

State of Wisconsin

SENATE CHAIR
Howard Marklein

316 East, State Capitol
P.O. Box 7882
Madison, WI 53707-7882
Phone: (608) 266-0703



ASSEMBLY CHAIR
Mark Born

308 East, State Capitol
P.O. Box 8952
Madison, WI 53708-8953
Phone: (608) 266-2540

Joint Committee on Finance

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Howard Marklein
Representative Mark Born

Date: May 1, 2023

Re: s. 16.515/16.505(2), Stats. Request

Attached is a copy of a request from the Department of Administration, received May 1, 2023, pursuant to s. 16.515/16.505(2), Stats.

Please review the material and notify **Senator Marklein** or **Representative Born** no later than **Thursday, May 18, 2023**, if you have any concerns about the request or if you would like the Committee to meet formally to consider it.

Also, please contact us if you need further information.

Attachments

HM:MB:jm



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Kathy Blumenfeld, Secretary

Date: May 1, 2023
To: The Honorable Howard Marklein, Co-Chair
Joint Committee on Finance
The Honorable Mark Born, Co-Chair
Joint Committee on Finance
From: Kathy K. Blumenfeld, Secretary ^{DS}
Department of Administration *KB*
Subject: s. 16.515/16.505(2) Request(s)

MAY 01 2023
J. Fingale

Enclosed are request(s) that have been approved by this department under the authority granted in s. 16.515 and s. 16.505(2). The explanation for each request is included in the attached materials. Listed below is a summary of each item:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2021-22</u>		<u>2022-23</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
DOA 20.505(2)(ki)	Risk management administration			\$1,044,800*	

* One-time expenditure authority

As provided in s. 16.515, the request(s) will be approved on May 22, 2023, unless we are notified prior to that time that the Joint Committee on Finance wishes to meet in formal session about any of the requests.

Please contact Kirsten Grinde at (608) 266-1353, or the analyst who reviewed the request in the Division of Executive Budget and Finance, if you have any additional questions.

Attachments

CORRESPONDENCE/MemorandumState of Wisconsin
Department of Administration

Date: May 1, 2023
To: Brian Pahnke
From: Derek Sherwin
Subject: Section 16.515 Request

Attached is a s. 16.515 request analysis for your approval and processing. Listed below is a summary of each item:

DOA RECOMMENDATION:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2021-22</u>		<u>2022-23</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
DOA 20.505(2)(ki)	Risk management administration			\$1,044,800*	

* One-time expenditure authority

AGENCY REQUEST:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2021-22</u>		<u>2022-23</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
DOA 20.505(2)(ki)	Risk management administration			\$1,044,800*	

* One-time expenditure authority

BP APPROVAL 



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Kathy Blumenfeld, Secretary
Brian Pahnke, Administrator

Date: May 1, 2023

To: Kathy Blumenfeld, Secretary
Department of Administration

From: Derek Sherwin
Executive Policy and Budget Analyst

Subject: Request under s. 16.515 from the Department of Administration for increased expenditure authority to cover excess insurance premiums paid by the department.

Request:

The Department of Administration requests additional expenditure authority of \$1,044,800 PR-S in fiscal year 2022-23 in the risk management administration appropriation under s. 20.505(2)(ki).

Revenue Source for Appropriation:

The program revenue appropriation for risk management administration under s. 20.505(2)(ki) is funded from revenue transferred annually from the risk management costs appropriation under s. 20.505(2)(k), which is funded from charges to state agencies for: (a) paying claims for losses of, and damage to, state property; (b) settlements of state liability; (c) state employer costs for worker's compensation claims of state employees; and (d) related administrative costs.

Background:

The Department of Administration manages a self-funded risk management program to insure state agencies against liability, property and worker's compensation losses. Coverage is provided to all state agencies, including the University of Wisconsin System, and is funded by an annual premium based on prior losses and current exposure. The state also purchases excess coverage from private insurance carriers to provide coverage for losses in excess of self-funded coverage for the property and liability programs.

