



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #495

Position Reductions (Office of State Employment Relations)

[LFB 2015-17 Budget Summary: Page 329, #2]

CURRENT LAW

The Office of State Employment Relations (OSER) was created in the 2003-05 budget to replace the former Department of Employment Relations, and is attached administratively to the Department of Administration (DOA). The Office is provided base funding of \$6,107,800 PR and 49.95 PR positions, as follows: (a) \$5,426,400 PR and 46.95 PR positions for general program operations; and (b) \$681,400 PR and 3.0 PR positions in other program revenue appropriation accounts relating to small employment relations programs. The OSER appropriation account for general program operations is funded from moneys received from state agencies for employment relations materials and services provided by OSER. The Office is organized into the following three divisions: (a) Affirmative Action; (b) Compensation and Labor Relations; and (c) Merit Recruitment and Selection.

The Office 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 providing support to other state agencies in human resources management, 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 tentative collective bargaining agreements for represented employees.

The Office is also responsible for administering the state's classified service system. Except for positions in the unclassified service (such as gubernatorial appointments, legislative staff, and court staff), the Director of OSER must assign all positions in state government to various position classifications, typically based on the position's duties, authority and

responsibilities. Positions may be periodically reallocated among position classifications on the same bases. Pay ranges are established and periodically reestablished for the various position classifications typically based on the skill, effort, responsibility, and working conditions for positions in the specific position classification. These classified service functions as well as issues involving suspension, discharge, and employee grievances are addressed by the Division of Compensation and Labor Relations. The Division of Merit Recruitment and Selection is responsible for classified service issues involving: (a) recruitment, examination, and selection; (b) promotion; (c) restoration and reinstatement; and (d) demotion and layoff.

The Director of OSER is charged with the effective administration of state employment relations law. The Director may delegate, in writing, any of his or her functions set forth in Chapter 230 of the statutes to an appointing authority (the chief officer of any governmental unit or chief administrative officer of an agency unless another person is authorized under law to appoint subordinate staff), within prescribed standards. If the Director determines that any agency is not performing the delegated function within prescribed standards, the Director is required to withdraw the delegated function. Subject to the approval of the Joint Committee on Finance, the Director may order transferred to OSER from the agency to which delegation was made such agency staff and other resources as necessary to perform such functions if increased staff was authorized to that agency as a consequence of the delegation, or if OSER reduced staff or shifted staff to new responsibilities as a result of the delegation.

GOVERNOR

Reduce position authorization by 6.95 PR positions annually and delete \$824,300 PR annually in funding associated with the positions. The following positions would be deleted: (a) 1.0 executive position in the unclassified service; (b) 1.0 chief legal counsel; (c) 1.0 program and policy analyst; (d) 1.0 executive human resources manager; (e) 1.0 labor relations specialist-chief; (f) 1.0 labor relations specialist-senior; and (g) 0.95 executive human resources specialist-senior.

DISCUSSION POINTS

1. With adjusted base position authority of 67,882.57 full-time equivalent (FTE) classified and unclassified positions in 2014-15 (less positions authorized to OSER), for every 1,359 executive branch state agency and University of Wisconsin (UW) System FTE positions, OSER is provided 1.0 FTE position to carry out its state employment and labor relations functions. While OSER is responsible for the effective administration of state employment and labor relations functions, including the establishment of employment relations standards for state agencies, over the years the state has divided employment relations staff between OSER and individual state agencies recognizing that individual state agencies': (a) employment relations needs vary; (b) functions vary; and (c) agency-specific subject matter expertise is often required when carrying out employment relations work. Given this divided approach to state employment relations, as well as the high number of unclassified faculty and academic staff positions in the UW System for which fewer OSER services are required, OSER services have been concentrated on state agencies other than the UW System. Narrowing the focus to executive branch state agencies, with adjusted base position

authority of 33,396.21 FTE classified and unclassified positions in 2014-15, at 49.95 FTE positions, for every 669 executive branch state agency FTE positions, OSER is provided 1.0 FTE position to carry out its state employment and labor relations functions.

2. Under AB 21/SB 21, OSER would be eliminated and its functions transferred to a new Division of Personnel Management under DOA. In addition to transferring the functions of the Office, 6.95 PR positions and associated funding of \$824,300 PR annually would be deleted. For an agency with base position authorization of 49.95 FTE positions, a reduction of 6.95 FTE would represent a 14% reduction in positions dedicated to carrying out the duties of the Office.

