

SB22-163

**JBC STAFF FISCAL ANALYSIS
SENATE APPROPRIATIONS COMMITTEE**

CONCERNING ESTABLISHMENT OF A PROCUREMENT EQUITY PROGRAM TO REMEDIATE DISPARITIES IN STATE PROCUREMENT.

Prime Sponsors: Senator Coleman
Representative Ricks

JBC Analyst: Tom Dermody
Phone: 303-866-4963
Date Prepared: April 26, 2022

Appropriation Items of Note

Appropriation Required, Amendment in Packet

General Fund Impact

New Cash Fund (with Continuous Appropriation)

Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/13/22.

| | |
|------------|--|
| | No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill |
| | Update: Fiscal impact has changed due to <i>new information or technical issues</i> |
| XXX | Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared |
| | Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill |

The Business, Labor, and Technology Committee Report (04/20/22) includes amendments to the bill that reduce the required General Fund appropriation to \$2,007,707 and the related FTE to 4.6 FTE for FY 2022-23. The amendments also shift the responsibility for hiring an equity consultant from the Department of Personnel to the Minority Business Office in the Governor's Office. Legislative Council Staff and JBC Staff agree on the fiscal impact of the amendments.

Amendments in This Packet for Consideration by Appropriations Committee

| Amendment | Description |
|-------------|---|
| J.001 | Staff-prepared appropriation amendment |
| L.003/J.002 | Bill Sponsor amendment - changes fiscal impact <i>and</i> appropriation |

Current Appropriations Clause in Bill

The bill requires but does not contain an appropriation clause.

Description of Amendments in This Packet

J.001 Staff has prepared amendment **J.001** (attached) to add a provision appropriating a total of \$1,908,084 General Fund to the Department of Personnel for FY 2022-23, of which \$114,824 is reappropriated to the Governor's Office for the provision of information technology services. This provision also states that the appropriation is based on the assumption that the Department of Personnel will require an additional 4.6 FTE. The provision further appropriates \$99,623 General Fund to the Governor's Office for FY 2022-23 for an equity consultant.

L.003 and J.002

Bill Sponsor amendment **L.003** (attached) moves the responsibility for convening a stakeholder group from the Minority Business Office in the Governor's Office to the Department of Personnel and moves some program reporting dates into future years. The amendment does not change the overall fiscal impact of the bill, but does shift the cost of hiring an equity consultant from the Governor's Office to the Department of Personnel. Staff has prepared **J.002** (attached) to add a provision appropriating a total of \$2,007,707 General Fund to the Department of Personnel for FY 2022-23, of which \$114,824 is reappropriated to the Governor's Office for the provision of information technology services. This provision also states that the appropriation is based on the assumption that the Department of Personnel will require an additional 4.6 FTE. Legislative Council Staff and JBC Staff agree on the fiscal impact of the amendments.

If **L.003** is adopted, then **J.002** should be adopted but not **J.001**.

Points to Consider*General Fund Impact*

The Joint Budget Committee has proposed a budget package for FY 2022-23 based on the March 2022 Legislative Council Staff revenue forecast. The budget package includes two set-asides:

1. \$40.0 million General Fund for bills that create ongoing obligations; and
2. \$900.0 million General Fund for bills that create one-time obligations in FY 2022-23.

The \$40.0 million *appropriations* set-aside includes an additional \$6.0 million General Fund to provide a 15.0 percent General Fund reserve for those appropriations. The \$900.0 million *obligations* set-aside does not include an additional amount for a General Fund reserve and, assumes, but does not require, that obligations be addressed through statutory transfers rather than appropriations. Therefore *appropriations* from the \$900.0 million set-aside require an additional 15.0 percent to maintain the statutory General Fund reserve.

This bill creates an ongoing obligation and requires a General Fund appropriation of \$2.0 million for FY 2022-23, reducing the \$40.0 million set aside by the same amount. This bill creates a one-time obligation and includes a General Fund transfer of \$2.0 million for FY 2022-23, reducing the \$900.0 million set aside by the same amount.

Legislative Appropriation Authority

Continuous spending authority, also known as **continuous appropriations**, allows departments to spend money for statutorily specified purposes up to the amount of money in the fund without seeking annual legislative approval. An annual appropriation provides a limit on spending authority, while a continuous appropriation provides unlimited spending authority.

This method of funding moves these expenditures off-budget, and thus expenditures are not reported or accounted for through the budget process. Is it necessary for the Department of Personnel to **not** seek annual authority from the General Assembly to spend money from Bond Assistance Program Cash Fund?