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Reorganization of the Division of Energy and Creation of an Office of Energy Independence (DOA -- General Agency Provisions)

Bill Agency

[LFB 2007-09 Budget Summary: Page 22, # 4(part)]

CURRENT LAW

Under current law, effective July 1, 2007, the Public Service Commission (PSC) must require energy utilities to spend 1.2% of their annual operating revenues to collectively establish and fund the following: (a) a statewide energy efficiency and renewable resource program, developed and administered by a vendor that is collectively agreed upon by the energy utilities; and (b) their own program for large commercial, industrial, institutional, or agricultural programs (if they chose to operate their own program for these customers). Also, under current law, the Commission has the right to review this contract and must approve it before the vendor is accepted. The Commission's administrative costs are funded from a portion of the 1.2% of annual operating revenues dedicated to energy efficiency and renewable resource programs.

Effective July 1, 2007, the Department of Administration (DOA) will no longer be responsible for administering the energy utility energy efficiency and renewable resource programs.

GOVERNOR

No provision. However, the Executive Budget Book indicates that the Governor recommends the creation of an Office of Energy Independence, which would "…coordinate the state's efforts to grow Wisconsin's bio and renewable economies." No statutory language related to the responsibilities of the Office or the employees of the Office are included in the bill.

DISCUSSION POINTS

1. Senate Bill 40 does not specify the creation of a new Office of Energy Independence, nor a realignment of DOA's Division of Energy. The bill does, however, specify the transfer of all incumbent employees that have responsibility for administering energy conservation and efficiency and renewable resource programs in the Department's Division of Energy, as determined by the DOA Secretary, to the Public Service Commission (PSC). The bill also creates 5.0 positions within PSC for the administration of utility operated energy conservation and efficiency and renewable resource programs. While the bill creates these positions in the PSC, the bill does not address the DOA positions currently responsible for energy conservation and efficiency and renewable resource programs. The Committee may wish to decide whether the retention of positions used to create the Office of Energy Independence is appropriate.

2. Under 1999 Wisconsin Act 9, a segregated utility public benefits fund was established to support the costs of the energy conservation and renewable resources grant programs and those portions of the low-income assistance programs that are not supported by federal funds. Revenues to the public benefits fund are primarily from two sources: (a) certain base level revenues that the public utilities collect from their customers and transfer to the public benefits fund; and (b) new fees collected from customers by all nonmunicipal electric utilities and remitted to the public benefits fund.

3. First, the major electric and natural gas public utilities in the state are required to continue to collect revenues from their ratepayers equal to the amounts that these utilities collected from customers in 1998 for utility-sponsored public benefits programs, as determined by the PSC. These funds are referred to as "transitional payments."

4. Second, for low-income energy assistance, DOA is required to calculate the low-income need target. By rule, DOA calculates this target by totaling all energy bills for households at or below 150% of the poverty level. Once the target is calculated, the Department subtracts revenues received from the following offsets: (a) the amounts charged by municipal utilities and retail electric cooperatives for low-income energy assistance; (b) all low-income heating assistance received from the federal government; and (c) amounts paid to the public benefits fund from transitional payments by public utilities for low-income heating assistance.

5. Each year by March 1, DOA must advise public utilities of the fee amounts that will need to be collected. Utilities must then submit a collection plan to the Department by April 1 showing how they plan to collect the public benefit fees and identifying reasonable and prudent expenses related to collecting these public benefit revenues.

6. Currently, the Department of Administration's Division of Energy operates low-income assistance and energy efficiency and renewable energy programs. However, the Division's responsibilities relating to the administration of the state's public benefits supported energy efficiency and renewable energy programs will end effective July 1, 2007. At that time, the public utilities will be required to establish and fund statewide energy efficiency and renewable resource

programs and contract, on a competitive basis, with one or more persons for the administration of these funds. The Division will, however, continue to manage federal grant funds and the state's public benefits funds for low-income energy assistance programs.

7. Currently, DOA's Division of Energy is composed of a Bureau of Energy Assistance, which is responsible for low-income energy assistance and weatherization programs; and the Bureau of Energy Efficiency, which is responsible for energy efficiency, energy conservation, renewable resources, and environmental research and development. In addition, the Division Administrator, the Deputy Administrator, an executive staff assistant, an administrative manager, and three budget and planning analysts oversee both programs. Finally, 1.0 position is funded from federal low-income assistance funds to provide information technology assistance to the Division. Table 1 shows the current staffing levels for the Division by section and by funding source.