3. Prior to the 2009-11 budget, the functions and staffing of OSER were primarily supported with GPR funding. In the 2009-11 budget, the Governor recommended, and the Legislature approved, altering the funding of the Office from GPR to PR. At the time, DOA budget officials indicated that the proposal to convert the Office's GPR funding and positions to program revenue was based on the view that OSER provides services to other state agencies and it was appropriate for agencies to pay for these services. Officials viewed the situation as analogous to DOA services that are charged back to agencies; these include, for example, procurement, accounting and finance, printing, fleet services, risk management, and facilities management.

4. The OSER assessment applied annually to state agencies is comprised of four parts: (a) an Office-wide assessment based on the number of classified and unclassified positions in each state agency and the UW System (for 2013-14, this portion represented 20.65% of the total OSER assessment and equaled \$1,097,915); (b) an assessment based only on the number of classified positions in each state agency and the UW System associated with the work of the Division of Compensation and Labor Relations (for 2013-14, this portion represented 33.24% of the total OSER assessment and equaled \$1,766,882); (c) an assessment based only on the number of classified positions in each state agency and the UW System associated with the work of the Division of Merit Recruitment and Selection (for 2013-14, this portion represented 36.71% of the total OSER assessment and equaled \$1,951,598); and (d) an assessment based on the number of classified and unclassified positions in each state agency and the UW System associated with the work of the Division of Affirmative Action (for 2013-14, this portion represented 9.40% of the total OSER assessment and equaled \$499,205).

5. Table 1 identifies the OSER assessment of \$5,315,600 PR applied to state agencies for 2013-14. [The administration indicates that the 2014-15 OSER assessment will not be finalized until closer to the end of the fiscal year.] The 2013-14 OSER assessment of \$5,315,600 PR equaled 0.10% of the affected state agencies and UW System 2014-15 permanent salary and fringe benefit adjusted base of \$5,523,318,600 (all funds). Viewed another way, the 2013-14 OSER assessment of \$5,315,600 represented an average assessment of \$78.87 per FTE of the classified and unclassified FTE attributed to state agencies and the UW System for purposes of calculating the 2013-14 OSER assessment. In comparison to other large agencies, the OSER assessment applied to the UW System was lower in terms of its percentage of adjusted base permanent salary and fringe benefit expenditure authority and in terms of its cost per authorized FTE, as the UW System has a comparatively high percentage of unclassified FTE positions. As a result, the UW System was assessed less to address the costs of operating OSER's Divisions of Compensation and Labor Relations and Merit Recruitment and Selection.

TABLE 1**2013-14 OSER Assessment on State Agencies and the UW System**

<u>Agency</u>	<u>Allocation</u>	<u>Salary & Fringe</u>	<u>% of Salary & Fringe</u>	<u>Auth. FTE</u>	<u>Assmt. Per FTE</u>
UW System	\$1,680,661	\$2,892,124,800	0.06%	34,167.43	\$49.19
Corrections	1,146,193	757,493,000	0.15	10,178.37	112.61
Health Services	690,095	450,843,900	0.15	6,132.05	112.54
Transportation	394,819	287,402,600	0.14	3,511.04	112.45
Natural Resources	298,307	221,786,400	0.13	2,655.24	112.35
Workforce Development	181,120	126,234,900	0.14	1,618.76	111.89
Veterans Affairs	149,339	85,868,900	0.17	1,328.70	112.39
Revenue	117,877	82,178,200	0.14	1,054.28	111.81
Administration	110,809	108,532,000	0.10	1,002.03	110.58
Children and Families	86,947	61,642,200	0.14	778.61	111.67
Justice	73,660	55,490,700	0.13	661.74	111.31
Agriculture, Trade and Consumer Protection	69,515	46,766,100	0.15	625.89	111.07
Public Instruction	69,515	51,035,900	0.14	623.77	111.44
Military Affairs	48,150	29,112,700	0.17	428.86	112.27
Public Defender	34,187	53,760,200	0.06	579.85	58.96
Employee Trust Funds	29,284	20,535,100	0.14	260.20	112.54
Safety and Professional Services	28,540	19,691,200	0.14	262.60	108.68
Insurance	17,060	12,435,000	0.14	154.30	110.56
Public Service Commission	15,412	13,572,300	0.11	147.00	104.84
Financial Institutions	15,253	11,588,200	0.13	141.54	107.76
Historical Society	13,445	11,036,800	0.12	125.04	107.53
District Attorneys	10,062	49,236,400	0.02	425.95	23.62
Wisconsin Technical College System	6,643	5,907,700	0.11	62.00	107.15
Educational Communications Board	4,996	4,855,800	0.10	56.68	88.14
Office of State Employment Relations	4,837	4,490,400	0.11	48.95	98.82
Board on Aging and Long-Term Care	4,145	2,458,400	0.17	37.00	112.03
Investment Board	3,513	40,776,100	0.01	145.10	24.21
Tourism	3,030	2,703,400	0.11	35.00	86.57
Government Accountability Board	1,967	1,961,100	0.10	17.75	110.82
State Fair Park	959	4,237,500	0.02	40.00	23.98
Governor	959	2,818,800	0.03	37.25	25.74
Higher Educational Aids Board	903	644,600	0.14	10.00	90.30
Board for People with Developmental Disabilities	903	523,600	0.17	6.75	133.78
Board of the Commissioners of Public Lands	903	868,400	0.10	9.50	95.05
Employment Relations Commission	532	1,200,500	0.04	9.01	59.05
Child Abuse and Neglect Prevention Board	532	450,900	0.12	6.00	88.67
Lieutenant Governor	160	294,900	0.05	4.00	40.00
Secretary of State	160	301,100	0.05	4.00	40.00
State Treasurer	160	299,700	0.05	4.00	40.00
Lower Wisconsin State Riverway Board	48	158,200	0.03	2.00	24.00
Total	\$5,315,600	\$5,523,318,600	0.10%	67,398.24	\$78.87

