



## Legislative Fiscal Bureau

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April 29, 2009

Joint Committee on Finance

Paper #263

### **Electrical Program Staff (Commerce -- Housing, Buildings, and Environmental Regulation)**

[LFB 2009-11 Budget Summary: Page 198, #5]

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#### **CURRENT LAW**

Commerce administers standards for electrical construction, installation and inspection of electrical wiring, and regulation of electricians and electrical contractors. The program is staffed by 4.0 engineering consultants. Several new electrical program requirements were enacted in 2007 Wisconsin Act 63, effective March 19, 2008. Although the Commerce fiscal note to the bill identified a need for 3.0 positions to implement the bill, no additional staff were provided under the Act. Commerce is currently promulgating rules for inspection of electrical wiring and licensing of electricians and electrical contractors. Under Act 63 electricians and electrical contractors must be licensed effective April 1, 2013.

Electrical program staff are funded from a Safety and Buildings Division program revenue operations appropriation which receives revenues from a variety of plan review and inspection activities related to construction such as commercial buildings, multi-family dwellings, plumbing, private sewage systems, electrical and heating systems, and elevators. Base funding for the appropriation is \$18.0 million with 156.8 positions. The staff perform activities such as plan review, inspection, code requirement consultation, training, and licensing.

#### **GOVERNOR**

Provide \$153,600 PR in 2009-10 and \$204,600 PR in 2010-11 with 2.0 electrical system engineering consultant positions funded from electrician licensing revenue deposited in the Safety and Buildings Division program revenue operations appropriation.

## DISCUSSION POINTS

1. 2007 Wisconsin Act 63 expanded Commerce authority for regulation of electrical construction to all types of buildings statewide. It requires Commerce to promulgate administrative rules for a statewide electrical wiring code with standards for installing, repairing and maintaining electrical wiring. It also requires Commerce to promulgate rules establishing standards and a process for the inspection of electrical wiring, and for certifying all inspectors of electrical wiring. Inspection of electrical wiring is conducted by enforcing municipalities, or will be provided through Commerce contracts with inspectors who would be certified by the Department.

2. 2007 Act 63 replaced a voluntary certification program with a mandatory licensing, registration, and certification program for master electricians, journeymen electricians, beginning electricians, and electrical contractors. Commerce is required to promulgate administrative rules that establish criteria and procedures for the licensing program. Electricians and electrical contractors will be required to be licensed (or registered for beginning electricians) beginning April 1, 2013, in order to engage in the business of installing, repairing, or maintaining electrical wiring.

3. Commerce is currently promulgating administrative rules to implement the electrical inspection and licensing provisions. In general, the license or registration fees would be the same as the certification fees under the voluntary program in effect before 2007 Act 63.

4. The electrical system engineering consultant positions provided in the bill would: (a) implement the electrician licensing requirements of Act 63; (b) develop and administer a program to monitor contracts with inspectors who would inspect electrical wiring in municipalities that do not perform the inspections; (c) investigate complaints regarding licensed electricians or individuals doing electrical work without an electrician license; and (d) provide training to local governments, inspectors and electricians regarding the electrical program requirements.

5. Commerce estimates revenue under Act 63 will average \$470,000 annually, including \$200,000 in each of 2008-09, 2009-10 and 2010-11, \$500,000 in 2011-12, and \$925,000 in 2012-13 due to an increase in the number of licenses obtained as the March 31, 2013, deadline for licensure nears (a license is valid for four years). The revenue is deposited in the Safety and Buildings Division PR operations appropriation.

6. The following table shows revenues and expenditures for the Safety and Buildings PR operations appropriation. Commerce anticipates that, due to economic conditions and a slowdown in construction activity, revenues will total approximately \$15.1 million in 2008-09, \$15.8 million in 2009-10, and \$17.0 million in 2010-11. Authorized expenditures are \$17.6 million in 2008-09, and, under AB 75, are \$18.2 million in 2009-10 and \$18.5 million in 2010-11, with 157.8 positions.