TABLE 1

Current Division of Energy

Division of Energy Section	FED	PR	SEG	Total
Administrator's Office	5.0	0.0	2.0	7.0
Bureau of Energy Assistance	21.0	0.0	0.0	21.0
Bureau of Energy Efficiency	10.0	1.0	4.0	15.0
Subtotal for Division	36.0	1.0	6.0	43.0
Division of Enterprise Technology*	1.0	0.0	0.0	1.0
Total	37.0	1.0	6.0	44.0

* The Division of Enterprise Technology position is not part of the Division of Energy, but the position is currently funded with federal aid revenue for low-income heating assistance.

Creation of an Office of Energy Independence

8. While the bill would retain 5.0 FTE positions in DOA despite new positions being created in PSC and while the Governor's Budget in Brief indicates his desire to create an Office of Energy Independence (OEI), SB 40 does not contain specific language creating the Office, the goals or expectations of the Office, nor the responsibilities of the positions that would be transferred from the Division of Energy.

9. Senate Bill 40 would specify that, on the effective date of the bill, all incumbent employees that have responsibility for administering energy conservation and efficiency and renewable resource programs in the DOA's Division of Energy, as determined by the DOA

Secretary, would be transferred to the PSC. The transferred employees would maintain their status and rights earned at DOA and they would not have to undergo a probationary period under the Commission.

10. The bill would specify that the DOA Secretary would designate positions for transfer to PSC. While the bill creates 5.0 positions within PSC, there is no reduction of positions in DOA. The bill thus creates the equivalent of 5.0 new positions within DOA.

11. In April, 2007, the Governor signed Executive Order #192, which states that the goal of the OEI is to identify federal funding opportunities and to serve as the "state energy office." Under the executive order, the Governor has created a nonstatutory committee as specified under s. 14.019 of the statutes. Under this statutory provision, the Governor may create nonstatutory committees made up of persons appointed be the Governor who serve at the pleasure of the Governor. Such nonstatutory committees expire on the 4th Monday of January of the year in which the now gubernatorial term of office begins, unless the new Governor, by executive order provides for its continuation.

12. Since the duties of administering the energy efficiency programs have been transferred to PSC under 2005 Wisconsin Act 141, effective July 1, 2007, and the bill requires all incumbent employees holding positions having responsibility for administering energy conservation and efficiency and renewable resource programs to be transferred from DOA to PSC, it could be argued that the positions within DOA responsible for administering the energy efficiency programs should be deleted and the issue of whether funding and positions for the Office of Energy Independence should be provided should be separately considered, based on the merits of the Office.

13. The Department indicates that the Office would include a policy initiatives advisor that would be federally funded, although no additional expenditure authority is requested for this position. The Department states that the position would be created as a federal project position under s. 16.54(8) of the statutes, which authorizes agencies to request the Governor to create or delete positions funded from federal revenues. If the Governor provides such position authority, the DOA Secretary must notify the Joint Committee on Finance at least quarterly of any federal funds received in excess of those approved in the biennial budget process and positions created or deleted under this provision.

14. The Department indicates that an additional 8.0 positions would be transferred from the current Division of Energy as follows: (a) 7.0 positions would be transferred from the Bureau of Energy Efficiency to OEI; and (b) 1.0 position from the Administrator's Office

15. Table 2 shows the Office and the Division of Energy staffing levels under the bill. The Governor assigned a director within the Office on March 21, 2007. The Governor's Office indicates that the Office would be located in the Risser Justice Building.