6. While OSER would experience a 14% reduction in staff under the budget bill prior to its recommended transfer to a new DOA Division of Personnel Management (excluding the additional impact of the deletion of an additional 1.0 information technology position), all of its current law duties and responsibilities would remain and would become the responsibility of DOA. As a part of this recommendation, an analysis was not provided by the administration as to how the current law responsibilities of OSER could be effectively carried out with the reduced staffing provided under the bill.

7. Rather, DOA indicates that the staffing reductions were driven by an effort to address the fact that the UW System will no longer be allocated a portion of the annual OSER assessment beginning July 1, 2015, as the UW System will be exempt from all Chapter 230 provisions (which OSER otherwise administers) and all UW employees will be transferred from the state personnel system to a new independent UW personnel system (regardless of whether or not the UW System is made a separate authority under the budget). In 2013-14, the UW System paid 31.6% or \$1,680,661 of the total OSER assessment of \$5,315,600.

8. The administration indicated that in determining which positions to recommend for elimination one factor that they considered was whether or not the position was vacant. The positions selected for elimination were not selected based on a re-examination of how the Office may function with 14% fewer staff. However, if the recommendation is approved, it may be anticipated that DOA will re-examine the mix of positions in the recommended Division of Personnel Management.

9. While the 2014-15 adjusted base supported by the OSER agency assessment totals \$5,426,400 PR annually, under the budget bill, \$5,028,000 PR in 2015-16, and \$5,034,800 PR in 2016-17 would transfer from OSER to the recommended DOA Division of Personnel Management.

10. Notwithstanding the recommended position and funding reductions, state agencies would experience an increase in OSER-related assessments to replace amounts that will no longer be contributed by the UW System. In order to lessen the increased OSER-related assessments for employment relations services that state agencies will pay in 2015-17, the Committee could consider approving the Governor's recommendation. [Alternative 1] The administration indicates that, "The reductions will require OSER to prioritize workload but if actual experience proves that this level of staffing is insufficient, the division can make a request under s. 16.505/515 to adjust."

11. Alternatively, concerns could be raised that staff is being reduced from OSER without a developed plan as to how OSER or a DOA Division of Personnel Management would carry out the Office's current law responsibilities with a 14% reduction in staff for an Office that has 49.95 FTE. Delays in recruitment and adjustments to pay ranges to remain competitive in the relevant job markets, as well as delays in addressing employee issues such as promotion, restoration and reinstatement, demotion, suspension, discharge, layoff, and employee grievances could detrimentally impact the effective functioning of state agencies.

12. As current and past administrations have taken the position that it is appropriate for OSER to assess state agencies for its services, as the OSER assessment represents a small portion of the permanent salary and fringe benefits budget of affected state agencies, as the ratio of covered

agency staff to OSER staff is high, as OSER received no increases under the budget except for standard budget adjustments, and in order to address possible concerns about the impact of reducing OSER staff, the Committee could consider restoring the 6.95 PR positions and associated funding of \$824,300 PR annually that would be deleted under the bill to OSER or to a Division of Personnel Management in DOA. [Alternative 3]

13. If the Committee were to adopt Alternative 3, Table 2 identifies an estimate (based on the 2013-14 methodology) as to how the additional OSER-related assessment of \$824,300 PR annually could be assessed on state agencies to permit the 6.95 PR positions to be restored. Table 2 also identifies the authorized classified and unclassified FTE to the affected agencies during 2016-17 under the budget bill, as introduced, and the increased assessment per FTE if the reduction were to be restored.

