Legislative Fiscal Bureau
One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 12, 2009 Joint Committee on Finance Paper #606

Transfer Human Resources Functions (OSER)

[LFB 2009-11 Budget Summary: Page 493, #3]

CURRENT LAW

Under current law, the Office of State Employment Relations (OSER) provides support to other state agencies in human resources management. The Office oversees the state civil service system, negotiates state labor contracts, manages labor relations, and leads the state's affirmative action and equal opportunity employment programs.

The Director of OSER is charged with the effective administration of state employment relations law. The Director may delegate, in writing, any of his or her functions set forth in Chapter 230 of the statutes to an appointing authority (the chief officer of any governmental unit or chief administrative officer of an agency unless another person is authorized under law to appoint subordinate staff), within prescribed standards. If the Director determines that any agency is not performing the delegated function within prescribed standards, the Director is required to withdraw the delegated function. Subject to the approval of the Joint Committee on Finance, the Director may order transferred to the OSER from the agency to which delegation was made such agency staff and other resources as necessary to perform such functions if increased staff was authorized to that agency as a consequence of the delegation, or if OSER reduced staff or shifted staff to new responsibilities as a result of the delegation.

GOVERNOR

Require that, before July 1, 2011, the Secretary of DOA, with the assistance of the Director of OSER, must: (a) identify and abolish all authorized FTE positions in executive branch state agencies that are responsible for the performance of human relations functions for those agencies; and (b) identify employees whose positions are abolished. Provide that the Secretary of DOA may transfer any employee so identified to OSER. An executive branch state agency would be defined as any office, department, or independent agency in the executive branch of state government, other than the Board of Regents of the UW System.

Provide that employees transferred to OSER would have all the rights and the same status under state employment relations law in OSER that they enjoyed in the executive branch state agencies from which they were transferred. Provide that no transferred employee who has attained permanent status in class would be required to serve a probationary period. Provide that the authorized FTE positions for OSER, funded from the PR general program operations appropriation account created under the bill, would be increased by the number of individuals transferred to OSER under these provisions, for the purpose of providing human resources services to state agencies.

Require the Secretary of DOA, in 2009-10 and 2010-11, to submit to the Cochairpersons of the Joint Committee on Finance a report on the implementation of the transfer of employees who perform human relations functions to OSER.

DISCUSSION POINTS

1. The Governor's recommendation is to eliminate state positions relating to human resources (HR) functions in executive branch agencies, and reauthorize most, or all, of these positions in OSER. The exact positions, and their number, are not specified at this time. The realignment of positions would be determined by DOA and OSER through a two-year evaluation and reorganization process.

2. According to DOA budget officials, the primary intent of the provision under the bill is to standardize the administration of HR policies, practices, and the delivery of services across state agencies. The provision is intended to result in consistent interpretation and administration of statutes, rules and collective bargaining agreements. It is also believed that a more centralized administration of HR functions would allow for the identification and elimination of duplication of efforts.

3. Administration officials indicate that there are approximately 475 FTE in executive branch agencies with job titles related to HR functions, employee assistance, labor relations, payroll, and training. They expect that over the 12- to 24-month period following enactment of the budget, the review of staffing patterns, staffing ratios, and specific job duties will help to identify inefficiencies and redundancies, and provide a basis for the overall redistribution of employees between a centralized OSER office and agency service centers. Officials also indicate that there would be minimal physical movement of staff; that is, most HR staff transferred to OSER employment would continue to work at their respective state agencies.

4. DOA officials indicate that there are currently inconsistencies in the day-to-day operations of HR staff across state agencies and, in some cases, there are incorrect applications of employment relations policies in the state. These inconsistencies are seen in a variety of areas, including compensation administration, administration of local contract agreements, attendance

policies, agency work rules, discipline criteria, grievance arbitration, and the administration of recruitment and examinations. While OSER is viewed as having the authority to interpret HR law and to set consistent policies, officials argue that the Office cannot, practically speaking, require agencies to carry out policies in a consistent manner.

5. These inconsistencies have likely evolved over time, probably because HR functions may have been relatively free to develop separately in each state agency. DOA points out that human resources managers are hired and directed by the appointing authority in each agency. As a result, an HR manager may be more responsive to the policy direction of the appointing authority than to any centralized policy guidelines provided by OSER.

