Office of State Employment Relations

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May 12, 2015 | 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

Agency	Allocation	Salary & Fringe	% of Salary & Fringe	Auth. FTE	Assmt. Per FTE
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

Agency	Assessment	Authorized FTE	Assessment Per FTE
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	7	1.00	7.00
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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May 12, 2015 Joint Committee on Finance Paper #496

Eliminate Office of State Employment Relations and Transfer Functions to the Department of Administration (Administration -- Transfers and Office of State Employment Relations)

[LFB 2015-17 Budget Summary: Page 28, #1, and Page 330, #4]

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 Director of OSER is appointed by the Governor. The Office has an unclassified Director, Deputy Director, Executive Assistant, three division administrators, an employee who performs services relating to the coordination of state employee benefits, and 42.95 other classified positions.

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 statutes specifically provide for the creation of a Division of Merit Recruitment and Selection in OSER. The Administrator of the Division of Merit Recruitment and Selection must be nominated by the Governor, and with the advice and consent of the Senate appointed for a five-year term, under the unclassified service from a register of at least five names certified to the Governor by the Director of OSER. The Director of OSER must prepare and conduct an examination for the position of Administrator of the Division of Merit Recruitment and Selection according to the requirements for classified positions. The Administrator of the Division of Merit Recruitment and Selection may be re-nominated by the Governor, and with the advice and consent of the Senate reappointed.

Within OSER there is a Council on Affirmative Action consisting of 15 members appointed for three-year terms. A majority of the Council's members must be: (a) public members; and (b) minority persons, women, or persons with disabilities, appointed with consideration to the appropriate representation of each group. The President of the Senate, the Speaker of the Assembly, the Minority Leader of the Senate, and the Minority Leader of the Assembly each appoint one member to the Council. The remaining Council members are appointed by the Governor.

Also within OSER is a State Employees Suggestion Board consisting of at least three persons, at least one of whom must be a state officer or employee, appointed for four-year terms.

GOVERNOR

Delete $5,671,900 PR in 2015-16, $5,679,000 PR in 2016-17, and 42.0 PR positions annually and eliminate OSER. Repeal statutory language that authorizes seven unclassified OSER positions. Transfer the funding, positions, and functions of OSER to a new Division of Personnel Management in DOA. [Under other decision items, 7.95 PR positions and related position funding would be deleted from OSER prior to the transfer to DOA. This issue is addressed in separate budget papers.]

Provide $5,672,300 PR in 2015-16, $5,679,400 PR in 2016-17, and 39.0 PR positions annually to DOA associated with the transfer of OSER. Delete the following base positions and related funding from DOA associated with the transfer of OSER functions to the Department: (a) $71,300 GPR and 0.5 GPR human resources manager position annually; and (b) $146,900 PR and 1.5 PR positions annually (1.0 employment relations program coordinator and 0.5 human resources manager). [While 42.0 PR positions transferred from OSER to DOA under the bill, 39.0 transferred PR positions were re-created under DOA.]

Delete the following OSER appropriations: (a) PR continuing gifts and donations; (b) FED continuing federal grants and contracts; and (c) FED continuing indirect cost reimbursements. Transfer the following OSER appropriations to supervision and management under DOA: (a) PR annual services to nonstate governmental units; (b) PR annual employee development and training services; (c) PR annual general program operations; (d) PR annual publications; and (e) PR annual collective bargaining grievance arbitrations.

Delete the State Employees Suggestion Board, and the Council on Affirmative Action which are in OSER, and re-create these entities under DOA.

Create a Division of Personnel Management under DOA. Provide that the Administrator of the Division would serve at the pleasure of the Secretary of DOA. The Administrator would be created under the unclassified service. [By contrast, the current Director of OSER is appointed by and serves at the pleasure of the Governor.]

Delete the Division of Merit Recruitment and Selection under OSER. Create a Bureau of Merit Recruitment and Selection within the Division of Personnel Management under DOA. Provide that the Director of the Bureau would serve at the pleasure of the Secretary of DOA. The Director would be created under the unclassified service. [By contrast, the current law Administrator of the Division of Merit Recruitment and Selection under OSER is nominated by the Governor, and with the advice and consent of the Senate appointed for a five-year term, under the unclassified service from a register of at least five names certified to the Governor by the Director of OSER. The Director of OSER must prepare and conduct an examination for the position of Administrator of the Division of Merit Recruitment and Selection according to state requirements for classified positions.]

