



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #582

Gifts and Grants Appropriation (Safety and Professional Services)

[LFB 2011-13 Budget Summary: Page 390, #12]

CURRENT LAW

No provision.

GOVERNOR

Create a PR-continuing gifts and grants appropriation. Specify that the Department may use the appropriation for the expenditure of all funds received from the following, for the purposes for which the funds were received: (a) gifts, grants, and bequests; and (b) fees or other charges for photocopies, generation of copies of documents from electronic storage and other storage media, conferences, sales of publications, sales of lists of credential holders, sales of promotional materials, sales of other materials, other services provided that are incidental to the licensing, rule making, and regulatory functions of the Department.

DISCUSSION POINTS

1. Gifts and grants appropriations are provided to agencies in order to allow those agencies to accept gifts, grants, honorariums, donations, and bequests. Often, gifts or grants are provided to agencies by donors for specific purpose. The receipt of the gift may be based on the ability of the agency to fulfill the wishes of the donor.

2. Although the statutes do not specifically define "gift" or "grant," Black's Law Dictionary defines a gift as "a voluntary transfer of property to another made gratuitously and without consideration." Grant is defined as "to bestow; to confer upon some one other than the person or entity which makes the grant." For instance, the gifts and grants appropriation that would be transferred to the Department of Safety and Personnel Services (the renamed Department of Regulation and Licensing), is for gifts and grants relating to the regulation of industry, buildings,

and safety to carry out the purposes for which made.

3. The proposed gifts and grants appropriation for the Department under the budget bill would be broader than those of most other agencies.

4. In Department of Regulation and Licensing's (DRL) agency request for this appropriation, the Department stated that a gifts and grants appropriation was needed because revenue was received from a variety of fee based revenues that are not related to the credentialing of occupations and professions, including "revenues for costs associated with an investigation, and in some instances, the prosecution associated with a complaint."

5. The Department also stated that revenues are received from lists of licensees and other copies that are provided to the public for a fee. Further, the Department indicated that there are information technology and personnel costs associated with collecting and processing these requests. According to DRL, the new appropriation would allow the Department to offset some or all of these costs.

6. Currently, these funds would be deposited into DRL's general program operations appropriation and the ability to expend those revenues would be based on the Legislature's approval of expenditure authority.

7. Under the bill, the gifts and grants appropriation could be used to receive and expend funds for gifts and grants and also for: (a) photocopies, the costs of processing photocopy requests; (b) conferences; (c) sales of other materials; and (d) other services provided that are incidental to licensing, rule making, and regulatory functions of the Department.

8. It could be argued that this definition is a broad expansion of the traditional gifts and grants appropriation and would significantly expand the agency's ability to collect fees and expend revenues without legislative oversight. This would reduce legislative oversight given the proposed transfer of environmental regulation, building inspections, economic development, and administrative services from the Department of Commerce, erosion control from the Department of Natural Resources, and commercial erosion from the Department of Agriculture, Trade and Consumer Protection. A number of these duties could also include revenues from court settlements for violations, conferences, sales of materials, and other licensing, rule making and regulatory functions.

9. The Governor and the Legislature have considered some of the revenues and expenses that would be covered under the proposed PR-continuing gifts and grants appropriation. Some of these requests have been approved and some have been denied in recent biennia. It could be argued that the Legislature should maintain the ability to approve agency expenditures and that if additional authority is needed such requests can be made as part of the biennial budget process, separate legislation, or under s. 16.505/.515 of the statutes (14 day passive review process under the Joint Committee on Finance).

10. Most state agencies and authorities have a gifts and grants appropriation and it may be appropriate to provide such an appropriation for DRL so that the agency may receive and expend donations from individuals or organizations. This appropriation would be solely for gifts and grants

[Alternative #2].

11. Alternatively, some might question the need for the receipt of gifts, grants, or fees for non-specified activities for an agency whose purpose is the licensing and regulation of professional occupations.

ALTERNATIVES

1. Approve the Governor's recommendation to provide a PR-continuing gifts and grants appropriation.

2. Modify the gifts and grants appropriation to specify that the appropriation could be used only for gifts and grants.

3. Delete Governor's recommendation.

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