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

April 24, 2003 Joint Committee on Finance Paper #316

Base Budget Reductions and Elimination of Agency (Employment Relations)

[LFB 2003-05 Budget Summary: Page 30, #4, Page 159, #4, and Page 160, #6 (part)]

CURRENT LAW

The Department of Employment Relations is a cabinet agency with unclassified Secretary, Deputy Secretary and Executive Assistant positions, three unclassified and one classified division administrator positions and 71 other classified positions. It has a 2002-03 adjusted base budget of $7,170,500 ($5,606,300 GPR and $1,564,200 PR) and is organized into four divisions (Merit Recruitment and Selection, Compensation and Labor Relations, Affirmative Action, and Administrative Services) and an Office of the Secretary. The Department is responsible for administering Chapter 230 of the statutes (state employment relations), representing the executive branch in its role as an employer under Chapter 230 and representing the state as the employer in collective bargaining activities under subchapter V of Chapter 111 of the statutes (state employment labor relations). Other duties include administering the state's classified service system through the Division of Merit Recruitment and Selection, evaluating state job categories, determining employee performance and training needs, setting standards for and ensuring compliance with agency affirmative action plans, and recommending to the Joint Committee on Employment Relations proposed compensation plans for non-represented employees and UW faculty and academic staff and tentative collective bargaining agreements for represented employees.

GOVERNOR

Two major budget recommendations of the Governor relating to this agency are the subject of this issue paper. The first recommendation is to delete from the agency's base budget a total of 19.10 positions and annual funding of $1,138,200 GPR and $25,500 PR. This would include deleting 3.0 executive salary group (ESG) positions [Department Secretary, Deputy Secretary and Executive Assistant] and 16.10 unspecified classified positions [15.60 GPR and

0.50 PR positions]. This reduction is premised on the second recommendation that would then transfer, 30 days after the effective date of the budget bill, all the remaining funding and positions and all the statutory duties and responsibilities of the existing Department of Employment Relations to the Department of Administration. [*Note:* a separate budget recommendation of the Governor deletes position authority for 1.0 attorney position, but transfers the salary and fringe benefit funding for the position to supplies and services as a part of the Governor's initiative to consolidate agency attorney positions in DOA.] The transferred GPR funding would be added to DOA's central general program operations appropriation. Five existing separate PR appropriations under DER that have budgeted appropriation authority would be re-numbered and reestablished under DOA for the same purposes and at the same funding level as recommended by the Governor under DER.

Other existing GPR, PR and FED appropriations with current zero funding would be repealed, as would the GPR appropriation for the general operations of the Department of Employment Relations. The general statutory authorization for a Department of Employment Relations would also be repealed.

Included in the funding and positions transferred to DOA would be 2.0 FTE unclassified division administrator positions for the current DER Divisions of: (1) Compensation and Labor Relations; and (2) Merit Recruitment and Selection. The Executive budget book indicates that the Governor's intent is to establish two such similar divisions in DOA. In the bill, there is a provision establishing a Division of Merit Recruitment and Selection; however, there is no provision in the bill that would require the establishment of the other division.

Currently, most of the responsibilities in Chapter 230 of the Statutes (state employment relations) rest ultimately with the Secretary of DER, except for those provisions relating to merit recruitment and selection which are explicitly placed with the Administrator of Merit Recruitment and Selection. That position is filled by gubernatorial appointment, subject to Senate confirmation, to a five- year term. Under the bill, all of those statutory state employment relations functions (in Chapter 230 and elsewhere) that are currently assigned to the Department of Employment Relations would be transferred to the Department of Administration. All those duties and responsibilities that are currently assigned to the Secretary of Employment Relations would be reassigned to be duties and responsibilities of the Secretary of Administration. However, because both the Secretary of Administration and the Secretary of Employment Relations currently serve as members of the ten-member Group Insurance Board, as a result of the elimination of the position of Secretary of Employment Relations, the size of Group Insurance Board would be reduced to nine members.

Under the bill, those responsibilities and duties currently specifically assigned to the Administrator of the Division of Merit Recruitment and Selection or to that statutory Division would continue to be assigned to that Administrator or Division except for two [*Note:* This issue is discussed in a separate issue paper on "Appointment of DMRS Administrator"].