The excess insurance premiums paid by the department in fiscal year 2022-23 will total \$13,756,800. The department has \$11,269,500 budgeted in fiscal year 2022-23 for both property and liability excess insurance premiums. Large state government losses that have occurred since fiscal year 2016-17 and overall market pressures have resulted in significant year-over-year excess insurance premium costs.

Due to the volatility of excess insurance premiums and the unpredictability of insurable events, there have been numerous adjustments to the appropriation under s. 20.505(2)(ki) in

Kathy Blumenfeld, Secretary

Page 2

May 1, 2023

recent years. During fiscal year 2015-16, the Joint Committee on Finance approved a request under s. 16.515 that increased the expenditure authority in the appropriation by \$561,100 PR-S in fiscal year 2015-16 and \$1,894,900 PR-S in fiscal year 2016-17. In December 2018, the committee approved another request under s. 16.515 that increased the expenditure authority by \$1,412,500 PR-S in fiscal year 2018-19. Additionally, in April 2020, the committee approved another request under s. 16.515 that increased the expenditure authority by \$2,269,00 PR-S in fiscal year 2019-20. In March 2021, the committee approved a request under s. 16.515 to increase the expenditure authority by \$5,637,600 PR-S in fiscal year 2020-21 and annually thereafter.

The cost for excess insurance premiums will constitute 77.7 percent of fiscal year 2022-23 costs in the appropriation under s. 20.505(2)(ki). The department has already transferred \$1,442,500 of unallotted reserve expenditure authority to the supplies and services line, which will partially offset the higher premium payments. This appropriation also funds other costs necessary for the administration of the risk management program, including the salaries and fringe benefits for 16.45 FTE positions. The appropriation authority in fiscal year 2022-23 under s. 20.505(2)(ki) is \$16,582,700. In total, the department expects to expend \$17,704,200 from the appropriation, including premium costs, salaries, fringe benefits costs, and supplies and services. The total anticipated shortfall is \$1,121,500, of which \$1,044,800 would be provided through the request, plus an additional amount through the year-end pay plan supplement process.

Analysis:

Premiums for excess property insurance have increased consistently since fiscal year 2010-11. The most considerable annual excess insurance premium costs have occurred during the past several fiscal years. Between fiscal years 2010-11 and 2022-23, state government excess property insurance premiums have increased by 245 percent. The state's total reported insurable values increased by 45 percent during this time frame from \$22.2 billion in fiscal year 2010-11 to \$32.3 billion in fiscal year 2022-23. In addition, state government experienced significant property losses during fiscal year 2018-19, including damage resulting from flooding in south central Wisconsin and the January 2019 polar vortex. Nationwide, property insurance market conditions have been impacted by recent catastrophic hurricane and flood losses, which have further contributed to increased excess property insurance premiums.

Premiums for excess liability insurance have also increased substantially over the past several fiscal years. Between fiscal years 2016-17 and 2022-23, excess liability insurance premium costs paid by the department increased 614 percent. Claims reported by state government and general market conditions have driven up liability insurance premiums during recent years. For example, during fiscal year 2017-18, an \$18.9 million claim involving the Department of Corrections was settled and paid. The department also cites the increasingly limited public entity insurance market as a contributing factor to the significant premium increases over the past several years. Additional nationwide trends attributed to automobile liability, sexual misconduct claims and police brutality allegations have also fueled overall increases in excess liability insurance premiums.

The risk management program has taken steps to mitigate the impact of excess property and liability insurance premium increases. In fiscal year 2018-19, the department increased the

Kathy Blumenfeld, Secretary
Page 3
May 1, 2023

self-funded aggregate retention amount for the property program (the amount that must be used prior to use of excess insurance) from \$2.7 million to \$5 million and increased the maintenance deductible from \$25,000 to \$100,000. In addition, beginning in fiscal year 2019-20, the department increased the self-funded property deductible from \$3 million to \$4 million per occurrence. During fiscal year 2019-20, the department also increased the self-funded aggregate property deductible from \$5 million to \$6 million. In fiscal year 2020-21, the department again increased the self-funded aggregate annual deductible from \$6 million to \$6.5 million.

