



Legislative Fiscal Bureau

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January 8, 2014

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Administration: Section 13.10 Request for Self-Funded Portal Expenditure Authority -- Agenda Item VII

REQUEST

On October 28, 2013, the Department of Administration (DOA) submitted a s. 16.515 passive review request for an increase in expenditure authority of \$1,900,200 PR in 2013-14 and \$2,680,200 PR in 2014-15 for the state's self-funded portal appropriation [s. 20.505(1)(ip)]. Base funding for the annual appropriation, which was created under 2013 Act 20, is \$2,000,000 PR annually. An objection to the request was raised. Therefore, the agenda item is scheduled under s. 13.10 for the purpose of reviewing DOA's request.

BACKGROUND

Under the 2013-15 biennial budget bill, 2013 Act 20, the Legislature approved the creation of a self-funded portal appropriation for the purpose of receiving and disbursing fee moneys received by the state to provide web-based technology services through the state's web portal to state agencies, state authorities, units of the federal government, local governmental units, tribal schools, individuals, and entities in the private sector. According to the administration, on May 13, 2013, the state signed a contract with the Wisconsin Interactive Network (WIN), a subsidiary of NIC Inc. (formerly the National Information Consortium), to provide web-based government services to the above organizations or individuals. According to the portal business plan submitted by WIN to DOA, some services provided through the portal will be free of charge, while other services may charge users a fee. Under the contract, all portal fee revenues received by the state, less any statutory fees, merchant processing fees, state revenue sharing portal fees, and any liquidated damages, must be paid to WIN for the services provided.

As initially submitted by the Governor in 2013 Assembly Bill 40, the self-funded portal item provided \$5.5 million annually to DOA's information technology services to non-state entities

appropriation and modified the appropriation type from an annual to a continuing appropriation. The administration subsequently submitted an errata letter and indicated that: (a) only \$4.0 million annually would be needed for the self-funded portal initiative; and (b) the conversion of the appropriation from annual to continuing in nature was intended to provide DOA flexibility in meeting its contractual obligation to the portal vendor, as the exact amount of revenue that would be generated by the fee was uncertain. In the case of an annual appropriation, spending in a given year may not exceed the amounts in the Chapter 20 schedule of appropriations. In contrast, for a continuing appropriation, the amounts in the schedule represent the best estimate of expenditures. Therefore, expenditures are permitted to exceed these amounts if estimated revenue to the appropriation is sufficient. At the time of the budget submission, DOA estimated portal fee revenue for the biennium would total to \$4.0 million annually.

The Legislature modified the self-funded portal provision by instead creating an annual PR appropriation for the receipt and reimbursement of self-funded portal revenue only, funded at \$2.0 million annually. As noted in 2013-15 LFB Paper #116 (attached), the only known fee-charging self-funded portal project at the time was a proposed Department of Transportation (DOT) project. Information regarding the proposed DOT portal fee, however, was limited and the fee determination was not yet final.

ANALYSIS

Since enactment of Act 20, the DOT portal fee has been finalized and is the only portal fee currently in use. The fee relates to an electronic driver records service provided by DOT through its Division of Motor Vehicles. Beginning September 3, 2013, a \$2 service fee is charged to companies to obtain or, in the case of a missing record, conduct a search for driving records through DOT's Broker Volume System. Of the fee, \$1.90 must be remitted to WIN and \$0.10 may be retained by the state. Table 1 shows the revenue generated by the service fee as of November 30, 2013.