The statutory authorization for four unclassified division administrators in DER would be repealed, but authorization for two additional unclassified division administrators in DOA (presumably for the heads of the Divisions of Merit Recruitment and Selection and Compensation and Labor Relations) would be provided. Of the two remaining eliminated unclassified DER division administrator positions, there is currently no funding or position authorization for one of the positions. The other position is the position currently allocated to be the Administrator of the Division of Affirmative Action. Under the bill, authorization would be provided for an unclassified position to be established in the Office of the Secretary of DOA with the responsibility to advise and assist the Secretary on matters related to affirmative action, equal employment opportunity, diversity, and other state employment relation matters. State Budget Office staff indicate that the intent is that the current position authority for the Administrator of the Division of Affirmative Action would instead be used to fill the proposed new position in DOA. This would not be an executive salary group (ESG) position, but rather the salary level for the position would be set by the Secretary. The four existing employees in the current Division of Affirmative Action would be transferred to DOA and, according to the administration, would be included in the new Division of Merit Recruitment and Selection in DOA.

Provisions would be included to provide that: (a) all assets and liabilities and all tangible personal property of the Department of Employment Relations would be transferred to the Department of Administration; (b) all existing contracts entered into by DER would be continued and transferred to DOA until their expiration; (c) all existing administrative rules and orders issued by DER would remain in effect until they expire or are modified by DOA; (d) all matters pending before DER would be transferred to DOA; and (e) all incumbent employees holding classified positions in DER who would be transferred to DOA would retain all the rights and the same status as they enjoyed immediately prior to their transfer to DOA and could not be required to serve a probationary period if they have achieved permanent status in their classification.

All of these provisions would become effective on the 30th day following publication of the biennial budget act. Session law language would permit the Department of Employment Relations to expend funds from its existing appropriations for 30 days following the effective date of the bill on a proportionate basis.

DISCUSSION POINTS

1. The Department of Employment Relations was created by Chapter 196, Laws of 1977 (which became effective February 16, 1978). Immediately prior to the creation of the new Department, the state employment relations functions were housed in DOA. At that time, the Department of Administration was organized into four divisions, including an Employment Relations Division. That Division, headed by a division administrator, was organized into three bureaus: Bureau of Collective Bargaining, Bureau of Personnel and Bureau of Human Resources.

2. The evolvement of state employment relations functions in the state has a long history. Wisconsin's first civil service law was established by Chapter 363, Laws of 1905. The law provided for the application of the merit principle in the appointment of state employees. It created a part-time Civil Service Commission with a full-time secretary (director) for the Commission. In 1929, that Commission was re-organized within the then Executive Department (consisting of the Governor's and Lieutenant Governor's Offices plus research staff) to provide for a Bureau of Personnel, headed by a Director in the classified service. That Bureau was established as a service entity within the Executive Department to administer a variety of functions for the state's personnel program, including: recruitment and selection for classified service positions; classification of positions; administration of the state's pay plan, including submission each biennium of state salary ranges to the Joint Committee on Finance for its approval; and research on current personnel practices in other jurisdictions. Administrative rules for the Bureau were to be approved by a State Personnel Board which replaced the former Commission.

3. Subsequently, Chapter 228, Laws of 1959, created the Department of Administration and consolidated a number of previously separate bureaus (including the Bureau of Personnel) that were in the former Executive Department into the new Department of Administration. Both the Bureau of Personnel and the State Personnel Board were transferred into DOA, but their duties and responsibilities remained unchanged. By 1973, that State Bureau of Personnel was located within a Division of Operations in DOA. In 1975, there was a subsequent reorganization within DOA and a total of four divisions were created within the Department: Administrative Services, Executive Services, General Services Administration, and Employee Relations.

4. According to the administration, the primary rationale for the proposed repeal of the separate Department of Employment Relations and the transfer of the core employment relations functions of the agency to DOA was to achieve administrative efficiencies and savings. This is proposed to be achieved by eliminating the central support functions and staff currently budgeted in DER and instead having those support functions assumed by existing staff in DOA, but having the existing employment relations program functions and staff transfer to DOA to be new divisions within that Department.

5. The legislation which created the Department of Employment Relations (Chapter 196, Laws of 1977) was the culmination of a study undertaken by Governor's Employment Relations Study Commission (which was also called the Stevens-Offner Commission). This Commission was created by executive order of Governor Patrick Lucey in August of 1976. The Co-chairs of the Commission were Mr. John Stevens of Milwaukee and then State Senator Paul Offner. Under the executive order, the Commission was given a broad charge to provide a report recommending whatever changes the Commission concluded was necessary to improve Wisconsin's employment relations program. The Commission commenced its work in April of 1976 and its final report was released on June 30, 1977. The report contained a number of recommendations regarding the civil service system employee recruitment and selection, employee compensation and career employment functions and recommended a number of statutory changes to civil service statutes.