TABLE 2**Estimated Allocation of the OSER-Related Assessment if 6.95 FTE Were Restored**

<u>Agency</u>	<u>Assessment</u>	<u>Authorized FTE</u>	<u>Assessment Per FTE</u>
Corrections	\$255,827	10,098.32	\$25.33
Health Services	155,009	6,121.05	25.32
Transportation	88,361	3,492.54	25.30
Natural Resources	64,814	2,566.95	25.25
Workforce Development	39,720	1,576.05	25.20
Veterans Affairs	32,513	1,286.20	25.28
Revenue	29,298	1,162.28	25.21
Administration	25,478	1,057.08	24.10
Agriculture, Trade and Consumer Protection	22,904	1,037.04	22.09
Children and Families	19,780	789.01	25.07
Justice	16,862	674.74	24.99
Public Instruction	15,892	633.05	25.10
Military Affairs	11,358	452.10	25.12
Public Defender	8,955	625.60	14.31
Financial Institutions and Professional Standards	7,783	326.10	23.87
Employee Trust Funds	6,646	264.20	25.16
Insurance	5,476	219.50	24.95
Public Service Commission	3,203	136.25	23.51
District Attorneys	3,103	420.95	7.37
Historical Society	2,689	111.04	24.22
Investment Board	1,173	159.10	7.37
Office of State Employment Relations	1,141	49.95	22.84
Wisconsin Technical College System	1,095	46.00	23.80
Board on Aging and Long-Term Care	1,014	40.00	25.35
Educational Communications Board	962	48.18	19.97
Government Accountability Board	903	37.75	23.92
Tourism	791	34.00	23.26
State Fair Park	339	46.00	7.37
Governor	275	37.25	7.38
Employment Relations Commission	176	9.01	19.53
Board for People with Developmental Disabilities	172	6.75	25.48
Board of Commissioners of Public Lands	172	7.50	22.93
Higher Educational Aids Board	160	7.00	22.86
Child Abuse and Neglect Prevention Board	153	6.00	25.50
Lower Wisconsin State Riverway Board	33	2.00	16.50
Secretary of State	33	2.00	16.50
Lieutenant Governor	30	4.00	7.50
State Treasurer	<u>7</u>	<u>1.00</u>	<u>7.00</u>
Total	\$824,300	33,593.54	\$24.54

14. As of April, 2015, of the 6.95 PR positions identified for deletion under the Governor's recommendation, 3.0 PR positions with annual funding of \$363,500 PR in compensation and supplies and services funding were vacant. The remaining 3.95 PR positions with annual funding of \$460,800 PR in compensation and supplies and services funding were identified as filled. In lieu of the recommendation made by the Governor, the Committee could consider deleting the 3.0 PR positions that were vacant as of April, 2015 (1.0 executive position in the unclassified service, 1.0 chief legal counsel, and 1.0 labor relations specialist-chief) but restore the remaining 3.95 PR positions with associated annual funding of \$460,800 PR that are currently filled. [Alternative 2] This alternative would permit OSER or a Division of Personnel Management in DOA to retain the experience of these employees to assist with the transition to carrying out the responsibilities of the Office with fewer staff. The alternative would still permit OSER or a Division of Personnel Management in DOA to assess \$363,500 PR less annually in OSER assessments to state agencies during 2015-17.

15. On the other hand, to the extent that the Office has other position vacancies, the Office or Division could be in the position to retain these experienced staff, by transferring these staff to other positions.

ALTERNATIVES

1. Approve the Governor's recommendation to delete 6.95 PR positions annually and \$824,300 PR annually in associated funding from the Office of State Employment Relations (OSER).

2. Restore 3.95 PR positions and associated funding of \$460,800 PR annually related to positions recommended for deletion that remained filled as of April, 2015.

ALT 2	Change to Bill	
	Funding	Positions
PR	\$921,600	3.95

3. Delete provision. Under this alternative, 6.95 PR positions and \$824,300 PR annually in funding associated with the positions would be restored to OSER or to a Division of Personnel Management in DOA.

ALT 3	Change to Bill	
	Funding	Positions
PR	\$1,648,600	6.95

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