Further, the department increased the self-funded retention amount for the liability program from \$4 million per occurrence to \$5 million per occurrence during fiscal year 2019-20. Prior to the fiscal year 2020-21, liability occurrences exceeding the self-funded retention amount were paid through traditional reinsurance coverage. During that fiscal year, the department maintained the \$5 million per occurrence deductible and agreed to share 16.6 percent of each loss occurring in the primary layer excess reinsurance coverage of between \$6 million and \$15 million. In fiscal year 2022-23, the state's share in this layer increased to 33.3 percent of each loss. Moreover, beginning during the current fiscal year, the state shares 10 percent of each loss in the insurance layer exceeding \$15 million per loss. While these measures have helped to manage premium costs, the existing expenditure authority is insufficient to cover the rate of premium increases.

If the request to provide sufficient expenditure authority is denied, the department's excess insurance coverage would be cancelled for May and June 2023. If the excess insurance coverage is canceled, the state's self-funded insurance program would need to cover any potential liability and property claims that occur during the final two months of fiscal year 2022-23. This would expose the state to increased risk of significant loss in the case of accidents, fire and weather that cause damage to state-owned property, as well as any liability losses that occur during this period. This would also result in significantly increased self-funded insurance premiums assessed to state agencies and the University of Wisconsin System. Further, the department indicates that forced insurance cancellation would create reputational damage for the state within the insurance industry and could jeopardize the state's ability to reenter the insurance market.

Recommendation:

Approve the request.




STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Kathy Blumenfeld, Secretary

Date: April 13th, 2023

To: Brian Pahnke, Administrator
Division of Executive Budget and Finance

From: Kathy Blumenfeld, Secretary-designee ^{DS}
Department of Administration 

Subject: Request for Expenditure Authority Increase Under s. 16.515

REQUEST

The Department of Administration (Department) requests an increase of \$1,044,800 program revenue – services (PR-S) expenditure authority in fiscal year (FY) 2022-23 in the Department's risk management administration appropriation under s. 20.505 (2) (ki), Wis. Stats., *Risk management administration*, appropriation numeric 22700. The request is necessary to provide for the continuation of excess property and liability insurance coverage for state agencies and the University of Wisconsin (UW) System through the remainder of the current fiscal year.

FY 2022-23 expenditure authority under s. 20.505 (2) (ki), Wis. Stats., is not sufficient to provide for the cost of excess insurance premiums which have continued to substantially increase over the past eleven years without a commensurate increase to the annual expenditure authority of this sum certain appropriation.

BACKGROUND

The Department operates a self-funded risk management program to insure against liability, property, and worker's compensation losses. Coverage is provided to State agencies and the UW, funded by an annual premium generally based on prior losses and current exposure. Costs for the administration of the risk management program are paid from the appropriation under s. 20.505 (2) (ki), Wis. Stats., *Risk management administration*.

Risk management appropriation costs include \$13,756,807 for excess insurance premiums, which comprises 77.7% of FY 2022-23 estimated costs. The remaining amount estimated for expenditures authorized from the appropriation include costs such as: salary and fringe benefits for 16.45 authorized FTE positions; the review/auditing of worker's compensation medical and other bills; the Department of Workforce Development (DWD) worker's compensation assessment of insurance carriers and self-funded employers; preventative safety projects conducted by state agencies; staff travel and training; IT/telecommunications; and space rent. The following table summarizes the FY 2022-23 expenditure authority and estimated expenditures for s. 20.505 (2) (ki), Wis. Stats.:

Table 1. Expenditure Authority and Estimated Expenditures under s. 20.505 (2) (ki)

Allotment Line	FY 2022-23 Expenditure Authority	FY 2022-23 Estimated Expenditures
0/Unallotted Reserve ¹	\$ 1,442,500	\$ 0
1/Salaries (including LTE)	\$ 1,096,300	\$ 1,157,300
3/Fringe	\$ 421,300	\$ 437,000