6. With particular regard to organizational issues, the Commission's report recommended that a distinct cabinet department, headed by a Secretary appointed by the Governor with Senate confirmation, be created and assigned the central responsibility for directing, managing and administering the personnel system of state government. Such functions would include personnel activities related to collective bargaining, employee development, affirmative action, and merit employment. Several divisions dealing with different categories of personnel functions were envisioned. In addition to the top departmental management (Secretary, Deputy Secretary and Executive Assistant), it was envisioned that all the division administrators would be unclassified positions and serve at the pleasure of the Department Secretary with the exception of a proposed Administrator of the Division of Merit Employment. That position was to be filled by a person selected from a civil service register and appointed by the Governor, subject to Senate confirmation, to a five-year term.

7. The final report of the Commission noted that this recommended organizational change would, essentially, be achieved by removing the then current Division of Employee Relations from the Department of Administration and transforming it into a Department. The report further indicated that the rationale for the creation of a separate Department was that this change would elevate personnel management and the merit system to an appropriate status and to a status consistent with the pattern in other states. The report went on to state that under the then current organizational structure, the individual with the statutory authority for the personnel system [the then Director of the Bureau of Personnel] was at the level of a bureau head in a department, three steps removed from the Governor and the Legislature.

8. After extensive legislative consideration and debate, legislation to create the new Department of Employment Relations and make numerous other statutory changes, including a new statutory chapter (Chapter 230) titled state employment relations, was adopted. Many of the provisions in the new Chapter 230 consisted of then existing statutory civil service provisions which were simply transferred to this new chapter. Much of this legislation reflected the recommendations of the Commission.

9. Under the current Chapter 230 provisions, responsibility for almost all of the statutory provisions and related administrative rules and procedures are ultimately lodged with the Secretary of Employment Relations, except for all of those personnel provisions which relate to merit recruitment and selection of state employees. Those provisions are placed exclusively with Administrator of Merit Recruitment and Selection in DER.

10. It is understood that, while not fully accomplished under the current language of the Governor's budget bill, the administration's intent is that statutory functions and duties of DER relating to employment relations would remain unchanged except that those responsibilities currently placed with the Secretary of DER would be added to the current responsibilities of the Secretary of DOA and that the separate responsibilities currently assigned the fixed term appointee to the position of Administrator of Merit Recruitment and Selection would remain with that position in a new, statutorily-required Division in DOA (see also the separate issue paper on "Appointment of DMRS Administrator").

11. In reviewing this issue, the Committee could consider the proposed changes in two parts. The first part or question would be whether the Committee believes that it is essential to have state employment relations functions separately established at a cabinet level. If the Committee chooses to consolidate the employment relations functions into DOA as recommended by the Governor, it could then proceed to examine the staff reductions proposed by the Governor and an alternative to that reduction. These two segments of the issue are presented sequentially below.

A. Eliminate Separate Department of Employment Relations

12. Starting from the premise of the original Commission report that recommended the creation of a separate cabinet agency whose sole focus is state employment relations, the argument could be made that placing these functions within DOA will result in these functions being "lost" within what is already a large agency (currently eight divisions plus a number of entities attached to the Department for administrative purposes). The further argument could be made that under the Governor's budget recommendations DOA will have – in addition to the added DER functions – even more functions attached to it, such as the return of the central IT functions currently housed in the Department of Electronic Government, a portion of the functions currently assigned to the Higher Educational Aids Board, the central cash management functions currently assigned to the State Treasurer's Office and the consolidation of 68.45 state agency attorney positions into a new DOA legal services unit.

13. The related argument could be made that, even though there will be two separate divisions for the employment relations functions [a Division of Merit Recruitment and Selection is required and, it is assumed, that a separate division for other employment relations functions (such as compensation, collective bargaining, classification and employee training) will be established], the DOA Secretary is likely to be have too many responsibilities to devote the same level of attention to employment relations matter as was possible for the a Secretary of a department whose sole functions were related to employment relations.

14. From an organizational basis, about half of the states are reported as having a separate personnel department and about half are reported as having those functions housed within a larger department. About 65% of those states reporting as having their personnel functions placed in a larger agency indicated that the type of agency involved in that case was an administrative services, budget and management or central administration type of agency.

