Legislative Fiscal Bureau

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

Email: fiscal.bureau@legis.wisconsin.gov • Website: http://legis.wisconsin.gov/lfb

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TO: Representative Mark Born
Room 308 East, State Capitol

FROM: Ryan Horton, Fiscal Analyst

SUBJECT: Unemployment Insurance Benefits System Replacement Financing Questions

As you requested, the following paragraphs provide additional information on your questions regarding financing the replacement of the Department of Workforce Development's (DWD) unemployment insurance (UI) benefits system.

1. What current appropriations could be used to fund the replacement of DWD's UI benefits system?

See the attachment for a list of appropriations that could potentially be used to fund UI information technology (IT) expenditures. For appropriations with regular revenues or expenditure authority, the column under "Notes" discusses the expenditures allowed in each appropriation as provided by statute.

2. What revenues could be used for the replacement costs of the UI benefits system and how much in revenue is available each year from the revenue sources for the project?

See the attachment for revenues sources and closing balances for 2019-20. Highlighted appropriations indicate that these appropriations have relatively stable, ongoing revenues.

Federal "Reed Act" revenue is referenced in two instances in the attachment. Federal law restricts states to using Reed Act distributions to cover the cost of state UI benefits, employment services (ES), labor market information, and administration of state UI and ES programs. In March 2002, the Job Creation and Worker Assistance Act provided for a one-time special Reed Act distribution of $8 billion to state UI Trust Fund accounts (Wisconsin received $166.2 million). The American Recovery and Reinvestment Act (ARRA) of 2009 designated a total of $500 million for the administration of state UI programs. The 2009 transfer, from the federal Employment Security Administration Account (ESAA) to the states' UI Trust Fund accounts, was made using Reed Act distribution calculations. Currently, DWD has $1,607,328 in ARRA ESAA funding that remains in the UI Trust Fund. The continuing budget authority for these federal administrative funds is carried in the appropriation under s. 20.445 (1)(nd) for DWD's Division of Employment and Training, as specified by the Legislature in the 2009-11 budget act. Legislative action is likely required to move the budget authority for these funds to the DWD appropriation under s. 20.445 (1)(n), so as to accommodate UI administrative expenditures.

3. Could the master lease program be used to finance the UI benefits system replacement project?

The Department of Administration (DOA) administers both the state's procurement process and master lease program. The master lease program is an alternative financing mechanism that is available to state agencies to fund large procurements over a specified period of time, rather than funding such procurements with significant short-term commitments of other appropriations and revenues.

Procurement Process. DOA is responsible for purchasing necessary materials, supplies, equipment, personal property, miscellaneous capital, contractual services, and other consumable items for agencies. Although DOA is the state's primary purchasing authority, the Department is permitted to delegate such authority to state agencies. The Department of Workforce Development is one such delegated agency, meaning that DWD employs a designated purchasing agent and staff to implement procurement laws and conduct agency-specific procurement solicitations.

Under the standard delegated purchasing agreement with DOA, a delegated agency assumes responsibility for: (a) bidding of commodities and printing for any dollar amount unless the purchase is covered by a statewide mandatory contract; (b) bidding of contractual services under $50,000 unless the services would be covered under a statewide mandatory contract; (c) bidding of contractual services over $50,000 unless covered by a statewide mandatory contract, following the submittal and approval of a procurement plan; (d) issuing requests for proposals of any dollar amount following the submittal and approval of a procurement plan; (e) waiving the bidding process for commodities and contractual services of $25,000 or less, except printing, motor vehicle purchases, and legal services; (f) administering the purchasing card program and ensuring proper usage controls; (g) bidding and administering any statewide contract that is mutually agreed upon by DOA and the agency; (h) utilizing optional contracts when applicable; and (i) establishing agency-specific policies and procedures for procurements that meet or exceed those contained in the state procurement manual.

It should be noted that, under s. 16.71(1)(m) of the statutes, no agency (other than the University of Wisconsin System) may enter into a contract related to IT prior to the review and approval of the contract by DOA. Further, under s. 16.973(13) of the statutes, large, high-risk IT projects or those with a projected cost over $1.0 million are subject to additional requirements, such as specifying in contracts with vendors that DOA be allowed to review amendments that would change the scope of the contract or increase the price.

Further, purchases are subject to procedures provided under state statute, administrative rules, and the state procurement manual. For example, projects over $50,000 must be awarded through a competitive negotiation (request for proposal) process. However, agencies may receive a waiver from the competitive negotiation process if certain considerations or circumstances preclude bidding, including: (a) uniqueness, when a product or service is only available from one supplier; (b) patent or proprietary, when the features of a product or service are available only from one source; (c) intrinsic value, when a product has historic, artistic, or educational value; (d) substantial time pressure, when a time pressure exists beyond the agency's control; and (e) an emergency, in which risk of human suffering or damage to state property require immediate action. For projects over $25,000, a waiver requires the approval of either the Governor or the Secretary of DOA, depending on the type of waiver requested.

Master Lease Program. The state master lease program was created in 1992 to acquire equipment for state agencies through installment payments. In 1994, the program was expanded to include, in limited circumstances, the acquisition of prepaid services. Examples of current leased items include the state's accounting system, expansion of the state's central mainframe computer, and various information technology items. The state's obligation to make lease payments is not a general obligation debt of the state, but rather the payments are subject to the annual appropriation of funds sufficient to cover the costs of the annual lease payments.

The program implements a two-phased financing structure: (a) the financing of all leased items with proceeds from a revolving line of credit for which the state pays interest based on a variable taxable interest rate; and (b) the state, at various times, issues certificates of participation to refinance the revolving credit with a fixed rate and most often tax-exempt financing.

