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Combine Private Facility and State-Owned Office Rent Supplement Appropriations (Program Supplements)

[LFB 2003-05 Budget Summary: Page 342, #7]

CURRENT LAW

There are three separate GPR appropriations (and comparable PR and SEG appropriations) established for supplementation of agencies' GPR (and PR and SEG) operating budgets for unbudgeted increases in their space rental budgets. The current supplemental appropriations are for three distinct purposes: (a) rent increases for agencies occupying space in privately-owned facilities; (b) rent increases for agencies occupying space in state-owned facilities; and (c) additional costs associated with agency moves from one office location to another when such moves are directed by DOA in accordance with its overall management of state-occupied space, whether state-owned or rented. Monies from either of the two sum certain appropriations for rent supplements may be allotted to state agencies by DOA for documented increases in agencies' space rental costs.

GOVERNOR

Combine the recommended funding levels for the private facility rental increases supplements and the state-owned office rent supplements appropriations into a single appropriation. Specify that the amounts in the schedule for this new appropriation would be available to cover costs in excess of budgeted amounts for: (a) rental increases under leases of private facilities occupied by state agencies; or (b) for increased rental rates in state-owned buildings when such rent increases have been approved by the State Building Commission.

DISCUSSION POINTS

1. The program supplements appropriations section of the statutes allows the establishment by statute of reserve appropriations, particularly GPR-funded appropriations, for the supplement of individual state agency appropriation levels. Generally, these reserve appropriations are established to meet certain costs that it is anticipated state agencies will have to bear in the next biennium, but for which the precise amount of increased funding needed by individual agencies is not determinable at the time that the budget is under consideration.

2. In the 2001-03 biennial budget, the Committee took action to separate a then combined supplemental appropriation for the costs of private leased space and the costs of physical relocation of agencies when such moves are directed by DOA. The concerned raised was the vast proportion of the funding provided in that appropriation for 2001-03 that was for directed moves and that those directed moves were controlled by DOA. Since the appropriation was a sum certain appropriation, two different and potentially competing needs were to be served by the funding provided in that single appropriation. Once the funding level was set by the Legislature, no further legislative review was provided, even if the amount of funds to be allocated between the two different purposes changed. DOA had authority under the single combined appropriation to allocate actual expenditures as it determined was required.

3. The Committee choose to separate those two appropriations to provide the opportunity for subsequent legislative review if DOA determined that increased expenditures above the budgeted levels was necessary for either of the two distinct expenditure purposes. This would be accomplished by means of a s.13.101 request for funding transfer or supplementation.

4. The two appropriations that the Governor now proposes to combine are related in that they are both for supplementation of agencies' space costs due to increases in rental rates. However, the nature of the way in which cost increases for these two types of space costs to state agencies occur are quite different. In the case of rental costs in state-owned buildings, this is largely under the control of DOA. The costs of operation and maintenance of state buildings are financed out of a central account called the space rental account. The revenues for this account come primarily from the rents assessed state agencies that occupy space in those buildings. Increases in rental rates are sought whenever the revenues to the space rental account are projected to be insufficient to cover costs, as determined by DOA. The State Building Commission must approve any increases proposed by DOA. DOA assesses a largely uniform rate for space in all of its state office buildings.

5. In the case of rental rates in private leased space, the cost of space in a given building that an agency occupies is usually governed by a separate specific lease for that space. Almost all such leases have some type of escalator clause providing for year-to-year increases in the rental rate during the period of what are usually multi-year leases. The leases may be seen as similar in that they have escalator clauses that may be tied to some inflationary increase, or they may simply have an annual percentage increase specified. Because of the wide variation in the dates when leased space rent increases occur, in the actual amount of increases needed and other

related factors, it is more difficult to predict the amount of funding that is needed to be reserved for supplements for private space rent increases.

6. DOA would likely argue that it is administratively preferable to have a larger, single sum of dollars available for these two supplement purposes so that the Department can adjust supplementation funding between the two purposes without having to come to the Committee to seek a reallocation of funding between the two appropriations.

7. The alternative argument could be made that DOA has a level of control and interest over the supplementation for increased space costs in its own buildings that may not be the same as that for space costs in privately-owned buildings. If separate appropriations are maintained for these two categories, there would be the advantage that further legislative review of any required adjustment in spending levels between these two spending purposes would occur.

8. DOA would likely also argue that the need to seek approval from the Committee under s. 13.101 would cause time delays before supplementations could be made.

9. However, the alternative argument could be made that the funding provided under this supplement process is released only once a year, usually in the fourth quarter of the fiscal year. Agencies apply for this funding according to an application and review process that DOA has established. Under this current supplementation process, DOA could monitor likely agency supplementation needs for each of these two purposes and request a funding adjustment between the two appropriations, if necessary, prior to the actual supplementation in the fourth quarter of the fiscal year.

10. The two basic choices that are available to the Committee on this issue are to: (a) approve the Governor's recommendation to combine the two appropriations into one; or (b) keep the two separate appropriations as under current law. However, there could also be a position that would be to approve the Governor's proposal to merge the two appropriations but put the funding amounts in the Joint Committee on Finance's GPR supplemental appropriation for release to this new combined appropriation. Funding could be released upon a request from DOA on how the funding would be actually allocated in 2003-04 and 2004-05 between the two supplement purposes. This would allow for Committee review of the expenditure allocations in 2003-05 on a one-time basis. It would provide, however, that absent a future law change that would have to be approved by the Governor, there would be no legislative review of DOA's allocation of funding between these two supplement purposes in subsequent biennia outside of the biennial budget.

ALTERNATIVES

1. Approve the Governor's recommendation to merge the two appropriations.

2. Modify the Governor's recommendation by approving the consolidation of the two existing appropriations into a single, dual purpose appropriation, but placing the recommended funding of $1,062,400 GPR in 2003-04 and $1,832,800 GPR in 2004-05 in the Committee's GPR supplemental appropriation, to be reserved for transfer to the new dual purpose appropriation upon DOA's submittal of a request under s.13.101 for release of funds and a documentation of the allocation of those funds between the two supplementation purposes.

3. Retain the two separate appropriations, funded at the individual levels approved under the Governor's recommended total funding level ($611,600 GPR in 2003-04 and $931,200 GPR in 2004-05 for private leased-space rent supplements; and $450,800 GPR in 2003-04 and $901,600 GPR in 2004-05 for state-owned office space rent supplements).

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