15. From a functional basis, compensation functions were reported as being housed in a centralized personnel agency by about 60% of the reporting agencies and the other 40% indicated that it was a shared responsibility with one or more other entities (presumably such as a budget agency or administration department). Labor and employee relations functions were reported as being housed in a centralized personnel agency by about 39% of the reporting states, in a separate agency by about 17% of the reporting states and as being a shared responsibility by the remaining 44% of the reporting states. However, eleven of the fifty states did not have a response in this category, which could include states that do not have collective bargaining for state employees.

16. Another argument that could be made for retaining the current separate department arrangement would be that DER has had its budget reduced by a total of 19.3 GPR positions over the last four budget cycles due to annual, across-the-board reductions. Consequently, a lesser budget efficiency measure might be taken and still permit DER to continue to function as a separate agency. For instance, it might be proposed that the executive assistant position and two division administrator positions (administrative services and affirmative action divisions) be deleted and that those activities be placed under the supervision of the deputy secretary position. In addition, like a number of other agencies, the Department could be made subject to an annual, across-the-board reduction of 10% of its adjusted base.

17. The major argument for elimination of the separate Department of Employment Relations would be that core employment relations functions could be continued while realizing total dollar savings of $2,327,400 ($2,276,400 GPR and $51,000 PR) and the elimination of 4.0 top management positions and 15.10 other support positions.

18. DOA's status as a large agency with an existing wide scope of support services (such as separate Administrative Services Division and an Office of Computer Services) is presumably the basis upon which the administration proposed the deletion of the current support staff. The IT staff in DOA's Office of Computer Services have been working with DER in the development of centralized IT applications for the state human resources system (now called WISCJOBS) for such activities as job application and position filing (certification and hiring) under the classified service. DOA also has existing payroll, personnel and accounting services that serve each of the current divisions of the agency on a centralized basis.

19. Another argument for folding the current Department of Employment Relations into DOA is that for arguably the most critical functions of the DER, relating to compensation and collective bargaining, the DOA Secretary - by virtue of being the Governor's key advisor on budget and management issues – is ultimately involved in major decisions on those questions in any case. Further, under the Governor's proposal as intended, the semi-autonomous status of the fixed term appointee as head of the state's merit recruitment and selection process would be relocated, but otherwise remain unchanged (except for one change in the appointment process relating to the final selection of nominees to be forwarded to the Governor).

B. Alternative Approaches to Funding Reductions

20. If, under section A issues, the Committee chooses to retain the Department of Employment Relations as a separate agency, then it could choose to restore funding for agency that would be deleted by the Governor's decision item to eliminate base level funding of $1,138,200 GPR and $25,500 PR annually and 19.10 FTE positions prior to the transfer of the agency to DOA.

21. However, the Committee could also choose to retain DER as a separate agency but make the following base budget reductions: (a) delete base level funding for the executive assistant position, the classified administrative services division administrator position and the unclassified affirmative action division administrator position (heads a division of four people) totaling $300,300

GPR annually and delete 3.0 GPR positions; and (b) in addition, require a 10% ATB reduction of the agency's adjusted base GPR budget, totaling $560,600 GPR annually. The total of these two actions would provide a total annual reduction of $860,900 GPR compared to the Governor's annual reduction of $1,138,200 GPR.

22. If, under the section A issues, the Committee chooses to concur with the Governor's proposal to merge the core functions of DER into DOA, it could also adopt the funding reduction level proposed by the Governor.

23. Alternatively, the Committee could consider the following. The Governor's proposed reduction amount was based on the following calculations: (a) deleting the Secretary, Deputy Secretary and Executive Assistant positions and the adjusted base level of salary and fringe benefit costs associated with those three positions; and (b) deleting an additional 16.10 unspecified FTE positions which the agency could select for deletion, but which are expected to come largely from administrative support positions. The salary and fringe benefit cost savings for these latter 16.10 positions were calculated using an average per FTE salary cost for each position and then adding in the standard agency fringe benefit rate. The combination of these two calculations resulted in a total salary and fringe benefit costs reduction of $1,138,200 GPR and $25,500 PR annually. Part of the rationale for this approach was to allow the agency some funding flexibility as it determined which actual support positions would be eliminated prior to the transfer of the agency to DOA.

However, another way to arrive at a savings calculation would be to look at the current actual staffing arrangement, make a determination as to which positions could be identified as support positions, determine the specific budgeted salary and fringe benefit costs for each of those positions and then use that funding level and position count to make the indicated budget reduction as a result of the merger proposal.