The master lease program is administered through DOA and is available for all state agencies, and any association, society, or other body of the state entitled to expend appropriated funds, including the Legislature and Courts. Under the master lease program, state agencies submit requests to DOA for approval. The Department's review includes a determination as to whether lease financing is the best alternative for acquiring the equipment and the state agency has the resources to make the required lease payments. An agency's master lease payments are not included in the state budget as a separate line item, but rather are included with other expenditures in one or more of an agency's existing appropriations.

From July, 2014, through December, 2019, $157.9 million of master lease funding was approved by DOA, of which 90% ($142.1 million) was related to 28 information technology projects. During the same time period, state agencies made $154.4 million in master lease payments, including repayment of principal, interest, and administrative fees. As of December, 2019, $88.6 million in certificates of participation was outstanding.

It should be noted that DWD assumes a UI benefit system upgrade project could cost between $48 million and $70 million. It is also thought the development of a new UI benefits system would require both a substantial period of planning prior to executing a purchase, as well as funding to complete such processes. Once a purchase agreement is in effect, it is not immediately clear how long a master lease term would last for such a purchase and what DWD's annual cost would be.

4. In addition to current revenues, could DWD request a 13.101(4) transfer into one or more of their appropriation accounts to fund the project through a master lease if approved?

A s. 13.101(4) request may be made for the Joint Committee on Finance to transfer between two appropriations, two fiscal years of the same biennium, or between an appropriation of one agency and an appropriation of a different agency "if the committee finds…more efficient and effective methods for performing programs will result" or if the Committee finds that "legislative intent will be more effectively carried out because of such transfer, if legislative intent will not be changed as the result of such transfer and the purposes for which the transfer is requested have been authorized or directed by the legislature." The Joint Committee on Finance under s. 13.101(3) may also supplement PR or SEG appropriations from available balances, or supplement GPR appropriations from amounts appropriated to the Committee under s. 20.865(4)(a), if an unforeseen emergency exists or funding is otherwise insufficient to accomplish the purposes for which the appropriation is made. The Committee must find an emergency exists, no funds are available for such purposes, and the purposes for which a supplemental appropriation have been requested have been authorized or directed by the Legislature.

Assuming that these statutory requirements are satisfied by the request, and an appropriation account with an adequate unencumbered balance is found, the Joint Committee on Finance may approve such a transfer or supplement if funding to pay master lease costs is required in 2020-21. However, if the Committee takes action under s. 13.101, it would be incumbent on the Legislature during the budget process to approve monies in subsequent biennia sufficient to fulfill the annual master lease costs over its term.

RH/lb
Attachment

ATTACHMENT

Unemployment Insurance Administrative Appropriations

Alpha	Appropriation Name	Source	Appropriation Type	Numeric	Schedule Type	Revenue Source(s)	2019-20 Ch. 20 Schedule	2019-20 Revenues	2019-20 Expenditures	2019-20 Closing Balance	Note
(1)(a)	General program operations	GPR	A	101	Amounts in the schedule	General Fund	$8,464,700	---	$8,409,200	---	General program operations appropriations are typically a flexible source of funding. Currently, approximately $6.3 million is budgeted annually for salary and fringe and $2.2 million for supplies and services.
(1)(gc)	Unemployment administration	PR	C	134	All monies received	All UI administrative fees collected under 108.19 not otherwise appropriated.	$0	$0	$0	$0	
(1)(gd)	Unemployment interest and penalty payments	PR	C	136	All monies received	Various interest and penalty payments paid by employers. This is the so-called "I&P fund." However, it is not a separate segregated fund, but rather an appropriation account in the general fund.	$1,965,200	$3,513,700	$734,900	$15,616,500	The appropriation references "for the administration of the unemployment insurance program." The Department has estimated an $85 million liability to this appropriation account once DWD has completed non-charging reimbursable employers, as specified under 2019 Act 185.
(1)(gg)	UI information technology systems; interest and penalties	PR	C	124	All monies received	This appropriation is effectively an "amounts in the schedule" appropriation as it only receives revenue from the interest and fees collected under (1)(gd) if monies are appropriated here.	$0	$0	$0	$0	
(1)(gh)	UI information technology systems; assessments	PR	C	125	All monies received	UI administrative fees that are now expired.	$0	$1,100	$0	$22,200	DWD may transfer funds from this appropriation account to the appropriation account under (1)(gd).
(1)(n)	Employment assistance and UI administration	FED	C	151	All monies received	Federal UI admin. funding and Reed Act funds.	$55,000,000	$63,711,200	$63,220,900	-$1,798,600	Funds can be used "for the administration of employment assistance and unemployment insurance programs of the department."

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(1)(na)	Employment security buildings and equipment	FED	C	150	All monies received	This appropriation is effectively an "amounts in the schedule" appropriation as it only receives revenue from (1)(n) if monies are appropriated in (1)(na).	$0	$0	$0	$0	
(1)(nb)	UI administration; information technology systems	FED	C	149	All monies received	This appropriation is effectively an "amounts in the schedule" appropriation as it only receives Reed Act revenue from (1)(n) if monies are appropriated here.	$0	$0	$0	$0	
(1)(v)	Unemployment program integrity	SEG	C	172	All monies received	Benefit concealment penalty payments and a 0.01% assessment of employers to fund program integrity efforts. All revenues accrue to the segregated, non-lapsable unemployment program integrity fund (DWD Fund 298).	$321,200	$4,526,200	$4,774,700	$14,452,000	Monies received from Fund 298 are for the "payment of costs associated with program integrity activities." This language may be broad enough to encompass certain UI IT expenditures. Currently, this fund is used for fraud investigation, worker classification enforcement and outreach, identity verification and cross-matching, and investigation and prosecution of criminal UI fraud.