TABLE 2

Proposed Office of Energy Independence and Division of Energy

Division of Energy	FED	PR	SEG	Total
Administrator's Office	0.70	0.00	2.30	3.00
Planning and Development	9.05	0.35	6.60	16.00
Quality Assurance	7.35	0.50	6.15	14.00
Division of Energy Total	17.10	0.85	15.05	33.00
Transfers				
Office of Energy Independence*	6.50	0.20	2.30	9.00
Division of Administrative Services	1.00	0.00	0.00	1.00
Division of Enterprise Technology	0.00	0.00	1.00	1.00
Total	24.60	1.05	18.35	44.00

* Includes 1.0 FED project position that would serve as the Executive Director

16. The Department indicates that the Office will be funded primarily from federal State Energy Program funds, which had a balance of over $1.2 million as of April 19, 2007. The State Energy Program is funded though the federal Department of Energy. States are required to provide cost-shares for energy efficiency, energy reduction, environmentally friendly economic development, and reducing reliance on oil produced outside the United States. It could be argued that funding the Office of Energy Independence would be an appropriate use of these federal funds. However, 2.3 SEG positions would be funded from the low-income assistance public benefits funds and 0.20 PR position would be funded from weatherization assistance.

17. The Office would be directly attached to the DOA Secretary's Office, rather than a Bureau of the Division of Energy. The executive order indicates that the Office would have the following mission: "(a) advance Wisconsin's vision for energy independence by generating 25% of our power and 25% of our transportation fuels from renewable resources by 2025; (b) capture 10% of the emerging bio-industry and renewable energy market by 2030; and (c) become a national leader in groundbreaking research that will make alternative energies more affordable and create new, good-paying jobs in Wisconsin."

18. The executive order directs the Office to be staffed by an executive director and sufficient staff to carry out the following initiatives: (a) ensure and facilitate the implementation of Wisconsin's energy; (b) serve as a single-point of contact to assist businesses, local units of government and nongovernmental organizations that are pursuing bio-development, energy efficiency and energy independence; (c) identify barriers to implementation of the Wisconsin's energy independence initiatives; (d) develop energy independence policy options for consideration

by the Governor and state agencies; (e) identify federal funding opportunities and facilitate applications for funding by both state/local government and private entities; and (f) serve as the state energy office and perform duties necessary to maintain federal designation and federal funding.

19. The Department indicates that the Office would emphasize the development of state energy policies rather than administering programs. The Office would be responsible for coordinating the agency energy-related programs within the Department of Agriculture, Trade and Consumer Protection, the Department of Commerce, the Department of Natural Resources, and the Public Service Commission. Other goals would include: (a) increasing energy efficiency for Wisconsin and the United States; (b) reducing energy costs; (c) improving the reliability of electricity, fuel and energy services delivery; (d) developing alternative and renewable energy resources; (e) promoting economic growth with improved environmental quality; and (f) reducing the state's reliance on imported oil.

20. Under the revised structure of the Division of Energy, there would be two bureaus. The Bureau of Planning and Development would be responsible for program planning and new program development; federal plans and grant applications; new technology development and analysis; research analysis; program analysis; energy education planning and implementation; training and technical assistance; policy interpretation; manual writing and preparation; procurement and request for proposal development; multi-family program development; public benefit tiered weatherization program development and implementation; training center feasibility study; complaint processing and referrals; and help desk management.

21. The Bureau of Quality Assurance duties would include: administrative oversight; on-site weatherization administrative and technical monitoring; on-site home energy assistance program monitoring; home energy assistance program and Wisconsin Weatherization Assistance Program data reviews; monitor and approve agency corrective action plans an activities; development of monitoring and grantee reporting systems; monitoring of production goals; development of quality assurance standards; administration of contracts and purchase orders; procurement and purchasing; fiscal oversight and management; public benefit fee calculation and collection; annual state budget development and submission; public benefit true up; and procurement and request for proposal development.

22. While the Department indicates that more administrative funding from the public benefits fund was made available for the remaining DOA programs under Act 141, the Committee may wish to decide whether these additional funds should be used for the Department's administrative costs, or for low-income heating and weatherization assistance.

23. The Department indicates that state energy program funds provided by the federal government would support the costs of the Office. The state energy program funds are currently used to fund administrative costs within the Division of Energy. Under SB 40, the current administrative costs would be supported from public benefits funds that could otherwise be used for heating or weatherization assistance for low-income households. It could be argued that the creation

of the Office should not result in less funding for low-income energy assistance. A separate budget paper, *Administration Expenses for the Low-Income Energy Assistance Program*, further discusses the use of low-income assistance for administrative purposes.

24. The Department states that the additional 5.0 positions are necessary because of the growth in low-income assistance funding between 1999-00 and 2006-07. The weatherization assistance grant allocation has increased from $10.8 million in 1999-00 to $64.3 million in 2006-07. The low-income heating assistance program increased from $42.5 million in FFY 1999-00 to $95.3 million in FFY 2006-07.