24. Based on DER's biennial budget request, the following base budget staff allocations were identified:

Existing DER Top Management and Support Staff

Organizational Unit/Position Classification	FTE	Fund Source
Office of Secretary		
Secretary	1.00	GPR
Deputy Secretary	1.00	GPR
Executive Assistant	1.00	GPR
Executive Staff Secretary	1.00	GPR
Paralegal	1.00	GPR
Division of Administrative Services		
Administrative Manager	1.00	GPR
Budget Unit		
Budget & Policy Supervisor	1.00	GPR
Purchasing Agent	0.60	GPR
Financial Specialist	1.00	GPR
Information Systems Unit		
Information Systems Consultant	1.00	GPR
Information Systems Professional Senior	2.00	GPR
Information Systems Specialist	3.00	GPR
Information Systems Professional	1.00	GPR
Human Resources Unit		
Human Resources Program Officer	1.00	GPR
Payroll & Benefits Specialist	0.90	GPR
Human Resources Assistant	1.00	GPR
Office Management Specialist	1.00	GPR
Program Assistant	1.00	GPR
	20.50	GPR

On the basis of the adjusted base budgeted salaries for those positions, if the salary and associated fringe benefits for these 20.5 GPR positions were deleted, the annualized dollar savings would be estimated $1,528,400 GPR rather than the $1,138,200 GPR recommended by the Governor.

25. The program revenue funding and position authority deleted under the Governor's recommendation is indeed organizationally located in the Department's budget submittal as a part of the Division of Administrative Services. However, that position is understood to be dedicated to work on DER employment and training programs and is partially GPR funded and partially PR funded. It does not appear to be a position that should appropriately be deleted as an administrative

support position. To reverse this part of the proposal would require a restoration of $25,500 PR annually and 0.50 PR position. The GPR portion of the funding for this position is not included in the funding calculation shown in discussion point 24.

26. In lieu of the Governor's recommended funding deletions, the Committee could: (a) delete a total of 20.5 GPR positions and salary and fringe benefit costs of $1,528,400 GPR annually; and (b) restore 0.50 PR position and salary and fringe benefit costs of $25,500 PR annually that is related to training activities. This would be a net change to the Governor's budget of a deletion of an additional $390,200 GPR annually and 1.90 GPR positions and a restoration of $25,500 PR annually and 0.50 PR position. The agency could still retain the responsibility to determine which specific 20.50 positions would actually be deleted prior to DER's transfer to DOA, but only the lower amount of funding would be transferred to DOA.

ALTERNATIVES

A. Eliminate Separate Department of Employment Relations

A1. Approve the Governor's recommendation to merge the Department of Employment Relations into the Department of Administration.

A2. Maintain the current statutory organizational arrangement for the Department of Employment Relations and its statutory responsibilities.

B. Alternative Funding Approaches

B1a. *If Alternative A1 is adopted*, approve the net funding decrease for the Department of Employment Relations as recommended by the Governor prior to the incorporation of the DER functions into DOA.

B1b. *If Alternative A1 is adopted*, modify the Governor's recommendation as follows: (a) delete an additional $390,200 GPR annually and an additional 1.90 GPR positions; and (b) restore $25,500 PR annually and 0.50 PR position.

Alternative B1b	GPR	PR	TOTAL
2003-05 FUNDING (Change to Bill)	- $780,400	$51,000	- $729,400
2004-05 POSITIONS (Change to Bill)	- 1.90	0.50	- 1.40

B2a. *If Alternative A2 is adopted,* approve the Governor's budget reduction for budget efficiencies.

B2b. *If Alternative A2 is adopted*, in lieu of the Governor's net funding reduction to DER's budget for budget efficiencies, instead: (a) delete position authorization for the existing executive assistant position, the classified administrative services division administrator position and the unclassified affirmative action division administrator position and salary and fringe benefit costs of $300,300 GPR annually; and (b) require an annual, across-the-board reduction equal to 10% of the agency's adjusted base GPR budget ($560,600 annually). [The net increase to the Governor's budget would be $277,300 GPR annually and 15.60 GPR positions and $25,500 PR annually and 0.50 PR position.]

Alternative B2	GPR	PR	TOTAL
2003-05 FUNDING (Change to Bill)	$554,600	$51,000	$605,600
2004-05 POSITIONS (Change to Bill)	15.60	0.50	16.10

Prepared by: Terry Rhodes