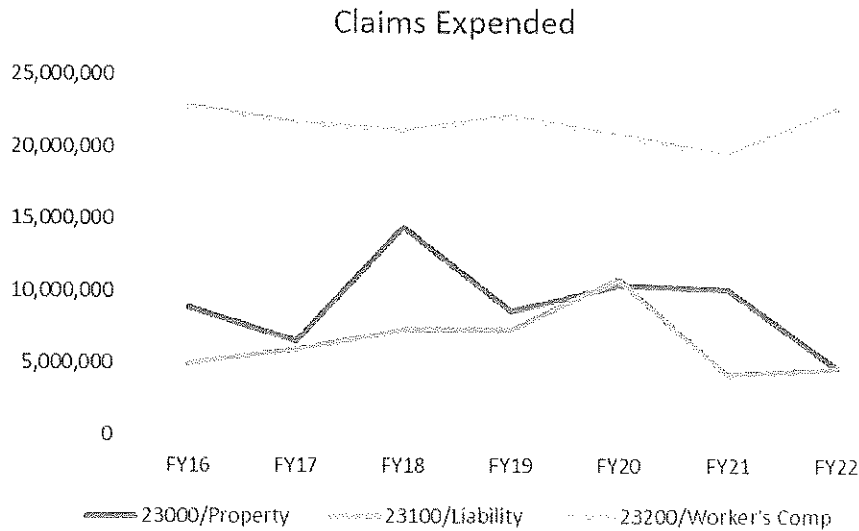
4/Supplies (excluding Excess Insurance Premiums)	\$ 2,353,100	\$ 2,353,100
4/Supplies (Excess Insurance Premiums) ²	\$ 11,269,500	\$ 13,756,807
Totals	\$ 16,582,700	\$ 17,704,200

¹ Original line 0/Unallocated statutory expenditure authority of \$1,442,500 will be moved to line 4/Supplies.

² Expenditures provided for Excess Insurance Premiums are the actual FY 2022-23 costs.

Costs for property, liability and worker’s compensation claims are paid from the appropriation under s. 20.505 (2) (k), Wis. Stats., *Risk management costs*, corresponding with the appropriation numerics 23000, 23100 and 23200. Claims expenditures from FY 2015-16 through FY 2021-22 are indicated in the graph below. The expenditure authority of these continuing appropriations can be increased by the Department to provide for these costs and, therefore, is not the subject of this request.

Figure 1. State Historical Claims Expenditures; FY 2015-16 through FY 2021-22



Excess insurance coverage from private insurance carriers provides coverage for losses in excess of self-funded limits for the property and liability programs. The following table shows the excess insurance premiums, by program and in total, paid by the Department since FY 2010-11. As the table shows, the total cost for excess insurance premiums has increased substantially, by 350.9% from FY 2010-11 to FY 2022-23.

Table 2. State Property and Liability Excess Insurance Premium Payments History

FY	Property Excess Insurance Exp	Liability Excess Insurance Exp	Total
FY 2010-11	\$ 2,450,322	\$ 600,700	\$ 3,051,022
FY 2011-12	\$ 2,649,645	\$ 582,520	\$ 3,232,165
FY 2012-13	\$ 2,708,607	\$ 651,231	\$ 3,359,838
FY 2013-14	\$ 4,686,945	\$ 682,766	\$ 5,369,711
FY 2014-15	\$ 4,728,726	\$ 682,766	\$ 5,411,492
FY 2015-16	\$ 5,866,197	\$ 691,159	\$ 6,557,356
FY 2016-17	\$ 5,365,008	\$ 742,871	\$ 6,107,879
FY 2017-18	\$ 5,294,292	\$ 1,474,652	\$ 6,768,944

FY 2018-19	\$ 5,899,766	\$ 2,805,187	\$ 8,704,953
FY 2019-20	\$ 6,546,799	\$ 3,014,692	\$ 9,561,491
FY 2020-21	\$ 7,957,537	\$ 4,566,201	\$ 12,523,738
FY 2021-22	\$ 7,901,635	\$ 5,000,069	\$ 12,901,704
FY 2022-23	\$ 8,450,098	\$ 5,306,709	\$ 13,756,807

Excess property insurance premium costs are subject to increases in the amount of state property covered (replacement cost). Excess property insurance premium is rate-based. The rate is applied to total values, which increase annually due to factors such as new construction, industry indexing factors, or changes in state agency reported values. During the period referenced above, FY 2010-11 to FY 2022-23, the State's total reported insurable values increased by approximately 45%, from \$22.2 billion to \$32.3 billion. Historically, the State has experienced losses and made recoveries from excess carriers which, coupled with general insurance market conditions, has impacted pricing. In FY 2021-22, the State experienced losses that will likely reach the total program aggregate, triggering the need for use of excess insurance, including a significant fire loss that occurred late during FY 2021-22 which is currently projected to be reimbursed \$1.5 million from the insurers. Further, the excess insurance general markets, both domestic and international, continue to be impacted by significant losses, including catastrophic hurricane and flood losses.

