



## Legislative Fiscal Bureau

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April 30, 2003

Joint Committee on Finance

Paper #295

### **Repeal of the Department of Electronic Government and the Transfer of Its Functions to the Department of Administration (DOA and Electronic Government)**

[LFB 2003-05 Budget Summary: Page 26, #1 and Page 147, #2]

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#### **CURRENT LAW**

The Department of Electronic Government (DEG) is a separate state agency responsible for the management and oversight of information technology and telecommunications activities of state agencies and for assisting state agencies with information technology issues. Base funding for DEG is \$132,488,300 PR annually and 230.3 PR positions.

#### **GOVERNOR**

Eliminate DEG as a separate state agency and transfer its functions, duties, and the attached Information Technology Management Board to DOA, effective 30 days after publication of the bill. Following a base level reduction of \$512,300 PR annually, delete \$131,976,000 PR and 230.3 PR positions annually in DEG. Eliminate the position of chief information officer (the individual who serves as the Secretary of DEG).

Provide \$130,459,200 PR and authorize 208.3 PR positions annually under the Department of Administration (DOA) associated with the transfer of DEG's information technology functions to that agency.

#### **DISCUSSION POINTS**

1. DEG was created under provisions of 2001 Wisconsin Act 16 (the 2001-03 biennial budget act). Resources for the new agency were originally provided through a consolidation and

transfer of funding and staffing associated with two information technology divisions within DOA.

### **Current Duties and Functions of DEG**

2. Executive branch agencies (other than the University of Wisconsin System) are generally required to obtain information technology processing services from DEG, and the agency may assess fees for these services. In addition, DEG may remove information technology functions from executive branch agencies and assume control of those functions directly. DEG is authorized to provide certain services to state authorities, local governments, units of the federal government, private schools, postsecondary institutions, museums, zoos, and other entities in the private sector. Under current law, DEG has the authority to make purchases without public notice or solicitation of bids or proposals and is not required to adhere to certain other purchasing requirements that apply to other state agencies.

3. In addition to the powers and duties given to DEG, current law also grants certain powers relating to information technology management to the chief information officer (CIO). Most information technology and telecommunications purchases by executive branch agencies (other than the University of Wisconsin System) are subject to prior approval by the CIO.

4. Currently, an Information Technology Management Board is attached to DEG. This Board: (a) advises the CIO; (b) provides the CIO with its recommendations concerning elements of strategic plans referred to the Board by executive branch agencies; (c) monitors progress in attaining goals for information technology and telecommunications development that are set by the CIO or by executive branch agencies (other than the University of Wisconsin System) and may make recommendations concerning appropriate means of attaining these goals; and (d) hears appeals by executive branch agencies concerning actions of the CIO.

5. In reviewing the Governor's recommendations relating to DEG, several issues merit attention by the Committee. First, the Committee may wish to consider whether the elimination of a separate Department is appropriate and desirable. Second, regardless of whether the Committee chooses delete or retain DEG as a separate agency, questions regarding the structure of information technology appropriations under either DOA or DEG need to be addressed.

### **Elimination of a Separate Department of Electronic Government**

6. Under the 2001-03 budget adjustment bill, as passed by the Legislature (Enrolled 2002 Special Session Assembly Bill 1), provisions were included that repealed DEG as a separate agency and transferred the duties, responsibilities, funding and virtually all of the existing positions of DEG to a Division of Electronic Government under the Department of Administration, effective July 1, 2002.

7. The enrolled bill deleted funding of \$132,235,800 PR and 230.3 PR authorized positions in 2002-03 under DEG and provided \$131,723,500 PR and 225.3 PR authorized positions in 2002-03 under DOA. The net savings under the enrolled bill from the proposed elimination of DEG and the transfer of its functions to DOA amounted to \$512,300 PR and 5.0 unclassified PR

positions in 2002-03. These position reductions were attributable to the deletion of the DEG Secretary, the deputy secretary, an executive assistant and two unclassified division administrators.

8. In signing the 2001-03 budget adjustment bill as 2001 Wisconsin Act 109, the Governor vetoed these provisions, thereby maintaining DEG as a separate agency.

9. The current proposal before the Committee is substantially the same as that contained in the 2001-03 budget adjustment bill, as passed by the Legislature. However, under the current proposal, the net savings from the elimination and transfer would be greater because more permanent positions would be deleted. The 2001-03 budget adjustment bill proposal would have eliminated \$512,300 PR and 5.0 PR positions, while the current proposal deletes \$1,516,800 PR and 22.0 PR positions.