TABLE 1

**Portal Fee Revenue
November, 2013**

	<u>September</u>	<u>October</u>	<u>November</u>	<u>Average</u>
Wisconsin Interactive Network (\$1.90)	\$342,554.80	\$376,200.00	\$313,330.90	\$344,028.57
Department of Administration (\$0.10)	<u>18,029.20</u>	<u>19,800.00</u>	<u>16,491.10</u>	<u>18,106.77</u>
Total Fee Revenue	\$360,584.00	\$396,000.00	\$329,822.00	\$362,135.33

The Department indicates that it is contractually obligated to remit \$1.90 of each \$2.00 fee to the portal vendor. The vendor submits an invoice to DOA after the completion of a calendar month, after which the state has 30 days to provide payment. Subject to s. 16.528 of the statutes, if payment is not made in full within that timeframe, an interest rate of 12% annually (compounded monthly) is applied to the outstanding amount until payment is received. According to DOA, for

logistical reasons, payment for the amount invoiced for September, 2013, was submitted 22 days subsequent to the date the payment was due. Therefore, DOA paid a prorated interest amount of \$2,511.95. The Department anticipates the appropriation's current \$2.0 million expenditure limit will be reached sometime in February, 2014, after which it cannot meet its contractual obligation to remit fee revenue to the vendor. Any future delays in payment would again incur an interest fee.

In addition to the payment of fee revenue to the vendor, the administration indicates that it intends to utilize the appropriation for information technology services provided by the state to the portal vendor. For the months of September through November, DOA submitted invoices to WIN totaling \$87,687.58 (a monthly average of \$29,229.19) for services provided by DOA's Division of Enterprise Technology. Primarily, the services provided are for the vendor's use of state-owned information technology infrastructure in providing its web-based portal services. Such infrastructure includes mainframe service components such as drivers, as well as primary and backup storage for data. The Department's estimate of the cost to provide the services to WIN over the biennium is included in the request. It should be noted that DOA has generally used its information technology and communications services to non-state entities appropriation [s. 20.505(1)(is)] for the cost of such services and to receive payment from the entities for expenses incurred. However, DOA staff indicates that the use of the self-funded portal appropriation [s. 20.505(1)(ip)] for this purpose is intended to provide "a transparent way for the department to track" all expenditures and revenues related to the self-funded portal projects through one appropriation.

The Department's estimates of fee revenue and information technology services expenses, upon which the request is based, are shown in Table 2. The figures are the sum of straight-line monthly projections based on the September, 2013, invoices from and to the portal vendor, WIN. In the table: (a) WIN fee revenue represents revenue passed on to the contractor (\$1.90 of each \$2 service fee); (b) DOA fee revenue represents revenue retained by DOA (\$0.10 of the \$2 service fee) for which a corresponding increase in expenditure authority is requested; and (c) services assessed to WIN are DOA charges to the contractor for use of state information technology infrastructure. The first year is based on 10 months of revenue and expenditures, beginning with September, 2013, and ending with June, 2014. The Department requests an increase in authority in the amount of the difference between the projected totals and the amounts in the Chapter 20 schedule (\$2.0 million annually), or \$1,900,200 in 2013-14 and \$2,680,200 in 2014-15 [Alternative 1].

TABLE 2

**Self-Funded Portal Expenditures
2013-15 DOA Estimates**

	<u>2013-14</u>	<u>2014-15</u>
Wisconsin Interactive Network (WIN) Fee Revenue	\$3,425,600	\$4,110,700
Department of Administration Fee Revenue	<u>180,300</u>	<u>216,300</u>
Subtotal Fee Revenue	\$3,605,900	\$4,327,000
Services Assessed to WIN	<u>\$294,300</u>	<u>\$353,200</u>
Total	\$3,900,200	\$4,680,200
Less Current Appropriation	<u>\$2,000,000</u>	<u>\$2,000,000</u>
Requested Funding	\$1,900,200	\$2,680,200