**Safety and Buildings Division General Operations,  
Revenues and Expenditures under AB 75**

	2007-08 <u>Actual</u>	2008-09 <u>Estimated</u>	2009-10 <u>AB 75</u>	2010-11 <u>AB 75</u>
Opening Balance, July 1	\$ 2,308,100	\$ 404,200	-\$401,100	-\$662,800
<b>Revenue</b>				
Building plan reviews and inspections	\$5,952,700	\$5,440,600	\$5,807,100	\$6,156,600
Plumbing licenses	1,666,200	403,600	363,600	1,700,000
Plumbing plan reviews	1,282,400	1,348,800	1,524,000	1,638,300
Boiler inspections	1,140,400	1,267,200	1,321,500	1,336,500
Elevator inspections	766,400	1,065,000	1,146,700	1,221,700
Private sewage plan reviews	788,500	823,000	998,000	1,072,900
Septic tank permits	657,600	795,000	900,000	967,500
One- and two-family building program	1,159,400	671,500	938,500	722,500
Electrical program	357,100	650,000	713,500	713,500
Building contractor registrations	-	1,000,000	450,000	200,000
Manufactured home licenses and title fees	363,000	356,000	341,000	335,200
Amusement ride program	227,300	241,500	253,000	253,000
Swimming pool plans	68,300	193,600	205,000	115,000
Other revenues	474,600	798,000	795,000	525,000
Transfer to Crex Meadows Youth Conservation Camp and Construction Career Academy	<u>-330,000</u>	<u>0</u>	<u>75,000</u>	<u>0</u>
Total Revenue	\$14,573,900	\$15,053,800	\$15,831,900	\$16,957,700
Total Revenue Available	\$16,882,000	\$15,458,000	\$15,430,800	\$16,294,900
<b>Expenditures</b>				
Operations expenditures and reserves	\$16,392,800	\$17,639,800	\$18,217,400	\$18,528,500
Commerce's planned expenditure reductions	0	-1,380,600	-1,683,200	-1,800,000
Additional expenditure reductions required	<u>0</u>	<u>-400,000</u>	<u>-1,425,000</u>	<u>-1,425,000</u>
Total Expenditures	\$16,392,800	\$15,859,200	\$15,109,200	\$15,303,500
Lapse to general fund	85,000	0	984,400*	984,400*
Closing Balance, June 30	\$404,200	-\$401,200	-\$662,800	\$7,000

\* The administration has indicated its intent to transfer the amount of the across the board 1% reductions (\$180,300), additional operations cuts (\$104,100) and contracts for education on the homebuilding process (\$700,000) to the general fund.

7. The construction slowdown and economic conditions of the last few years have resulted in less revenue from activities such as plan reviews and inspections. Revenue deposited in the appropriation will not be sufficient to fund all authorized expenditures. The table shows Commerce will have to hold expenditures at least \$3 million lower than authorized amounts in each of 2009-10 and 2010-11. The Department reduced expenditures below authorized levels in 2007-08 and 2008-09 to maintain a positive balance in the account. Commerce officials indicate they have developed expenditure reduction plans totaling \$1.7 to \$1.8 million in each of 2009-10 and 2010-

11. This includes not filling 11.5 currently vacant positions during the entire 2009-11 biennium, and decreasing expenditures for building code training, travel, supplies, limited-term employees, and central departmental administrative costs. These reductions reflect, in part, the reduced workload Commerce has experienced as a result of the construction slowdown.

8. Commerce has also had to reduce expenditures below authorized levels since 2001-02 in order to make required lapses to the general fund. The amount of revenue lapsed from the appropriation account to the general fund as part of overall efforts to balance the general fund totaled \$10.3 million between 2001-02 and 2007-08, which is 8.9% of total revenue to the appropriation during those years.

9. The table shows expenditure reductions of \$1.4 million annually beyond those identified by Commerce may be necessary to maintain a positive balance in the appropriation and make allocated lapses to the general fund. The Department has not determined how these additional expenditure reductions will be accomplished, or whether positions in addition to the currently vacant 11.5 positions will need to be held vacant.