Specify that the assets, tangible personal property (including records), liabilities, contracts, pending matters, positions and classified employees of OSER (other than 6.95 PR positions) become the assets, tangible personal property (including records), liabilities, contracts, pending matters, positions and classified employees of DOA. Provide that all materials submitted to or actions taken by OSER would be considered as having been submitted to or taken by DOA. Specify that all transferred OSER employees would have the same rights and status as they had at OSER. Further, provide that OSER staff that had obtained permanent status would not have to undergo a probationary period at DOA. Provide that all rules and orders of OSER remain in effect until their specified expiration dates or until amended, modified, repealed, or rescinded by DOA.

DISCUSSION POINTS

1. The development 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.

2. 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.

3. The legislation which created the Department of Employment Relations (Chapter 196, Laws of 1977) was the culmination of a study undertaken by the Governor's Employment Relations Study Commission. This Commission was created by executive order in August of 1976.

4. 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. It was envisioned that a proposed Administrator of the Division of Merit Employment 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.

5. The final report of the Commission noted that this recommended organizational change could be achieved by removing the then current Division of Employee Relations from DOA 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. 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.

6. In addition to more direct accountability to the Governor and the Legislature, the Commission noted that employment relations policy must be independent and protected from the possibility of manipulation:

> Employment relations policy including personnel, collective bargaining, affirmative action, and employee development must have accountability to the executive office, protection from the possibility of manipulation, and independence from the general bureaucratic structure.

7. After extensive legislative consideration and debate, legislation to create the new Department of Employment Relations (DER) was adopted. Chapter 196, Laws of 1977, which created DER, generally took effect on February 16, 1978. The Department of Employment Relations continued to exist until enactment of 2003 Act 33 (the 2003-05 biennial budget act).

8. Under the 2003-05 biennial budget, the Governor recommended eliminating DER as a separate Department and transferring its functions to DOA. The Governor also recommended changes to the appointment process for the Administrator of the Division of Merit Recruitment and Selection. It was recommended that the Governor would now appoint the Administrator from a list of three qualified individuals. The list would be created by a selection committee composed of the Chief Justice of the Supreme Court, the Speaker of the Assembly, the President of the Senate, and two individuals appointed by the Governor (one of whom may not be a state employee), or these individuals' designees. If none of the names were satisfactory, the Governor could request another list of three names. This process could be repeated indefinitely. Upon the advice and consent of the Senate, the individual would serve a five-year term.

9. The Legislature modified the Governor's recommendations as follows: (a) eliminated DER, but instead of transferring its functions into DOA, created a new statutory entity, the Office of State Employment Relations; (b) provided that the Office be attached to DOA under s. 15.03 for limited administrative support purposes; (c) specified that the Office be headed by a Director in the unclassified service [ESG 6] who would be appointed by the Governor, subject to Senate confirmation; (d) statutorily established three Divisions within the new Office: a Division of Merit Recruitment and Selection; a Division of Compensation and Labor Relations; and a Division of Affirmative Action; (e) retained all of the duties and responsibilities for the Division of Merit Recruitment and Selection and its Administrator as they existed under DER; (f) provided that each division be headed by an unclassified division administrator; (g) authorized the Director of the Office to appoint the administrators of the Divisions of Compensation and Labor Relations and Affirmative Action; (h) specified that the position of Administrator of the Division of Merit Recruitment and Selection be appointed by the Governor, subject to civil service examination process, and be confirmed by the Senate, using the same process as under DER; and (i) authorized a total of three unclassified division administrator positions for the Office and also authorized the Office Director to have an unclassified executive assistant (ESG 4).

10. Under 2003 Act 33, OSER was created to replace DER but the Governor vetoed the requirement that the Governor's appointment of a Director of OSER be subject to Senate confirmation.

11. Under AB 21/SB 21, it is again recommended that employment relations staff and

functions be transferred to DOA, and that OSER be deleted. The statutory functions and duties of OSER relating to employment relations would remain unchanged except that those functions and duties would transfer to DOA.

12. The Office of State Employment Relations would now become a Division of Personnel Management under DOA. Unlike under current law where the Director of OSER is appointed by and serves at the pleasure of the Governor, the Administrator of the Division of Personnel Management would serve at the pleasure of the Secretary of DOA.