Subsequent to DOA's request for additional expenditure authority, information relating to the revenues and expenditures for the portal for the months of October and November, 2013, has been made available. In addition, the administration indicates that the \$0.10 revenue portion of each \$2 fee, retained by DOA, does not yet have a designated purpose. Therefore, revised estimates for the portal incorporate these factors and are based on the following: (a) higher average monthly revenue generated by each fee; and (b) higher average monthly information technology services expenditures incurred by WIN for the self-funded portal. It should be noted that the \$0.10 revenue portion of each fee will accrue in the appropriation until DOA designates a purpose for the funds. As with the estimates provided by DOA (Table 1), the revised estimates are based upon 10 months in 2013-14 and 12 months in 2014-15. The updated figures are shown in Table 3, below. The Committee could choose to provide an increase in funding to the self-funded portal appropriation using DOA's approach for calculating increased expenditure authority and more recent data. Under this alternative, funding would increase over the Department's request by \$16,000 PR in 2013-14 and \$16,200 PR in 2014-15 to \$1,916,200 PR in 2013-14 and \$2,696,400 PR in 2014-15 [Alternative 2].

TABLE 3

Self-Funded Portal Revenue and Expenditures 2013-15 Revised Estimates

	<u>2013-14</u>	<u>2014-15</u>
Wisconsin Interactive Network (WIN) Fee Revenue	\$3,440,300	\$1,128,300
Department of Administration Fee Revenue	181,100	217,300
Services Assessed to WIN	292,300	350,800
Interest Charged for Late Payment	<u>2,500</u>	<u>0</u>
Subtotal Revenues and Expenditures	\$3,916,200	\$4,696,400
Less Current Appropriation	<u>\$2,000,000</u>	<u>\$2,000,000</u>
Difference	\$1,916,200	\$2,696,400

However, since DOA now indicates that it does not have a designated use for the funds generated by the \$0.10 retained portion of each fee, it could be argued that no expenditure authority associated with this revenue is needed at this time. Therefore, using the revised estimates identified in Table 3, the Committee could choose to provide funding only for expenditures which are known at this time. Under this alternative, the Department's request would be reduced by \$165,100 PR in 2013-14 and \$201,100 PR in 2014-15 to \$1,735,100 PR in 2013-14 and \$2,479,100 PR in 2014-15 [Alternative 3]. If necessary, the Department could submit a s. 16.505 passive review request to the Committee when a purpose has been determined for the accrued shared revenue.

ALTERNATIVES

1. Approve the Department of Administration's request for an additional \$1,900,200 PR in 2013-14 and \$2,680,200 PR in 2014-15 to fund expenses associated with the state's self-funded portal [s. 20.505(1)(ip)].
2. Modify the Department's request to provide \$1,916,200 PR in 2013-14 and \$2,696,400 PR in 2014-15 to fund expenses associated with the state's self-funded portal [s. 20.505(1)(ip)] (an increase to DOA's request of \$16,000 PR in 2013-14 and \$16,200 PR in 2014-15).
3. Modify funding to provide \$1,735,100 PR in 2013-14 and \$2,479,100 PR in 2014-15 to fund expenses associated with the state's self-funded portal [s. 20.505(1)(ip)] (an adjustment to DOA's request of -\$165,100 PR in 2013-14 and -\$201,100 PR in 2014-15).
4. Deny the request.

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Attachment



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May 13, 2013

Joint Committee on Finance

Paper #116

Self-Funded Portal (DOA -- Information Technology)

[LFB 2013-15 Budget Summary: Page 35, #2 and #3; and Page 36, #4]

CURRENT LAW

The state operates a website (or "portal") which primarily provides general information about Wisconsin state government as well as tourist information for visitors to the state. Users of the website are not charged a fee for accessing the information provided. Current law authorizes the Department of Administration (DOA) to assess executive branch agencies, other than the University of Wisconsin System, for the costs of systems or devices relating to information technology or telecommunications that are developed, operated, or maintained and also charge any agency, authority, local governmental unit, entity in the private sector, or tribal school for such costs as a component of any services provided.

GOVERNOR

Provide \$5,500,000 PR annually to the Department's information technology and communications services to non-state entities appropriation to develop a web-based self-funded portal, which would provide services and information to state and non-state entities, including individuals.