10. Under the current proposal, the structure of information technology activities in DOA after the transfer of DEG functions has not yet been determined. However, under the bill, the current powers and duties vested in the CIO would revert to the Secretary of DOA. Further, since 1.0 unclassified division administrator position is also created under DOA, it appears that one information technology-related division would also be created.

11. When Joint Finance and the Legislature considered creating DEG during deliberations on the 2001-03 biennial budget, it was argued that the establishment of a separate department would yield a variety of benefits. These expected benefits included increasing the stature and importance of information technology in state government by establishing a cabinet-level agency to oversee this function, providing overall coordination with respect to state government-wide IT issues, helping ensure that state resources for IT are used as efficiently as possible, and directing e-government activities. It was also stated that the creation of a separate department was consistent with the findings of an IT consulting organization (the Gartner Group) that reviewed a variety of options to improve the governance of the IT function in state government. The establishment of a separate IT function also emerged as the ultimate goal of a DOA study committee on the matter of the optimal information technology structure and management approach for state government.

12. It could be argued that insufficient time has elapsed to determine whether or not any of the expected benefits of creating a separate department for information technology functions have been realized. Furthermore, the arguments that originally led to the creation of a separate IT department still presumably apply. Given these considerations, the Committee could choose to retain DEG as a separate agency.

13. During legislative deliberations on creation of a separate department, there were also questions raised about the actual need for such an agency. It was argued that while there were a number of new and modified powers and duties granted to the new agency, all of the staff and most of the statutory powers and duties that would be exercised by the new agency already existed in DOA and were simply being transferred to the new entity. Consequently, it was not entirely clear that the creation of a new agency was required.

14. Amplifying on these arguments, budget papers prepared for the Committee at that time noted that: "[t]he Committee could expand any of the new powers and duties established under the bill and vest them in DOA without creating a new Department. It could, therefore, be argued that the new Department is no different from the current structure in DOA, except for the CIO and the other unclassified positions. Further, DOA is administratively already well-suited to address IT issues because of its two current IT divisions and associated statutory authority. If the Secretary of DOA wants to create a CIO position, one of the existing division administrator positions could be designated as such and modifications to the position's current duties made by DOA."

15. The elimination of DEG and the merger of its functions into DOA, as proposed under SB 44, would effectively restore the conditions cited above, thereby allowing the state to coordinate IT management through enhancements to DOA administrative structures. If the Committee believes that this type of approach is preferable to maintaining a separate department, it could approve the Governor's recommendation.

### **Information Technology Appropriations Structure**

16. Regardless of whether the Committee chooses to retain DEG as a separate state agency or repeal the Department and merge its functions under DOA, there are a variety of issues relating to the appropriations structure for the state's IT function that should be addressed.

### **Realignment of Funding and Position Authorizations**

17. Under the bill, the following information technology and telecommunications-related appropriations are created under DOA:

a. Printing, mailing, communications and information technology services for state agencies, established as a PR continuing appropriation and funded at \$2,157,400 annually.

b. Information technology and communications services provided to non-state entities, established as a PR continuing appropriation and funded at \$84,345,100 and 164.3 positions annually.

c. Telecommunications services for state agencies, established as a PR annual appropriation and funded at \$36,593,800 and 24.0 positions annually, including 1.0 unclassified division administrator position.

d. Justice information systems, established as a PR annual appropriation and funded at \$1,491,900 and 16.0 positions annually.

e. Justice information systems development, operation, maintenance and assistance, established as a PR annual appropriation and funded at \$857,500 and 3.0 positions annually.

f. Telecommunications relay services, established as a PR annual appropriation and funded at \$5,013,500 and 1.0 position annually.

18. Under the bill, several adjustments are made when the DEG appropriations structure is repealed and then recreated under DOA. The most notable of these changes are the following:

a. DEG's omnibus services appropriation is divided into two separate PR continuing appropriations under DOA, one for printing, mailing, communications and information technology services for state agencies and the other for information technology and communications services to non-state entities.

b. Three existing DEG appropriations supporting justice information systems (funded respectively from the justice information fee, federal Byrne grant monies, and penalty assessment revenues) are collapsed into two appropriations under DOA, one funded from the justice information fee and one funded from a combination of federal Byrne grant monies and penalty assessment revenues. No separate justice information system appropriation supported solely from penalty assessment revenues would be retained under DOA.