13. The Division of Merit Recruitment and Selection (DMRS) under OSER would become the Bureau of Merit Recruitment and Selection within the Division of Personnel Management under DOA. Under current law, the Administrator of DMRS under OSER is nominated by the Governor, and with the advice and consent of the Senate appointed for a five-year term, from a register of at least five names certified to the Governor by the Director of OSER. The Director of OSER must prepare and conduct an examination for the position of Administrator of DMRS according to state requirements for classified positions. Under the bill, the Director of the Bureau of Merit Recruitment and Selection in the Division of Personnel Management under DOA would be appointed by and serve at the pleasure of the Secretary of DOA.

14. Under the Governor's recommendation, DOA's internal Bureau of Human Resources would become a part of the new Division. The Bureau of Human Resources provides internal human resources and payroll services for DOA as well as typically for smaller state offices, commissions and boards. The administration indicates that the creation of the proposed Division of Personnel Management under DOA would permit "improved coordination with other DOA administrative functions such as position control, payroll, finance, fleet and risk management, and additional experience with the day to day transactions and challenges of personnel management as a result of the division providing human resource services to small and medium size agencies under the shared services model."

15. While OSER is currently authorized 49.95 FTE positions, under the bill 7.95 FTE would be deleted from OSER prior to its transfer to DOA. As a result of the OSER staffing reduction under the budget bill, the administration indicates that, "it made sense to establish the state's human resource function within the agency that oversees all of the other enterprise administrative functions in order to provide additional support if necessary." The administration further 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."

16. In terms of the modified appointment process for the head of Merit Recruitment and Selection, the administration indicates that, "The current appointment process for the DMRS [Division of Merit Recruitment and Selection] administrator is unnecessarily complex and has made it more difficult to fill the position. The Governor's budget simplifies the appointment process to be consistent with other unclassified position appointments, but does not modify any civil service policies that this position oversees."

17. The administration indicates that if the OSER transfer to DOA is deleted, "the

opportunity to leverage synergies with DOA would not occur." In order to facilitate the coordination of OSER employment relations functions with the administrative functions housed at DOA, and in order to simplify the appointment process for the head of Merit Recruitment and Selection, the Committee could approve the Governor's recommendation. [Alternative 1]

18. Under the budget bill, while 42.0 FTE positions and associated position funding transferred out of OSER, only 39.0 FTE positions transfer to DOA. The administration has indicated that this was an inadvertent oversight and in its errata letter to the Committee's Co-chairs has requested that 3.0 additional FTE be provided to DOA if the OSER transfer is approved. In order to effectuate this intent, if the Committee approves the transfer of OSER to DOA, the Committee could also approve 3.0 additional FTE that were intended to be transferred to DOA as a part of the recommendation. [Alternative 2]

19. Under the Governor's recommendation the state administration of employment relations would again be modeled after the approach that existed prior to the 1976 Governor's Employment Relations Study Commission. Prior to this Commission, state employment relations functions were housed in DOA.

20. The Commission identified three requirements for state employment relations policy: (a) direct accountability to the Governor and to the Legislature; (b) protection from the possibility of manipulation; and (c) independence from the general bureaucratic structure. The 1976 Governor's Commission recommended separate departmental status for the employment relations function arguably to address all three issues, but the following statement from the report highlighted the lack of direct accountability of the state employment relations function to the Governor and the Legislature under prior law.

> Recommendation 1 proposes the establishment of a new department in state government. That new department would, for the most part, be formed by removing the current Division of Employee Relations from the Department of Administration. This would elevate personnel management and the merit system to an appropriate status and to a status consistent with the pattern in other states. Currently, the individual with statutory authority for the personnel system is a bureau head in a department-three steps removed from the Governor and the Legislature.

21. While the current Director of OSER is appointed by and serves at the pleasure of the Governor, under the budget bill the Administrator of the Division of Personnel Management would not report to and be directly accountable to the Governor, but rather would be appointed by and serve at the pleasure of the Secretary of DOA. Likewise, under current law the Administrator of the Division of Merit Recruitment and Selection under OSER is nominated by the Governor, and with the advice and consent of the Senate appointed for a five-year term, under the unclassified service from a register of at least five names certified to the Governor by the Director of OSER. Under the bill the Director of the Bureau of Merit Recruitment and Selection within DOA would be appointed by and serve at the pleasure of the Secretary of DOA.