Allow the Department to enter into agreements with individuals to provide those individuals with information technology services. In addition, authorize the Department to assess fees to the individuals for the cost of providing the services.

The bill would include "individuals" in the list of entities to whom DOA could provide information technology services and charge a fee.

Modify the Department's information technology and communications services to non-state entities PR appropriation from an annual to a continuing appropriation.

DISCUSSION POINTS

1. As initially submitted, the Governor's recommendation was for an increase of \$5.5 million in annual expenditure authority for the Department's information technology and communications services to non-state entities appropriation. The administration has subsequently indicated that the requested expenditure authority should instead be provided as: (a) \$4.0 million annually to the Department's information technology and communications services to non-state entities appropriation for self-funded portal activities; and (b) \$1.5 million annually to the Department's printing, mail, communication and information technology services to state agencies appropriation for University of Wisconsin-Madison mainframe hosting costs and disaster recovery services.

2. This paper addresses the web-based self-funded portal proposal. A separate LFB issue paper addresses information technology services to the UW-Madison.

3. The state operates a web portal (located at www.wisconsin.gov) developed in the year 2000. The website provides information to the public regarding: (a) state, local, and federal government; (b) State of Wisconsin public services; (c) business climate, regulation, and establishment in Wisconsin; (d) primary, secondary, and postsecondary education, as well as educational resources; (e) health and safety; (f) relocation of individuals and businesses in Wisconsin; and (g) tourism.

4. Under current law, DOA may enter into an agreement with any agency, authority, unit of the federal government, local governmental unit, entity in the private sector, or tribal school to provide authorized information technology services to those organizations at a cost specified in the agreement. Further, the Department is authorized to develop or operate and maintain any system or device facilitating Internet or telephone access to information about programs of agencies, authorities, local governmental units, entities in the private sector, or any tribal schools, or otherwise permit the transaction of business by agencies, authorities, local governmental units, entities in the private sector, or tribal schools by means of electronic communication. Under the bill, DOA would also be able to enter into an agreement with and assess fees to individuals for the provision of information technology services.

5. The administration indicates that the portal service will be operated by Wisconsin Interactive Network (WIN, a subsidiary of NIC), a private sector entity that was awarded a contract with the state in 2012 following a competitive procurement process. According to the company, NIC builds official web sites, online services, and secure payment processing solutions for federal, state, and local government agencies. The contract between DOA and WIN allows any Wisconsin state agency, locality, board, or commission to partner with NIC to provide web-based government services to constituents. Certain portal services would charge users (such as agencies, businesses, or individuals) a fee. For example, in addition to the cost of a license or permit, a convenience fee could be charged. This fee could vary, and the amounts and specific circumstances under which a fee would apply have not yet been determined.

6. The executive Budget in Brief specifies that one of the initial services the portal will provide is a "one-stop business registration system that will eliminate thousands of man-hours for

start-up businesses." Other proposed projects over the 2013-15 biennium include: (a) a redesign of www.wisconsin.gov, which would provide a "content management system for agencies, constituent personalization, mobile integration, social media integration, mapping, live chat, search functionality, and analytics;" (b) Division of Motor Vehicles redesign, driver records sales enhancements, automated crash reporting, travel information (511) improvements, and an iPad driver test application; (c) Department of Natural Resources licensing, vehicle registration, wildlife management, and mobile device applications; (d) Department of Agriculture, Trade and Consumer Protection customer licensing and no call list features; and (e) Department of Safety and Professional Services professional licensing and iPad application for board meetings. The administration estimates a launch date of September, 2013, for the new Wisconsin.gov website.