19. Estimated expenditure and position authority under the new DOA appropriations appears to have been included in the bill without regard to the actual funding and staffing levels likely to be needed in these accounts. On March 19, 2003, DOA indicated that a series of corrections were required to properly align funding and position authority within the new DOA appropriations supporting the various information technology functions. In addition, DOA has recently indicated that, based on projected usage-based expenditure projections and the manner in which information technology services are provided, further funding modifications to the bill are necessary.

20. The following table summarizes the annual adjustments to the funding levels and position authorizations under the various DOA information technology-related appropriations that are required to properly implement the repeal of DEG and the transfer of its functions to DOA.

<u>Appropriation</u>	<u>Senate Bill 44</u>		<u>Reestimate</u>		<u>Difference</u>	
	<u>Amount</u>	<u>Positions</u>	<u>Amount</u>	<u>Positions</u>	<u>Amount</u>	<u>Positions</u>
Printing, mailing, communications and information technology services to state agencies [s. 20.505(1)(kL)]	\$2,157,400	0.00	\$83,926,300	164.30	\$81,768,900	164.30
Information technology and communications provided to non-state entities [s. 20.505(1)(is)]	84,345,100	164.30	14,373,000	0.00	-69,972,100	-164.30
Telecommunications services to state agencies [s. 20.505(1)(ke)]	36,593,800	24.00	24,002,600	24.00	-12,591,200	0.00
Justice information systems [s. 20.505(1)(ja)]	1,491,900	16.00	1,653,400	19.00	161,500	3.00
Justice information systems development, operation, maintenance and assistance [s. 20.505(1)(kq)]	857,500	3.00	1,753,000	0.00	895,500	-3.00
Telecommunications relay service [s. 20.505(1)(ir)]	<u>5,013,500</u>	<u>1.00</u>	<u>5,013,500</u>	<u>1.00</u>	<u>0</u>	<u>0.00</u>
Total	\$130,459,200	208.30	\$130,721,800	208.30	\$262,600	0.00

21. If the Committee chooses to retain DEG as a separate agency, it could also choose to fund the agency at the reestimated levels indicated in the table. This action would permit the Committee to realize all of the savings and position reductions recommended by the Governor under his proposal. If the Committee chooses this option, it should also retain the current DEG federal aid appropriation.

22. In order to provide no fiscal change to the bill, the Committee could adopt the reestimated appropriation schedule, but reduce the largest appropriation (printing, mailing, communications and information technology services to state agencies) by \$262,600 PR annually. Under this alternative, if expenditures exceed the estimated amount, DOA or DEG could still make necessary expenditures without further legislative action, if the appropriation is continuing, or with legislative approval under s. 16.515, if the appropriation is annual.

### **Consolidation of Justice Information Systems Appropriations**

23. Under the bill, two DEG appropriations supporting the justice information system (a appropriation funded from penalty assessments and an appropriation funded from federal Byrne grants) are combined into a single, annual appropriation under DOA. The combined appropriation provides DOA with the ability to utilize funding from both penalty assessment revenues and Byrne grant funding for the development, operation, and maintenance of justice information systems.

24. However, consolidation of the appropriations eliminates the ability of the Legislature to readily differentiate between penalty assessment and Byrne grant funding for the program. Further, consolidation makes it more difficult for the Legislature to track total penalty assessment and total Byrne grant funding. Despite the fact that the bill does not actually provide any penalty assessment revenues for the justice information system, the Committee may wish to retain the separate appropriation funded from these two revenue streams so that any future penalty assessment funding can be identified.

### **Continuing Versus Annual Appropriations**

25. Continuing appropriations are appropriations that are expendable until fully depleted or repealed by subsequent action of the Legislature. The amount of a continuing appropriation from program revenues consists of the balance in the appropriation account at the end of the previous fiscal year, if any, together with any revenues received during the fiscal year that are directed by law to be credited to the appropriation account. The dollar amounts shown in the appropriation schedule represent the most reliable estimates of the amounts that will be expended during any fiscal year. Generally, expenditures made from a continuing program revenue appropriation are limited only by the availability of the revenues supporting the appropriation.

26. By contrast, annual appropriations are expendable only up to the amount shown in the appropriation schedule and only for the fiscal year for which made. At the end of the fiscal year the unencumbered balances in a program revenue or program revenue-service appropriation, remains in that appropriation if the statutes indicate the monies are to be credited to the account for that appropriation.