As with excess property, excess liability insurance premium costs are subject to significant losses and recoveries made from excess carriers and general insurance market conditions. As seen in the table above, the State experienced a 259.9% increase in excess liability insurance premiums from FY 2017-18 (\$1,474,652) to FY 2022-23 (\$5,306,709). A large claim involving the Department of Corrections was settled and paid during FY 2017-18, resulting in an approximate \$18.9 million loss. The combination of this significant loss with the increasingly limited public entity insurance markets resulted in an impact to the renewal pricing from FY 2018-19 through FY 2022-23. Furthermore, the State's premiums continue to be impacted by the nationwide trends of police brutality allegations, incarceration liabilities, automobile liability losses, civil unrest, and sexual misconduct claims.

The Department has continued to manage the cost of excess insurance premiums through extensive coverage negotiations and program management efforts. As contained in the table below, the Department has made several measured increases since FY2017-18 to the property program's self-funded aggregate retention amount (i.e., the annual aggregate amount which property losses must exceed for the use of excess insurance) and to its per occurrence deductible. Similarly, in FY 2019-20 the Department increased the liability program's self-funded retention from \$4 million per occurrence to \$5 million per occurrence.

Furthermore, extreme public entity market conditions during the FY 2020-21 renewal period necessitated the State's creation of a Memorandum of Coverage in order to access the liability reinsurance market for the primary layer of program coverage. This approach maintained the \$5 million per occurrence deductible, with the State agreeing to share in 16.6% of each loss occurring in the \$6 million primary layer excess reinsurance coverage. For FY 2022-23, the State increased its share in the primary layer to 33.3% of each loss. These changes have been valuable in both identifying insurance capacity to fill the program limits and mitigating the excess insurance premium increases.

Table 3. Excess Risk Management Property Program Self-Funded Deductible History

FY	Self-Funded Per-Occurrence Deductible	Self-Funded Annual Aggregate Deductible
FY 2010-11	\$ 3,000,000	\$ 3,200,000
FY 2011-12	\$ 3,000,000	\$ 4,000,000
FY 2012-13	\$ 3,000,000	\$ 4,000,000

FY 2013-14	\$ 3,000,000	\$ 5,000,000
FY 2014-15	\$ 3,000,000	\$ 5,000,000
FY 2015-16	\$ 3,000,000	\$ 5,000,000
FY 2016-17	\$ 3,000,000	\$ 5,000,000
FY 2017-18	\$ 3,000,000	\$ 5,000,000
FY 2018-19	\$ 3,000,000	\$ 5,000,000
FY 2019-20	\$ 4,000,000	\$ 6,000,000
FY 2020-21	\$ 4,000,000	\$ 6,500,000
FY 2021-22	\$ 4,000,000	\$ 6,500,000
FY 2022-23	\$ 4,000,000	\$ 6,500,000

Note: Although the amount of the excess property and liability insurance premiums may decrease if there is a period with no state losses in excess of the self-funded retentions and market conditions improve, the occurrence of losses and future premiums continue to be unpredictable.

In an effort to combat the overall excess insurance premium pricing, the State as of FY 2022-23 also shares 10% of a loss in the primary \$15 million excess insurance layer, which means the State now pays 10% quota share on claim amounts that exceed either the \$4 million self-funded per occurrence retention or the \$6.5 million annual aggregate.

In FY 2022-23, a total of \$12,712,000 PR-S in expenditure authority (\$11,269,500 in supplies and services and \$1,442,500 transferred from unallotted reserve) is available in the appropriation under s. 20.505 (2) (ki), Wis. Stats., for excess insurance premium costs. The requested increase of \$1,044,800 PR-S to the supplies and services line for FY 2022-23 would provide for the excess insurance costs.