Such inconsistencies can have practical consequences. The Department of Administration indicates that labor contracts have sometimes been incorrectly interpreted by different agencies, a situation that may lead to costly arbitration. For example, if similar misconduct by two individuals employed at different agencies result in different disciplinary actions, it may adversely affect the state in the arbitration proceedings.

There are also cases, according to DOA, where different agency HR departments create exams and hiring processes for positions in the same job classification. Potential applicants must apply separately at each state agency for similar jobs. This example reflects the fact that separate agency HR operations duplicate processes that could be carried out in a more centralized manner that would provide testing and recruitment services to all executive branch agencies. Officials indicate that the administration of family or medical leave and military leave could also be provided centrally for executive branch agencies in a more efficient manner.

6. DOA officials indicate that there are currently 12 HR manager positions (not including the Legislature, the Courts, and the UW System) located within three blocks of the Capitol. An additional seven HR managers are located within eight miles of the Capitol. Table 1 lists these agencies. These 19 HR managers generally have the same responsibilities.

TABLE 1

Executive Branch Agencies with Human Resources Manager

Administration	Justice
Agriculture, Trade and Consumer Protection	Military Affairs
Children and Families	Natural Resources
Commerce	Public Defender
Corrections	Public Instruction
Employee Trust Funds	Revenue
Health Services	Technical College System
Historical Society	Transportation
Investment Board	Veterans Affairs
	Workforce Development

7. DOA argues that significant improvements in efficiencies and cost-effectiveness could be gained through a more centralized and streamlined HR operation across state agencies. They emphasize that their views are not that agency HR employees are inefficient, but rather that an uncoordinated HR system has evolved, that produces duplicative and uncoordinated results. Officials also maintain that attempts to change the system in a piecemeal fashion would likely be unsuccessful in accomplishing the desired results; therefore, a more sweeping strategy is being proposed under the bill. Finally, DOA officials indicate that because of the current levels of HR vacancies and projected retirements of longtime state staff, the timing is right for a realignment of HR resources.

8. Under the bill, the Secretary of DOA would be required, before July 1, 2011, to identify and abolish all authorized FTE positions in executive branch state agencies that are responsible for the performance of human relations functions for those agencies. Based on the DOA estimate, approximately 475 positions would be abolished. In turn, an unspecified number of the incumbent employees would be transferred to OSER. [Presumably, some number of incumbent employees may not be transferred and could "bump" into other state classified positions. This could eventually result in some state employees being laid-off, with some state cost savings. No estimate can be made at this time of how many incumbents would be transferred to OSER and how many employees might be laid-off as result of this provision.]

9. As noted above, approximately 475 FTE HR positions could be affected by the provision. A separate analysis estimates the total at approximately 494 FTE. Based on this analysis, Table 2 lists executive branch agencies and the HR FTE count, the base-level position authorization, and the authorized positions per HR staff position at each agency. [Note that OSER (with approximately 43 FTE HR positions) is excluded from the table because this agency receives its own HR support from DOA.]

TABLE 2

Agency Human Resources Personnel and Position Authority Data

	Human Resources FTE Count	Base-Level FTE Count	Total FTE Per Human Resources FTE
Administration	23.30	1,032.68	44.32
Agriculture, Trade and Consumer Protection	9.50	582.37	61.30
Board for People with Developmental Disabilities	1.75	7.75	4.43
Children and Families	13.00	635.89	48.91
Commerce	4.10	394.70	96.27
Corrections	132.75	10,394.87	78.30
Employee Trust Funds	5.50	220.80	40.15
Health Services	78.17	5,510.88	70.50
Historical Society	3.00	143.54	47.85
Investment Board	3.50	113.50	32.43
Justice	11.50	578.99	50.35
Military Affairs	10.75	432.11	40.20
Natural Resources	31.05	2,745.53	88.42
Public Defender	4.85	535.45	110.40
Public Instruction	8.10	631.50	77.96
Revenue	11.00	1,119.83	101.80
Technical College System	1.00	82.30	82.30
Transportation	58.53	3,448.78	58.93
Veterans Affairs	15.50	1,107.90	71.48
Workforce Development	23.60	1,665.64	70.58
Total	450.45	31,385.01	69.68

10. As noted above, the OSER Director has the authority to delegate HR functions to an appointing authority within prescribed standards and, if the Director determines that any agency is not performing the delegated function within prescribed standards, the Director is required to withdraw the delegated function. In addition, subject to the approval of the Joint Committee on Finance, the Director may order transferred to OSER from the agency to which delegation was made such agency staff and other resources as necessary to perform such functions, if increased staff was authorized to that agency as a consequence of the delegation, or if OSER reduced staff or shifted staff to new responsibilities as a result of the delegation.