27. Under a continuing appropriation, legislative oversight of expenditures is decreased because the dollar amounts in the appropriations schedule are merely estimates of the amount of funds that the agency expects to spend for these purposes. By having a continuing appropriation for these purposes, expenditures that agencies wish to make are not limited by any legislatively-established appropriation level. Rather, an agency may expend as much as the accumulated revenue in the appropriation level will allow. Further, depending on the purpose of the appropriation, an agency may collect the full cost of its operation through chargebacks to users of its services at whatever level of expenditures are actually made. Consequently, the funding levels that the Legislature includes in the appropriations schedule do not serve as any limit on the amount that an agency can actually expend for the purposes of the appropriation.

28. Under the bill, two continuing appropriations are created under DOA related to information technology: (a) printing, mailing, communications and information technology services for state agencies; and (b) information technology and communications services provided to non-state entities. These new appropriations would fund activities that are currently included under DEG's services appropriation.

29. Currently, DEG's omnibus services appropriation is also a continuing appropriation and funds: (a) state agency printing, mail processing and information technology processing

services; (b) executive branch IT development and management services; (c) computer and telecommunications services to local units of government and others; (d) supercomputer services to local units of government and others; and (e) development, maintenance and operation of any system or device facilitating internet or telephone access to information about programs of the agencies, authorities, local units of government or entities in the private sector, or permitting the transaction of business by the agencies, authorities, local unit of government or private sector entities.

30. In the 2001-03 biennial budget legislation, the Legislature intended to create all DEG appropriations as annual appropriations. However, a partial veto by the Governor resulted in the combination of a variety of specific purpose appropriations into an omnibus services appropriation. The Governor's partial veto was also effected in such a manner that the omnibus services appropriation was created as a continuing appropriation. All other PR appropriations in DEG are currently annual appropriations.

31. DOA argues that continuing appropriations allow the agency to respond quickly to the information technology needs of state agencies, local governments and other customers. This is particularly the case when the agency is developing larger computer systems or operating newer systems and costs cannot be fully determined in advance. A continuing appropriation, DOA argues, allows the agency to make unplanned purchases to take advantage of changing information technology markets. Since no legislative approval is necessary for increased expenditures above budgeted levels, an agency may make any expenditure from the appropriation that it considers necessary to carry out its responsibilities.

32. However, it could be argued that creation of continuing appropriations lessens the Legislature's ability to review, monitor and evaluate the financial status of the appropriations. Further, the 14-day review process under s. 16.515 is available for increased expenditure authority for annual appropriations. Given that any large IT purchase should be planned in advance, the timely submission of a s. 16.515 request would allow the Department to respond to IT needs appropriately. Therefore, the Committee could modify the bill to change the continuing appropriations to annual appropriations.

### **Incurring of Financial Liability**

33. Under current law, the following appropriations may create liabilities and expend monies in an additional amount not exceeding the depreciated value of the equipment for operations financed under these appropriations: (a) equipment pool operations in the Department of Natural Resources; (b) data processing services in the Department of Transportation; (c) fleet operations in DOT; (d) other department services in DOT; (e) services to nonstate units of governments in DOA; (f) materials and services to state agencies and certain districts in DOA; (g) transportation, records and document services in DOA; and (h) capital planning and building construction services in DOA. Further, current law specifies that the Secretary of the DOA may require the submission of statements of assets and liabilities before approving expenditure estimates in excess of the unexpended monies in the appropriation.



34. The ability to expend more than the balance in an appropriation provides an agency with increased expenditure flexibility. Generally, the appropriations granted this authority are those that have significant equipment value associated with the appropriation and those that may need to make significant equipment purchases. Prior to the transfer of certain DOA appropriations to DEG under provisions of 2001 Wisconsin Act 16, the former DOA printing, document sales, mail distribution and records services appropriation had been granted this authority.

35. None of the appropriations being transferred from DEG to DOA would have this authority. Given that the proposed printing, mailing, communications and information technology services to state agencies appropriation would have significant annual equipment purchases, the Committee could choose to authorize this appropriation to incur increased liabilities.

36. However, to the extent that an agency utilizes its ability to expend additional monies equivalent to a portion of its depreciated assets, these costs are supported as a loan from the general fund. The recent accumulated depreciated value of the equipment under DEG's services appropriation was \$10.4 million. Further, since DEG does not currently have this authority for any of its appropriations, it can be argued that allowing DOA to expend additional amounts equal to the value of depreciated computer equipment-related assets is not necessary at this time. Accordingly, the Committee could choose not to take action on this matter.