10. The table also shows DOA's intended annual lapses to the general fund of \$984,400 from the appropriation account. However, it is possible that the actual amounts lapsed to the general fund would differ from the amounts shown in the table.

11. The number of authorized positions has decreased from 192.35 in 2000-01 to 156.8 in 2008-09 (an 18.5% decrease). The number of filled positions is currently 144.3 (one of the 12.5 vacancies is deleted under the bill). Commerce officials hope that when the economy improves and construction activities increase, revenues to the appropriation would increase, and some of the vacant positions could be filled.

12. While there should be sufficient electrical program revenues to fund the electrical program positions under the bill, there will not be sufficient revenues to the appropriation to fund all of the authorized expenditures for the Division.

13. It could be argued the proposed electrical program positions should be approved to recognize the increase in electrical program workload, and associated revenues. Conversely, it could be argued the position and expenditure authority should not be increased during a time when the Department is holding 11.5 positions vacant and decreasing expenditures by \$3.2 million annually to maintain a positive balance in the appropriation.

14. If the Governor's recommendation is approved, Commerce will need to make the expenditure reductions shown in the table, in programs other than the electrical program, in order to fill the new electrical consultant positions. This would likely include holding positions vacant in addition to the current 11.5 vacancies.

15. If the Committee wishes to approve the creation of the two electrical program positions, it could choose to maintain the current number of positions in the Division by deleting two currently vacant positions that Commerce plans to continue to hold vacant for the 2009-11 biennium (Alternative #2). This could make clear the Legislature's intent to provide electrical staff

to implement Act 63. For example, vacant positions in the Division include an engineering consultant for building systems, building inspector, plumbing consultant, plumbing plan reviewer, and private sewage plan reviewer.

16. If the Governor's recommendation is not approved (Alternative #4), and if construction activities increase to provide additional revenues to the appropriation, Commerce could request legislative approval of expenditure and position authority for the electrical consultant positions under the s. 16.505/515 process at a later date.

17. If the Governor's recommendation is not approved (Alternative #4), Commerce could choose whether or not to reallocate existing vacant positions to staff the electrical program. If Commerce chooses to determine that filling electrical program positions is a higher priority than filling other positions, the Department could follow standard procedures currently administered by the Office of State Employment Relations (OSER) for conversion of one or two existing vacant positions to electrical consultant position without legislative approval. OSER has delegated the authority to Commerce to rewrite a position description, and thereby reclassify the position. For example, under current law, Commerce could rewrite a position description for two of the vacant positions in the appropriation to be engineering consultants for electrical systems.

18. The Committee could consider creating the 2.0 electrical consultant positions effective January 1, 2011, and providing \$102,300 for half a year of funding for 2010-11 (Alternative #3), in the hopes that construction activity will increase sufficiently to provide adequate revenue for the positions by that time.

**ALTERNATIVES**

1. Approve the Governor's recommendation to provide \$153,600 PR in 2009-10 and \$204,600 PR in 2010-11 with 2.0 electrical consultant positions.

2. Approve the Governor's recommendation. In addition, delete \$153,600 PR in 2009-10 and \$204,600 PR in 2010-11 with 2.0 currently vacant Safety and Buildings positions.

<b>ALT 2</b>	<b>Change to Bill</b>	
	Funding	Positions
PR	- \$358,200	- 2.00

3. Modify the Governor's recommendation to provide \$102,300 PR in 2010-11 with 2.0 positions to create the positions January 1, 2011. This would delete \$153,600 in 2009-10 and \$102,300 in 2010-11 from the amounts provided in the bill.

<b>ALT 3</b>	<b>Change to Bill</b>	
	Funding	
PR	- \$255,900	

4. Delete provision. Commerce could chose whether to reallocate existing vacancies to be electrical program positions.

<b>ALT 4</b>	<b>Change to Bill</b>	
	Funding	Positions
PR	- \$358,200	- 2.00

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