11. However, according to DOA and OSER officials, the authority under current law of the OSER Director to address problem areas in the administration of HR functions in state government is very limited. While the OSER Director may withdraw a delegated function from an agency, this would generally result in OSER being required to perform the work, but without

additional staff. There is no practical way, as the law would require, for OSER to identify agency staff as having been "authorized to that agency as a consequence of the delegation" or that "OSER reduced staff or shifted staff to new responsibilities as a result of the delegation." Original delegation and staffing decisions cannot be reconstructed and today's staffing patterns evolved over many years. The OSER authority under current law would not allow it to effectively remove delegated authority and transfer the necessary positions to OSER. Therefore, the Governor recommends, under AB 75, a global realignment of HR staffing in the executive branch to reestablish consistent and coordinated HR functions.

12. Under the bill, state agencies would be charged for the services of the personnel transferred to OSER. In the 2009-11 biennium, state agencies would retain the expenditure authority necessary to pay for these positions, whether as agency employees or OSER employees. However, under standard budget adjustments, agencies would lose the expenditure authority in the 2011-13 biennium for all of the eliminated positions that would result under this provision. In turn, in 2011-13, agencies would be charged by OSER for the personnel costs of those positions transferred to OSER. Unless state agencies are provided increased expenditure authority in the 2011-13 biennium to pay for the OSER assessments, these charges would reduce agency resources.

13. DOA budget officials indicate that agencies would not automatically lose their expenditure authority; rather, the expenditure authority associated with the positions transferred to OSER would remain with the agency and be transferred to the supplies and services line to be used to pay OSER charges for HR services. However, this funding transfer is not specified in the bill. This could be addressed by requiring that, for each state agency position transferred to OSER under the provision in the 2009-11 biennium, the salary and fringe benefit amounts associated with the position would be transferred to the supplies and services line in the appropriate agency appropriation account. This would help to ensure that at least some the funding necessary to address future OSER charges would be built into the adjusted base budget of each agency in the 2011-13 biennium. [Alternative 2]

14. There is no specification in the bill of the criteria DOA and OSER would use to evaluate HR staff and make a determination of which employees would be retained by transferring them to OSER. DOA officials indicate that the realignment would be focused on the attainment of consistent interpretation and application of HR law, the elimination of duplicative efforts, and a more uniform administration of collective bargaining agreements across state agencies. If the Governor's recommendation is approved, the evaluation process and eventual personnel changes would be guided largely by the expertise of OSER to develop new HR staffing patterns and processes. The Committee would be apprised of the realignment process through the submission of two annual reports submitted by the Secretary of DOA to the Cochairpersons of the Joint Committee on Finance, as required under the bill.

15. If the Committee feels that a more detailed proposal should be developed before approving the realignment, it could require DOA to evaluate the administration of HR functions in the executive branch and to develop a proposal for the consolidation and transfer of HR positions for consideration by the Committee under a 14-day passive review and approval process. This

would provide the administration the opportunity to address its concerns with the current administration of HR functions and allow the Committee to review more precise information on the abolition of HR positions and the transfer of employees to OSER. [Alternative 3]

16. It should also be noted that the administration has the ability under current law to evaluate position utilization in the executive branch, develop proposals for reorganization or consolidation, and submit such proposals for legislative approval. Arguably, the administration could evaluate state agency HR functions, develop a plan to address outstanding problems, and recommended position reductions and transfers under current law provisions.

17. If the Committee concludes that the realignment of HR functions has merit, but does not wish to act on the issue at this time, it could also require the DOA Secretary and the OSER Director to evaluate the administration of human resources functions in executive branch agencies and to report to the Committee on their findings and recommendations for change by March 1, 2010. The report would not require action by the Committee, but would be provided for informational purposes. Based on the report's recommendations, separate legislation could be introduced in the 2009 session or as part of the 2011-13 biennial budget bill. [Alternative 5]

18. In summary, the provision would eliminate an unspecified number of HR positions in executive branch agencies and provide the Secretary of DOA with authority to transfer incumbent HR employees to new positions in OSER in the 2009-11 biennium. The Committee could approve the provision, if it feels that a realignment of HR administration in state agencies should be addressed and that this would best be accomplished under the auspices of a reorganization process directed by DOA and OSER. Alternatively, the Committee could establish a 14-day passive review process to consider a specific DOA plan to address outstanding HR administration problems, including recommended position reductions in state agencies and transfers to OSER. Finally, the Committee could delete the provision under the bill with or without further evaluation. A proposal to reorganize HR staffing in executive branch agencies could be advanced by DOA at a later date under current law provisions.