22. The reason for the distinct appointment process for the Merit Recruitment and Selection Administrator traces back to the creation of the Department of Employment Relations by Chapter 196, Laws of 1977. There were concerns at that time that the individual who would be

immediately responsible for operation of the merit recruitment and selection process needed to have some insulation from the normal political appointment process. Therefore, a modified commissioner-type appointment process for this position was selected whereby the appointee would be nominated by the Governor, but would be subject to Senate confirmation and would serve a five-year fixed term, subject to dismissal only for cause. Further, a civil service examination process was required to develop the list of nominees to ensure that the pool of nominees would be qualified, as determined under the merit system, to hold the position. Both of these special requirements were intended to provide additional insulation from political appointment procedures by use of a civil service recruitment and selection process.

23. In order to enhance the ability of OSER to carry out its responsibilities in a professional and objective manner, the Legislature has over the years provided it independence from other state agencies in general, and DOA in particular. Arguably this independence protects the agency's objectivity and insulates it from the general administrative structure. It could be argued that transferring the functions and staff of OSER to DOA could compromise its objectivity. Under the bill, the leadership of the proposed Division of Personnel Management, as well as its staff, would all report to the Secretary of the Department of Administration. Also, the leadership of the Division of Personnel Management would serve at the pleasure of the Secretary of DOA.

24. Under the shared agency services pilot under the bill, DOA would provide services relating to human resources, payroll, finance, budgeting, and procurement to additional state agencies with a proposed net reduction in state staff of 11.3 FTE. Under the OSER transfer to DOA, OSER's base staffing of 49.95 FTE would be reduced by 16% associated with: (a) a 6.95 FTE position reduction seeking additional efficiencies and seeking to reduce the OSER assessment to state agencies; and (b) a 1.0 FTE reduction associated with transferring IT position funding to DOA for the shared services recommendation. In addition, as a part of the OSER transfer to DOA, an additional 2.0 FTE would be deleted from DOA's Bureau of Human Resources, again seeking additional efficiencies as well as to reduce the DOA assessments to state agencies.

25. Under the bill, the recommended Division of Personnel Management would incorporate the remaining staff of OSER and DOA's Bureau of Human Resources, as well as staff that would come with the shared services recommendation. In regards to the OSER staffing reductions, DOA 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."

26. The new DOA Division would have the following responsibilities: (a) internal DOA human resource and payroll service needs; (b) day-to-day employment relations functions for small state agencies served by DOA; and (c) OSER's current law responsibilities to oversee the independent, objective administration of the state's employment relations function. If resources prove insufficient to effectively address all of these responsibilities, it is unclear on an ongoing basis which responsibilities would take precedence in the new division. This potential conflict as to which priorities to address would not exist in the same way if OSER was maintained as a separate office.

27. Under the budget bill, OSER functions and staff would transfer to DOA, a large

cabinet agency with many diverse functions, with total FTE of 1,094.08 positions annually and funding totaling $976,232,800 in 2015-16, and $1,523,508,300 in 2016-17 (all funds). Even if DOA has sufficient resources to carry out the employment relations function under the budget, over time and without legislative approval or oversight, DOA would have the authority to reallocate funding and staff originally associated with OSER functions to other departmental responsibilities and priorities. On the other hand, the Legislature would maintain more control over the level of funding and staff provided for the state employment relations function if OSER were maintained as a separate agency.

28. The Governor's Employment Relations Study Commission concluded in 1977, that the state employment relations function must be: (a) directly accountable to the Governor and the Legislature; (b) protected from the possibility of manipulation; and (c) independent from the general bureaucratic structure. If the Committee feels that these objectives would be more likely furthered through an independent agency, the Committee could elect to delete the provision and maintain OSER as an independent Office. [Alternative 3]

29. Under Alternative 3, $435,600 (all funds) and 5.0 positions (all funds) would be restored during 2015-17, associated with: (a) restoration of 3.0 OSER positions that were intended to be maintained and transferred to DOA, but inadvertently were not re-created under DOA under the budget bill; (b) restoration of 2.0 FTE and $436,400 (all funds) during 2015-17 to DOA that were deleted as a part of the OSER transfer; and (c) reduction of $800 associated with a lower fringe benefit rate at OSER. The administration has indicated that, "If the OSER transfer is not approved, the positions deleted from the Bureau of Human Resources ... need to be restored, as the bureau will still need to provide HR and payroll functions for the department and the 23 consolidated agencies and administrative attachments that receive HR and payroll services from the bureau." As a result of these considerations, if the Committee decides to maintain OSER as a separate agency the Committee could restore these resources to DOA under Alternative 3.