JUSTIFICATION

The Department requests an increase of \$1,044,800 PR-S expenditure authority in FY 2022-23 in its risk management administration appropriation under s. 20.505(2) (ki), Wis. Stats., to provide for excess property and liability insurance premiums for FY 2022-23. The insufficiency in expenditure authority is the result of significant property losses since FY 2011-12, liability claims that have occurred since FY 2016-17, and general insurance market conditions.

Sufficient expenditure authority under s. 20.505 (2) (ki), Wis. Stats., in FY 2022-23 does not exist to provide for the shortfall associated with premium increases and, due to the portion of the appropriation's costs the premiums represent, reductions cannot be made in amounts sufficient to provide for the increase.

The Department paid excess insurance premiums for FY 2022-23 in a total amount of \$13,756,807, of which \$1,146,401 was immediately expensed and \$12,610,406 recognized as prepaid insurance based on cancellation provisions of the underlying policies. Monthly, \$1,146,401 of the prepaid premium is expensed as the premium is earned by the insurer. As of December 31, 2022, there remained \$6,878,404 of prepaid premiums. If the request for additional expenditure authority to provide for the full annual cost of the excess insurance is not approved, the Department estimates that the expenditure authority under s. 20.505 (2) (ki), Wis. Stat., would be exhausted and insufficient to provide coverage beginning in May FY 2022-23, resulting in the potential cancellation of the Department's excess coverage for those periods. All other required administrative supplies and services that occur once the appropriation expenditure authority is exhausted would also cause expenditures under s. 20.505(2)(ki), Wis. Stats., to exceed the expenditure authority.

Should the Department need to cancel its excess insurance coverage, any losses that would have been covered by excess insurance would be instead covered by the self-funded insurance program operated by the Department. Because the losses covered by excess insurance are significant and are in excess of the self-funded retentions for the programs, commensurate increases for self-funded premiums assessed to state agencies and the UW would be

Page 5

required to provide for the same. For property-related claims, the increased amounts would be more immediately known because coverage is on a claims-made basis (i.e., the period in which the loss occurs). However, for liability losses, the impact of the terminated coverage may not be known for months or years subsequent to the event because liability coverage is on an occurrence-basis (i.e., claims may be made for a loss event that occurs at any time subsequent to the occurring period) resulting in a perpetual period of increased exposure for the self-funded programs. Additionally, negative industry reputational risk is a certain outcome of forced insurance cancellation as the State would be perceived as unable to fulfill the insurance obligations, making future re-engagement of markets exceptionally difficult.

In summary, excess insurance coverage would be required to be canceled for the periods of approximately May and June FY 2022-23, in order to plan to cover the remainder of the year's administrative expenditures without forestalling or exceeding expenditure authority. This request is for a one-time increase in expenditure authority for the current fiscal year, as the 2023-25 Governor's Biennial Budget Recommendations include an initiative that would provide for excess insurance premium cost increases in the next biennium. If this 2023-25 biennial budget initiative is not approved, the Department will need to submit a s. 16.515 request for the upcoming biennium to provide for the same.

SUMMARY

The Department of Administration requests an increase of \$1,044,800 program revenue - services in FY 2022-23 in the Department's risk administration appropriation under s. 20.505 (2) (ki), Wis. Stats., to provide for increased excess liability and property insurance premiums that have resulted from significant property losses, liability claims, and general insurance market conditions. The increase is critical to continued insurance coverage of the State, and for the operations of the risk management program providing insurance for state agency liability, property, and worker's compensation losses.

Thank you for your consideration of the Department's request. Should you have any questions or require additional information, please contact Travis Martin of the Department's Bureau of Financial Management, at Travis.Martin@wisconsin.gov.

cc: Jana Steinmetz, Division of Enterprise Operations, Division Administrator
Colleen Holtan, Bureau of Financial Management, Director
Jason Gates, Bureau of Risk Management, Director
Robin Malicki, Bureau of Financial Management, Budget Section Chief