25. The Department indicates that the net of 5.0 additional positions would do the following: (a) 3.0 positions would provide quality assurance monitoring for the low-income programs related to the increased funding provided over the last few years; and (b) 2.0 positions would be responsible for the development of program policy guideline manuals, technical assistance and training of local program operators. It could be argued that the additional position authority is needed because of the increased amount of funding that is being administered by the Department.

26. Alternatively, it could be argued that additional position authority would not be needed by the Division of Energy if 8.0 positions were not transferred to the Office of Energy Independence.

27. In addition to the transfer of eight positions to the Office of Energy Independence, the Department would transfer 1.0 FED administrative manager to DOA's Division of Administrative Services. Currently the position acts as an administrative manager within the office of the Division Administrator. The Department indicates that the position would focus on project management in the Department, assist in the development and implementation of project management standards and creation of performance measures. "While the reorganization plan indicates that the position will be in DOAS [Division of Administrative Service], it is possible that it will be relocated to another division depending on where there's the most need."

28. Due to the decreased duties within the DOA, some may argue that positions that support duties that are no longer associated with the agency should be deleted unless new duties are added to the agency that justify position increases. It could be further argued that the federal funding provided for this position should be dedicated to energy programs and not general administrative purposes which are currently undefined. The Committee could choose to delete this 1.0 FED position, and the related funding provided by the federal government ($113,300 FED annually) could be transferred from salaries and fringe benefits to supplies and services.

29. Further, if the Office is approved, it may be appropriate that the duties of the Office be set in statute to ensure that the Office is working toward goals approved by the Legislature. The Committee could chose to approve the scope of the Governor's 2007 Executive Order #192 under statutory language.

30. Alternatively, if the Committee disagrees with the use of positions for the Office of

Energy Independence, 8.0 positions from the current Division of Energy could be deleted, and the federal state energy program funding could be used to support administrative costs within the Division of Energy. The salaries and fringe benefits related to 8.0 SEG positions could be transferred to supplies and services ($609,600 SEG annually) for use in supporting low-income assistance benefits.

31. If the Committee chooses to maintain current law, the Governor would likely create the OEI through s. 14.019 authority for creation of a temporary committee, as outlined under 2007 Executive Order #192. The Office would be subject to termination no later than January 24, 2011, unless reauthorized.

ALTERNATIVES TO BILL

1. Modify the bill by specifying the creation of an Office of Energy Independence. Require the Office to work on initiatives that would have the following goals: (a) advance Wisconsin's vision for energy independence by generating 25% of Wisconsin power and 25% of Wisconsin transportation fuels from renewable resources by 2025; (b) capture 10% of the emerging bio-industry and renewable energy market by 2030; and (c) become a national leader in groundbreaking research that will make alternative energies more affordable and create new, good-paying jobs in Wisconsin. Require the Office to be staffed by an executive director and sufficient staff to carry out the following initiatives: (a) ensure and facilitate the implementation of Wisconsin's energy; (b) serve as a single-point of contact to assist businesses, local units of government and nongovernmental organizations that are pursuing bio-development, energy efficiency and energy independence; (c) identify barriers to implementation of the Wisconsin's energy independence initiatives; (d) develop energy independence policy options for consideration by the Governor and state agencies; (e) identify federal funding opportunities and facilitate applications for funding by both state/local government and private entities; and (f) serve as the state energy office and perform duties necessary to maintain federal designation and federal funding.

2. Modify the Governor's recommendation by deleting 8.0 SEG positions supported from the public benefits fund and transfer $609,600 SEG annually from salaries and fringe benefits to supplies and service for use in low-income heating assistance grants.

ALT 2	Change to Bill Positions	Change to Base Positions
SEG	- 8.00	- 8.00

3. Delete 1.0 FED administrative manager position from the Department's federal aid appropriation and transfer $103,700 FED annually from salaries and fringe benefits to supplies and services for use in low-income heating assistance grants.

ALT 3	**Change to Bill** Positions	**Change to Base** Positions
FED	- 1.00	- 1.00

4. Maintain current law. [This would allow the Governor to create an Office of Energy Independence as specified under 2007 Executive Order #192.]

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