7. According to DOA, fees would be determined under the self-funded portal governance model. Fees would be recommended by the Portal Business Management Team, composed of 10 agency representatives, a WIN general manager, and a DOA contract administrator. Recommended fees would be subject to approval by the IT Executive Steering Committee, composed of the Deputy Secretary of Administration, other agency deputy secretaries, and the state's Chief Information Officer. The administration indicates that revenue from these user fees would be the sole source of funding for the portal, and would be paid through the state to the portal contractor. Further, according to DOA "a portion of the money collected by the Portal will be shared between the Contractor and the State." The Division of Enterprise Technology plans to coordinate with the Division of Executive Budget and Finance, Division of Administrative Services, and the State Controller's Office to ensure revenue received through the portal is appropriately tracked and segregated from other revenue streams. The administration was unable to provide an estimate of total revenue that would be received over the 2013-15 biennium if the proposal were approved. However, the funding estimate of \$4,000,000 PR annually was based upon a proposed fee that the Department of Transportation is negotiating with a private sector entity. The fee is not yet final.

8. According to the administration, agency participation in the self-funded portal initiative will be voluntary and in most cases, services will be provided to agencies and non-state entities, including individuals, at no cost. The administration hopes to make use of newly available features through the partnership with WIN, including: web-based applications, mobile applications, and social media management and integration. According to NIC, these features and others have already been developed and implemented in 29 other states and a handful of local governments. Among nearby states and municipalities, Iowa (Official Website of the State of Iowa) and Indianapolis (online government records for the City of Indianapolis and Marion County, Indiana) use the self-funded model through NIC.

9. The administration indicates that the purpose of the statutory modification allowing DOA to enter into an agreement with individuals to provide information technology services is to permit individuals to pay for and receive services through the self-funded web portal.

10. Further, the administration indicates that modifying the appropriation from an annual to a continuing appropriation is intended to allow flexibility in expending revenue received through self-funded portal user fees and in offering services to other states for disaster recovery. Currently, the appropriation is annual. As such, spending in a given year may not exceed the

amounts in the Chapter 20 schedule of appropriations. In the case of a continuing appropriation, the amounts in the schedule represent the best estimate of expenditures. Expenditures are, therefore, permitted to exceed these amounts if the appropriation is continuing.

11. The administration argues that the self-funded portal model is a cost-effective approach to providing improved web services and information to residents and organizations in Wisconsin. Through the changes proposed in statute, the state's website could be updated at no additional cost to the state. The Committee could, therefore, choose to approve the recommendation as modified by the errata submission to provide \$4.0 million PR annually to DOA's information technology and communications services to non-state entities appropriation and modify statutory language to permit DOA to assess individuals for the cost of providing information technology services. [Alternative 1]

12. It could be argued, however, that modifying the appropriation to make it continuing in nature would reduce legislative authority relating to the funding of this and other information technology initiatives, including the methods and amounts assessed to individuals, as well as the amounts expended for information technology services to non-state entities in general. According to DOA, revenues, expenditures, fees, and features will vary based on the demands of agencies under the already executed contract with NIC. The Committee could, therefore, choose to create a new continuing PR appropriation for only the self-funded portal and provide \$4.0 million PR annually to the newly created self-funded portal appropriation instead. Under this alternative, the appropriation would receive and disburse fee money received through the self-funded web portal. [Alternative 2]

13. While the administration has outlined the general parameters of the state's new web portal, few details regarding revenue and expenditure estimates, or fees that would be assessed are currently known. If the Committee wishes to encourage the implementation of such a proposal, but believes that modifications should be made, it could choose to incorporate one or more modifications. These modifications could be selected with either Alternative 1 or Alternative 2, as outlined below.

14. Funding for the portal is estimated at \$4.0 million annually. However, supporting information relating to the estimate indicated that the fee amount upon which the estimate was based is not yet final. The Committee could, therefore, modify the funding provided to any lower amount of funding; for example, \$2,000,000 PR. If revenues exceed \$2.0 million PR annually, DOA could request an increase in expenditure authority sufficient to cover the increase, under a 14-day passive review process. [Alternative 3a].