19. Finally, some agencies have requested to be excluded from the provision. Both the Department of Employee Trust Funds and the State of Wisconsin Investment Board have testified that, because these agencies are funded from the Public Employee Trust Fund, HR management by an outside agency would threaten the independence required of agencies with trust fund fiduciary responsibilities. The Departments of Justice and Public Instruction have also testified that these agencies should be excluded because the provision would reduce the constitutional authority of elected officials by diminishing their control of employment decisions. An alternative is provided to exclude these agencies, if the Committee believes one or more of these agencies should maintain separate HR functions. [Alternative 4]

ALTERNATIVES

1. Approve the Governor's recommendation to require that, before July 1, 2011, the

Secretary of DOA, with the assistance of the Director of OSER, must: (a) identify and abolish all authorized FTE positions in executive branch state agencies that are responsible for the performance of human relations functions for those agencies; and (b) identify employees whose positions are abolished. Provide that the Secretary of DOA may transfer any employee so identified to OSER. An executive branch state agency would be defined as any office, department, or independent agency in the executive branch of state government, other than the Board of Regents of the UW System.

Provide that employees transferred to OSER would have all the rights and the same status under state employment relations law in OSER that they enjoyed in the executive branch state agencies from which they were transferred. Provide that no transferred employee who has attained permanent status in class would be required to serve a probationary period. Provide that the authorized FTE positions for OSER, funded from the PR general program operations appropriation account created under the bill, would be increased by the number of individuals transferred to OSER under these provisions, for the purpose of providing human resources services to state agencies.

Require the Secretary of DOA, in 2009-10 and 2010-11, to submit to the Cochairpersons of the Joint Committee on Finance a report on the implementation of the transfer of employees who perform human relations functions to OSER.

2. Modify the Governor's recommendation by requiring that, for each position transferred to OSER, an amount equal to the salary and fringe benefit costs for that position be transferred to the supplies and services line in the appropriation account that funded the position prior to the transfer to the OSER.

3. Delete the provision. Provide that the Secretary of DOA may evaluate the administration of human resources functions in executive branch agencies and to develop a proposal for the consolidation of human resources functions, including an identification of positions to be eliminated and the additional position authority required for OSER. Provide that the Secretary of DOA may notify the Joint Committee on Finance in writing of his or her proposed action. If the Cochairpersons of the Committee do not notify the Secretary that the Committee has scheduled a meeting for the purpose of reviewing the proposed action within 14 working days after the date of the Secretary's notification, the consolidation plan and position changes may be made as proposed by the Secretary. If, within 14 working days after the date of the Secretary's notification, the Cochairpersons of the Committee notify the Secretary that the Committee has scheduled a meeting for the purpose of reviewing the proposed action, the position changes may be made only upon approval of the Committee.

If a plan is implemented under this provision, provide that employees transferred to OSER would have all the rights and the same status under state employment relations law in OSER that they enjoyed in the executive branch state agencies from which they were transferred. Provide that no transferred employee who has attained permanent status in class would be required to serve a probationary period. Provide that the authorized FTE positions for OSER, funded from the PR general program operations appropriation account created under the bill, would be increased by the number of individuals transferred to OSER under these provisions, for the purpose of providing human resources services to state agencies.

Require the Secretary of DOA to submit, by June 30, 2011, to the Cochairpersons of the Joint Committee on Finance, a report on the implementation of the transfer of employees who perform human relations functions to OSER, approved under this process.

4. In addition to Alternative 1, 2, or 3, specify that one or more of the following agencies would be excluded from the provision:

a. Department of Employee Trust Funds
b. Department of Justice
c. Department of Public Instruction
d. State of Wisconsin Investment Board

5. Delete the provision and require the DOA Secretary and the OSER Director to evaluate the administration of human resources functions in executive branch agencies and report to the Joint Committee on Finance on their findings and recommendations for change by March 1, 2010. The report would not require action by the Committee, but would be provided for informational purposes only. [Based on the report's recommendations, separate legislation could be introduced in the 2009 session or as part of the 2011-13 biennial budget bill.]

6. Delete the provision.

Prepared by: Art Zimmerman