30. In recommending position reductions to OSER under the budget bill, the administration did not provide an analysis as to how the current responsibilities of OSER could be carried out with reduced staffing. Rather, the administration reduced staffing to minimize OSER assessment increases during 2015-17, and indicated that OSER would need to prioritize its workload. Applying similar considerations, the Committee could maintain the staffing reductions recommended for both OSER and DOA under the bill, even if OSER is maintained as a separate agency. Under this approach, the assessments applied by both OSER and DOA to state agencies would be reduced, and both agencies would be expected to obtain additional efficiencies and be expected to prioritize their respective workloads. [Alternative 4]

31. When creating OSER as an independent office in the 2003-05 budget, the Legislature provided that the Director of OSER be appointed by the Governor, subject to Senate confirmation. Under 2003 Act 33, the Governor vetoed the requirement that the Governor's appointment of the Director of OSER be subject to Senate confirmation. In order to enhance the accountability of OSER to the Legislature, the Committee could consider modifying current law to provide that the Director of OSER be nominated by the Governor and with the advice and consent of the Senate appointed. [Alternative 5]

ALTERNATIVES

1. Approve the Governor's recommendation to transfer the Office of State Employment Relations (OSER) to a new Division of Personnel Management under the Department of Administration (DOA). Delete the Division of Merit Recruitment and Selection, the State Employees Suggestion Board, and the Council on Affirmative Action, which are in OSER, and re-create them under DOA. Adopt the provisions under AB 21/SB 21 implementing these program and responsibility transfers. Delete the following base positions and related funding from DOA's Bureau of Human Resources associated with the transfer of OSER functions to the Department: (a) $71,300 GPR and 0.5 GPR human resources manager position annually; and (b) $146,900 PR and 1.5 PR positions annually (1.0 employment relations program coordinator and 0.5 human resources manager).

2. In addition to Alternative 1, provide an additional 3.0 PR positions to DOA that were intended to be transferred from OSER to DOA under the Governor's recommendation.

ALT 2	Change to Bill
	Positions
PR	3.00

3. Delete provision. Delete $5,672,300 PR in 2015-16, $5,679,400 PR in 2016-17, and 39.0 PR positions annually from DOA associated with the recommended transfer of functions, funding and staff from OSER. Restore $5,671,900 PR in 2015-16, $5,679,000 PR in 2016-17, and 42.0 PR positions annually to OSER. Restore the following base positions and related funding to DOA's Bureau of Human Resources: (a) $71,300 GPR and 0.5 GPR human resources manager position annually; and (b) $146,900 PR and 1.5 PR positions annually (1.0 employment relations program coordinator and 0.5 human resources manager). Delete the provisions under AB 21/SB 21 implementing the transfer of OSER functions, funding and staff to DOA.

ALT 3	Change to Bill	
	Funding	Positions
GPR	$142,600	0.50
PR	293,000	4.50
Total	$435,600	5.00

4. Delete provision, but maintain the following reductions to DOA's Bureau of Human Resources: (a) $71,300 GPR and 0.5 GPR human resources manager position annually; and (b) $146,900 PR and 1.5 PR positions annually (1.0 employment relations program coordinator and 0.5 human resources manager). Delete the provisions under AB 21/SB 21 implementing the transfer of OSER functions, funding and staff to DOA.

ALT 4	Change to Bill	
	Funding	Positions
PR	- $800	3.00

5. Provide that the Director of OSER be nominated by the Governor and with the advice and consent of the Senate appointed. *This alternative may be adopted in addition to Alternative 3 or 4.*

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OFFICE OF STATE EMPLOYMENT RELATIONS

LFB Summary Item for Which No Issue Paper Has Been Prepared

Item #	Title
1	Standard Budget Adjustments

LFB Summary Item to be Addressed in a Subsequent Paper

Item #	Title
3	Transfer Information Technology Position Funding for DOA Shared Agency Services