.64
2021-22	17,821,800	116.74
2022-23	17,230,000	115.74

Table 3 shows the overall number of authorized positions by fiscal year since 2013-14. The table also shows the number of permanent positions authorized for DSPTS under current law, which represents the agency's available staffing absent further additional legislative action or additions of FED positions.

TABLE 3

Department of Safety and Professional Services Total Positions by Fund, 2013-14 to 2022-23

<u>Fiscal Year</u>	<u>PR</u>	<u>FED</u>	<u>GPR</u>	<u>Total</u>
2013-14	255.70	5.90	1.00	262.60
2014-15	255.70	5.90	1.00	262.60
2015-16	245.44	1.70	0.00	247.14
2016-17	245.44	1.70	0.00	247.14
2017-18	232.94	1.70	0.00	234.64
2018-19	238.44	1.70	0.00	240.14
2019-20	244.44	1.70	0.00	246.14
2020-21	239.44	1.70	0.00	241.14
2021-22	246.44	1.70	0.00	248.14
2022-23	242.44	13.70	0.00	256.14
Total Permanent	238.44	1.70	0.00	240.14

Regulation of Health and Business Professions

Every two years, DSPS is statutorily required to conduct a fee study to reestimate the operational and administrative needs of the Department and to adjust health and business credential and license fees accordingly. The most recent fee study and proposed changes were approved by the Joint Finance Committee through passive review in February of 2021. Roughly half of fee rates stayed the same, and the other half were reduced, ranging from reductions of \$2 to \$24.

From 2019-20 to 2021-22, DSPS received an average of \$19.2 million in revenues per year for its appropriations for the regulation of health and business professions. Expenditures averaged \$15.4 million per year over the period. By statutory requirement, 10% of the credential fee revenue that DSPS collects annually for the health and business professions must be transferred to the general fund. Recent biennial budget acts also have required agencies to transfer certain program revenues or other appropriations to the general fund on a limited-term basis, although no such requirements have been in effect since 2016-17. Table 4 shows the transfers made since 2011-12 under each category.

TABLE 4

Transfers from DSPS to the General Fund -- Health and Business Professions

<u>Fiscal Year</u>	<u>Biennial Budget Requirement</u>	<u>Statutory General Fund Transfer</u>	<u>Total</u>
2011-12	\$6,296,100	\$2,405,900	\$8,702,000
2012-13	3,167,900	1,904,900	5,072,800
2013-14	4,376,500	2,483,700	6,860,200
2014-15	4,376,500	1,993,500	6,370,000
2015-16	4,443,000	2,445,300	6,888,300
2016-17	4,443,000	2,213,300	6,656,300
2017-18	0	2,215,500	2,215,500
2018-19	0	2,242,800	2,242,800
2019-20	0	1,862,400	1,862,400
2020-21	0	1,513,100	1,513,100
2021-22*	0	1,712,500	1,712,500

*Preliminary

As of July 1, 2022, the health and business program had a preliminary available balance of \$35.1 million. Funds from this available balance may be expended or encumbered only if authorized by the Joint Finance Committee, through a budget act, non-budget act, or s.16.505/515 passive review request. Table 5 depicts the program revenues and expenditures since 2019-20, including estimates for 2022-23.

TABLE 5**Regulation of Health and Business Professions: Program Revenues and Expenditures in State Fiscal Years 2019-20 Through Estimated 2022-23**

	2019-20 <u>Actual</u>	2020-21 <u>Actual</u>	2021-22 <u>Preliminary</u>	2022-23 <u>Estimated</u>
Opening Cash Balance	\$30,647,700	\$34,631,700	\$34,910,700	\$37,024,700
Revenue				
Nursing Workforce Survey Administration	\$9,000	\$9,000	\$9,000	\$9,000
General Program Operations, Credentialing Examinations	14,923,700	11,143,700	11,743,600	11,143,700
Medical Examining Board and Prescription Drug Monitoring Program	1,790,600	2,783,400	2,420,900	2,783,400
Applicant Investigation Reimbursement	2,743,000	1,494,400	2,915,000	1,494,400
Total Revenue	<u>177,600</u>	<u>199,800</u>	<u>287,800</u>	<u>199,800</u>
	\$19,643,900	\$15,630,300	\$17,376,300	\$15,630,300
Total Revenue and Opening Balance	\$50,291,600	\$50,262,000	\$52,287,000	\$52,655,000
Expenditures				
Expenditures	\$13,797,500	\$13,838,200	\$13,549,800	\$15,200,300
GPR 10% Statutory Transfer	<u>1,862,400</u>	<u>1,513,100</u>	<u>1,712,500</u>	<u>1,513,100</u>
Total Expenditures	\$15,659,900	\$15,351,300	\$15,262,300	\$16,713,400
Closing Cash Balance	\$34,631,700	\$34,910,700	\$37,024,700	\$35,941,600
Encumbrances	<u>0</u>	<u>95,200</u>	<u>1,969,200</u>	<u>1,969,200</u>
Available Balance	\$34,631,700	\$34,815,500	\$35,055,500	\$33,972,400

