



Legislative Fiscal Bureau

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May 23, 2013

Joint Committee on Finance

Paper #479

Small Business Environmental Assistance Program (DNR -- Environmental Quality)

[LFB 2013-15 Budget Summary: Page 347, #4]

CURRENT LAW

During the 2011-13 biennium, DNR created an Office of Business Support and Sustainability (OBSS), attached to the Office of the Secretary. It was formed by combining the existing Office of Energy and Environmental Analysis and the Bureau of Cooperative Environmental Assistance. According to DNR, OBSS provides a single point of contact within the Department to work with businesses to enhance their ability to meet and exceed environmental and economic objectives. OBSS has base funding of \$3.6 million with 38.0 positions, from multiple funding sources. This includes 6.9 environmental assistance coordinators.

GOVERNOR

Provide \$100,800 in 2013-14 and \$134,400 in 2014-15 from environmental fund SEG, with 2.0 environmental assistance coordinator positions annually, to the OBSS.

DISCUSSION POINTS

1. DOA officials indicate the positions would provide support to the small business environmental assistance program, which helps businesses understand and comply with requirements of the federal Clean Air Act, and would also expand the efforts of that program beyond the air program to help businesses with obtaining the proper permits and complying with wastewater, groundwater, drinking water, water regulation and zoning, storm water, construction site erosion control, solid waste, hazardous waste, and remediation program requirements.

2. The OBSS environmental fund SEG appropriation and environmental fund appropriations in the Division of Customer and Employee Services are administratively split-funded between the environmental management account and the nonpoint account, based on the percentage of DNR staff funded from the two separate accounts in the Division of Air, Waste, and Remediation and Redevelopment and the Division of Water. Under the bill, this allocation means the positions would be funded 86.2% from the environmental management account and 13.8% from the nonpoint account.

3. The federal Clean Air Act Amendments of 1990 require states to operate a small business assistance program which includes technical assistance to help small businesses comply with Clean Air Act requirements, a compliance advisory panel and a small business ombudsman. Prior to 2011-13, the former Department of Commerce managed this program with two positions funded from air emission tonnage fees received from federally-regulated stationary sources of air pollution. When the 2011-13 biennial budget act eliminated the Department of Commerce, these program responsibilities were transferred to DNR and the Commerce positions were eliminated. During 2011-13, DNR reallocated two positions in the Bureau of Air Management to work on the small business environmental assistance program, and funds the position from air emission tonnage fees received from federally-regulated stationary sources of air pollution. The funding and positions are reallocated from DNR activities related to permit review and approval for stationary sources of air pollutants subject to federal requirements.

4. DNR officials indicate the OBSS provides a single point of contact for businesses and government agencies to help them meet environmental and economic objectives. The existing 6.9 environmental assistance coordinators are sector specialists in the area of agribusiness, brewing, energy, forestry, wood products, sustainable communities, general business assistance, green manufacturing, and manufacturing. Examples of the types of duties of the existing environmental assistance coordinators are: (a) provide confidential non-regulatory environmental compliance and technical assistance to a variety of small businesses; (b) conduct workshops and presentations to help small businesses stay informed of compliance requirements; (c) develop and promote compliance assistance tools; (d) inform businesses of new or changing rules; (e) advocate on behalf of small businesses; and (f) staff the Small Business Environmental Council (an advisory council to DNR, formerly attached to Commerce). The two positions provided under the bill would expand the confidential compliance and technical assistance provided to small businesses.

5. DNR did not include a proposal for additional environmental assistance coordinators in its 2013-15 biennial budget submission. However, the DNR budget submission included a request for 2.0 environmental enforcement positions funded with \$127,300 SEG in 2013-14 and \$163,800 SEG in 2014-15 from the environmental management account. The bill does not include a recommendation for the environmental enforcement positions. DNR's budget request indicated the positions would have included an environmental warden to investigate potential willful or negligent violations for potential criminal prosecution, and an environmental enforcement specialist to address civil violations. The Department's request further indicated that the number of enforcement actions has decreased since 2008-09, recent changes in enforcement procedures require additional law enforcement staff resources, enforcement staff are operating under tighter response timelines, and staff meet personally with more businesses and individuals in an effort to gain

compliance more quickly. Finally, the DNR request indicated more attention is needed in emerging environmental compliance issues such as industrial sand mining, land disposal, invasive species, and groundwater protection. DNR is currently authorized 20.5 environmental enforcement staff, including 6.0 environmental wardens, 11.5 environmental enforcement specialists, and 3.0 environmental enforcement supervisors. EPA officials and others have raised concerns about the decline in DNR issuance of environmental violation notices in recent years.