15. In addition, the Committee could delete language making the appropriation continuing. This would restrict expenditures from the appropriation to the amounts in the appropriations schedule, as noted in discussion point #8. If this alternative is selected with Alternative 2, the newly created appropriation would be annual in nature. [Alternative 3b]

16. Concerns have been raised regarding the type, amount, and method of charging fees to individuals who purchase certain government-provided services using the portal. In addition, although the individual use of the portal to obtain services traditionally provided in person, by mail, or over the telephone could reduce costs for the relevant agency, the individual using the portal

would be charged a fee. As a result, it could be possible that some services would eventually be provided only through the web portal. Further, the provision does not require that an alternative to the portal be provided wherever possible. The Committee could, therefore, delete statutory language allowing DOA to enter into agreements with individuals or assess individuals a fee for the cost of such services. [Alternative 3c] Under this alternative, DOA could only assess portal fees to agencies, authorities, local governmental units, entities in the private sector, or tribal schools.

17. On the other hand, it is possible that some fees to individuals, such as convenience fees, could be considered reasonable. To ensure fees assessed would not be overly burdensome, the Committee could include specific safeguards relating to fees charged to individuals. The Committee could require one or both of the following: (a) require that if a fee is established to provide traditional government services to individuals through the web-based portal for the convenience of the individual and the state, the state must offer and maintain a traditional alternative to the web-based portal [Alternative 3d]; or (b) require that DOA must promulgate fee-setting rules through the Administrative Code for fees assessed to individuals for information technology services [Alternative 3e].

18. Alternatively, the Committee could delete the provision. It could be argued that the information provided by the administration in support of the initiative is insufficient at this time. Further, the changes made to the appropriation would broadly permit DOA to assess fees in any amount or manner, without consulting the Legislature. Further, the provision would remove spending limitations for the appropriation by modifying statutory language to make it continuing. If DOA determined at a later date that an increase in expenditure authority were needed, the agency could request an increase under a 14-day passive review process and provide additional information at that time. However, if the provision is deleted, fees may not be assessed to individuals for the provision of information technology services. [Alternative 4]

ALTERNATIVES

1. Approve the Governor's recommendation, as modified by the errata submission, to provide \$4.0 million PR annually to DOA's information technology and communications services to non-state entities appropriation to develop a web-based self-funded portal. Modify the appropriation to make it continuing. Allow DOA to enter into agreements with individuals to provide those individuals with information technology services. In addition, authorize DOA to assess fees to the individuals for the cost of providing the services.

2. Delete language modifying DOA's information technology and communications services to non-state entities appropriation to make it continuing. Create instead a new PR continuing appropriation for receipt and disbursement of self-funded portal revenue. Specify that the \$4.0 million PR be provided to the new self-funded portal appropriation. Authorize DOA to assess any executive branch agency (other than the University of Wisconsin System), authority, local governmental unit, entity in the private sector, or individual for the costs of services relating to information technology that are provided through the self-funded portal. [If selected with Alternative 3b, DOA would not be permitted to charge a fee for providing such services to individuals.]

3. Modify Alternative 1 or 2 in any of the following ways:

a. Provide \$2,000,000 PR annually to DOA's information technology and communications services to non-state entities appropriation.

ALT 3a	Change to Bill
	Funding
PR	- \$4,000,000

b. Delete language that would make the appropriation continuing.

c. Delete the provision relating to information technology services to individuals. Delete the provision authorizing DOA to charge a fee for providing such services to individuals. [May be selected with Alternative 1, 2, 3a, or 3b. Cannot be selected with Alternative 3d or 3e.]

d. Specify that if a fee is established to provide traditional government services to individuals through the web-based portal for the convenience of the individual and the state, the state must offer and maintain a traditional alternative to the web-based portal. [Cannot be selected with Alternative 3c.]

e. Specify that DOA must promulgate fee-setting rules through the Administrative Code for fees assessed to individuals for information technology services. [Cannot be selected with Alternative 3c.]

4. Delete provision.

ALT 4	Change to Bill
	Funding
PR	- \$8,000,000

Prepared by: Rachel Johnson