Regulation of Industry and Trades Professions

Trades professions credentials differ from health and business profession credentials in that industry and trades fees are not changed through fee studies submitted under passive review. Rather, industry and trades fees are changed through administrative rule promulgation, which would be initiated by DSPS and subject to various approvals by the Governor and Legislature. DSPS is required to collect fees that, as closely as possible, equal the cost of providing plan reviews, inspections, and credentials for regulated buildings trades professionals.

From 2019-20 to 2021-22, DSPS has received an average of \$18.2 million each year from its main appropriation for regulation of industry and trades professions. Expenditures averaged \$20.6 million annually from 2019-20 to 2021-22, including transfers to the Private Onsite Wastewater Treatment System (POWTS) Grant Program and one-time expenditures for the Department's information technology upgrades. As of July 1, 2022, the Industry and Trades Program had a preliminary available balance of \$12.1 million. Funds from this available balance may be expended

or encumbered only if authorized by the Joint Finance Committee, through a budget act, non-budget act, or s.16.505/515 passive review request. Table 6 shows the condition of the primary DSPS appropriation for regulation of buildings and building trades since 2019-20.

TABLE 6

Regulation of Building and Trades Professions: Program Revenues and Expenditures in State Fiscal Years 2019-20 Through Estimated 2022-23

	2019-20 <u>Actual</u>	2020-21 <u>Actual</u>	2021-22 <u>Preliminary</u>	2022-23 <u>Estimated</u>
Opening Cash Balance	\$19,291,200	\$17,471,300	\$17,014,400	\$14,215,200
Revenue				
Building plan reviews and inspections	\$6,005,300	\$6,106,800	\$6,814,200	\$6,500,000
Plumbing licenses	1,309,800	510,800	558,300	550,000
Plumbing plan reviews	2,432,000	2,372,100	2,496,600	2,300,000
Boiler inspections	428,700	531,000	1,161,400	560,000
Elevator inspections	1,174,100	1,567,700	1,147,600	1,100,000
Private sewage plan reviews	1,756,000	2,534,700	2,218,500	2,100,000
One- and two-family building permit fees	1,098,500	1,181,100	1,235,500	1,050,000
Electrical program fees	892,200	2,343,700	2,676,200	2,100,000
Manufactured home licenses and title fees	420,500	285,000	285,800	285,000
Amusement ride and ski tow inspection fees	104,700	105,200	145,500	105,000
Mine safety inspection fees	231,200	37,000	33,400	35,000
Heating, air conditioning, and ozone refrigerant certifications	111,300	326,200	225,600	325,000
Fire prevention and safety fees	37,300	77,900	23,900	40,000
Swimming pool plan reviews	121,200	162,300	164,300	150,000
Other revenues	<u>255,500</u>	<u>316,900</u>	<u>655,300</u>	<u>250,000</u>
Total Revenue	\$16,378,300	\$18,458,400	\$19,842,100	\$17,450,000
Transfer to POWTS grant program	-\$908,000	-\$840,000	-\$1,525,500	
Transfers for DSPS general administration		-\$2,979,300	-\$2,600,000	-\$3,050,000
Total Revenue and Opening Balance	\$34,761,500	\$32,110,400	\$32,731,000	\$28,615,200
Expenditures				
Actual/Authorized Expenditures	\$17,290,200	\$15,096,000	\$18,515,800	\$17,230,000
Compensation Reserves				160,000
Closing Cash Balance	\$17,471,300	\$17,014,400	\$14,215,200	\$11,225,200
Encumbrances	<u>915,900</u>	<u>2,965,100</u>	<u>2,122,400</u>	<u>2,122,400</u>
Available Balance	\$16,555,400	\$14,049,300	\$12,092,800	\$9,102,800