6. DOA officials indicate the Governor recommended two environmental assistance coordinators instead of two environmental enforcement positions because the small business environmental assistance program stresses more of a customer service approach that focuses on business assistance rather than regulation. They further indicated that environmental assistance would help businesses in becoming fully aware of what permits are required, and help them avoid future enforcement issues.

7. DOA officials indicate the environmental fund is the recommended funding source because the positions would work on a variety of issues in water, waste, and remediation programs. They further indicate air emissions tonnage fees would not be appropriate because the positions would be working on issues in addition to air program requirements.

8. Under the bill, both environmental fund accounts are anticipated to have sufficient revenue to fund the positions and all other expenditures recommended under the bill during the 2013-15 biennium. However, both accounts have a structural imbalance. This means authorized expenditures in 2014-15 would exceed anticipated revenues in the same year. If all expenditures provided under the bill are approved, consideration of the 2015-17 biennial budget may need to include modifications to revenues, expenditures, or both, from both accounts to address this structural imbalance.

9. It could be argued that use of both the environmental management and nonpoint accounts of the environmental fund to fund the positions is appropriate because the positions would work with programs funded from both accounts. Further, there is expected to be sufficient funds in both accounts during the 2013-15 biennium to fund the positions. Future funding for the positions could be reviewed during 2015-17 biennial budget deliberations. It could also be argued that it is appropriate to expand departmental efforts to assist businesses with environmental compliance, in the hopes of preventing future environmental violations. Finally, it could be argued that any increase of staff should focus more on assisting businesses with environmental compliance than on increasing environmental enforcement efforts. Under these arguments, the Committee could choose to approve the Governor's recommendation (Alternative 1).

10. The Committee could choose to approve a more modest expansion of efforts to assist businesses with environmental compliance by providing one position instead of two (Alternative 2). Results and future need for this activity could be evaluated in 2015-17 biennial budget deliberations.

11. It could be argued that if additional positions are provided to DNR, the staff should focus on increasing enforcement to deter or correct violations of environmental regulations rather than on increasing assistance to businesses primarily to help them obtain the permits necessary to

achieve initial compliance. Under this argument, the Committee could choose to provide the two environmental enforcement positions requested by DNR instead of the two environmental assistance positions recommended by the Governor (Alternative 3).

12. It could also be argued additional environmental fund positions should not be authorized when it is uncertain whether revenues will be sufficient to fund the positions beyond the 2013-15 biennium. If no additional positions are provided, DNR could continue to utilize currently-available staff for both environmental assistance and enforcement (Alternative 4).

ALTERNATIVES

1. Approve the Governor's recommendation to provide \$100,800 in 2013-14 and \$134,800 in 2014-15 from environmental fund SEG (jointly funded from the environmental management and nonpoint account) and 2.0 SEG positions annually for small business environmental assistance.

2. Provide \$50,400 in 2013-14 and \$67,400 in 2014-15 from environmental fund SEG and 1.0 SEG position for small business environmental assistance.

ALT 2	Change to Bill	
	Funding	Positions
SEG	- \$117,900	- 1.00

3. Delete the Governor's recommendation. Instead provide \$127,300 in 2013-14 and \$163,800 in 2014-15 from environmental management account SEG and 2.0 SEG positions for environmental enforcement.

ALT 3	Change to Bill
	Funding
SEG	\$55,900

4. Maintain current law.

ALT 4	Change to Bill	
	Funding	Positions
SEG	- \$235,200	- 2.00

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