### **Fee Setting Methodology**

37. Currently DEG has the authority to charge agencies fees for IT-related services provided. This authority would be transferred to DOA under the bill. The 2001-03 biennial budget, as passed by the Legislature, included a provision that required DEG to promulgate rules prescribing methodologies for establishing all fees and charges established or assessed by the agency or by the CIO. This provision had been included in light of Legislative Audit Bureau findings that DOA experienced difficulties in apportioning overhead charges and developing central processing unit cost pool charges that were free of inappropriate cross-subsidizations and cost allocations. Further, under current practice, the agency's rate methodology must be submitted periodically to the federal government for review and approval. This rate methodology review provision was partially vetoed in such a manner that requirement that the methodology be established by administrative rule was deleted. As a result, the manner by which DEG currently sets these fees is not subject to legislative review.

38. Given the broad IT-related powers of DEG (or of DOA under the bill) and the number of items for which IT-related charges or assessments may be made, the Committee may conclude that legislative review of the methodology used to determine these fees may be appropriate. If the Committee wishes, DEG (if it is retained) or DOA (under the bill) could be directed to submit its methodologies for determining fees and assessments to the Legislature for approval as an administrative rule. Under this alternative, while the actual fee would not be established and approved by rule, the methodology for establishing such a fee would be subject to approval by the Legislature.

**ALTERNATIVES**

1. Approve the Governor's recommendation to: (a) eliminate the Department of Electronic Government and transfer its functions, duties, and the attached Information Technology Management Board to DOA, effective 30 days after publication of the bill; (b) delete \$131,976,000 PR and 230.3 PR positions annually in DEG; (c) eliminate the position of chief information officer (the individual who serves as the Secretary of the Department of Electronic Government); and (d) provide \$130,459,200 PR and 208.3 PR positions annually associated with the transfer of information technology functions to DOA as the result of the elimination of DEG.

2. Modify funding and positions recommended under DOA as follows: (a) printing, mailing, communications and information technology services to state agencies, \$81,768,900 PR and 164.3 PR positions annually; (b) information technology and communications provided to non-state entities, -\$69,972,100 PR and -164.3 PR positions annually; (c) telecommunications services to state agencies, -\$12,591,200 PR annually; (d) justice information systems, \$161,500 PR and 3.0 PR positions annually; and (e) justice information systems development, operation, maintenance and assistance, \$895,500 PR and -3.0 PR positions annually.

<b><u>Alternative 2</u></b>	<b><u>PR</u></b>
<b>2003-05 FUNDING</b> (Change to Bill)	\$525,200

3. Retain a separate Department of Electronic Government. Reestimate funding for information technology by \$262,600 PR annually. Establish the following revised DEG appropriation structure, annual expenditure authority amounts and position authorizations in order to recognize the other funding and position savings in the bill (net of the amount of the reestimate). Establish all of the following appropriations as PR annual appropriations, except retain a FED continuing appropriation with estimated funding of \$0 annually.

<u>Appropriation</u>	<u>Annual Funding and Position Levels</u>	
	<u>Amount</u>	<u>Positions</u>
Printing, mailing, communications and information technology services to state agencies [s. 20.530(1)(kL)]	\$83,926,300	164.30
Information technology and communications provided to non-state entities [s. 20.530(1)(is)]	14,373,000	0.00
Telecommunications services to state agencies [s. 20.530(1)(ke)]	24,002,600	24.00
Justice information systems [s. 20.530(1)(ja)]	1,653,400	19.00
Justice information systems development, operation, maintenance and assistance [s. 20.530(1)(kq)]	1,753,000	0.00
Telecommunications relay service [s. 20.530(1)(ir)]	<u>5,013,500</u>	<u>1.00</u>
Total	\$130,721,800	208.30

<b><u>Alternative 3</u></b>	<b><u>PR</u></b>
<b>2003-05 FUNDING</b> (Change to Bill)	\$525,200

4. Adopt Alternative 2 (DEG transferred to DOA) or Alternative 3 (DEG retained), but reduce estimated expenditures in the largest PR appropriation by \$262,600 PR annually.
5. Modify the bill by adopting any of the following:
  - a. Retain separate PR annual appropriations for justice information system funding provided from penalty assessment revenues and Byrne grant funding.
  - b. Change the continuing appropriations created under DOA as a result of the elimination of DEG to annual appropriations.
  - c. Allow expenditures to be made in the printing, mailing, communications and information technology services to state agencies appropriation equal to the value of depreciated assets.
  - d. Direct that the methodologies for determining fees and assessments be submitted to the Legislature for approval as an administrative rule.
6. Maintain current law. Retain the separate Department of Electronic Government.

<b>Alternative 6</b>	<b>PR</b>
<b>2003-05 FUNDING</b> (Change to Bill)	\$3,033,600
<b>2004-05 POSITIONS</b> (Change to Bill)	22.00

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